

*These notes refer to the The Road Traffic (NHS Charges) Act
1999 (c.3) which received Royal Assent on 10 March 1999*

THE ROAD TRAFFIC (NHS CHARGES) ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 2 and 3: Certificates of NHS charges

The present scheme gives powers to hospitals to collect charges. The new Act transfers collection to the Secretary of State who will issue certificates of the charges which are due. The intention is that this work will be undertaken, on behalf of the Secretary of State, by the Compensation Recovery Unit (CRU), a part of the Benefits Agency based on Tyneside.

CRU was established in 1990 in order to undertake the administrative work associated with the scheme for recovery of certain state benefits paid where both they and compensation are paid in respect of the same accident, injury or disease. The Unit already has extensive links with the insurance industry and established procedures based on a certificate system. It is intended that the Act and the regulations made under it should mirror, where possible, these established procedures so that the new work of collecting NHS charges can be undertaken at minimal additional cost and within a system already known and in use by the insurance industry.

Under the provisions of the benefit recovery scheme, a compensator is liable for the full amount of benefit paid up to the date of the compensation payment (subject to a five year maximum). In turn he may reduce the amount of compensation payable to the injured person, but only where benefits and compensation have been paid for a like need. For that reason, in the benefit recovery scheme the compensator must apply for a certificate of charges before making the compensation payment. The amount of that payment can be affected by the benefit recovery. In the NHS scheme the amount of compensation is unaffected by the NHS charges and the application for a certificate can be made both before and after compensation has been paid. Section 2 of the Act therefore contains provisions which will allow compensators to apply for certificates of NHS charges before making a payment of compensation so that in cases where there is both benefit and NHS recovery the two recoveries can be handled together by both government and industry for administrative ease and efficiency.

According to the circumstances of the case certificates will be issued with or without an expiry date, or will expire when a particular event occurs. If an NHS charges certificate is issued with an expiry date and the certificate has expired by the time the compensation payment is made a further certificate must be obtained. A compensator must also apply for a certificate, after making a compensation payment, if no certificate has been issued to him in respect of the casualty. These obligations do not arise if the compensator has applied for a certificate shortly before making the payment.

Section 3 introduces the powers which will enable charges to be calculated according to a tariff. We intend that the tariff should be as simple as possible. It will be set out in regulations and is expected to consist of:

- a set fee for patients treated in accident and emergency departments or out-patient clinics, regardless of the number of times the patient has to attend hospital;

These notes refer to the The Road Traffic (NHS Charges) Act 1999 (c.3) which received Royal Assent on 10 March 1999

- and a daily rate for patients who are admitted to hospital for treatment.

In addition it is intended that there will be a ceiling for costs in any one case. The tariff will be calculated so that the amounts collected nationally reflect the total cost of the relevant treatment to the NHS.

The section allows for different limits to apply to NHS charges following accidents which happened before specific dates. The intention is to levy charges more closely reflecting full costs of NHS treatment for accidents which happened on or after 2 July 1997, the date of the Chancellor's Budget statement that such a move would take place. Claims settled after the Act comes into effect but which relate to accidents which happened before 2 July 1997 will attract NHS charges at a rate set to produce only the maximum chargeable under section 157 of the Road Traffic Act 1988. The figures were last updated in 1995 by the [Road Traffic Accidents \(Payments for Treatment\) Order 1995 \[S.I. 1995/889\]](#). They are:

- patients receiving out-patient treatment: up to a maximum of £295;
- patients admitted to hospital for treatment: up to a maximum of £2949.

Powers are also available in section 3 enabling regulations to be drafted to deal with more complicated cases. For example where a person receives treatment at more than one hospital it is the intention to provide each hospital with a proportion of the NHS charges, subject to the overall limit in each case. Regulations will also provide for cases where there is more than one compensator as can happen, for example, in motorway accidents involving many vehicles.