
STATUTORY INSTRUMENTS

2013 No. 497

The National Health Service (Clinical Negligence Scheme) Amendment Regulations 2013

Amendment of regulation 4 of the principal Regulations

4. In regulation 4 of the principal Regulations (liabilities to which the Scheme applies)—

(a) after paragraph (1), insert—

“(1A) But where the member is a body mentioned in regulation 3(1)(i), (j) or (k), the Scheme only applies if the liability is in consequence of the arrangements by means of which the body is eligible to be a member.”;

(b) in paragraph (3), for “person” substitute “body”; and

(c) for paragraphs (5) to (9), substitute the following—

“(5) The act or omission referred to in paragraph (4) is an act or omission to act in connection with the provision of services for the purposes of the health service on the part of X or a person employed or engaged by X where the services are provided pursuant to an arrangement by means of which a body can be eligible to be a member.

(6) X is a body which is—

(a) an NHS trust, an NHS foundation trust, a local authority or another body which provides relevant health services, the provision of which by it (X1) is the subject indirectly of an arrangement made by the Board, a CCG or a Special Health Authority with another provider (that other provider being a first contracting party); or

(b) a primary provider body (X2) whose membership of the Scheme has terminated in accordance with regulation 7(4)(a).

(7) For the purposes of the Scheme and these Regulations, the liabilities of a first contracting party which is a member are to be taken to include the liabilities referred to in paragraph (3) of an X1 with which that first contracting party has made arrangements (either directly or indirectly) for the provision of relevant health services and references in these Regulations to the liabilities of a member or eligible body are to be construed accordingly.

(8) For the purposes of the Scheme and these Regulations, the liabilities of the Board, a CCG or a Special Health Authority are to be taken to include the liabilities referred to in paragraph (3) of an X2 with which the Board, the CCG or the Special Health Authority had made arrangements for the provision of relevant health services, during the provision of which the liabilities referred to in paragraph (3) arose, where—

(a) such liabilities are incurred prior to the date on which that body’s membership of the Scheme terminated; and

(b) such liabilities fall to be met after the date on which that body’s membership of the Scheme terminated,

and references in these Regulations to the liabilities of a member or eligible body are to be construed accordingly.”.