

## **EXECUTIVE NOTE**

### **THE PERSONAL INJURIES (NHS CHARGES) (REVIEW AND APPEALS) (SCOTLAND) AMENDMENT REGULATIONS 2007 SSI/2007/222**

1. The above instrument was made in exercise of the powers conferred by sections 157(7), 168 and 195(1) and (2) of the Health and Social Care (Community Health and Standards) Act 2003 “the 2003 Act”. In accordance with Section 167(2) of the 2003 Act these Regulations have been made with the consent of the Secretary of State for Health and in accordance with section 8 of the Tribunals and Inquiries Act 1992, the Council on Tribunals and its Scottish Committee has been consulted. The instrument is subject to the negative resolution procedure.

#### **Policy Objectives**

2. Part 3 of the 2003 Act provides for a Scheme for the recovery of charges incurred by the National Health Service in cases where a person who suffers a personal injury receives National Health Service treatment or ambulance services. The charges are specified in certificates issued by the Scottish Ministers, and are payable by persons who are required to pay compensation to the injured person. The Scheme was introduced on Monday 29<sup>th</sup> January 2007 and is regulated by three sets of regulations, namely,

- The Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006;
- The Personal Injuries (NHS Charges) (General) (Scotland) Regulations 2006;
- The Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006.

3. Appeals under the Scheme will be handled by the Tribunals Service (within the Department for Constitutional Affairs) in accordance with the Social Security and Child Support (Decisions and Appeals) Regulations 1999. It is our policy that the appeal tribunal should have a medically qualified panel member on the panel to hear an appeal against a certificate under section 157(1) of the 2003 Act and to achieve this regulation 36 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 has been amended by the Health and Social Care (Community Health and Standards) Act 2003 Supplementary Provisions (Recovery of NHS Charges) (Scotland) Order 2007.

4. This Order is required to reflect that amendment to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 in the Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006. The opportunity has also been taken when amending the regulations to amend regulations 7(7) and 7(8) in response to a request from the Scottish Committee of the Council on Tribunals that we reinstate some wording (“as soon as practicable after the decision is made”) that was in an earlier draft of these regulations.

#### **Consultation**

5. As stated above, the Council on Tribunals and its Scottish Committee has been consulted on this amendment.

### **Financial effects**

6. The instrument has no financial effects on the Scottish Executive or local government. Furthermore, it should be noted that the liability for charges rests with the compensator, and not with the person who has been compensated. A Regulatory Impact Assessment has been completed for the Scheme.

7. A similar Order is being made by the Department of Health for the equivalent Scheme in England and Wales.

**Scottish Executive Health Department**  
**March 2007**