

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);

(a) 1979 c. 41.
(b) 2008 c. 6.
(c) S.I. 2006/606.

- (b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(a);
- (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(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.

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(c) (payments to persons disabled by disease), add—

(a) S.I. 2005/439.
 (b) 1969 c.57.
 (c) S.I. 1988/668.

“(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.”.

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

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

17th July 2008

SCHEDULE

Regulation 5

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	52,772
38	51,747
39	50,722
40	49,698
41	48,673
42	47,648
43	47,137
44	46,621
45	46,112
46	45,599
47	45,086
48	43,653
49	42,219
50	40,781
51	39,349
52	37,911
53	36,888
54	35,864
55	34,841
56	33,812
57	32,789
58	30,125
59	27,460
60	24,799
61	22,133
62	19,469
63	17,829
64	16,189

65	14,551
66	12,911
67	11,272
68	10,939
69	10,604
70	10,273
71	9,941
72	9,608
73	9,325
74	9,037
75	8,759
76	8,480
77 and over	8,197

Table 2
Amount of lump sum payment to dependent

<i>Age of person with mesothelioma at death</i>	<i>Payment £</i>
37 and under	23,953
38	23,362
39	22,774
40	22,185
41	21,595
42	21,007
43	20,444
44	19,874
45	19,313
46	18,751
47	18,189
48	17,496
49	16,804
50	16,112
51	15,423
52	14,732
53	14,165
54	13,603
55	13,039
56	12,473
57	11,911
58	10,351
59	8,787
60	7,226
61	5,662
62	4,098
63	3,651
64	3,207
65	2,752
66	2,306
67 and over	1,859

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.

STATUTORY INSTRUMENTS

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**The Mesothelioma Lump Sum Payments (Conditions and
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