
STATUTORY INSTRUMENTS

2008 No. 1596

**The Social Security (Recovery of Benefits)
(Lump Sum Payments) Regulations 2008**

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 and shall come into force on 1st October 2008.

(2) In these Regulations—

“the Act” means the Social Security (Recovery of Benefits) Act 1997;

[^{F1} “the 2014 Act ” means the Mesothelioma Act 2014;]

“compensator” means a person making a compensation payment [^{F2}and includes the scheme administrator who makes a payment in accordance with the Diffuse Mesothelioma Payment Scheme;]

[^{F3}“Compensation Recovery Unit” means the Compensation Recovery Unit, part of the Department for Work and Pensions, at Wear View House, 1 Eden Street West, Sunderland, SR1 3EY;]

[^{F4}“Diffuse Mesothelioma Payment Scheme” means the scheme established by the Diffuse Mesothelioma Payment Scheme Regulations 2014;]

[^{F5}“lump sum payment” means a payment to which any of paragraphs (a) to (d) of section 1A(2) of the Act applies,] except in relation to regulation 18(1)(b);

“recoverable benefits” has the same meaning as in section 1(4)(c) of the Act;

[^{F6}“recoverable lump sum payment”—

- (a) in relation to a compensation payment which is a payment under the Diffuse Mesothelioma Payment Scheme, means any specified lump sum payment which is recoverable by virtue of regulation 4A;
- (b) in relation to any other description of compensation payment, means any lump sum payment which is recoverable by virtue of regulation 4;]

[^{F7}“specified lump sum payment” means a lump sum payment within paragraph (a), (b) or (c) of section 1A(2) of the Act;]

F1 Words in reg. 1(2) inserted (1.7.2014) by [The Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) \(Amendment\) Regulations 2014 \(S.I. 2014/1456\)](#), reg. 1(2), **Sch. para. 2(a)**

F2 Words in reg. 1(2) inserted (1.7.2014) by [The Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) \(Amendment\) Regulations 2014 \(S.I. 2014/1456\)](#), reg. 1(2), **Sch. para. 2(b)**

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| F3 | Words in reg. 1(2) substituted (29.6.2023) by The Social Security and Universal Credit (Miscellaneous Amendments) Regulations 2023 (S.I. 2023/543), regs. 1(1), 3 |
| F4 | Words in reg. 1(2) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 2(c) |
| F5 | Words in reg. 1(2) substituted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 2(d) |
| F6 | Words in reg. 1(2) substituted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 2(e) |
| F7 | Words in reg. 1(2) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 2(f) |

Application of the Act

2.—(1) The provisions of the Act specified in paragraph (2) apply for the purposes of these Regulations with the modifications, where appropriate, prescribed in Schedule 1.

(2) The specified provisions are—

- (a) section 1(3) (cases in which this Act applies);
- (b) sections 10 to 14 (reviews and appeals);
- (c) sections 15 and 17 (courts);
- (d) sections 18 and 19 (reduction of compensation: complex cases);
- (e) sections 20 to 23 (miscellaneous);
- (f) sections 26 and 27 (provisions relating to Northern Ireland);
- (g) sections 28 to 31 (general);
- (h) section 33 (consequential amendments and repeals);
- (i) section 34(1) and (3) (short title and extent);
- (j) Schedule 1 (compensation payments – exempted payments and power to disregard small payments).

Consequential amendments

3. The consequential amendments set out in Schedule 2 apply for the purposes of these Regulations.

[^{F8}Recovery of lump sum payments from compensation payment made otherwise than under Diffuse Mesothelioma Payment Scheme]

4.—(1) [^{F9}a lump sum payment]where—

- (a) a compensation payment in consequence of a disease is made to or in respect of—
 - (i) a person (“P”); or
 - (ii) a dependant of P,

to whom, or in respect of whom, a lump sum payment has been, or is likely to be, made; and

[^{F10}(ab) the compensation payment is not a payment under the Diffuse Mesothelioma Payment Scheme; and]

- (b) the compensation payment is made in consequence of the same disease as the lump sum payment.

[^{F11}(1A) The Secretary of State may also recover the amount of lump sum payments to which section 1A(2)(d) of the Act applies where—

- (a) any such payment has been, or is likely to be, made to one or more dependants of P;
- (b) by virtue of a notice given under section 3(3) of the 2014 Act, any other dependant of P has ceased to be eligible for a lump sum payment to which section 1A(2)(d) of the Act applies; and
- (c) a compensation payment in consequence of P's diffuse mesothelioma is made to that other dependant.]

(2) In paragraph (1), references to a payment made in consequence of a disease—

- (a) 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; but
- (b) do not include references to a payment mentioned in Part 1 of Schedule 1 to the Act.

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| F8 | Reg. 4 substituted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456) , reg. 1(2), Sch. para. 3(2) |
| F9 | Words in reg. 4(1) substituted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456) , reg. 1(2), Sch. para. 3(3)(a) |
| F10 | Reg. 4(1)(ab) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456) , reg. 1(2), Sch. para. 3(3)(b) |
| F11 | Reg. 4(1A) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456) , reg. 1(2), Sch. para. 3(4) |

[^{F12}**Recovery of specified lump sum payments from compensation payment under Diffuse Mesothelioma Payment Scheme**

4A. The Secretary of State may recover the amount of a specified lump sum payment where—

- (a) a compensation payment in consequence of diffuse mesothelioma is made to or in respect of P, or to a dependant of P, and a lump sum payment has been, or is likely to be, made to P or in respect of P;
- (b) that compensation payment is a payment under the Diffuse Mesothelioma Payment Scheme; and
- (c) the disease in consequence of which the specified lump sum payment was made is also diffuse mesothelioma.]

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| F12 | Reg. 4A inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456) , reg. 1(2), Sch. para. 4 |
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Application of these Regulations to a dependant of P

5.—(1) Subject to paragraph (2), in these Regulations and any provision of the Act as modified any reference to P is to be construed as if it included a reference to a dependant of P where that dependant is the person to whom, or in respect of whom, a lump sum payment is made.

(2) Paragraph (1) does not apply in relation to regulations 4, 10(7) and 12(7) and sections 15 and 23(2) of, and paragraphs 3(a) and 5(1) of Part 1 of Schedule 1 to, the Act.

Compensation payments to which these Regulations apply

6.—^[F13](1) ^[F14]Except as stated in paragraph (2)] these Regulations apply in relation to compensation payments made on or after the day on which section 54 of the Child Maintenance and Other Payments Act 2008 comes into force.

^[F15](2) In any case where—

- (a) the lump sum payment falls within section 1A(2)(d) of the Act; or
- (b) paragraphs (a) to (c) of regulation 4A apply;

these Regulations apply only in relation to compensation payments which are made on or after 31st March 2014.]

- F13** Reg. 6(1): reg. 6 renumbered as reg. 6(1) (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), **Sch. para. 5(a)**
- F14** Words in reg. 6(1) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), **Sch. para. 5(b)**
- F15** Reg. 6(2) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), **Sch. para. 5(c)**

Exempted trusts and payments

7.—(1) The following trusts are prescribed for the purposes of paragraph 4 of Schedule 1 to the Act—

- (a) the Macfarlane Trust established on 10th March 1988 partly out of funds provided by the Secretary of State to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia;
- (b) the Macfarlane (Special Payments) Trust established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;
- (c) the Macfarlane (Special Payments) (No. 2) Trust established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;
- (d) the Eileen Trust established on 29th March 1993 out of funds provided by the Secretary of State, for the benefit of persons eligible for payment in accordance with its provisions;
- (e) a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for interim payments in accordance with its provisions;
- (f) a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments, other than interim payments, in accordance with its provisions.
- ^[F16](g) the UK Asbestos Trust established on 10th October 2006 for the benefit of certain persons suffering from asbestos-related diseases ^[F17]provided that any payment made in respect of diffuse mesothelioma out of this Trust is not made to or in respect of a person who has received a payment under the Diffuse Mesothelioma Payment Scheme];
- (h) 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 paragraph 8 of Schedule 1 to the Act—

- (a) any payment made under the Vaccine Damage Payments Act 1979 ^{M1} to or in respect of P;
- (b) any award of compensation made to or in respect of P under the Criminal Injuries Compensation Act 1995 ^{M2} or by the Criminal Injuries Compensation Board under the Criminal Injuries Compensation Scheme 1990 or any earlier scheme or under the Criminal Injuries Compensation (Northern Ireland) Order 2002 ^{M3};
- (c) any payment made to P in respect of sensorineural hearing loss where the loss is less than 50 decibels in one or both ears;
- (d) any contractual amount paid to P by an employer of P in respect of a period of incapacity for work;
- (e) any payment made under the National Health Service (Injury Benefits) Regulations 1995 ^{M4}, the National Health Service (Scotland) (Injury Benefits) Regulations 1998 ^{M5} or the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001 ^{M6};
- (f) any payment made by or on behalf of the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by the Secretary of State on 24th April 1992 or, in Scotland, on 10th April 1992;
- (g) any payment made from the Skipton Fund, the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions;
- (h) any payment made from the London Bombings Relief Charitable Fund, the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005.
- [^{F18}(i) any payment made by MFET Limited, the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products.]
- [^{F19}(j) any payment made from the Caxton Foundation, the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions.]
- [^{F20}(k) any payment made from the Scottish Infected Blood Support Scheme administered by the Common Services Agency (constituted by section 10 of the National Health Service (Scotland) Act 1978).]
- [^{F21}(l) any payment made from a scheme established or approved by the Secretary of State or trust established with funds provided by the Secretary of State for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;
- (m) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.]
- [^{F22}(n) any payment of victims' payments, or of a lump sum, under the Victims' Payments Regulations 2020.]
- [^{F23}(o) any payment made under the Windrush Compensation Scheme (Expenditure) Act 2020.]

- [^{F24}(p) any payment made for the purpose of providing compensation or support in respect of the fire on 14th June 2017 at Grenfell Tower;
- (q) any payment made by the Post Office or the Secretary of State for the purpose of providing compensation or support which is—
- (i) in connection with the failings of the Horizon system; or
- (ii) otherwise payable following the judgment in *Bates and Others v Post Office Ltd* ((No. 3) “Common Issues”).]

[^{F25}(3) In this regulation—

“the Horizon system” means any version of the computer system used by the Post Office known as Horizon, Horizon Legacy, Horizon Online or HNG-X;

“the Post Office” means Post Office Limited (registered number 02154540).]

- F16** Reg. 7(1)(g) - Reg. 7(1)(h) added (13.7.2009) by Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2009 (S.I. 2009/1494), regs. 1, **2(2)**
- F17** Words in reg. 7(1)(g) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), **Sch. para. 6**
- F18** Reg. 7(2)(i) added (6.4.2010) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 (S.I. 2010/641), regs. 1(1), **13**
- F19** Reg. 7(2)(j) added (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **24**
- F20** Reg. 7(2)(k) added (3.4.2017) by The Social Security (Scottish Infected Blood Support Scheme) Regulations 2017 (S.I. 2017/329), regs. 1, **9**
- F21** Reg. 7(2)(l)(m) added (23.10.2017) by The Social Security (Infected Blood and Thalidomide) Regulations 2017 (S.I. 2017/870), regs. 1, **9**
- F22** Reg. 7(2)(n) inserted (29.5.2020) by The Victims Payments Regulations 2020 (S.I. 2020/103), regs. 1(3), **27(3)**
- F23** Reg. 7(2)(o) inserted (1.1.2022) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2021 (S.I. 2021/1405), regs. 1, **10**
- F24** Reg. 7(2)(p)(q) inserted (9.7.2023) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/640), regs. 1(1), **10(a)**
- F25** Reg. 7(3) inserted (9.7.2023) by The Social Security (Income and Capital Disregards) (Amendment) Regulations 2023 (S.I. 2023/640), regs. 1(1), **10(b)**

Marginal Citations

- M1** 1979 c.17.
- M2** 1995 c. 53.
- M3** S.I. 2002/796 (N.I. 1).
- M4** S.I. 1995/866.
- M5** S.I. 1998/1594 (S. 84).
- M6** S.R. 2001 No. 367.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008, PART 1.