EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (TRAVEL EXPENSES AND REMISSION OF CHARGES) AMENDMENT REGULATIONS 2011

2011 No. 1587

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, (the TERC Regulations).

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

3.1 None.

4. Legislative Context

4.1 These regulations amend the TERC Regulations to update references to student funding arrangements that apply in Wales 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

7.1 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 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.

7.3 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.

7.4 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 Wales.

7.5 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 2011-2012 guidance publication.

Consolidation

7.6 Consolidation of these regulations will be considered in the light of any policy changes that might be required as a result of welfare reform and the introduction of Universal Credit.

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. 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.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument. No impact on business, charities or voluntary bodies is foreseen.

10.2 There is no cost to the public sector.

11. Regulating small business

11.1 There is no additional burden to business.

12. Monitoring and Review

12.1 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.