

WELFARE REFORM ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 4: Miscellaneous

Vaccine Damage Payments Act 1979

Section 56: Overseas vaccinations

265. Section 2(1)(a)(i) of the Vaccine Damage Payments Act 1979 provides that payments are normally only to be made under that Act in respect of vaccinations carried out in the United Kingdom or the Isle of Man. Section 2(5) of that Act currently provides that regulations shall specify cases where certain vaccinations given to members of Her Majesty's Forces and their families abroad are treated as though they are given in England for the purpose of entitlement to a vaccine damage payment.
266. *Subsection (2)* of section 56 substitutes the regulation-making power currently in section 2(5) of the Vaccine Damage Payments Act 1979 with an order-making power in new subsections (5A) and (5B) of that section. The order-making power in new subsection (5A) specifies that the Secretary of State may provide that, in such circumstances as may be specified in an order, the condition of entitlement in section 2(1)(a)(i) of the Vaccine Damage Payments Act 1979 does not need to be met in the case of vaccinations given under arrangements made by or on behalf of Her Majesty's forces, a specified government department, or any other body listed within the order. This means that the Secretary of State can provide that serving members of Her Majesty's forces, specified Crown servants and other people posted abroad and members of their families will be entitled to claim a vaccine damage payment through the Vaccine Damage Payments Act 1979 for disablement resulting from vaccinations given under specified arrangements.

Section 57: Appeals to appeal tribunal in Northern Ireland

267. This section provides for appeals tribunals in Northern Ireland to hear vaccine damage payments cases in Northern Ireland.
268. Section 3A(6) of the Vaccine Damage Payments Act 1979 defines an appeal tribunal for the purposes of an appeal under that Act to mean appeal tribunals constituted under Chapter 1 of Part 1 of the Social Security Act 1998. Sections 4 to 7 of the Social Security Act 1998 establish and provide the constitution for appeal tribunals. These provisions do not extend to Northern Ireland, in relation to which parallel provisions were made by the [Social Security \(Northern Ireland\) Order 1998 \(SI. 1998/1506 \(N.I. 10\)\)](#).
269. Tribunals established under the Northern Ireland Order were not brought within the scope of the definition in section 3A(6) of the Vaccine Damage Payments Act 1979. The consequence of this omission is that appeal tribunals constituted under the Northern Ireland legislation cannot hear appeals under the Vaccine Damage Payments Act 1979, although the legislation does permit the hearing of Northern Ireland cases by a Great Britain tribunal.

*These notes refer to the Welfare Reform Act 2007
(c.5) which received Royal Assent on 3rd May 2007*

270. *Subsection (2)* of section 57 provides that appeals under the Vaccine Damage Payments Act 1979 are to be made to “an appropriate tribunal”. It defines an appropriate tribunal as one constituted under the Social Security (Northern Ireland) Order 1998, where the claimant’s address is in Northern Ireland. In all other cases the appropriate tribunal will be continue to be an appeal tribunal constituted under the Social Security Act 1998.
271. *Subsection (3)* provides for making procedural rules for Northern Ireland tribunals in relation to such appeals.
272. *Subsection (4)* enables the Department for Social Development in Northern Ireland to make provision by regulations in relation to the correction of a Northern Ireland appeal tribunal’s errors and, where it appears reasonable, the setting aside of the tribunal decisions.
273. *Subsection (5)* provides that the Department for Social Development in Northern Ireland is to pay travel and related costs to those required to attend before a Northern Ireland appeal tribunal and, where appropriate, to those who accompany the disabled person to such an appeal tribunal.