HMRC - IPT07950 - The Regulations

Definitions

Regulation 19A defines certain words and phrases used in the Regulations.

Claims which fall within the scope of the Regulations are all those where reimbursement arrangements have been made under paragraph 8 of Schedule 7 to the Finance Act 1994. This includes claims made before the Regulations come into force but which had not been paid by then. In other words, if existing arrangements for reimbursing consumers do not comply with the Regulations, the money will not be paid unless the proposed arrangements are modified to meet the new requirements.

Reimbursement arrangements cover any arrangements made by a claimant to make refunds to consumers who for practical purposes bore the cost, in whole or in part, of the original payment of that sum of money paid to the Commissioners.

The relevant amount means that sum of money a claimant wishes to reimburse to consumers. This includes interest, as well as the capital sum (see Regulation 19C(e)) because it is the consumers who have not had use of the money, not the claimant.

General provisions

Before any refunds are made to an insurer who decides to use the scheme, Regulations 19B to 19G require them to sign an

The explanatory notes explain that in order to operate the scheme the insurer must agree:

to identify the name and addresses of those consumers whom it intends to reimburse and keep records which show:

the name and address of consumers whom he has reimbursed, or whom he intends to reimburse;

the total amount of money paid to each consumer;

the amount of interest (if any) included in the total sum refunded to each consumer; and

the date the money was refunded (Regulations 19E and Regulation 19F);

to repay those consumers all the money received from HMRC, including interest, within 90 days of receiving the money;

to repay to HMRC - without waiting to be asked - any money and interest not repaid to consumers within 90 days; and

to do this within 14 days of the expiry of 90 days;

to keep the necessary records as set out in the Regulations; and

to comply with any notice about producing the records.

All these requirements are necessary to ensure that an insurer or involved intermediary will not be unjustly enriched by receiving a refund under the scheme. Without being able to identify the consumers who will qualify for a refund, undertakings do not achieve their purpose. It is reasonable for insurers to give an assurance that the money can and will be refunded.

If, for some reason, we refuse to accept an undertaking the insurer can ask for a review of the decision and, if still dissatisfied, may appeal to the Tribunal Service under s60, FA 1994.

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