
STATUTORY INSTRUMENTS

2000 No. 618

**NATIONAL HEALTH SERVICE, ENGLAND
LOCAL GOVERNMENT, ENGLAND**

**The National Health Service (Payments by Local Authorities
to NHS Bodies) (Prescribed Functions) Regulations 2000**

<i>Made</i>	- - - -	<i>10th March 2000</i>
<i>Laid before Parliament</i>		<i>10th March 2000</i>
<i>Coming into force</i>	- -	<i>1st April 2000</i>

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 28BB(1) and 126(4) of the National Health Service Act 1977(1), and of all other powers enabling him in that behalf, 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 NHS Bodies) (Prescribed Functions) Regulations 2000 and shall come into force on 1st April 2000.

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

(3) These Regulations extend to England only(2).

Prescribed functions of relevant NHS bodies

2.—(1) Subject to paragraph (2) below, the following functions are the prescribed functions of a relevant NHS body 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—

(1) 1977 c. 49; section 28BB was inserted by section 30 of the Health Act 1999(c. 8). See section 28BB(2) of the 1977 Act for the definition of “prescribed”.

(2) Although section 28BB of the National Health Service Act 1977 (c. 49) extends to both England and Wales (see section 66 of the Health Act 1999 (c. 8)), the Secretary of State does not have powers to prescribe functions under that section in respect of Wales. See article 2 of, and Schedule 1 to, 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), which transfers most of the functions of the Secretary of State under the 1977 Act including his powers to prescribe functions under section 28BB, so far as they are exercisable in relation to Wales, to the National Assembly for Wales.

- (i) under sections 2 and 3(1) of the Act, including rehabilitation services and services intended to avoid admission to hospital, and
 - (ii) under section 5(1), (1A) and (1B) of, and Schedule 1 to, the Act(3); and
 - (b) any function under sections 25A to 25H and 117 of the Mental Health Act 1983(4).
- (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(5) 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(6) or which are listed in column 1 of Schedule 11 to those Regulations 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(7).

Signed by authority of the Secretary of State for Health

10th March 2000

Gisela Stuart
Parliamentary Under Secretary of State,
Department of Health

(3) 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.

(4) 1983 c. 20.

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

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

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain functions of Health Authorities and Primary Care Trusts, for the purposes of section 28BB of the National Health Service Act 1977. Subject to certain conditions prescribed in Directions made by the Secretary of State under sub-section (4) of this section, this allows local authorities to make payments to those NHS bodies towards expenditure incurred by them in connection with the performance of any of the functions so prescribed.