EXPLANATORY MEMORANDUM TO THE

ROAD TRAFFIC (NHS CHARGES) AMENDMENT REGULATIONS

2005 No. 475

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

This memorandum does contain information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This SI increases the tariff and ceiling of charges for the recovery of NHS costs following road traffic accidents in line with annual increases in Hospital and Community Health Services (HCHS) inflation.

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

3.1 None

4. Legislative Background

4.1 The SI amends paragraph (2) of Regulation 4 of the Road Traffic (NHS Charges) Regulations 1999 which sets the tariff amounts for recovery of NHS costs following road traffic accidents. It also amends paragraph (4) of the same regulation which sets the ceiling of charges

5. Extent

5.1 This instrument applies to England and Wales. The Welsh Assembly has been consulted fully on the proposed changes.

6. European Convention on Human Rights

The Minister of State has made the following statement regarding Human Rights:

In my view the provisions of the SI for the Road Traffic (NHS Charges) Amendment Regulations 2005 are compatible with the Convention rights.

7. Policy background

7.1 The Regulations to be amended are those that give operational effect to the Road Traffic (NHS Charges) Act 1999. This legislation was introduced to simplify and improve the previous provision for the recovery of NHS costs following road traffic accidents. Prior to this, NHS cost were recovered by individual hospitals, many of which did not use the powers to recover the costs or they recovered very little of the potential income that could be collected. The 1999 Act introduced a more efficient, centralised recovery of NHS hospital costs which is administered by the Compensation Recovery Unit (CRU) – a body that is part of the Department for Work and Pensions (DWP). Under the scheme, NHS hospital costs can be recovered when a person injured in a road traffic accident makes a successful claim for personal injury compensation. The costs are recovered from insurers. A simple tariff and ceiling of charges (cap) was applied to the scheme which was set at £354 for out-patient treatment, £435 per day for in-patient treatment with the ceiling of charges set at £10,000.

The tariff and cap had been set at 1997 prices and no amendments had been made to take account of inflation since the scheme commenced in April 1999. The Department of Health therefore undertook a full consultation in the summer of 2002 on increasing the tariff to take account of HCHS inflation since 1997. The consultation also proposed to increase the ceiling of charges to £30,000 as experience had shown the current rate to be set too low. All of the consultation respondees, with the exception of one organisation, either supported or agreed to the proposals to increase the level of charges. They also agreed that future amendments to the tariff and maximum charge would be undertaken automatically on 1 April each year in line with HCHS inflation.

8. Impact

8.1 No Regulatory Impact Assessment is required for the change. The legislation affects insurers who will need to take account of the revised charges and ensure that their underwriting and claims staff are familiar with the increased charges in order to set premiums at the correct level and to authorise payments to the CRU. The insurance industry is already aware of the automatic amendment of the tariff each April and has already had experience of implementing this change before in January and April 2003 and in April 2004, therefore the impact on them, including cost impact, is expected to be negligible.

8.2 The costs to the public will be seen in very minor increases in motor insurance premiums to take account of the increase in charges. We estimate that the increased charges for 2005/06 would increase income to NHS hospitals by around £2.7 million per year once the full effects of the tariff increases and cap come into effect in around 18 months' time. If this cost is spread evenly among all holders of compulsory motor insurance then the cost per average policy could be expected to rise by 0.03% or around 14p per policy. These estimates are based on the Association of British Insurers Key

Facts which show net motor premiums of £9.5bn and £481as the average annual expenditure per household buying motor insurance.

9. Contact

Tracy Morton at the Department of Health Tel: 0113 2545380 or e-mail: tmorton@dh.gsi.gov.uk can answer any queries regarding the instrument.