
Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008. (See end of Document for details)

STATUTORY INSTRUMENTS

2008 No. 1963

SOCIAL SECURITY

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

Made - - - - 17th July 2008

Coming into force - - 1st October 2008

The Secretary of State for Work and Pensions in exercise of the powers conferred by section 1(1) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979 ^{M1} and sections 46(3) and 47 of the Child Maintenance and Other Payments Act 2008 ^{M2} makes the following Regulations.

In accordance with section 7(3) of the Pneumoconiosis etc. (Worker's Compensation) Act 1979 and section 53(3) of the Child Maintenance and Other Payments Act 2008 and (these being the first Regulations made under section 47 of that Act) section 53(4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Marginal Citations

M1 1979 c. 41.

M2 2008 c. 6.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008.

(2) These Regulations shall come into force on 1st October 2008.

(3) In these Regulations—

“the Act” means the Child Maintenance and Other Payments Act 2008;

“claim” means a claim under section 46(1) of the Act;

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

“mesothelioma” means diffuse mesothelioma;

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

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Disqualifying payments

2.—(1) The following payments are prescribed for the purposes of section 47(1)(a), (2)(a) and (3)(e) of the Act (payments which, if made in consequence of diffuse mesothelioma, prevent the conditions provided for in section 47(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 ^{M3};
- (b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 ^{M4};
- [^{F1}(c) payment from any government department, authority, body corporate or employer exempted from insurance by or under section 3 of the Employers' Liability (Compulsory Insurance) Act 1969 or Article 7 of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972.]
- (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 47(1)(b) and (2)(b) of the Act (payments eligibility for which prevents the conditions provided for in section 47(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.

Textual Amendments

F1 [Reg. 2\(1\)\(c\)](#) substituted (1.10.2008) by [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2008 \(S.I. 2008/2365\)](#), regs. 1, 5

Marginal Citations

M3 [S.I. 2006/606](#).

M4 [S.I. 2005/439](#).

Disregarded payments

3. A payment made in error and which in consequence is liable to be repaid in accordance with a statutory provision or rule of law, is to be disregarded for the purpose of section 47(1)(a) or (2)(a) of the Act (conditions of entitlement).

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 46(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 46(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 that person at death.

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

6. At the end of regulation 3 of the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988 ^{M5} (payments to persons disabled by disease), add—

“(5) Where—

- (a) a payment is made to a person under section 46 of the Child Maintenance and Other Payments Act 2008 (the mesothelioma payment) in respect of diffuse mesothelioma,
- (b) subsequently it is determined that the same person is entitled to a payment under section 1(1) of the Act in respect of the same diffuse mesothelioma,

the amount payable under paragraph (1) shall be reduced by the amount of the mesothelioma payment.”.

Marginal Citations

M5 [S.I. 1988/668](#).

Signed by authority of the Secretary of State for Work and Pensions.

Department for Work and Pensions

William D McKenzie
Parliamentary Under-Secretary of State,

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SCHEDULE

Regulation 5

[^{F2}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	83,330
38	81,710
39	80,093
40	78,476
41	76,856
42	75,239
43	74,431
44	73,618
45	72,812
46	72,003
47	71,193
48	68,931
49	66,666
50	64,397
51	62,134
52	59,864
53	58,248
54	56,631
55	55,016
56	53,391
57	51,775
58	47,570
59	43,360
60	39,159
61	34,949
62	30,743
63	28,152
64	25,562
65	22,978

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66	20,388
67	17,799
68	17,272
69	16,744
70	16,222
71	15,697
72	15,171
73	14,724
74	14,269
75	13,832
76	13,392
77 and over	12,945]

Textual Amendments

F2 Sch. Table 1 substituted (1.4.2013) by [The Mesothelioma Lump Sum Payments \(Conditions and Amounts\) \(Amendment\) Regulations 2013 \(S.I. 2013/670\)](#), regs. 1(1), **2(a)** (with reg. 1(2)(3))

[F3]Table 2**Amount of lump sum payment to dependant**

<i>Age of person with mesothelioma at death</i>	<i>Payment £</i>
37 and under	43,366
38	42,433
39	41,503
40	40,573
41	39,643
42	38,713
43	37,823
44	36,924
45	36,040
46	35,151
47	34,263
48	33,169
49	32,076
50	30,985
51	29,897

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52	28,806
53	27,910
54	27,023
55	26,133
56	25,238
57	24,351
58	21,888
59	19,417
60	16,951
61	14,482
62	12,012
63	11,307
64	10,607
65	9,889
66	9,184
67 and over	7,180.]

Textual Amendments

F3 Sch. Table 2 substituted (1.4.2013) by The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2013 (S.I. 2013/670), regs. 1(1), **2(b)** (with reg. 1(2)(3))

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for a lump sum payment under section 46 of the Child Maintenance and Other Payments Act 2008 to a person with diffuse mesothelioma (mesothelioma) or the person's dependant.

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

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

Regulation 4 requires that the person with mesothelioma was in the United Kingdom during his or her exposure to asbestos.

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

Regulation 6 amends the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988 so that certain payments under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 are reduced by the amount of a payment for mesothelioma.

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A full impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors.

Status:

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Changes to legislation:

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