

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

Before the Honourable Mr(s) Justice

3 July 2015

BETWEEN:

THE QUEEN
on the application of
(1) ANTHONY WHITSTON
(for and on behalf of the Asbestos Victims Support Groups Forum UK)
(2) IAN DOUGHTY
(3) CAROLE SLOPER

Claimants

and

LORD CHANCELLOR

Defendant

ORDER

UPON the Claimants' claim for Judicial Review

AND UPON READING the letters and the Explanatory Note attached

IT IS ORDERED BY CONSENT:

1. The Claim is withdrawn
2. The Defendant shall pay the sum of £35,000 to the Claimants on account of their costs of the Judicial Review within 21 days.

Signed



Harminder Bains, Partner
For and on behalf of Leigh Day
Solicitors for the Claimants



Andrew King, Senior Lawyer
For and on behalf of Treasury Solicitor
Solicitors for the Defendant

EXPLANATORY NOTE

The Defendant has recently received information from the Department of Work and Pensions as to the approach that it adopts towards payments made under the Pneumoconiosis etc (Workers Compensation) Act 1979 ("PWC Act"), the Child Maintenance and Other Payments Act 2008 ("the 2008 Scheme"), which also permits the making of an extra statutory payment in circumstances where a claim under the PWC Act is rejected (section 47(3) of the 2008 Act) ; and the Mesothelioma Act 2014 ("the Diffuse Mesothelioma Payment Scheme").

In light of that information, the Defendant has decided to exclude from the definition of "disposable capital" compensation awards made to mesothelioma sufferers under the PWC Act, the 2008 Scheme and the Diffuse Mesothelioma Payment Scheme. He proposes to place an amending Statutory Instrument before Parliament and pending such amendment, to exercise his discretion in such a way as to treat such awards as excluded disposable capital for the purposes of fee remission and/or to interpret paragraph 10(j) of the Schedule to the Courts and Tribunals Fee Remissions Order 2013/2302 ("the Remissions Order") in that way.

In making this decision, the Lord Chancellor is addressing the issue that the Claimants identified in the Judicial Review. Given that decision, the Judicial Review proceedings have become academic.



Government
Legal Department

Leigh Day

Litigation Group
One Kemble Street
London
WC2B 4TS

T 020 7210 3000

DX 123242 Kingsway 6

www.gov.uk/gld

Your ref: HZB/JBB/88889/4

Our ref: Z1506351/AKD/LYH/B4

BY EMAIL ONLY

2 July 2015

URGENT

Dear Sirs

Whitston & Ors v Lord Chancellor CO/2097/2015

We write in relation to the above Judicial Review.

The Lord Chancellor has recently received information from the Department of Work and Pensions as to the approach that it adopts towards payments made under the Pneumoconiosis etc (Workers Compensation) Act 1979 ("**PWC Act**"), the Child Maintenance and Other Payments Act 2008 ("**the 2008 Scheme**"), which also permits the making of an extra statutory payment in circumstances where a claim under the PWC Act is rejected (section 47(3) of the 2008 Act); and the Mesothelioma Act 2014 ("**the Diffuse Mesothelioma Payment Scheme**").

In light of that information, the Lord Chancellor has decided to exclude from the definition of "disposable capital" compensation awards made to mesothelioma sufferers under the PWC

Lee John-Charles - Head of Division

Elizabeth Mackie / Alexandra Forgaard - Deputy Directors, Team Leaders Litigation B4

The Treasury Solicitor's Department was renamed the Government Legal Department on 1 April 2015.



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Act, the 2008 Scheme and the Diffuse Mesothelioma Payment Scheme. He proposes to place an amending Statutory Instrument before Parliament and pending such amendment, to exercise his discretion in such a way as to treat such awards as excluded disposable capital for the purposes of fee remission and/or to interpret paragraph 10(j) of the Schedule to the Courts and Tribunals Fee Remissions Order 2013/2302 ("**the Remissions Order**") in that way.

In making this decision, the Lord Chancellor is addressing the issue that you identified in the Judicial Review. Given this decision, we invite you to agree that the Judicial Review proceedings have become academic and that there is no need for evidence and Detailed Grounds to be served tomorrow.

It is a matter of regret that the points that you raised in these Judicial Review proceedings were not raised during the consultation process that was undertaken prior to the coming into force of the Remissions Order. Nonetheless, the Lord Chancellor is willing, so as to avoid any further wrangling, to pay the costs of the proceedings, up to the Protective Costs Order cap of £35,000. We trust that you will be able to agree to our proposal by return. But the Lord Chancellor does reserve his right to withdraw the offer to pay the Claimants' costs in the event that further work on this case becomes necessary.

We enclose a draft Order for you to consider.

We look forward to hearing from you urgently.

Yours faithfully



Andrew King

For the Treasury Solicitor

D +44 (0)20 7210 3056 / 07860 627 470

F +44 (0)20 7210 3410

E andrew.king@governmentlegal.gov.uk

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