
STATUTORY INSTRUMENTS

1988 No. 668

**The Pneumoconiosis etc. (Workers' Compensation)
(Payment of Claims) Regulations 1988**

Payment where death results from diffuse mesothelioma

5.—(1) In any case where the Secretary of State is satisfied, as respects a claim by a dependant of a deceased person who died on or after 22nd August 1966 (the said dependant being the dependant who is entitled to a payment under the Act), that the said deceased person died as a result of diffuse mesothelioma the amount of the payment to that dependant shall be:—

- (a) the amount payable in accordance with regulation 4 in respect of diffuse mesothelioma if—
 - (i) disablement benefit was payable to the deceased immediately before he died solely in respect of diffuse mesothelioma, or
 - (ii) death benefit is payable to or in respect of the said dependant where disablement benefit in respect of a disease was not payable to the deceased immediately before he died, or
 - (iii) disablement benefit would have been payable to the deceased immediately before he died but for his not having claimed the benefit or but for his having died before he had suffered from the disease for the appropriate period;
- (b) if disablement benefit was payable to the deceased immediately before he died solely in respect of pneumoconiosis, either—
 - (i) the total amount payable in accordance with regulation 4 in a case where the deceased's death resulted from pneumoconiosis or, if greater—
 - (ii) the amount payable in accordance with regulation 4(6) in respect of the deceased's death as a result of diffuse mesothelioma;
- (c) if disablement benefit was payable to the deceased immediately before he died in respect of both pneumoconiosis and diffuse mesothelioma or would have been payable to him but for the circumstances specified in (a)(iii) above, either the amount payable in accordance with paragraph (a) of this regulation or that payable in accordance with paragraph (b)(i), whichever amount is the greater.

Provided that in any case the amount payable to a dependant under this regulation shall be at least £1,263 more than the amount which would have been payable to him if he had been entitled to a payment calculated in accordance with regulation 4(6).

(2) In the case of any amount payable in accordance with this regulation to the dependant of a deceased person the Secretary of State shall deduct from any such amount a sum equal to any payment made under the provisions of the Act to the said deceased person prior to death, save that any amount so payable after any such deduction shall not, in any event, be less than the minimum payment prescribed in regulation 8.