

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2008 No. 353**

**SOCIAL SECURITY**

**The Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations (Northern Ireland) 2008**

*Made* - - - - *27th August 2008*

*Coming into operation* *1st October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 3(1) to (3), 4(2), 5(4)(c) and 9(2) of the Mesothelioma, etc., Act (Northern Ireland) 2008(1).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations (Northern Ireland) 2008 and shall come into operation on 1st October 2008.

(2) In these Regulations—

“claim” means a claim under section 1(1) of the Mesothelioma, etc., Act (Northern Ireland) 2008;

“mesothelioma” means diffuse mesothelioma.

---

**Commencement Information**

**II** [Reg. 1](#) in operation at 1.10.2008, see [reg. 1\(1\)](#)

**Making a claim**

2.—(1) Subject to paragraph (2), a claim must be made in writing, signed by or on behalf of the person making the claim, on a form approved by the Department and accompanied by the documents specified in the form.

(2) A claim may be made in such other manner, being in writing, as the Department may accept as sufficient in the circumstances of any particular case.

.....

**Commencement Information**

**I2** Reg. 2 in operation at 1.10.2008, see **reg. 1(1)**

**Time for making a claim**

**3.—(1)** A claim by a person who has been diagnosed with mesothelioma before the coming into operation of these Regulations must be made within 12 months from the date on which these Regulations come into operation.

(2) A claim by any other person with mesothelioma must be made within 12 months from the date on which that person was first diagnosed with mesothelioma.

(3) A claim by a dependant must be made within 12 months from the date of death of the person who, immediately before death, had mesothelioma.

(4) Subject to paragraph (5), where the Department considers there was good cause for the claim not being made within the 12 month time limit referred to in paragraphs (1) to (3), it may extend the time limit for such period as it considers appropriate in the circumstances.

(5) The Department shall not extend the time limit where the death or diagnosis occurred more than 12 months before the date on which these Regulations come into operation.

.....

**Commencement Information**

**I3** Reg. 3 in operation at 1.10.2008, see **reg. 1(1)**

**Reconsideration**

**4.—**<sup>F1</sup>(1) An application made to the Department for reconsideration of a determination that a payment should or should not be made must—

(a) be made—

(i) within one month of the date of notification of the determination,

(ii) where a written statement is requested under regulation 4B(3) (reconsideration before appeal) and is provided within the period specified in head (i), within 14 days of the expiry of that period,

(iii) where a written statement is requested under regulation 4B(3) and is provided after the period specified in head (i), within 14 days of the date on which the statement is provided, or

(iv) within such longer period as may be allowed under regulation 4A (late application for reconsideration); and

(b) specify the ground for the request and give such other relevant information as the Department may require in order to deal adequately with the reconsideration.]

(2) The Department may, at any time, in writing, institute a reconsideration of a determination that a payment should or should not be made.

.....

**F1** Reg. 4(1) substituted (23.5.2016) by The Social Security, Child Support and Mesothelioma Lump Sum Payments (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/208), regs. 1(2)(b), **4(2)**

### Commencement Information

**I4** Reg. 4 in operation at 1.10.2008, see **reg. 1(1)**

### [<sup>F2</sup>Late application for reconsideration

**4A.** Where, in a case to which regulation 4B (reconsideration before appeal) applies, the Department considers there was good cause for not applying for reconsideration of a determination within the time limit specified in regulation 4(1), it may extend the time limit for such period as it considers appropriate in the circumstances.

**F2** Regs. 4A, 4B inserted (23.5.2016) by *The Social Security, Child Support and Mesothelioma Lump Sum Payments (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/208)*, regs. 1(2)(b), **4(3)**

### Reconsideration before appeal

**4B.—(1)** This regulation applies in a case where—

- (a) the Department gives a person written notice of a determination made on a claim; and
- (b) that notice includes a statement to the effect that there is a right of appeal against the determination only if the Department has, on an application, decided whether to reconsider the determination.

(2) In a case to which this regulation applies, a person may appeal under section 5 of the *Mesothelioma, etc., Act (Northern Ireland) 2008* against the determination only if the Department has decided on an application whether to reconsider the determination under section 4 of that Act.

(3) The notice referred to in paragraph (1) must inform the person—

- (a) of the time limit specified in regulation 4(1) for making an application for reconsideration of the determination; and
- (b) that, where the notice does not include a statement of the reasons for the determination (“written reasons”), he may, within one month of the date of notification of the determination, request that the Department provide him with written reasons.

(4) Where written reasons are requested under paragraph (3)(b), the Department must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a determination made on a claim, the Department may treat any purported appeal as an application for reconsideration of the determination under section 4 of that Act.]

**F2** Regs. 4A, 4B inserted (23.5.2016) by *The Social Security, Child Support and Mesothelioma Lump Sum Payments (Decisions and Appeals) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/208)*, regs. 1(2)(b), **4(3)**

### Appeal treated as reconsideration

**5.—(1)** Where a person appeals against a determination made by the Department on a claim, it may treat the appeal as an application for reconsideration under section 4 of the *Mesothelioma, etc., Act (Northern Ireland) 2008*.

(2) Where—

- (a) an appeal against a determination that a payment should not be made is treated as an application for reconsideration; and
  - (b) on the reconsideration the Department decides that a payment should be made,
- it shall not refer the appeal to an appeal tribunal.
- (3) Except where paragraph (2) applies, where an appeal is treated as an application for reconsideration, the Department shall delay referring the appeal to the appeal tribunal until after the reconsideration.

**Commencement Information**

**I5** [Reg. 5](#) in operation at 1.10.2008, see [reg. 1\(1\)](#)

**[<sup>F3</sup> Appeals**

**6.—**(1) Subject to paragraph (2), the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 apply to an appeal—

- (a) against a determination made by the Department—
  - (i) on a claim, or
  - (ii) on a reconsideration under section 4 of the Mesothelioma, etc., Act (Northern Ireland) 2008 of a determination made on a claim,as they apply to an appeal under Article 13 of the Social Security (Northern Ireland) Order 1998; and
- (b) to a Commissioner under section 6 of that Act against a decision of an appeal tribunal as they apply to an appeal under Article 13 or 14 of that Order.

(2) Regulation 36(2)(a) of those Regulations applies in relation to the composition of an appeal tribunal where the appeal arises under section 5(1) of that Act.]

**F3** [Reg. 6](#) added (5.1.2009) by [The Social Security \(Miscellaneous Amendments No. 6\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/490\)](#), regs. 1, 3

Sealed with the Official Seal of the Department for Social Development on 27th August 2008

(L.S.)

*B McGahan*  
A senior officer of the Department for Social  
Development

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for claims for a lump sum payment for diffuse mesothelioma under section 1 of the Mesothelioma, etc., Act (Northern Ireland) 2008 (“the Act”) and for reconsideration of a determination on such a claim.

Regulations 2 and 3 provide respectively for the form and the time limits for a claim.

Regulation 4 provides for the form and time limits for a reconsideration.

Regulation 5 allows an appeal to be treated as an application for reconsideration either before or instead of an appeal.

Sections 3(1) to (3), 4(2), 5(4)(c) and 9(2) of the Act under which these Regulations are made were brought into operation, for the purpose only of authorising the making of regulations on 27th August 2008 and for all other purposes on 1st October 2008 by the Mesothelioma, etc., (2008 Act) (Commencement) Order (Northern Ireland) 2008 ([S.R. 2008 No. 351 \(C. 19\)](#)).

**Changes to legislation:**

There are currently no known outstanding effects for the The Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations (Northern Ireland) 2008.