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Lord McKenzie of Luton
House of Lords

28th March 2017

Dear Bill

Pneumoconiosis etc. (Workers' Compensation)(Payment of Claims)(Amendment) Regulations 2017 and the Mesothelioma Lump Sum Payments (Conditions and Amounts)(Amendment) Regulations 2017 Up-rating Debate

I offered to write on points raised by a number of peers during the course of the debate on 28 February.

Royal British Legion Payments

Although the Royal British Legion is not responsible for making payments to veterans suffering from mesothelioma they spearheaded a campaign asking the Ministry of Defence to consider offering all veterans living with mesothelioma the opportunity to receive lump sum compensation payments.

In December 2015, the Government announced changes to its Ministry of Defence compensation scheme which meant that veterans yet to be diagnosed with the cancer could receive either regular smaller payments or a new one-off tax-free lump sum of £140,000 – in line with arrangements for civilians. The Royal British Legion continued to campaign for veterans who were not eligible for the new arrangements as they had already been diagnosed with the terminal disease. In February last year, the Government announced that from April 2016 the policy change would be extended to those already diagnosed with the illness. Veterans are now able to access lump sum payments to help them and their families cope with the disease. This will help to correct the disadvantage faced by some veterans compared with civilian sufferers.

The existing rules for compensation recovery remain unchanged. The Government's position has always been and remains that claimants cannot be compensated twice for the same condition and therefore if a veteran has received or is eligible for a compensation payment from the Ministry of Defence they are not eligible for any DWP lump sum scheme.

Employers' Liability Tracing Office (ELTO) Report and ELTO collaboration with HMRC

The Employers' Liability Tracing Office is an external organisation that does not routinely share their annual reports with the Government but publish them on the ELTO website (elto.org.uk) and have informed DWP that they expect to release their 2016 annual report during Summer 2017. The top ten disease types covered under employer liability insurance as noted in the ELTO Annual Report 2015 are;

1. Noise Induced Hearing Loss
2. Mesothelioma
3. Asbestosis
4. Pleural Thickening
5. Pleural Plaques
6. Hand Arm Vibration Syndrome
7. Asbestosis Related Illness
8. Repetitive Strain Injury
9. Other
10. Vibration White Finger

HMRC have advised that they are currently liaising with ELTO and Lord Hunt's representatives ahead of the Lords Report stage of the Digital Economy Bill on 20 March 2017 – amendment tabled by Lord Hunt.

Numbers of successful claims and how they are funded

In respect of the 1979 Act DWP does not have data broken down into the five separate diseases nor does it hold data for how many claims were unsuccessful. The data held shows the total number of claims for sufferers and dependants as well as the total expenditure. These schemes are widely publicised on the Internet, through the NHS site, MacMillan nurses as well as various charities and support groups. This ensures that potential claimants are aware of the schemes. Recent collaborative work between NHS England and DWP has ensured that an internet search, for the diseases covered by the schemes, on the NHS Choices website (this covers NHS for all of the UK) provides a link to the gov.uk web site which explains the claims process.

The data published by DWP for the latest period up to December 2016 for the 1979 Act is broken down into volumes of sufferer claims, dependant claims and the expenditure;

Year	79 Act sufferer	79 Act dependant	79 Act total expenditure
2008/09	2070	300	£31.6m
2009/10	2330	300	£35.2m
2010/11	2540	280	£38.2m
2011/12	2480	270	£37.7m

2012/13	2900	280	£43.6m
2013/14	2970	330	£45.1m
2014/15	3140	340	£45.2m
2015/16	3210	310	£45.9m
2016/17*	2330	250	£32.8m

Source: Industrial Injuries Disablement Benefit quarterly statistics: data to December 2016.

* Up to and including December 2016.

The 1979 Act is partially funded from the balance of recoveries after funding the 2008 scheme and from Departmental expenditure.

DWP does not hold data regarding unsuccessful claims but as referred to in the previous question, the schemes are widely publicised.

The latest data up to December 2016 for the 2008 Act shows;

Year	2008 scheme sufferer	2008 scheme dependant	2008 scheme total expenditure
2008/09	320	50	£5.5m
2009/10	470	20	£6.9m
2010/11	470	10	£9.1m
2011/12	450	30	£9.3m
2012/13	450	50	£9.6m
2013/14	440	0	£9.4m
2014/15	460	0	£9.5m
2015/16	390	10	£8.0m
2016/17*	320	0	£6.6m

Source: Industrial Injuries Disablement Benefit quarterly statistics: data to December 2016.

The 2008 scheme is fully funded from recoveries of compensation paid as a result of subsequent successful civil claims to those who received lump sum payments either under the 1979 Act or the 2008 Scheme.

In 2015/2016 a total of £28.2m was recovered. £8m fully funded the 2008 Scheme and the remaining £20.2 partially funded the 1979 Act resulting in a net cost to the Government of £25.7m. In the current financial year to December 2016 £22.8m has been recovered.

Lord McKenzie of Luton asked for figures on tariff payments, and for an assessment of the compensation claims made by the DWP.

The total number of successful tariff payments made under the Diffuse Mesothelioma Payment Scheme, between 2014 and September 2016, is;

- 2014/15 = 290
 - 2015/16 = 260
 - April 2016 – September 2016 = 100
- (all rounded to the nearest 5)

DWP has not undertaken an assessment for the most recent period.

The Diffuse Mesothelioma Payment Scheme impact assessment (published April 2014) projected 339 claims to the Scheme for the most recent period of 2015/16. The actual number of claims received for that period was 375 (rounded to the nearest 5) meaning there was not a shortfall in the projected number of claims for that period. When estimating relatively small numbers of claims it remains difficult to accurately assess projected numbers of applicants in any year.

I am copying this letter to all peers who spoke during the debate and Lady Donaghy who has a particular interest in this area, and I am placing a copy in the Library.

A handwritten signature in cursive script, appearing to read 'Henley', with a flourish above it.

Lord Henley
Minister for Work and Pensions (Lords)