

Tel: 0161 636 7555 / 07748189837 [www.asbestosforum.org](http://www.asbestosforum.org)  
**Asbestos Victims Support Groups Forum  
UK**

News Release

No Embargo

## Pleural Plaques Decision: Good and Bad

### Government Refuses to Overturn Law on Pleural Plaques

Government announced today that it will not reverse the Law Lords decision which ended compensation for pleural plaques.

Instead, the Government is willing to pay a £5,000 lump sum under an extra-statutory scheme only to those who already had claims lodged at the time of the Law Lord's ruling in 2007. Thousands of current sufferers and future sufferers will receive nothing. An information telephone line will be available and the number will be published on the Ministry of Justice web site.

Many pleural plaques sufferers will not understand, or accept, this distinction which favours some sufferers above others.

Mr. Molyneux, diagnosed with pleural plaques, sums up the anger felt by many sufferers:

*"I was wrongly exposed to asbestos for many years and have seen the effect it has had on so many people who have died from mesothelioma. The asbestos fibres lodged in my lungs, causing pleural plaques, signal a heightened risk that I too may suffer serious consequences. I have to live with that and so do hundreds of others. Can the Government live with its decision today to compensate some but not others?"*

[Government Acts to Help Sick and Dying Asbestos Victims](#)

The Government has lessened the impact of its announcement on pleural plaques by making significant changes to payments of compensation to asbestos victims, and by addressing the needs of many asbestos victims suffering life-threatening diseases. The Forum welcomes these important initiatives which address long-standing problems for asbestos victims.

The Government has:

- Initiated consultation to establish an Employer's Liability Insurance Bureau (ELIB) to ensure that asbestos victims who cannot trace an employers' liability insurer may claim against a fund of last resort
- Agreed to investigate how the government can increase research investment into asbestos-related diseases. research
- Agreed to lift the 2008 Mesothelioma Scheme lump sum payments equal to the Pneumoconiosis etc. (Workers Compensation) Act 1979 lump sum payments
- Agreed to reduce the difference between dependency lump sum payments and in-life lump sum payments (as above).
- Agreed to take measures to speed up mesothelioma claims.

Tony Whitston, Forum Chair, says:

*"We are terribly disappointed that the Government will not ensure that a payment is made to all pleural plaques sufferers. However, we wholeheartedly welcome the Government's initiatives to significantly improve compensation for asbestos victims, especially mesothelioma sufferers, which will make a significant difference to many asbestos victims. We have also wholeheartedly welcomed the Government's consultation on setting up an employers' liability insurance fund of last resort. We welcome the decision to seek ways in which to support research, but we are disappointed that the Government have not agreed to fund a National Centre for Asbestos-Related Diseases at this time."*

For further information contact Tony Whitston Tel: 0161 636 7555 and 07748189387

## Notes for Editors

Pleural plaques are discrete scarring of the lung pleura which are markers of high levels of exposure to asbestos. The high levels of asbestos in the lungs increase the risk of serious asbestos disease in the future.

For over 20 years compensation was awarded for the anxiety caused by the knowledge of an elevated risk of serious asbestos disease resulting from the high levels of asbestos in the lungs indicated by the presence of pleural plaques.

Time Line:

**1984** and onwards courts awarded compensation for pleural plaques

**2004** Insurance test case heard in the High Court before Justice Holland. Judgment February 2005 retained the right to compensation but reduced payments: Provisional damages (entitlement to sue if other asbestos disease develops) £5,000 and Final damages (ends any further asbestos litigation) £7,000.

**2006** 26 January Court of Appeal overturns High Court decision.

**2007** 17th October House of Lords (HoL) uphold Court of Appeal decision to end compensation for pleural plaques.

**2008** July government opens consultation on three options: (i) overturn Law Lords' decision (ii) fixed payment (£5,000) within a fixed period prior to HoL decision (iii) fixed payment (£5,000) without time restriction. Consultation ended October 2008.

### **Employers Liability Insurance Bureau (ELIB)**

Because asbestos diseases develop several decades after exposure to asbestos, companies that exposed asbestos victims to asbestos are often no longer trading by the time the disease develops. Since there has never been a system to record employers liability insurance policies, it is often impossible to trace an insurer to recover compensation.

Employers' liability (EL) insurance has been compulsory since 1972 and the Health and Safety Executive (HSE) research shows that over 99% of employers held EL insurance. But, the Association of British Insurers' insurance tracing scheme shows for 2008 that only 46% of post-1972 insurance enquiries were successful.

In almost all cases, insurers were paid for EL insurance and the Government expects them to honour the liability they have for insurance they wrote, even if the insurance policy cannot be traced.

This approach is consistent with that taken for injured motorists where the Motor Insurance Bureau pays where a negligent motorist fails to hold insurance or that insurance cannot be traced.

A consultation on setting up an ELIB was commenced on the 10<sup>th</sup> Feb. 2010.

**National Centre for Asbestos Related Diseases (NCARD)**

The Commonwealth Government of Australia, which has a similar incidence of mesothelioma to the UK, has funded a National Centre for Asbestos-Related Diseases (NCASRD). The UK Government has acknowledged the importance of international research and the fact that the UK has the highest incidence of mesothelioma world wide.

**Government Lump Sum Payments**

The Pneumoconiosis etc. (Workers Compensation) Act 1979 pays lump sum payments to asbestos victims who were exposed to asbestos at work and who are unable to secure civil compensation.

The 2008 Mesothelioma Scheme pays a lump sum payment to mesothelioma sufferers who do not qualify for a payment under the 1979 Act.

Payments to dependants are currently much less than in-life payments under both schemes. The Government has acted to reduce the differential under both schemes.

The 2008 Mesothelioma Scheme currently pays less than the 1979 Act for in-life claims. The Government has acted to equalise these payments.