
STATUTORY INSTRUMENTS

1989 No. 2389

The Private Medical Insurance (Disentitlement to Tax Relief and Approved Benefits) Regulations 1989

PART I
INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Private Medical Insurance (Disentitlement to Tax Relief and Approved Benefits) Regulations 1989 and shall come into force on 9th January 1990.

Interpretation

2. In these Regulations unless the context otherwise requires—“the Board” means the Commissioners of Inland Revenue;

“contract” means a contract of private medical insurance;

“general medical services” means personal medical services provided for persons in a particular locality;

“health service hospital” means in Great Britain a hospital vested in the Secretary of State for the purposes of his functions under the National Health Service Act 1977(1) or the National Health Service (Scotland) Act 1978(2) and in Northern Ireland a hospital vested in the Department of Health and Social Services for Northern Ireland for the purposes of its functions under the Health and Personal Social Services (Northern Ireland) Order 1972(3) ;

“hospital” has the meanings given by section 128(1) of the National Health Service Act 1977, section 108(1) of the National Health Service (Scotland) Act 1978 and Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972;

“indemnity period” means the period, not exceeding one year, for which indemnity is provided under a contract;

“registered dental practitioner” means a person registered in the dentists register under the Dentists Act 1984(4);

“registered medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the Interpretation Act 1978(5);

“section 54” and “section 56” mean sections 54 and 56 respectively of the Finance Act 1989.

(1) 1977 c. 49

(2) 1978 c. 29

(3) S.I. 1972/1265 (N.I. 14).

(4) 1984 c. 24

(5) 1978 c. 30; a relevant amendment was made by section 56(1) of and paragraph 18 of Schedule 5 to the Medical Act 1983 (c. 54)

PART II

DISENTITLEMENT TO TAX RELIEF

Circumstances of disentitlement

3.—(1) In the circumstances prescribed by paragraph (2) an individual who has made a payment in respect of a premium under a contract shall cease to be and be treated as not having been entitled to relief under subsection (3) of section 54 in respect of that payment.

(2) The circumstances prescribed by this paragraph are circumstances in which—

- (a) at any time after the payment is made the contract is not an eligible contract for the purposes of section 54; or
- (b) the payment is refunded to the individual by the person to whom it was made.

Recovery of tax from payee of premium

4.—(1) In the circumstances prescribed by paragraph (2) the person to whom a payment in respect of a premium under a contract was made by an individual, who by virtue of regulation 3 has ceased to be and is treated as not having been entitled to relief in respect of that payment, shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.

(2) The circumstances prescribed by this paragraph are circumstances in which—

- (a) the person to whom the payment was made has recovered from the Board an amount equal to any amount deducted and retained by the individual from that payment in accordance with subsection (5) of section 54; and
- (b) that amount has not been repaid to the Board.

Adaptation of section 30 of the Taxes Management Act 1970

5.—(1) In order to secure the performance of the obligation imposed by regulation 4, section 30 of the Taxes Management Act 1970⁽⁶⁾ shall be adapted so that it applies to the tax for which a person to whom a payment has been made is to account to the Board in accordance with that regulation as it applies to tax which has been repaid to a person which ought not to have been repaid to him.

(2) For the purposes of the adaptation required by paragraph (1), any reference in the said section 30 to the repayment of an amount of tax to any person which ought not to have been repaid to him shall be construed as including a reference to tax for which a person is to account to the Board in accordance with regulation 4.

PART III

APPROVED BENEFITS

Approved treatments and associated services

6.—(1) Subject to paragraph (4), the treatments, medical services and other matters specified in this regulation, the costs of which may, in the circumstances set out in paragraph (2), be indemnified under a contract which is certified under section 56, are—

(6) 1970 c. 9; section 30 was substituted by section 149 of the Finance Act 1982 (c. 39) and the section as substituted was amended by paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1) and (prospectively) by section 88(1) of the Finance (No. 2) Act 1987 (c. 51) and paragraph 10(3) of Schedule 29 to the Income and Corporation Taxes Act 1988.

- (a) treatment of the insured consisting of medical or surgical procedures (including diagnosis), the purpose of which is the relief of illness or injury,
 - (b) services provided to the insured of any of the kinds specified in the Schedule when they are associated with such treatment, and
 - (c) drugs and dressings used in the course of such surgical procedures.
- (2) The circumstances referred to in paragraph (1) are circumstances in which—
- (a) the treatment is given—
 - (i) in the United Kingdom by, or under the supervision of, a registered medical practitioner or registered dental practitioner, or
 - (ii) to the conditions specified in paragraph (3), outside the United Kingdom, to the insured as a resident or non-resident private patient in a private or health service hospital or, in the case of surgical procedures performed by a registered medical practitioner providing general medical services, as a private patient of that practitioner; and
 - (b) any services associated with the treatment are provided—
 - (i) in the United Kingdom, or
 - (ii) to the conditions specified in paragraph (3) and except for services provided for the purposes of convalescence, outside the United Kingdom, to the insured.
- (3) The conditions specified in this paragraph are—
- (a) that the amount of the indemnity provided under the contract for such treatment and services does not exceed that provided for the same treatment and services when they are given or provided in the United Kingdom; and
 - (b) that no more than two per cent. of the premium payable under the contract secures the indemnity in respect of the costs of such treatment and services, including the service consisting of transporting the insured from the place of treatment to the United Kingdom by air ambulance.
- (4) The treatments specified in this regulation do not include any treatment which, during the period of five years preceding certification of the contract, has not been provided free by the Secretary of State under the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978, or by the Department of Health and Social Services for Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972, more often than it has been provided in the United Kingdom otherwise than under any of those enactments.
- (5) For the purposes of this Part of these Regulations—
- (a) “the insured” means any person who is insured under the contract;
 - (b) a service is associated with a treatment if it is provided for the purposes of that treatment or is consequent on it.

Cash benefits

7. The rules specified in this regulation, within which a cash benefit provided under a contract which is certified under section 56 is to fall, are that the benefit may not exceed £5 for each night that the insured is accommodated—

- (a) in a private hospital, or
- (b) in a health service hospital in circumstances where he is charged for the accommodation under section 65 of the National Health Service Act 1977(7), section 57 of the National

(7) Section 65 was amended by section 11(1) and (3) of and paragraph 62 of Schedule 1 to the Health Services Act 1980 (c. 53)

Health Service (Scotland) Act 1978⁽⁸⁾ or Article 31 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁹⁾ .

Other rights

8. The other rights specified in this regulation which may be conferred by a contract which is certified under section 56 are—

- (a) a right in the person making payments in respect of a premium under the contract to terminate it before the expiry of the indemnity period and to receive a refund of payments made in respect of the period following termination;
- (b) waiver by the insurer of the right to payment of premium for any period in which the insured is receiving treatment the cost of which is indemnified under the contract and the right to receive a refund of payments made in respect of such a period;
- (c) a right in the person making payments in respect of a premium under the contract to enter into a further contract at the end of the indemnity period.

*Kenneth Carlisle
Stephen Dorrell*

Two of the Lords Commissioners of Her Majesty's Treasury

19th December 1989

⁽⁸⁾ Section 57 was amended by section 11(2) and (3) of the Health Services Act 1980.

⁽⁹⁾ Article 31 was substituted by Article 3(9) of [S.I. 1988/2249 \(N.I. 24\)](#).