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STATUTORY INSTRUMENTS

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**1979 No. 432**

**PUBLIC HEALTH, ENGLAND AND  
WALES PUBLIC HEALTH, SCOTLAND  
PUBLIC HEALTH, NORTHERN IRELAND**

**The Vaccine Damage Payments Regulations 1979**

<i>Made</i>	- - - -	<i>5th April 1979</i>
<i>Laid before Parliament</i>		<i>5th April 1979</i>
<i>Coming into Operation</i>		<i>6th April 1979</i>

The Secretary of State for Social Services in exercise of powers conferred on him by sections 2(5), 3(1)(b), 4(1), 5(2), 7(5) and 8(3) of the Vaccine Damage Payments Act 1979 and of all other powers enabling him in that behalf, hereby makes the following regulations:—

**PART I  
GENERAL**

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the Vaccine Damage Payments Regulations 1979 and shall come into operation on 6th April 1979.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Vaccine Damage Payments Act 1979;

“hearing” means oral hearing;

“medical practitioner” means registered medical practitioner;

“payment” means a payment under section 1(1) of the Act;

“tribunal” means a vaccine damage tribunal constituted under regulation 7 of these regulations.

(3) Any notice required to be given to any person under the provisions of these regulations may be given by being sent by post to that person at his ordinary or last known address.

## PART II

### CLAIMS

#### **Claims to be made to the Secretary of State in writing**

2.—(1) Every claim for payment shall be made in writing to the Secretary of State on the form approved by him, or in such other manner, being in writing, as he may accept as sufficient in the circumstances of any particular case or class of cases.

(2) Any person who has made a claim in accordance with the provisions of this regulation may amend his claim, at any time before a decision has been given thereon, by notice in writing delivered or sent to the Secretary of State, and any claim so amended may be treated as if it had been so amended in the first instance.

#### **Information to be given when making a claim**

3. Every person who makes a claim shall furnish such certificates, documents, information and evidence for the purpose of determining the claim as may be required by the Secretary of State.

#### **Obligations of disabled person**

4.—(1) Subject to the following provisions of this regulation, every disabled person in respect of whom a claim has been made under section 3 of the Act shall comply with every notice given to him or, where he is not the claimant, to the claimant by the Secretary of State which requires such disabled person to submit himself to a medical examination either by a medical practitioner appointed by the Secretary of State or by a tribunal for the purpose of determining whether he is severely disabled as a result of vaccination against any of the diseases to which the Act applies.

(2) Every notice given under the preceding paragraph shall be given in writing and shall specify the time and place of examination and shall not require the disabled person to submit himself to examination before the expiration of the period of fourteen days beginning with the date of the notice or such shorter period as may be reasonable in the circumstances.

#### **Vaccinations to be treated as carried out in England**

5.—(1) Vaccinations given outside the United Kingdom and the Isle of Man to serving members of Her Majesty's forces or members of their families shall be treated for the purposes of the Act as carried out in England where the vaccination in question has been given as part of medical facilities provided under arrangements made by or on behalf of the service authorities.

(2) For the purposes of section 2(5) of the Act—

- (a) “serving members of Her Majesty's forces” means a member of the naval, military or air forces of the Crown or of any women's service administered by the Defence Council;
- (b) the family of a serving member of Her Majesty's forces shall consist of the spouse of such member and the child or children whose requirements are provided by him.

#### **Claims made prior to the passing of the Act**

6.—(1) A claim made before the passing of the Act in connection with the non-statutory scheme of payments for severe vaccine damage established by the Secretary of State for Social Services in anticipation of the passing of the Act and which has not been disposed of at the commencement of the Act shall be treated as a claim falling within section 3(1) of the Act.

(2) Any information and other evidence furnished and other things done before the commencement of the Act in connection with any such claim made before the passing of the Act shall be treated as furnished or done in connection with a claim falling within section 3(1) of the Act.

## PART III

### REVIEW BY TRIBUNALS

#### **Vaccine damage tribunals**

7.—(1) For the purpose of determining matters under section 4 of the Act, the Secretary of State shall appoint tribunals to be known as vaccine damage tribunals which shall consist of a chairman and two medical practitioners.

(2) A person shall not act as a member of a tribunal for the purpose of the consideration of any case referred to them if he—

- (a) is or may be directly affected by that case; or
- (b) has taken part in such a case as a medical practitioner who has regularly attended the disabled person or whose opinion has been sought on any matter in connection with the said case.

(3) Where any member of a tribunal is not present at the consideration of a case, the reference to that tribunal shall be revoked and the case shall forthwith be referred to another such tribunal.

(4) Where the tribunal are unable to reach a unanimous decision on any case the decision of the majority of its members shall be the decision of the tribunal.

#### **Procedure of vaccine damage tribunals**

8.—(1) If the Secretary of State or the claimant, as the case may be, makes a request to a tribunal for a hearing in connection with any question referred to the tribunal under section 4 of the Act such request shall be granted and a tribunal may of its own motion if satisfied that a hearing is desirable, hold a hearing.

(2) Where, in accordance with the provisions of the preceding paragraph, a tribunal holds a hearing, reasonable notice of the time and place of the hearing shall be given to the Secretary of State and the claimant and except with the consent of the claimant, the tribunal shall not proceed with the hearing unless such notice has been given.

(3) Every hearing held by a tribunal shall be in public except in so far as the chairman may for special reasons otherwise direct and, subject to the provisions of this regulation, the procedure shall be such as the tribunal shall determine.

(4) Nothing in the preceding paragraph shall prevent a member of the Council on Tribunals or of the Scottish Committee of the Council from being present at a hearing in his capacity as such notwithstanding that the hearing is not in public.

(5) The Secretary of State and the claimant shall have the right to be heard at a hearing of a tribunal.

(6) If a claimant, to whom notice of hearing has been duly given should fail to appear at the hearing, the tribunal may proceed to determine the case notwithstanding his absence, or may give such directions with a view to the determination of the case as they may think proper having regard to all the circumstances including any explanation offered for the absence.

(7) Any person having the right to be heard who appears at a hearing before a tribunal may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing and of addressing the tribunal.

(8) Any person who by virtue of the provisions of these regulations has a right to be heard at a hearing may be represented at a hearing by another person whether having professional qualifications or not and, for the purposes of the proceedings at the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under the Act and these regulations.

(9) Where a tribunal hold a hearing they shall, for the purpose of arriving at their decision or discussing any question of procedure and notwithstanding anything contained in these regulations, order all persons not being members of the tribunal other than the person acting as a clerk of the tribunal to withdraw from the sitting of the tribunal provided that, if all the members of the tribunal agree and if no person having the right to be heard objects, they may permit a member or members of the Council on Tribunals, or of the Scottish Committee of the Council, present only in that capacity, to remain present at any such sitting even though by virtue of this paragraph other persons are ordered to withdraw.

#### **Notice of decision of tribunal**

9.—(1) A tribunal shall in each case record their decision in writing in such form as may from time to time be approved by the Secretary of State and shall include in such record which shall be signed by all the members of the tribunal a statement of the reasons for their decision.

(2) As soon as may be practicable, the claimant shall be sent written notice of the decision of a tribunal and such notice shall be in such form as may from time to time be approved by the Secretary of State and shall contain a summary of the record of that decision made in accordance with this regulation.

#### **Non-disclosure of evidence**

10. Where, in connection with the consideration and determination of any matter there is before a tribunal medical advice or medical evidence relating to the claimant or the disabled person which has not been disclosed to the claimant and in the opinion of the chairman of the tribunal it would be undesirable in the interests of the claimant or the disabled person to disclose that advice or evidence to the claimant such advice or evidence shall not be required to be disclosed, but the tribunal shall not by reason of such non-disclosure be precluded from taking it into account for the purpose of the said determination.

## **PART IV**

### **RECONSIDERATION**

#### **Application for reconsideration under section 5 of the Act**

11.—(1) An application for reconsideration of a determination may be made to the Secretary of State within 6 years of the date of the notice of that determination and shall be made in writing stating the grounds of the application.

(2) Where the Secretary of State of his own motion institutes a reconsideration of a determination he shall give notice in writing of his intention to the person who was the claimant in relation to the claim which gives rise to the reconsideration and also, where the disabled person is alive and was not the claimant, to him and any such reconsideration shall, subject to paragraph (3) of this regulation, be instituted within 6 years of the date of the notice of that determination.

(3) Notwithstanding paragraph (2) of this regulation, where it appears to the Secretary of State that a payment was made in consequence of a mis-representation or failure to disclose any material fact he may institute a reconsideration of a determination at any time.

5th April 1979

*David Ennals*  
Secretary of State for Social Services

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### **EXPLANATORY NOTE**

These Regulations contain provisions relating to claims for payment made under section 1(1) of the Vaccine Damage Payments Act 1979, the information to be given when claiming and for treating claims made prior to the passing of the Vaccine Damage Payments Act 1979 as claims falling within section 3(1) of that Act. The Regulations provide that vaccinations given outside the United Kingdom and the Isle of Man to serving members of Her Majesty's forces and members of their families are to be treated as carried out in England.

The Regulations also make provision for the appointment by the Secretary of State of vaccine damage tribunals, for the procedure of the tribunals and for the reconsideration of the Secretary of State's determination in certain circumstances.