STATUTORY RULES OF NORTHERN IRELAND

2008 No. 354

SOCIAL SECURITY

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

Made - - - - *27th August 2008*

Coming into operation *1st October 2008*

Approved by resolution of the Assembly on 17th February 2009

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 1(3) and 2(1)(b) and (c), (2)(b) and (c), (3)(e) and (4)(d) of the Mesothelioma, etc., Act (Northern Ireland) 2008(**1**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations (Northern Ireland) 2008 and shall come into operation on 1st October 2008.

(2) In these Regulations—

"the Act" means the Mesothelioma, etc., Act (Northern Ireland) 2008;

"claim" means a claim under section 1(1) of the Act;

"deceased" means a person who, immediately before death, had mesothelioma;

"enactment" includes any statutory provision;

"lump sum payment" means a payment under section 1(2) of the Act;

"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 2(1)(a), (2)(a) and (3)(e) of the Act (payments which, if made in consequence of mesothelioma, prevent the conditions provided for in section 2(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(**2**);

(**1**) 2008 c. 9 (N.I.)
(**2**) S.I. 2006/606

(b) payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(**3**);

(c) payment from any government department, authority, body corporate or employer exempted from insurance by or under Article 7 of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972(**4**) or 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 2(1)(b) and (2)(b) of the Act (payments eligibility for which prevents the conditions provided for in section 2(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 an enactment or rule of law is to be disregarded for the purpose of section 2(1)(a) or (2)(a) of the Act.

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 1(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 1(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 the person at death.

(**3**) S.I. 2005/439
(**4**) S.I 1972/963 (N.I. 6); Article 7 was amended by paragraph 1 of Schedule 2 to the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)) and Part 5 of Schedule 7 to the Criminal Justice and Police Act 2001 (c. 16)
(**5**) 1969 c. 57

Sealed with the Official Seal of the Department for Social Development on 27th August 2008

(L.S.)

B McGahan
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