EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (CHARGES FOR DRUGS AND APPLIANCES) AND (TRAVEL EXPENSES AND REMISSION OF CHARGES) AMENDMENT REGULATIONS 2010

2010 No. 1727

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 and the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 These regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (Charges regulations) to provide for the free provision of pharmaceutical services on the presentation of a prescription form issued under the provisions which apply in Northern Ireland

4.2 These Regulations also amend the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (TERC regulations) to update references to student support regulations that apply in England, Wales, Northern Ireland and Scotland.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The amount of the charge for an NHS prescription item, the circumstances in which a charge shall, or shall not, be made and the patients

who are exempt from prescription charges are set out in the National Health Service (Charges for Drugs and Appliances) Regulations 2000.

7.1.1 Charging arrangements are a devolved matter. The Northern Ireland Assembly abolished prescription charges on the 1 April 2010. These regulations provide that any Northern Ireland prescription form presented for dispensing in England should be dispensed free of charge. Amendments to the Northern Ireland Prescription form have the consequence that a declaration of exemption from prescription charges, under the England charging arrangements, cannot be correctly captured. The vast majority of prescription forms issued in Northern Ireland and dispensed in England are to those who would already be exempt from prescription charges under the Charges regulations.

7.2 The TERC Regulations provide that people receiving certain means-tested benefits, for example income support, are automatically entitled ("passported") to free prescriptions, dental treatment, wigs and fabric supports and sight tests and payment of travel costs to hospital.

7.2.1 The TERC Regulations also provide a "safety net" known as the National Health Service Low Income Scheme (LIS). Help from the scheme is based on an assessment of a person's ability to pay in the light of their financial resources at the time a claim is made or charge was paid. The calculation of entitlement is based on Income Support arrangements, plus net housing costs and council tax where a person is personally liable to pay. The TERC Regulations modify the Income Support (General) Regulations 1987 for the purpose of the calculation of low income scheme entitlement.

7.2.2 A student studying in England who applies for help with health costs will have taken into account in his LIS assessment any grant or loan to which he is entitled under the regulations of his home country. The funding arrangements in England, Wales and Northern Ireland are broadly similar, with students entitled to a grant and/or loan to help with living costs based on the same criteria, for example level of parental income. The thresholds for entitlement and amounts payable may vary in each country, however, where a student is entitled to a grant, the amount of loan he can receive will be eroded.

7.2.3 The LIS policy is to disregard any part of the student grant that is not taken into account when entitlement to a student loan is assessed, i.e. the amount that does not erode the loan, or the "excess". These regulations update the references to the student funding regulations that apply for students from England, Wales and Northern Ireland.

7.2.4 The student funding arrangements in Scotland are slightly different. A student from Scotland, studying in England, might be entitled to an Additional Loan, based on qualifying conditions, which include the family income level. This additional loan is disregarded in any application to LIS in the same way as the excess is for students from the other home countries. The amount of the additional loan is set out in guidance issued by the Student Awards Agency for

Scotland each year. These regulations update the reference to the 2010-2011 guidance publication.

Consolidation

7.3 The President of the Royal College of Physicians (Professor Sir Ian Gilmore) carried out a review that considered how exemption from prescription charges for patients with long term conditions could be implemented. Professor Gilmore's report was published on 27 May 2010. Any changes to the system of prescription charges and exemptions will be considered as part of the Department of Health's future funding settlements and hence, consolidation of these regulations will be considered in the light of any policy changes relating to prescription charges policy.

8. Consultation Outcome

8.1 No consultation has taken place, as this instrument does not alter existing policy.

9. Guidance

9.1 No guidance has been prepared for this instrument. Pharmacists and Dispensing Doctors will be notified of the change to the Charges regulations. The NHS Business Services Authority (BSA) will be notified of the amendment to the TERC regulations.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument. These Regulations have no impact on business, charities or voluntary bodies.

10.2 There is minimal cost to the public sector. Dispensers will need to be aware of the arrangements when presented with a prescription form issued in Northern Ireland.

10.3 The National Health Service BSA will need to note the amendments when dealing with claims under the Low Income Scheme when made by a student.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and Review

12.1 The arrangements for dealing with prescription forms issued in Northern Ireland will need to be reviewed during 2015.

12.2 References to student funding arrangements will require updating annually.

13. Contact

Gina Jones at the Department of Health Tel: 020 7972 2954 or e-mail: gina.jones@dh.gsi.gov.uk can answer any queries regarding the instrument.