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STATUTORY INSTRUMENTS

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**2007 No. 674**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (Pharmaceutical Services) (Remuneration for Persons providing Pharmaceutical Services) (Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>5th March 2007</i>
<i>Laid before Parliament</i>		<i>9th March 2007</i>
<i>Coming into force</i>	- -	<i>1st April 2007</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 164 and 272(8) of the National Health Service Act 2006(1).

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the National Health Service (Pharmaceutical Services) (Remuneration for Persons providing Pharmaceutical Services) (Amendment) Regulations 2007 and shall come into force on 1st April 2007.

(2) These Regulations shall apply in relation to England only.

**Interpretation**

2. In these Regulations—

“the Charges for Drugs and Appliances Regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(2);

“the Indicative Amounts Regulations” means the National Health Service (Indicative Amounts) Regulations 1997(3);

“the Local Pharmaceutical Services Regulations” means the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006(4);

“the Prescribed Functions Regulations” means the National Health Service (Payments by Local Authorities to NHS Bodies) (Prescribed Functions) Regulations 2000(5); and

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(1) [2006 c.41](#).

(2) [S.I. 2000/620](#); the relevant amending instruments are [S.I. 2003/699](#) and [2005/641](#).

(3) [S.I. 1997/980](#); the relevant amending instrument is [S.I. 2005/641](#).

(4) [S.I. 2006/552](#).

(5) [S.I. 2000/618](#); the relevant amending instrument is [S.I. 2005/641](#).

“the principal Regulations” means the National Health Service (Pharmaceutical Services) Regulations 2005(6).

### **Amendment of regulation 2 of the principal Regulations**

3. In regulation 2 (interpretation) of the principal Regulations, in paragraph (1), in the appropriate alphabetical position, insert—

““the 2006 Act” means the National Health Service Act 2006;”.

### **Substitution of regulation 56 of the principal Regulations**

4. For regulation 56 (standards of, and payments for, drugs and appliances) of the principal Regulations substitute—

#### **“Provisions relating to determinations under section 164 of the 2006 Act**

56. With regard to determining remuneration under section 164 of the 2006 Act—

- (a) determinations under that section by the Secretary of State (the aggregate of the determinations made by the Secretary of State, acting as a determining authority, is known as “the Drug Tariff”) may be made by reference to rates or conditions of remuneration of any persons or any description of persons which are fixed or determined, or will be fixed or determined, otherwise than by way of a determination under that section;
- (b) determinations under that section by the Secretary of State may be made by reference to—
  - (i) the drugs and appliances dispensed or expected to be dispensed in accordance with prescription forms or repeatable prescriptions during a period as may be determined by the Secretary of State;
  - (ii) a list of published prices produced by suppliers of prescription drugs and appliances;
  - (iii) statements, scales, and indices made or produced by suppliers of prescription drugs and appliances in relation to sale volume and prices of such drugs and appliances; and
  - (iv) any other scales, indices, formulae or data of any kind;
- (c) where a determination falls to be made by reference to any such scale, index, formula or data of any kind as a consequence of paragraph (b), the determination may provide that the relevant calculation is to be made by reference to the scale, index, formula or data which is—
  - (i) in the form current at the time of the determination; and
  - (ii) in any subsequent form taking effect after that time;
- (d) determining authorities may make determinations which take effect in relation to remuneration in respect of a period beginning on or after the date specified in the determination, which may be the date of the determination or an earlier or later date, but it may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates;

- (e) where a determination does not specify a date as mentioned in paragraph (d), it shall have effect in relation to remuneration in respect of the period beginning on the date on which the determination is published;
- (f) the Secretary of State shall publish the Drug Tariff, and any amendments to it, in such format as she thinks fit (including, as regards publishing any amendments, by publishing a consolidated version of the Drug Tariff with the amendments included in it) and at such intervals as she thinks fit (having regard to the provisions of paragraphs (c), (d) and (e));
- (g) consultation pursuant to section 165(1) by a determining authority prior to the inclusion of or a change to the price of a drug or appliance relevant to the calculation of remuneration shall be by way of consultation on the process for determining the price to be included or changed, not on the proposed price itself (unless it is impossible to carry out an effective consultation in any other way);
- (h) where the Secretary of State states in the Drug Tariff that the determining authority for a particular fee, allowance or other remuneration is to be the Primary Care Trust of the chemist to whom the remuneration relates—
  - (i) the Primary Care Trust shall consult the relevant Local Pharmaceutical Committee before making the determination; and
  - (ii) the determination made by the Primary Care Trust shall include the arrangements for claiming the remuneration and shall be published by the Primary Care Trust in such manner as it thinks suitable for bringing the determination to the attention of the chemists on its pharmaceutical list; and
- (i) payments under—
  - (i) the Drug Tariff shall be made by the Primary Care Trust, in accordance with arrangements for claiming and making payments which are to be set out in the Drug Tariff; and
  - (ii) the determinations mentioned in paragraph (h) shall be made by the Primary Care Trust, in accordance with arrangements for claiming and making payments which are to be set out in the determinations,but in either case are to be subject, as appropriate, to any deduction that may or must be made from the remuneration of a chemist under these Regulations, the 2006 Act or any other regulations under the 2006 Act.”.

#### **Amendment of regulation 57 of the principal Regulations**

5. In regulation 57(1) (claims and overpayments) of the principal Regulations, for the words “by virtue of regulation 56(2)” substitute “as a consequence of regulation 56(h)”.

#### **Amendment of regulation 70 of the principal Regulations**

6. In regulation 70(1)(f)(publication of particulars) of the principal Regulations, for the words “by virtue of regulation 56(2)” substitute “as a consequence of regulation 56(h)”.

#### **Amendment of paragraph 23 of Schedule 1 to the principal Regulations**

7. In paragraph 23(4) (matters to be considered when issuing directions in respect of pharmacy opening hours) of Schedule 1 to the principal Regulations, for the words “under the Drug Tariff” substitute “in accordance with a determination made as a consequence of regulation 56(h)”.

### **Amendment of the Local Pharmaceutical Service Regulations**

8. In regulation 2(1) (interpretation) of the Local Pharmaceutical Services Regulations, for the definition of “Drug Tariff” substitute—

““Drug Tariff” means the aggregate of the determinations made by the Secretary of State which are published in accordance with regulation 56(f) (provisions relating to determinations) of the Pharmaceutical Services Regulations”.

### **Amendment of the Indicative Amounts Regulations**

9. In regulation 1(2) (interpretation) of the Indicative Amounts Regulations, for the definition of “Drug Tariff” substitute—

““Drug Tariff” means the aggregate of the determinations made by the Secretary of State which are published in accordance with regulation 56(f) (provisions relating to determinations) of the National Health Service (Pharmaceutical Services) Regulations 2005”.

### **Amendment of the Prescribed Functions Regulations**

10. In regulation 2(2) (prescribed functions of relevant NHS bodies) of the Prescribed Functions Regulations, for sub-paragraph (d) substitute—

“(d) the provision of appliances which are not listed in Part IX of the Drug Tariff which is published in accordance with regulation 56(f) (provisions relating to determinations) of the National Health Service (Pharmaceutical Services) Regulations 2005.”.

### **Amendment of the Charges for Drugs and Appliances Regulations**

11. In regulation 2(1) (interpretation) of the Charges for Drugs and Appliances Regulations, for the definition of “Drug Tariff” substitute—

““Drug Tariff” means the aggregate of the determinations made by the Secretary of State which are published in accordance with regulation 56(f) (provisions relating to determinations) of the National Health Service (Pharmaceutical Services) Regulations 2005”.

Signed by authority of the Secretary of State for Health

5th March 2007

*Hunt*  
Minister of State  
Department of Health

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Pharmaceutical Services) Regulations 2005 ([S.I. 2005/641](#)) (“the principal Regulations”) and make consequential changes to other legislation.

Regulation 4 of these Regulations substitutes regulation 56 of the principal Regulations. The amendment to regulation 56 is required because of the change of the legislative basis upon which determinations relating to the remuneration of pharmaceutical services are made upon the coming into force of the National Health Service Act 2006. The substituted regulation 56 makes provisions relating to the determination of remuneration for persons providing pharmaceutical services by the determining authorities.

Regulation 2 and regulations 5 to 11 of these Regulations respectively update the principal Regulations and other National Health Service legislation to take account of the amendments to regulation 56.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.