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STATUTORY INSTRUMENTS

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**2020 No. 258**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES  
NATIONAL HEALTH SERVICE, SCOTLAND  
HEALTH AND PERSONAL SOCIAL  
SERVICES, NORTHERN IRELAND**

**The Branded Health Service Medicines  
(Costs) (Amendment) Regulations 2020**

*Made* - - - - *9th March 2020*  
*Laid before Parliament* *10th March 2020*  
*Coming into force* - - *1st April 2020*

The Secretary of State for Health and Social Care makes the following Regulations in exercise of the powers conferred by sections 263(1)(c), (2) and (5A), 266(1) and (2), and 272(7) and (8) of the National Health Service Act 2006(1) and in accordance with section 266(4A) of that Act.

The Secretary of State has consulted in accordance with sections 263(1) and (1A) of that Act.

**Citation and Commencement**

1. These Regulations may be cited as the Branded Health Service Medicines (Costs) (Amendment) Regulations 2020 and come into force on 1st April 2020.

**Amendment of the Branded Health Service Medicines (Costs) Regulations 2018**

2.—(1) The Branded Health Service Medicines (Costs) Regulations 2018(2) are amended as follows.

- (2) In regulation 3 (payment scheme)—  
(a) in paragraph (1)—

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(1) 2006 c. 41; section 263 was amended by the Health Service Medical Supplies (Costs) Act 2017 (c.23) (“the 2017 Act”), section 5 and 10(5). Section 266 was amended by the 2017 Act, section 6(5) to (9) and 7(6). See section 275(1) of the National Health Service Act 2006 for the definitions of “prescribed” and “regulations” that are relevant to the powers being exercised.  
(2) S.I. 2018/345, as amended by S.I. 2018/1255; there is another amending instrument but it is not relevant.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (i) for “paragraphs (4) and (5A)” substitute “paragraphs (1B), (4) and (5A)”; and  
(ii) in paragraph (1), for the table substitute the following table—

“Table

<i>Applicable Period</i>	<i>Payment Percentage</i>
1st April 2020 to the end of 2020	7.4%
2021 and any subsequent calendar year	10.9%”

- (b) after paragraph (1A), insert the following paragraphs—

“(1B) Where paragraph (1C) applies, the payment percentage referred to in paragraph (1) for the period beginning on 1st April 2020 to the end of 2020 is 5.0% and not 7.4%.

(1C) This paragraph applies in the case of all the payments payable under paragraph (1) by a manufacturer or supplier, in respect of supplies during the period beginning on 1st April 2020 to the end of 2020 if, in respect of any supply of an item of presentation of that manufacturer or supplier—

- (a) a payment was payable under paragraph (1) in respect of that supply during the period beginning on 1st January 2020 and ending at the end of 31st March 2020; and  
(b) the applicable payment percentage was 14.7%.”.

- (3) In regulation 4 (direction to make a payment)—

- (a) in paragraph (2)(b), for “regulation 3(1) or (5A)” substitute “regulation 3(1), (1B) or (5A)”; and  
(b) in paragraph (3)(c), for “regulation 3(1) or (5A)” substitute “regulation 3(1), (1B) or (5A)”.

9th March 2020

*Matt Hancock*  
Secretary of State,  
Department of Health and Social Care

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## EXPLANATORY NOTE

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

These Regulations, which apply to the United Kingdom, amend the Branded Health Service Medicines (Costs) Regulations 2018 (the “Statutory Scheme Regulations”). The Statutory Scheme Regulations, amongst other matters, make a scheme for the purposes of requiring specific manufacturers and suppliers of medicines, for NHS use, to pay amounts to the Secretary of State. These amounts are calculated by reference to their net sales income or estimated net sales income from supplies of such medicines.

Regulation 2(2)(a)(ii) amends the applicable periods and payment percentages in the table in regulation 3(1) of the Statutory Scheme Regulations.

Regulation 2(2)(b) inserts new paragraphs (1B) and (1C) into regulation 3. These mean that a manufacturer or supplier who is required to make a payment on a supply of a medicine under regulation 3(1) at 14.7%, with respect to the period beginning with 1st January 2020 and ending at the end of 31st March 2020, will be subject to a payment percentage of 5.0% on their supplies for the period beginning 1st April 2020 to the end of 2020. This as opposed to the payment percentage of 7.4% as stated in the table in regulation 3(1).

Regulations 2(2)(a)(i) and 2(3) make consequential amendments.

A copy of the impact assessment will be published alongside this instrument on the [legislation.gov.uk](https://www.legislation.gov.uk) website.