



Road Traffic (NHS Charges) Act 1999

CHAPTER 3

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately



Road Traffic (NHS Charges) Act 1999

CHAPTER 3

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Road Traffic (NHS Charges) Act 1999

1999 CHAPTER 3

An Act to make provision about the recovery from insurers and certain other persons of charges in connection with the treatment of road traffic casualties in national health service, and certain other, hospitals; and for connected purposes.

[10th March 1999]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Payment for hospital treatment

1.—(1) This section applies if—

- (a) a person (“the traffic casualty”) has suffered injury, or has suffered injury and died, as a result of the use of a motor vehicle on a road;
- (b) a compensation payment is made in respect of that injury or death; and
- (c) the traffic casualty has received NHS treatment at a health service hospital in respect of his injury.

Payment for
hospital treatment
of traffic
casualties.

(2) The person making the compensation payment is liable to pay the appropriate NHS charges to the Secretary of State in respect of the treatment.

(3) “Compensation payment” means—

- (a) a payment made by an authorised insurer under, or in consequence of, a policy issued under section 145 of the Road Traffic Act 1988,
- (b) a payment made by the owner of the vehicle, in a case where the vehicle is one in relation to the use of which a security under Part VI of that Act is in force,

1988 c. 52.

(c) a payment made by the owner of the vehicle who has made a deposit under that Part, or

(d) a payment made in pursuance of a compensation scheme for motor accidents,

but does not include a payment under section 158 of that Act.

(4) A payment is a compensation payment whether or not it is made—

(a) in the United Kingdom; or

(b) voluntarily, or in pursuance of a court order or an agreement, or otherwise.

(5) Regulations may provide that a payment of a prescribed description is not to count as a compensation payment, either generally or in such circumstances as may be prescribed.

(6) “NHS treatment” means any treatment (including any examination of the traffic casualty), other than—

1977 c. 49.

(a) treatment provided by virtue of section 65 of the National Health Service Act 1977, section 57 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978 or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990 (accommodation and services for private patients); or

1978 c. 29.

1990 c. 19.

(b) treatment provided at a health service hospital by virtue of section 72 of the Act of 1977 or section 64 of the Act of 1978 (permission for use of national health service accommodation or facilities in private practice).

(7) “The appropriate NHS charges” means the amount or amounts specified in a certificate of NHS charges—

(a) issued under section 2, in respect of the traffic casualty, to the person making the compensation payment; and

(b) in force.

(8) This section applies in relation to any compensation payment made after the date on which this section comes into force but not to one payable under a court order, or agreement, made before that date.

(9) For the purposes of this Act, it is irrelevant whether a compensation payment is made with or without an admission of liability.

Certificates of NHS charges

Applications for certificates of NHS charges.

2.—(1) Before a person makes a compensation payment in respect of the injury or death of a traffic casualty, he may apply to the Secretary of State for a certificate under this section.

(2) If the Secretary of State receives an application under subsection (1), he must arrange for a certificate to be issued as soon as is reasonably practicable.

(3) Such a certificate is to be known as a “certificate of NHS charges” but is referred to generally in this Act as a “certificate”.

(4) 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.

(5) A person may apply under subsection (1) for a fresh certificate from time to time.

(6) Subsection (2) does not require the Secretary of State to arrange for a fresh certificate to be issued to a person applying under subsection (5) if, when the application is received, a certificate issued to the applicant in respect of the casualty is still in force; but the Secretary of State may arrange for a fresh certificate to be issued so as to have effect on the expiry of the current certificate.

(7) If a certificate expires, the Secretary of State may arrange for a fresh certificate to be issued without an application having to be made.

(8) In the circumstances mentioned in subsection (9), a person who has made a compensation payment in respect of the injury or death of a traffic casualty must apply to the Secretary of State for a certificate.

(9) The circumstances are that—

(a) at the time the payment is made—

(i) no certificate has been issued to him in respect of the casualty; 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.

(10) An application for a certificate must be made in the prescribed manner and, in the case of an application under subsection (8), within the prescribed period.

(11) On receiving an application under subsection (8), the Secretary of State must arrange for a certificate to be issued as soon as is reasonably practicable.

(12) The Secretary of State may arrange for certificates to be issued by electronic means.

3.—(1) A certificate must specify the amount or amounts for which the person to whom it is issued is liable under section 1(2).

Information contained in certificates.

(2) The amount or amounts to be specified are to be those set out in, or determined in accordance with, regulations.

(3) But if a certificate relates to a traffic casualty who has not received NHS treatment at a health service hospital in respect of his injury, it must indicate that no amount is payable to the Secretary of State by reference to that certificate.

(4) 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, including, in particular, whether or not the treatment concerned was in respect of injuries resulting from an incident occurring before 2nd July 1997;

(c) for cases in which a traffic casualty receives treatment at two or more health service hospitals;

(d) for cases in which liability under section 1(2) is to be apportioned between two or more persons making compensation payments in respect of the same traffic casualty.

(5) 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.

(6) 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 have been determined as may be prescribed, if he applies to the Secretary of State for those particulars.

Recovery of NHS charges

Payment of NHS charges.

4.—(1) If the certificate by reference to which an amount payable under section 1(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 1(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 5(2).

Recovery of NHS charges.

5.—(1) This section applies if a person has made a compensation payment and either—

(a) subsection (8) of section 2 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 1(2) by the end of the period allowed under section 4.

(2) The Secretary of State may—

(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 1(2) be made immediately.

(3) The Secretary of State may recover the amount for which a demand for payment is made under subsection (2) from the person who made the compensation payment.

(4) If the person who made the compensation payment resides or carries on business in England and 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.

(5) 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.

(6) A document which states that it is a record of the amount recoverable under subsection (3) is conclusive evidence that that amount is so recoverable if it is signed by a person authorised to do so by the Secretary of State.

(7) For the purposes of subsection (6), a document purporting to be signed by a person authorised to do so by the Secretary of State is to be treated as so signed unless the contrary is proved.

Reviews and appeals

6.—(1) A certificate may be reviewed by the Secretary of State—

Review of certificates.

- (a) either within the prescribed period or in prescribed cases or circumstances; and
- (b) either on an application made for the purpose or on his own initiative.

(2) On a review under this section, the Secretary of State may—

- (a) confirm the certificate;
- (b) issue a fresh certificate containing such variations as he considers appropriate; or
- (c) revoke the certificate.

(3) But the Secretary of State may not vary a certificate so as to increase the total amount specified unless it appears to him that the variation is required as a result of his having been supplied with incorrect or insufficient information by the applicant for the certificate.

7.—(1) An appeal against a certificate may be made by the person to whom the certificate was issued on the ground—

Appeals against a certificate.

- (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 treatment which is not NHS treatment received by the traffic casualty, in respect of his injury, at a health service hospital; or
- (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 giving 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.

(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, 1981 c. 54.
- (b) section 12(2)(a) of the Administration of Justice Act 1982, or 1982 c. 53.

- 1984 c. 28. (c) section 51(2)(a) of the County Courts Act 1984, (orders for provisional damages in personal injury cases), the claim is to be treated as having been finally disposed of.
- (4) Regulations may make provision—
- (a) as to the manner in which, and the time within which, an appeal may be made;
 - (b) as to the procedure to be followed where an appeal is made; and
 - (c) for the purpose of enabling an appeal to be treated as an application for a review under section 6.
- Appeal tribunals. **8.**—(1) The Secretary of State must refer an appeal to an appeal tribunal.
- (2) In determining an appeal, 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 or death in question.
- (3) On an appeal, 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 of NHS charges is to be revoked.
- (4) When the Secretary of State has received the decision of the tribunal on an appeal, he must in accordance with that decision—
- (a) confirm the certificate against which the appeal was brought;
 - (b) issue a fresh certificate; or
 - (c) revoke the certificate.
- (5) Regulations under section 7 may (among other things) provide for the non-disclosure of medical advice or medical evidence given or submitted following a reference under subsection (1).
- (6) In this section and section 9, “appeal tribunal” means—
- (a) in relation to England and Wales, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998;
 - (b) in relation to Scotland, an appeal tribunal established for the purposes of this Act by regulations.
- 1998 c. 14. (7) Regulations under subsection (6)(b) may include provision as to the constitution of the appeal tribunal and as to the procedure to be followed on an appeal.
- Appeal to the court on point of law. **9.**—(1) Regulations may provide that an appeal lies to the High Court on any point of law arising from a decision of an appeal tribunal under section 8.
- (2) In Scotland, an appeal lies to the Court of Session on any point of law arising from a decision of an appeal tribunal under section 8.
- Reviews and appeals supplementary. **10.**—(1) This section applies in any case in which a fresh certificate is issued as a result of a review under section 6 or an appeal.
- (2) Regulations may provide that where—

- (a) a person has made one or more payments to the Secretary of State under section 1, and
- (b) in consequence of the review or appeal, it appears that the amount paid is more than the amount that ought to have been paid,

the difference must be repaid by such person or persons as may be prescribed.

- (3) Regulations may provide that where—
 - (a) a person has made one or more payments to the Secretary of State under section 1, and
 - (b) in consequence of the review or appeal, it appears that the amount paid is less than the amount that ought to have been paid,

that person must pay the difference to the Secretary of State.

- (4) Regulations under this section—
 - (a) may provide for the payment by any person of any balance or the recovery from any person of any excess, and may make such provision by modifying this Act;
 - (b) may provide for the Secretary of State to determine any matter requiring determination under or in consequence of the regulations.

Information

11.—(1) This section applies if a claim for a compensation payment is made in respect of any injury suffered by, or the death of, a traffic casualty. Provision of information.

(2) The following persons must give the Secretary of State such information with respect to the circumstances of the case as may be prescribed—

- (a) the person against whom the claim is made and anyone acting on behalf of that person;
- (b) anyone not within paragraph (a) who is, or is alleged to be, liable in respect of the injury or death;
- (c) the traffic casualty or, if the traffic casualty has died, his personal representative;
- (d) if the claim is not made by the traffic casualty, the person by whom it is made;
- (e) anyone acting on behalf of a person within paragraph (b), (c) or (d);
- (f) the responsible body of each health service hospital at which the traffic casualty has received NHS treatment in respect of his injury.

(3) “Claim” and “person against whom the claim is made” have such meanings as may be prescribed.

(4) 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 (which in the case of a person within subsection (2)(b), (c), (d), (e) or (f) must be a period beginning with the day on which the Secretary of State asks him for the information).

(5) Regulations under this section may, in particular, require the provision of information about any NHS treatment which a traffic casualty has received at a health service hospital.

Use of
information held
by the Secretary
of State.

12.—(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.

1997 c. 27.

(2) The information—

- (a) may be used for the purposes of, or for any purpose connected with, the exercise of functions under this Act; and
- (b) may be supplied to, or to a person providing services to, the Secretary of State for use for those purposes.

(3) Subsection (4) 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 this Act.

(4) The information—

- (a) may 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) may be supplied to, or to a person providing services to, the Secretary of State for use for those purposes.

Payments to hospitals

Payment of NHS
charges to
hospitals.

13.—(1) If the Secretary of State receives a payment of NHS charges under section 1(2), he must pay the amount received to the responsible body of the health service hospital at which the treatment, in respect of which the payment was made, was given.

(2) If a payment received under section 1(2) relates to treatment at more than one health service hospital, the Secretary of State must, for the purposes of subsection (1), divide the payment among the responsible bodies of the hospitals concerned in such manner as he considers appropriate.

(3) Subsection (1) does not apply to any amount received by the Secretary of State under section 1(2) which he is required to repay in accordance with regulations under section 10(2).

(4) 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 concerned has ceased to exist (including provision modifying this Act).

Miscellaneous and general

14.—(1) Regulations may make provision (including provision modifying this Act)—

Regulations governing payments into court, etc.

- (a) for cases to which section 1(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 or death;
- (b) for cases to which section 1(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 1(2) applies is an interim payment of damages which a court orders to be repaid.

(2) Regulations may make provision modifying the application of this Act 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.

(3) Subsection (2) extends to England and Wales only.

15.—(1) Regulations may provide for this Act to apply, with such modifications as may be prescribed, in relation to cases in which a traffic casualty receives treatment at a military hospital.

Application of Act to military hospitals.

(2) “Military hospital” means a hospital (as defined by section 128 of the National Health Service Act 1977) maintained by a Minister of the Crown wholly or partly for purposes of any part of the armed forces of the Crown.

1977 c. 49.

16.—(1) Any power to make regulations or an order which is conferred by this Act is exercisable by statutory instrument.

Regulations and orders.

(2) Any such statutory instrument—

- (a) may contain such incidental, supplemental, consequential and transitional provision as the Secretary of State considers appropriate;
- (b) may make different provision for different cases or areas;
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) But subsection (2)(c) does not apply to an order under section 21.

Interpretation.

17. In this Act—

- “appeal” means an appeal under section 7;
- “appropriate NHS charges” has the meaning given in section 1(7);
- 1988 c. 52. “authorised insurer” has the meaning given in section 145(5) of the Road Traffic Act 1988;
- “certificate” means a certificate of NHS charges issued under section 2;
- “compensation payment” has the meaning given in section 1;
- “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 be caused, by uninsured or unidentified persons;
- 1977 c. 49.
1978 c. 29. “health service hospital” means a health service hospital within the meaning of the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978;
- “motor vehicle” has the meaning given in section 185 of the Road Traffic Act 1988 (read with sections 186(1), 187, 188 and 189 of that Act);
- 1990 c. 19. “National Health Service trust” means a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 or section 12A of the National Health Service (Scotland) Act 1978;
- “NHS treatment” has the meaning given in section 1(6);
- “owner” has the meaning given in section 192 of the Road Traffic Act 1988;
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Secretary of State;
- “responsible body”, in respect of a health service hospital, means—
- (a) in the case of a hospital vested in a National Health Service trust, the Trust, and
 - (b) in any other case, the body responsible for the management of the hospital;
- “road”—
- (a) in relation to England and Wales, means any highway and any other road to which the public has access, and includes bridges over which a road passes; and
 - (b) in relation to Scotland, has the meaning given by the Roads (Scotland) Act 1984; and
- 1984 c. 54. “traffic casualty” has the meaning given in section 1(1).

Consequential amendments.

18.—(1) In section 145 of the Road Traffic Act 1988 (requirements in respect of policies of insurance), in subsection (6)—

- (a) after “this Part of this Act”, insert “or the Road Traffic (NHS Charges) Act 1999”;
- (b) after “section 157 of this Act”, insert “or section 1 of the Act of 1999”.

(2) In section 159 of the Act of 1988 (supplementary provisions as to payments for treatment)—

- (a) in subsection (1), for paragraphs (a) to (c) substitute “to the hospital”;
- (b) in subsection (3)(a), for “the Authority” to the end substitute “the hospital claiming the payment”.

(3) In section 161 of the Act of 1988 (interpretation), for the definition of “hospital” substitute—

““hospital” means any institution which provides medical or surgical treatment for in-patients, other than—

- (a) a health service hospital within the meaning of the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978, 1977 c. 49.
1978 c. 29.
- (b) one which is a military hospital for the purposes of section 15 of the Road Traffic (NHS Charges) Act 1999, or
- (c) any institution carried on for profit.”

(4) In Schedule 1 to the Tribunals and Inquiries Act 1992, in paragraph 56 (National Health Service), after paragraph (d), insert— 1992 c. 53.

“(e) the appeal tribunal established by regulations under section 8(6)(b) of the Road Traffic (NHS Charges) Act 1999.”

19.—(1) The Secretary of State may pay out of money provided by Parliament such fees and allowances to members of the appeal tribunal established by regulations under section 8(6)(b) as he may with the consent of the Treasury determine. Expenditure.

(2) There is to be paid out of money provided by Parliament—

- (a) any other expenditure incurred by the Secretary of State in consequence of this Act; and
- (b) any increase attributable to this Act in the sums so payable by virtue of any other Act.

20.—(1) The Secretary of State may by order provide for section 7 to have effect, during the transitional period, with such modifications as may be specified in the order. Transitional provision.

(2) During the transitional period, section 8 is to have effect as if for subsections (6) and (7) there were substituted—

“(6) In this section and section 9, “appeal tribunal” means a medical appeal tribunal constituted under section 50 of the Social Security Administration Act 1992.” 1992 c. 5.

(3) The Secretary of State may by order provide for section 8 to have effect, during the transitional period, with such further modifications as may be specified in the order.

(4) “The transitional period” means the period beginning with the coming into force of section 1 and ending on such day as the Secretary of State may by order appoint.

(5) Subsections (1) to (4) extend to England and Wales only.

(6) The Secretary of State may by order provide for section 7 to have effect, during the transitional period for Scotland, with such modifications as may be specified in the order.

(7) During the transitional period for Scotland, section 8 is to have effect as if for subsections (6) and (7) there were substituted—

“(6) In this section and section 9, “appeal tribunal” means—

1992 c. 5.

(a) during the transitional period for England and Wales, a medical appeal tribunal constituted under section 50 of the Social Security Administration Act 1992;

1998 c. 14.

(b) after that transitional period, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998.”

(8) The Secretary of State may by order provide for section 8 to have effect, during the transitional period for Scotland, with such further modifications as may be specified in the order.

(9) “The transitional period for Scotland” means the period beginning with the coming into force of section 1 and ending on such day as the Secretary of State may by order appoint.

(10) Subsections (6) to (9) extend to Scotland only.

Short title, etc.

21.—(1) This Act may be cited as the Road Traffic (NHS Charges) Act 1999.

(2) The preceding provisions of this Act come into force on such day as the Secretary of State may by order appoint.

(3) Different days may be appointed for different purposes.

(4) For the purposes of the Scotland Act 1998, this Act shall be taken to be a pre-commencement enactment.

(5) This Act does not extend to Northern Ireland.

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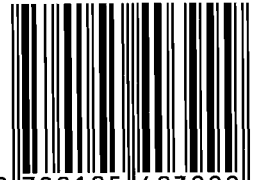
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