EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (TRAVEL EXPENSES AND REMISSION OF CHARGES) AMENDMENT REGULATIONS 2009

2009 No. 1599

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 (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 (Travel Expenses and Remission of Charges) Regulations 2003 (TERC regulations) by updating the reference to the publication which describes additional loans paid under the Education (Student Loans) (Scotland) Regulations 2007.

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

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

7.2 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 also allow for modification of the Income Support (General) Regulations 1987 in calculating entitlement for low income scheme purposes.

7.3 This amendment updates the reference to a publication, which describes an "additional loan", inserted by a previous amending instrument, in line with updated guidance issued by the Student Awards Agency for Scotland for 2009-10 and the consolidated version of the Education (Student Loans)(Scotland) Regulations 2007. The policy intention is that Scottish students who are studying in England and make a LIS claim should have any additional loan (as described in the Student Support Information Guide 2009-2010 issued by the Student Awards Agency for Scotland) disregarded from their loan income when calculating their resources. An Additional Loan is available to Scottish students based on qualifying conditions, which include the family income level.

Consolidation

7.4 The charging arrangements in respect of people with long term conditions are currently the subject of a review by Professor Ian Gilmore. The need for consolidation of these regulations will be considered, along with the NHS (Charges for Drugs and Appliances) regulations, once Professor Gilmore's recommendations have been considered. Professor Gilmore will report to Ministers in Autumn 2009.

8. Consultation Outcome

8.1 No consultation has taken place, as this instrument does not alter existing policy; it amends a reference to a guidance document.

9. Guidance

9.1 No guidance has been prepared for this instrument.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 Not applicable.

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.