

2009 No. 1175 (W. 102)

**NATIONAL HEALTH
SERVICE, WALES**

The National Health Service
(Charges) (Amendments Relating to
Pandemic Influenza) (Wales)
Regulations 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulations relating to the making and recovery of charges in relation to the supply of drugs and the provision of treatment as part of the health service in Wales, so as to enable the provision of treatment in relation to pandemic influenza without charge.

Regulation 2 amends the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) Regulations 2007, to provide that in addition to the existing circumstances under which drugs are to be provided free of charge, no charge may be made in relation to drugs supplied when there is a pandemic disease (such as pandemic influenza), which poses a serious risk, or potentially poses a serious risk, to human health (or such a disease is anticipated imminently) and the supply of the drugs is in accordance with a protocol relating to that disease as provided for in article 12F of the Prescription Only Medicines (Human Use) Order 1997 or article 8 of the Medicines (Pharmacy and General Sale—Exemption) Order 1980.

Regulation 3 amends the National Health Service (Charges to Overseas Visitors) Regulations 1989 (“the 1989 Regulations”), which make provision for charges in respect of the provision of certain NHS treatment to persons not ordinarily resident in the United Kingdom (“overseas visitors”). Regulation 3(c) of the 1989 Regulations provides that no charge shall be made in respect of services forming part of the health service that are provided for an overseas visitor for treatment in respect of a disease listed in Schedule 1

to the 1989 Regulations. Regulation 3 of these Regulations amends that Schedule to insert an entry for pandemic influenza. The effect is that an overseas visitor who is being treated in a hospital for pandemic influenza will not be charged for any NHS treatment in respect of that condition.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the private and voluntary sectors.

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(Charges) (Amendments Relating to
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Made 7 May 2009

Laid before the National Assembly for Wales

7 May 2009

Coming into force

8 May 2009

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 121(1), 124 and 203(9) of the National Health Service (Wales) Act 2006⁽¹⁾.

Citation, commencement and application

1.—(1) The title of these Regulations is the National Health Service (Charges) (Amendments Relating to Pandemic Influenza) (Wales) Regulations 2009 and they come into force on 8 May 2009.

(2) These Regulations apply in relation to Wales.

Amendment of the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007

2.—(1) The National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007⁽²⁾ are amended as follows.

(2) There is inserted after regulation 7 the following regulation:

“7A. (Supply of drugs in the event of a pandemic)

(1) 2006 c.42.

(2) S.I. 2007/121 (W.11).

“(1) No charges may be made or recovered under these Regulations in respect of a supply of drugs which is—

- (a) made—
 - (i) while a disease is pandemic, or
 - (ii) in anticipation of a disease being imminently pandemic,and is a serious risk, or potentially a serious risk, to human health; and
- (b) in accordance with a protocol relating to that disease as provided for in article 12F of the Prescription Only Medicines (Human Use) Order 1997(1) or article 8 of the Medicines (Pharmacy and General Sale—Exemption) Order 1980(2).”.

Amendment of the National Health Service (Charges to Overseas Visitors) Regulations 1989

3. In Schedule 1 to the National Health Service (Charges to Overseas Visitors) Regulations 1989(3), in Part IV (other diseases), after “Severe Acute Respiratory Syndrome” insert the following entry—

“Pandemic influenza (influenza caused by a new virus subtype that has an increased and sustained transmission during a global outbreak of influenza).”.

Edwina Hart

Minister for Health and Social Services, one of the Welsh Ministers

7 May 2009

(1) 1997/1830; relevant amending instrument is S.I. 2009/1165.
(2) 1980/1924; relevant amending instrument is S.I. 2009/1165.
(3) S.I. 1989/306; Part IV of Schedule 1 was inserted by S.I. 2004/1433 (W.146).