



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 3

RECOVERY OF NHS CHARGES

NHS charges

150 Liability to pay NHS charges

- (1) This section applies if—
- (a) a person makes a compensation payment to or in respect of any other person (the “injured person”) in consequence of any injury, whether physical or psychological, suffered by the injured person, and
 - (b) the injured person has—
 - (i) received NHS treatment at a health service hospital as a result of the injury,
 - (ii) been provided with NHS ambulance services as a result of the injury for the purpose of taking him to a health service hospital for NHS treatment (unless he was dead on arrival at that hospital), or
 - (iii) received treatment as mentioned in sub-paragraph (i) and been provided with ambulance services as mentioned in sub-paragraph (ii).
- (2) The person making the compensation payment is liable to pay the relevant NHS charges—
- (a) in respect of—
 - (i) the treatment, in so far as received at a hospital in England or Wales,
 - (ii) the ambulance services, in so far as provided to take the injured person to such a hospital,to the Secretary of State,
 - (b) in respect of—

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- (i) the treatment, in so far as received at a hospital in Scotland,
 - (ii) the ambulance services, in so far as provided to take the injured person to such a hospital,

to the Scottish Ministers.
- (3) “Compensation payment” means a payment, including a payment in money’s worth, made—
 - (a) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the injury, or
 - (b) in pursuance of a compensation scheme for motor accidents,

but does not include a payment mentioned in Schedule 10.
- (4) Subsection (1)(a) applies—
 - (a) to a payment made—
 - (i) voluntarily, or in pursuance of a court order or an agreement, or otherwise, and
 - (ii) in the United Kingdom or elsewhere, and
 - (b) if more than one payment is made, to each payment.
- (5) “Injury” does not include any disease.
- (6) Nothing in subsection (5) prevents this Part from applying to—
 - (a) treatment received as a result of any disease suffered by the injured person, or
 - (b) ambulance services provided as a result of any disease suffered by him,

if the disease in question is attributable to the injury suffered by the injured person (and accordingly that treatment is received or those services are provided as a result of the injury).
- (7) “NHS treatment” means any treatment (including any examination of the injured person) other than—
 - (a) treatment provided by virtue of section 18A(4) or 65 of the 1977 Act, section 57 of, or paragraph 14 of Schedule 7A to, the 1978 Act or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990 (c. 19) (accommodation and services for private patients),
 - (b) other treatment provided by an NHS foundation trust in pursuance of an undertaking to pay in respect of the treatment given by or on behalf of the injured person,
 - (c) treatment provided at a health service hospital by virtue of section 72 of the 1977 Act or section 64 of the 1978 Act (permission for use of national health service accommodation or facilities in private practice), or
 - (d) treatment provided by virtue of—
 - (i) section 16CA, 16CC, 28C, 28K or 28Q of the 1977 Act (primary medical and dental services), or
 - (ii) section 17C, 19 or 25 of the 1978 Act (personal or general medical or dental services).
- (8) In relation to any time before sections 170 and 172 come into force, the references in subsection (7)(d)(i) to sections 16CA and 28K of the 1977 Act are to be taken as a reference to section 35 of that Act (arrangements for general dental services).

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- (9) In relation to any time before sections 174 and 175 come into force, the references in subsection (7)(d)(i) to sections 16CC and 28Q of the 1977 Act are to be taken as a reference to section 29 of that Act (arrangements for general medical services).
- (10) “Relevant NHS charges” means the amount (or amounts) specified in a certificate of NHS charges—
- (a) issued under this Part, in respect of the injured person, to the person making the compensation payment, and
 - (b) in force.
- (11) “Compensation scheme for motor accidents” means any scheme or arrangement under which funds are available for the payment of compensation in respect of motor accidents caused, or alleged to have been caused, by uninsured or unidentified persons.
- (12) Regulations may amend Schedule 10 by omitting or modifying any payment for the time being specified in that Schedule.
- (13) This section applies in relation to any injury which occurs after the date on which this section comes into force.
- (14) For the purposes of this Part, it is irrelevant whether a compensation payment is made with or without an admission of liability.

Certificates of NHS charges

151 Applications for certificates of NHS charges

- (1) Before a person makes a compensation payment in consequence of any injury suffered by an injured person, he may apply for a certificate to the Secretary of State, the Scottish Ministers or both, according to whether he believes the relevant NHS charges payable by him (if any) would be due to the Secretary of State, the Scottish Ministers or both.
- (2) If the Secretary of State receives or the Scottish Ministers receive an application under subsection (1), he or they must arrange for a certificate to be issued as soon as is reasonably practicable (subject to section 152).
- (3) A certificate may provide that it is to remain in force—
- (a) until a specified date,
 - (b) until the occurrence of a specified event, or
 - (c) indefinitely.
- (4) A person may apply under subsection (1) for a fresh certificate from time to time.
- (5) Subsection (2) does not require the Secretary of State or the Scottish Ministers to arrange for a fresh certificate to be issued to a person applying under subsection (4) if, when the application is received, a certificate issued to the applicant in respect of the injured person is still in force; but the Secretary of State or the Scottish Ministers (as the case may be) may arrange for a fresh certificate to be issued so as to have effect on the expiry of the current certificate.
- (6) If a certificate expires, the Secretary of State or the Scottish Ministers (as the case may be) may arrange for a fresh certificate to be issued without an application having to be made.

- (7) In the circumstances mentioned in subsection (8), a person who has made a compensation payment in consequence of an injury suffered by an injured person must apply for a certificate to the Secretary of State, the Scottish Ministers or both, according to whether he believes the relevant NHS charges payable by him (if any) would be due to the Secretary of State, the Scottish Ministers or both.
- (8) The circumstances are that—
- (a) at the time the payment is made by the person—
 - (i) no certificate has been issued to him in respect of the injured person, or
 - (ii) if such a certificate has been issued to him, it is no longer in force, and
 - (b) no application for a certificate has been made by him during the prescribed period ending immediately before the day on which the compensation payment is made.
- (9) An application for a certificate must be made in the prescribed manner and, in the case of an application under subsection (7), within the prescribed period.
- (10) On receiving an application under subsection (7), the Secretary of State or the Scottish Ministers must arrange for a certificate to be issued as soon as is reasonably practicable (subject to section 152).
- (11) In this section and section 152, “relevant NHS charges” has the meaning given in section 150(10).

152 Section 151: supplementary

- (1) Subsection (2) applies if—
- (a) an application is made under subsection (1) or (7) of section 151 to the Secretary of State or the Scottish Ministers, and
 - (b) it appears to the Secretary of State or the Scottish Ministers that the relevant NHS charges payable by the applicant (if any) would be due to the Scottish Ministers or the Secretary of State (respectively) instead.
- (2) The Secretary of State or the Scottish Ministers (as the case may be) must refer the application to the Scottish Ministers or the Secretary of State (respectively), and the application is to be treated, for the purposes of this Part, as having been made to the Scottish Ministers or the Secretary of State (as the case may be).
- (3) Subsection (4) applies if—
- (a) an application is made under subsection (1) or (7) of section 151 to the Secretary of State or the Scottish Ministers, and
 - (b) it appears to the Secretary of State or the Scottish Ministers that the relevant NHS charges payable by the applicant (if any) would be due in part to him or them and in part to the Scottish Ministers or the Secretary of State (respectively).
- (4) The Secretary of State or the Scottish Ministers (as the case may be) must refer the application to the Scottish Ministers or the Secretary of State (respectively) in so far as the application relates to relevant NHS charges due to them or him, and the application is to be treated, for the purposes of this Part, as having been made to the Secretary of State in so far as it relates to relevant NHS charges due to him under subsection (2) of

section 150 and to the Scottish Ministers in so far as it relates to relevant NHS charges due to them under that subsection.

- (5) A certificate may be issued under section 151 jointly by the Secretary of State and the Scottish Ministers specifying—
- (a) an amount (or amounts) for which a person is liable under subsection (2) of section 150 to the Secretary of State, and
 - (b) an amount (or amounts) for which that person is liable under that subsection to the Scottish Ministers,
- in respect of the same injured person in consequence of the same injury.
- (6) In the case of a certificate issued under section 151 specifying an amount (or amounts) as mentioned in paragraphs (a) and (b) of subsection (5), references in the following provisions of this Part to a certificate are to be taken as being to the certificate in so far as it relates to the liability to the Secretary of State or in so far as it relates to the liability to the Scottish Ministers (as the case may require).

153 Information contained in certificates

- (1) A certificate must specify the amount (or amounts) for which the person to whom it is issued is liable under section 150(2).
- (2) The amount (or amounts) to be specified is (or are) to be that (or those) set out in, or determined in accordance with, regulations, reduced if applicable in accordance with subsection (3) or regulations under subsection (10).
- (3) If a certificate relates to a claim made by or on behalf of an injured person—
- (a) in respect of which a court in England and Wales or Scotland has ordered a reduction of damages in accordance with section 1 of the Law Reform (Contributory Negligence) Act 1945 (c. 28),
 - (b) in respect of which a court in Northern Ireland has ordered a reduction of damages in accordance with section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23),
 - (c) in respect of which a court in a country other than England and Wales, Scotland or Northern Ireland has ordered a reduction of damages under any provision of the law of that country which appears to the Secretary of State or the Scottish Ministers (as the case may be) to correspond to section 1 of the Law Reform (Contributory Negligence) Act 1945,
 - (d) in respect of which an officer of a court in England and Wales or Northern Ireland has entered or sealed an agreed judgement or order which specifies—
 - (i) that the damages are to be reduced to reflect the injured person's share in the responsibility for the injury in question, and
 - (ii) the amount or proportion by which they are to be so reduced,
 - (e) in the case of which the parties to any resulting action before a court in Scotland have executed a joint minute which specifies—
 - (i) that the action has been settled extra-judicially, and
 - (ii) the matters mentioned in paragraph (d)(i) and (ii),
 - (f) in respect of which a document has been made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
 - (i) which appears to the Secretary of State to correspond to an agreed judgement or order entered or sealed by an officer of a court in England and Wales, and

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- (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii), or
- (g) in the case of which a document has been made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
 - (i) which appears to the Scottish Ministers to correspond to a joint minute executed by the parties to a resulting action before a court in Scotland specifying that the action has been settled extra-judicially, and
 - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii),
 the amount (or amounts) specified in the certificate is (or are) to be that (or those) which would be so specified apart from this subsection, reduced by the same proportion as the reduction of damages.
- (4) If a certificate relates to an injured person who has not received NHS treatment at a health service hospital or been provided with NHS ambulance services as a result of the injury, it must indicate that no amount is payable to the Secretary of State or the Scottish Ministers (as the case may be) by reference to that certificate.
- (5) Regulations under subsection (2) may, in particular, provide—
 - (a) that the amount, or the aggregate amount, specified in a certificate is not to exceed a prescribed sum,
 - (b) for different amounts to be specified in respect of different circumstances or areas,
 - (c) for cases in which an injured person receives treatment at two or more health service hospitals,
 - (d) for cases in which an injured person receives treatment at one or more health service hospitals and is provided with NHS ambulance services,
 - (e) for cases in which liability under section 150(2) is to be apportioned between two or more persons making compensation payments to or in respect of the same injured person in consequence of the same injury,
 - (f) for cases in which a fresh certificate is issued or a certificate is revoked as a result of a review under or by virtue of section 156 or an appeal under section 157 or 159,
 - (g) for the amount specified in a certificate issued by the Secretary of State or the Scottish Ministers to be adjusted to take into account any amount for which the person to whom the certificate is issued is liable under section 150(2), in respect of the same injured person in consequence of the same injury, in accordance with a certificate issued by the Scottish Ministers or the Secretary of State (respectively),
 - (h) for any matter requiring determination under or in consequence of the regulations to be determined by the Secretary of State or the Scottish Ministers (as the case may require),
 and in the case of paragraph (e) may make such provision by modifying this Part.
- (6) Any reference in subsection (5)(a) or (b) to any amount (or amounts) specified in a certificate is to the amount (or amounts) which would be so specified apart from subsection (3) or regulations under subsection (10).
- (7) Regulations under subsection (2) which provide for cases mentioned in subsection (5)
 - (e) may (among other things) provide in the case of each compensator for—
 - (a) determining, or re-determining, the amount for which he is liable under section 150(2),
 - (b) giving credit for amounts already paid, and

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- (c) the payment by any person of any balance or the recovery from any person of any excess.
- (8) Regulations under subsection (2) which provide for cases mentioned in subsection (5) (f) may (among other things) provide in the case of any compensator for the matters mentioned in paragraphs (b) and (c) of subsection (7).
- (9) For the purposes of subsection (10), a claim made by or on behalf of an injured person is a qualifying claim if—
 - (a) it is settled by mediation of a prescribed description, and
 - (b) the damages payable under the settlement are to be reduced to reflect the injured person's share in the responsibility for the injury in question.
- (10) Regulations may make provision as to the circumstances in which the amount (or amounts) specified in a certificate relating to a qualifying claim is (or are) to be that (or those) which would be so specified apart from the regulations, reduced by the same proportion as the reduction of damages.
- (11) A person to whom a certificate is issued is entitled to such particulars of the manner in which any amount (or amounts) specified in the certificate has (or have) been determined as may be prescribed, if he applies to the Secretary of State or the Scottish Ministers (as the case may require) for those particulars.
- (12) Regulations under subsection (2) may be made so as to apply to any certificate issued after the time the regulations come into force, other than one relating to a compensation payment made before that time.

Recovery of NHS charges

154 Payment of NHS charges

- (1) If the certificate by reference to which an amount payable under section 150(2) is determined is issued before the settlement date, that amount must be paid before the end of the period of 14 days beginning with the settlement date.
- (2) If the certificate by reference to which an amount payable under section 150(2) is determined is issued on or after the settlement date, that amount must be paid before the end of the period of 14 days beginning with the day on which the certificate is issued.
- (3) "Settlement date" means the date on which the compensation payment is made.
- (4) This section is subject to section 155(2).

155 Recovery of NHS charges

- (1) This section applies if a person has made a compensation payment and either—
 - (a) subsection (7) of section 151 applies but he has not applied for a certificate as required by that subsection, or
 - (b) he has not made payment, in full, of any amount due under section 150(2) by the end of the period allowed under section 154.
- (2) The Secretary of State, the Scottish Ministers or both, according to the circumstances of the case, may—

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- (a) in a case within subsection (1)(a), issue the person who made the compensation payment with a certificate, and
 - (b) in a case within subsection (1)(b), issue him with a copy of the certificate or (if more than one has been issued) the most recent one,
- and, in either case, issue him with a demand that payment of any amount due under section 150(2) be made immediately.
- (3) Subsections (5) and (6) of section 152 apply to certificates issued under subsection (2) above as they apply to certificates issued under section 151.
 - (4) A demand issued under subsection (2) may be issued jointly by the Secretary of State and the Scottish Ministers specifying—
 - (a) an amount due under subsection (2) of section 150 to the Secretary of State, and
 - (b) an amount due under that subsection to the Scottish Ministers,
 in respect of the same injured person in consequence of the same injury.
 - (5) In the case of a demand specifying amounts as mentioned in subsection (4)(a) and (b), references in the following provisions of this section to a demand are to be taken as being (as the case may require) to—
 - (a) the demand in so far as it relates to any amount due to the Secretary of State, or
 - (b) the demand in so far as it relates to any amount due to the Scottish Ministers,
 and related expressions are to be read accordingly.
 - (6) The Secretary of State or the Scottish Ministers may recover the amount for which a demand for payment is made under subsection (2) from the person who made the compensation payment.
 - (7) If the person who made the compensation payment resides or carries on business in England or Wales and a county court so orders, the amount demanded is recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.
 - (8) If the person who made the compensation payment resides or carries on business in Scotland, the demand may be enforced as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
 - (9) A document which states that it is a record of the amount recoverable under subsection (6) is conclusive evidence that the amount is so recoverable if it is signed by a person authorised to do so by the Secretary of State or the Scottish Ministers (as the case may be).
 - (10) For the purposes of subsection (9), a document purporting to be signed by a person authorised to do so by the Secretary of State or the Scottish Ministers (as the case may be) is to be treated as so signed unless the contrary is proved.

Review and appeal

156 Review of certificates

- (1) The Secretary of State or the Scottish Ministers must review a certificate issued by him or them if the certificate relates to a claim made by or on behalf of an injured person—

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- (a) in respect of which, after the certificate is issued, a court in England and Wales or Scotland orders a reduction of damages in accordance with section 1 of the Law Reform (Contributory Negligence) Act 1945 (c. 28),
 - (b) in respect of which, after the certificate is issued, a court in Northern Ireland orders a reduction of damages in accordance with section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23),
 - (c) in respect of which, after the certificate is issued, a court in a country other than England and Wales, Scotland or Northern Ireland orders a reduction of damages under any provision of the law of that country which appears to the Secretary of State or the Scottish Ministers (as the case may be) to correspond to section 1 of the Law Reform (Contributory Negligence) Act 1945,
 - (d) in respect of which, after the certificate is issued, an officer of a court in England and Wales or Northern Ireland enters or seals an agreed judgement or order which specifies—
 - (i) that the damages are to be reduced to reflect the injured person’s share in the responsibility for the injury in question, and
 - (ii) the amount or proportion by which they are to be so reduced,
 - (e) in the case of which, after the certificate is issued, the parties to any resulting action before a court in Scotland execute a joint minute which specifies—
 - (i) that the action has been settled extra-judicially, and
 - (ii) the matters mentioned in paragraph (d)(i) and (ii),
 - (f) in respect of which, after the certificate is issued, a document is made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
 - (i) which appears to the Secretary of State to correspond to an agreed judgement or order entered or sealed by an officer of a court in England and Wales, and
 - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii), or
 - (g) in the case of which, after the certificate is issued, a document is made under any provision of the law of a country other than England and Wales, Scotland or Northern Ireland—
 - (i) which appears to the Scottish Ministers to correspond to a joint minute executed by the parties to a resulting action before a court in Scotland specifying that the action has been settled extra-judicially, and
 - (ii) which specifies the matters mentioned in paragraph (d)(i) and (ii),
- and notification of the order, judgement, minute or document has been given to the Secretary of State or the Scottish Ministers (as the case may be) in the prescribed manner.
- (2) Regulations may make provision as to the circumstances in which the Secretary of State or the Scottish Ministers must review a certificate relating to a claim which, after the certificate is issued, becomes a qualifying claim (as defined in section 153(9)).
- (3) If—
- (a) the Secretary of State and the Scottish Ministers have issued certificates to a person specifying an amount (or amounts) for which that person is liable under section 150(2) in respect of the same injured person in consequence of the same injury, and

- (b) either the Secretary of State or the Scottish Ministers subsequently adjusts or adjust the amount (or amounts) specified in the certificate issued by him or them on a review of, or an appeal against, that certificate,
the other must review the certificate issued by him or them (as the case may be) if he is or they are satisfied that it is necessary or expedient to make consequential adjustments to that certificate.
- (4) The Secretary of State or the Scottish Ministers may review a certificate issued by him or them—
- (a) either within the prescribed period or in prescribed cases or circumstances, and
- (b) either on application made for the purpose or on his or their initiative.
- (5) On a review under or by virtue of this section, the Secretary of State or the Scottish Ministers may—
- (a) confirm the certificate,
- (b) issue a fresh certificate containing such variations as he considers or they consider appropriate, or
- (c) revoke the certificate.
- (6) But the Secretary of State or the Scottish Ministers may not vary a certificate so as to increase the amount, or the aggregate amount, specified unless it appears to him or them that the variation is required as a result of his or their having been supplied with incorrect or insufficient information by the person to whom the certificate is issued.
- (7) Subsections (5) and (6) of section 152 apply to certificates issued under subsection (5) (b) above as they apply to certificates issued under section 151.

157 Appeal against a certificate or a waiver decision

- (1) An appeal against a certificate may be made by the person to whom the certificate was issued on one or more of the following grounds—
- (a) that an amount (or amounts) specified in the certificate is (or are) incorrect,
- (b) that an amount (or amounts) so specified takes (or take) into account—
- (i) treatment which is not NHS treatment received by the injured person, as a result of his injury, at a health service hospital,
- (ii) ambulance services which are not NHS ambulance services provided to the injured person as a result of his injury, or
- (iii) treatment as mentioned in sub-paragraph (i) and ambulance services as mentioned in sub-paragraph (ii),
- (c) that the payment on the basis of which the certificate was issued is not a compensation payment.
- (2) No appeal may be made until—
- (a) the claim against the person to whom the certificate was issued, which gives rise to the compensation payment, has been finally disposed of, and
- (b) payment of the amount (or amounts) specified in the certificate has been made to the Secretary of State or the Scottish Ministers (as the case may be), subject to subsection (4) and sections 158(6) and 159(5).
- (3) For the purposes of subsection (2)(a), if an award of damages in respect of a claim has been made under or by virtue of—

- (a) section 32A(2)(a) of the Supreme Court Act 1981 (c. 54),
 - (b) section 12(2)(a) of, or paragraph 10(2)(a) of Schedule 6 to, the Administration of Justice Act 1982 (c. 53), or
 - (c) section 51(2)(a) of the County Courts Act 1984 (c. 28),
- (orders for provisional damages in personal injury cases), the claim is to be treated as having been finally disposed of.
- (4) The Secretary of State or the Scottish Ministers may, on an application by the person to whom the certificate was issued, waive the requirement in subsection (2)(b) that payment of the amount (or amounts) specified in the certificate be made before making an appeal.
 - (5) The Secretary of State or the Scottish Ministers may only grant a waiver if it appears to him or them that payment of the amount (or amounts) specified in the certificate would cause exceptional financial hardship.
 - (6) An appeal against a decision of the Secretary of State or the Scottish Ministers on an application under subsection (4) (referred to in this section and sections 158 and 159 as a “waiver decision”) may be made by the person to whom the certificate was issued.
 - (7) Regulations may make provision—
 - (a) as to the manner in which, and the time within which, an appeal against a certificate or waiver decision may be made,
 - (b) as to the procedure to be followed if an appeal against a certificate or waiver decision is made,
 - (c) as to the circumstances in which appeals may be consolidated (including the consolidation of an appeal against a certificate issued by the Secretary of State with an appeal against a certificate issued by the the Scottish Ministers), and
 - (d) for the purpose of enabling an appeal against a certificate to be treated as an application for a review under section 156.

158 Appeal tribunals

- (1) The Secretary of State or the Scottish Ministers must refer to an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998 (c. 14) an appeal against—
 - (a) a certificate, or
 - (b) a waiver decision.
- (2) In determining an appeal against a certificate, the tribunal must take into account any decision of a court relating to the same, or any similar, issue arising in connection with the injury in question.
- (3) On an appeal against a certificate, the tribunal may—
 - (a) confirm the amount or amounts specified in the certificate,
 - (b) specify any variations which are to be made on the issue of a fresh certificate under subsection (4), or
 - (c) declare that the certificate is to be revoked.
- (4) When the Secretary of State or the Scottish Ministers (as the case may be) has or have received the decision of the tribunal on an appeal against a certificate, he or they must in accordance with that decision—
 - (a) confirm the certificate,

- (b) issue a fresh certificate, or
 - (c) revoke the certificate.
- (5) Subsections (5) and (6) of section 152 apply to certificates issued under subsection (4) (b) above as they apply to certificates issued under section 151.
- (6) On an appeal against a waiver decision, the tribunal may—
- (a) confirm the decision, or
 - (b) waive the requirement in question.
- (7) Regulations under section 157 may (among other things) provide for the non-disclosure of medical advice or medical evidence given or submitted following a reference under subsection (1).

159 Appeal to Social Security Commissioner

- (1) An appeal may be made to a Commissioner against any decision of an appeal tribunal under section 158 on the ground that the decision was erroneous in point of law.
- (2) An appeal under this section may be made by—
- (a) the Secretary of State or the Scottish Ministers (as the case may be), or
 - (b) the person to whom the certificate was issued.
- (3) If an appeal is made under this section, subsections (7) to (12) of section 14 of the 1998 Act apply to the appeal as they apply to an appeal under that section (reading references to a tribunal as references to an appeal tribunal constituted as mentioned in section 158(1)).
- (4) In a case in which subsection (7) or (8)(b) of section 14 of the 1998 Act applies by virtue of subsection (3) above to an appeal against a decision of an appeal tribunal under subsection (3) of section 158, subsections (2) to (4) of that section apply as they apply to an appeal determined on a reference under subsection (1)(a) of that section.
- (5) In a case in which subsection (7) or (8)(b) of section 14 of the 1998 Act applies by virtue of subsection (3) above to an appeal against a decision of an appeal tribunal under subsection (6) of section 158, the appeal tribunal may—
- (a) confirm the waiver decision, or
 - (b) waive the requirement in question.
- (6) In a case in which subsection (8)(a) of section 14 of the 1998 Act applies by virtue of subsection (3) above to an appeal against a decision of an appeal tribunal under subsection (3) of section 158, subsection (4) of that section applies as if the references to the decision of the tribunal on an appeal against a certificate were references to the decision of the Commissioner on an appeal under this section.
- (7) In this section—
- “Commissioner” has the same meaning as in Chapter 2 of Part 1 of the 1998 Act, and
 - “the 1998 Act” means the Social Security Act 1998 (c. 14).

Information

160 Provision of information

- (1) If compensation is sought in consequence of any injury suffered by an injured person, such information with respect to the circumstances of the case as may be prescribed must be given by the following persons to the Secretary of State or the Scottish Ministers (as the case may require)—
- (a) the person against whom the claim is made and anyone acting on behalf of that person, whether or not proceedings have been commenced,
 - (b) the injured person or, if the injured person has died, his personal representative,
 - (c) anyone not within paragraph (a) who is, or is alleged to be, liable to any extent in respect of the injury,
 - (d) if the claim is not made by the injured person, the person by whom it is made,
 - (e) anyone acting on behalf of the person within any of paragraphs (b) to (d),
 - (f) the responsible body of each health service hospital at which the injured person has received NHS treatment as a result of his injury,
 - (g) any ambulance trust which provided NHS ambulance services as a result of his injury.
- (2) A person who is required to give information under this section must do so—
- (a) in the prescribed manner, and
 - (b) within the prescribed period.
- (3) Regulations under this section may, in particular, require the provision of information about any NHS treatment which an injured person has received at a health service hospital and any NHS ambulance services provided to the injured person.
- (4) In this section—
- “ambulance trust”—
 - (a) in relation to England or Wales, means—
 - (i) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19), or
 - (ii) an NHS foundation trust,
 - (b) in relation to Scotland, means a Special Health Board established under section 2(1)(b) of the 1978 Act;
 - “responsible body”, in relation to a health service hospital, means—
 - (a) in the case of a hospital vested in—
 - (i) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19) or section 12A of the 1978 Act, or
 - (ii) a Primary Care Trust,
 - the trust, and
 - (b) in any other case, the body responsible for the management of the hospital.

161 Use of information held by the Secretary of State or the Scottish Ministers etc.

- (1) Subsection (2) applies to information which is held—
- (a) by the Secretary of State, or
 - (b) by a person providing services to the Secretary of State in connection with the provision of those services,
- for the purposes of, or for any purpose connected with, the exercise of functions under the Social Security (Recovery of Benefits) Act 1997 (c. 27).
- (2) The information may—
- (a) be used for the purposes of, or for any purpose connected with, the exercise of functions under this Part, and
 - (b) be supplied to a qualifying person for use for those purposes.
- (3) In subsection (2), “qualifying person” means—
- (a) in the case of information held by the Secretary of State—
 - (i) a person providing services to the Secretary of State, or
 - (ii) the Scottish Ministers or a person providing services to the Scottish Ministers, or
 - (b) in the case of information held by a person providing services to the Secretary of State—
 - (i) the Secretary of State or another person providing services to the Secretary of State, or
 - (ii) the Scottish Ministers or a person providing services to the Scottish Ministers.
- (4) Subsection (5) applies to information which is held—
- (a) by the Secretary of State or the Scottish Ministers, or
 - (b) by a person providing services to the Secretary of State or the Scottish Ministers in connection with provision of those services,
- for the purposes of, or for any purpose connected with, the exercise of functions under this Part.
- (5) The information may—
- (a) be used for the purposes of, or for any purpose connected with, the exercise of functions under the Social Security (Recovery of Benefits) Act 1997, and
 - (b) be supplied to a qualifying person for use for those purposes.
- (6) In subsection (5), “qualifying person” means—
- (a) in the case of information held by the Secretary of State, a person providing services to the Secretary of State,
 - (b) in the case of information held by the Scottish Ministers, the Secretary of State or a person providing services to the Secretary of State,
 - (c) in the case of information held by a person providing services to the Secretary of State, the Secretary of State or another person providing services to the Secretary of State,
 - (d) in the case of information held by a person providing services to the Scottish Ministers, the Secretary of State or a person providing services to the Secretary of State.

Payments to hospitals or ambulance trusts

162 Payment of NHS charges to hospitals or ambulance trusts

- (1) If the Secretary of State receives or the Scottish Ministers receive a payment of relevant NHS charges under section 150(2)—
 - (a) if the payment relates only to NHS treatment received at a health service hospital, he or they must pay the amount received to the responsible body of the health service hospital,
 - (b) if the payment relates only to the provision of NHS ambulance services, he or they must pay the amount received to the relevant ambulance trust,
 - (c) if the payment relates to NHS treatment received at more than one health service hospital, he or they must divide the amount received among the responsible bodies of the hospitals concerned in such manner as he considers or they consider appropriate,
 - (d) if the payment relates to NHS treatment received at one or more health service hospitals and the provision of NHS ambulance services, he or they must divide the amount received among the responsible body or bodies of the hospital or hospitals and any relevant ambulance trusts concerned in such manner as he considers or they consider appropriate.
- (2) Subsection (1) does not apply to any amount received by the Secretary of State or the Scottish Ministers under section 150(2) which he is or they are required to repay in accordance with regulations under section 153(2).
- (3) Regulations under this section may—
 - (a) make provision for the manner in which and intervals at which any payments due under this section are to be made,
 - (b) make provision for cases where the responsible body of the health service hospital or relevant ambulance trust concerned has ceased to exist (including provision modifying this Part).
- (4) Any amounts received under this section by the responsible bodies of the health service hospitals concerned must be used for the purposes of providing goods and services for the benefit of patients receiving NHS treatment at those hospitals.
- (5) Any amounts received under this section by the relevant ambulance trusts concerned must be used for the purposes of NHS ambulance services.
- (6) In this section—

“relevant ambulance trust”—

 - (a) in relation to England or Wales, means—
 - (i) the National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19), or
 - (ii) the NHS foundation trust,
which is designated by the Secretary of State for the purposes of this section in relation to the health service hospital to which the injured person was taken for treatment,
 - (b) in relation to Scotland, means the Special Health Board, established under section 2(1)(b) of the 1978 Act, which is designated by the

Scottish Ministers for the purposes of this section in relation to the health service hospital to which the injured person was taken for treatment; “responsible body” has the meaning given in section 160(4).

Miscellaneous and general

163 Regulations governing lump sums, periodical payments etc

- (1) Regulations may make provision (including provision modifying this Part)—
 - (a) for cases to which section 150(2) applies in which two or more compensation payments in the form of lump sums are made by the same person in respect of the same injury,
 - (b) for cases to which section 150(2) applies in which an agreement is entered into for the making of—
 - (i) periodical compensation payments (whether of an income or capital nature), or
 - (ii) periodical compensation payments and lump sum compensation payments,
 - (c) for cases in which the compensation payment to which section 150(2) applies is an interim payment of damages which a court orders to be repaid.
- (2) Regulations made by virtue of subsection (1)(a) may (among other things) provide—
 - (a) for giving credit for amounts already paid, and
 - (b) for the payment by any person of any balance or the recovery from any person of any excess.
- (3) Regulations may make provision modifying the application of this Part in relation to cases in which a payment into court is made and, in particular, may provide—
 - (a) for the making of a payment into court to be treated in prescribed circumstances as the making of a compensation payment,
 - (b) for application for, and issue of, certificates.

164 Liability of insurers

- (1) If a compensation payment is made in a case where—
 - (a) a person is liable to any extent in respect of the injury, and
 - (b) the liability is covered to any extent by a policy of insurance,
 the policy is also to be treated as covering any liability of that person under section 150(2).
- (2) Liability imposed on the insurer by subsection (1) cannot be excluded or restricted.
- (3) For that purpose excluding or restricting liability includes—
 - (a) making the liability or its enforcement subject to restrictive or onerous conditions,
 - (b) excluding or restricting any right or remedy in respect of the liability, or subjecting a person to any prejudice in consequence of his pursuing any such right or remedy, or
 - (c) excluding or restricting rules of evidence or procedure.

Status: This is the original version (as it was originally enacted).

- (4) Regulations may in prescribed cases limit the amount of the liability imposed on the insurer by subsection (1).
- (5) This section applies in relation to policies of insurance issued before (as well as those issued after) the date on which it comes into force.
- (6) References in this section to policies of insurance and their issue include references to contracts of insurance and their making.

165 Power to apply Part 3 to treatment at non-health service hospitals

- (1) Regulations may make provision for this Part to apply, with such modifications as may be prescribed, if—
 - (a) a person makes a compensation payment as mentioned in section 150(1)(a), but
 - (b) the person to or in respect of whom the payment is made has—
 - (i) received treatment as a result of the injury at a qualifying hospital under an NHS arrangement,
 - (ii) been provided with NHS ambulance services as a result of the injury for the purpose of taking him to a qualifying hospital for treatment under an NHS arrangement (unless he was dead on arrival at that hospital), or
 - (iii) received treatment as mentioned in sub-paragraph (i) and been provided with NHS ambulance services as mentioned in sub-paragraph (ii),(subject to subsection (2)).
- (2) Subsection (1)(b) does not apply where the person to or in respect of whom the payment is made receives, or is taken to a hospital for, treatment which would be provided as mentioned in paragraph (a), (b) or (d) of section 150(7) if it were provided at a health service hospital.
- (3) In subsection (1), “NHS arrangement” means an arrangement or agreement between—
 - (a) the hospital in question or a body responsible for it, and
 - (b) any of the following—
 - (i) a Primary Care Trust,
 - (ii) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19) or section 12A of the 1978 Act,
 - (iii) a Local Health Board,
 - (iv) a Health Board or Special Health Board established under section 2 of the 1978 Act, or
 - (v) an NHS foundation trust.
- (4) Regulations under subsection (1) may include provision excluding the application of sections 157 to 159 of the Road Traffic Act 1988 (c. 52) in such description of case as may be prescribed.
- (5) In this section “qualifying hospital” means a hospital (within the meaning of section 128(1) of the 1977 Act or section 108(1) of the 1978 Act) which is not a health service hospital.

166 The Crown

This Part binds the Crown.

167 Regulations

- (1) Any power to make regulations conferred by this Part is exercisable—
 - (a) in relation to England and Wales, by the Secretary of State; and
 - (b) in relation to Scotland, by the Scottish Ministers.
- (2) Regulations under section 157(7) may only be made by the Scottish Ministers with the consent of the Secretary of State.

168 Interpretation of Part 3

In this Part—

“the 1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29);

“compensation payment” has the meaning given in section 150;

“health service hospital” means a health service hospital within the meaning of the 1977 Act or the 1978 Act;

“injured person” has the meaning given in section 150(1);

“NHS ambulance services” means ambulance services provided under section 3(1)(c) of the 1977 Act or section 45 of the 1978 Act;

“NHS treatment” has the meaning given in section 150(7);

“prescribed” means prescribed by regulations.

169 Consequential and minor repeals

- (1) The Road Traffic (NHS Charges) Act 1999 (c. 3) shall cease to have effect.
- (2) In the Road Traffic Act 1988, in section 161(1), in the definition of “hospital”, paragraph (b) is omitted.