SCOTTISH STATUTORY INSTRUMENTS

2009 No. 193

NATIONAL HEALTH SERVICE

The Personal Injuries (NHS Charges) (Scotland) Amendment Regulations 2009

Made - - - -	*19th May 2009*
Laid before the Scottish Parliament	*20th May 2009*
Coming into force - -	*12th June 2009*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 153(2) and (5), 160(1) to (3), 168 and 195(1) and (2) of the Health and Social Care (Community Health and Standards) Act 2003(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Personal Injuries (NHS Charges) (Scotland) Amendment Regulations 2009 and come into force on 12th June 2009.

Amendment of the Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006

2.—(1) The Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006(**b**) are amended as follows.

(2) In regulation 2(1) (amount of NHS charges) after "regulation 3" insert "and 3A".

(3) In regulation 2A(1) (amount of NHS charges – injuries occurring on or after 1st April 2008)–

(a) after "regulation 3" insert "and 3A"; and

(b) after "1st April 2008" insert "and before 12th June 2009".

(4) After regulation 2A (amount of NHS charges – injuries occurring on or after 1st April 2008) insert–

"**Amount of NHS charges – injuries occurring on or after 12th June 2009**

2B.—(1) Subject to the following paragraphs of this regulation and regulations 3 and 3A, a certificate relating to an injury which occurs on or after 12th June 2009 shall, for the purpose of section 153(2), specify–

(a) the sum of £171 for each occasion on which, as a result of an injury, the injured person was provided with NHS ambulance services for the purpose of taking the injured person to a hospital for NHS treatment; and

(**a**) 2003 c.43 ("the 2003 Act"). By section 167(1) of the 2003 Act the powers are exercisable in relation to Scotland by the Scottish Ministers. Section 168 of the 2003 Act is cited for the definition of "prescribed".

(**b**) S.S.I. 2006/588. Amended by S.S.I. 2008/96.

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

(i) if the person was not admitted to hospital, the sum of £566; or

(ii) if the injured person was admitted to hospital, the sum of £695 for each day or part day of admission.

(2) For the purposes of paragraph (1)(a), the reference to taking an injured person to a hospital includes taking that person 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 (1)(b), or both, must not exceed £41,545 ("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 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.".

(5) In regulation 3(2) (amount of NHS charges: further provision) for "regulation 2 or 2A" substitute "regulation 2, 2A or 2B".

(6) After regulation 3 (amount of NHS charges: further provision) insert–

"**Amount of NHS charges: reduction in respect of overseas visitors' charges**

3A.—(1) This regulation applies to a certificate where the amount to be specified in the certificate is determined under section 153 on or after 12th June 2009.

(2) This paragraph applies where–

(a) a charge has been made in respect of an injured person in accordance with regulation 2(1) of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989(**a**) for the provision of NHS treatment(**b**) at a hospital; and

(b) the compensation payment made to or in respect of that injured person includes an amount in respect of the charge referred to in sub-paragraph (a).

(3) Where paragraph (2) applies, the amount for the purpose of section 153(2) to be specified in relation to NHS treatment at a hospital in the certificate which relates to the compensation payment referred to in paragraph (2)(b) shall be £0.".

(7) In regulation 6 (adjustment of amounts where certificates are issued by the Scottish Ministers and the Secretary of State)–

(a) in paragraph (1)(b) for "regulation 2(4) or 2A(4)" substitute "regulation 2(4), 2A(4) or 2B(4)"; and

(b) in paragraph (2)(a) for "regulation 2(4) and (5) or 2A(4) and (5)" substitute "regulation 2(4) and (5), 2A(4) and (5) or 2B(4) and (5)".

Amendment of the Personal Injuries (NHS Charges) (General) (Scotland) Regulations 2006

3.—(1) The Personal Injuries (NHS Charges) (General) (Scotland) Regulations 2006(**c**) are amended as follows.

(**a**) S.I. 1989/364, as amended by S.I. 1992/411, S.I. 1994/1770, S.I. 1998/251, S.S.I. 2004/369, S.S.I. 2005/445 and 572, S.S.I. 2006/141, S.S.I. 2008/290 and S.S.I. 2009/177.

(**b**) See section 150(7) of the 2003 Act for the definition of "NHS treatment".

(**c**) S.S.I. 2006/592.

(2) In regulation 1(3) (citation, commencement, extent and interpretation)–

(a) insert the following definitions in the appropriate alphabetical position–

(i) ""the 1989 Regulations" means the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989;"; and

(ii) ""overseas visitors' charge" means a charge in accordance with regulation 2(1) of the 1989 Regulations for the provision of NHS treatment at a hospital.";

(b) after the definition of "certificate" omit "and"; and

(c) after the definition of "hospital" for "." substitute "; and".

(3) In regulation 2(1)(f) (application for a certificate of NHS charges) after "made" in the second place it appears insert ", whether that payment includes an amount in respect of an overseas visitors' charge and, if so, documentary evidence of payment of that amount".

(4) In regulation 5 (information to be provided with respect to an injured person)–

(a) in paragraph (1) for "(g)" substitute "(h)";

(b) at the end of paragraph (3)(f)(ii) omit "and";

(c) at the end of paragraph (3)(g) insert–

"; and

(h) whether the claim for compensation includes payment of an overseas visitors' charge";

(d) at the end of paragraph (4)(d) omit "and"; and

(e) at the end of paragraph (4)(e) insert–

"; and

(f) whether an overseas visitors' charge has been made in respect of the injured person".

NICOLA STURGEON
A member of the Scottish Executive

St Andrew's House,
Edinburgh
19th May 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006 ("the principal Regulations") which make provision about the charges payable under the scheme for the recovery of NHS charges in cases where an injured person who receives a compensation payment in respect of injury has received National Health Service treatment or ambulance services ("NHS charges").

The Regulations also amend the Personal Injuries (NHS Charges) (General) (Scotland) Regulations 2006 ("the 2006 Regulations") which make further provision as to various matters in connection with the scheme on NHS charges.

Amendments made to the principal Regulations by regulation 2 increase the charges in respect of injuries which occur on or after 12th June 2009. Where the injured person is provided with NHS ambulance services, the charge is increased from £165 to £171 for each occasion. Where the injured person receives NHS treatment, but is not admitted to hospital, the charge is increased from £547 to £566. The daily charge for NHS in-patient treatment is increased from £672 to £695. The maximum charge in respect of an injury is increased from £40,179 to £41,545.

Regulation 2 also amends the principal Regulations to make provision for the amount of the NHS charges to be reduced to nil in respect of NHS hospital treatment where a charge for the provision of that treatment has been made in respect of the injured person under the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 and the compensation payment includes an amount for this charge. This applies to determinations of NHS charges under section 153 of the Health and Social Care (Community Health and Standards) Act 2003 which take place on or after 12th June 2009.

Regulation 3 amends the 2006 Regulations to add to the list of information to be provided by certain classes of persons under the scheme on NHS charges.

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