Draft Regulations laid before Parliament under section 3(11) of the Compensation Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

COMPENSATION

The Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006

Made - - - - 2006

Coming into force in accordance with regulation 1(1)

A draft of these Regulations has been approved by a resolution of each of House of Parliament pursuant to section 3(11) of the Compensation Act 2006.

The Treasury, in exercise of the powers conferred by section 3(7)(**1**), (8)(**2**) and (11) of the Compensation Act 2006(**3**), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006 and come into force on the day after the day on which they are made.

(2) In these Regulations—

"the Act" means the Compensation Act 2006;

"the FSCS Transitional Order" means the Financial Services and Markets Act 2000 (Transitional Provisions, Repeals and Savings)(Financial Services Compensation Scheme) Order 2001(**4**);

"FSMA" means the Financial Services and Markets Act 2000(**5**).

(3) Subject to paragraph (2), expressions used in these Regulations shall have the same meaning as the same expressions used in FSMA and in the FSCS Transitional Order.

(**1**) The expression "responsible person" is defined in section 3(1) of the Compensation Act 2006 and by virtue of subsection 3(10)(a) include a reference to an insurer of a responsible person.
(**2**) The expression "transitional compensation provision" is defined in section 3(10)(b) of the Compensation Act 2006.
(**3**) 2006 c. 29.
(**4**) S.I. 2001/2967 to which there are amendments not relevant to these Regulations.
(**5**) 2000 c. 8.

Amendments to the FSCS Transitional Order

2.—(1) The FSCS Transitional Order is amended as follows.

(2) In article 9(1)(a) (article 9 defaults occurring before commencement) after "subject to article" insert "9A or".

(3) After article 9 insert—

"**Contributions in relation to mesothelioma claims**

9A.—(1) This article applies where—

(a) a claimant, if he had not received payment from a responsible person, could claim by virtue of this Order (other than this article) from the scheme manager in circumstances where section 3(1) of the Compensation Act 2006 applies; and

(b) the circumstances in paragraph (2) apply.

(2) Compensation may be paid to a responsible person ("A") by the scheme manager only where and to the extent that—

(a) A could claim a contribution from another responsible person in accordance with section 3(3)(a) of the Compensation Act 2006, but

(b) A is unable or likely to be unable to obtain a contribution, because an authorised insurance company of the other responsible person is unable or likely to be unable to satisfy the claim for a contribution.

(3) The Authority may make rules modifying the new scheme to enable the scheme manager to receive, assess, determine and make payments in respect of applications for compensation from responsible persons and give guidance in relation to those rules.

(4) Such rules may, in particular, permit—

(a) payment of compensation to a responsible person notwithstanding that he has made a payment to the victim;

(b) payment of compensation to a responsible person not exceeding the amount a claimant would, if he had not received payment in full or of a contribution from such a person, have been able to recover from the scheme manager directly in respect of the contribution;

(c) payment to a claimant in respect of an application for compensation made on or after 25 July 2006, including an application which relates to a victim's claim which is settled on or after 3 May 2006 or in relation to which there are legal proceedings which are determined on or after 3 May 2006.

(5) Where payment is made to a victim by a responsible person by virtue of rules made under this article, articles 9, 10 and 12 do not apply.

(6) In this article—

"claimant" means a victim or a responsible person;

"victim" has the same meaning as in section 3 of the Compensation Act 2006 (mesothelioma: damages).

(7) In this article, "responsible person" has the same meaning as in section 3 of the Compensation Act 2006 and, except for in paragraph (2)(b) and in the definition of "claimant", includes an insurer of a responsible person.

(8) The power granted to the Authority in this article is in addition, and without prejudice, to any other power of the Authority."