

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT MESOTHELIOMA LUMP SUM PAYMENTS
(CONDITIONS AND AMOUNTS) (AMENDMENT)
REGULATIONS 2023

DRAFT PNEUMOCONIOSIS ETC. (WORKERS'
COMPENSATION) (PAYMENT OF CLAIMS)
(AMENDMENT) REGULATIONS 2023

Wednesday 8 February 2023

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The Committee consisted of the following Members:

Chair: JAMES GRAY

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| † Bacon, Mr Richard (<i>South Norfolk</i>) (Con) | † Metcalfe, Stephen (<i>South Basildon and East Thurrock</i>) (Con) |
| † Brereton, Jack (<i>Stoke-on-Trent South</i>) (Con) | † Pursglove, Tom (<i>Minister for Disabled People, Health and Work</i>) |
| Carden, Dan (<i>Liverpool, Walton</i>) (Lab) | † Seely, Bob (<i>Isle of Wight</i>) (Con) |
| † Churchill, Jo (<i>Vice-Chamberlain of His Majesty's Household</i>) | † Tolhurst, Kelly (<i>Rochester and Strood</i>) (Con) |
| † Fellows, Marion (<i>Motherwell and Wishaw</i>) (SNP) | † Trickett, Jon (<i>Hemsworth</i>) (Lab) |
| † Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab) | Turner, Karl (<i>Kingston upon Hull East</i>) (Lab) |
| † Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | |
| † Greenwood, Lilian (<i>Nottingham South</i>) (Lab) | Guy Mathers, <i>Committee Clerk</i> |
| † Hughes, Eddie (<i>Walsall North</i>) (Con) | |
| † Johnston, David (<i>Wantage</i>) (Con) | † attended the Committee |
| † Logan, Mark (<i>Bolton North East</i>) (Con) | |

Sixth Delegated Legislation Committee

Wednesday 8 February 2023

[JAMES GRAY *in the Chair*]

Draft Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2023

9.25 am

The Minister for Disabled People, Health and Work (Tom Pursglove): I beg to move,

That the Committee has considered the draft Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2023.

The Chair: With this it will be convenient to consider the draft Pneumoconiosis Etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2023.

Tom Pursglove: It is a pleasure to serve under your chairmanship, Mr Gray.

The draft statutory instruments will increase the value of lump sum awards payable under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 and the diffuse mesothelioma scheme, which was established by the Child Maintenance and Other Payments Act 2008. There is no statutory requirement to increase rates annually. However, I am maintaining the position taken by my predecessors to increase the amounts payable under the schemes by the September 2022 consumer price index of 10.1%. The new amounts will be paid to those who satisfy all the conditions of entitlement for the first time from 1 April 2023. The increase is in line with the increase made to industrial injuries disablement benefit payments and other disability benefits as part of the main social security uprating provisions for 2023-24.

I am sure all hon. Members present will join me in recognising the continued importance of the compensation offered by the 1979 and 2008 schemes, for both sufferers and their families. Finally, I am required to confirm that the provisions are compatible with the European convention on human rights, and I am happy to do so. I commend the increase of the payment scales for the schemes to the Committee and ask for its approval to implement them.

9.27 am

Vicky Foxcroft (Lewisham, Deptford) (Lab): It is a pleasure to serve under your chairpersonship, Mr Gray.

I thank the Minister for introducing the draft regulations. As he set out, the mesothelioma regulations amend the Child Maintenance and Other Payments Act 2008 and the pneumoconiosis regulations amend the Pneumoconiosis etc. (Workers' Compensation) Act 1979. Those Acts make provision for lump sum compensation payments to be made to people suffering specific dust-related diseases or to their dependants, provided that they meet certain qualifying criteria. The 1979 Act was intended to compensate people who had contracted certain diseases as a result of their working environment. The 2008 Act,

however, compensates people regardless of whether they contracted the disease through work, thus covering those affected by indirect exposure.

Both sets of draft regulations uprate the amount payable by 10.1% from April 2023, in line with the consumer price index rate of inflation in September 2022. I recognise that there is no statutory requirement to increase the rates, and I am glad that the Government continue to realise the importance of supporting people with these diseases.

The Health and Safety Executive estimates that 12,000 deaths each year are linked to occupational lung disease. Colleagues will be aware of the impact that these awful diseases can have on victims and their families, and I am sure they will join me in paying tribute to organisations such as Mesothelioma UK, the British Lung Foundation, Macmillan Cancer Support and Cancer Research UK, which do a fantastic job of providing ongoing support and information.

As colleagues are aware, before the dangers of asbestos were known, it was frequently used for insulation, roofing and flooring in commercial buildings and homes. Its use was banned under the Asbestos (Prohibitions) (Amendment) Regulations 1999, but buildings constructed before 2000 may, of course, still contain asbestos. Those who worked in industries such as building and construction, particularly from the 1970s to the 1990s, may therefore have been exposed.

It is not only those who actively worked in those industries who are affected; people who worked in buildings containing asbestos are also at risk. One notable example is teachers. Just last month, it was announced that teaching unions will be working with cancer experts on a study examining the exposure of female teachers in their late 40s to early 60s to asbestos in school buildings. Official data has already shown that female teachers and former teachers born from 1935 to 1954 have a 40% increased rate of the cancer. Researchers have now detected a possible increase in deaths among the younger age group that could be statistically significant.

A 2019 survey found 80.9% of participating schools reported that asbestos was still present on their estate. Although asbestos is, of course, not necessarily a danger if handled correctly, that statistic seems worryingly high. With that in mind, I ask the Minister to provide an update on what the Government are currently doing with the HSE to ensure that all workplaces in the UK are asbestos-free. On a wider point, I—and others, I am sure—would appreciate an update on what steps are being taken by the Department to ensure that the HSE is sufficiently funded, especially given that it has had substantial cuts under successive Conservative Governments—*[Interruption.]*

The Chair: Order. The hon. Lady is looking at me questioningly because I am shaking my head. She must simply discuss the SIs in front of us, if that is all right; the wider matters she has moved on to are for other times.

Vicky Foxcroft: Okay. When I spoke at the 2021 Committee on the uprating of these payments, like others before me I asked why the uprating cannot be made automatic. I know that my hon. Friend the Member for Ellesmere Port and Neston (Justin Madders) made the very same point last year.

The Government's response is always that that is unnecessary, as the commitment by successive Governments to uprate the payments in line with other benefits has been in place since 2004. Previous Ministers have also noted that these Committees provide an opportunity for discussion of the schemes and support for people with respiratory diseases. Although I take both of those points, it would be preferable to provide certainty to current and future sufferers of these awful diseases through automatic uprating. Previous Ministers have stated they will keep it under review, and I hope that remains the case with this Minister.

I continue to have concerns about the discrepancy between the lump sum payments made to victims and those made to their dependants. I will give an example from the 2023 figures. A qualifying individual suffering from mesothelioma aged 60 at the time of diagnosis will receive £50,300; however, a dependant making a claim under the same circumstances would receive only £21,774—that is significantly less than half.

At the Committee last year, the hon. Member for Glasgow South West (Chris Stephens) noted that the Government committed to looking at the disparity way back in 2010 and to equalising the situation. In response, the Minister's predecessor, the right hon. Member for Norwich North (Chloe Smith), stated the Government believe that

“the funds available ought to be prioritised for those who are suffering most with the diseases—the person with the disease.”—*[Official Report, Fifth Delegated Legislation Committee, 23 February 2022; c. 12.]*

It is somewhat frustrating that we continue to raise the same issues year after year and the Government, although sympathetic, take no action.

I ask the Minister to again consider whether the disparity is proportionate and appropriate, given the devastating impact that these diseases can have on individuals and their families, and I request that he update the Committee on the most recent estimated cost of providing equal payments to sufferers and dependants. As I noted, these diseases are much more likely to affect men, meaning that by default dependants are more likely to be women. I would also be grateful if the Minister could provide an update on any recent equality impact assessment carried out with regard to the disparity between payments.

As always, we are happy to support the uprating of the lump sum payments in line with inflation. However, we continue to have a number of wider concerns, and I very much welcome further commitments from the Minister.

9.34 am

Marion Fellows (Motherwell and Wishaw) (SNP): It is a pleasure to serve under your chairmanship, Mr Gray. I echo everything that the hon. Member for Lewisham, Deptford has just said, and refer back to the contribution from my hon. Friend the Member for Glasgow South West. I am sorry you stopped the discussion widening, Mr Gray, and I understand why, but I am one of those teachers who would be affected by asbestosis. I am pleased that I managed to have the foresight not to sign a non-disclosure agreement and waive my rights to go back to my employer, because this is an ongoing and

serious issue. I totally back what has already been said on automatic upgrading; we need to not waste time every so often doing this.

9.35 am

Tom Purslove: I am grateful to the shadow Minister and the hon. Member for Motherwell and Wishaw for their parties' support for the broad issue we are debating today. Of course, the uprating of these payments by 10.1% is the right thing to do, and it reflects the other decisions that have been taken in relation to benefits and pensions. It is important to observe that consistency.

I thank the various charities that are involved in providing support, guidance and advice to people affected by these dreadful conditions. They do amazing work, and I am hugely appreciative for everything they do.

A number of points were raised during the debate. Mr Gray, given the concerns you have raised about scope, I will take away the question on asbestos in schools and provide an answer to the House and the shadow Minister in the Library. I will gladly ensure that that happens.

The HSE continues its awareness-raising work to enable employers to take action to prevent and reduce the most common causes of work-related ill health. This is set out in its 10-year strategy, published in 2022. Current activities around prevention of work-related respiratory ill health include working with industry partners to raise awareness of the risks of non-compliance with worker health protection requirements, in addition to targeted intervention activity.

Following the asbestos awareness campaign of previous decades, the HSE continues to make a wide range of information freely available through its website. In 2023, the HSE will run a further awareness-raising campaign targeting the sectors most at risk from asbestos exposure. I will take away that point and raise it with the Under-Secretary of State for Work and Pensions, my hon. Friend the Member for Mid Sussex (Mims Davies), who has the lead within the Department in relation to the HSE. She meets regularly with both its chairman and its chief executive, and I am sure that she would be willing to reflect on those points and to raise them as part of her discussions with the HSE, which is proactive in wanting to be responsive to the issues and concerns brought to it; I am sure it will be receptive to that message.

The Chair: Albeit beyond this morning's scope.

Tom Purslove: On the point about the equality impact assessment, we will always live up our essential equalities obligations. The intention of the scheme was to compensate people who contracted diseases as a result of their working environment. Historically, those who worked in hazardous environments tended to be men, which is reflected in the current gender balance of claims. Nevertheless, the 2008 Act scheme compensates people regardless of whether they have contracted the disease through work. This recognises the indiscriminate nature of mesothelioma and would cover those affected through indirect exposure—for example, an exposed partner of someone who was directly exposed.

On the fact that we have an annual debate and an annual uprating statutory instrument presented to the House for consideration, I tend to think that parliamentary

[Tom Pursglove]

scrutiny of these things is good. I welcome the fact that we have had the opportunity to debate the issue in this House today, and that the other place will have the opportunity to debate it as well. Of course, the fact that uprating has been done in this way for some time is a factor; changing that would require unpicking that long-standing process, which I understand has legislative implications.

I welcome the fact that this House gets the opportunity to debate this uprating and to put issues relating to it on the record. That is welcome, and something that Members generally think is productive, in the same way that the House considering the wider uprating measures that were debated on Monday night was an opportunity for Members to express their views on behalf of their constituents, particularly in constituencies where particularly large numbers of people are in receipt of these payments. I welcome the opportunity to discuss the importance of the schemes and, more broadly, the support available for people with respiratory conditions. The quality of the speeches we have heard from Opposition Front Benchers reflects the interest in the issues that exists in

this House, on behalf of our constituents; and we will rightly continue to be kept on our toes in relation to this matter.

As I say, I am very appreciative of the charities that advocate on these issues throughout the course of the year. As the Minister for Disabled People, Health and Work, I meet many of those charitable bodies and organisations regularly, and am appreciative of that ongoing relationship and the feedback I receive from them. I commend the regulations to the Committee.

Question put and agreed to.

DRAFT PNEUMOCONIOSIS ETC. (WORKERS' COMPENSATION) (PAYMENT OF CLAIMS) (AMENDMENT) REGULATIONS 2023

Resolved,

That the Committee has considered the draft Pneumoconiosis Etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2023.—(*Tom Pursglove.*)

9.41 am

Committee rose.

