

HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Recovery of Nhs Charges

Review and appeal

Section 156: Review of certificates

333. *Section 156* provides for internal review of certificates. *Subsection (1)* requires the authority to review a certificate if, after it has been issued, a finding of contributory negligence is either made by a court under the Law Reform (Contributory Negligence) Act 1945 or its equivalent outside Great Britain or set out in an agreed judgement or order entered or sealed by a court in England and Wales or Northern Ireland or in a joint minute executed by the parties in Scotland (or equivalent documents elsewhere). This reflects the fact that such a finding reduces the liability for NHS charges as provided in *section 153*. *Subsection (2)* provides for regulations to be made to deal with cases where a claim becomes a qualifying claim as defined in *section 153(9)*, that is where a claim has been settled by a prescribed mediation process and the damages payable under the settlement are to be reduced to reflect the injured person's contributory negligence. *Subsection (3)* provides for cases where a certificate relating to the same injury has been issued in relation to the same injured person by both the Secretary of State and the Scottish Ministers or where a joint certificate has been issued to reflect liability under both schemes. It provides that, where the amounts due under one of these certificates (or parts of a certificate) have been adjusted following review or appeal, then the other authority must review its certificate (or part of a certificate) if it is satisfied that consequential adjustments are necessary or expedient. In addition to these two cases, *subsection (4)* enables a review of a certificate to be carried out by the authority either on its own initiative or on application by the compensator. *Subsection (4)(a)* provides for regulations to be made relating to the timing of such reviews and the circumstances or cases in which they may take place.
334. *Subsection (5)* provides that, following review, the authority may verify that the existing certificate is correct, make appropriate variations and issue a new certificate or revoke the old certificate. *Subsection (6)* prevents the authority from issuing a fresh certificate for a higher amount than a previous one unless satisfied that the previous certificate was based on incorrect or insufficient information supplied by the person to whom the certificate was issued. *Subsection (7)* enables a single certificate to be issued following a review to cover liability under both the English/Welsh and Scottish schemes.