EXPLANATORY MEMORANDUM TO

THE ROAD TRAFFIC (NHS CHARGES) AMENDMENT REGULATIONS 2006

2006 No. 401

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

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

2. Description

2.1 The purpose of the Statutory Instrument is to alter the amount of the charges that are recoverable in connection with the treatment by the National Health Service of road traffic casualties.

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

3.1 The Statutory Instrument increases the amount of the charges recoverable under the Road Traffic (NHS Charges) Regulations 1999, and the Committee's attention is drawn to the information in paragraph 7 as to how the increases have been calculated.

4. Legislative Background

4.1 The Road Traffic (NHS Charges) Act 1999 makes provision for a scheme for the recovery of charges in connection with the treatment by the National Health Service of road traffic casualties. The amounts of the charges are specified in the Road Traffic (NHS Charges) Regulations 1999. The Statutory Instrument increases the amount of the charges in respect of incidents occurring on or after 1st April 2006.

5. Extent

5.1 This instrument applies to England and Wales.

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 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. 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.

7.2 The tariff and cap had been set at 1997 prices and charges were not increased 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 Hospital and Community Health Services (HCHS) inflation since 1997. The consultation also proposed to increase the ceiling of charges to £30,000 as operational 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.

7.3 The latest available figure for HCHS inflation is 5.2% for the year 2003/04. Increases in the tariff and cap from 1 April 2006 have been calculated using a lesser figure of 4.6%. In previous years calculations were based on forecasts for years for which figures were not then available. Now, the increase is calculated using an average amount based on the three most recent years for which figures are known (i.e. 2001/02 at 5.1%, 2002/03 at 3.5% and 2003/04 at 5.2%). This means that the charge for treatment without admission in respect of accidents occurring on or after 1 April 2006 will increase from £483 to £505. The charge for treatment with admission in respect of accidents happening on or after 1 April 2006 will increase from £593 to £620 per day. At the same time as the tariff increases, the ceiling of charges is also increased. This means that the maximum charge for in-patient treatment in respect of accidents occurring on or after 1 April 2006 will increase from £35,500 to £37,100.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as the impact on business, charities or voluntary bodies is negligible. The insurance industry is already aware of the automatic amendment of the tariff each April and has already had experience of implementing the change before in January and April 2003 and in April 2004 and 2005.

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 2006/07 would increase income to NHS hospitals by £6.8 million per year. 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 0.1% or around 34p per policy. These estimates are based on the Association of British Insurers Key Facts, which show net motor premiums of £10.8bn and £546 as the average annual expenditure per household buying motor insurance.

8.3 The tariff increase does not increase the cost of administering the scheme as an automatic facility to increase the level of charges has already been built into the IT system. There are therefore no additional costs to the Exchequer.

9. Contact

Claire McCay at the Department of Health Tel: 0113 2545380or e-mail: claire.mccay@dh.gsi.gov.uk can answer any queries regarding the instrument.