

**2001 No. 125**

**ROAD TRAFFIC**

**The Road Traffic (Health Services Charges) Regulations  
(Northern Ireland) 2001**

*Made* . . . . . 21st March 2001

*Coming into operation* . . . . . 2nd April 2001

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred upon it by sections 23(5), 24(9)(b) and (10), 25(2), (4), (5) and (6), 28(1), 32(2) and (3), 33(2), (3) and (4), 35(4), 36(1) and (2), 37 and 57(1) and (3) of the Health and Personal Social Services Act (Northern Ireland) 2001(a), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

**1.**—(1) These Regulations may be cited as the Road Traffic (Health Services Charges) Regulations (Northern Ireland) 2001 and shall come into operation on 2nd April 2001.

(2) In these Regulations—

“the Act” means the Health and Personal Social Services Act (Northern Ireland) 2001;

“Department” means the Department for Social Development;

“hospital” means a health services hospital within the meaning of section 37 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 or other public place;

“settlement date” has the meaning given in section 26(3) of the Act.

(3) Any reference in these Regulations to a numbered section is to the section of the Act bearing that number.

*Application for a certificate of health services charges*

**2.**—(1) An application for a certificate shall be made to the Department 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; and

(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 24(8) applies (compensation payment made in circumstances where no certificate either issued or in force and no application made in period prescribed under section 24(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 24(9)(b) is a period of 28 days ending immediately before the day on which the compensation payment is made.

*Amount of health services 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 25(2), specify, subject to paragraphs (3) and (4), where the traffic casualty received health services 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).

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

*Amount of health services 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 25(2), specify—

(a) subject to paragraph (3), where the traffic casualty received health services treatment at a hospital in respect of his injury but was not admitted to hospital, the amount of £354, or

(b) subject to paragraphs (4) and (5), where the traffic casualty received health services 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) Paragraph (2)(a) does not apply to treatment without admission in respect of an incident occurring before the coming into operation of Part II of the Act.

(4) 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).

(5) 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 24(2) shall only take into account treatment received before the date the certificate is issued.

(2) A certificate issued under section 24(11) shall only take into account treatment received before the settlement date.

*Particulars of amounts specified in certificate*

6. A person to whom a certificate is issued is entitled, on application to the Department, 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; and

(b) where regulation 3(2) or 4(2)(b) applies in respect of that treatment, the number of days of admission counted at that hospital.

*Review of certificates*

7. A certificate may be reviewed under section 28 where the Department is satisfied that—

(a) a mistake (whether in computation of the amount specified or otherwise) occurred in the preparation of the certificate;

(b) the amount specified in the certificate is less than, or in excess of, the amount due to the Department;

(c) incorrect or insufficient information was supplied to the Department by the person who applied for the certificate, or the responsible body of each hospital at which the traffic casualty received health services treatment in respect of his injury, and in consequence the amount specified in the certificate was less than, or in excess of, what it would have been had the information supplied been correct and sufficient;  
or

(d) a ground for appeal is satisfied under section 29.

*Information to be provided with respect to a traffic casualty*

8.—(1) A person specified in section 33(2)(a) shall send to the Department the information set out in paragraph (3) not later than 14 days after the claim is made.

(2) A person specified in section 33(2)(b) to (e) shall send to the Department such information set out in paragraph (3) as the Department may request within 14 days of the Department 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, and where known, the national insurance number of that person;
- (c) the date of the incident;
- (d) the nature of the injury;
- (e) in respect of health services 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 and the type of treatment provided;
- (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 health services treatment in respect of his injury shall send the following information to the Department within 14 days of the Department 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;
- (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 purpose of section 33(3), “claim”—

- (a) in relation to a person falling within section 23(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 23(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*

**9.—(1)** The Department—

- (a) shall make any payment under section 35(1) (payment to responsible body) not later than 40 days after the day it receives a payment of health services charges;
- (b) may take 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 Department shall send to the responsible body a statement showing—

- (a) the name and address of the traffic casualty in respect of whom 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 Department receives a payment of health services charges under section 23(2); and
- (b) the responsible body of the hospital concerned (“the old body”) has ceased to exist, the Department shall pay the amount received to the body to which the property, rights and liabilities of the old body have been transferred<sup>(a)</sup>.

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

#### *Overpayments by compensators*

**10.** Where a fresh certificate has been issued as a result of a review under section 29 or an appeal under section 29 and the conditions specified in paragraphs (a) and (b) of section 32(2) (overpayments) are satisfied—

- (a) the Department 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 Department has (under section 35(1)) made the payment to the responsible body the Department—
  - (i) may deduct the difference between the amount that has been paid under section 35(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 it or the person who made the compensation payment.

#### *Underpayments by compensators*

**11.—**(1) Where a fresh certificate has been issued as a result of a review under section 28 or an appeal under section 29 and the conditions specified in paragraphs (a) and (b) of section 32(3) (underpayments) are satisfied—

- (a) the person who made the payment shall pay to the Department the difference between the total amount paid and the amount that ought to have been paid; and
- (b) the Department 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 Department, must, for the purposes of paragraph (1)(b), divide

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(a) See the Health and Personal Social Services (Residual Liabilities) (Northern Ireland) Order 1996 (S.I. 1996/1636 (N.I. 13))

the difference among the responsible bodies of the hospitals concerned in such manner as it considers appropriate.

*Provisions supplementary to regulations 10 and 11 relating to person making compensation payments*

**12.** Where the Department makes a payment under regulation 10(a) or a payment falls to be paid under regulation 11(1)(a), the Department 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 Department;
- (c) the amount that ought to have been paid to it; and
- (d) the amount of the difference, and whether a repayment by it or further payment to it is required.

*Provisions supplementary to regulations 10 and 11 relating to hospitals*

**13.—**(1) Where the Department requires a payment under regulation 10(b)(ii), or makes a payment under 11(1)(b), it 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 Department;
- (c) the amount that ought to have been paid by it; and
- (d) the amount of the difference, and whether a repayment to it or further payment by it is required.

(2) Where the Department makes a deduction under regulation 10(b)(i), it 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 Department;
- (c) the amount that ought to have been paid; and
- (d) the amount of the deduction.

*Multiple compensation payments*

**14.—**(1) This regulation applies where a person making a compensation payment is liable to pay appropriate health services charges to the Department under section 23(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 25(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 23(2) in connection with the earlier payment.

(3) Where—

(a) a payment made in satisfaction of the liability under section 23(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 Department shall review the certificate in respect of the later payment so as to specify the correct liability under section 23(2) in connection with the later payment.

#### *Structured settlements*

**15.**—(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*

**16.**—(1) This regulation applies where—

(a) a person has made a payment of health services charges to the Department under section 23(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 23 has been made in respect of the same injury.

(2) Where this regulation applies, the Department 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 Department has (under section 35(1)) made the payments to a responsible body, the Department may—

(a) deduct the amount paid to that body from any future payment due under section 35(1); or

(b) require the responsible body to pay that amount to it.

(4) Where the Department makes a deduction under paragraph (3)(a) or makes a demand for payment under paragraph (3)(b), it 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; and

(b) the amount of the deduction or demand.

#### *Payments into court*

**17.**—(1) Subject to paragraph 3, where a party to an action makes a payment into court which, had it been paid directly to another party to the action (“the relevant party”), would 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 (4));

(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.

(2) 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.

(3) 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.

(4) Where paragraph (1)(a) applies—

(a) the person making the compensation payment shall apply for a certificate (under section 24(8)) not later than 14 days after the day he is notified that the payment into court has been accepted;

(b) section 26(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*

**18.** Any compensation payment made—

(a) in pursuance of a compensation scheme for motor accidents by the Motor Insurer's Bureau; and

(b) in respect of an incident occurring before the day these regulations come into operation;

which but for this regulation would be a compensation payment, is prescribed for the purposes of section 23(5) (payments not to count as compensation payment).

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 21st March 2001.

(L.S.)

*Andrew M. Hamilton*

Senior Officer of the Department of  
Health, Social Services and Public Safety

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

The Road Traffic (Health Services Charges) Regulations 2001 provide for a scheme for the recovery from insurers and certain other persons of charges in connection with the health services treatment of road traffic casualties.

These Regulations make provision in connection with the scheme as follows—

- (a) certificates of health services charges (regulations 2 to 6);
- (b) review of certificates (regulation 7);
- (c) information requirements (regulation 8);
- (d) payments of health services charges to hospitals (regulation 9);
- (e) overpayments and underpayments of health services charges (regulations 10 to 13);
- (f) application of the scheme in respect of multiple compensation payments (regulation 14), structured settlements (regulation 15), interim payment (regulation 16) and payments into court (regulation 17);
- (g) payments exempt from the scheme (regulation 18).

£2.50

Published by The Stationery Office Limited

Printed in the UK by The  
Stationery Office Limited  
under the authority and  
superintendence of Carol  
Tullo, Controller of  
Her Majesty's Stationery  
Office being the Government  
Printer for Northern Ireland and  
the Officer appointed to print the  
Acts of the Northern Ireland Assembly  
Dd. 602155. C4. 3/01. Gp. 130. 14567.