

These notes refer to the Damages (Asbestos-related Conditions) Act (Northern Ireland) 2011 (c.28) which received Royal Assent on 25 July 2011

Damages (Asbestos-related Conditions) Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2 – Pleural thickening and asbestosis

12. This section prevents the ruling in the Johnston case from being applied in relation to asymptomatic pleural thickening or asbestosis (because the courts may consider that the *ratio* (principles of law underlying and justifying the decision) in *Johnston* provides authority in these cases). Subsections (1) and (2) provide that asbestos-related pleural thickening and asbestosis, which have not caused, and are not causing, physical impairment, constitute actionable damage. In subsection (1) the phrase “for the avoidance of doubt” is used because there is, in fact, no authoritative decision to the effect that asymptomatic pleural thickening and asbestosis are *not* actionable. Subsections (3) and (4) are consistent with subsections (2) and (3) of section 1. Subsection (3) disapplies any rule of law, such as the common law principles referred to in the Johnston judgment, to the extent that their application would result in asymptomatic pleural thickening or asbestosis being considered non-actionable. Subsection (4) ensures that section 2 does not otherwise affect the operation of statutory or common law rules for determining liability.