
STATUTORY INSTRUMENTS

2015 No. 559

**The National Health Service (Clinical
Negligence Scheme) Regulations 2015**

Payments into the Scheme

Determination of amounts payable by members

11.—(1) The Secretary of State must determine the amount which each member of the Scheme must pay to the Secretary of State in respect of each membership year.

(2) In determining that amount in respect of any member (“M”), the Secretary of State may have regard to—

- (a) the Secretary of State’s estimate of the total amount which, under regulations 14 to 18 (payments out of the Scheme), is likely to be payable during that membership year in respect of all liabilities to which the Scheme applies;
- (b) the nature of M’s relevant functions;
- (c) the number of M’s employees who are engaged in M’s performance of each relevant function or any part of a relevant function;
- (d) the qualifications and experience of those employees;
- (e) any agreement in respect of M which falls within regulation 14(3)(c) (agreement that Scheme to cover future claim in respect of liability incurred before membership starts);
- (f) any agreement in respect of M which falls within regulation 14(5)(c) (agreement that Scheme to cover existing claim not met before membership ceases);
- (g) any agreement in respect of M which falls within regulation 15(2)(a) (agreement on payment of additional contribution that Scheme to cover claim in respect of liability incurred before membership ceases);
- (h) the Secretary of State’s assessment of—
 - (i) the likely effectiveness of any steps being taken, or to be taken, by M as to the manner in which M exercises any relevant function for the purpose of reducing the incidence of liabilities in connection with that function to which the Scheme applies; and
 - (ii) the effectiveness of any steps which have already been taken for that purpose; and
- (i) any other factor relating to M or any other member of the Scheme which the Secretary of State considers relevant to the determination under paragraph (1).

(3) In respect of each membership year, the Secretary of State must give each member notice in writing which specifies the amount determined in respect of the member under paragraph (1).

(4) Except as stated in paragraph (5) or (6), the notice must be given no later than 31st December in the membership year before that to which the notice relates.

(5) In the case of any member admitted to the Scheme on or after the appointed day—

- (a) the notice in respect of the first membership year must be given no later than 6 months after the date on which the Secretary of State receives the member's application under regulation 5 (membership of the Scheme); and
 - (b) the notice in respect of the second membership year must be given no later than 1st July in that membership year.
- (6) In the case of any member admitted to the Scheme less than two years before the appointed day—
- (a) the notice in respect of the first membership year must be given no later than 6 months after the date on which the Secretary of State received the member's application under the 1996 Regulations; and
 - (b) the notice in respect of the second membership year must be given no later than 1st July in that membership year.
- (7) For the purposes of paragraphs (5) and (6), references to “the first membership year” of a body which is a member of the Scheme is to the whole or part of any membership year immediately following any period during which the body was not a member.

Duty of members to make contributions to the Scheme

- 12.—(1) Each member of the Scheme must, in respect of each membership year, pay to the Secretary of State the amount determined in respect of the member under regulation 11(1) (determination of amounts payable by members).
- (2) Except as stated in paragraph (3) or (4), a member which receives a notice under regulation 11(3) of the amount payable in respect of a membership year must pay the amount due—
- (a) in accordance with such arrangements as may be agreed between the Secretary of State and the member (which may include payment in instalments to be made at agreed times); and
 - (b) if no agreement is reached by 1st March immediately before the start of the membership year, by such time and in such manner as the Secretary of State may determine.
- (3) Where a member admitted to the Scheme on or after the appointed day receives a notice under regulation 11(3) in respect of a membership year, the member must pay—
- (a) the amount due in respect of the first membership year no later than 8 months after the date on which the Secretary of State receives the member's application under regulation 5 (membership of the Scheme); and
 - (b) the amount due in respect of the second membership year no later than 1st August in that membership year.
- (4) In the case of any member admitted to the Scheme less than two years before the appointed day, the member must pay—
- (a) the amount due in respect of the first membership year no later than 8 months after the date on which the Secretary of State received the member's application under the 1996 Regulations; and
 - (b) the amount due in respect of the second membership year no later than 1st August in that membership year.
- (5) For the purposes of paragraphs (3) and (4), references to “the first membership year” of a body which is a member of the Scheme are to be construed in accordance with regulation 11(7).

Revision of determination of payable amount

13.—(1) Paragraph (2) applies where the Secretary of State identifies before the end of a membership year that the amount determined by the Secretary of State under regulation 11(1) as being payable by the member in respect of that year—

- (a) is incorrectly calculated;
- (b) is determined by reference to information which was incorrect; or
- (c) ought to be reconsidered in light of further information that has become available to the Secretary of State.

(2) The Secretary of State—

- (a) must reconsider the amount determined; and
- (b) at any time before the end of the membership year in question, may revise the amount payable by the member in respect of that year.

(3) The Secretary of State must give the member notice in writing of any revised amount determined under paragraph (2)(b) and the member must pay any amount that remains due in respect of the membership year—

- (a) in accordance with such arrangements as may be agreed between the Secretary of State and the member (which may include payment in instalments to be made at agreed times); and
- (b) if no agreement is reached by the end of the membership year, by such time and in such manner as the Secretary of State may determine.

(4) The reference in paragraph (1) to an amount determined by the Secretary of State under regulation 11(1) includes any revised amount determined under paragraph (2)(b).