
Asbestos Victims Support Groups' Forum UK

The Legal Aid, Sentencing and Prosecution of Offenders Bill

To Members of the House of Lords

The Asbestos Victims Support Groups Forum UK is seeking support from their Lordships for the amendments below tabled by Lord Alton:

Amendments

Clause 43

Page 30, line 23, at end insert—

“() The amendments made by this section do not apply in relation to proceedings which include a claim for damages for respiratory disease or illness (whether or not resulting in death) arising from exposure to a harmful substance.”

Clause 45

Page 32, line 29, at end insert—

“() The amendments made by this section do not apply in relation to proceedings which include a claim for damages for respiratory disease or illness (whether or not resulting in death) arising from exposure to a harmful substance.”

Clause 46

Page 32, line 36, at end insert—

“() The repeal made by subsection (1) does not apply in relation to proceedings which include a claim for damages for respiratory disease or illness (whether or not resulting in death) arising from exposure to a harmful substance.”

These amendments would permit those suffering from an asbestos-related illness or other respiratory disease to recover success fees and ATE insurance from a defendant in a successful claim for damages.

Unamended the Government's reforms hit the wrong target.

The Government and insurance company arguments in support of reform always refer to road traffic accident claims. We have never seen anyone suggest that the process to claim compensation for respiratory disease needs reform.

Respiratory diseases

- Almost all respiratory diseases are caused by work e.g. asbestos diseases (many trades, especially construction); silicosis (tunnelers/masons).
- In 2010, asbestos-related diseases accounted for **93%** of all Industrial Injuries Disablement Benefit (IIDB) payments for respiratory diseases. Mesothelioma accounts for **52%** of asbestos diseases.

- Nearly **50%** of all respiratory disease claimants paid IIDB die within approximately one year of diagnosis.

The vast majority of respiratory diseases are contracted at work. Sufferers sacrificed their health and often their lives working to pay for their families and contributing to the wealth of the country.

Proportionate legal costs

- Most respiratory disease cases fall within the multi-track. They are high value claims where costs are proportionate to damages. In mesothelioma cases the average total legal costs are 17% of damages paid.

Respiratory disease costs are not disproportionate.

Frivolous claims

- Respiratory diseases are usually chronic, seriously disabling and in 50% of cases lead to death.

Respiratory disease claims are not frivolous

Fraudulent claims

- Government and insurance company concerns about fraudulent claims are focused on alleged fraudulent whiplash claims.

Respiratory disease claimants are always subject to detailed medical examination and simply cannot make fraudulent claims, especially those suffering from fatal diseases.

Success fees for disease claims

- Success fees have been fixed at 27.5% of base costs for disease claims.

Success fees were fixed by the Civil Justice Council so as to be cost neutral between parties. Success fees provide the means for solicitors to take on difficult cases, which respiratory diseases often can be, and test cases.

Compensation culture

- There is no 'claims culture' for people suffering from respiratory disease and no insurance company and no Minister has suggested there is one. This is especially true for mesothelioma sufferers, many of whom, defeated by their disease, never claim.

Respiratory disease claimants deserve access to justice

Tony Whitston (Chair)

Joanne Carlin (Secretary)

Windrush Millennium Centre, 70 Alexandra Road, Moss Side Manchester, M16 7WD

Tel: 0161 636 7555

E Mail: asbestos.gmavsg@virgin.net
