
STATUTORY INSTRUMENTS

2014 No. 932

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Property Expenses Scheme) (Amendment) Regulations 2014

<i>Made</i>	- - - -	<i>3rd April 2014</i>
<i>Laid before Parliament</i>		<i>9th April 2014</i>
<i>Coming into force</i>	- -	<i>1st May 2014</i>

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 71 and 272(7) and (8) of the National Health Service Act 2006⁽¹⁾.

These Regulations are made with the consent of the Treasury in accordance with section 71(1) of that Act.

Citation, commencement, application and interpretation

1. (1) These Regulations may be cited as the National Health Service (Property Expenses Scheme) (Amendment) Regulations 2014 and come into force on 1st May 2014.

(2) These Regulations apply to England only.

(3) In these Regulations “the Principal Regulations” means the National Health Service (Property Expenses Scheme) Regulations 1999⁽²⁾.

Amendment of regulation 1 of the Principal Regulations

2. In Regulation 1 (citation, commencement and interpretation) of the Principal Regulations, in paragraph (2)—

(a) after the definition of the Act insert—

““the 2012 Act” means the Health and Social Care Act 2012;”⁽³⁾;

(b) for the definition of “relevant function”, substitute—

““relevant function” means—

(1) 2006 c.41. Relevant amendments to section 71 were made by sections 95 and 142 of, and paragraph 85 of Schedule 5 to, the Health and Social Care Act 2008 (c.14) and sections 55(1), 56(4), 249(1) and 277 of, and paragraph 18 of Schedule 4, paragraphs 17 and 19 of Schedule 7, paragraph 10 of Schedule 17, and paragraph 9 of Schedule 19 to, the Health and Social Care Act 2012 (c.7) (“the 2012 Act”).

(2) S.I. 1999/874, amended by S.I. 2000/2342, 2002/2469, 2004/696, 2005/604, 2012/1641 and 2013/235.

(3) 2012 c.7.

- (a) arranging for the provision of, or providing services for the purposes of, or exercising functions in relation to, the health service;
- (b) exercising powers under, or by virtue of, section 7 of the Health and Medicines Act 1988⁽⁴⁾;
- (c) exercising powers under section 13W, 14Z5, 43(3) or 44 of, or paragraphs 19 and 20 of Schedule 4 to, the National Health Service 2006 Act⁽⁵⁾;
- (d) exercising powers under section 243 or 270 of the 2012 Act;
- (e) exercising powers by virtue of section 240(1)(a) or (b) of the 2012 Act;”.

Amendment of regulation 4 of the Principal Regulations

3. In Regulation 4 (expenses to which the Scheme applies) of the Principal Regulations, after paragraph (2) insert—

“(2A) For the purposes of paragraph (2)(a) (and with effect from 1st May 2014), loss or damage to property which occurred on or after 1st April 1999 and before 1st May 2014 and which—

- (a) before 1st May 2014 was not loss or damage to property of a member or for which a member was responsible in the course of a relevant function; but
- (b) would have been loss or damage to property of a member or for which a member was responsible in the course of a relevant function, had the change to the definition of “relevant function” in regulation 1(2) that was made on 1st May 2014 been made before the loss or damage occurred,

is loss or damage to property of a member or for which a member was responsible in the course of a relevant function.”.

Amendment of regulation 7 of the Principal Regulations

4. (1) Regulation 7 (termination of membership) of the Principal Regulations is amended as follows.

- (2) In paragraph (1), for “12” substitute “7”.
- (3) After paragraph (3), insert—

“(4) Where a member is no longer an eligible body, the Secretary of State may terminate that member’s participation in the Scheme with immediate effect.”.

Amendment of regulation 8 of the Principal Regulations

5. (1) Regulation 8 (members’ contributions to the Scheme) of the Principal Regulations is amended as follows.

- (2) In paragraph (2), for “the Secretary of State shall have regard to”, substitute “the Secretary of State may have regard to”.
- (3) Omit paragraph 3(a).

(4) 1988 c.49. Relevant amendments to section 7 were made by section 66(1) of, and paragraph 34 of Schedule 9 to, the National Health Service and Community Care Act 1990 (c.19), section 5 of the Health and Social Care Act 2001 (c.15), section 2 of, and paragraphs 115 and 116 of Schedule 1 to, the National Health Service (Consequential Provisions) Act 2006 (c.43), section 55(2) of, and paragraph 45 of Schedule 5 to, the 2012 Act, and article 2(1) of, and paragraph 99 of Schedule 1 to S.I. 2009/1941.

(5) Sections 13W and 14Z5 of the National Health Service Act 2006 were inserted by sections 23(1) and 26 (respectively) of the 2012 Act. Section 43(3) was amended by section 164 of the 2012 Act and relevant amendments to section 44 were made by section 165(1) and (2) of the 2012 Act.

(4) In paragraph (3)(c), for “31st October” substitute “31st December”.

Signed by authority of the Secretary of State for Health.

18th March 2014

Dan Poulter
Parliamentary Under-Secretary of State
Department of Health

We consent,

3rd April 2014

Mark Lancaster
David Evennett
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Property Expenses Scheme) Regulations 1999 (“the Principal Regulations”) which established a scheme whereby certain bodies set out in the Regulations may make provision to meet qualifying expenses arising from any loss or damage to their property.

Regulation 2 amends the Principal Regulations by updating the definition of relevant function. The new definition corresponds to how services are now commissioned or provided for the purposes of the health service and covers the activities of bodies exercising other functions in relation to the health service and other powers to generate income.

Regulation 3 amends the Principal Regulations to provide that where loss or damage to the property of a member or for which a member is responsible in the course of a relevant function, occurs before the coming into force of the new definition of relevant function contained in these Regulations, it will be treated with effect from 1st May 2014 as if that definition had been in force before the loss or damage occurred.

Regulation 4 amends the Principal Regulations to reduce the notice period required for a member to terminate its membership of the scheme from 12 months to 7. It also provides that if a member is no longer an eligible body, the Secretary of State may terminate its membership with immediate effect.

Regulation 5 changes the date by which the Secretary of State must notify a member of the contributions payable under the scheme, in respect of the member’s third and subsequent years of membership, from 31st October to 31st December of the preceding year. Further, it omits the paragraph relating to the Secretary of State giving notice of payments to be made in the first year of membership, where members joined the Scheme on 1st April 1999, as this provision has no ongoing relevance. It also provides that the Secretary of State may have regard to certain factors in determining members’ contributions, instead of providing that the Secretary of State must have regard to those factors.