WELSH STATUTORY INSTRUMENTS

2005 No. 1915 (W.158)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment)(No. 2) Regulations 2005

Made - - - -	*12 July 2005*
Coming into force, except	
for regulations 2 and 7	*1 August 2005*
Regulations 2 and 7	*1 April 2006*

The National Assembly for Wales in exercise of the powers conferred by sections 77, 83, 83A and 126(4) of and paragraph 1 of Schedule 12 to the National Health Service Act 1977(**1**) hereby makes the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) (No.2) Regulations 2005 and they come into force on 1 August 2005, except for regulations 2 and 7 which come into force on 1 April 2006.

(2) These Regulations apply in relation to Wales.

(**1**) 1977 c. 49; *see* section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19)("the 1990 Act"), section 26(2)(g) and (i), for the definitions of "prescribed" and "regulations".
Section 83 was amended by the Health Authorities Act 1995 (c. 17) ("the 1995 Act"), section 1 and Schedule 1, paragraph 39 and by S.I.2000/90, article 3(1) and Schedule 1, paragraph 13(1) and (4).
Section 83A was inserted by the Social Security Act 1988 (c. 7) ("the 1988 Act"), section 14(1); and was amended by the 1990 Act, section 66(1) and Schedule 9, paragraph 18(5)(a) and (b); by the Health and Medicines Act 1988 (c. 49), section 25 and Schedule 2, paragraph 6; by S.I.1998/2385, article 2 and by the 1995 Act, section 2(1) and Schedule 1, paragraph 40.
Section 126(4) was amended by the 1990 Act, section 65(2) and the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 37(6).
Paragraph 1 of Schedule 12 was amended by the Health Services Act 1980 (c. 53), section 25(2) and Schedule 5, paragraph 1; by 1988 Act, section 16 and Schedule 5; by the National Health Service (Primary Care) Act 1997 (c. 46), section 41(10) and Schedule 2, paragraph 31 and by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), section 184 and Schedule 11, paragraphs 7 and 44.
The functions of the Secretary of State under sections 77, 83, 83A and 126(4) of and paragraph 1 of Schedule 12 to the National Health Service Act 1977 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2 and Schedule 1, as amended by the 1999 Act, section 66(4), the Health and Social Care Act 2001 (c. 15), section 68(1), the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 40(1) and the 2003 Act, section 197(1).

(3) In these Regulations "the principal Regulations" ("*y prif Reoliadau*") means the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(**2**).

Amendment of amounts specified in the principal Regulations

2. For each amount specified in the column (3) of the Schedule to these Regulations, where it appears in the provision of the principal Regulations specified in relation to it in column (1) (the subject matter of which is indicated in column (2)), substitute the amount specified in relation to it in column (4).

Amendment of regulation 2 of the principal Regulations

3. In regulation 2 of the principal Regulations (interpretation)—

(a) in the appropriate place in the alphabetical order insert—

> ""the Charges Regulations 2000" ("*Rheoliadau Ffioedd 2000*") means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(**3**);";

(b) in the first definition of "batch issue" ("*swp-ddyroddiad*") for "prescriber" in each place it occurs, substitute "repeatable prescriber";

(c) omit the second definition of "batch issue" ("swp-ddyroddiad");

(d) in the appropriate place in the alphabetical order insert—

> ""equivalent batch issue" ("*swp-ddyroddiad cyfatebol*") means a form provided under equivalent arrangements having effect in England, Scotland and Northern Ireland which is issued by a repeatable prescriber at the same time as an equivalent repeatable prescription to enable a chemist to receive payment for the provision of repeat dispensing services;";

(e) in the appropriate place in the alphabetical order, insert—

> ""equivalent prescription form" ("*ffurflen brescripsiwn gyfatebol*") means a form provided and issued under equivalent arrangements having effect in England, Scotland or Northern Ireland to enable a person to obtain pharmaceutical services or local pharmaceutical services and does not include—
>
> (a) a Welsh prescription form;
>
> (b) a Welsh repeatable prescription ; or
>
> (c) an equivalent repeatable prescription;";

(f) in the appropriate place in the alphabetical order, insert—

> ""equivalent repeatable prescription" ("*presgripsiwn amlroddadwy cyfatebol*") means a prescription contained in a form and issued in accordance with arrangements having effect in England, Scotland and Northern Ireland to enable a person to obtain repeat dispensing services;";

(g) omit the definition of "prescription form" ("*ffurflen bresgripsiwn*") ;

(h) in the appropriate place in the alphabetical order insert—

> ""prison" ("*carchar*") includes a young offender institution but not a secure training centre or a naval, military or air force prison, and for the purposes of this definition—

(**2**) S.I. 2001/1358 (W.86). Relevant amending instruments are S.I. 2001/2359 (W.196), S.I. 2004/1018 (W.115) and 2004/1605 (W.164) and S.I.2005/427 (W.44).
(**3**) S.I.2000/620.

"secure training centre" ("*canolfan hyfforddi diogel*") means a place in which offenders subject to detention and training orders under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000(**4**) (offenders under 18: detention and training orders) may be detained and given training and education and prepared for their release; and

"young offender institution" ("*sefydliad tramgwyddwyr ifanc*") means a place for the detention of offenders sentenced to detention in a young offender institution or to custody for life;";

(i) after the definition of "prison" insert—

""prisoner" ("*carcharor*") means a person who is detained in a prison in which medical, dental, ophthalmic, pharmaceutical or nursing services are provided under the Act by, or under arrangements made by a Local Health Board otherwise than by virtue of section 7(2) of the Health and Medicines Act 1988(**5**) (extension of the powers of Secretary of State for financing the Health Service);";

(j) omit the definition of "repeatable prescription" ("*presgripsiwn amlroddadwy*");

(k) in the definition of "supplementary prescriber" ("*rhagnodydd atodol*"), after sub-paragraph (c) insert—

"or

(d) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(**6**) relating to—

(i) chiropodists and podiatrists,

(ii) physiotherapists, or

(iii) radiographers: diagnostic or therapeutic,";

(l) in the appropriate place in the alphabetical order insert—

""Welsh prescription form" ("*ffurflen brescripsiwn Gymreig*") means a form provided by a Local Health Board or a Welsh NHS Trust and issued by a prescriber or a dentist to enable a person to obtain pharmaceutical services and does not include—

(a) a Welsh repeatable prescription;

(b) an equivalent prescription form; or

(c) an equivalent repeatable prescription,

and for the purposes of this definition—

"Welsh NHS Trust" ("*un o Ymddiriedolaethau'r GIG yng Nghymru*") means an NHS Trust all or most of whose hospitals, establishments and facilities are situated in Wales;";

(m) in the appropriate place in the alphabetical order, insert—

""Welsh repeatable prescription" ("*presgripsiwn amolroddadwy Cymreig*") means a prescription contained in a form provided by a Local Health Board and issued by a repeatable prescriber to enable a person to obtain pharmaceutical services, which is in the format specified in Part 1 of Schedule 1 to the GMS Contract Regulations and which—

(a) is generated by a computer but signed by a repeatable prescriber; and

(**4**) 2000 c. 6.
(**5**) 1988 c. 49.
(**6**) S.I.2002/254.

(b) indicates that the drugs or appliances ordered on that form may be provided more than once, and specifies the number of occasions on which they may be provided;";

Substitution of regulation 3 of the principal Regulations

4. For regulation 3 of the principal Regulations substitute the following regulation—

"**Supply of drugs and appliances by chemists**

3.—(1) A chemist who provides pharmaceutical services to a patient, must, subject to paragraph (6), make and recover from that patient—

(a) where the patient presents a Welsh prescription form—

(i) in respect of an item of elastic hosiery a charge of £4.00, that is to say a charge of £8.00, per pair,

(ii) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £4.00;

(b) where the patient presents an equivalent prescription form—

(i) in respect of an item of elastic hosiery the charge that is specified in regulation 3(1)(a) of the Charges Regulations 2000,

(ii) in respect of the supply of each other appliance and of each quantity of a drug, the charge that is specified in regulation 3(1)(b) of the Charges Regulations 2000.

(2) Where a charge is paid under paragraph (1), the person making the payment must on doing so sign a declaration in writing on the Welsh prescription form or on the equivalent prescription form that the relevant charge has been paid.

(3) A chemist who provides repeat dispensing services to a patient must, subject to paragraph (6), make and recover from that patient—

(a) in respect of each batch issue—

(i) in respect of an item of elastic hosiery a charge of £4.00, that is to say a charge of £8.00 per pair,

(ii) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £4.00;

(b) in respect of each equivalent batch issue—

(i) in respect of an item of elastic hosiery, the charge specified in regulation 3(1A)(b)(i) of the Charges Regulations 2000,

(ii) in respect of the supply of each other appliance and of each quantity of a drug, the charge that is specified in regulation 3(1A)(b)(ii) of the Charges Regulations 2000.

(4) Where a charge is paid under paragraph (3), the person making the payment must on doing so sign a declaration in writing on the batch issue or on the equivalent batch issue that the relevant charge has been paid.

(5) For the purposes of this regulation—

(a) where a drug ordered on a single Welsh prescription form is supplied by instalments, the charge of £4.00 payable for that drug must be paid upon the supply of the first instalment;

(b) where a drug ordered on a single equivalent prescription form is supplied by instalments, the charge specified in regulation 3(4) of the Charges Regulations 2000 must be paid upon the supply of the first instalment.

(6) No charges may be made and recovered under paragraphs (1), (3) or (5) where—

(a) there is an exemption under regulation 8 and a declaration of entitlement to exemption is duly completed by or on behalf of the patient—

(i) in cases where a Welsh prescription form is presented, on the Welsh prescription form,

(ii) in cases where an equivalent prescription form is presented, on the equivalent prescription form,

(iii) in cases falling within paragraph (3), on the batch issue relating to the Welsh repeatable prescription or, on the equivalent batch issue relating to the equivalent repeatable prescription, at the time the drug or appliance is supplied;

(b) there is entitlement to remission of the charge under regulation 3 of the Travelling Expenses and Remission of Charges Regulations and a declaration of entitlement to remission is duly completed by or on behalf of the patient—

(i) in cases where a Welsh prescription form is presented, on the Welsh prescription form,

(ii) in cases where an equivalent prescription form is presented, on the equivalent prescription form,

(iii) in cases falling within paragraph (3), on the batch issue relating to the Welsh repeatable prescription or, on the equivalent batch issue relating to the equivalent repeatable prescription, at the time that the drug or appliance is supplied; or

(c) the patient is resident in a school or institution the name of which is inserted on the Welsh prescription form or on the equivalent prescription form by a prescriber pursuant to the term of a general medical services contract which gives effect to paragraph 44(2) of Schedule 6 to the GMS Contract Regulations or of other arrangements for the provision of primary medical services made under section 16CC(2) of the Act.

(7) A chemist, notwithstanding his or her terms of service, shall be under no obligation to provide pharmaceutical services in respect of an order on—

(a) a Welsh prescription form,

(b) an equivalent prescription form,

(c) a Welsh repeatable prescription, or

(d) an equivalent repeatable prescription,

unless he or she is first paid by the patient any charge required to be made and recovered by paragraph (1), (3), or (5) in respect of that order.

(8) A chemist who makes and recovers a charge under paragraph (1), (3), or (5) must, if so required by the patient, give to the patient a receipt for the amount received on the form provided for the purpose which form must contain forms of declaration in support of an application for repayment and information as to whom an application for repayment may be made.

(9) Any sum which would otherwise be payable by a Local Health Board to a chemist in respect of the provision by the chemist of pharmaceutical services will be reduced by