Draft Regulations laid before Parliament under section 195(5) of the Health and Social Care (Community Health and Standards) Act 2003, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2006 No.

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The Personal Injuries (NHS Charges) (Amounts) Regulations 2006

Made - - - -	*2006*
Coming into force - -	*29th January 2007*

These Regulations are made in exercise of the powers conferred by sections 153(2), (5), (7) and (8), 163(1) and 195(1) and (2) of the Health and Social Care (Community Health and Standards) Act 2003(**1**).

In accordance with section 195(3) of that Act, the Secretary of State for Health has consulted the National Assembly for Wales.

A draft of this instrument, which contains the first regulations made under section 153(2) of that Act, has been laid before Parliament in accordance with section 195(5) of that Act, and approved by resolution of each House of Parliament.

Accordingly, the Secretary of State for Health makes the following Regulations:—

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Personal Injuries (NHS Charges) (Amounts) Regulations 2006 and shall come into force on 29th January 2007.

(2) These Regulations extend only to England and Wales.

(3) In these Regulations—

"the Act" means the Health and Social Care (Community Health and Standards) Act 2003;

"certificate" means a certificate issued under section 151;

(**1**) 2003 c.43 ("the 2003 Act"). By section 167(1), the powers are exercisable in relation to England and Wales by the Secretary of State. *See* section 168 for the definition of "prescribed".

"hospital" means a health service hospital within the meaning of the National Health Service Act 1977(**2**);

"injury" means any injury which occurs on or after 29th January 2007;

"relevant NHS body" has the meaning given to it in regulation 8(4).

(4) A reference in these Regulations to a numbered section is a reference to that section of the Act.

Amount of NHS charges

2.—(1) Subject to the following paragraphs of this regulation and regulation 3, a certificate shall, for the purpose of section 153(2), specify—

(a) the sum of £159 for each occasion on which, as a result of his injury, the injured person was provided with NHS ambulance services(**3**) for the purpose of taking him to a hospital for NHS treatment(**4**); and

(b) where the injured person received NHS treatment at a hospital in respect of his injury, either—

(i) if he was not admitted to hospital, the sum of £505, or

(ii) if he was admitted to hospital, the sum of £620 for each day or part day of admission.

(2) For the purposes of paragraph (1)(a), the reference to taking a person to a hospital includes taking him from one hospital to another.

(3) Where the injured person was admitted to hospital on one day and discharged on another day, the day of discharge shall be disregarded for the purposes of paragraph (1)(b)(ii).

(4) The amount which a certificate may specify under paragraph (1)(a) or paragraph (1)(b), or both, must not exceed £37,100 ("the maximum").

(5) Where—

(a) amounts fall to be specified under both paragraph (1)(a) and paragraph (1)(b); and

(b) the aggregate of those amounts would, apart from paragraph (4), exceed the maximum,

the amount to be specified under paragraph (1)(b) is to be reduced by the difference between the maximum and the aggregate of those amounts.

Amount of NHS charges: further provision

3.—(1) This paragraph applies where a person liable to pay relevant NHS charges(**5**)—

(a) makes a compensation payment in the form of a lump sum (an "earlier payment"); and

(b) subsequently makes another such payment in respect of the same injury (a "later payment").

(2) Where paragraph (1) applies, the amount, for the purpose of section 153(2), to be specified in the certificate in respect of the later payment shall be the amount determined under regulation 2 reduced by the amount paid in satisfaction of any liability to pay relevant NHS charges in connection with the earlier payment.

(3) Where the person to whom the certificate is to be issued pursuant to paragraph (2) is a person whose liability to pay the relevant NHS charges has been determined or re-determined under regulation 5(4), the certificate shall, in addition to any amounts to be specified under that paragraph,

(**2**) 1977 c.49. *See* section 128 for the definition of "health service hospital".
(**3**) *See* section 168 of the 2003 Act for the definition of NHS ambulance services.
(**4**) *See* section 150(7) of the 2003 Act for the definition of NHS treatment.
(**5**) *See* section 150(10) of the 2003 Act for the definition of relevant NHS charges.

specify the amount of relevant NHS charges that the person is liable to pay in accordance with that determination or re-determination.

Treatment to be taken into account

4.—(1) A certificate issued under section 151(2) shall only take into account treatment received, or ambulance services provided, before the date the certificate is issued.

(2) A certificate issued under section 151(10) shall only take into account treatment received, or ambulance services provided, before the settlement date(**6**).

Apportionment of liability to pay NHS charges

5.—(1) This regulation applies where each of two or more persons ("the compensators")—

(a) has made a compensation payment(**7**) to or in respect of a person in consequence of any injury suffered by him; or

(b) is, or is alleged to be, liable to any extent in respect of the injury.

(2) This paragraph applies where—

(a) one of the compensators applies for a certificate under section 151 and, at the time of making the application, requests that the liability to pay the relevant NHS charges be apportioned between the compensators; and

(b) before she issues the certificate, the Secretary of State receives sufficient evidence to enable her to determine how that liability is to be apportioned.

(3) This paragraph applies where—

(a) a compensator to whom a certificate has been issued, requests that the liability to pay the relevant NHS charges be apportioned between the compensators; and

(b) the Secretary of State receives sufficient evidence to enable her to determine how that liability is to be apportioned between the compensators.

(4) Where paragraph (2) or (3) applies—

(a) the Secretary of State shall determine or, in the case of a compensator to whom a certificate has been issued, re-determine, the liability of each compensator to pay the relevant NHS charges;

(b) for the purposes of sub-paragraph (a), the Secretary of State shall apportion between the compensators the amount of relevant NHS charges that would be payable if there were only one compensator;

(c) in the case of a compensator to whom a certificate has not been issued, the certificate when issued to him shall specify the liability to pay the relevant NHS charges and the share of that liability that has been apportioned to him; and

(d) in the case of a compensator to whom a certificate has been issued, when the Secretary of State re-determines his liability to pay the relevant NHS charges, subsections (5) and (7) of section 156 (review of certificates) shall apply as if the re-determination were a review under that section.

Adjustment of amounts where certificates issued by Secretary of State and Scottish Ministers

6.—(1) This paragraph applies where—

(**6**) *See* section 154(3) of the 2003 Act for the definition of settlement date.
(**7**) *See* section 150(3) of the 2003 Act for the definition of compensation payment.