STATUTORY INSTRUMENTS

2014 No. 2904

PAYMENT SCHEME

The Diffuse Mesothelioma Payment Scheme (Levy) Regulations 2014

Made - - - -	*3rd November 2014*
Laid before Parliament	*7th November 2014*
Coming into force - -	*28th November 2014*

The Secretary of State, in exercise of the powers conferred by section 13 and section 17(4) of the Mesothelioma Act 2014(**a**), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Diffuse Mesothelioma Payment Scheme (Levy) Regulations 2014.

(2) These Regulations come into force on 28th November 2014.

(3) In these Regulations—

"a financial year" means the 12 month period ending with the 31st March in any year;

"individual gross written premium" means the sum, before commission and the cost of reinsurance are taken out, of all employers' liability insurance premiums written in a calendar year by an individual active insurer(**b**);

"reference period" has the meaning given in regulation 3;

"the payment amount" means the share of the total amount of the levy that an active insurer is required to pay;

"the scheme" means the Diffuse Mesothelioma Payment Scheme established by the Diffuse Mesothelioma Payment Scheme Regulations 2014(**c**);

"total amount of the levy" means an annual sum decided by the Secretary of State under section 13 of the Mesothelioma Act 2014 in each financial year with a view to meeting the costs of the scheme;

"total gross written premium" means the sum, before commission and the cost of reinsurance are taken out, of all employers' liability insurance premiums written in a calendar year by all active insurers.

(**a**) 2014 c.1.
(**b**) "Active insurer" is defined in section 13(7) of the Mesothelioma Act 2014.
(**c**) S.I. 2014/916 as amended by S.I. 2014/917.

The requirement to pay a share of the total amount of the levy

2.—(1) An active insurer is required to pay a share of the total amount of the levy based on that insurer's relative market share in the reference period as determined in accordance with regulation 4.

(2) The requirement in paragraph (1) is a requirement—

(a) to pay the Secretary of State the payment amount specified in the notice under regulation 5(1) in accordance with the notice under regulation 5(2); and

(b) subject to details given in a notice under regulation 5(2)(a), to pay the payment amount by the end of a financial year in respect of which the Secretary of State decides the total amount of the levy.

The reference period

3.—(1) The reference period is a 12 month period ending on 31st December falling in a financial year.

(2) The reference period for the payment amount for the first financial year ends on 31st December 2014.

(3) In this regulation the "first financial year" means the year ending 31st March 2015.

Determination of relative market share and amounts

4.—(1) An active insurer's relative market share in the reference period is determined in accordance with paragraph (2) and the payment amount an active insurer must pay is determined in accordance with paragraphs (3) to (5).

(2) For the purpose of these Regulations, relative market share in the reference period is to be treated as if it were the same as the relative market share for the calendar year two years before the reference period.

(3) The payment amount an active insurer must pay in a financial year is to be determined by multiplying the total amount of the levy for that financial year by the figure for their relative market share for the calendar year two years before the reference period.

(4) In this regulation "relative market share for the calendar year two years before the reference period" means A divided by B where—

(a) "A" equals the individual gross written premium for that calendar year;

(b) "B" equals the total gross written premium attributable to the active insurer whose individual gross written premium has been ascertained for the purpose of "A".

(5) In paragraph (4) where "A" cannot be ascertained(**a**), an active insurer's relative market share for the calendar year two years before the reference period is nil.

Information and publication

5.—(1) The Secretary of State must notify active insurers in writing of the payment amount due from them.

(2) The Secretary of State must also notify active insurers in writing of—

(a) the date or dates in the financial year by which the payment amount is required; and

(b) details of how the payment amount can be made.

(3) The Secretary of State must give active insurers sufficient information to enable them to determine how the payment amount in their case was calculated.

(4) In particular the Secretary of State may give each active insurer information concerning—

(**a**) An example of where "A" cannot be ascertained is where an active insurer did not write premiums in that year.

(a) the basis on which they are considered to be an active insurer;

(b) the action the Secretary of State may take if the payment amount is not made in accordance with the notice under paragraphs (1) and (2).

(5) The Secretary of State must publish annually the costs of the scheme and must in particular publish information on—

(a) the costs of payments made under the scheme;

(b) the costs of administering the scheme; and

(c) any costs incurred by the Secretary of State in establishing a body to administer the scheme.

Recovery of the payment amount

6. If the payment amount notified to an active insurer is not paid in accordance with the notices under regulation 5(1) and (2), the payment amount, or any part of it, which has not been paid, is recoverable as a debt due to the Secretary of State.

Signed by authority of the Secretary of State for Work and Pensions

Freud
Parliamentary Under Secretary of State
Department for Work and Pensions

3rd November 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require active insurers, (defined in the Mesothelioma Act 2014 ("the Act") as a person, who at any time during a reference period, is an authorised insurer within the meaning of the Employers' Liability (Compulsory Insurance) Act 1969 or the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972 (S.I.1972/963 (N.I.6)), to pay a share of the total amount of an annual levy based on an active insurer's relative market share (defined in the Regulations as the payment amount), for the purpose of meeting the costs of the Diffuse Mesothelioma Payment Scheme ("the Scheme"). The Scheme, established under powers set out in the Act, makes payments to eligible people with Diffuse Mesothelioma (diagnosed on or after 25th July 2012), or eligible dependants of people who have died of Diffuse Mesothelioma.

Regulation 1 defines certain terms used in the Regulations.

Regulation 2 imposes an obligation on active insurers to pay towards the cost of the total amount of the levy based on their relative market share in the reference period.

Regulation 3 defines the "reference period" as being a 12 month period ending on 31st December falling within each financial year and sets out when the first reference period ends and when the first financial year ends.

Regulation 4 sets out how an active insurer's relative market share in a reference period and the payment amount an active insurer is to pay, are determined.

Regulation 5 paragraphs (1) to (3) set out the information to be given to active insurers including information about the date or dates in the financial year by which payment is required. Regulation 5(5) requires the Secretary of State to publish certain information regarding the costs of the Scheme.

Regulation 6 provides for any unpaid payment amount to be recoverable as a debt due to the Secretary of State.

A full impact assessment was produced for the Mesothelioma Bill and a copy is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/286525/mesothelioma-payment-scheme-ia-mar-2014.pdf. A copy of that impact assessment can be obtained from the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA.These Regulations have no separate impact on the private sector or civil society organisations from that outlined in the impact assessment which accompanied the Bill.

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