These Draft Regulations supersede the Draft Regulations of the same name laid before both Houses of Parliament on 18th June 2008 and are issued free of charge to all known recipients of those Draft Regulations.
Draft Regulations laid before Parliament under section 7(3) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979 and section 53(3) and (4) of the Child Maintenance and Other Payments Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 000

SOCIAL SECURITY

The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008

Made - - - -	*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(**1**) and sections 46(3) and 47 of the Child Maintenance and Other Payments Act 2008(**2**) 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;

(**1**) 1979 c. 41.
(**2**) 2008 c. 6.

"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(**3**);

(b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(**4**);

(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(**5**);

(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

(**3**) S.I. 2006/606.
(**4**) S.I. 2005/439.
(**5**) 1969 c.57.

(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(**6**) (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.".

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

Name
Parliamentary Under-Secretary of State,
Department for Work and Pensions

Date

(**6**) S.I. 1988/668.