

ACCOMPANYING DOCUMENTS

Explanatory Notes, together with other accompanying documents, are printed separately as SP Bill 12-EN. A Policy Memorandum is printed separately as SP Bill 12-PM.

**Damages (Asbestos-related Conditions)
(Scotland) Bill
[AS INTRODUCED]**

An Act of the Scottish Parliament to provide that certain asbestos-related conditions are actionable personal injuries; and for connected purposes.

1 Pleural plaques

- (1) Asbestos-related pleural plaques are a personal injury which is not negligible.
- 5 (2) Accordingly, a person who has them may recover damages in respect of them from a person liable for causing them.
- (3) Any rule of law the effect of which is that asbestos-related pleural plaques are not a personal injury or are negligible ceases to apply to the extent it has that effect.
- 10 (4) But nothing in this section otherwise affects any enactment or rule of law which determines whether and in what circumstances a person may be liable for causing (or materially contributing to the development of) a personal injury.

2 Pleural thickening and asbestosis

- (1) For the avoidance of doubt, a condition mentioned in subsection (2) which has not caused, is not causing or is not likely to cause impairment of a person's physical condition is a personal injury which is not negligible.
- 15 (2) Those conditions are—
- (a) asbestos-related pleural thickening; and
- (b) asbestosis.
- (3) Accordingly, it is not necessary for a person seeking damages in respect of asbestos-related pleural thickening or asbestosis to prove that it has caused, is causing or is likely to cause impairment of the person's physical condition.
- 20 (4) But where a person seeking damages claims, in relation to the amount of damages sought, that the thickening or asbestosis has caused, is causing or is likely to cause such impairment, it remains for the person to prove those matters.

3 Limitation of actions

- (1) This section applies to an action of damages for personal injuries—
- (a) in which the damages claimed consist of or include damages in respect of—
 - (i) asbestos-related pleural plaques; or
 - (ii) a condition mentioned in section 2(2) which has not caused, is not causing or is not likely to cause impairment of a person's physical condition; and
 - (b) which, in the case of an action commenced before the date this section comes into force, has not been determined by that date.
- (2) For the purposes of sections 17 and 18 of the Prescription and Limitation (Scotland) Act 1973 (c.52) (limitation in respect of actions for personal injuries), the period beginning with 17 October 2007 and ending with the day on which this section comes into force is to be left out of account.

4 Commencement and retrospective effect

- (1) This Act (other than this subsection and section 5) comes into force on such day as the Scottish Ministers may, by order made by statutory instrument, appoint.
- (2) Sections 1 and 2 are to be treated for all purposes as having always had effect.
- (3) But those sections have no effect in relation to—
- (a) a claim which is settled before the date on which subsection (2) comes into force (whether or not legal proceedings in relation to the claim have been commenced); or
 - (b) legal proceedings which are determined before that date.

5 Short title and Crown application

- (1) This Act may be cited as the Damages (Asbestos-related Conditions) (Scotland) Act 2008.
- (2) This Act binds the Crown.

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Introduced by: Kenny MacAskill
On: 23 June 2008
Bill type: Executive Bill

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Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

ISBN 978-1-4061-4471-0

