

*Regulations made by the Minister for the Cabinet Office, laid before Parliament under section 79(6) and (7) of the Victims and Prisoners Act 2024, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.*

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STATUTORY INSTRUMENTS

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**2024 No. 872**

**PAYMENT SCHEME**

**The Infected Blood Compensation Scheme Regulations 2024**

<i>Made</i>	- - - -	<i>22nd August 2024</i>
		<i>at 10.00 a.m. on</i>
<i>Laid before Parliament</i>		<i>23rd August 2024</i>
		<i>at 11.00 p.m. on</i>
<i>Coming into force</i>	- -	<i>23rd August 2024</i>

The Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by sections 49(1), (2), (4) and (5), 50(2) to (6), 51, 52 and 79(1) of, and paragraphs 4(1) and (2) and 12(3) of Schedule 1 to, the Victims and Prisoners Act 2024<sup>(1)</sup>.

**PART 1**

**General**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Infected Blood Compensation Scheme Regulations 2024.

(2) These Regulations come into force at 11.00 p.m. on 23rd August 2024.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Victims and Prisoners Act 2024;

“applicant” means a person who makes an application under regulation 30;

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(1) 2024 c. 21. See section 50(6) for the meaning of “specified”.

“application” means, except in regulations 5 and 33(2) and (3), an application under regulation 30;

“care” includes—

- (a) domestic support or household maintenance;
- (b) personal care;
- (c) nursing care;
- (d) end of life care;

“co-infection” means infection with two or more of Hepatitis B, Hepatitis C or HIV;

“compensation payment” means a payment paid, or to be paid, under the Scheme—

- (a) in relation to an eligible infected person who is not an IBSS-registered person, under the core route;
- (b) in relation to an IBSS-registered person, under the IBSS route;

the “consumer price index” means the general index of consumer prices (for all items) published by the Statistics Board, a body corporate established by section 1 of the Statistics and Registration Service Act 2007<sup>(2)</sup>;

“core route” means the process for determining and making a compensation payment in accordance with Part 4;

“eligible infected person” has the meaning given by regulation 7;

“first year of infection”, in relation to an eligible infected person (“P”), means—

- (a) where P has a single infection—
  - (i) the year in which P contracted the infection, or
  - (ii) the earliest year in which P could have contracted the infection, if it is not possible to establish the year in which the infection was contracted;
- (b) where P has a co-infection—
  - (i) the earliest year in which P contracted one or more infections, or
  - (ii) the earliest year in which P could have contracted one or more infections, if it is not possible to establish the year in which the first infection was contracted;

“healthy life expectancy”, in relation to an eligible infected person, means the number of years that person could expect to live if they had no serious health conditions, calculated for that person as at the date of the application and by reference to the typical life expectancies in the actuarial tables for use in personal injury and fatal accident cases published by the Government Actuary’s Department in 2020 and updated in 2022<sup>(3)</sup>;

“HIV” means human immunodeficiency virus;

“IBSS route” means the process for determining and making a compensation payment in accordance with Part 5;

“IBSS-registered person” means an eligible infected person who, on the date of the application, was registered under an infected blood support scheme, and—

- (a) who was so registered on or before 31st March 2025, or
- (b) who applied, or on whose behalf someone else applied, to be so registered on or before 31st March 2025, and became so registered after that date;

“infected blood support scheme” has the meaning given by section 56(3) of the Act;

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(2) 2007 c. 18.

(3) “The Actuarial Tables with explanatory notes for use in Personal Injury and Fatal Accident Cases”, 8th edition, available online at <https://www.gov.uk/government/publications/ogden-tables-actuarial-compensation-tables-for-injury-and-death>.

“loss of services” includes costs incurred in the provision of—

- (a) childcare or other care, and
- (b) domestic support;

“infection”, in relation to an eligible infected person, means an infection of the person of such description and which was contracted in such a manner as to cause them to be an eligible infected person, and “infected” is to be construed accordingly;

a “periodic payment” has the meaning given in regulation 13(1);

a “periodic payment election” has the meaning given in regulation 8(4);

“personal representatives” has the meaning given in section 56(9) of the Act, and a reference to personal representatives is a reference to them acting in their capacity as such;

“relevant person” means the person to whom a compensation payment is to be paid in accordance with regulation 9;

“relevant date”, in relation to an eligible infected person, means—

- (a) where the person was deceased on the date of the application, the date of the person’s death;
- (b) otherwise, the date of the application;

“the Scheme” means the infected blood compensation scheme established by regulation 3(1);

“single infection” means infection with only one of Hepatitis B, Hepatitis C or HIV;

“support scheme payment”—

- (a) means a regular payment made, or to be made, to a person (“P”) under an infected blood support scheme,
- (b) includes a regular payment made, or to be made, to P for the purpose of helping P meet expenses for heating which have been or are likely to be incurred in cold weather, but
- (c) does not include a payment which is only payable subject to P fulfilling conditions or meeting criteria beyond those required to be eligible for registration under the infected blood support scheme.

(2) In these Regulations, in relation to the severity of—

- (a) a Hepatitis C infection, “level 1” means an infection described in the first row of the table in the Schedule;
- (b) a Hepatitis B infection, a Hepatitis C infection, or a co-infection of Hepatitis B and Hepatitis C—
  - (i) “level 2” means an infection described in the second row of the table in the Schedule;
  - (ii) “level 3” means an infection described in the third row of the table in the Schedule;
  - (iii) “level 4” means an infection described in the fourth row of the table in the Schedule;
- (c) a Hepatitis B infection, “level 5” means an infection described in the fifth row of the table in the Schedule.

(3) For the purpose of determining the amount of the compensation award in relation to an eligible infected person (“P”) in accordance with regulation 11(2) or 23(2)—

- (a) except in regulation 21(6) to (8)—
  - (i) a reference to a year is a reference to the 12-month period from January to December;
  - (ii) where P was infected for only part of a year, they are to be treated as if they were infected for the whole of that year;

- (iii) where P dies partway through a year, they are to be treated as if they had died at the end of that year;
- (b) where P has an infection of Hepatitis B or Hepatitis C (or both)—
  - (i) where the severity level of the infection varied over the course of a year, the severity level for the whole year is the highest severity level of the infection in that year;
  - (ii) where, on the date of the application, P is not deceased and has not attained the age of their healthy life expectancy, the severity level of the infection for the period between the date of the application and the year in which P is expected to attain the age of their healthy life expectancy is to be treated as the severity level on the date of the application;
- (c) where P attains a specified age partway through a year, they are to be treated as if they had attained that age at the beginning of that year.

## PART 2

### Establishment and administration of the infected blood compensation scheme

#### **Establishment of the Scheme**

**3.—(1)** The infected blood compensation scheme for the making of payments in relation to eligible infected persons is established in accordance with these Regulations.

(2) Payments under the Scheme must be made, and the Scheme must otherwise be administered, by the IBCA(4).

#### **Eligibility criteria for appointment as a member of the IBCA**

**4.—(1)** A person who meets the criteria specified in paragraph (3) is eligible for appointment as the Chair or any other non-executive member of the IBCA.

(2) At least one of the non-executive members of the IBCA must have experience of risk and audit.

(3) The criteria are that the person—

- (a) has not within the preceding five years had passed on them in the United Kingdom, the Channel Islands or the Isle of Man a sentence of imprisonment (whether suspended or not) for a period of three months or more without the option of a fine,
- (b) is not the subject of—
  - (i) a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 (“the 1986 Act”)(5) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989 (“the 1989 Order”)(6), or
  - (ii) a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to the 1986 Act(7) or Schedule 2ZB to the 1989 Order(8),

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(4) The IBCA is established by section 48 of the Act. Schedule 1 of the Act contains further provision about the IBCA.

(5) 1986 c. 45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c. 40) and amended by paragraph 63 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c. 24) and section 135(2)(b) of the Small Business, Enterprise and Regulatory Reform Act 2015 (c. 26).

(6) S.I. 1989/2405 (N.I. 19). Schedule 2A was inserted by the Insolvency (Northern Ireland) Order 2005/1455 (N.I. 10).

(7) Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(8) Schedule 2ZB was inserted by the Debt Relief Act (Northern Ireland) 2010 (c. 16).

- (c) has not within the preceding five years been dismissed, otherwise than by reason of redundancy, from any paid employment with a body listed in the Schedule to the Public Bodies (Admission to Meetings) Act 1960(9),
  - (d) has not had their tenure of office as the Chair, a member, or a director of a body listed in the Schedule to the Public Bodies (Admission to Meetings) Act 1960 terminated on the grounds—
    - (i) that it was not in the interests of that body that they should continue to hold the office,
    - (ii) of non-attendance at meetings,
    - (iii) of non-disclosure of a pecuniary interest, or
    - (iv) of misbehaviour, misconduct or failure to carry out their duties,
  - (e) is not subject to a disqualification order under the Company Directors Disqualification Act 1986(10), the Company Directors (Northern Ireland) Disqualification Order 2002(11) or to an order made under section 429(2) of the 1986 Act(12),
  - (f) has not been removed from the office of charity trustee or trustee for a charity by a relevant order on the grounds of—
    - (i) any misconduct or mismanagement in the administration of the charity for which they were responsible or to which they were privy,
    - (ii) that they knew of the misconduct or mismanagement and failed to take reasonable steps to oppose it, or
    - (iii) that their conduct contributed to or facilitated the misconduct or mismanagement,
  - (g) has not been removed by the Court of Session under section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(13) from being concerned in the management or control of a charity or other body, or
  - (h) is not, in the opinion of the appropriate person, a person who has a conflict of interest which would affect their ability to carry out the functions of the Chair or a non-executive member of the IBCA if they were to be appointed as such.
- (4) If the Chair or a non-executive member of the IBCA, during their term of appointment as such, no longer meets the criteria specified in paragraph (3), their appointment must be terminated.
- (5) In this regulation—
- “appropriate person” has the same meaning as in paragraph 5(5) of Schedule 1 to the Act;
  - “relevant order” means an order made by—
    - (a) the Charity Commission under section 79(4) of the Charities Act 2011(14),
    - (b) the Charity Commission for Northern Ireland under section 33(2)(b)(i) of the Charities Act (Northern Ireland) 2008(15), or
    - (c) the High Court.

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(9) 1960 c. 67. There are a significant number of amendments to this Schedule to add named bodies to it to make them subject to the Public Bodies (Admission to Meetings) Act 1960. Amendments of particular relevance include that made by paragraph 23 of Part 3 of Schedule 1 to the Act to add the Infected Blood Compensation Authority to the list of bodies in the Schedule. Amendments have also removed bodies from the Schedule.

(10) 1986 c. 46.

(11) S.I. 2002/3150 (N.I. 4).

(12) 1986 c. 45. Section 429(2) was amended by section 269 of, and paragraph 15 of Schedule 23 to, the Enterprise Act 2002.

(13) 2005 asp 10, to which there is an amendment which is not relevant to these Regulations.

(14) 2011 c. 25. Section 79 was substituted by section 4(1) and (2) of the Charities (Protection and Social Investment) Act 2016 (c. 4).

(15) 2008 c. 12 (N.I.).

### **Cessation of disqualification from eligibility for appointment to the IBCA**

5.—(1) Subject to paragraph (2), where a person is disqualified under regulation 4(3)(c) or (f), they may, after the expiry of two years beginning with the date on which they were dismissed or, as the case may be, removed, apply in writing to the Minister for the Cabinet Office or the Secretary of State to remove the disqualification, and the Minister for the Cabinet Office or the Secretary of State may direct that the disqualification must cease.

(2) Where the Minister for the Cabinet Office or the Secretary of State refuses an application to remove a disqualification, no further application may be made by that person until the expiry of the period of two years beginning with the date of the application and this paragraph applies to any subsequent application.

(3) Where a person is disqualified under regulation 4(3)(d), the disqualification ceases on the expiry of the period of two years beginning on the date of the termination of their tenure of office but the Minister for the Cabinet Office or the Secretary of State may, on an application being made to the Minister for the Cabinet Office or the Secretary of State by that person, reduce the period of disqualification.

### **Duties of the IBCA in relation to sums repaid to it**

6.—(1) The IBCA must retain any payments it recovers under regulation 43.

(2) The IBCA must use any such payments for—

- (a) administering the Scheme, or
- (b) making compensation payments under the Scheme.

## **PART 3**

### **Meaning of “eligible infected person”**

#### **Meaning of “eligible infected person”**

7.—(1) For the purposes of these Regulations, a person is an eligible infected person where paragraph (2), (6), (7) or (8) applies to that person, whether or not that person is deceased.

(2) Subject to paragraph (5), this paragraph applies to a person who—

- (a) has received, in the course of NHS treatment or armed forces treatment overseas, infected blood treatment,
- (b) was subsequently diagnosed with an infection specified in paragraph (3), and
- (c) began, or continued, receiving the infected blood treatment during the period specified in paragraph (4).

(3) The infections are—

- (a) HIV;
- (b) Hepatitis C;
- (c) Hepatitis B, where—

- (i) the infection caused the person’s death within a period of 12 months beginning with the date that the infected blood treatment began, or
- (ii) the infection did not cause the person’s death but continued for a period of at least six months beginning with the date that the infected blood treatment began.

(4) The period specified for the purposes of paragraph (2)(c) is—

- (a) for a person diagnosed with HIV, 1st January 1982 to 1st November 1985;
  - (b) for a person diagnosed with Hepatitis C, 1st January 1952 to 1st September 1991;
  - (c) for a person diagnosed with Hepatitis B, 1st January 1952 to 1st December 1972.
- (5) Paragraph (2) does not apply to a person whom the IBCA is satisfied did not become infected with an infection specified in paragraph (3) as a result of the infected blood treatment.
- (6) This paragraph applies to a person—
- (a) who has received, in the course of NHS treatment or armed forces treatment overseas, infected blood treatment,
  - (b) who was subsequently diagnosed with an infection specified in paragraph (3),
  - (c) who began, or continued, receiving the infected blood treatment after the period specified in paragraph (4), and
  - (d) who satisfies the IBCA that the infected blood treatment caused the person to become infected with that infection.
- (7) Subject to paragraph (9), this paragraph applies to a person who has been diagnosed with an infection specified in paragraph (3) and who satisfies the IBCA that they became so infected as a result of its transmission to them from a person to whom paragraph (2) or (6) applies by means of—
- (a) sexual contact, where the person to whom the infection was transmitted and the person to whom paragraph (2) or (6) applies were in a long-term relationship at the time of the contact,
  - (b) direct vertical transmission from mother to child,
  - (c) accidental needle stick injury, or
  - (d) another method of transmission resulting from living in close proximity to a person to whom paragraph (2) or (6) applies.
- (8) Subject to paragraph (9), this paragraph applies to a person who has been diagnosed with an infection specified in paragraph (3) and who satisfies the IBCA that they became so infected as a result of its transmission to them by a person to whom paragraph (7) applies by means of—
- (a) sexual contact, where the person to whom paragraph (7) applies and the person to whom the infection was transmitted were in a long-term relationship at the time of the contact,
  - (b) direct vertical transmission from mother to child,
  - (c) accidental needle stick injury, or
  - (d) another method of transmission resulting from living in close proximity to a person to whom paragraph (7) applies.
- (9) Paragraphs (7) and (8) do not apply in relation to transmission caused by the sharing of needles for the purpose of intravenous drug use.
- (10) In this regulation—
- “armed forces” means the naval, military and air forces of the Crown, excluding the forces of a Commonwealth country other than the United Kingdom;
- “armed forces treatment overseas” means treatment received outside the United Kingdom by a person who was, at the time of their treatment—
- (a) acting in their capacity as a serving member of the armed forces;
  - (b) acting in their capacity as a person employed by or in the service of the Government of the United Kingdom whose sole or main role was to work—
    - (i) in support of the armed forces, or

- (ii) for or in support of the administration of the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus;
- (c) acting in their capacity as an employee of an organisation—
  - (i) which provided support to the armed forces outside the United Kingdom, and
  - (ii) for the employees of which the Government of the United Kingdom arranged or provided treatment;
- (d) a family member of a person acting in a capacity described in paragraphs (a) to (c) and who resided with that person;

“diagnosed” means diagnosed by a registered medical practitioner;

“infected blood treatment” means treatment with blood, blood products or tissue known to be capable of transmitting an infection specified in paragraph (3);

“long-term relationship” means a relationship between two people where—

- (a) the people are married to each other or civil partners of each other, or
- (b) the people—
  - (i) could have married or formed a civil partnership if the rules that apply to marrying or forming a civil partnership on the date of the application applied at the time of the infection, and
  - (ii) lived with each other as if they were married or civil partners;

“NHS treatment” means treatment arranged or provided as part of the health service—

- (a) continued under section 1(1) of the National Health Service Act 2006(16);
- (b) continued under section 1(1) of the National Health Service (Wales) Act 2006(17);
- (c) continued under section 1(1) of the National Health Service (Scotland) Act 1978(18);
- (d) under section 1 of the Health Services Act (Northern Ireland) 1948(19), section 1 of the Health Services Act (Northern Ireland) 1971(20), Article 4 of the Health and Personal Social Services (Northern Ireland) Order 1972(21) or section 2(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009(22).

## PART 4

### Compensation payments – core route

#### CHAPTER 1

##### Preliminary

### Compensation payments

**8.—(1)** A compensation payment is to be paid under the Scheme in relation to an eligible infected person (“P”) who is not an IBSS-registered person in accordance with this Part.

(2) The compensation payment must be paid to the relevant person.

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(16) 2006 c. 41. Section 1(1) was substituted by section 1 of the Health and Social Care Act 2012 (c. 7).

(17) 2006 c. 42.

(18) 1978 c. 29.

(19) 1948 c. 3 (N.I.).

(20) 1971 c. 1 (N.I.). This Act repealed and replaced the Health Services Act (Northern Ireland) 1948.

(21) S.I. 1972/1265 (N.I. 14). This Order repealed and replaced the Health Services Act (Northern Ireland) 1971.

(22) 2009 NI c. 1. This Act repealed Article 4 of the Health and Personal Social Services (Northern Ireland) Order 1972.



(3) The IBCA must—

- (a) determine the amount of the compensation payment to be paid in relation to P in accordance with regulation 11,
- (b) notify the relevant person of an offer in accordance with regulation 10,
- (c) if the offer is accepted in accordance with regulation 10, as soon as reasonably practicable—
  - (i) pay the compensation payment as a lump sum, or
  - (ii) where the relevant person makes a periodic payment election, commence periodic payments in accordance with regulation 13.

(4) Where P is not deceased, the relevant person may make an election (a “periodic payment election”) that the compensation payment is to be paid as periodic payments, and, where the relevant person so elects, they must decide the term over which the periodic payments are to be paid, which may only be a fixed term of 5, 10 or 25 years.

(5) An election in accordance with paragraph (4) must be notified to the IBCA.

(6) Where—

- (a) the relevant person made a periodic payment election,
- (b) P dies before the fixed term for periodic payments has ended, and
- (c) P’s personal representatives have given to the IBCA a document described in regulation 37(3) in relation to P,

the amount of the compensation payment that has not been paid as periodic payments must be paid to P’s personal representatives as a lump sum.

### **Person to whom a compensation payment is to be paid**

**9.—(1)** A compensation payment (including a periodic payment) must be paid to the eligible infected person (“P”) in respect of whom an application was made, unless, when the payment becomes payable—

- (a) P is under 18, in which case the payment must be paid to a person with parental responsibility for P;
- (b) P is 18 or older and lacks capacity to make some or all decisions about applying for a compensation payment, in which case the payment must be paid to a person who—
  - (i) has a power of attorney in relation to P,
  - (ii) is a deputy appointed in relation to P under section 16(2)(b) of the Mental Capacity Act 2005<sup>(23)</sup>,
  - (iii) is a guardian appointed in relation to P under the Adults with Incapacity (Scotland) Act 2000<sup>(24)</sup>,
  - (iv) is a controller appointed in relation to P under Article 101 of the Mental Health (Northern Ireland) Order 1986<sup>(25)</sup>, or
  - (v) is authorised to exercise in relation to P powers corresponding to those of a person described in paragraphs (i) to (iv) which were granted by a court outside the United Kingdom;
- (c) P is deceased, in which case the payment must be paid to P’s personal representatives.

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<sup>(23)</sup> 2005 c. 9.

<sup>(24)</sup> 2000 asp. 4. Section 57 has been amended by paragraph 9(4)(b) of Schedule 4, and Schedule 5, to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) and section 60(1) of the Adult Support and Protection (Scotland) Act 2007 (asp 10).

<sup>(25)</sup> S.I. 1986/595 (N.I. 4).

- (2) In paragraph (1)(a), “parental responsibility”, where P is in—
- (a) England and Wales, has the same meaning as in section 3 of the Children Act 1989<sup>(26)</sup>;
  - (b) Scotland, is to be construed as a reference to “parental responsibilities” within the meaning of section 1(3) of the Children (Scotland) Act 1995<sup>(27)</sup>;
  - (c) Northern Ireland, has the same meaning as in Article 6 of the Children (Northern Ireland) Order 1995<sup>(28)</sup>.
- (3) For the purposes of paragraph (1)(b), a person lacks capacity in relation to a decision if—
- (a) in England and Wales, they lack capacity in relation to that decision under section 2 of the Mental Capacity Act 2005;
  - (b) in Scotland, they are incapable in relation to that decision under section 1 of the Adults with Incapacity (Scotland) Act 2000<sup>(29)</sup>;
  - (c) in Northern Ireland, at the material time the person is unable to make the decision for themselves because of an impairment of, or a disturbance in the functioning of, the mind or brain, whether permanent or temporary.

### **Compensation payments – offer and acceptance**

**10.**—(1) Once the IBCA has determined the amount of the compensation payment to be paid in relation to an eligible infected person (“P”) in accordance with regulation 11, the IBCA must give the relevant person a document setting out an offer to make the compensation payment to them.

- (2) The offer must include—
- (a) the amount of the compensation payment,
  - (b) the time by which the offer must be accepted in accordance with this regulation,
  - (c) where P is not deceased, information about the option of making a periodic payment election, and
  - (d) information about the right of review described in regulation 40.
- (3) A relevant person who receives an offer of a compensation payment must notify the IBCA that the offer is accepted before the end of a period of three months beginning with—
- (a) the date the offer is made,
  - (b) where the contents of the offer have been the subject of a review under regulation 40, the date of the review decision, or
  - (c) where a review decision has been the subject of an appeal to the First-tier Tribunal under regulation 42, the date the appeal is finally determined.
- (4) In paragraph (3)(c), the appeal is finally determined when—
- (a) it is decided or withdrawn, and
  - (b) any route for bringing a further appeal in relation to the review decision is exhausted (including where the period for bringing such an appeal has expired).
- (5) The IBCA may extend the time limit specified in paragraph (3) upon a request of the relevant person.
- (6) If the relevant person does not accept the offer in accordance with this regulation, the offer expires (and, accordingly, no compensation payment is payable in relation to P pursuant to that offer).

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<sup>(26)</sup> 1989 c. 41.

<sup>(27)</sup> 1995 c. 36.

<sup>(28)</sup> S.I. 1995/755 (N.I. 2).

<sup>(29)</sup> Section 1 was amended by S.S.I. 2005/465.

## CHAPTER 2

### Determining the amount of a compensation payment

#### Amount of a compensation payment

**11.**—(1) The amount of the compensation payment in relation to an eligible infected person (“P”) is  $T - (D + I + S)$ , where—

- (a) “T” is the amount of the compensation award determined in relation to P in accordance with paragraph (2);
- (b) “D” is the sum of any relevant damages payments within the meaning of regulation 12 made in relation to P;
- (c) “I” is the sum of any amounts awarded in relation to P by way of—
  - (i) a payment under—
    - (aa) section 56(1) of the Act;
    - (bb) the Infected Blood Interim Compensation Payment Scheme as defined in section 56(6) of the Act;
    - (cc) the Infected Blood Further Interim Compensation Payment Scheme, being the scheme of that name administered by the persons who administer the infected blood support schemes (whether or not in conjunction with other persons);
  - (ii) compensation, paid pursuant to a scheme established by or under statute, in respect of the same or similar losses as those described in the categories of award listed in paragraph (2);
- (d) “S” is the sum of any support scheme payments made to P in relation to any period after 31st March 2025.

(2) The amount of the compensation award in relation to P is the sum of—

- (a) the injury impact award determined in relation to P in accordance with regulation 14,
- (b) the social impact award determined in relation to P in accordance with regulation 15,
- (c) the autonomy award determined in relation to P in accordance with regulation 16,
- (d) the basic financial loss award determined in relation to P in accordance with regulation 17,
- (e) the additional financial loss award determined in relation to P in accordance with regulation 18 together with whichever of regulation 19 or 20 applies in relation to P, and
- (f) the care award determined in relation to P in accordance with regulation 21.

(3) Where a provision referred to in paragraph (2) relating to a category of award does not establish an amount for an eligible infected person in P’s circumstances, the amount of that award for the purposes of this regulation is £0.

(4) For the purpose of determining the amount of the compensation award in relation to P, the IBCA must determine—

- (a) P’s healthy life expectancy, and
- (b) where P has an infection of Hepatitis B or Hepatitis C (or both), the level of severity of that infection in each year during the period beginning with (and including) P’s first year of infection and ending with (and including)—
  - (i) the year in which P would attain the age of their healthy life expectancy, or
  - (ii) if P died before attaining that age, the year in which P died.

(5) In this Chapter, “compensation award” means the award described in paragraph (2).

### **Court and other payments: avoidance of double recovery**

- 12.**—(1) A “relevant damages payment” means any payment which it appears to the IBCA—
- (a) has been, or is to be, made in respect of an eligible infected person (“P”)—
    - (i) pursuant to an award of a court or tribunal anywhere in the world, or
    - (ii) in settlement or compromise of a court action commenced anywhere in the world,
  - (b) relates to a head of loss which corresponds, or broadly corresponds, to any category of award listed in regulation 11(2), and
  - (c) was determined without taking into account the amount of any compensation payment made, or to be made, in relation to P under the Scheme.
- (2) A payment received from an organisation listed in section 56(4) of the Act is not a relevant damages payment.
- (3) The IBCA may require a relevant person to give—
- (a) details of any steps taken, or planned to be taken, to obtain a relevant damages payment in respect of the same or similar losses as those described in the categories of award listed in regulation 11(2);
  - (b) a written undertaking that if a relevant damages payment is received the relevant person will notify the IBCA.

### **Amount of periodic payments**

- 13.**—(1) Where a compensation payment is to be paid in accordance with a periodic payment election—
- (a) an amount of that compensation payment is payable in respect of each month of the term of payment (a “periodic payment”),
  - (b) after each periodic payment, the remaining amount of the compensation payment is to be reduced by the amount of the periodic payment, and
  - (c) at the beginning of each payment period other than the first period (and before a periodic payment is paid in respect of the first month of such payment period), the remaining amount of the compensation payment is to be increased by the same percentage as the percentage increase (if any) in the consumer price index over the 12-month period up to the month of September before the beginning of the payment period.
- (2) The amount of the periodic payment in respect of each month of a payment period is  $CR \div (MT - MP)$ , where—
- (a) “CR” is the remaining amount of the compensation payment at the beginning of the payment period (and before a periodic payment is paid in respect of the first month of the payment period);
  - (b) “MT” is the total number of months in the term of payment;
  - (c) “MP” is the number of months in respect of which a periodic payment had been paid immediately before the beginning of the payment period.
- (3) For the purposes of this regulation, the payment periods are—
- (a) the first period, being—
    - (i) where the first periodic payment is payable in respect of March, that March only;
    - (ii) otherwise, the period which—
      - (aa) begins with the month in respect of which the first periodic payment is payable, and

- (bb) ends with the following March,
- (b) each subsequent period of 12 months beginning with April and ending with March, until such period which is immediately before the final period, and
- (c) the final period, being the period which—
  - (i) begins with the April in which (counting that month) there are fewer than 13 months remaining of the term of payment, and
  - (ii) ends with the month in respect of which the final periodic payment is payable.
- (4) In this regulation—
  - the “remaining amount of the compensation payment” means the amount of the compensation payment that remains for the time being after each reduction under paragraph (1)(b) (if any) and each increase under paragraph (1)(c) (if any);
  - “term of payment” means the fixed term over which a compensation payment is payable in accordance with a periodic payment election.

### **Injury impact award**

- 14.—**(1) The compensation award in relation to an eligible infected person (“P”) must include an amount by way of injury impact award for the purpose of compensating for—
- (a) past and future physical and mental injury;
  - (b) emotional distress and injury to feelings caused by, or that will in the future be felt as a result of, the infection and treatments for it.
- (2) The amount of the injury impact award is, where on the relevant date P has a single infection of—
- (a) Hepatitis C of severity level 1, £10,000;
  - (b) Hepatitis B or Hepatitis C, and the severity of the infection is—
    - (i) level 2, £60,000;
    - (ii) level 3, £120,000;
    - (iii) level 4, £180,000;
  - (c) Hepatitis B of severity level 5, £180,000;
  - (d) HIV, £180,000.
- (3) The amount of the injury impact award is, where on the relevant date P has a co-infection of—
- (a) Hepatitis B and Hepatitis C (but not HIV), and the severity of the infection is—
    - (i) level 2, £75,000;
    - (ii) level 3, £150,000;
    - (iii) level 4, £225,000;
  - (b) HIV and—
    - (i) Hepatitis C of severity level 1, £182,500;
    - (ii) Hepatitis B or Hepatitis C (or both), and the severity of the infection is—
      - (aa) level 2, £195,000;
      - (bb) level 3, £240,000;
      - (cc) level 4, £270,000;
    - (iii) Hepatitis B of severity level 5, £270,000.

### **Social impact award**

**15.**—(1) The compensation award in relation to an eligible infected person (“P”) must include an amount by way of social impact award for the purpose of compensating for the past and future social consequences of the infection including stigma and social isolation.

(2) The amount of the social impact award is, where on the relevant date P has a single infection of—

- (a) Hepatitis C of severity level 1, £5,000;
  - (b) Hepatitis B or Hepatitis C of severity level 2 to 4 or HIV, £50,000;
  - (c) Hepatitis B of severity level 5, £50,000.
- (3) Where P has a co-infection, the amount of the social impact award is £70,000.

### **Autonomy award**

**16.**—(1) The compensation award in relation to an eligible infected person (“P”) must include an amount by way of autonomy award for the purpose of compensating for the distress and suffering caused by the impact of the infection on, and the interference with, that person’s family and private life and autonomy, including—

- (a) the loss of marriage or partnership prospects;
- (b) the loss of the opportunity to have children;
- (c) the impact on that person of attacks on that person’s home as a consequence of the infection.

(2) The amount of the autonomy award is, where on the relevant date P has a single infection of—

- (a) Hepatitis C of severity level 1, £10,000;
  - (b) Hepatitis B or Hepatitis C, and the severity of the infection is—
    - (i) level 2 or level 3, £40,000;
    - (ii) level 4, £50,000;
  - (c) Hepatitis B of severity level 5, £50,000;
  - (d) HIV, £60,000.
- (3) Where P has a co-infection, the amount of the autonomy award is £70,000.

### **Basic financial loss award: eligible infected persons**

**17.**—(1) The compensation award in relation to an eligible infected person (“P”) must include an amount by way of basic financial loss award for the purpose of compensating for notional expenses incurred by P as a consequence of the infection, including expenses incurred as a result of—

- (a) travelling to and from medical appointments;
- (b) additional insurance costs.

(2) The amount of the basic financial loss award is—

- (a) where on the relevant date P had an infection of Hepatitis B of severity level 5, £17,500;
- (b) in any other case, £12,500.

### **Additional financial loss award**

**18.**—(1) The compensation award in relation to an eligible infected person (“P”) must, except where P had a single infection of Hepatitis B of severity level 5 or of Hepatitis C of severity level 1, include an amount by way of additional financial loss award for the purpose of compensating for—

- (a) past financial loss including loss of services suffered by P during the period—
    - (i) beginning with—
      - (aa) P’s first year of infection, or
      - (bb) where P was under 16 in their first year of infection, the year in which P attains 16 years of age, and
    - (ii) ending with the date of the application;
  - (b) where P is not deceased on the date of the application, future financial loss including loss of services which is likely to be suffered by P during the period beginning with the day after the date of P’s application and ending with the date when P would attain the age of their healthy life expectancy.
- (2) The amount of the additional financial loss award is to be determined in accordance with—
- (a) where P has Hepatitis B or Hepatitis C (or both, but not HIV), regulation 19;
  - (b) where P has HIV (whether or not they also have Hepatitis B or Hepatitis C), regulation 20.

**Additional financial loss award: eligible infected persons with Hepatitis B or Hepatitis C**

**19.**—(1) The amount of the additional financial loss award for an eligible infected person (“P”) with Hepatitis B or Hepatitis C (or both) is the sum of the annual amounts determined in relation to each year of P’s infection as follows.

(2) For the purposes of paragraph (1), “each year of P’s infection” means each year during the period—

- (a) beginning with (and including)—
    - (i) P’s first year of infection, or
    - (ii) if P was under 16 in their first year of infection, the year in which P attains the age of 16, and
  - (b) ending with (and including)—
    - (i) the year P attained, or is expected to attain, the age of their healthy life expectancy, or
    - (ii) if P dies before the date of the application, the year that P died.
- (3) Subject to paragraph (4), where P was born—
- (a) in or before the relevant year, and the severity of P’s infection in a year is—
    - (i) level 2, the annual amount for that year is £11,863;
    - (ii) level 3, the annual amount for that year is £23,726;
    - (iii) level 4, the annual amount for that year is £29,657;
  - (b) after the relevant year, and the severity of P’s infection in a year is—
    - (i) level 2, the annual amount for that year is—
      - (aa) if the year is the year of effective treatment or any previous year, £11,863;
      - (bb) if the year is after the year of effective treatment, £5,931;
    - (ii) level 3, the annual amount for that year is—
      - (aa) if the year is the year of effective treatment or any previous year, £23,726;
      - (bb) if the year is after the year of effective treatment, £17,794;
    - (iii) level 4, the annual amount for that year is £29,657.

(4) The annual amount for any year in which P is, or would be, 66 or older is 50% of the annual amount that would (but for this paragraph) be determined in accordance with paragraph (3).

- (5) In paragraph (3)—
- (a) “the relevant year” is, where P is infected with—
    - (i) Hepatitis B and is not co-infected with Hepatitis C, 1953;
    - (ii) Hepatitis C (whether or not P is co-infected with Hepatitis B), 1961;
  - (b) “the severity of P’s infection”, in relation to a year, is—
    - (i) the level of severity of P’s infection which has been established in relation to that year to the IBCA’s satisfaction;
    - (ii) where insufficient evidence has been provided to establish the level of severity of P’s infection in relation to that year, to be determined in accordance with paragraph (6);
  - (c) “the year of effective treatment” is, where P is infected with—
    - (i) Hepatitis B and is not co-infected with Hepatitis C, 2008;
    - (ii) Hepatitis C (whether or not P is co-infected with Hepatitis B), 2016.
- (6) Where, on the relevant date, the severity of P’s infection is—
- (a) level 2, the severity of P’s infection is deemed to be level 2 for every year of P’s infection;
  - (b) level 3, the severity of P’s infection is deemed to be—
    - (i) level 3 for the year in which the relevant date falls and for the 5 years previous to that year, and
    - (ii) level 2 for every other year of P’s infection previous to the year in which the relevant date falls;
  - (c) level 4, the severity of P’s infection is deemed to be—
    - (i) level 4 for the year in which the relevant date falls and for the 3 years previous to that year,
    - (ii) level 3 for the year 4 years before the year in which the relevant date falls and for the 5 years previous to that year, and
    - (iii) level 2 for every other year of P’s infection previous to the year in which the relevant date falls.

**Additional financial loss award: eligible infected persons with HIV**

**20.**—(1) The amount of the additional financial loss award for an eligible infected person (“P”) with HIV (whether or not they also have Hepatitis B or Hepatitis C) is the sum of the annual amounts determined in relation to each year of P’s infection (within the meaning of regulation 19(2)) as follows.

- (2) Subject to paragraph (3), where P is infected with—
- (a) a single infection of HIV or a co-infection of HIV and Hepatitis B of severity level 5—
    - (i) the annual amount for each year between (and including each of) P’s first year of infection and for the year before the year in which P was diagnosed as infected with HIV is £14,829;
    - (ii) the annual amount for the year in which P was diagnosed as infected with HIV and for each subsequent year is £29,657;
  - (b) HIV and is co-infected with Hepatitis B (other than a Hepatitis B infection of severity level 5) or Hepatitis C (or both)—
    - (i) the annual amount for each year between (and including each of) P’s first year of infection and for the year before the year in which P was diagnosed as infected with HIV is, where, on the relevant date, the severity of P’s—



- (aa) Hepatitis C infection is level 1, £18,536;
- (bb) Hepatitis B or Hepatitis C infection is level 2, £18,536;
- (cc) Hepatitis B or Hepatitis C infection is level 3 or level 4, £22,243;
- (ii) the annual amount for the year in which P was diagnosed as infected with HIV and for each subsequent year is £29,657.

(3) The annual amount for any year in which P is, or would be, 66 or older is 50% of the annual amount that would (but for this paragraph) be determined in accordance with paragraph (2).

### Care award

**21.**—(1) The compensation award in relation to an eligible infected person (“P”) must include an amount by way of care award for the purpose of compensating for—

- (a) loss incurred in respect of the cost of care necessitated by the eligible infected person’s infection, and
- (b) the cost of the future care needs for that person.

(2) Where P had a Hepatitis B infection of level 5, the amount of the care award in relation to P is £41,188.40.

(3) Where P is not deceased, the amount of the care award in relation to P is—

- (a) where on the relevant date P has a Hepatitis C infection of severity level 1, £500;
- (b) where on the relevant date P has Hepatitis B or Hepatitis C (or both, but not HIV) and the severity of P’s infection is—
  - (i) level 2, £54,600;
  - (ii) level 3, £195,148.32;
  - (iii) level 4, £446,751.74;
- (c) where on the relevant date P has HIV (whether or not they also have Hepatitis B or Hepatitis C), £679,756.62.

(4) Where P is deceased and P’s period of infection was equal to or longer than the relevant period, the amount of the care award in relation to P is—

- (a) where P had a single infection of Hepatitis C of severity level 1, £375;
- (b) where P had Hepatitis B or Hepatitis C (or both, but not HIV) and the severity of P’s infection at the time of their death was—
  - (i) level 2, £40,950;
  - (ii) level 3, £146,361.24;
  - (iii) level 4, £335,063.81;
- (c) where P had HIV (whether or not they also had Hepatitis B or Hepatitis C), £509,817.47.

(5) Where P is deceased and P’s period of infection was less than the relevant period, the amount of the care award in relation to P is the sum of the amounts determined as set out in paragraph (6) or (7).

(6) Where P had Hepatitis B or Hepatitis C (or both, but not HIV) and the severity of P’s infection at the time of their death was—

- (a) level 2, the amount for each year of P’s infection is £4,095;
- (b) level 3, the amount for—
  - (i) each of the first 6 years of P’s infection is £17,568.54;
  - (ii) each subsequent year of P’s infection is £4,095;

- (c) level 4, the amount for—
- (i) the first 6 months of P’s infection is £41,188.49;
  - (ii) the subsequent year of P’s infection is £47,056.80;
  - (iii) the subsequent 6 months of P’s infection is £23,528.40;
  - (iv) each of the subsequent 2 years of P’s infection is £38,464.44;
  - (v) each of the subsequent 6 years of P’s infection is £17,568.54;
  - (vi) each subsequent year of P’s infection is £4,095.
- (7) Where P had HIV (whether or not they also had Hepatitis B or Hepatitis C), the amount for—
- (a) the first 6 months of P’s infection is £41,188.49;
  - (b) the subsequent year of P’s infection is £47,056.80;
  - (c) the subsequent 6 months of P’s infection is £23,528.40;
  - (d) each of the subsequent 7 years of P’s infection is £38,464.44;
  - (e) each of the subsequent 5 years of P’s infection is £17,568.54;
  - (f) each subsequent year of P’s infection is £4,095.
- (8) For the purposes of paragraphs (6) and (7), where P died partway through a period for which an amount is specified, they are to be treated as having died at the end of that period (and, accordingly, the care award comprises the full amount in relation to that period).
- (9) In this regulation—
- “P’s period of infection” means the period beginning with (and including) P’s first year of infection and ending with (and including) the year in which P died;
- “the relevant period” means, where P had—
- (a) Hepatitis B or Hepatitis C (or both), and the severity of P’s infection at the time of their death was—
    - (i) level 2, 10 years;
    - (ii) level 3, 16 years;
    - (iii) level 4, 20 years;
  - (b) HIV, 24 years.

## PART 5

### Compensation payments – IBSS route

#### Compensation payments under the IBSS route

- 22.**—(1) A compensation payment is to be paid under the Scheme in relation to an IBSS-registered person (“P”) who is not deceased in accordance with this Part.
- (2) Regulations 8(2) and (4) to (6), 9 and 10, 11(1) to (4), and 12 to 16 apply—
- (a) in relation to a compensation payment under the IBSS route as they apply in relation to a compensation payment under the core route, and
  - (b) in relation to an IBSS-registered person as they apply in relation to an eligible infected person who is not an IBSS-registered person.
- (3) The IBCA must—

- (a) determine the amounts of each compensation payment in relation to P in accordance with—
    - (i) regulation 11(1) to (3) (“the core route amount”), and
    - (ii) regulation 23 (“the IBSS route amount”),
  - (b) make an offer to the relevant person in accordance with regulation 10, and, in addition to the matters set out in regulation 10(2), the offer must also include—
    - (i) the IBSS route amount, and
    - (ii) information about the election that may be made in accordance with paragraph (4) (including that electing for the core route amount means that the amount of the compensation payment set out in the offer may not reflect the final amount of the payment, as it will be reduced by the amount of any support scheme payments received in relation to the period after 31st March 2025), and
  - (c) if the offer is accepted in accordance with regulation 10 (and subject to paragraph (5)), as soon as reasonably practicable—
    - (i) pay the compensation payment as a lump sum, or
    - (ii) where the relevant person makes a periodic payment election, commence periodic payments in accordance with regulation 13.
- (4) The relevant person may, when accepting an offer made pursuant to paragraph (3)(b), elect to receive a compensation payment of the core route amount or the IBSS route amount and if no such election is made the compensation payment will be of the IBSS route amount.
- (5) But if the relevant person elects to receive a compensation payment of the core route amount, the compensation payment is not payable until the IBCA is satisfied that P is no longer registered under an infected blood support scheme.
- (6) Where the IBCA is satisfied that P is no longer registered under an infected blood support scheme—
- (a) P is no longer to be treated as an IBSS-registered person,
  - (b) P is to be treated as if Part 4 applies, and had always applied, in relation to them (and, accordingly, that any steps taken in relation to P under the provisions of Part 4 as applied by this Part had been taken under Part 4), and
  - (c) this Part no longer applies in relation to P.

### **Amount of compensation payment under the IBSS route**

**23.**—(1) The amount of a compensation payment in relation to an IBSS-registered person (“P”) is  $T - (D + I)$ , where—

- (a) “T” is the amount of the compensation award determined in relation to P in accordance with paragraph (2);
- (b) “D” is the sum of all relevant damages payments within the meaning of regulation 12 made in relation to P;
- (c) “I” is the sum of any amounts awarded in relation to P by way of—
  - (i) a payment under—
    - (aa) section 56(1) of the Act;
    - (bb) the Infected Blood Interim Compensation Payment Scheme as defined in section 56(6) of the Act;
    - (cc) the Infected Blood Further Interim Compensation Payment Scheme, being the scheme of that name administered by the persons who administer the

infected blood support schemes (whether or not in conjunction with other persons);

(ii) compensation, paid pursuant to a scheme established by or under statute, in respect of the same or similar losses as those described in the categories of award listed in paragraph (2).

(2) The amount of the compensation award in relation to P is the sum of—

- (a) the injury impact award determined in relation to P in accordance with regulation 14,
- (b) the social impact award determined in relation to P in accordance with regulation 15,
- (c) the autonomy award determined in relation to P in accordance with regulation 16,
- (d) the past financial loss award determined in accordance with regulation 25,
- (e) the past care award determined in accordance regulation 26, and
- (f) the support scheme top-up award payment determined in accordance with regulation 27.

(3) Where a provision referred to in paragraph (2) relating to an award does not establish an amount for an IBSS-registered person in P's circumstances, the amount of that award for the purposes of this regulation is £0.

#### **Interpretation of regulations 25 to 27**

**24.** In a formula set out in regulations 25 to 27—

“CP” is the care award determined in relation to an IBSS-registered person in accordance with regulation 21;

“FL” is the sum of—

- (a) the basic financial loss award determined in relation to an IBSS-registered person in accordance with regulation 17, and
- (b) the additional financial loss award determined in accordance with regulation 18 together with whichever of regulation 19 or 20 applies in relation to the IBSS-registered person;

“HLE”, in relation to an IBSS-registered person, means the year in which that person would attain the age of their healthy life expectancy;

“YI”, in relation to an IBSS-registered person, means that person's first year of infection.

#### **Past financial loss award**

**25.** The amount of the past financial loss award in relation to an IBSS-registered person is  $((2024 - YI) \div (HLE - YI)) \times FL + ((FL \div (HLE - YI)) \times 0.25)$ .

#### **Past care award**

**26.** The amount of the past care award in relation to an IBSS-registered person is  $((2024 - YI) \div (HLE - YI)) \times CP + ((CP \div (HLE - YI)) \times 0.25) \times 0.75$ .

#### **Support scheme top-up award**

**27.—(1)** The amount of the support scheme top-up award in relation to an IBSS-registered person (“P”) is  $(FFL + FCP) - ((S \times (HLE - 2025)) + (S \times 0.75))$ , where—

- (a) “FFL” is the future financial loss award in relation to P, being  $((HLE - 2025) \div (HLE - YI)) \times FL + ((FL \div (HLE - YI)) \times 0.75)$ ;
- (b) “FCP” is the future care award in relation to P, being  $((HLE - 2025) \div (HLE - YI)) \times CP + ((CP \div (HLE - YI)) \times 0.75)$ ;

(c) “S” is the amount of the relevant support scheme payment.

(2) In paragraph (1)(c), “relevant support scheme payment” means the sum of the annual rates of any support scheme payments payable in relation to P immediately before 1st April 2025.

(3) Where the amount of the support scheme top-up award is less than £0, that amount is to be treated as £0.

### **Future financial loss and future care awards where an IBSS-registered person dies**

**28.**—(1) Where the IBCA is notified that an IBSS-registered person has died, the IBCA must determine which is the greater of—

(a) the sum of—

(i) the future financial loss award determined in relation to P in accordance with regulation 27(1)(a) as increased in accordance with paragraph (3) of this regulation, and

(ii) the future care award determined in relation to P in accordance with regulation 27(1)(b) as increased in accordance with paragraph (3) of this regulation, and

(b) the sum of all support scheme payments paid in relation to P in relation to the period beginning with 1st April 2025 and ending with the date of P’s death.

(2) Where the amount described in paragraph (1)(a) is greater than the amount described in paragraph (1)(b), the IBCA must pay an amount equal to the difference between those amounts to P’s personal representatives as a lump sum.

(3) For the purposes of paragraph (1), the future financial loss award and the future care award are to be treated as if they had been, at the beginning of each April during the period—

(a) beginning with the month in which the compensation payment became payable in relation to P (but if the compensation payment became payable in April, that April is to be disregarded), and

(b) ending with the date of P’s death,

increased by the same percentage as the percentage increase (if any) in the consumer price index over the 12-month period up to the month of September before that April.

## **PART 6**

### **Applications for compensation payments from the Scheme**

#### **Giving of notices and documents**

**29.**—(1) This regulation applies where a provision in these Regulations requires or authorises a person to—

(a) notify another person (“A”) of something, or

(b) give a document to A (whether the provision uses the word “give” or some other term).

(2) The notification or document must be given to A—

(a) by sending it by post in a pre-paid envelope—

(i) addressed to A at A’s last known place of residence, or

(ii) if A has given an address for service, addressed to A at that address, or

- (b) if A has given an address for service using electronic communications, by sending it to A at that address using an electronic communication method which complies with the conditions in paragraph (3).
- (3) The conditions are that the notification or document is—
  - (a) capable of being accessed by A,
  - (b) legible in all material respects, and
  - (c) capable of being used for subsequent reference.
- (4) A notification or document given in accordance with these Regulations, is—
  - (a) if given electronically, to be treated for the purposes of these Regulations as having been given, unless the contrary is proved, on the day on which the electronic communication was sent;
  - (b) if given to the IBCA other than electronically, to be treated as having been given on the day it is received by the IBCA;
  - (c) if given by the IBCA other than electronically, to be treated as having been given on the day that it was sent.

### **Applications**

**30.**—(1) An application for a compensation payment under the Scheme must be made to the IBCA.

(2) An application must be made by the person who is seeking to establish that they are an eligible infected person, unless such is sought to be established in relation to a person (“B”) who—

- (a) is under 18, in which case the application must be made by a person with parental responsibility (within the meaning of regulation 9(2)) for B;
- (b) lacks capacity (within the meaning of regulation 9(3)) to make some or all decisions about applying for a compensation payment, in which case the application must be made by a person who, in relation to B, is a person described in one of paragraphs (i) to (v) of regulation 9(1)(b);
- (c) is deceased, in which case the application must be made by B’s personal representatives.

(3) An application must be—

- (a) in writing,
  - (b) in a form approved by the IBCA,
  - (c) subject to paragraph (4), accompanied by the evidence specified in regulation 37,
  - (d) signed by the applicant, and
  - (e) received by the IBCA by the end of the period specified in regulation 32.
- (4) An application need not be accompanied by the evidence specified in regulation 37 where—
- (a) the IBCA is satisfied of the matter which the evidence would prove on the basis of evidence it has otherwise obtained, and
  - (b) the IBCA has notified the applicant that the application need not contain the evidence.

### **Date of application**

**31.** An application is deemed to have been made on the date on which it is received by the IBCA.

### **Time limit for making an application**

- 32.** An application must be made by—
- (a) the end of 31st March 2031, or
  - (b) if later, the end of the period of six years beginning with the day on which the person to whom the application relates was diagnosed with an infection specified in regulation 7(3).

### **Applications for those registered under an infected blood support scheme**

**33.—**(1) Before deciding an application, the IBCA must determine whether the person (“B”) in respect of whom the application is made is registered under an infected blood support scheme (“IBSS-registered”), and—

- (a) if B is not IBSS-registered, whether B is in the process of applying to be IBSS-registered;
- (b) if B is IBSS-registered, whether B is in the process of applying to have their treatment under the infected blood support scheme varied because of a change in the severity of their infection.

(2) If B is in the process of either of the applications described in paragraph (1)(a) or (b) (an “IBSS application”), then the IBCA must defer consideration of any matter in the application under this Part until the IBSS application has been finally determined.

(3) An IBSS application is finally determined if—

- (a) it is decided or withdrawn, and
- (b) all routes of review or appeal of a decision on the application have been exhausted (including where any periods for requesting a review or bringing an appeal have expired).

(4) The IBCA may by written notice require the applicant to provide any information relevant to establishing a matter which the IBCA must determine in accordance with this regulation.

### **Amendment or withdrawal of application by the applicant**

**34.—**(1) An applicant may amend an application by notice given to the IBCA at any time before notice of the decision on the application has been given to the applicant by the IBCA.

(2) An applicant may, by giving notice to the IBCA, withdraw their application at any time before the IBCA has made a decision on it.

(3) Any notice of withdrawal given in accordance with paragraph (2) has effect when it is received by the IBCA.

(4) Where an applicant has withdrawn an application under paragraph (2)—

- (a) that application may not be reinstated, but
- (b) the applicant may make a further application in accordance with the provisions of these Regulations.

### **Duty of applicants**

**35.—**(1) As soon as reasonably practicable, an applicant must inform the IBCA of—

- (a) any matter that comes to the applicant’s attention which may be relevant to the question of whether a person is eligible for a payment, or the amount of such a payment, under the Scheme, and
- (b) any change in—
  - (i) the applicant’s address for correspondence, or
  - (ii) the bank details of any person who is to receive a payment under the Scheme.

(2) An applicant must, so far as reasonably practicable and within any period specified by the IBCA, provide any other assistance to the IBCA which the IBCA requests in connection with the consideration of the application.

### **Death before an application has been finally determined**

**36.**—(1) Paragraph (2) applies where—

- (a) an application (“the original application”) is made by or on behalf of a person (“B”) who is not deceased when the application is made, and
- (b) B dies—
  - (i) before the IBCA has decided in accordance with regulation 39(1)(a) whether B is an eligible infected person,
  - (ii) where the IBCA has made an offer in accordance with regulation 10, before the offer is accepted, or
  - (iii) where the IBCA has decided in accordance with regulation 39(1)(a) that B is not an eligible infected person, before the right to request a review of that decision under regulation 40 has been exhausted.

(2) Where this paragraph applies—

- (a) the original application is to be treated as if it had been withdrawn,
- (b) any offer made in accordance with regulation 10 is revoked, and
- (c) no review may be commenced under regulation 40 in respect of the original application, and any review so commenced is to be treated as if it had not been commenced.

### **Evidence**

**37.**—(1) An application must be accompanied by evidence as to—

- (a) the diagnosis of the infection caused as a result of the person receiving treatment with blood, blood products or tissue known to be capable of transmitting an infection specified in regulation 7(3),
- (b) the date on which that diagnosis was given,
- (c) which of paragraph (2), (6), (7) or (8) of regulation 7 applies as to the cause or origin of the infection, and
- (d) where the person is infected with Hepatitis B or Hepatitis C (or both), the severity of the infection.

(2) Where the application relates to an IBSS-registered person, the application need not contain the evidence described in paragraph (1)(a) or (c).

(3) Where the application relates to a deceased person (so that the application is made by the person’s personal representatives), the application must also be accompanied by a document that is by law sufficient evidence of—

- (a) the grant of probate of the person’s will,
- (b) the grant of letters of administration of the person’s estate, or
- (c) confirmation as the person’s executor.

(4) Nothing in this regulation prevents the IBCA from requesting, or from seeking the production of, evidence to enable the application to be determined in such cases or in such circumstances as the IBCA considers appropriate.



### **Burden of proof and standard of proof**

**38.**—(1) The burden of proving any issue is on the applicant.

(2) The standard of proof applicable in any decision which is required to be made under these Regulations is the balance of probabilities.

### **Decisions**

**39.**—(1) The IBCA must decide, in relation to each application—

- (a) whether the person to whom the application relates is an eligible infected person, and
- (b) any other question arising out of the application.

(2) The IBCA must notify the applicant of any decision under this regulation.

(3) A notice referred to in paragraph (2) must—

- (a) give reasons for the decision,
- (b) inform the applicant of the right—
  - (i) to request a review of the decision under regulation 40;
  - (ii) to appeal to the First-tier Tribunal following any such review, and
- (c) specify the period within which the rights in sub-paragraph (b) must be exercised.

## **PART 7**

### **Reviews and appeals**

#### **Review initiated by the applicant**

**40.**—(1) The IBCA must, on the request of an applicant, review a decision (“the original decision”)—

- (a) in accordance with regulation 39(1)(a) that the person to whom an application relates is not an eligible infected person;
- (b) where an offer made in accordance with regulation 10 has not been accepted, about—
  - (i) the person to whom the compensation payment is to be paid in accordance with regulation 9;
  - (ii) the amount of the compensation payment determined in accordance with regulation 11 or 23.

(2) The request referred to in paragraph (1) must—

- (a) be in writing,
- (b) be signed by the applicant,
- (c) specify the grounds on which the request for a review is made, and
- (d) be given to the IBCA within a period of 3 months beginning with the day on which the original decision is given to the applicant.

(3) The applicant may submit further evidence in connection with the request to review the original decision which the IBCA must consider when conducting the review.

(4) Evidence may only be submitted under paragraph (3)—

- (a) within the period of 6 months beginning with the day on which the request referred to in paragraph (1) is given to the IBCA, or

- (b) where the IBCA determines that it is reasonable to extend that period, within the period of 12 months beginning with the day that request is given to the IBCA.
- (5) The IBCA must take reasonable steps to ensure that the review is carried out by a member of the IBCA's staff who had no involvement in the making of the original decision.
- (6) The decisions that may be made on a review are—
  - (a) to confirm the original decision, or
  - (b) to revoke the original decision and make a new decision on the application in accordance with these Regulations.
- (7) The IBCA must notify the applicant of the decision on the review.
- (8) The notice under paragraph (7) must—
  - (a) state—
    - (i) that the original decision has been confirmed or revoked and remade, and
    - (ii) the terms of any new decision which has been made on the application,
  - (b) give reasons for the decision made on the review,
  - (c) state that the applicant may appeal to the First-tier Tribunal against the decision made on review, and
  - (d) state the period within which such an appeal is to be made and provide information as to how to make such an appeal.
- (9) Nothing in this regulation requires the IBCA to review a decision made under this regulation or under regulation 41.

### **Review initiated by the IBCA**

**41.—**(1) The IBCA may, at any time after a decision is made under regulation 39 (“the original decision”), decide on its own initiative to conduct a review of that decision or any matter it has determined in relation to the decision under these Regulations.

(2) Where the IBCA decides to conduct a review of the original decision under paragraph (1), it must notify the applicant of the review and the reasons for it unless the IBCA considers that such notification would jeopardise the proper administration of the Scheme.

- (3) The grounds on which the IBCA may conduct a review under this regulation include that—
  - (a) whether fraudulently or otherwise, any person has misrepresented or failed to disclose a material fact and the original decision was made in consequence of the misrepresentation or failure,
  - (b) the decision to make any compensation payment was based on a mistake as to a material fact, or
  - (c) there was an error or omission which affected the substance of the original decision whether to make a compensation payment under or the amount of any compensation payment made.

(4) The applicant may submit written representations to the IBCA about the IBCA's decision to conduct a review and about any information on which the decision to conduct a review was based.

(5) Any representation which is made under paragraph (4) must be sent so that it is received by the IBCA not later than 28 days after the date of the IBCA's notice of the review under paragraph (2).

(6) The IBCA may extend the time limit in paragraph (5) by a further period where the IBCA considers that there was good reason for the failure to submit written representations before the end of that initial period and for any delay since then in submitting written representations.

- (7) The decisions that may be made on a review under paragraph (1) are—

- (a) to confirm the original decision, or
  - (b) to revoke the original decision and make a new decision on the application in accordance with these Regulations.
- (8) Where the IBCA conducts a review under paragraph (1), it must notify the applicant of the decision on the review.
- (9) The notice under paragraph (8) must—
- (a) state—
    - (i) that the original decision has been confirmed or revoked and remade, and
    - (ii) the terms of any new decision which has been made on the application,
  - (b) give reasons for the decision made on the review,
  - (c) state that the applicant may appeal to the First-tier Tribunal against the decision made on review, and
  - (d) state the period within which such an appeal is to be made and provide information as to how to make such an appeal.

## **Appeals**

**42.** An applicant may appeal to the First-tier Tribunal from a decision that has been made on a review under regulation 40(1) or 41(1).

## **PART 8**

### **Recovery of overpayments**

#### **Recovery of overpayments**

**43.**—(1) This regulation applies where a payment has been made to a person under the Scheme which the IBCA has determined, pursuant to a review under regulation 41, exceeds the amount that was payable to that person under the Scheme (and the “excess amount” is the difference between the amount the person was paid and the amount that was payable).

(2) The IBCA may, by a notice given to the relevant person, require the relevant person to repay the excess amount.

(3) The notice must state—

- (a) the excess amount, and
- (b) the period within which the excess amount must be repaid.

(4) The excess amount is recoverable as a civil debt.

22nd August 2024

*Nick Thomas-Symonds*  
Minister for the Cabinet Office  
Cabinet Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 2(2)

## Infection severity levels for Hepatitis B and Hepatitis C

<i>Infection severity level</i>	<i>Description of infection severity level</i>
Level 1: Hepatitis C only	Acute infection, being a transient, self-cleared infection
Level 2: Hepatitis B and / or Hepatitis C	Chronic infection characterised by: <ul style="list-style-type: none"> <li>(a) Hepatitis B – infection with confirmed Hepatitis B surface antigen (HBsAg) positivity for longer than 6 months with detectable Hepatitis B virus DNA on a polymerase chain reaction test, if not on antiviral therapy</li> <li>(b) Hepatitis C – infection with replicating Hepatitis C virus RNA</li> </ul>
Level 3: Hepatitis B and / or Hepatitis C	<ul style="list-style-type: none"> <li>(1) Cirrhosis, characterised by serious scarring (fibrosis) of the liver caused by long-term liver damage caused by infection</li> <li>(2) Treatment of B–cell non-Hodgkin’s lymphoma caused by infection – single round treatment (first line therapy)</li> <li>(3) Type 2 or 3 cryoglobulinemia caused by infection accompanied by membranoproliferative glomerulonephritis</li> </ul>
Level 4: Hepatitis B and / or Hepatitis C	<ul style="list-style-type: none"> <li>(1) Decompensated cirrhosis caused by infection, characterised by: <ul style="list-style-type: none"> <li>(a) the presence of hepatic encephalopathy (confusion due to liver damage),</li> <li>(b) ascites (accumulation of fluid in the abdomen),</li> <li>(c) variceal haemorrhage (bleeding from dilated veins in the gullet or stomach), or</li> <li>(d) a Child-Pugh score greater than 7</li> </ul> </li> <li>(2) Treatment of B-cell non-Hodgkin’s lymphoma caused by infection – multiple round treatment (second line therapy)</li> <li>(3) Long-term liver damage caused by infection necessitating liver transplantation</li> <li>(4) Presence of liver cancer caused by infection</li> </ul>
Level 5: Hepatitis B only	Infection resulting in acute liver failure within 12 months of infection

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations establish the infected blood compensation scheme (“the Scheme”) for making payments in relation to eligible infected persons (as defined in regulation 7). The Regulations are made using powers in the Victims and Prisoners Act 2024 (c. 21).

Part 1 provides for citation, commencement and interpretation.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 2 establishes the Scheme and makes provision concerning the appointment of members to the Infected Blood Compensation Authority (“IBCA”) and concerning the funding of the IBCA.

Part 3 makes provision concerning eligibility requirements for the Scheme.

Part 4 makes provision concerning payments to be made from the Scheme to eligible infected persons who are not registered under an infected blood support scheme (as defined in section 56(3) of the Victims and Prisoners Act 2024).

Part 5 makes provision concerning payments to be made from the Scheme to eligible infected persons who are registered under an infected blood support scheme.

Part 6 makes provision concerning applications to the Scheme.

Part 7 makes provision concerning reviews by the IBCA of decisions made by the IBCA, and for appeals to the First-tier Tribunal.

Part 8 makes provision for the recovery of amounts overpaid under these Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.