EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (HELP WITH HEALTH COSTS) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2025

2025 No. 1165

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care (DHSC) and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Minister Zubir Ahmed, Parliamentary Under Secretary of State for Health at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Helen Lovell, Deputy Director for Medicines Regulation and Prescribing at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

Carol Walker, Senior Policy Manager for Prescribing and Prescription Charging, the Department of Health and Social Care can be contacted by email at the following address with any queries regarding the instrument: prescribingpolicy@dhsc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

Regarding medical evacuation arrangements from conflict zones

4.1 This instrument amends the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (S.I. 2003/2382) ("the 2003 Regulations") to allow a person who is part of a medical evacuation arrangement from a conflict zone to benefit from the payment in full of NHS travel expenses and the full remission of NHS prescription, dental and optical charges through provision of help under the NHS Low Income Scheme for a specified period of time.

4.2 This instrument also amends the Primary Ophthalmic Services Regulations 2008 (S.I. 2008/1186) ("the POS Regulations") which make provision for who is entitled to free NHS sight tests under the National Health Service Act 2006 and the National Health Service (Optical Charges and Payments) Regulations 2013 (S.I. 2013/461) ("the Optical Charges Regulations"), which provide help by means of a voucher system for certain eligible groups for the supply, replacement and repair of optical appliances.

Regarding free of charge treatment for tuberculosis ("TB")

4.3 The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (S.I. 2015/570) ("the Charges Regulations") provide for charges to be made and recovered for the supply of certain drugs, appliances, wigs and fabric supports and

provide for certain exemptions from charging in prescribed circumstances. This instrument amends the Charges Regulations to allow prescriptions for the treatment of TB, the effects of TB and the effects of TB treatment to be supplied and dispensed free of charge in community pharmacy via an NHS prescription through application of the 'FS' prescriber endorsement.

Regarding automatic refund of prescription pre-payment certificates

4.4 The Charges Regulations will be corrected to allow automatic cancellation and refund of a prescription pre-payment certificate ("PPC") when a person becomes exempt because they have a valid medical exemption certificate issued under regulation 10(1)(f) of the Charges Regulations on the grounds that the person is undergoing treatment for cancer, the effects of cancer or the effects of cancer treatment.

Regarding amendment to regulation 17 of the Charges Regulations

4.5 The prescription PPC refund amounts set out in regulation 17 of the Charges Regulations will be amended to match the charges paid for PPCs as set out in regulation 16.

Where does the legislation extend to, and apply?

4.6 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

Regarding medical evacuation arrangements from conflict zones

5.1 When people arrive from conflict zones via evacuations organised by the government, they often have an urgent need for primary and secondary care treatment. This instrument will provide a statutory basis allowing the Secretary of State to issue time limited HC2 certificates, which provide full help with health costs under the NHS Low Income Scheme, to individuals who are part of a medical evacuation arrangement from a conflict zone.

5.2 The issuing of HC2 certificates will bridge the gap between arrival and the individual claiming Universal Credit (usually limited to food and living costs) and receiving their first payment or being allowed to work and therefore pay NHS charges. After applying it will usually take 5 weeks to get the first Universal Credit payment. Certificates will be issued for a specific period agreed by the Secretary of State. Individuals in receipt of Universal Credit will be eligible to access help with health costs via Universal Credit subject to earning thresholds.

5.3 Under the NHS Low Income Scheme people who are issued with an HC2 certificate for full help with health costs are entitled to payment in full of NHS travel expenses to receive non-primary care treatment following referral by a doctor, dentist or optician, and exemption from NHS prescription, NHS dental and NHS eyecare.

5.4 The immediate rationale for this amendment follows the Prime Minister announcing at the end of July that the UK will medically evacuate a number of unwell Gazan children for treatment in the UK. Patients and their household members authorised to accompany them are arriving over the autumn 2025 and will receive treatment in

hospitals across England and the Devolved Administrations. This instrument will ensure any future medical evacuations from a conflict zone will be supported with health costs where the conditions set out in this instrument are met.

Regarding free of charge treatment for TB

5.5 This instrument will remove the NHS prescription charge for medicine to treat TB, the effects of TB and the effects of TB treatment, where treatment is provided via an NHS prescription.

5.6 To support improved public health TB treatment is provided free of charge. Well established mechanisms are in place in hospitals and specialist clinics, but this may not be the case in all settings. Changes to service provision means that patients may now receive treatment via an NHS prescription in primary care for dispensing in the community. This means that patients may be charged for medicines that should be supplied free of charge. Expecting patients to pay for prescriptions because they have accessed treatment from a non-specialist service is not equitable, may affect whether patients can get their treatment, which in turn may affect public health outcomes.

5.7 This change will equalise the charges situation for TB patients, regardless of the service they access treatment through.

Regarding automatic refund of prescription pre-payment certificates

5.8 When the Charges Regulations were amended to allow the NHS Business Services Authority ("NHS BSA") to automatically cancel and refund a PPC when a person becomes exempt on maternity or medical grounds because they hold a valid certificate, medical certificates issued for cancer patients were excluded from the amendment in error. This change is a correction to include in regulation 17 exemption certificates granted under regulation 10(1)(f) on the grounds of undergoing treatment for cancer, the effects of cancer or the effects of cancer treatment so that those in receipt of an exemption under regulation 10(1)(f) are not required to make an application with the NHS BSA to request a refund but are automatically refunded.

Regarding amendments to PPC refund amounts

5.9 When the prescription PPC prices were updated by the National Health Service (Charges for Drugs and Appliances) (Amendment) Regulations 2024 (S.I. 2014/456), changes to the PPC refund amounts were omitted. This was an oversight which is being corrected; however, it has not impacted patients as they have been refunded the correct amounts for their PPC.

What was the previous policy, how is this different?

Regarding free of charge treatment for TB

5.10 Historically, the policy intention has been to support improved public health through provision of free treatment for TB. There are well established mechanisms to provide treatment free of charge in hospitals and specialist clinics, but this may not be the case in all settings. The preferred route for TB treatment is a combination of secondary and tertiary care, however there will be cases where treatment is provided via an NHS prescription in primary care for dispensing in the community for example, where community-based TB nurses are prescribing medication or because treatment is started by a TB consult and then continued by a GP.

5.11 This change will equalise the charges situation for TB patients, regardless of the service they access their treatment through.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the 2003 Regulation to allow the Secretary of State to issue a person who is part of a medical evacuation arrangement from a conflict zone with a HC2 certificate for full help with health costs for a specific period. It also amends the POS Regulations and the Optical Charges Regulations to provide for free NHS sight tests and optical vouchers towards the cost of optical appliances, for those part of such evacuation arrangements.

6.2 These regulations also amend the Charges Regulations which provide for charges to be made and recovered for the supply as part of the National Health Service in England of certain drugs, appliances, wigs and fabric supports and provides for certain exemptions from charging in prescribed circumstances.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 DHSC is not required to consult on the 2003 Regulations, the POS Regulations, the Optical Charges Regulations, or the Charges Regulations.

8. Applicable Guidance

8.1 Pharmacies, relevant health care professionals and the public will be advised of the changes required for prescribing and dispensing TB treatment by way of patient information leaflets, the Drug Tariff, the NHS website, the NHS BSA website. DHSC will request NHS England to provide notification via email bulletins for dissemination to staff.

8.2 NHS BSA issue PPCs and medical exemption certificates, so they will correspond with patients who become exempt during the validity of their PPC to refund them the pro-rata amount on their PPC. With regards to PPC refund amounts, NHS BSA have been refunding the correct amounts.

8.3 In relation to the HC2 certificates, these will be issued directly to the eligible persons who will be able to access care by presenting their certificate to a pharmacy, dental and/or optical practice providing NHS services

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because of the low impact on the public sector of issuing this cohort with help under the NHS Low Income Scheme.

9.2 A full impact assessment has not been prepared for the other changes as they modernise regulations to improve customer experience relating to PPC refunds and reflect changes to provision of services in relation to the treatment of TB, the effects of TB and the treatment of the effects of TB treatment.

Impact on businesses, charities and voluntary bodies

9.3 This instrument places no new requirements on small businesses, charities or voluntary bodies. Both prescribers and dispensers are familiar with the use of the 'FS' endorsement in respect of supplying free of charge prescriptions for the treatment of sexually transmitted infection (STIs) and the impact of the use of 'FS' for the supply of free of charge treatment of TB will be minimal and apply to a small number of prescriptions. There is no direct impact on the third sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 We will work with NHS England and NHS BSA to monitor any changes to prescribing and dispensing behaviour as a result of these changes.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The free issue procedure has been applied to the instrument so that it may be issued free of charge to anyone who purchased the National Health Service (Charges for Drugs and Appliances) (Amendment) Regulations 2024 (S.I. 2024/456) and the National Health Service (Charges, Remission of Charges and Pharmaceutical Services etc.) (Amendment and Transitional Provisions) Regulations 2025 (S.I. 2025/636). Regulation 6 of this instrument corrects errors identified by DHSC. DHSC has complied with the requirement in paragraph 4.7.6 of SIP to consult with the S.I. Registrar on this matter.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).