

---

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 <sup>M1</sup> and sections 46(3) and 47 of the Child Maintenance and Other Payments Act 2008 <sup>M2</sup> 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.

### 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 <sup>M3</sup>;
- (b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 <sup>M4</sup>;
- [<sup>F1</sup>(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.

**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<sup>M5</sup> (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,

**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)

## SCHEDULE

Regulation 5

[F2]Table 1

**Amount of lump sum payment to person with mesothelioma**

<i>Age of person with mesothelioma at first diagnosis or, if unknown, date of claim</i>	<i>Payment</i>
	£
37 or under	107,038
38	104,957
39	102,881
40	100,804
41	98,723
42	96,645
43	95,609
44	94,563
45	93,528
46	92,487
47	91,448
48	88,544
49	85,635
50	82,720
51	79,814
52	76,896
53	74,820
54	72,745
55	70,671
56	68,582
57	66,504
58	61,103
59	55,696
60	50,300
61	44,894
62	39,491
63	36,165
64	32,835
65	29,515

**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)

66	26,188
67	22,863
68	22,186
69	21,506
70	20,838
71	20,162
72	19,489
73	18,914
74	18,328
75	17,767
76	17,203
77 or over	16,631]

**F2** Sch. Table 1 substituted (1.4.2023) by The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2023 (S.I. 2023/373), regs. 1(1), **2(a)** (with reg. 1(2))

[<sup>F3</sup>Table 2

**Amount of lump sum payment to dependant**

<i>Age of person with mesothelioma at death</i>	<i>Payment</i>
	£
37 or under	55,704
38	54,507
39	53,312
40	52,117
41	50,922
42	49,728
43	48,584
44	47,430
45	46,294
46	45,152
47	44,011
48	42,609
49	41,202
50	39,801
51	38,403

**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)

52	37,000
53	35,851
54	34,712
55	33,569
56	32,418
57	31,278
58	28,115
59	24,940
60	21,774
61	18,604
62	15,429
63	14,524
64	13,625
65	12,703
66	11,796
67 or over	9,222]

**F3** Sch. Table 2 substituted (1.4.2023) by The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2023 (S.I. 2023/373), regs. 1(1), **2(b)** (with reg. 1(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.

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008.