
STATUTORY INSTRUMENTS

2015 No. 559

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

Liabilities to which the Scheme applies

Liabilities of insolvent former members for which members are treated as liable

9.—(1) In this regulation, references to “an insolvent former member” are to a body falling within regulation 4(1)(l) which—

- (a) provided relevant health services under an arrangement described in regulation 4(2) (arrangement with the Board, a CCG or a special health authority) by means of which the body was eligible to be a member; and
- (b) ceased to be a member of the Scheme in circumstances specified in regulation 7(5)(a) (cancellation of membership by the Secretary of State on grounds of insolvency).

(2) The Scheme applies to the qualifying liabilities of an insolvent former member.

(3) Qualifying liabilities to which the Scheme applies under paragraph (2) are to be treated for the purposes of the Scheme and these Regulations as if they were liabilities of the Board, the CCG or the Special Health Authority which entered into the arrangement referred to in paragraph (1)(a).

(4) Qualifying liabilities of an insolvent former member are any liability in tort under the law of England and Wales which—

- (a) the former member owes to a third party in respect of or consequent upon personal injury or loss as specified in paragraph (5);
- (b) was incurred before the date on which the former member’s membership of the Scheme ceased but falls to be met after that date; and
- (c) is in consequence of the arrangement referred to in paragraph (1)(a).

(5) The personal injury or loss referred to in paragraph (4)(a) is personal injury or loss arising out of or in connection with any breach of a duty of care which—

- (a) the insolvent former member owes to any person in connection with the diagnosis of any illness or the care or treatment of any patient; and
- (b) is in consequence of any act or omission specified in paragraph (6).

(6) The act or omission referred to in paragraph (5)(b) is an act or omission to act in connection with the provision of relevant health services on the part of—

- (a) the insolvent former member;
- (b) a person employed or engaged by the insolvent former member; or
- (c) an employee or agent of a person engaged by the insolvent former member.