

#### **§614. Special provisions for asbestos-related diseases**

**1. Definition.** As used in this section, the term "asbestos-related disease" means a disease caused by exposure to asbestos.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**2. Scope.** This section applies only to asbestos-related diseases caused or contributed to by a last injurious exposure to asbestos that occurred on or after November 30, 1967.

Except as otherwise provided in this section, all provisions of this chapter apply to asbestos-related diseases.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**3. Aggravation of condition.** Section 605 does not apply to asbestos-related diseases.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**4. Last employer liable; notice.** Notwithstanding section 606, the only employer and insurance carrier liable is the last employer in whose employment the employee was last injuriously exposed to asbestos, and the insurance carrier, if any, on the risk when the employee was last so exposed under that employer. Notice of incapacity under section 607 must include the name of that employer and the date when employment with that employer ceased.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**5. Compensation limit.** The 3-year limit provided in section 609 does not apply to asbestos-related diseases.

Nothing in this section may be construed to require retroactive payments of compensation for periods of incapacity that occurred prior to October 1, 1983 or retroactive payments of death benefits for periods of time prior to October 1, 1983. Compensation for claims permitted under this section is payable only for periods of incapacity occurring after October 1, 1983.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**6. Further compensation.** Notwithstanding section 607, after compensation payments for incapacity or death caused by an asbestos-related disease have been legally discontinued, a claim for further compensation for that disease not due to further exposure to asbestos in that employment is barred if not made within 40 years after the last previous payment.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

**7. Compensation benefits.** Compensation under this section is paid as follows.

A. If an employee is determined to be entitled to compensation for periods of total incapacity occurring on or after October 1, 1983, or if a dependent of an employee is determined to be entitled to full death benefits for periods occurring on or after October 1, 1983, and the employee became incapacitated or died on or after November 30, 1967 and before January 1, 1972, then the weekly compensation paid is equal to 2/3 of the average weekly wage in the State, as computed by the Department of Labor, that exists on the date the worker files a claim for compensation. If an employee is determined to be entitled to compensation for periods of partial incapacity occurring on or after October 1, 1983, and the employee became incapacitated on or after November 30, 1967 and before January 1, 1972, then the weekly compensation paid is equal to 2/3 of the difference, due to the injury, between the average weekly wage in the State, as computed by the Department of Labor, that exists on the date the worker files a claim for compensation and the weekly wages, earnings or salary that the employee is able to earn after the claim is filed. If a dependent of an employee is determined to be entitled to partial death benefits for periods occurring on or after October 1, 1983 and the employee died on or after November 30, 1967 and before January 1, 1972, then the weekly compensation paid is equal to the same proportion of the weekly payment provided in this paragraph for full death benefits, as the total amount contributed by the employee to such

partial dependents for their support during the year prior to incapacity bears to the employee's earnings during that period. [PL 1995, c. 560, Pt. G, §28 (AMD).]

B. If an employee is determined to be entitled to compensation for periods of total or partial incapacity occurring on or after October 1, 1983 or if a dependent of an employee is determined to be entitled to full or partial death benefits for periods occurring on or after October 1, 1983 and the employee became incapacitated or died on or after January 1, 1972 and before October 1, 1983, then the initial weekly compensation paid is equal to the compensation that would have been paid had compensation payments begun at the time the employee became incapacitated or died and that compensation had been adjusted annually as provided in former Title 39, section 54, 55 or 58, whichever section was applicable. This subsection may not be interpreted as providing for any adjustment for inflation in excess of the adjustment provided in former Title 39, section 54, 55 or 58. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

C. If an employee becomes incapacitated or dies on or after October 1, 1983, but before June 30, 1985, then compensation is payable in the same manner and amounts as provided in former Title 39, sections 54, 55 and 58. If an employee becomes incapacitated or dies on or after June 30, 1985 but before November 20, 1987, then compensation is payable in the same manner and amount as provided in former Title 39, sections 54-A, 55-A and 58-A. If an employee becomes incapacitated or dies on or after November 20, 1987 but before January 1, 1993, compensation is payable in the same manner and amount as provided in former Title 39, sections 54-B, 55-B and 58-A. If an employee becomes incapacitated or dies on or after January 1, 1993, compensation is payable in the same manner and amount as provided in sections 212, 213 and 215. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

[PL 1995, c. 560, Pt. G, §28 (AMD).]

**8. Section not applicable.** This section does not apply to an asbestos-related disease of any worker who, at the time of the last injurious exposure to asbestos, was covered by the federal Longshore and Harbor Workers' Compensation Act of March 4, 1927, Chapter 509, 33 United States Code, Section 901, or the Federal Employees Compensation Act, 5 United States Code, Section 8101. A worker is deemed to be covered by one of those acts if, at the time of the worker's last injurious exposure to asbestos, the worker was an employee, as defined by those federal acts, and was employed in employment that is subject to any of those federal acts.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

## SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1995, c. 560, §G28 (AMD).

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