

2013 No. 2586

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

ROAD TRAFFIC, ENGLAND AND WALES

**The Personal Injuries (NHS Charges) (Reviews and Appeals)
and Road Traffic (NHS Charges) (Reviews and Appeals)
Amendment Regulations 2013**

Made - - - - *8th October 2013*

Laid before Parliament *11th October 2013*

Coming into force - - *7th November 2013*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 7(4) and 16(2) of the Road Traffic (NHS Charges) Act 1999(a) and sections 157(7) and 195(1) of the Health and Social Care (Community Health and Standards) Act 2003(b).

In accordance with section 195(3) of that Act, the Secretary of State for Health has consulted the Welsh Ministers(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) Amendment Regulations 2013 and come into force on 7th November 2013.

(2) In these Regulations—

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003;

“the 1999 Act” means the Road Traffic (NHS Charges) Act 1999;

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- (a) 1999 c. 3. The Road Traffic (NHS Charges) Act 1999 (“the 1999 Act”) was repealed by sections 169(1) and 196 of, and Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), in relation to England and Wales: these provisions were commenced, and relevant saving provisions were made by, articles 3 and 4 of S.I. 2006/3397, as amended by S.I. 2008/2683. The effect of the provisions is that the 1999 Act is repealed from 29th January 2007, except in relation to injuries which occurred before that date where the 1999 Act continues to apply as if it had not been repealed.
- (b) 2003 c. 43; relevant amendments are made by section 59(5) of, and paragraph 1 of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4), section 6 of, and Schedule 4 to, the National Health Service (Consequential Provisions) Act 2006 (c. 43), S.I. 2006/1407 and S.I. 2008/2833.
- (c) The functions formerly exercisable by the National Assembly for Wales were transferred to the Welsh Ministers by section 162(1) of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (2006 c. 32).

“the 2006 Regulations” means the Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006(a); and

“the 1999 Regulations” means the Road Traffic (NHS Charges) (Reviews and Appeals) Regulations 1999(b).

Amendment of the 1999 Regulations

2.—(1) The 1999 Regulations are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “tribunal” insert—

“; and

“Tribunal Procedure Rules” means the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008.”(c).

(3) In regulation 3 (manner of making appeals and time limits)—

(a) for paragraph (1) substitute, “An appeal against a certificate must be made in accordance with the Tribunal Procedure Rules”; and

(b) omit paragraphs (10) to (14).

Amendment of the 2006 Regulations

3.—(1) The 2006 Regulations are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation), in paragraph (3), after the definition of “Social Security Regulations” insert—

““Tribunal Procedure Rules” means the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008;”.

(3) In regulation 4 (waiver applications and appeals), for paragraph (4) substitute, “An appeal against a waiver decision must be made in accordance with the Tribunal Procedure Rules.”.

(4) In regulation 5 (appeals against certificates), for paragraph (1) substitute, “An appeal against a certificate must be made in accordance with the Tribunal Procedure Rules.”.

(5) Omit regulation 6 (appeals-general) and regulation 7 (extension of time for appealing).

Transitional and savings provision

4.—(1) Notwithstanding regulations 2(3) and 3(3) to (5) of these Regulations—

(a) regulation 3 of the 1999 Regulations; and

(b) regulations 4 to 7 of the 2006 Regulations,

as in force immediately before 7th November 2013 continue to apply in a case where an appeal against a decision received by the Compensation Recovery Unit(d) is pending a determination immediately before 7th November 2013.

(2) In paragraph (1), the reference to “decision” includes—

(a) a certificate issued under section 2 (certificate of NHS charges) of the 1999 Act;

(b) a certificate issued under section 151 (applications for certificates of NHS charges) of the 2003 Act; and

(a) S.I. 2006/3398 as amended by S.I. 2007/1613 and S.I. 2008/2683.

(b) S.I. 1999/786 as amended by S.I. 1999/1843 and S.I. 2008/2683.

(c) S.I. 2008/2685, to which relevant amendments have been made by S.I. 2009/274, S.I. 2010/43 and 2653, S.I. 2011/651, S.I. 2012/500 and S.I. 2013/477.

(d) Compensation Recovery Unit is part of the Department of Work and Pensions.

- (c) a waiver decision made under section 157 (appeal against a certificate or waiver decision) of the 2003 Act.

Signed by authority of the Secretary of State for Health.

Earl Howe
Parliamentary Under-Secretary of State,
Department of Health

8th October 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Road Traffic (NHS Charges) (Reviews and Appeals) Regulations 1999 and the Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006, to reflect changes in the appeals process against decisions relating to the recovery of NHS charges.

Regulation 2 amends the Road Traffic (NHS Charges) (Reviews and Appeals) Regulations 1999 to insert a definition of “Tribunal Procedure Rules” and to allow for appeals to be made in accordance with the procedure set out in those Rules. Rule 22 of, and Schedule 1 to, the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 (“Tribunal Procedure Rules”) set out the process and time limits for cases in which the notice of appeal against a certificate of NHS charges under section 7 of the Road Traffic (NHS Charges) Act 1999, is to be sent or delivered to the Tribunal.

Regulation 3 amends the Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006 to insert a definition of “Tribunal Procedure Rules” and to allow for appeals to be made in accordance with those Rules. Rule 22 of, and Schedule 1 to, the Tribunal Procedure Rules set out the process and time limits for cases in which the notice of appeal against a certificate of NHS charges under section 157(1) and against a waiver decision under section 157(6) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), is to be sent or delivered to the Tribunal.

Regulation 4 contains a transitional and savings provision in respect of appeals against a certificate or waiver decision which are received by the Compensation Recovery Unit and are pending immediately before 7th November 2013.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

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