

*These notes refer to the Mesothelioma, etc., Act (Northern Ireland) 2008 (c.9) which received Royal Assent on 2 July 2008*

# Mesothelioma, etc., Act (Northern Ireland) 2008

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Recovery of mesothelioma and other lump sum payments*

#### ***Section 8: Amendment of Social Security (Recovery of Benefits) (Northern Ireland) Order 1997***

*Section 8* inserts a new Article 3A into the Recovery of Benefits Order, which provides the Department with the power to make regulations providing for the recovery of the lump sum payments set out in paragraph (2) of Article 3A.

Paragraph (1) of Article 3A sets out that the Department may by regulations make provision about the recovery of a lump sum payment to which paragraph (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.

Paragraph (2) applies to—

- a payment made in accordance with the 1979 Order;
- an extra-statutory payment following the rejection of a claim made under the 1979 Order; or
- a payment made under the new scheme.

Paragraph (3) sets out that regulations made under Article 3A 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 diffuse 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; and
- apply any provision of the Recovery of Benefits Order, with or without modifications.

Paragraph (4) provides that references in paragraph (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.

### ***Section 9: Regulations***

*Section 9* provides the Department with the power to make regulations, which includes power to make such incidental, supplementary, consequential or transitional provision as the Department thinks fit and provides for a person to exercise a discretion in dealing with any matter.

### ***Section 10: Assembly control***

*Section 10* provides that any regulations made under *section 1* and the first regulations made under *section 2* are subject to the confirmatory procedure and that any other regulations made under any other provision of this Bill are subject to the negative resolution procedure.