

2010 No. 366

NATIONAL HEALTH SERVICE

The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment (No. 2) Regulations 2010

<i>Made</i>	- - - -	<i>20th October 2010</i>
<i>Laid before the Scottish Parliament</i>		<i>22nd October 2010</i>
<i>Coming into force</i>	- -	<i>15th November 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 27(1) and (2), 28(1), 69(1) and (2), 75(a), 75A, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment (No. 2) Regulations 2010 and come into force on 15th November 2010.

(2) In these Regulations “the principal Regulations” means the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2008(b).

Amendment of the principal Regulations

2.—(1) The principal Regulations are amended as follows.

(2) In regulation 2(1) (interpretation) in the definition of “terms of service” for “National Health Service (General Dental Services) (Scotland) Regulations 1996” substitute “National Health Service (General Dental Services) (Scotland) Regulations 2010”.

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- (a) 1978 c.29. Section 27(1) was amended by the Health Services Act 1980 (c.53), section 20(2), the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 66(1) and Schedule 9, paragraph 19(7)(a), the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28), section 3, the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraph 44 and the Health and Social Care Act 2001 (c.15), section 44(2); section 27(2) was substituted by the National Health Service (Amendment) Act 1986 (c.66), section 3(3) and amended by the 1990 Act, section 66(1), Schedule 9, paragraph 19(7)(b); section 28(1) was amended by the National Health Service (Amendment) Act 1986 (c.66), section 3(4) and the Primary Medical Services (Scotland) Act 2004 (asp 1), Schedule 1, paragraph 1(8); section 75A was inserted by the Social Security Act 1988 (c.7), section 14(2) and amended by the Health and Medicines Act 1988 (c.48), section 25(1) and Schedule 2, paragraph 13, the 1990 Act, section 66(1), Schedule 9, paragraph 19(13), the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraph 50, S.I. 1998/2385 and S.S.I. 2010/283; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1) and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 29(1), Schedule 9, paragraph 24 and the Health Act 1999 (c.8) (“the 1999 Act”), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. See section 66(1) of the 1999 Act in relation to any provision of that Act being taken to be a pre-commencement enactment within the meaning of the Scotland Act 1998 (c.46) (“the 1998 Act”). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (b) S.S.I. 2008/27 was amended by S.S.I. 2008/105, 2009/37, 177 and 183 and 2010/1 and S.I. 2010/231.

- (3) After regulation 2(2)(b) insert—
- “(c) the supply of quantities of the same drug in more than one strength against an order on a single Scottish prescription form or a single equivalent prescription form (or more than one form where the forms presented have been ordered by the same person, for the patient, on the same date) shall be deemed to be the supply of only one quantity of a drug.”.
- (4) After regulation 3(2)(b) (cases where chemist does not make or recover charges) insert—
- “; or
- (c) an equivalent prescription form provided and issued under arrangements having effect in Northern Ireland is presented by the patient.”.
- (5) In regulation 3(6) (cases where sum due by a Health Board to a chemist is reduced) after “paragraph (2)(a) or (b)” insert “or provision in consequence of the presentation of an equivalent prescription form provided and issued under arrangements having effect in Northern Ireland”.
- (6) In regulation 7(1) (exemptions)—
- (a) in sub-paragraph (e) for “, Wales or Northern Ireland” substitute “or Wales”;
- (b) in sub-paragraph (g) for “, Wales or Northern Ireland” substitute “or Wales”;
- (c) in sub-paragraph (k) omit “or Northern Ireland”;
- (d) after sub-paragraph (k) insert—
- “(1) a person who presents an equivalent prescription form provided and issued under arrangements having effect in Northern Ireland.”.
- (7) After regulation 7(2)(d) (conditions required for exemption from charges) insert—
- “(e) the supply is in consequence of the presentation of an equivalent prescription form provided and issued under arrangements having effect in Northern Ireland.”.

SHONA ROBISON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
20th October 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2008 (“the principal Regulations”).

Regulation 2(2) amends the definition of “terms of service” to take account of the revocation of the National Health Service (General Dental Services) (Scotland) Regulations 1996 (S.I. 1996/177) and their replacement by the National Health Service (General Dental Services) (Scotland) Regulations 2010 (S.S.I. 2010/208).

Regulation 2(3) provides that within the principal Regulations the supply of quantities of the same drug in more than one strength shall be deemed to be the supply of only one quantity of a drug where the drug is ordered on a single Scottish prescription form or a single equivalent prescription form, or on more than one form provided the forms are presented together and have been ordered for the patient by the same person on the same date.

Regulation 2(4) provides that a chemist will not make and recover any charge under regulation 3(1) of the principal Regulations where the patient presents a Northern Irish prescription form.

Regulation 2(5) provides that the sum which a Health Board must pay to a chemist in respect of the provision of pharmaceutical services will not be reduced where the services have been provided following presentation of a Northern Irish prescription form.

Regulation 2(6)(d) and (7) provide that patients who present a Northern Irish prescription form will be exempt from any charge under the principal Regulations. Regulation 2(6)(a) to (c) amend regulation 7(1)(e), (g) and (k) of the principal Regulations to recognise that Northern Irish prescription forms will be dispensed free of charge regardless of exemption status.

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