



NHS Redress Act 2006

2006 CHAPTER 44

England

1 Power to establish redress scheme

- (1) The Secretary of State may by regulations establish a scheme for the purpose of enabling redress to be provided without recourse to civil proceedings in circumstances in which this section applies.
- (2) This section applies where under the law of England and Wales qualifying liability in tort on the part of a body or other person mentioned in subsection (3) arises in connection with the provision, as part of the health service in England, of qualifying services.
- (3) The bodies and other persons referred to are—
 - (a) the Secretary of State,
 - (b) a Primary Care Trust,
 - (c) a designated Strategic Health Authority, and
 - (d) a body or other person providing, or arranging for the provision of, services whose provision is the subject of arrangements with a body or other person mentioned in paragraph (a), (b) or (c).
- (4) The reference in subsection (2) to qualifying liability in tort is to liability in tort owed—
 - (a) in respect of or consequent upon personal injury or loss arising out of or in connection with breach of a duty of care owed to any person in connection with the diagnosis of illness, or the care or treatment of any patient, and
 - (b) in consequence of any act or omission by a health care professional.
- (5) For the purposes of subsection (2), services are qualifying services if—
 - (a) they are provided in a hospital (in England or elsewhere), or
 - (b) they are of such other description (including a description involving provision outside England) as the Secretary of State may specify by regulations.

- (6) Regulations under subsection (5)(b) may not specify services of any of the following descriptions—
- (a) primary dental services,
 - (b) primary medical services,
 - (c) services provided under section 38 of the National Health Service Act 1977 (c. 49) (general ophthalmic services),
 - (d) services provided under section 41 of that Act (arrangements for pharmaceutical services) or by virtue of section 41A of that Act (arrangements for additional pharmaceutical services), and
 - (e) services of a kind which may be provided under section 41 of that Act, or by virtue of section 41A of that Act, which are provided under Schedule 8A to that Act (local pharmaceutical services schemes) or section 28 of the Health and Social Care Act 2001 (c. 15) (local pharmaceutical services pilot schemes).
- (7) The references in subsection (6) to primary dental services and primary medical services are to primary dental services and primary medical services under Part 1 of the National Health Service Act 1977, except that the Secretary of State may by regulations provide that services of a description specified in the regulations are not to be regarded as primary dental services or primary medical services for the purposes of that subsection.
- (8) Regulations under subsection (5)(b) or (7) may, in particular, describe services by reference to the manner or circumstances in which they are provided.
- (9) In subsection (3)(d), the reference to a person providing services does not include a person providing services under a contract of employment.
- (10) In subsection (4), the reference to a health care professional is to a member of a profession (whether or not regulated by, or by virtue of, any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals.
- (11) In this section, “hospital” has the same meaning as in the National Health Service Act 1977.