



Rights of Relatives to Damages (Mesothelioma) (Scotland) Act 2007

2007 asp 18

1 Mesothelioma: rights of relatives of a deceased person to damages

- (1) Section 1 of the Damages (Scotland) Act 1976 (c. 13) (“the 1976 Act”) is amended in accordance with subsections (2) and (3).
- (2) At the beginning of subsection (2) (which provides that the liability of the responsible person to pay damages to a relative does not arise where the deceased has before death excluded or discharged liability to pay damages) insert “Except as set out in subsection (2A) below,”.
- (3) After subsection (2) insert—
 - “(2A) Where subsection (2B) below applies—
 - (a) liability arises under this section even though the liability to the deceased or the deceased’s executor mentioned in subsection (2) above has been discharged as mentioned in that subsection; but
 - (b) that liability is limited to the payment of such sum of damages as is awarded under subsection (4) below.
 - (2B) This subsection applies where—
 - (a) the personal injury in consequence of which the deceased died is mesothelioma; and
 - (b) the discharge of liability and the death each occurred on or after 20 December 2006 (and whether before, on or after the date on which section 1 of the Rights of Relatives to Damages (Mesothelioma) (Scotland) Act 2007 (asp 18) came into force).”
- (4) In a case where—
 - (a) section 1(2B) of the 1976 Act applies, and
 - (b) the death occurred before the coming into force of this section,any right of a relative who died before the coming into force of this section to damages under section 1 of the 1976 Act is to be taken, for the purpose of section 1A of the 1976 Act, to have vested in the person on the deceased’s death.