
STATUTORY INSTRUMENTS

2008 No. 1596

**The Social Security (Recovery of Benefits)
(Lump Sum Payments) Regulations 2008**

PART 5

Miscellaneous

Information to be provided by the compensator

15. The following information is prescribed for the purposes of sections 21(3)(a) and 23(1) of the Act—

- (a) the full name and address of P;
- (b) where known, the date of birth or national insurance number of P, or both if both are known; and
- (c) the nature of the disease.

Information to be provided by P ^[F1]and the scheme administrator]

16.—^[F2(1)] The following information is prescribed for the purposes of ^[F3]section 23(2)(a) of the Act]—

- (a) whether P has claimed or may claim a compensation payment, and if so, the full name and address of the person against whom the claim was or may be made;
- (b) the amount of any compensation payment and the date on which it was made;
- (c) the amount of the lump sum payment claimed, the type of that payment and the date on which it was paid.

^[F4(2)] For the purposes of section 23(2)(b) of the Act, the prescribed information is the amount of the lump sum payment falling within section 1A(2)(d) and the date on which it was paid.]

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| <p>F1 Words in reg. 16 inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 13(a)</p> <p>F2 Reg. 16(1): reg. 16 renumbered as reg. 16(1) (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 13(b)</p> <p>F3 Words in reg. 16(1) substituted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 13(c)</p> <p>F4 Reg. 16(2) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 13(d)</p> |
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Provision of information

17. A person required to give information to the Secretary of State under regulation 15 or 16 is to do so by sending it to the Compensation Recovery Unit not later than 14 days after—

- (a) where the person is one to whom regulation 15 applies, the date on which the compensator receives a claim for compensation from P in respect of the disease;
- (b) where the person is one to whom regulation 16 applies, the date on which the Secretary of State requests the information from P [^{F5} or the scheme administrator, as the case may be].

F5 Words in [reg. 17\(b\)](#) inserted (1.7.2014) by [The Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) \(Amendment\) Regulations 2014](#) (S.I. 2014/1456), [reg. 1\(2\)](#), [Sch. para. 14](#)

Periodical payments

18.—(1) This regulation applies where in final settlement of P's claim, an agreement is entered into—

- (a) for the making of periodical payments (whether of an income or capital nature); or
- (b) for the making of such payments and lump sum payments,

and, those payments would fall to be treated for the purposes of the Act as compensation payments.

(2) Where this regulation applies—

- (a) the compensator in question is to be taken to have made a single compensation payment on the day of settlement;
- (b) the total of the payments due to be made under the agreement referred to in paragraph (1) are to be taken to be a compensation payment for the purposes of the Act; and
- (c) that single compensation payment is a payment from which lump sum payments may be recovered under these Regulations.

(3) In any case where—

- (a) the person making the periodical payments (“the secondary party”) does so in pursuance of arrangements entered into with another (“the primary party”) (as in a case where the primary party purchases an annuity for P from the secondary party); and
- (b) apart from those arrangements, the primary party would have been regarded as the compensator,

then for the purposes of the Act, the primary party is to be regarded as the compensator and the secondary party is not to be so regarded.

(4) In this regulation—

“the day of settlement” means—

- (a) if the agreement referred to in paragraph (1) is approved by a court, the day on which that approval is given; and
- (b) in any other case, the day on which the agreement is entered into;

“a single compensation payment” means the total amount of the payments due to be made under the agreement referred to in paragraph (1).

Adjustments

19.—(1) Where the conditions specified in subsection (1) and paragraphs (a) and (b) of subsection (2) of section 14 of the Act are satisfied, the Secretary of State is to pay the difference between the amount that has been paid and the amount that ought to have been paid to the compensator.

(2) Where the conditions specified in subsection (1) and paragraphs (a) and (b) of subsection (3) of section 14 of the Act are satisfied, the compensator is to pay the difference between the amount that has been paid and the amount that ought to have been paid to the Secretary of State.

(3) Where the Secretary of State is making a refund under paragraph (1), or demanding a payment of a further amount under paragraph (2), the Secretary of State is to send to the compensator (with the refund or demand) and to the person to whom the compensation payment was made a statement showing—

- (a) the total amount that has already been paid to the Secretary of State;
- (b) the amount that ought to have been paid; and
- (c) the difference, and whether a repayment by the Secretary of State or a further payment by the compensator to the Secretary of State is required.

(4) This paragraph applies where—

- (a) the amount of the compensation payment by the compensator was calculated under regulation 12; and
- (b) the Secretary of State has made a payment under paragraph (1).

(5) Where paragraph (4) applies, the amount of the compensation payment is to be recalculated under regulation 12 to take account of the fresh certificate and the compensator must pay the amount of the increase (if any) to the person to whom the compensation payment was made.

[^{F6}(5A) This paragraph applies where—

- (a) the amount of the payment made by the compensator was calculated under regulation 12A; and
- (b) the Secretary of State has made a payment under paragraph (1).

(5B) Where paragraph (5A) applies, the amount of the compensation payment is to be recalculated under regulation 12A to take account of the fresh certificate and the compensator must pay the amount of the increase (if any) to the applicant as defined by regulation 3 of the Diffuse Mesothelioma Payment Scheme Regulations 2014.]

(6) This paragraph applies where—

- (a) the amount of the compensation payment made by the compensator was calculated under regulation 12;
- (b) the compensator has made a payment under paragraph (2); and
- (c) the fresh certificate issued after the review or appeal was required as a result of P or such other person to whom the compensation payment was made supplying to the compensator information, knowing it to be incorrect or insufficient, with the intent of enhancing the compensation payment calculated under regulation 12, and the compensator supplying that information to the Secretary of State without knowing it to be incorrect or insufficient.

(7) Where paragraph (6) applies, the compensator may recalculate the compensation payment under regulation 12 to take account of the fresh certificate and may require the repayment of the difference (if any) between the payment made and the payment as so recalculated by the person to whom the compensator made the compensation payment.

[^{F7}(8) This paragraph applies where—

- (a) the amount of the payment made by the compensator was calculated under regulation 12A; and
- (b) the fresh certificate issued after the review or appeal was required as a result of any applicant for payment under the Diffuse Mesothelioma Payment Scheme supplying to the compensator information knowing it to be incorrect or insufficient, and the compensator

supplying that information to the Secretary of State without knowing it to be incorrect or insufficient.

(9) Where paragraph (8) applies, the compensator may recalculate the compensation payment under regulation 12A to take account of the fresh certificate and may require the repayment by the applicant responsible for supplying the incorrect or insufficient information of the difference (if any) between the payment made and the payment so recalculated.]

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| <p>F6 Reg. 19(5A) - Reg. 19(5B) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 15(a)</p> <p>F7 Reg. 19(8) - Reg. 19(9) inserted (1.7.2014) by The Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456), reg. 1(2), Sch. para. 15(b)</p> |
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Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008, PART 5.