
STATUTORY INSTRUMENTS

1999 No. 785

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES
NATIONAL HEALTH SERVICE, SCOTLAND
ROAD TRAFFIC**

The Road Traffic (NHS Charges) Regulations 1999

<i>Made</i>	- - - -	<i>15th March 1999</i>
<i>Laid before Parliament</i>		<i>15th March 1999</i>
<i>Coming into force</i>	- -	<i>5th April 1999</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 1(5), 2(9)(b) and (10), 3(2), (4) and (6), 10(2) and (3), 11(2), (3) and (4), 13(4), 14(1), 16(2) and 17 of the Road Traffic (NHS Charges) Act 1999(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Traffic (NHS Charges) Regulations 1999 and shall come into force on 5th April 1999.

(2) In these Regulations—

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

“certificate” means a certificate of NHS charges issued under section 2 of the Act.

“Compensation Recovery Unit” means the Compensation Recovery Unit of the Department of Social Security(2);

“hospital” means a health service hospital within the meaning of section 17 of the Act;

“incident” means an incident whereby a person suffers injury, or suffers injury and dies, as a result of the use of a motor vehicle on a road;

(3) A reference in these Regulations to a numbered section is a reference, unless the context otherwise requires, to that section of the Act.

(1) 1999 c. 3. Section 17 is cited for the definitions of “prescribed” and “regulations”.

(2) The address of the Compensation Recovery Unit is, on the day these regulations come into force, Reyrolle Building, Hebburn, Tyne and Wear NE31 1XB.

Application for a certificate of NHS charges

2.—(1) An application for a certificate shall be made to the Compensation Recovery Unit and shall include the following particulars—

- (a) the full name and address of the traffic casualty;
- (b) the date of birth, and where known, the national insurance number of that person;
- (c) the date of the incident;
- (d) the nature of the injury;
- (e) the name and address of any hospital at which the traffic casualty received treatment in respect of his injury.

(2) In a case to which section 2(8) applies (compensation payment made in circumstances where no certificate in force and no application made in period prescribed under section 2(9)(b) prior to making a compensation payment) an application for a certificate must be made within 14 days of the date on which the compensation payment is made.

(3) The prescribed period for the purposes of section 2(9)(b) is a period of 28 days ending immediately before the day on which the compensation payment is made.

Amount of NHS Charges—Incidents before 2nd July 1997

3.—(1) This regulation applies to any compensation payment made in respect of an incident which occurred before 2nd July 1997.

- (2) Where this regulation applies, a certificate shall, for the purpose of section 3(2), specify—
- (a) where the traffic casualty received NHS treatment at a hospital in respect of his injury, but was not admitted to hospital, the amount of £295, or
 - (b) subject to paragraphs (3) and (4), where the traffic casualty received NHS treatment at a hospital in respect of his injury and was admitted to hospital in respect of that treatment, the sum of £435 for each day, or part day, of admission.

(3) Where the traffic casualty is admitted to hospital on one day and discharged on another day the day of discharge shall be disregarded for the purposes of paragraph (2)(b).

(4) The maximum amount which may be specified in a certificate to which paragraph (2)(b) applies shall be £3,000.

Amount of NHS Charges—Incidents on or after 2nd July 1997

4.—(1) This regulation applies to any compensation payment made in respect of an incident which occurred on or after 2nd July 1997.

- (2) Where this regulation applies, a certificate shall, for the purpose of section 3(2), specify—
- (a) where the traffic casualty received NHS treatment at a hospital in respect of his injury, but was not admitted to hospital, the amount of £354, or
 - (b) subject to paragraphs (3) and (4), where the traffic casualty received NHS treatment at a hospital in respect of his injury and was admitted to hospital, the sum of £435 for each day, or part day, of admission.

(3) Where the traffic casualty was admitted to hospital on one day and discharged on another day, the day of discharge shall be disregarded for the purposes of paragraph (2)(b).

(4) The maximum amount which may be specified in a certificate to which paragraph (2)(b) applies shall be £10,000.

Provisions supplementary to regulations 3 and 4

5.—(1) A certificate issued under section 2(2) shall only take into account treatment received before the date the certificate is issued.

(2) A certificate issued under section 2(11) shall only take into account treatment received before the settlement date(3).

Particulars of amounts specified in certificate

6. A person to whom a certificate is issued is entitled, on application to the Secretary of State, to the following particulars—

- (a) in respect of treatment counted for the purposes of determining the amount in the certificate, the name of the responsible body of any hospital at which that treatment took place;
- (b) where regulation 3(2)(b) or 4(2)(b) applies in respect of that treatment, the number of days of admission counted at that hospital.

Information to be provided with respect to a traffic casualty

7.—(1) A person specified in section 11(2)(a) shall send to the Compensation Recovery Unit the information set out in paragraph (3) not later than 14 days after the claim is made.

(2) A person specified in section 11(2)(b) to (e) shall send to the Compensation Recovery Unit such information set out in paragraph (3) as the Secretary of State may request within 14 days of the Secretary of State asking that person for that information.

- (3) The information referred to in paragraphs (1) and (2) is—
 - (a) the full name and address of the traffic casualty;
 - (b) the date of birth or national insurance number of that person;
 - (c) the date of the incident;
 - (d) the nature of the injury;
 - (e) in respect of NHS treatment received at a hospital in respect of the injury—
 - (i) the name and address of the hospital, and
 - (ii) where known, whether the traffic casualty was admitted to hospital and if so the date of admission and discharge;
 - (f) the full name and address of the person against whom the claim is made.

(4) The responsible body of each hospital at which the traffic casualty received NHS treatment in respect of his injury shall send the following information to the Compensation Recovery Unit within 14 days of the Secretary of State asking for it—

- (a) the date the treatment began;
 - (b) whether the traffic casualty was admitted to one of its hospitals, or not, and if so, the date of admission and discharge, and
 - (c) where known, the name and address of any other hospital at which the traffic casualty received treatment, and
 - (d) whether there is likely to be further treatment in respect of the injury.
- (5) For the purposes of section 11(3), “claim”

(3) See section 4(3) of the Act for the definition of settlement date.

- (a) in relation to a person falling within section 1(3)(a) or (d) means a claim notified to him which may require him to make a payment in respect of the injury, whether or not proceedings have been commenced, and
- (b) in relation to a person falling within section 1(3)(b) or (c) means a claim against that person for a payment in respect of the injury, whether or not proceedings have been commenced, and “person against whom the claim is made” shall be construed accordingly.

Payments to Hospitals

8.—(1) The Secretary of State—

- (a) shall make any payment under section 13(1) (payment to responsible body) not later than 40 days after the day he receives a payment of NHS charges;
- (b) may make more than one such payment at the same time; and
- (c) may do so by automatic credit transfer.

(2) In respect of each payment the Secretary of State shall send to the responsible body a statement showing—

- (a) the name and address of the traffic casualty in respect of which the payment is made;
- (b) the amount of the payment, and
- (c) the date of the incident in respect of which the payment is made.

(3) Where—

- (a) the Secretary of State receives a payment of NHS charges under section 1(2), and
- (b) the responsible body of the hospital concerned (“the old body”) has ceased to exist, the Secretary of State shall pay the amount received to the body to which the property, rights and liabilities of the old body have been transferred⁽⁴⁾.

(4) If the property rights and liabilities of the old body have been transferred to more than one body, the Secretary of State, may, for the purposes of paragraph (3) divide the payment among those bodies in such manner as he considers appropriate.

Overpayments by compensators

9. Where a fresh certificate has been issued as a result of a review under section 6 or an appeal under section 7 and the conditions specified in paragraphs (a) and (b) of section 10(2) (overpayments) are satisfied—

- (a) the Secretary of State shall pay to the person who made the payment the difference between the amount that has been paid and the amount that ought to have been paid; and
- (b) where the Secretary of State has (under section 13(1)) made the payment to the responsible body the Secretary of State—
 - (i) may deduct the difference between the amount that has been paid under section 13(1) and the amount that ought to have been paid from any future payment due to the responsible body under that section; or
 - (ii) may require that body to pay the difference to him or the person who made the compensation payment.

⁽⁴⁾ See the National Health Service (Residual Liabilities) Act 1996 (c. 15).

Underpayments by compensators

10.—(1) Where a fresh certificate has been issued as a result of a review under section 6 or an appeal under section 7 and the conditions specified in paragraphs (a) and (b) of section 10(3) (underpayments) are satisfied—

- (a) the person who made the payment shall pay to the Secretary of State the difference between the total amount paid and the amount that ought to have been paid; and
- (b) the Secretary of State shall pay that difference to the responsible body of the hospital at which the treatment, in respect of which the payment was made, was given.

(2) Where any such payment relates to treatment at more than one hospital, the Secretary of State, must, for the purposes of paragraph (1)(b), divide the difference among the responsible bodies of the hospitals concerned in such manner as he considers appropriate.

Provisions supplementary to regulations 9 and 10 relating to person making compensation payments

11. Where the Secretary of State makes a payment under regulation 9(a) or a payment falls to be paid under regulation 10(1)(a), the Secretary of State shall send a statement to the person who made the compensation payment showing—

- (a) the name and address of the traffic casualty to which the statement relates;
- (b) the total amount already paid to the Secretary of State;
- (c) the amount that ought to have been paid to him; and
- (d) the amount of the difference, and whether a repayment by him or further payment to him is required.

Provisions supplementary to regulations 9 and 10 relating to hospitals

12.—(1) Where the Secretary of State requires a payment under regulation 9(b)(ii), or makes a payment under 10(1)(b), he shall send the responsible body a statement showing—

- (a) the name and address of the traffic casualty to which the statement relates;
- (b) the total amount already paid by the Secretary of State;
- (c) the amount that ought to have been paid by him; and
- (d) the amount of the difference, and whether a repayment to him or further payment by him is required.

(2) Where the Secretary of State makes a deduction under regulation 9(b)(i), he shall send to the responsible body a statement showing—

- (a) the name and address of the traffic casualty to which the statement relates;
- (b) the total amount already paid by the Secretary of State;
- (c) the amount that ought to have been paid; and
- (d) the amount of the deduction.

Multiple compensation payments

13.—(1) This regulation applies where a person making a compensation payment is liable to pay appropriate NHS charges to the Secretary of State under section 1(2) and—

- (a) a compensation payment in the form of a lump sum has been made by any person (an “earlier payment”); and

(b) subsequently another such payment is made in respect of the same injury or death by any person (a “later payment”).

(2) Where this regulation applies, the amount, for the purpose of section 3(2), to be specified in the certificate in respect of the later payment shall be the amount determined under regulation 3 or 4 (as appropriate) reduced by the amount paid in satisfaction of any liability under section 1(2) in connection with the earlier payment.

(3) Where—

(a) a payment made in satisfaction of the liability under section 1(2) arising in connection with an earlier payment is not reflected in the certificate in force at the time of the later payment, and

(b) in consequence, the total amount of the payments exceeds what it would have been had the earlier payment been so reflected,

the Secretary of State shall review the certificate in respect of the later payment so as to specify the correct liability under section 1(2) in connection with the later payment.

Structured Settlements

14.—(1) This regulation applies where a person—

(a) in final settlement of a claim, enters into an agreement—

(i) for the making of periodical compensation payments (whether of an income or capital nature); or

(ii) for the making of such payments and lump sum payments; and

(b) apart from the provisions of this regulation, those payments would fall to be treated for the purposes of the Act as compensation payments.

(2) Where this regulation applies—

(a) the person making the payment shall be taken to have made on the day of agreement a single compensation payment;

(b) payments under the agreement referred to in paragraph (1)(a), and any other payment made after the day of agreement in respect of the same incident shall be taken not to be compensation payments.

(3) In this regulation “the day of agreement” means—

(a) if the agreement referred to in paragraph (1)(a) is approved by the court, the day on which that approval is given; and

(b) in any other case, the day on which the agreement is entered into.

Interim payments repaid under court order

15.—(1) This regulation applies where—

(a) a person has made a payment of NHS charges to the Secretary of State under section 1(2);

(b) that payment relates to a compensation payment which is an interim payment of damages in respect of the injury or death, the whole amount of which a court orders to be repaid; and

(c) no other compensation payment under section 1 has been made in respect of the same injury.

(2) Where this regulation applies, the Secretary of State shall pay to the person making the compensation payment the amount of the payment in paragraph (1)(a).

(3) Where this regulation applies and the Secretary of State has (under section 13(1)) made the payments to a responsible body, the Secretary of State may—

- (a) deduct the amount paid to that body from any future payment due under section 13(1), or
- (b) may require the responsible body to pay that amount to him.

(4) Where the Secretary of State makes a deduction under paragraph (3)(a) or makes a demand for payment under paragraph (3)(b), he shall (with the demand or the payment from which the deduction is made) send the responsible body a statement showing—

- (a) the name and address of the traffic casualty to which the statement relates;
- (b) the amount of the deduction or demand.

Payments into court

16.—(1) This regulation applies only to England and Wales.

(2) Subject to paragraph 3, where a payment into court is made which would, had it been paid directly to a party to an action (“the relevant party”), have constituted a compensation payment, the making of the payment shall be treated for the purposes of the Act as a compensation payment made,

- (a) where the payment into court is accepted by the relevant party in the initial period, on the date on which the payment into court was made (subject to paragraph (5));
- (b) where, after the initial period, the payment into court is accepted in satisfaction of the relevant party’s claim by consent between the parties, on the date on which the application to the court for payment is made;
- (c) where, after the expiry of the initial period, payment out of court is made wholly or partly to or for the relevant party in accordance with a court order and in satisfaction of the claim, the date of the court order.

(3) In paragraph (1), “the initial period” means the period of 21 days after the receipt by the relevant party to the action of notice of the payment into court having been made.

(4) Where a payment into court is paid out wholly to or for the person making the payment (otherwise than to or for the relevant party) the making of the payment into court shall not be regarded as the making of a compensation payment.

(5) Where paragraph (1)(a) applies—

- (a) the person making the compensation payment shall apply for a certificate (under section 2(8)) not later than 14 days after the day he is notified that the payment into court has been accepted;
- (b) section 4(3) of the Act shall be modified so that the “settlement date” means the date on which the person making the payment into court is notified that it has been accepted.

Exempted payments

17. Any compensation payment made—

- (a) in pursuance of a compensation scheme for motor accidents by the Motor Insurers' Bureau, and
- (b) in respect of an incident occurring before the day these regulations come into force,

which but for this regulation would be a compensation payment, is prescribed for the purposes of section 1(5) (payments not to count as compensation payment).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Health

15th March 1999

John Hutton
Parliamentary Under Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Road Traffic (NHS Charge) Regulations 1999 provides for a scheme for the recovery from insurers and certain other persons of charges in connection with the treatment of road traffic casualties by the national health service.

These regulations make provision in connection with the scheme as follows:

- (a) certificates of NHS charges (regulations 2 to 6);
- (b) information requirements (regulation 7);
- (c) payments of NHS charges to hospitals (regulation 8);
- (d) overpayments and underpayments of NHS charges (regulations 9 to 12);
- (e) application of the scheme in respect of multiple compensation payments (regulation 13), structured settlements (regulation 14), interim payment (regulation 15) and payments into court (regulation 16);
- (f) payments exempt from the scheme regulation 17.

The compliance costs for business in relation to the scheme are set out in the Regulatory Impact Assessment, which can be obtained from the Department of Health Stores, PO Box 410, Wetherby, Leeds LS23 7LN Fax 0990 210 266.