HMRC - IPT07945 - The Statutory Provisions

Paragraph 3 of Schedule 5 Finance Act 1997, Reimbursement Arrangements gives HMRC the powers to make regulations setting out how the reimbursements should be arranged. Paragraph 3(2) defines reimbursement arrangements as any arrangements for the purposes of such a claim which -

(a) are made by any person for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and

(b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners.

Subparagraphs (3) to (6) set out the scope of the regulations. These provisions allow the Commissioners to place the following requirements on an insurer using the scheme:

to make payment within a certain set period;

to reimburse or repay to HMRC any interest payable on the amount;

to maintain records showing how and in what form the repayment was made to the insureds or policy holders (customers);

to repay to HMRC any amounts not refunded to customers under the scheme.

Subparagraph 3(7) specifically provides that the regulations have retrospective effect. This is important in two situations:

where money was overpaid as IPT before the regulations came into force and an insurer subsequently requests a refund of that money to pass onto customers after the regulations come into force, or

where HMRC agreed, before the scheme was introduced, to refund money to an insurer on the basis that money would be passed onto its customers, and the money has not yet been paid.

In both cases the scheme applies. In the second case, if the claimants’ arrangements do not comply with the scheme they will have to be revised and an undertaking signed before any money will be paid.

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