
STATUTORY INSTRUMENTS

2018 No. 756

The National Health Service (Liabilities to Third Parties Scheme) (England) Regulations 2018

PART 2

Payments into the Scheme

Determination of amounts payable by members

10.—(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 a member, the Secretary of State may have regard to—

- (a) the Secretary of State's estimate of the total amount which, under regulations 13 to 17 (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 the member's relevant functions;
- (c) the number of the member's employees who are engaged in the member'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 the member which falls within regulation 13(4)(c) (agreement that Scheme to cover claim for liability incurred before membership starts);
- (f) any agreement in respect of the member which falls within regulation 13(7)(c) (agreement that Scheme to cover claim for liability which falls to be met after membership ceases); and
- (g) the Secretary of State's assessment of—
 - (i) the likely effectiveness of any steps being taken, or to be taken, by the member as to the manner in which the member exercises any relevant function for the purpose of reducing the incidence of qualifying liabilities; and
 - (ii) the effectiveness of any steps which have already been taken for that purpose; and
- (h) any other factor relating to the member 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) In respect of a member's—

- (a) first membership year, the notice must be given no later than six months after the date on which the Secretary of State receives the member's application to become a member;
- (b) second membership year, the notice must be given no later than 1st July in that membership year;

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(c) third and any subsequent membership year, the notice must be given no later than 31st December in the membership year before that to which the notice relates.

(5) For the purposes of paragraph (4), reference 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.

Commencement Information

11 [Reg. 10](#) in force at 1.8.2018, see [reg. 1\(2\)](#)

Duty of members to make contributions to the Scheme

11.—(1) Where a member receives a notice under regulation 10(3) in respect of a membership year, the member must pay—

- (a) the amount due in respect of the member’s first membership year no later than 8 months after the date on which the Secretary of State receives the member’s application to become a member;
- (b) the amount due in respect of the member’s second membership year no later than 1st August in that membership year.

(2) Where a member which receives a notice under regulation 10(3) in respect of its third or a subsequent membership year, the member 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 an agreed time); and
- (b) if no agreement is reached by 1st March immediately before the start of the membership year, by such time and in such a manner as the Secretary of State may determine.

(3) For the purposes of paragraph (1), reference to “the first membership year” of a body which is a member of the Scheme is to be construed in accordance with regulation 10(5).

Commencement Information

12 [Reg. 11](#) in force at 1.8.2018, see [reg. 1\(2\)](#)

Revision of determination of payable amount

12.—(1) Paragraph (2) applies where the Secretary of State identifies before the end of a membership year that the amount determined under regulation 10(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).

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(4) Where the revised amount determined under paragraph (2)(b) is higher than the original amount, 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.

(5) Where the revised amount determined under paragraph (2)(b) is lower than the original amount the member's remaining payments for that membership year will be reduced to account for the revised amount and are to be paid in accordance with any arrangements that have been, or may be, agreed between the Secretary of State and the member.

(6) The reference in paragraph (1) to an amount determined by the Secretary of State under regulation 10(1) includes any revised amount determined under paragraph (2)(b).

Commencement Information

I3 [Reg. 12](#) in force at 1.8.2018, see [reg. 1\(2\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 4(1)(m) and word inserted by [S.I. 2023/948 reg. 4\(2\)\(b\)](#)
- reg. 5(B1) inserted by [S.I. 2023/948 reg. 4\(3\)](#)