

Armed Forces & Asbestos-Related Compensation

FACT SHEET



Civilians/employees who have contracted an asbestos related condition **as a result of being exposed to asbestos at work** are entitled to claim Industrial Injuries Disablement Benefit and a lump sum payment under the Pneumoconiosis etc. (Workers Compensation) Act 1979. It is also possible in most cases for those individuals to pursue a civil claim for personal injury compensation.

Those who contract mesothelioma, which was not as a result of exposure at work, are entitled to claim under the Diffuse Mesothelioma Scheme 2008.

If you have been exposed to asbestos while working as an employed earner (employee) at any time since 1948 and that exposure could possibly have contributed to you developing an asbestos related disease **you may be able to claim** the benefits and compensation

that apply to civilians, even if you were exposed to asbestos at some point while serving in the armed forces.

If, however, the only source of exposure to asbestos (which led to you developing an asbestos related condition) was in the armed forces, you may be entitled to a payment under the following schemes administered by the Service Personnel & Veterans Agency:

◉ War Disablement Pension

You can claim a War Disablement Pension under the War Pensions Scheme if you are no longer serving in HM Armed Forces and you have an injury or condition that occurred before 6 April 2005. There are no time limits for claiming under the War Pension Scheme.

Personal Injury/Civil Compensation

Prior to 1987, members of the armed forces were prevented from pursuing a personal injury claim against the MOD due to 'Crown Immunity'. This means that those diagnosed with an asbestos related condition as a result of being exposed to asbestos while serving in the armed forces before 1987 are unable to pursue civil compensation.

If, however, you contract an asbestos related condition due to exposure which occurred after 1987 (when the Crown Proceedings (Armed Forces) Act 1987 removed 'Crown Immunity') then you should be entitled to pursue a claim.

⦿ Armed Forces Compensation Scheme

The Armed Forces Compensation Scheme replaced the War Pensions Scheme in 2005 (although a War Disablement Pension continues to be available for injuries or illnesses that occurred before April 2005). If your condition occurred after 6 April 2005, you can claim under the Armed Forces Compensation Scheme. Claims under this scheme can be made when the individual is still serving. There are time limits which apply to the scheme.

⦿ Veterans diagnosed with Mesothelioma

The Government has announced that veterans with Mesothelioma contracted during Service can now choose to receive a lump sum payment, or regular smaller payments, to help them and their families cope with the disease.

Under the new proposals all veterans diagnosed with Mesothelioma will be given the choice between receiving a traditional War

Pension, or £140,000 in lump sum compensation.

Legislative provisions will be made to enable lump sums to be paid from 11 April 2016. Those choosing a lump sum whose claim is accepted prior to this date will receive the current allowances in the interim, until the lump sum is paid. The MOD's [Veterans Welfare Service](#) will contact all existing claimants to explain the new option and will help them understand the choices available.

- Choosing to claim a lump sum payment will mean that War Widows Pension is not payable.
- Any War Pension or compensation that you previously received for mesothelioma will be deducted from the £140,000 lump sum.
- Once you have decided to opt for the lump sum, you will not be able to change your mind.
- Those already in receipt of a War Pension for mesothelioma can apply retrospectively for 3 months from 11 April 2016.

Diffuse Mesothelioma Scheme 2008

If you suffer from mesothelioma as a result of exposure to asbestos during service – and you do not qualify for a payment from a Ministry of Defence scheme – you may qualify for a payment under the Diffuse Mesothelioma Scheme.

Ministry of Defence Employees

Civilian employees of the Ministry of Defence (MOD) are entitled to apply for the same benefits/compensation as any other employee who contracts an asbestos related condition as a result of being exposed to asbestos at work.

If you worked for the Ministry of Defence and were negligently exposed to asbestos which resulted in you contracting an asbestos related condition, you may also be able to make a personal injury/civil claim.

Factors to consider before deciding to opt for the lump sum:

- Choosing to claim a lump sum payment will mean that War Widows Pension is not payable. Currently, a War Widows Pension could equate to £200.00 per week or more.
- Any War Pension or compensation that you previously received for mesothelioma will be deducted from the £140,000 lump sum. This could significantly reduce your award and may even mean you do not receive any lump sum payment.
- Once you have decided to opt for the lump sum, you will not be able to change your mind.
- Those already in receipt of a War Pension for mesothelioma can apply retrospectively, with applications being accepted until closing 3 months after 11 April 2016

For those who have dual exposure (i.e. exposure while serving in the armed forces and exposure as a civilian/employee) there are other factors you should consider before applying for a War Pension/lump sum:

- The ability to make a civil claim for compensation will be negated. In Scotland, a successful civil claim for mesothelioma could pay you more than £140,000 in damages
- If you have “immediate family” and subsequently die from mesothelioma, it would negate the rights of those relatives to receive compensation through the civil courts, as provided for in the [Damages Scotland Act 2011](#)

Definition of Immediate family: (Scotland)

- Spouse, civil partner or living with the deceased as if married
- Parent, child or person who accepted the deceased as a child or was accepted by the deceased as a child
- Brother, sister or brought up in same household and accepted as a child of the family
- Grandparent, grandchild or accepted as such

Immediate family are entitled to damages for:

- Distress and anxiety endured by the relative in contemplation of the suffering of the deceased before death
- Grief and sorrow of the relative caused by the deceased’s death
- The loss of such non patrimonial benefit as the relative might have been expected to derive from the deceased’s society and guidance if he/she had not died