
WELSH STATUTORY INSTRUMENTS

2001 No. 1300 (W. 77)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Penalty Charge) (Wales) Regulations 2001

Made - - - - 27th March 2001

Coming into force - - 1st April 2001

The National Assembly for Wales in exercise of powers conferred on the Secretary of State by sections 122B(1), (2) and (4), 126(4) and 127(a) of the National Health Service Act 1977⁽¹⁾, and of all other powers enabling him in that behalf and now vested in the National Assembly for Wales⁽²⁾, hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the National Health Service (Penalty Charge) (Wales) Regulations 2001 and shall come into force on 1st April 2001.

(2) In these Regulations, unless the context otherwise requires—

“the Act” (“*y Ddeddf*”) means the National Health Service Act 1977; and

“surcharge” (“*gordal*”) has the meaning given in regulation 4.

(3) These Regulations shall apply to Wales only.

Service of a penalty notice

2.—(1) Where a person fails to pay any amount referred to in section 122B(1)(a) or (b) of the Act⁽³⁾, the responsible authority may serve a penalty notice requiring the person, within the period of 28 days beginning with the date on which the penalty notice was sent, to pay that amount to the responsible authority together with a penalty charge determined in accordance with regulation 3.

(1) 1977 c. 49. See section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 122B was inserted by section 39 of the Health Act 1999 (c. 8) (“the 1999 Act”). Section 126(4) was amended by section 65(2) of the 1990 Act.

(2) The Functions of the Secretary of State under sections 122B(1), (2) and (4), 126(4) and 127(a) of the National Health Service Act 1977 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672)

(3) Section 122B applies to charges and payments which may under section 122(1) or 122A of the Act be recovered from a person in respect of the provision of those goods and services listed in section 122A(7); section 122A was inserted by section 39 of the 1999 Act. Such charges include charges which may be made and recovered for dental treatment provided in accordance with pilot schemes under section 20 of the National Health Service (Primary Care) Act 1997 (c. 46); see section 39(3) of the 1999 Act.

- (2) A penalty notice shall be sent by post to the person's last known address.
- (3) The penalty notice shall state—
 - (a) the name of the person liable to pay the amount required to be paid under the penalty notice;
 - (b) the amount recoverable as mentioned in section 122B(1)(a) or (b) of the Act;
 - (c) the amount of the penalty charge calculated in accordance with regulation 3 and the goods or services to which the amount relates;
 - (d) the sum of the amounts referred to in sub-paragraphs (b) and (c), which shall represent the total amount required to be paid under the penalty notice;
 - (e) in relation to the total amount required to be paid under the penalty notice—
 - (i) the responsible authority to whom that amount shall be paid,
 - (ii) the address to which that amount shall be sent,
 - (iii) the methods by which payment may be made, and
 - (iv) in accordance with paragraph (1), the date by which that amount shall be paid to the responsible authority;
 - (f) that if the person fails to pay the amount that person is required to pay by the date specified in the penalty notice—
 - (i) the person must also pay to the responsible authority a surcharge, and
 - (ii) the amount of the surcharge that person must pay, calculated in accordance with regulation 4(2); and
 - (g) that a person is not liable by virtue of a penalty notice—
 - (i) to pay at any time so much of any amount referred to in section 122B(1)(a) or (b) of the Act for which that person is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other⁽⁴⁾, or
 - (ii) to a penalty charge, or a surcharge, if that person shows that he or she did not act wrongfully, or with any lack of care, in respect of the amount recoverable as mentioned in section 122B(1)(a) or (b) of the Act⁽⁵⁾.

Calculation of penalty charge

- 3. The amount of the penalty charge shall be whichever is the smaller of—
 - (a) £100, and
 - (b) the amount referred to in section 122B(1)(a) or (b) of the Act multiplied by 5.

Surcharge

4.—(1) Where a person fails to pay the amount required to be paid under the penalty notice in accordance with regulation 2(1), he shall in addition be liable to pay to the responsible authority a further sum (in these regulations referred to as “a surcharge”), calculated in accordance with paragraph (2).

(2) The amount of the surcharge shall be 50% of the amount of the penalty charge (rounded down, where necessary, to the nearest whole penny.)

⁽⁴⁾ see section 122B(7)(a) of the Act.

⁽⁵⁾ see section 122B(7)(b) of the Act.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

27th March 2001

D.Elis Thomas
The Presiding Officer of the National Assembly

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations make provision for a civil penalty to be imposed where a person wrongly fails to pay a National Health Service charge in respect of the provision of drugs and medicines, dental treatment and appliances, optical services, or any other appliances. The Regulations also make provision for a civil penalty to be imposed where a person receives a payment or benefit towards the cost of a National Health Service charge or service to which that person is not entitled, such as National Health Service spectacle vouchers or free National Health Service sight tests.

Regulation 2 provides for a penalty notice to be issued to a person requiring payment of the amount that the person has failed to pay and an additional penalty charge. It sets out the period within which those amounts must be paid, and the information that the penalty notice must contain. Regulation 3 sets out how the amount of the penalty charge payable shall be calculated.

Regulation 4 provides that where the amount to be paid under the penalty notice is not paid within the period prescribed, a further sum by way of penalty (“surcharge”) must be paid. The regulation sets out how the amount of the surcharge shall be calculated.