

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(a) and sections 46(3) and 47 of the Child Maintenance and Other Payments Act 2008(b) 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.

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.

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(c);

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

(a) 1979 c. 41.

(b) 2008 c. 6.

(c) S.I. 2006/606.

(d) S.I. 2005/439.

¹Para. (c) of reg. 2(1) substituted by reg. 5 of S.I. 2008/2365 as from 1.10.08.

- ▶¹(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^(a) or Article 7 of the Employers' Liability (Deflective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972^(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 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.

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.

[Regulation 6 amends regulation 3 of S.I. 1988/668.]

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

(a) 1969 c. 57.

(b) 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).

17th July 2008

William D McKenzie
Parliamentary Under-Secretary of State,
Department for Work and Pensions

SCHEDULE

Regulation 5

¹Table 1

¹Table 1 in the Sch. substituted by reg. 2(a) of S.I. 2014/868 as from 1.4.14.

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>
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Amount of lump sum payment to dependant

37 and under	85,580
38	83,916
39	82,256
40	80,595
41	78,931
42	77,270
43	76,441
44	75,606
45	74,778
46	73,947
47	73,115
48	70,792
49	68,466
50	66,139
51	63,812
52	61,480
53	59,821
54	58,160
55	56,501
56	54,833
57	53,173
58	48,854
59	44,531
60	40,216
61	35,893
62	31,573
63	28,912
64	26,252
65	23,598
66	20,938
67	18,280
68	17,738
69	17,196
70	16,660
71	16,121
72	15,581
73	15,122
74	14,654
75	14,205
76	13,754
77 and over	13,295◀

Sch.

¹Table 2 in the Sch. substituted by reg. 2(b) of S.I. 2014/868 as from 1.4.14.

¹Table 2

Amount of lump sum payment to dependant

<i>Age of person with mesothelioma at death</i>	<i>Payment £</i>
37 and under	44,537
38	43,579
39	42,624
40	41,668
41	40,713
42	39,758
43	38,844
44	37,921
45	37,013
46	36,100
47	35,188
48	34,065
49	32,942
50	31,822
51	30,704
52	29,584
53	28,664
54	27,753
55	26,839
56	25,919
57	25,008
58	22,479
59	19,941
60	17,409
61	14,873
62	12,336
63	11,612
64	10,893
65	10,156
66	9,432
67 and over	7,374;◀

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.

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

