



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 3

RECOVERY OF NHS CHARGES

Miscellaneous and general

163 Regulations governing lump sums, periodical payments etc

- (1) Regulations may make provision (including provision modifying this Part)—
 - (a) for cases to which section 150(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,
 - (b) for cases to which section 150(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 150(2) applies is an interim payment of damages which a court orders to be repaid.
- (2) Regulations made by virtue of subsection (1)(a) may (among other things) provide—
 - (a) for giving credit for amounts already paid, and
 - (b) for the payment by any person of any balance or the recovery from any person of any excess.
- (3) Regulations may make provision modifying the application of this Part in relation to cases in which a payment into court is made and, in particular, may provide—

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Cross Heading: Miscellaneous and general. (See end of Document for details)

- (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.

Commencement Information

- I1** S. 163 partly in force; s. 163 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I2** S. 163 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(a)
- I3** S. 163(1)(2) in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(b)

164 Liability of insurers

- (1) If a compensation payment is made in a case where—
 - (a) a person is liable to any extent in respect of the injury, and
 - (b) the liability is covered to any extent by a policy of insurance,
 the policy is also to be treated as covering any liability of that person under section 150(2).
- (2) Liability imposed on the insurer by subsection (1) cannot be excluded or restricted.
- (3) For that purpose excluding or restricting liability includes—
 - (a) making the liability or its enforcement subject to restrictive or onerous conditions,
 - (b) excluding or restricting any right or remedy in respect of the liability, or subjecting a person to any prejudice in consequence of his pursuing any such right or remedy, or
 - (c) excluding or restricting rules of evidence or procedure.
- (4) Regulations may in prescribed cases limit the amount of the liability imposed on the insurer by subsection (1).
- (5) This section applies in relation to policies of insurance issued before (as well as those issued after) the date on which it comes into force.
- (6) References in this section to policies of insurance and their issue include references to contracts of insurance and their making.

Commencement Information

- I4** S. 164 partly in force; s. 164 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I5** S. 164 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(a)
- I6** S. 164 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(c)

165 Power to apply Part 3 to treatment at non-health service hospitals

- (1) Regulations may make provision for this Part to apply, with such modifications as may be prescribed, if—
 - (a) a person makes a compensation payment as mentioned in section 150(1)(a), but
 - (b) the person to or in respect of whom the payment is made has—

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- (i) received treatment as a result of the injury at a qualifying hospital under an NHS arrangement,
 - (ii) been provided with NHS ambulance services as a result of the injury for the purpose of taking him to a qualifying hospital for treatment under an NHS arrangement (unless he was dead on arrival at that hospital), or
 - (iii) received treatment as mentioned in sub-paragraph (i) and been provided with NHS ambulance services as mentioned in sub-paragraph (ii),
- (subject to subsection (2)).
- (2) Subsection (1)(b) does not apply where the person to or in respect of whom the payment is made receives, or is taken to a hospital for, treatment which would be provided as mentioned in paragraph (a), (b) or (d) of section 150(7) if it were provided at a health service hospital.
- (3) In subsection (1), “NHS arrangement” means an arrangement or agreement between—
- (a) the hospital in question or a body responsible for it, and
 - (b) any of the following—
 - ^{F1}(i)
 - (ia) [^{F2}NHS England],
 - ^{F3}(ib) an integrated care board,]
 - (ii) a National Health Service trust established under [^{F4}section 25 of the 2006 Act, section 18 of the National Health Service (Wales) Act 2006] or section 12A of the 1978 Act,
 - (iii) a Local Health Board,
 - (iv) a Health Board or Special Health Board established under section 2 of the 1978 Act, or
 - (v) an NHS foundation trust.
- (4) Regulations under subsection (1) may include provision excluding the application of sections 157 to 159 of the Road Traffic Act 1988 (c. 52) in such description of case as may be prescribed.
- (5) In this section “qualifying hospital” means a hospital (within the meaning of [^{F5}section 275(1) of the 2006 Act] or section 108(1) of the 1978 Act) which is not a health service hospital.

Textual Amendments

- F1** S. 165(3)(b)(i) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 123(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** Words in s. 165 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** S. 165(3)(b)(ib) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 72**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Words in s. 165(3)(b)(ii) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 250(a)** (with Sch. 3 Pt. 1)
- F5** Words in s. 165(5) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 250(b)** (with Sch. 3 Pt. 1)

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Cross Heading: Miscellaneous and general. (See end of Document for details)

Commencement Information

I7 S. 165 partly in force; s. 165 in force at Royal Assent for certain purposes, see s. 199(1)(4)

166 The Crown

This Part binds the Crown.

Commencement Information

I8 S. 166 in force at 29.1.2007 for S. by S.S.I. 2007/10, art. 2(2)(d)

I9 S. 166 in force at 29.1.2007 for E.W. by S.I. 2006/3397, art. 2(2)(b)

167 Regulations

- (1) Any power to make regulations conferred by this Part is exercisable—
- (a) in relation to England and Wales, by the Secretary of State; and
 - (b) in relation to Scotland, by the Scottish Ministers.
- (2) Regulations under section 157(7) may only be made by the Scottish Ministers with the consent of the Secretary of State.

Commencement Information

I10 S. 167 in force at 29.1.2007 for E.W. in so far as not already in force by S.I. 2006/3397, art. 2(2)(b)

I11 S. 167 in force at 29.1.2007 for S. in so far as not already in force by S.S.I. 2007/10, art. 2(2)(d)

168 Interpretation of Part 3

In this Part—

“the 1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29);

“compensation payment” has the meaning given in section 150;

“health service hospital” means a health service hospital within the meaning of [^{F6}the 2006 Act, the National Health Service (Wales) Act 2006] or the 1978 Act;

“injured person” has the meaning given in section 150(1);

“NHS ambulance services” means ambulance services provided under [^{F7}section 3(1)(c) of the 2006 Act, section 3(1)(c) of the National Health Service (Wales) Act 2006] or section 45 of the 1978 Act;

“NHS treatment” has the meaning given in section 150(7);

“prescribed” means prescribed by regulations.

Textual Amendments

F6 Words in s. 168 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 1 para. 251(a) (with Sch. 3 Pt. 1)

F7 Words in s. 168 substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 1 para. 251(b) (with Sch. 3 Pt. 1)

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Cross Heading: Miscellaneous and general. (See end of Document for details)

Commencement Information

- I12** S. 168 partly in force; s. 168 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I13** S. 168 in force at 29.1.2007 for E.W. in so far as not already in force by [S.I. 2006/3397](#), [art. 2\(2\)\(b\)](#)
- I14** S. 168 in force at 29.1.2007 for S. in so far as not already in force by [S.S.I. 2007/10](#), [art. 2\(2\)\(d\)](#)

169 Consequential and minor repeals

- (1) The Road Traffic (NHS Charges) Act 1999 (c. 3) shall cease to have effect.
- (2) In the Road Traffic Act 1988, in section 161(1), in the definition of “hospital”, paragraph (b) is omitted.

Commencement Information

- I15** [S. 169](#) in force at 29.1.2007 for S. by [S.S.I. 2007/10](#), [art. 2\(2\)\(d\)](#)
- I16** [S. 169](#) in force at 29.1.2007 for E.W. by [S.I. 2006/3397](#), [art. 3\(1\)](#) (with [art. 4](#))

Changes to legislation:

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