

## **DEREGULATION ACT 2015**

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### **EXPLANATORY NOTES**

#### **COMMENTARY ON SECTIONS**

##### ***Section 85: Power of HMRC to disclose information for purposes of certain litigation***

391. The Commissioners for Her Majesty's Revenue and Customs (HMRC) have a legal duty of confidentiality in respect of the information they hold, subject to certain exceptions. This section gives a statutory power to HMRC to disclose information to claimants under the fatal accidents legislation (defined in subsection (2)) or to the personal representatives of a deceased person who suffered a personal injury before death.
392. Where the victim of a personal injury is alive, HMRC are able to supply the necessary information (usually an employment history) under the Data Protection Act 1998 (section 7 of which confers a right of access to personal data). However, this "gateway" becomes unavailable where the victim has died and as a result HMRC will only disclose information about former employers of the deceased to claimants or personal representatives by order of a court. This measure avoids the need to obtain a court order, which currently adds to the costs of the claim and can delay the proceedings unnecessarily.
393. The disclosure problem is most acute in fatal diseases such as diffuse mesothelioma. Since the negligence (exposure to asbestos) occurred many years before the symptoms arose, it can be hard to prove how, when and where the victim was exposed. HMRC employment records are important in tracking down a potentially liable employer or insurer in these cases.
394. The Department for Work and Pensions Diffuse Mesothelioma Payment Scheme (which was implemented under the Mesothelioma Act 2014) may also require disclosure of HMRC information. The scheme began taking applications in April 2014 and makes payments to eligible sufferers of mesothelioma (or their eligible dependants, where the victim has died) who are unable to trace a liable employer or insurer against whom to bring a claim for civil damages. Delays in obtaining HMRC records could also have an impact on dependency claims under that scheme. The section therefore also enables disclosure to persons who wish to make an application for a payment under the scheme on the basis that they are dependants of the victim.
395. The section forms part of the law of England and Wales, Scotland and Northern Ireland. It comes into force on the day on which the Act is passed.