

**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(a) 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;



Defns. “the president” and “tribunal” omitted by reg. 2 of S.I. 1999/2677 as from 18.10.99.

(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.

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(a) 1979 c. 17.

(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 ►an appeal 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.

Words substituted in reg. 4 by reg. 3 of S.I. 1999/2677 as from 18.10.99.

(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) a person is a member of the family of a serving member of Her Majesty's forces if—

(i) he is the spouse or civil partner of that serving member,

(ii) he and that serving member live together as husband and wife or as if they were civil partners, or

(iii) he is a child whose requirements are provided by that serving member.◄

Reg. 5(2)(b) substituted by reg. 2 of S.I. 2005/3070 as from 5.12.05.

**►Circumstances prescribed in relation to cases of damage through contact**

5A. The circumstances prescribed for the purposes of section 1(3) of the Vaccine Damage Payments Act 1979 (Act to have effect with respect to a person severely disabled as a result of contracting a disease through contact with a third person who was vaccinated against it) are that:—

(1) the disabled person has been in close physical contact with a person who has been vaccinated against poliomyelitis with orally administered vaccine;

(2) that contact occurred within a period of sixty days beginning with the fourth day immediately following such vaccination; and

(3) the disabled person was, within the period referred to in paragraph (2) of this regulation, either—

(a) looking after the person who has been vaccinated, or

(b) himself being looked after together with the person who has been vaccinated.◄

Reg. 5A inserted by reg. 2 of S.I. 1979/1441 as from 13.12.79.

**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 of S.I. 1979/432 revoked by S.I. 1999/991 as from 29.11.99.]

**PART III****REVIEW BY TRIBUNALS****Vaccine damage tribunals**

7.—►(1) Matters arising under section 4 of the Act shall be determined by tribunals to be known as vaccine damage tribunals constituted in accordance with the following provisions of this regulation.

Paras. (1)–(1B) substituted for para. (1) by reg. 2(2) of S.I. 1984/442 as from 23.4.84.

(1A) A vaccine damage tribunal shall consist of a chairman and two other persons.

(1B) The chairman shall—

- (a) in Northern Ireland, be appointed by the Secretary of State;
- (b) in England, Wales and Scotland, be nominated by the President of social security appeal tribunals and medical appeal tribunals appointed under paragraph 1A(1) of Schedule 10 to the Social Security Act 1975(a), who may nominate either himself or any person who by virtue of paragraph 2(4)(a) or (b) of Schedule 12 to that Act may be nominated as a chairman of a medical appeal tribunal.◀

►(1C) The members of the tribunal other than the chairman shall be medical practitioners appointed by the President after consultation with such academic medical bodies as appear to him to be appropriate.

Paras. (1C) and (1D) substituted for para. (1C) of reg. 7 by reg. 2(3) of S.I. 1988/1169 as from 1.8.88.

(1D) The President may—

- (a) except in Northern Ireland, appoint such officers and staff for vaccine damage tribunals as he thinks fit, subject to the consent of the Secretary of State and the Treasury as to numbers and as to remuneration and other terms and Conditions of Service;
- (b) in Northern Ireland, appoint such officers and staff for vaccine damage tribunals as he thinks fit, with the consent of the Department of Health and Social Services for Northern Ireland and the Department of Finance and Personnel as to numbers and as to remuneration and other terms and Conditions of Service;
- (c) arrange—
  - (i) such meetings of chairmen and other members of vaccine damage tribunals, and
  - (ii) such training for such chairmen and other members, as he considers appropriate; and

(a) 1975 c.14; Schedules 10 and 12 were amended by section 25 of, and paragraphs 7 to 11 of Schedule 8 to, the Health and Social Services and Social Security Adjudications Act 1983 (c.41).

- (d) secure that such works of reference as he considers appropriate are available for the use of chairmen and other members of vaccine damage tribunals.◀
- (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 a 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.

**►<sup>1</sup>PART IV****DECISION REVERSING EARLIER DECISIONS**

<sup>1</sup>Part IV substituted by reg. 4 of S.I. 1999/2677 as from 18.10.99.

**Decisions reversing earlier decisions made by the Secretary of State or appeal tribunals**

11.—(1) The Secretary of State may make a decision under section 3A(1) of the Act which reverses a decision of his, made under section 3 of the Act, or of an appeal tribunal, made under section 4 of the Act—

- (a) pursuant to an application in the circumstances described in paragraph (2) below; or
- (b) except where paragraph (3) applies, on his own initiative.

(2) The circumstances referred to in paragraph (1)(a) above are—

- (a) the application is made in writing and contains an explanation as to why the applicant believes the decision in respect of which the application is made to be wrong; and
- (b) where the application is in respect of a decision of the Secretary of State, the application is made within six years of the date on which notification of the decision was given; or
- (c) where the application is in respect of a decision of an appeal tribunal, the application is made before whichever is the later of—
  - (i) the date two years after the date on which notification of that decision was given; or
  - (ii) the date six years after the date on which notification of the decision of the Secretary of State which was appealed was given.

(3) This paragraph applies where—

- (a) less than 21 days have elapsed since notice under regulation 12 below was given; or
- (b) more than six years have elapsed since the date on which notification of that decision was given except where it appears to the Secretary of State that a payment was made in consequence of a misrepresentation or failure to disclose any material fact.

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(4) Where the Secretary of State has made a decision under section 3A(1) of the Act, he shall notify—

- (a) the disabled person (if he is alive) to whom the decision relates; and
- (b) if the disabled person is not a claimant, the claimant who made the claim in respect of the disabled person,

of that decision and the reason for it.

<sup>1</sup>Reg. 11A inserted by reg. 2(3) of 2013/2380 as from 28.10.13.

►<sup>1</sup>**Consideration of reversal before appeal**

**11A.**—(1) This regulation applies in a case where—

- (a) the claimant’s address is not in Northern Ireland;
- (b) the Secretary of State gives a person written notice of a decision; and
- (c) that notice includes a statement to the effect that there is a right of appeal to the First-tier Tribunal in relation to the decision only if the Secretary of State has considered an application for a reversal of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 4 of the Act in relation to the decision only if the Secretary of State has considered whether to reverse the decision under section 3A of the Act.

(3) The notice referred to in paragraph (1) must inform the person that, where the notice does not include a statement of the reasons for the decision, he may, within one month of the date of the notice, request that the Secretary of State provide him with written reasons.

(4) Where written reasons are requested under paragraph (3), the Secretary of State must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a reversal of the decision under section 3A of the Act. ◀

**Procedure by which a decision may be made under section 3A of the Act on the Secretary of State’s own initiative**

**12.** Where the Secretary of State on his own initiative proposes to make a decision under section 3A of the Act reversing a decision (“the original decision”) of his or of an appeal tribunal he shall give notice in writing of his proposal to—

- (a) the disabled person (if he is alive) to whom the original decision relates; and
- (b) the claimant in relation to the original decision where he is not the disabled person. ◀

5th April 1979

*David Ennals*  
Secretary of State for Social Services

**EXPLANATORY NOTE**

*(This Note is not part of the Regulations.)*

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 provisions 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.

