



# Mesothelioma Act 2014

## 2014 CHAPTER 1

### *Eligibility*

#### **2 Eligible people with diffuse mesothelioma**

- (1) A person diagnosed with diffuse mesothelioma is eligible for a payment under the scheme if—
- (a) a relevant employer has negligently or in breach of statutory duty caused or permitted the person to be exposed to asbestos,
  - (b) the person was first diagnosed with the disease on or after 25 July 2012,
  - (c) the person has not brought an action for damages in respect of the disease against the relevant employer or any insurer with whom the employer maintained employers' liability insurance at the time of the person's exposure to asbestos,
  - (d) the person is unable to bring an action for damages in respect of the disease against any employer of the person or any insurer with whom such an employer maintained employers' liability insurance (because they cannot be found or no longer exist or for any other reason), and
  - (e) the person has not received damages or a specified payment in respect of the disease and is not eligible to receive a specified payment.
- (2) In this section—
- “first diagnosed” has the meaning to be given to it by the scheme;
  - “relevant employer” means an employer who, at the time of the person's exposure to asbestos—
    - (a) was required by the compulsory insurance legislation to maintain insurance covering any liability arising because of the exposure to asbestos, or
    - (b) would have been required by the compulsory insurance legislation to maintain insurance covering any liability arising because of the exposure to asbestos if the legislation had been in force at that time;
  - “specified payment” has the meaning to be given to it by the scheme.

### 3 Eligible dependants

- (1) A dependant of a person who has died with diffuse mesothelioma is eligible for a payment under the scheme if —
  - (a) the person with the disease was eligible for a payment under the scheme (see section 2) but did not make an application in accordance with the scheme,
  - (b) no one has brought an action for damages in respect of the disease under the fatal accidents legislation, or on behalf of the estate of the person with the disease, against the relevant employer or any insurer with whom the employer maintained employers' liability insurance at the time of that person's exposure to asbestos,
  - (c) no one is able to bring an action for damages in respect of the disease under the fatal accidents legislation, or on behalf of the estate of the person with the disease, against any employer of that person or any insurer with whom such an employer maintained employers' liability insurance (because they cannot be found or no longer exist or for any other reason), and
  - (d) no one has received damages or a specified payment in respect of the disease or is eligible to receive a specified payment.
- (2) Where a person who has died with diffuse mesothelioma is first diagnosed with the disease following his or her death and would have been eligible for a payment under the scheme if the diagnosis had been made immediately before the death, assume for the purposes of subsection (1)(a) that the person was eligible for a payment under the scheme.
- (3) A person ceases to be an eligible dependant if the person gives notice in accordance with the scheme that he or she does not want a payment (and this may increase a payment for other dependants - see section 4(2)(b)).
- (4) Where a person with diffuse mesothelioma died on or after 25 July 2012 but before this Act came into force, assume for the purposes of subsections (1)(a) and (2) that this Act has been in force since immediately before the death.
- (5) In this section—
  - “first diagnosed” has the meaning to be given to it by the scheme;
  - “specified payment” has the meaning to be given to it by the scheme.