
WELSH STATUTORY INSTRUMENTS

2001 No. 1543 (W.108)

**NATIONAL HEALTH SERVICE, WALES
LOCAL GOVERNMENT, WALES**

**The National Health Service (Payments by
Local Authorities to Health Authorities)
(Prescribed Functions) (Wales) Regulations 2001**

Made - - - - *29th March 2001*

Coming into force - - *1st April 2001*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 28BB(1) and 126(4) of the National Health Service Act 1977(1), hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Health Service (Payments by Local Authorities to Health Authorities) (Prescribed Functions) (Wales) Regulations 2001 and shall come into force on 1st April 2001.

(2) In these Regulations “the Act” means the National Health Service Act 1977.

(3) These Regulations apply to Wales only.

Prescribed functions of Health Authorities in Wales

2.—(1) Subject to paragraph (2) below, the following functions are the prescribed functions of Health Authorities in Wales for the purposes of section 28BB of the Act (power of local authorities to make payments to NHS bodies) -

(a) the functions of providing, or making arrangements for the provision of, services—

(i) under sections 2 and 3(1) of the Act, including, in particular, rehabilitation services and services intended to avoid admission to hospital, and

(1) 1977 c. 49; section 28BB was inserted by section 30 of the Health Act 1999 (c. 8) (“the 1999 Act”). Section 30 of the 1999 Act was commenced in relation to Wales by the Health Act 1999 (Commencement No.3) (Wales) Order 2000, S.I. 2000/2991 (W.191)(C.92), except in so far as subsection (2) of section 28BB of the 1977 Act relates to Primary Care Trusts. See section 28BB(2) for the definition of “prescribed”. Section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19), section 65(2) and the 1999 Act, Schedule 4, paragraph 37(6). The functions of the Secretary of State under sections 28BB and 126(4) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(4) and (5) of the 1999 Act.

- (ii) under section 5(1), (1A) and (1B) of, and Schedule 1 to, the Act(2); and
 - (b) any function under sections 25A to 25H and 117 of the Mental Health Act 1983(3).
- (2) There are excluded from the functions prescribed under paragraph (1) above any functions in respect of—
- (a) the provision of surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments(4) and other invasive treatments;
 - (b) emergency ambulance services;
 - (c) the provision of drugs and other substances which are listed in Schedule 10 to the National Health Service (General Medical Services) Regulations 1992(5) or which are listed in column 1 of Schedule 11 to those Regulations, as those Schedules apply in Wales and, so far as Schedule 11 is concerned, in circumstances in which the conditions specified in column 3 of that Schedule are not met; and
 - (d) the provision of appliances which are not listed in Part IX of the statement known as “the Drug Tariff” published and from time to time amended under regulation 18(1) of the National Health Service (Pharmaceutical Services) Regulations 1992(6) as the statement applies in Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

D. Elis Thomas
The Presiding Officer of the National Assembly
for Wales

29th March 2001

(2) Section 5(1) was amended by, and sections 5(1A) and (1B) were inserted by, the Health and Medicines Act 1988 (c. 49), section 10(1); Schedule 1 was amended by the Education Act 1981 (c. 60), Schedule 3, paragraph 13, the Education Reform Act 1988 (c. 40), Schedule 12, Part I, paragraph 21, and the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 7.

(3) 1983 c. 20.

(4) See BS EN 60825-1: 1994 Safety of Laser Products. Class 4 laser products are defined by reference to British Standards published by the British Standards Institution (“BSI”) and which may be obtained from BSI, Linford Woods, Milton Keynes, MK14 6LE.

(5) S.I. 1992/635; relevant amending instruments are S.I. 1992/2412, 1993/2421, 1994/2620, 1995/3093, 1997/981, 1999/1627 and 2000/1887.

(6) S.I. 1992/662; relevant amending instruments are S.I. 1993/2451, 1995/644 and 1999/696.

(7) 1998 c. 38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain functions of Health Authorities in Wales, for the purposes of section 28BB of the National Health Service Act 1977. This enables county and county borough councils in Wales to make payments to Health Authorities towards expenditure incurred by them in connection with the performance of any of the functions so prescribed.