

CHILD MAINTENANCE AND OTHER PAYMENTS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Lump Sum Payments: Mesothelioma etc.

Recovery of mesothelioma and other lump sum payments

Section 54: Amendment of Social Security (Recovery of Benefits) Act 1997

431. This section inserts a new *section 1A* into the Social Security (Recovery of Benefits) Act 1997, which provides the Secretary of State with powers to make regulations providing for the recovery of lump sum payments made under the Pneumoconiosis etc. (Workers' Compensation) Act 1979, the new scheme or those made on an extra-statutory basis following the rejection of a claim made under that Act.
432. *Subsection (1)* of new *section 1A* sets out that the Secretary of State may by regulations make provision about the recovery of a lump sum payment to which *subsection (2)* applies, where:
- a compensation payment is made to, or in respect of a person to whom, or in respect of whom, a lump sum payment has been made or is likely to be made; and
 - the compensation payment is made in respect of the same disease as the lump sum payment.
433. *Subsection (2)* applies to:
- a payment made in accordance with the Pneumoconiosis etc. (Workers' Compensation) Act 1979;
 - an extra-statutory payment following the rejection of a claim made under the 1979 Act; or
 - a payment made under the new scheme.
434. *Subsection (3)* sets out that regulations made under new *section 1A* may in particular:
- make provision about the recovery of the lump sum payment made to, or in respect of a dependant of the person with mesothelioma;
 - make provision enabling the recovery of a lump sum payment from a compensation payment (including provision enabling the recovery of an amount that reduces the compensation payment to nil);
 - enable the amount of lump sum payment made before commencement to be recovered from a compensation payment made after commencement;
 - make provision about certificates in respect of lump sum payments;

*These notes refer to the Child Maintenance and Other Payments
Act 2008 (c.6) which received Royal Assent on 5 June 2008*

- apply any provision of the Social Security (Recovery of Benefits) Act 1997, with or without modifications.
435. *Subsection (4)* provides that reference in *subsection (1)* to a payment in consequence of a disease are references to a payment made by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the disease.
436. *Subsection (5)* sets out definitions for the purposes of new *section 1A*. In particular, commencement means the date on which the section comes into force.