



# Damages (Asbestos-related Conditions) (Scotland) Act 2009

## 2009 asp 4

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 11th March 2009 and received Royal Assent on 17th April 2009**

An Act of the Scottish Parliament to provide that certain asbestos-related conditions are actionable personal injuries; and for connected purposes.

PROSPECTIVE

### **1 Pleural plaques**

- (1) Asbestos-related pleural plaques are a personal injury which is not negligible.
- (2) Accordingly, they constitute actionable harm for the purposes of an action of damages for personal injuries.
- (3) Any rule of law the effect of which is that asbestos-related pleural plaques do not constitute actionable harm ceases to apply to the extent it has that effect.
- (4) But nothing in this section otherwise affects any enactment or rule of law which determines whether and in what circumstances a person may be liable in damages in respect of personal injuries.

PROSPECTIVE

### **2 Pleural thickening and asbestosis**

- (1) For the avoidance of doubt, a condition mentioned in subsection (2) which has not caused and is not causing impairment of a person's physical condition is a personal injury which is not negligible.
- (2) Those conditions are—
  - (a) asbestos-related pleural thickening; and
  - (b) asbestosis.

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Damages (Asbestos-related Conditions) (Scotland) Act 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Accordingly, such a condition constitutes actionable harm for the purposes of an action of damages for personal injuries.
- (4) Any rule of law the effect of which is that such a condition does not constitute actionable harm ceases to apply to the extent it has that effect.
- (5) But nothing in this section otherwise affects any enactment or rule of law which determines whether and in what circumstances a person may be liable in damages in respect of personal injuries.

PROSPECTIVE

### 3 Limitation of actions

- (1) This section applies to an action of damages for personal injuries—
  - (a) in which the damages claimed consist of or include damages in respect of—
    - (i) asbestos-related pleural plaques; or
    - (ii) a condition to which section 2 applies; and
  - (b) which, in the case of an action commenced before the date this section comes into force, has not been determined by that date.
- (2) For the purposes of sections 17 and 18 of the Prescription and Limitation (Scotland) Act 1973 (c. 52) (limitation in respect of actions for personal injuries), the period beginning with 17 October 2007 and ending with the day on which this section comes into force is to be left out of account.

### 4 Commencement and retrospective effect

- (1) This Act (other than this subsection and section 5) comes into force on such day as the Scottish Ministers may, by order made by statutory instrument, appoint.
- (2) Sections 1 and 2 are to be treated for all purposes as having always had effect.
- (3) But those sections have no effect in relation to—
  - (a) a claim which is settled before the date on which subsection (2) comes into force (whether or not legal proceedings in relation to the claim have been commenced); or
  - (b) legal proceedings which are determined before that date.

#### Annotations:

#### Commencement Information

II S. 4 partly in force; s. 4(1) in force at Royal Assent see s. 4(1)

### 5 Short title and Crown application

- (1) This Act may be cited as the Damages (Asbestos-related Conditions) (Scotland) Act 2009.
- (2) This Act binds the Crown.

**Status:**

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**Changes to legislation:**

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**Commencement Orders yet to be applied to the Damages (Asbestos-related Conditions) (Scotland) Act 2009:**

Commencement Orders bringing provisions within this Act into force:

- [S.S.I. 2009/172 art. 2 commences \(2009 asp 4\)](#)