

2008 No. 353

SOCIAL SECURITY

The Mesothelioma Lump Sum Payments (Claims and Reconsiderations) Regulations (Northern Ireland) 2008

Made - - - - *27th August 2008*
Coming into operation - *1st October 2008*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 3(1) to (3), 4(2), 5(4)(c) and 9(2) of the Mesothelioma, etc., Act (Northern Ireland) 2008(a).

Citation, commencement and interpretation

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

(2) In these Regulations—

“claim” means a claim under section 1(1) of the Mesothelioma, etc., Act (Northern Ireland) 2008;

“mesothelioma” means diffuse mesothelioma.

Making a claim

2.—(1) Subject to paragraph (2), a claim must be made in writing, signed by or on behalf of the person making the claim, on a form approved by the Department and accompanied by the documents specified in the form.

(2) A claim may be made in such other manner, being in writing, as the Department may accept as sufficient in the circumstances of any particular case.

Time for making a claim

3.—(1) A claim by a person who has been diagnosed with mesothelioma before the coming into operation of these Regulations must be made within 12 months from the date on which these Regulations come into operation.

(2) A claim by any other person with mesothelioma must be made within 12 months from the date on which that person was first diagnosed with mesothelioma.

(3) A claim by a dependant must be made within 12 months from the date of death of the person who, immediately before death, had mesothelioma.

(a) 2008 c. 9 (N.I.)

(4) Subject to paragraph (5), where the Department considers there was good cause for the claim not being made within the 12 month time limit referred to in paragraphs (1) to (3), it may extend the time limit for such period as it considers appropriate in the circumstances.

(5) The Department shall not extend the time limit where the death or diagnosis occurred more than 12 months before the date on which these Regulations come into operation.

Reconsideration

4.—(1) An application made to the Department for reconsideration of a determination that a payment should or should not be made must—

- (a) be made within one month of the date of notification of the determination; and
- (b) specify the ground for the request and give such other relevant information as the Department may require in order to deal adequately with the reconsideration.

(2) The Department may, at any time, in writing, institute a reconsideration of a determination that a payment should or should not be made.

Appeal treated as reconsideration

5.—(1) Where a person appeals against a determination made by the Department on a claim, it may treat the appeal as an application for reconsideration under section 4 of the Mesothelioma, etc., Act (Northern Ireland) 2008.

(2) Where—

- (a) an appeal against a determination that a payment should not be made is treated as an application for reconsideration; and
- (b) on the reconsideration the Department decides that a payment should be made,

it shall not refer the appeal to an appeal tribunal.

(3) Except where paragraph (2) applies, where an appeal is treated as an application for reconsideration, the Department shall delay referring the appeal to the appeal tribunal until after the reconsideration.

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

(L.S.)

B McGahan
A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for claims for a lump sum payment for diffuse mesothelioma under section 1 of the Mesothelioma, etc., Act (Northern Ireland) 2008 (“the Act”) and for reconsideration of a determination on such a claim.

Regulations 2 and 3 provide respectively for the form and the time limits for a claim.

Regulation 4 provides for the form and time limits for a reconsideration.

Regulation 5 allows an appeal to be treated as an application for reconsideration either before or instead of an appeal.

Sections 3(1) to (3), 4(2), 5(4)(c) and 9(2) of the Act under which these Regulations are made were brought into operation, for the purpose only of authorising the making of regulations on 27th August 2008 and for all other purposes on 1st October 2008 by the Mesothelioma, etc., (2008 Act) (Commencement) Order (Northern Ireland) 2008 (S.R. 2008 No. 351 (C. 19)).

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