

Approved Payments Scheme:

**Asbestos Injuries Compensation Fund
Limited**
ACN 117 363 461

Questions and Answers

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15 September 2014

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Background

What is an approved payment scheme, when does it start and what are the details?

An approved payment scheme is a process whereby people with asbestos claims payable by the Asbestos Injuries Compensation Fund (**AICF**), as determined by the relevant court or tribunal, or as agreed upon between the parties, are paid their claims in instalments over a period of time (rather than in a lump sum after judgment or agreement). Other claims, like contribution claims payable to other asbestos claim defendants, are postponed entirely during the period of operation of the scheme.

An approved payment scheme is being pursued due to a presently expected shortfall in future funding to pay personal asbestos claims, with a shortfall presently expected to occur at some time during 2017. That expectation is based on forecasts provided to AICF by KPMG Actuarial, AICF's actuarial advisor.

Although it is subject to further development by AICF, further discussions with James Hardie and the NSW Government, and approval of the NSW Supreme Court and the NSW Attorney General, it is presently anticipated that an approved payment scheme will be put in place with effect from 1 July 2015 (although this commencement date might change).

We cannot provide further details at this time as a number of important discussions and legal steps need to be undertaken, although we will provide further details around the approved payment scheme and the time at which the approved payment scheme will commence as soon as possible.

How many and what value of claims have been paid by AICF to date?

Since its formation in February 2007, AICF has paid almost \$800 million in claim settlements and settled almost 4,000 claims.

Why does AICF need to go to the NSW Supreme Court for approval to establish the approved payment scheme?

The *James Hardie Former Subsidiaries (Winding Up and Administration) Act 2005* (NSW) requires that NSW Supreme Court approval and the approval of the NSW Attorney General is obtained before an approved payment scheme is established.

How much money has James Hardie contributed and why can't James Hardie make up the shortfall?

Since its formation, AICF has received approximately \$720 million, including \$120 million on 1 July 2014, in funding from James Hardie. Under the agreement reached between James Hardie and the NSW Government for the formation and funding of AICF, James Hardie's contributions are capped at 35 per cent of its annual global free cash flows from operating activities. Any other questions on James Hardie's funding will need to be referred to James Hardie.

Why is the AICF moving so fast when it expects the shortfall to arise in 2017?

In order for the approved payment scheme to accommodate the payment of both present and future claimants, AICF believes the scheme needs to be put in place before AICF is projected to have a cash deficit which, as above, is expected to occur at some time during 2017.

So, will future claims be paid under the approved payment scheme?

The proposed approved payment scheme will be designed to enable the payment of claims in full by instalments but the ability to make such payments will always be conditional upon the actual outcome relative to the underlying assumptions on which the scheme is modelled.

There is a loan facility with the NSW Government. Why has AICF not applied to the NSW Government for an increase in the loan facility?

Funds from the loan facility as well as cash inflows from the insurance recoveries and James Hardie's annual contributions are used to pay claims and AICF operating costs.

The NSW Government made a maximum \$320 million loan commitment to AICF in 2010, to help AICF fund claim payments through drawings under a standby loan facility agreement.

Under the terms of the loan facility, the available drawings are capped at the amount of the potential proceeds of insurance recoveries that may be available to AICF. This amount is currently valued at \$214 million by KPMG Actuarial.

Since December 2012, AICF has been in consultation with the NSW Government to increase available drawings under the interest-bearing loan facility to \$320 million. Presently, KPMG Actuarial forecast that available drawings under the interest-bearing loan facility are \$214 million.

What will happen to the approved payment scheme if the NSW Government agrees to increase the loan facility to \$320 million?

If the loan facility is increased to \$320 million, then, on the basis of current modelling provided by KPMG Actuarial, AICF presently believes that it can continue to pay claims as they fall due for payment without the need to implement the proposed approved payment scheme.

What is the future financial position that has prompted AICF to consider an approved payment scheme to be necessary? What does AICF base its views on?

AICF continuously monitors its financial position and receives periodic independent confirmation of its future financial position, through ongoing modelling and advice provided by KPMG Actuarial. KPMG Actuarial's recent advice to AICF was that AICF may suffer from a cash deficit at some time during 2017 totalling \$184 million. The loan facility projected to be available during 2017 is \$183 million.

What happens to the payment of claims up to 2017, when the projected funding shortfall occurs?

Based on current modelling AICF presently expects it will need to pay-out a further \$500 million worth of claims over the next three years (in the absence of an approved payment scheme being implemented) before the expected funding shortfall occurs some time during 2017.

AICF's present intention is that the approved payment scheme will be effective from 1 July 2015 so that all claims, current and future, settled from that date onwards will be paid under the terms of the approved payment scheme, but this effective date might change.

Why is AICF raising this with claimants and the public now, if the problem is only looming in three years?

AICF has determined that in order for the approved payment scheme to accommodate current and future claims, it is prudent for the approved payment scheme to take effect from 1 July 2015, in view of projections received by AICF from KPMG Actuarial and the present uncertainty around the NSW Government's position about availability of the full \$320 million loan facility.

It will take time to formulate and gain court approval for the proposed approved payment scheme.

When will the approved payment scheme commence?

Under the current plan and subject to court approval, the scheme will commence on 1 July 2015, but this date might change.

When will it finish?

It is very difficult to give an approximate date at this stage. This will be subject to the design of the approved payment scheme and the approval of the Supreme Court of New South Wales.

Claimants

I am a claimant. Will I and my family get paid in full?

It is AICF's present expectation, based on the modelling developed by KPMG Actuarial, that claimants will be paid in full under the proposed scheme that is currently under consideration, albeit over an extended period of time and through a number of instalment payments. During that time interest will be paid on instalments, at a rate to be determined by the NSW Supreme Court. However, the ability to make such payments is conditional upon

the actual outcome relative to the assumptions underlying the scheme modelling. In addition, there can be no absolute guarantee that payments will be made in full as the adequacy of AICF's funding is dependent on many factors.

How does this affect my claim for compensation?

AICF does not presently anticipate any change in the current process of assessing claims.

I have urgent need for compensation – how will this be managed?

Each claim will continue to be assessed by AICF on its merits.

How is AICF sure this scheme will be the only scheme required?

The scheme will be designed by AICF in consultation with its actuarial advisor, KPMG Actuarial, to cater for moderate levels of movements (favourable and unfavourable) in the volume and quantum of claims on the fund. However, there can be no guarantee that this will be the only scheme required during AICF's existence.

When will the details of the approved payment scheme be finalised?

The proposed approved payment scheme will only be finalised once the NSW Supreme Court approves it. At that time AICF will provide details of how the approved payment scheme will operate, including when payments will be received, and for how long it will run. It is anticipated that approval will be obtained in early 2015.

James Hardie is making significant profits at present and its share price has risen rapidly. Why can't it pay more to make sure claimants get paid on time?

Under the agreement reached between James Hardie and the NSW Government in 2006, James Hardie's contributions to AICF are capped at 35 per cent of its annual global free cash flows from operating activities. James Hardie has paid on time all contributions due to AICF, which to date total approximately \$720 million, including \$120 million received on 1 July 2014.

Important Notice

The information included in this communication has been prepared for general informational purposes only. While it is not intended to be relied upon, every attempt has been made to ensure that the information conveyed herein is accurate and complete, as the circumstances in relation to the proposed approved payment scheme presently permit. Consequently, before acting on the information in this communication, you should consider the appropriateness of the information in view of your own situation and needs, and if you consider it necessary, seek and obtain appropriate professional advice. AICF will endeavour to update claimants further once the proposed approved payment scheme is approved. This information may contain statements about future matters. Such statements have been based on reasonable grounds, however, are not intended to be a forecast nor any guarantee that any particular outcome will be achieved in the future (including that claims against AICF will be paid in full or on time). The circumstances (including financial circumstances) of AICF involve inherent uncertainty. Circumstances can change and this may render the information in this document inaccurate with the passage of time.