

# **Damages (Asbestos-Related Conditions) Bill**

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Bill 33

## A **Bill** To

provide that certain asbestos-related conditions are actionable personal injuries; and for connected purposes.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Pleural plaques**

- (1) Asbestos-related pleural plaques are a personal injury which constitute actionable damage.
- (2) A person who has pleural plaques 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 constitute actionable damage ceases to apply to the extent it has that effect.
- (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 constitutes actionable damage.

(2) The conditions referred to in subsection (1) are—

(a) asbestos-related pleural thickening; and

(b) asbestosis.

(3) 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 that person's physical condition.

(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 that 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 11 and 12 of the Limitation Act 1980 (c. 58) (special time limit for actions in respect of personal injuries) and (special time limit for actions under Fatal Accidents legislation), 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 section 5) comes into force on such day as the Secretary of State shall by order 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 section 1 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, Crown application and extent**

- (1) This Act may be cited as the Damages (Asbestos-Related Conditions) Act 2009.
- (2) This Act binds the Crown.
- (3) This Act extends to England and Wales and Northern Ireland only.