

**RECOVERY OF HEALTH SERVICES CHARGES (AMOUNTS)
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010**

EXPLANATORY MEMORANDUM

SR 2010 No. 117

Introduction

For more than 70 years hospitals have been able to recover the costs of treating the casualties of road traffic accidents where the injured person has made a successful claim for personal injury compensation. Part II of the Health and Personal Social Services Act (Northern Ireland) 2001 provided for the introduction of a new and improved scheme for collection of the recoverable hospital costs.

The Recovery of Health Services Charges (Northern Ireland) Order 2006 (“the Order”), which was made after appropriate consultation and assessments, provides for the extension of the scheme to include all cases where compensation is paid in respect of an injury and to add ambulance costs. The expanded scheme came into operation from 29 January 2007 and applies to all injuries occurring on or after that date. Part II of the 2001 Act continues to apply in respect of accidents before that date.

Recovery of health services charges is carried out for the Health and Personal Social Services by the Compensation Recovery Unit (CRU), a branch of the Department for Social Development. Recovery is mainly from insurance companies and does not affect the level of compensation paid to the injured person.

Purpose of the Rule

The purpose of the rule is to increase the charges recovered from persons who pay compensation (“compensators”) in cases where an injured person receives health services hospital treatment or ambulance services from 01 April 2010. The increase in charges relates to an uplift for Hospital and Community Health Service (HCHS) annual inflation.

The Rule will be subject to the negative resolution procedure.

Legislative Context

The Order confers powers on the Department to make regulations to bring the extended recovery scheme into full effect. There are four such Statutory Rules: (i) The Recovery of Health Services Charges (Amounts) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 507); The Recovery of Health Services Charges (General) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 536); (iii) The Recovery of Health Services Charges (Reviews and Appeals) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 24); and (iv) The Recovery of Health Services Charges (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007 No. 142).

The amounts recoverable are specified in regulation 2 of The Recovery of Health Services Charges (Amounts) Regulations (Northern Ireland) 2006 (“the principal Regulations”). This Rule increases the amounts recoverable under the principal Regulations in respect of incidents occurring on or after 01 April 2010.

Policy Background

In 2003 the Department undertook a public consultation on the proposed extension of the scheme. The overall level of response was low and the responses received showed a large majority of interests (about 75% of responders) in favour of the proposed extension. The draft Order was issued for consultation in 2004 and the various sets of draft regulations were consulted on in 2006. The consultation on the regulations included a proposal that, in keeping with the then existing scheme, the tariff of charges should continue to remain the same as those set by the Department of Health and Scottish Assembly for the equivalent scheme in GB and should rise every April in line with Hospital and Community Health Services (HCHS) inflation. No opposition to the proposal was expressed.

HCHS inflation is based on expenditure specific to the hospital sector and is calculated by combining the indices for NHS pay and price inflation using a 64/36 weighting. The latest estimate for HCHS inflation is 3.5% for 2009/10. As the additional income resulting from the tariff increases (estimated at £300k per year) will be in line with HCHS inflation, it will simply maintain the real term value of current income.

This Rule amends **Regulation 2** of the principal Regulations, which makes provision for the calculation of health services charges using a simple set of tariffs. It provides for the following:

- (i) the charge for ambulance services to increase from £171 to £177;
- (ii) the charge for out-patient treatment to increase from £566 to £585;
- (iii) the daily charge for in-patient treatment to increase from £695 to £719;
- (iv) the maximum amount recoverable in any one case to increase from £41,545 to £42,999.

The amendments will apply to health services charges in respect of injuries occurring on or after 1 April 2010.

Consultation

It was not necessary to consult on the Rule. Support for the practice of increasing the level of charges was confirmed in the outcome of the Department’s public consultation in 2006 on the draft Regulations governing the health services charges recovery scheme.

Position in GB

A similar scheme operates in GB and the tariff levels there will be the same from 1 April 2010 as they will be in Northern Ireland.

Equality Impact

In 2004, the Department considered the impact of the policy to extend the scheme on equality of opportunity as between those groups listed in section 75 of the Northern Ireland Act 1998. This screening identified no adverse or differential effects and a full impact assessment was not regarded as necessary. That position is regarded as still applying.

Regulatory Impact

A regulatory impact assessment was carried out in 2004 on the proposed extension of the scheme. It identified a limited effect on business and the voluntary sector in terms of a small increase (about 4%) in the cost of insurance cover in respect of employers' and public liability. A further assessment for this Rule is not considered necessary because the tariff levels are just being increased in line with HCHS inflation.

Financial Implications

The increase in tariff levels will have a minimal financial impact, even when their full effect is realised by year ending 31 March 2013. The additional income to Trusts should amount to over £300k per year. Given that the extended scheme only came into operation in January 2007, sufficient information to allow a proper assessment of the likely effect on employer and public liability insurance premiums is not available. However, the likely effects can be considered in relation to motor insurance claims and it has been calculated that an average policy could be expected to rise by 0.12%.

In 2009/10, CRU received a total of £271k to administer the scheme on behalf of the Department. By the end of this period, CRU is set to recover in the region of £8m for health services hospitals and the ambulance service. This tariff increase does not increase the cost of administering the scheme as a facility to increase the level of charges has already been built into the IT system. There are therefore no additional costs to the Exchequer arising from the tariff increase.

Section 24 of the Northern Ireland Act

The Order and the previous regulations made under it were considered to be in compliance with section 24 of the Northern Ireland Act 1998. It follows that this Rule would similarly comply.