

2008 No. 354

SOCIAL SECURITY

The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations (Northern Ireland) 2008

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

Coming into operation - *1st October 2008*

Approved by resolution of the Assembly on 17th February 2009

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

Citation, commencement and interpretation

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

(2) In these Regulations—

“the Act” means the Mesothelioma, etc., Act (Northern Ireland) 2008;

“claim” means a claim under section 1(1) of the Act;

“deceased” means a person who, immediately before death, had mesothelioma;

“enactment” includes any statutory provision;

“lump sum payment” means a payment under section 1(2) of the Act;

“mesothelioma” means “diffuse mesothelioma”;

“payment” includes a payment in money or money’s worth or in kind.

Disqualifying payments

2.—(1) The following payments are prescribed for the purposes of section 2(1)(a), (2)(a) and (3)(e) of the Act (payments which, if made in consequence of mesothelioma, prevent the conditions provided for in section 2(1)(a) and (2)(a) from being fulfilled)—

(a) payment under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(b);

(b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(c);

(a) 2008 c. 9 (N.I.)
(b) S.I. 2006/606
(c) S.I. 2005/439

- (c) payment from any government department, authority, body corporate or employer exempted from insurance by or under Article 7 of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972(a) or section 3 of the Employers' Liability (Compulsory Insurance) Act 1969(b);
- (d) payment under the UK Asbestos Trust established on 10th October 2006 for the benefit of certain persons suffering from asbestos-related diseases;
- (e) payment under the EL Scheme Trust established on 23rd November 2006 for the benefit of certain persons suffering from asbestos-related diseases.

(2) The following payments are prescribed for the purposes of section 2(1)(b) and (2)(b) of the Act (payments eligibility for which prevents the conditions provided for in section 2(1)(b) or (2)(b) from being fulfilled)—

- (a) payment under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006;
- (b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.

Disregarded payments

3. A payment made in error and which in consequence is liable to be repaid in accordance with an enactment or rule of law is to be disregarded for the purpose of section 2(1)(a) or (2)(a) of the Act.

Presence in the United Kingdom

4.—(1) In the case of a person with mesothelioma it is a condition of entitlement that the person was in the United Kingdom at a time when and place where that person was exposed to asbestos.

(2) In the case of a dependant it is a condition of entitlement that the deceased was in the United Kingdom at a time when and place where the deceased was exposed to asbestos.

Amount of lump sum payment

5.—(1) The amount of a payment made under section 1(2) of the Act to a person with mesothelioma shall be determined in accordance with Table 1 of the Schedule.

(2) In Table 1 of the Schedule the reference to the age of the person is a reference to—

- (a) the age at which the person was first diagnosed with mesothelioma; or
- (b) where the age at which the person was first diagnosed with mesothelioma is unknown, the age at which the person made the claim.

(3) The amount of a payment made under section 1(2) of the Act to a dependant shall be determined in accordance with Table 2 of the Schedule.

(4) In Table 2 of the Schedule the reference to the age of the person with mesothelioma is a reference to the age of the person at death.

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

(a) S.I. 1972/963 (N.I. 6); Article 7 was amended by paragraph 1 of Schedule 2 to the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)) and Part 5 of Schedule 7 to the Criminal Justice and Police Act 2001 (c. 16)

(b) 1969 c. 57

SCHEDULE

Regulation 5

Table 1

Amount of lump sum payment to person with mesothelioma

<i>Age of person with mesothelioma at diagnosis, or, if unknown, at date of claim</i>	<i>Payment £</i>
37 and under	52,772
38	51,747
39	50,722
40	49,698
41	48,673
42	47,648
43	47,137
44	46,621
45	46,112
46	45,599
47	45,086
48	43,653
49	42,219
50	40,781
51	39,349
52	37,911
53	36,888
54	35,864
55	34,841
56	33,812
57	32,789
58	30,125
59	27,460
60	24,799
61	22,133
62	19,469
63	17,829
64	16,189
65	14,551
66	12,911
67	11,272
68	10,939
69	10,604
70	10,273
71	9,941
72	9,608
73	9,325
74	9,037
75	8,759
76	8,480
77 and over	8,197

Table 2**Amount of lump sum payment to dependant**

<i>Age of person with mesothelioma at death</i>	<i>Payment</i> £
37 and under	23,953
38	23,362
39	22,774
40	22,185
41	21,595
42	21,007
43	20,444
44	19,874
45	19,313
46	18,751
47	18,189
48	17,496
49	16,804
50	16,112
51	15,423
52	14,732
53	14,165
54	13,603
55	13,039
56	12,473
57	11,911
58	10,351
59	8,787
60	7,226
61	5,662
62	4,098
63	3,651
64	3,207
65	2,752
66	2,306
67 and over	1,859

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for a lump sum payment under section 1 of the Mesothelioma, etc., Act (Northern Ireland) 2008 (“the Act”) to a person with diffuse mesothelioma or the person’s dependant.

Regulation 2 specifies certain payments, eligibility or receipt of which disqualifies a person from entitlement to a lump sum payment.

Regulation 3 prevents disqualification for payments which are liable to be repaid.

Regulation 4 requires the person with diffuse mesothelioma to have been in the United Kingdom at the time and place of exposure to asbestos.

Regulation 5 and the Schedule set out the amounts payable to a person with diffuse mesothelioma or a dependant, based on the age of the person with diffuse mesothelioma.

Sections 1(3) and 2(1)(b) and (c), (2)(b) and (c), (3)(e) and (4)(d) 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)).

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