STATUTORY RULES OF NORTHERN IRELAND

2010 No. 71

HEALTH AND PERSONAL SOCIAL SERVICES

The Charges for Drugs and Appliances (Abolition) and Supply of Appliances Regulations (Northern Ireland) 2010

Made - - - -	*9th March 2010*
Coming into operation	*1st April 2010*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 98 and 106 of, and Schedule 15 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**2**), with the approval of the Department of Finance and Personnel.

Citation and commencement

1. These Regulations may be cited as the Charges for Drugs and Appliances (Abolition) and Supply of Appliances Regulations (Northern Ireland) 2010 and shall come into operation on 1st April 2010.

Interpretation

2. In these Regulations —

"appliance" means a listed appliance within the meaning of Article 63 of the Order but does not include a contraceptive appliance(**3**);

"HSC trust" means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**4**);

"the Act" means the Health and Social Care (Reform) Act (Northern Ireland) 2009(**5**);

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

(**1**) *See*S.I. 1999/283 (N.I. 1) Article 3(6)

(**2**) S.I. 1972/1265 (N.I. 14); the relevant amending instruments are S.I. 1984/1158 (N.I. 8) Article 17 and Schedule 6; S.I. 1986/2229 (N.I. 24) Article 14; S.I. 1988/594 (N.I. 2) Article 14; S.I. 1988/2249 (N.I. 24) Article 7; S.I. 1991/194 (N.I. 1) Article 34 and Part II of Schedule 5; S.R. 1999 No.11; 2001 c.3 (N.I.) section 48; 2008 c. 2 (N.I.) section 4 and 14; and 2009 c. 1 (N.I.) section 32 and Schedule 6

(**3**) Article 63 of S.I. 1972/1265 (N.I.14) is amended by S.I.1978/1907 (N.I.26) Article 14; S.I.1986/2023 (N.I.20) Article 5(1); S.R.1987 No.457 regulation 4; S.I.1991/194 (N.I.1) Article 31; S.I.1992/2671 (N.I.18) Article 3; S.I. 1997/1177 (N.I. 7) Schedule 2; S.I. 2003/431(N.I.9) Article 47; and 2008 c. 2 (N.I.) sections 10 and 17 and Schedule 2

(**4**) S.I. 1991/194 (N.I.1); Health and Social Services trusts were renamed Health and Social Care trusts by section 1(3) of 2009 c.1 (N.I.)

(**5**) 2009 c.1 (N.I.)

"the principal Regulations" means the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997(**6**);

"the Regional Board" means the Regional Health and Social Care Board, established under section 7 of the Act.

Supply, replacement and repair of appliances to out-patients by the Regional Board or HSC trusts

3.—(1) Where an appliance supplied under arrangements made by the Regional Board or a HSC trust is, at the request of the person supplied, of a more expensive type than the standard type, or where an appliance which has been so supplied is repaired under those arrangements, the Regional Board or HSC trust may charge and recover from the person so supplied, or for whom such repair is undertaken, a sum representing the difference between the cost to the Regional Board or HSC trust of supplying or repairing such appliance and the cost to the Regional Board or HSC trust of supplying or repairing an appliance of the type which would normally be supplied.

(2) Where an appliance supplied under arrangements made by the Regional Board or a HSC trust requires to be replaced or repaired, and the Regional Board or HSC trust has reason to believe that such replacement or repair is necessitated by an act or omission of the person supplied ("S") or (if it occurred when S was under sixteen years of age) of S or of the person having charge of S when it occurred, the Regional Board or HSC trust may appoint a person or persons to investigate the matter.

(3) The person or persons so appointed shall make such inquiry into the matter as they think fit, and if in their opinion the circumstances so require or if the person concerned so demands, the inquiry shall take the form of an oral hearing.

(4) The persons holding such inquiry shall report to the Regional Board or the HSC trust who shall determine whether the replacement or repair is necessitated by an act or omission of the person supplied ("S") or (if it occurred when S was under sixteen years of age) of S or of the person having charge of S when it occurred. The Regional Board or HSC trust may, if it thinks fit, delegate the responsibility for determining whether the replacement or repair is necessitated by such an act or omission, to a committee of the Regional Board or the HSC trust.

(5) The Regional Board or the HSC trust may recover from the person supplied ("S"), or (if the act or omission necessitating repairs or replacement occurred when S was under sixteen years of age) the person having charge of S when it occurred, the whole or any part of the cost to the Regional Board or HSC trust of replacement or repair of an appliance determined in the above manner to have been necessitated by an act or omission on the part of S or (if it occurred when S was under sixteen years of age) of S or of the person having charge of S when it occurred.

Revocations and transitional provisions

4.—(1) Subject to paragraphs (2) and (3) the Regulations specified in column 1 of the Schedule are revoked to the extent specified in column 3 of that Schedule.

(2) Regulation 9 of the principal Regulations shall continue to apply in respect of an application for a refund in relation to a payment made before 1st April 2010 for a pre-payment certificate, as if these Regulations had not been made.

(3) Regulation 10 of the principal Regulations shall continue to apply in respect of a charge paid under those Regulations before 1st April 2010, by or on behalf of a person who was at the time of payment exempt from the requirement to pay that charge, as if these Regulations had not been made.

(**6**) S.R. 1997 No. 382; as amended by S.R. 1998 No. 135; S.R. 1999 Nos. 100 and 166; S.R 2000 No. 57; S.R. 2001 No. 123; S.R. 2002 Nos. 91 and 397; S.R. 2003 Nos. 153 and 447; S.R. 2004 No. 94; S.R. 2005 Nos. 97 and 231; S.R. 2006 No. 145; S.R. 2007 No. 140; S.R. 2008 No. 488; and S.R. 2009 Nos. 186, 191 and 394

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 9th March 2010

Christine Jendoubi
A senior officer of the Department of Health, Social Services and Public Safety

The Department of Finance and Personnel approves the foregoing Regulations.
Sealed with the Official Seal of the Department of Finance and Personnel on 9th March 2010

Adrian Arbuthnot
A senior officer of the Department of Finance and Personnel