ABOLITION OF NHS PRESCRIPTION CHARGES (SCOTLAND) BILL

EXPLANATORY NOTES
(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Abolition of NHS Prescription Charges (Scotland) Bill introduced in the Scottish Parliament on 19 January 2005:
   • Explanatory Notes;
   • a Financial Memorandum; and
   • the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 35– PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Non-Executive Bills Unit on behalf of Colin Fox, the member in charge of the Bill. They have been prepared in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

SUMMARY OF AND BACKGROUND TO THE BILL

4. The Bill abolishes NHS charges for Scottish prescriptions regardless of an individual’s medical condition or their ability to pay. This provides free access to all people who require drugs, medicines or appliances, or pharmaceutical services.

5. The Bill does this by:
   - removing the power to charge for Scottish prescriptions;
   - revoking regulations to the extent that they provide for charges to be made for Scottish prescriptions;
   - defining a Scottish prescription; and
   - providing refund arrangements for holders of pre-payment certificates affected by the abolition of charges for Scottish prescriptions.

COMMENTARY ON SECTIONS

Section 1: Abolition of prescription charges

6. Section 69(1) of the National Health Service (Scotland) Act 1978 (c.29) (“the 1978 Act”) enables the Scottish Ministers to make regulations in respect of charges for drugs, medicines and appliances, or pharmaceutical services. Section 69(1) is subdivided into two parts. Paragraph (a) refers to the supply of drugs, medicines or appliances “otherwise than under Part II” of the 1978 Act, which includes the direct supply by hospitals to out-patients. Paragraph (b) refers to pharmaceutical services under Part II of the 1978 Act, predominantly supply by chemists when presented with a prescription form and by GP dispensers.

7. The current principal regulations made under section 69(1) are the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001 (S.S.I. 2001/430). These regulations set standard charges for drugs, medicines and appliances supplied by chemists, GP dispensers, and by hospitals to out-patients.
8. Section 1(1)(a) of the Bill amends section 69 of the 1978 Act by inserting new subsections (1A) and (1B).

9. New subsection (1A) removes the power of Scottish Ministers to make regulations applying charges in respect of Scottish prescriptions.

10. Under new subsection (1B), a prescription is a “Scottish prescription” where the act of ordering the drugs, medicines, appliances or pharmaceutical services occurs in Scotland. For example, a doctor (or other NHS prescriber) writing out a prescription form or writing instructions to supply drugs on a patient’s notes is providing a “Scottish prescription”.

11. Section 1(2) revokes regulations made under section 69(1) of the 1978 Act to the extent that they make charges for Scottish prescriptions. For NHS prescriptions that are not Scottish prescriptions the regulations remain in place, and NHS charges continue to apply.

Section 2: Refund of pre-payment certificates

12. When the Bill comes into force there may be people who have purchased pre-payment certificates that they no longer require. A pre-payment certificate is a “season ticket” purchased in advance to cover the dispensing of all prescription items for 4 or 12 months.

13. Section 2 gives holders of a pre-payment certificate the right to a refund in respect of any complete unused months. If, for example, a person has a 12 month pre-payment certificate which has three full months remaining to run after commencement they become entitled to a refund of 3/12ths of the initial cost of the certificate.

FINANCIAL MEMORANDUM

INTRODUCTION

14. The costs of this Bill relate to the cost of extending free access to those who are currently liable for Scottish prescription charges for drugs, medicines or appliances, or pharmaceutical services.

COSTS ON THE SCOTTISH ADMINISTRATION

15. The Scottish Executive will require to fund the cost of dispensing free prescriptions. In 2003-04 the total revenue raised from prescription charges in Scotland was £45.4 million.¹ This figure represents 4.9% of the total drugs bill for Scotland.² There may also be costs incurred by

¹ Parliamentary Written Question S2W-9882, answered on 1 September 2004
² Parliamentary Written Question S2W-9883, answered on 1 September 2004
the administration of refund payments to holders of pre-payment certificates the bulk of which will arise during the first year following implementation.

**Potential savings**

16. There are a number of direct savings resulting from the abolition of charging arrangements for Scottish prescriptions.

17. The most immediate of these savings is the administration costs associated with the NHS prescription exemption and remission systems. In 2003-04 these costs amounted to £1.54 million. This covered the cost of processing applications for assistance under the NHS Low Income Scheme, production, distribution and supply to patients of prescription pre-payment certificates and the processing of refund claims for individual prescriptions and pre-payment certificates.³

18. As the Bill will remove these supporting arrangements, there would, in addition, be consequential savings which relate to the publicising of the exemption and remission arrangements for prescription charges (e.g. any publicity campaigns and associated leaflet or poster printing etc.). In April 2004 the budget for publicity material about help with health charges and NHS prescription charge exemption and remission arrangements in Scotland was transferred from the UK Government to the Scottish Executive. The figure allocated for publicity material in 2004 is £73,000.⁴

19. A further saving would arise from the removal of the need to combat prescription fraud. From 1999 to 2002 a total of £251,862 was spent on advertising directed at preventing NHS fraud.⁵

**Reduced costs for the NHS**

20. Patients not adhering to their prescribed healthcare plan, because they cannot afford the costs of prescription medicines, may worsen their medical condition (see Policy Memorandum SP Bill 35-PM paragraph 54 to 59). Non-adherence is often detrimental to their medical conditions, ultimately leading to them requiring further medical intervention in the form of acute or emergency treatment at significant cost. Abolishing Scottish prescription charges will lessen the costs to the National Health Service in Scotland by reducing the number of people requiring acute and emergency services in such circumstances. Although it is difficult to estimate the exact financial benefit this area is likely to yield, it is expected to be significant.

21. A patient suffering from a peptic ulcer whose condition is exacerbated by not taking their medicine may require general surgery for a perforated ulcer. According to NHS Direct approximately 1 in 8 people in the UK develop a peptic ulcer at some point in their lives. This equates to 745,000 people in Scotland, perhaps an average of 10,000 people per annum. The average cost of treating an acute inpatient in 2002-03 was £1,875 a week. General research has

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³ Parliamentary Written Question S2W-9558, answered on 28 July 2004  
⁴ Parliamentary Written Question S2W-11145, answered on 25 October 2004  
⁵ Parliamentary Written Question S1W-32870 answered on 7 February 2003
These documents relate to the Abolition of NHS Prescription Charges (Scotland) Bill (SP Bill 35) as introduced in the Scottish Parliament on 19 January 2005

shown when patients have to pay for their medication there is a reduction in uptake of 6.4%. A more recent report by the National Association of Citizens Advice Bureaux suggests that 37% of people are failing to get all or part of their prescriptions dispensed. Potential cost savings are set out in the table at paragraph 29.

22. This cost rises dramatically in the case of a patient with a heart complaint requiring a heart operation. The average cost of cardiac surgery was almost £7,500 in 2002-03. During the year ending March 31 2002 the National Health Service in Scotland treated 16,807 in-patients for heart attack and 33,487 for other forms of chronic heart disease. Scottish residents underwent 2,735 coronary artery bypass grafts and 3,370 angioplasties in 2001-02.

Reduced costs for other services

23. Further savings will be achieved beyond hospital medical treatment. Those left with a long term or permanent disability through failure to take essential medicine because of prescription charges will incur continuing costs in benefits payments and care provision. For example the glaucoma sufferer who may become blind - glaucoma affects 1 in 50 people over the age of 40 (one in 100 has glaucoma at age 40) and is responsible for 10.7% of the cases of blindness and partial sight in the UK. Again, although it is not possible to quantify the savings explicitly, they could run to tens of thousands of pounds per patient. Savings for benefit payments will accrue to the Department of Work and Pensions.

COSTS ON LOCAL AUTHORITIES

24. No costs expected.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

25. No costs expected.

Potential savings

26. There will be some savings for pharmacies in terms of administration costs. Disbanding the exemption arrangements for Scottish prescriptions will reduce the amount of time pharmacy staff spend checking the accuracy and authenticity of medical information contained on the prescription form. At present time is required to sort “paid prescriptions” from “exempt prescriptions”. Thereafter, “exempt prescriptions” are further subdivided into “ordinary” and “special”. Finally those categories are sorted into “evidence produced” and “evidence not produced” before the forms are sent to Practitioner Services in the Common Services Agency. The new arrangements will reduce considerably the time spent sorting prescription forms.


27. Additionally there will be savings to individuals. Those who do not meet the criteria to receive prescription items will now receive these items free of charge. The average patient can expect to have 12 items prescribed per year (most recent figure available 2001-02).\(^8\) Therefore the saving could be on current figures in the region of £76.80 per year, per person who currently has to pay for their prescriptions.

28. Overall there will be savings to individuals equating to the reduction in prescription income of some £45.4 million.

29. The table below summarises the range of annual potential savings (unless otherwise stated). Costing indirect savings poses some difficulties; however the table provides a range of costs based on the level of prescription redemption in relation to peptic ulcers (see paragraph 20).

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<th>Direct savings</th>
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<tr>
<td>Individuals</td>
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<td>Administration costs</td>
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<td>Publicity material</td>
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<td>Prescription Fraud</td>
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<th>Indirect savings</th>
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<td>Treatment</td>
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<td>Acute inpatient treatment</td>
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*figure provided by the Scottish Executive refers to a 3 year period.

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**PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE**

30. On 18 January 2005, the Presiding Officer (Right Honourable George Reid MSP) made the following statement:

“In my view, the provisions of the Abolition of NHS Prescription Charges (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

\(^8\) Dispensing / Prescribing Volume, November 2002. Available at ISD online: http://www.show.scot.nhs.uk/isdonline/primary_care/pservices/pcare_ps DISPENSING_01.htm