

STATES OF JERSEY



COMPENSATION FOR MESOTHELIOMA SUFFERERS (P.124/2018): AMENDMENT

Lodged au Greffe on 13th November 2018
by the Minister for Social Security

STATES GREFFE

COMPENSATION FOR MESOTHELIOMA SUFFERERS (P.124/2018):
AMENDMENT

1 PAGE 2, PARAGRAPH (a) –

For paragraph (a) substitute the following paragraph –

“(a) to establish a statutory compensation scheme for Islanders who have been diagnosed with diffuse mesothelioma following exposure to asbestos in Jersey;”.

2 PAGE 2, PARAGRAPH (b) –

For paragraph (b) substitute the following paragraph –

“(b) to request the Minister for Social Security, subject to the provision of funding as set out in paragraph (c), to bring forward proposals for an appropriate statutory compensation scheme as described in paragraph (a), to be implemented by 1st October 2019; and”.

3 PAGE 2, PARAGRAPH (c) –

For paragraph (c) substitute the following paragraph –

“(c) to request the Council of Ministers to make provision in the draft Government Plan 2020 for this scheme to be funded from 1st January 2020, and to request the Minister for Treasury and Resources to identify the necessary additional funding to provide payments under the Scheme in 2019 from Contingency if costs are unable to be met from within existing approved departmental revenue heads of expenditure.”.

MINISTER FOR SOCIAL SECURITY

Note: After this amendment, the proposition would read as follows –

- (a) to establish a statutory compensation scheme for Islanders who have been diagnosed with diffuse mesothelioma following exposure to asbestos in Jersey;
- (b) to request the Minister for Social Security, subject to the provision of funding as set out in paragraph (c), to bring forward proposals for an appropriate statutory compensation scheme as described in paragraph (a), to be implemented by 1st October 2019; and
- (c) to request the Council of Ministers to make provision in the draft Government Plan 2020 for this scheme to be funded from 1st January 2020, and to request the Minister for Treasury and Resources to identify the necessary additional funding to provide payments under the Scheme in 2019 from Contingency if costs are unable to be met from within existing approved departmental revenue heads of expenditure.

REPORT

Criteria for proposed scheme

The Minister for Social Security acknowledges that, in lodging her proposition [P.124/2018](#), Deputy C.S. Alves of St. Helier wishes to provide compensation for sufferers of diffuse mesothelioma.

The amended wording in paragraph (a) clarifies that this statutory compensation scheme would be limited to individuals living in Jersey who have been exposed to asbestos fibres in Jersey.

The details of the scheme will need to consider a wide range of issues, including –

- any qualification period in which a sufferer would need to have worked and resided in Jersey in order to become eligible;
- how exposure to asbestos in Jersey is to be determined;
- whether the scheme will apply retrospectively and, if so, the length of time in which sufferers or their dependants may be entitled to make a claim under the scheme;
- whether the compensation provided should only be permitted in circumstances where it is not possible for a sufferer or his dependants to bring a civil action, and/or if the scheme should recover sums paid to the sufferer as compensation in civil proceedings;
- the level at which the compensation should be set; and
- whether other respiratory or lung diseases caused by the inhalation of asbestos fibres should be included in the scheme.

In order to provide a scheme that is operational in 2019, the eligibility criteria will need to be straightforward, so that an application and approval process can be set up in a relatively short period, while still providing robust checks on eligibility.

Any proposal to establish a scheme in 2019 is very likely to be provided using triennial Regulations, which will be debated by the States Assembly in 2019.

The Minister will continue to consider the need for a wider industrial injuries compensation scheme as part of the ongoing Social Security Scheme review.

Timescale for implementation of proposed scheme

Given the complexity and sensitivity of this subject, an implementation date of 1st April 2019 is unlikely to be achieved without significant negative impact on other key services. In addition, the Minister for Social Security considers that establishing a scheme of this nature needs to be accompanied by sustainable funding, and this requires the scheme to be included in the 2020 Government Plan. This Plan is due for debate in September 2019.

As such, the implementation date suggested in paragraph (b) is 1st October 2019, in order to ensure that the scheme is not launched until Members are confident that it can be funded on a permanent basis. The later start date could be compensated for by, for example, ensuring that all individuals diagnosed during 2019 would still be eligible to join the scheme.

As noted in the original proposition, the number of confirmed diagnoses in Jersey is expected to be small, affecting fewer than 5 people a year.

Provisional funding for proposed scheme

As noted above, the Minister for Social Security considers that a scheme of this nature should be funded on a permanent basis. The amended proposition as per paragraph (c) would require the Council of Ministers to include the ongoing costs of the scheme in the 2020 Government Plan. This will allow the details and cost of the scheme to be subject to the States' approval in September 2019. To start the scheme in 2019 will require additional funding from the existing 2019 cash limit, to be identified by the Minister for Treasury and Resources from Contingency if they cannot be met from within existing approved departmental revenue heads of expenditure.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from this amendment.