

# Asbestos Victims Support Groups Forum- UK

## **Press Release**

(For immediate use)

### **Government hits asbestos victims with employers' liability insurance policy U- turn**

The government's U-turn on retention of employers liability insurance (EL insurance) has hit working class people affected by asbestos disease and those dying from the fatal asbestos tumour, mesothelioma. As a result more workers will die without compensation which could help make their last days more comfortable.

Following the Admin Burdens Measurement Exercise<sup>1</sup> the government has laid an order before Parliament to revoke the requirement, introduced only 9 years ago<sup>2</sup>, for employers to retain EL insurance policies for 40 years.

**The legal requirement to retain EL insurance policies for 40 years was introduced in 1999 because each year hundreds of workers affected by long-latent diseases, such as asbestosis and mesothelioma, are unable to trace their employers' insurers. Where the employer is no longer trading it is essential to trace the employers' insurers in order to claim compensation.**

The government says the cost of retaining insurance policies is a burden on business and the law is not enforced effectively by the Health and Safety Executive.

Asbestos victims support groups argue that:

- The government admits that the cost to individual businesses is actually very small: *"This burden has been estimated at such a considerable figure not for the cost of the individual compliance action but due to the number of businesses carrying them out."*<sup>3</sup>
- Compliance with the existing law could be more easily enforced and made more effective by establishing a statutory central database for policies which would also ensure that retained policies are not lost or misplaced.

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<sup>1</sup> [http://www.dwp.gov.uk/aboutus/better\\_regulation/simplification\\_plan.pdf](http://www.dwp.gov.uk/aboutus/better_regulation/simplification_plan.pdf)

<sup>2</sup> <http://www.dwp.gov.uk/consultations/2007/index.asp>

<sup>3</sup> Supra n2

- There are robust systems to record and trace motor insurance and TV licenses and there is no justification for weak, voluntary systems to apply to EL insurance.
- This retrograde decision makes a nonsense of the government's stated intention to speed up mesothelioma claims and help mesothelioma sufferers.

Mrs McNaughton whose husband Daniel McNaughton died from asbestos-related lung cancer says *"My husband died from asbestosis and asbestos-related lung cancer as a result of work he did cutting asbestos roofing sheets in the 1950s and 1960s. He died without compensation because his employer's insurance policies were not retained and his employer had ceased trading. For the government to remove the duty on employers to retain insurance policies for 40 years is an insult to my late husband and to hundreds of asbestos victims and their families who have lost compensation. It is a disgrace."*

Tony Whitston, Chair of the Asbestos Victims Support Groups Forum UK says: *"The government's manic determination to reduce administrative burdens on business by 25% has hit asbestos victims for no reason. Retaining insurance records cost each employer next to nothing but the burden and the cost of losing compensation is incalculable: it is not simply a question of financial compensation, but a question of justice and fairness. There is no compensation culture as far as asbestos victims are concerned, but there is a despicable "government tick-box culture"; ticking off regulations to achieve targets with no regard to the harm done to the most vulnerable of people: asbestos victims. Introducing voluntary measures rather than a statutory central database for EL insurance instead of the current regulation is totally unsatisfactory: there has to be a statutory requirement to retain and to record EL insurance in a central register."*

For information and to speak to people who have lost compensation contact Tony Whitston tel. 0161 636 7555 and 07748189837

#### NOTES FOR EDITORS

The House of Commons Public Accounts Committee has reported that the government's estimate of savings through the exercise on reducing burdens on business has been grossly over estimated and has been hugely expensive. The report concluded: "The Better Regulation Executive set the target for most departments to reduce burdens by 25% by 2010 without assessment of what was achievable in each case." It took 700 workers at consultancy

PricewaterhouseCoopers to measure the cost of the administrative burden on government departments, at a cost of £2,000 per staff interview, the PAC said.<sup>4</sup>

The government also justifies its decision to revoke the 40-year rule by referring to the Association of British Insurers voluntary code:<sup>5</sup> for tracing employers' liability insurance policies which includes a voluntary commitment to retain policies for 60 years. The voluntary code has proved an utter failure. In 2005/2006 only 28% of policies were traced.

The Forum has argued for a central data base for employers' liability insurance policies, but this has to be underpinned by a statutory requirement on employers to record their policies on the database if it is to be successful. The failure of the voluntary tracing code underlines the importance of compulsion. Any system of recording insurance policies must be robust - asbestos victims deserve nothing less, and too many have died without compensation because of government failure to take action on this issue.

Asbestos support groups have asked why it is that drivers who are involved in an accident where another driver is uninsured can claim from the Motor Insurance Bureau, yet there is no insurer of last resort for workers injured or affected by occupational disease where the employer's insurance cannot be traced.

The government provides a small lump sum under the Pneumoconiosis etc. (Workers Compensation) Act 1979, funded by tax payers, if insurance cannot be traced and the employer is no longer trading. Government's refusal to ensure that employers' liability insurance is traceable means that the tax payer will pay out instead of insurers and asbestos victims will receive derisory amounts of compensation. This is an unacceptable for the tax payer and asbestos victims.

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<sup>4</sup> <http://www.personneltoday.com/articles/2008/07/01/46515/benefits-of-cutting-regulation-over-estimated-mps-warn.html>

<sup>5</sup> <http://www.dwp.gov.uk/resourcecentre/tracing-elci-policies.asp>