SCOTTISH STATUTORY INSTRUMENTS

1999 No. 121

NATIONAL HEALTH SERVICE

The National Health Service (Penalty Charge) (Scotland) Regulations 1999

Made - - - -	*14th October 1999*
Laid before the Scottish Parliament - - - -	*21st October 1999*
Coming into force - -	*16th November 1999*

The Scottish Ministers, in exercise of powers conferred on them bysections 99ZB(1), (2), (4) and (5), 105(7) and 108(1) of the NationalHealth Service (Scotland) Act 1978(**1**), and of all other powersenabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (PenaltyCharge) (Scotland) Regulations 1999 and shall come into force on 16thNovember 1999.

(2) In these Regulations, unless the context otherwise requires–

"the Act" means the National Health Service (Scotland) Act 1978; and

"surcharge" has the meaning given in regulation 4 of theseRegulations.

Service of a penalty notice

2.—(1) Where a person fails to pay any amount referred to in section99ZB(1)(a) or (b) of the Act(**2**), the responsible authority mayserve a penalty notice requiring the person, within the period of 28 daysbeginning with the date on which the penalty notice was sent, to pay thatamount to the responsible authority together with a penalty chargedetermined in accordance with regulation 3 of these Regulations.

(**1**) 1978 c. 29; section 99ZB was inserted by the Health Act1999 (c. 8) ("the 1999 Act"), section 59; section 105(7) which containsprovisions relevant to the making of Regulations, was amended by the HealthServices Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, by theHealth and Social Services and Social Security Adjudications Act 1983(c.41), Schedule 9, paragraph 24 and by the 1999 Act, Schedule 4, paragraph60; section 108(1) contains definitions of "prescribed" and"regulations" relevant to the exercise of the statutory powers underwhich these Regulations are made. The functions of the Secretary of Statewere transferred to the Scottish Ministers by virtue of section 53 of theScotland Act 1998 (c. 46).

(**2**) Section 99ZB applies to charges and payments which mayunder section 99 or 99ZA of the Act be recovered from a person in respectof the provision of those goods and services listed in section 99ZA(7);section 99ZA was inserted by the 1999 Act, section 59. Such charges includecharges which may be made and recovered for dental treatment provided inaccordance with pilot schemes under section 20 of the National HealthService (Primary Care) Act 1977 (c. 46); see section 99ZB(8).

(2) A penalty notice shall be sent by post to the person's last known address.

(3) The penalty notice shall state–

(a) the name of the person liable to pay the amount required to be paidunder the penalty notice;

(b) the amount recoverable as mentioned in section 99ZB(1)(a) or (b) of theAct;

(c) the amount of the penalty charge calculated in accordance withregulation 3 of these Regulations;

(d) the sum of the amounts referred to in sub-paragraphs (b) and (c), whichshall represent the total amount required to be paid under the penaltynotice;

(e) in relation to the total amount required to be paid under the penaltynotice–

(i) the responsible authority to whom that amount shall be paid;

(ii) the address to which that amount shall be sent;

(iii) the methods by which payment may be made; and

(iv) in accordance with paragraph (1), the date by which that amount shallbe paid to the responsible authority;

(f) that if the person fails to pay the amount he is required to pay by thedate specified in the penalty notice–

(i) the person must also pay to the responsible authority a surcharge; and

(ii) the amount of the surcharge he must pay, calculated in accordance withregulation 4(2) of these Regulations; and

(g) that a person is not liable by virtue of a penalty notice–

(i) to pay at any time so much of any amount referred to in section99ZB(1)(a) or (b) of the Act for which he is jointly and severally liablewith another person as at that time has been paid, or ordered by a court tobe paid, by that other person(**3**), or

(ii) to a penalty charge, or a surcharge, if he shows that he did not actwrongfully, or with any lack of care, in respect of the amount recoverableas mentioned in section 99ZB(1)(a) or (b) of the Act(**4**).

Calculation of penalty charge

3. The amount of the penalty charge shall be whichever is the smallerof–

(a) £100, and

(b) the amount referred to in section 99ZB(1)(a) or (b) of the Actmultiplied by 5.

Surcharge

4.—(1) Where a person fails to pay the amount required to be paid under thepenalty notice in accordance with regulation 2(1) of these Regulations, heshall in addition be liable to pay to the responsible authority a furthersum (in these Regulations referred to as "a surcharge"), calculated inaccordance with paragraph (2).

(2) The amount of the surcharge shall be 50% of the amount of thepenalty charge (rounded down, where necessary, to the nearest whole penny).

(**3**) see section 99ZB(7)(a) of the Act.
(**4**) see section 99ZB(7)(b) of the Act