
STATUTORY INSTRUMENTS

2018 No. 756

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

PART 2

Payments out of the Scheme

Payments out of the Scheme: liabilities of members

13.—(1) Where a payment falls to be made by a member of the Scheme in connection with a claim in respect of a liability to which the Scheme applies, the Secretary of State may pay to the member or on the member's behalf an amount determined by the Secretary of State under regulation 16.

(2) No payment may be made under paragraph (1) in respect of any liability which is of a nature in respect of which the Secretary of State has in respect of all members and in respect of the relevant membership year determined is not eligible for payment under the Scheme.

(3) No payment may be made under paragraph (1)—

- (a) in respect of any liability of the member which is excluded from the Scheme by any of paragraphs (4) to (7); or
- (b) in respect of any liability of, or payment by, the member which is excluded from the Scheme by regulation 15 (exclusions from the Scheme).

(4) Any liability which was incurred by an eligible body before it became a member of the Scheme is excluded from the Scheme unless—

- (a) the claim by a third party against the eligible body in respect of the liability was made after the start of its membership of the Scheme;
- (b) the Secretary of State is satisfied that the eligible body informed the Secretary of State before the end of the qualifying period that the claim had been made;
- (c) the Secretary of State agreed before the start of the eligible body's membership that any liability of the body that results from a claim to which sub-paragraphs (a) and (b) apply should not be excluded from the Scheme; and
- (d) that agreement remains in force at the date on which the claim against the eligible body falls to be met.

(5) Any liability of a member which falls to be met after the member gives notice of cancellation under regulation 6(2) (cancellation of membership by a member) but before its membership has ceased is excluded from the Scheme unless the Secretary of State is satisfied that the liability would have fallen to be met at that time irrespective of the member's decision to give such a notice.

(6) Any liability of a member which falls to be met after the Secretary of State gives notice of cancellation under regulation 7(1) (cancellation of membership by the Secretary of State) but before its membership has ceased is excluded from the Scheme unless the Secretary of State is satisfied that the liability would have fallen to be met at that time irrespective of its decision to give such a notice.

Changes to legislation: *The National Health Service (Liabilities to Third Parties Scheme) (England) Regulations 2018, Section 13 is up to date with all changes known to be in force on or before 07 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) Any liability of a body (“B”) which falls to be met after its membership of the Scheme has ceased is excluded from the Scheme unless—

- (a) the claim by a third party against B in respect of the liability was made before B’s membership ceased;
- (b) the Secretary of State is satisfied that B informed the Secretary of State before the end of the qualifying period that the claim had been made;
- (c) the Secretary of State agreed before B’s membership ceased that any liability of B that results from a claim to which sub-paragraphs (a) and (b) apply should not be excluded from the Scheme; and
- (d) that agreement remained in force on the date on which B’s membership ceased.

(8) In paragraph (4)(b) and (6)(b), the “qualifying period” is the period of 14 days starting with the date on which the member became aware that the claim had been made or, if earlier, the date on which the Secretary of State considers that the member ought to have become aware that a claim had been made.

Commencement Information

II Reg. 13 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\(3\)](#)