
STATES OF JERSEY



DIFFUSE MESOTHELIOMA: SPECIAL PAYMENTS

Presented to the States on 27th September 2019
by the Minister for Social Security

STATES GREFFE

REPORT

Background

Following the first e-petition to reach 1,000 votes (“[Provide compensation for asbestos victims](#)”) in September 2018, and the unanimous approval of Deputy C.S. Alves of St. Helier’s Proposition [P.124/2018](#), the Minister for Social Security has taken actions to provide payments to people with Diffuse Mesothelioma (“DM”) or, if the person died without receiving a payment, to a close relative.

In developing the method of making these payments, the Minister’s policy intention has been to make the process as simple and straightforward for applicants, ensuring that money can be received quickly at a very difficult time.

Payments will be available from 1st October 2019.

Eligibility

The eligibility conditions to receive a payment are that the person –

- is aged 18 years or older;
- has been ordinarily resident in Jersey for the last 5 years;
- has a diagnosis of DM from a consultant in Jersey; and
- has at any time been exposed to asbestos-containing materials (“ACMs”) in Jersey.

A simple application process will be used to collect this information, and eligible claimants will receive a lump sum amount based on the age of the person at the time of their diagnosis. The amounts range between £92,259 for an individual aged 37 and under, to £14,334 for an individual aged 77 and over. For example, an individual aged 70 would receive a payment of £17,961.

In the event that a person with DM does not receive a payment prior to their death, a close relative will be able to request a payment. Successful applicants will receive a lump sum amount based on the age of the deceased person at the date of their death. For example, if the person was aged 70, the lump sum paid to the relative would be £7,949.

The eligibility conditions for the relative are that the relative –

- has been ordinarily resident in Jersey for the last 5 years;
- is a close relative¹ of the deceased person; and
- makes an application in respect of a deceased person who would have been eligible to receive a payment on their date of death.

If a payment is made to a child, the payment will be placed in a trust fund for the child’s benefit.

¹ See attached **Appendix** for full list

Making a civil claim

In some cases, a diagnosis of DM will allow for a civil claim to be made against a former employer. This can be a long process, and the aim of the payments to be made by the Minister is that a set amount can be applied for and received promptly after diagnosis. In the event that a civil claim is successful at a later date, the original payment made by the Minister will need to be repaid.

Diagnosis and evidence of exposure to asbestos

For most people the diagnosis of DM will take place in the UK, where specialist health care is available. If the person is unable to travel to the UK, a local specialist consultant can provide a letter confirming that a diagnosis of DM is very likely. The Health and Community Services Department (“HCS D”) will provide the necessary details direct to the Customer and Local Services Department (“CLSD”), with the permission of the person claiming.

Exposure to ACMs in Jersey is based on whether someone was engaged in an activity in Jersey that is likely to have exposed them to those materials. As far as possible, the CLSD will verify this with employment and other records held in the Department. The Minister does not require a decision as to whether it is more likely that the exposure took place in Jersey or somewhere else. In addition, there is no basis for which to set an amount of time a person must have been exposed to ACMs – each person responds differently to exposure. Lastly, there is no difference in payment value based on how the individual was exposed – at work or through secondary contact.

Timing of claims

Following publicity in advance of these payments becoming available, a small number of people with DM have already contacted the Government; and these people and anyone else in Jersey who already has a diagnosis of DM will be able to claim a payment from 1st October 2019. These claims can be made at any time up to 31st December 2019. From 1st October 2019, a person newly diagnosed with DM will have up to 12 months to apply from the date of diagnosis.

In respect of close relatives making claims in respect of a person who passed away between 1st October 2018 and 31st December 2018, the close relative also has until 31st December 2019 to apply. Where a person died after 1st January 2019, the relative can request a payment within 12 months.

Legal framework

Payments will be made under the vires of Article 8(2) and (5) of the [Income Support \(Jersey\) Law 2007](#), which allows the Minister to make loans to Jersey residents in exceptional circumstances. The payments made are not means-tested, and they are paid from the CLSD tax-funded cash limit.

Each payment will be made as an interest-free loan, which is repayable only if the claimant subsequently receives a separate payment in respect of exposure to asbestos. The full details of the payments are set out in section 8.9 of the Income Support Policy Guidelines.

There are 2 areas for possible development.

The payments to be made by the Minister only relate to a diagnosis of DM. The Government Plan 2020–2023 ([P.71/2019](#)) proposals include a review of the incapacity benefits available through the contributory social security scheme. This review will consider the possibility of including support for a wider range of industrial diseases within the social security scheme.

One-off payments currently exist across a range of Government activities, and are administered through a variety of different legal routes. The advantages of creating a single legal framework to allow for all payments of this nature will be considered as part of the future overall legislative programme. This would provide rules for both making payments to individuals, and the circumstances in which those payments were to be repaid to the government.

Financial and manpower implications

Payments will initially be set at the same values as the current values provided under the UK's 1979/2008 Scheme. In October 2020 and annually thereafter, the values will be uprated in line with the Jersey RPI.

One-off lump-sum loan payments will be paid by tax-funded monies, supported by existing CLSD benefit budgets from 1st October 2019 to 31st December 2019. From 1st January 2020, payments will require funding through the Government Plan.

The CLSD will manage the administration of payments within existing resources.

It is estimated that there will be up to 5 payments per year (not including the first year), with an estimated cost of £150,000 per annum. There may be additional costs in 2019 in respect of a small additional number of transitional payments.

APPENDIX**INCOME SUPPORT POLICY GUIDELINE – SECTION 8.9****Diffuse Mesothelioma Special Payment****1. Diffuse Mesothelioma – Special Payments**

1.1 Under the terms of Article 8(2) and (5) of the Income Support (Jersey) Law 2007 (“the Law”), the Minister has decided to accept applications for one-off interest-free loan payments from –

- (a) an eligible person who has diffuse mesothelioma (“DM”); and
- (b) a close relative of a deceased eligible person, where they did not receive a loan payment during their lifetime.

in the circumstances set out below.

1.2 Application for payments will commence on 1st October 2019.

1.3 The Customer and Local Services Department (“the Department”) will administer the payments.

1.4 The cost of the payments will be met by Departmental budget.

1.5 The maximum value of payments are set out in Table 1 (person with DM) and Table 2 (relative of person with DM).

1.6 If an eligible person or a relative has received a payment in respect of the DM diagnosis before the Minister’s payment is made, the maximum value available is reduced by the value of the payment already received.

2. Interest Free Loan

2.1 Payments to applicants will take the form of an interest-free loan, under Article 8(5) of the Law.

3. Repayments

3.1 Every payment will be made as an interest-free loan. The loan is only repayable if the individual subsequently receives a further payment as a result of the diagnosis of DM, normally in respect of a civil claim made against a former employer.

3.2 The loan process will be explained to the applicant as part of the application process, and the applicant will sign a declaration confirming that the payment is made as a loan, and that some or all of the payment will need to be repaid if the applicant receives a subsequent payment as a result of the diagnosis of DM.

- 3.3 The applicant must inform the Department if they receive a subsequent payment as a result of the diagnosis of DM. They will be required to repay part or all of the value of their loan back to the Minister if the following apply –
- (a) if the amount of the subsequent payment is less than the amount of the loan payment, the total amount of the subsequent payment must be repaid to the Minister; or
 - (b) if the amount of the subsequent payment is equal to or greater than the amount of the loan payment, the total amount of the loan payment must be repaid to the Minister.
- 3.4 In the case of the death of a person who is required to reimburse the whole or part of a loan payment, the Minister may require it to be reimbursed by the person charged with the administration of the deceased person’s personal estate.

4. Application Form

- 4.1 In order to be considered for a payment, an Application must be submitted.
- 4.2 The Application Form is available here:
- Online: www.gov.je/DMPayments
 - By e-mail: TBC
 - By phone/post: +44 (0) 1534 444444
 - In person from Customer and Local Services, La Motte Street, St. Helier, JE4 8PE

5. Eligibility

5.1 Eligible person

A person (“an eligible person”) is eligible to apply for a loan payment if they –

- (a) are at least 18 years old;
- (b) have been ordinarily resident in Jersey for the last 5 years without a break;
- (c) have been exposed to asbestos or asbestos products in Jersey; and
- (d) have written confirmation from a respiratory consultant working in Jersey that they have DM, or there is a high probability that they have DM.

- 5.2 Any eligible person is able to make an application for payment from 1st October 2019, regardless of when they received their diagnosis. In cases where the diagnosis was received prior to 1st January 2019, application must be made by 31st December 2019.
- 5.3 In cases where a diagnosis was given after 1st January 2019 – application must be made within 12 months of the diagnosis.
- 5.4 Exposure to Asbestos Containing Materials (“ACMs”) in Jersey is based on whether someone was engaged in an activity in Jersey that is likely to have exposed them to ACMs. As far as possible, the Department will verify this with employment and other records held in the Department. The Minister does not require a decision as to whether it is more likely that the exposure took place in Jersey or somewhere else. In addition, there is no basis for which to set an amount of time a person must have been exposed to ACMs – each person responds differently to exposure.
- 5.5 For most people, the diagnosis of DM will take place in the UK where specialist health care is available. If the person is unable to travel to the UK, a local specialist consultant can provide a letter confirming that a diagnosis of DM is very likely. The Health and Community Services Department will provide the necessary details direct to the Customer and Local Services Department, with the permission of the person.

5.6 Eligible relative

A relative of an eligible person (“an eligible relative”) is eligible to apply for a loan payment if they –

- (a) have been ordinarily resident in Jersey for the last 5 years without a break;
- (b) are the first relative to be identified in the following list –
 - 1. a person who, immediately before the eligible person’s death, was the spouse or civil partner of the eligible person;
 - 2. where there is no person referred to in (1), a child or children of the eligible person;
 - 3. where there is no person referred to in (1) or (2), a person or persons who –
 - a. was or were at any time married to, or in a civil partnership with, the eligible person, and
 - b. immediately before the eligible person’s death, received qualifying maintenance payments from the eligible person;

4. where there is no person referred to in (1), (2) or (3), a person who, immediately before the eligible person's death, would have been treated as being in an interdependent relationship with the eligible person;
5. where there is no person referred to in (1), (2), (3) or (4), a relative or relatives being a brother, sister, parent, grandparent, son, daughter, step-son, step-daughter or grandchild of the eligible person who was or were wholly or mainly financially dependent on the eligible person immediately before the death of the eligible person.

Only one application will be considered from a relative, in respect of any one person who has passed away.

An application must be made by an eligible relative –

- a. if the eligible person in respect of whom the application is being made died on or after 1st October 2018 and before 1st January 2019, by 31st December 2019; or
- b. if the eligible person in respect of whom the application is being made died on or after 1st January 2019, by the date occurring 12 months after the date on which the eligible person died.

6. Annual review of loan payment values

On and from 1st October 2020, the maximum value of a payment for each period of 12 months commencing on 1st October (the "relevant year") is the amount calculated as follows –

New maximum value = $V \times (1+B)$, where –

- (a) V is the maximum value of a payment in the year preceding the relevant year; and
- (b) B is the percentage rise, over the period of 12 months ending in March in the year for which the amount is being calculated, in the Jersey All Items Retail Prices Index produced by Statistics Jersey.

If B is nil or a negative amount, the maximum value of a payment for the relevant year is the same as the maximum value of a payment in the preceding year.

APPENDIX TO POLICY GUIDELINE**MAXIMUM VALUE OF LOAN PAYMENTS****TABLE 1 – AMOUNT OF LUMP SUM PAYMENT TO ELIGIBLE PERSON**

Age of eligible person at date of diagnosis	Payment (£)
37 and under	92,259
38	90,465
39	88,675
40	86,885
41	85,091
42	83,300
43	82,407
44	81,506
45	80,614
46	79,717
47	78,821
48	76,318
49	73,810
50	71,298
51	68,793
52	66,278
53	64,489
54	62,700
55	60,912
56	59,112
57	57,322
58	52,666
59	48,006
60	43,355
61	38,695
62	34,038
63	31,170
64	28,301
65	25,440
66	22,572
67	19,707
68	19,123
69	18,537
70	17,961
71	17,378
72	16,798
73	16,302
74	15,797
75	15,314
76	14,828
77 and over	14,334

TABLE 2 – MAXIMUM AMOUNT OF LUMP SUM PAYMENT TO ELIGIBLE RELATIVE

Age of eligible person at date of death	Payment (£)
37 and under	48,013
38	46,980
39	45,950
40	44,921
41	43,891
42	42,861
43	41,875
44	40,881
45	39,902
46	38,917
47	37,934
48	36,725
49	35,512
50	34,306
51	33,100
52	31,892
53	30,901
54	29,919
55	28,934
56	27,942
57	26,960
58	24,233
59	21,497
60	18,768
61	16,034
62	13,299
63	12,518
64	11,743
65	10,949
66	10,167
67 and over	7,949