EXPLANATORY MEMORANDUM TO

THE PERSONAL INJURIES (NHS CHARGES) AMENDMENT (NO. 2) REGULATIONS 2009

2009 No. 834

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 This instrument amends the Personal Injuries (NHS Charges) Amendment Regulations 2009 ("the Principal Regulations") to correct an error in the saving provision contained in those Regulations.

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

3.1 This instrument corrects an error in the Principal Regulations which was identified by the JCSI and reported on in the Tenth Report of Session 2008/2009. Copies of this instrument will be supplied free of charge to all known purchasers of the Principal Regulations.

4. Legislative Context

4.1 This instrument amends the Principal Regulations which, amongst other things, contained a saving provision maintaining the previous level of NHS charges for injuries occurring before 1st April 2009.

4.2 This instrument amends the saving provision, in regulation 4 of the Principal Regulations, to correct an error as regards its application, to ensure that the underlying policy is reflected in the Principal Regulations.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales only.

6. European Convention on Human Rights

6.1 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 Explanatory Memorandum accompanying the Principal Regulations provides information on the background to the legislation amended by the Principal Regulations.

7.2 Unfortunately, despite the operation of the Department's checking process, it was only noticed after the Principal Regulations had been made that there was an error in the saving provision contained within the Regulations as made.

7.3 The error was that the saving provision was extended to sub-paragraph (a) of paragraph 1 of Schedule 1 to the Principal Regulations whereas it should have been limited to sub-paragraphs (b) to (e) of that paragraph. This is because sub-paragraph (a) made a consequential amendment to the Personal Injuries (NHS Charges) (Amounts) Regulations 2007 which was intended to apply in the circumstances described in the saving provision, namely in relation to injuries occurring before 1st April 2009.

7.4 These Regulations, which are issued free of charge, correct that error. The Department can only apologise for not having spotted this error prior to the making of the Principal Regulations.

8. Consultation outcome

8.1 Not applicable.

9. Guidance

9.1 Not applicable.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

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

11. Regulating small businesses

11.1 The legislation does not apply to small businesses.

12. Monitoring and review

12.1 As these Regulations were made to correct a drafting error in the Principal Regulations, no separate monitoring or review is considered necessary.

13. Contact

Karl Payne at the Department of Health, Tel: (0113) 25 45380 or email: karl.payne@dh.gsi.gov.uk can answer any queries regarding the instrument.