

For the attention of: PERSONAL INJURY CLAIMS MANAGERS

The 2008 Diffuse Mesothelioma Scheme

Background

From 1 October 2008 a new scheme was introduced via the Child Maintenance and Other Payments Act 2008, which allows for the recovery of all lump sum payments made under the Pneumoconiosis etc (Workers' Compensation) Act 1979 and the 2008 Diffuse Mesothelioma Scheme.

Child Maintenance and Other Payments Act

The 2008 Diffuse Mesothelioma Scheme (known as the 2008 scheme) was introduced via the Child Maintenance and Other Payments Act 2008. The scheme will enable lump sum payments to be made to people who suffer from diffuse mesothelioma, where they were exposed to asbestos in the UK and do not currently qualify for help from the Government. The 2008 scheme will operate alongside the Pneumoconiosis etc. (Workers' Compensation) Act 1979 (known as the 1979 Act), which currently pays lump sum payments to sufferers of various dust related diseases.

Compensation Recovery Scheme

Any lump sums paid under the 2008 scheme or the 1979 Act will be recoverable under the Social Security (Recovery of Benefits) Act 1997. Lump sums (including lump sums paid before the 2008 scheme commenced) will be recovered from compensation awards that are paid on or after 1 October 2008.

Important Changes

- The new legislation allows for a certificate to be increased at any time to include a lump sum payment paid under the 2008 Scheme or the 1979 Act. The current arrangements for increasing certificates, to include Social Security benefits, remains unchanged, in that these can only be added once the certificate has expired.
- The Compensation Recovery Unit (CRU) will review all certificates where a lump sum payment has been identified and a certificate is in issue on the 1 October 2008. The revised certificate will supersede all previous certificates.
- Where a compensation award is reduced to take account of lump sum recoveries, the compensator must reduce the general damages element of the compensation award before reducing any of the special damages element of the award. (Social Security (Recovery of Benefits)(Lump Sum Payments) Regulations 2008 (Reg 12(6)).
- The amount of lump sum recovered cannot exceed the total amount of compensation paid.

- Certain exemptions which apply to the recovery of benefits will not apply to the recovery of lump sums. The CRU website will provide further information on exemptions for lump sum payments. (www.dwp.gov.uk/cru)

What these changes mean to you

- The “Certificate of Recoverable Benefits” will be renamed “Certificate” and will provide details of both lump sum payments and recoverable benefits, which have been or are likely to have been paid.
- Lump sum payments made under the 2008 Scheme will be shown on the certificate as ‘MESO’.
- Lump sum payments made under the 1979 Act will be shown on the certificate as ‘PWCA’.
- Where lump sum payments are recorded on the certificate the relevant legislation will be shown.

Further information

Z1 – Recovery of Benefits/Lump Sum Payments and NHS Charges

GL27 – Compensation: Social Security Benefits and Lump Sum Payments

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