



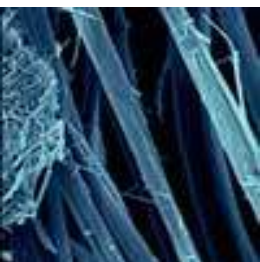
## EMPLOYMENT AND CIVIL NEWSBRIEF

### SCOTTISH GOVERNMENT TO REVERSE PLAQUES DECISION

The Scottish Government will introduce a bill which will overturn the House of Lords decision of *Johnson v NEI International Combustion Ltd, Rothwell v Chemical & Insulating Co Ltd & Ors, Topping v Benchtown Ltd, Grieves v FT Everard & Sons & Ors* [2007] UKHL 39, the effects of which were reported in our November Newsbrief. The Lords had held that symptomless pleural plaques were not in themselves damage which could form an action.

Pleural plaques are benign areas of scarring on the lungs which provide an indication of exposure to asbestos. Whilst they do not themselves develop into a more serious condition, their very presence does signify an increased risk of developing mesothelioma because of asbestos exposure.

The Act, when introduced, will have retrospective effect back to the date of the House of Lords decision,



essentially removing the effect of that decision. Prior to the judgment pleural plaques had given rise to claims for damages over many years.

Justice Secretary Kenny MacAskill said:

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*terrible legacy of Scotland's industrial past and we should not turn our backs on those who contributed to our nation's past wealth.*

*Pleural plaques in anyone exposed to asbestos mean they have to live with the worry of possible future ill health for the rest of their lives.*

*That is why this Scottish Government is to take steps to reverse the House of Lords Judgment and ensure that*

*people with pleural plaques can continue to raise an action for damages.*

*We have listened to many voices who have campaigned on behalf of asbestos sufferers. This Government takes this issue very seriously and I hope this move will bring some relief to people living with this condition."*

Scotland has a different legal system to England and Wales although its highest Court is the House of Lords.

This is not the first time that legislation has been introduced to reverse the effect of a House of Lords Decision. Additional measures were included within the Compensation Act 2006 to address the decision in *Barker v Corus (UK) PLC* where the Lords held that employers who negligently exposed their employees to asbestos should be severally liable only to the extent of the share of the risk which they negligently created.

The UK Government has so far decided that it would not be appropriate to introduce legislation in England and Wales to reverse the effects of the Johnson case.

## INCREASE IN BEREAVEMENT AWARDS

The Parliamentary Under-Secretary of State for Justice (Bridget Prentice) has announced an increase in the level of bereavement damages awarded under section 1A of the Fatal Accidents Act 1976. There will be an increase every three years for inflation in line with the retail prices index (rounded to the nearest £100). Bereavement damages were last increased from £7,500 to £10,000 on 1 April 2002.

The first increase will see this fixed statutory sum awarded under section 1A of the Fatal Accidents Act rise from £10,000 to £11,800 with effect from 1 January 2008. The increased level will apply to all

causes of action which accrue on or after this date. An order has also been laid under Article 3A(5) of the Fatal Accidents (Northern Ireland) Order 1977 to make the same increase in the level of the award in Northern Ireland.

This award has often received criticism as being inadequate. A recent government consultation considered abolishing the award altogether as it is considered by many to be impossible to compensate an individual for their grief in losing a loved one in a fatal accident.



### Employment

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.



### Civil Disputes and Accident Claims

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win — no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.



**Richard Cassel**

Head of Employment Department. Richard specialises in all aspects of employment and discrimination law. He is a highly regarded advocate appearing in the Employment Tribunals on a regular basis, and less frequently in the Employment Appeal Tribunal. Richard has been a Part-Time Chairman of the Employment Tribunals since 1993 and has a considerable experience of Tribunal practice and procedure.  
Contact Tel: 01603 214205

### Sally Davenport

Sally joined the employment team at Hatch Brenner in 2006. Originally from Cheshire, Sally took a Modern Languages degree at Oxford University, and worked in international banking before pursuing her legal career. She worked as a commercial litigation solicitor with Theodore Goddard, one of the largest London law firms, before moving abroad with her family and developing her own business as a legal translator. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed a Masters Degree in Employment Law at the University of East Anglia with distinction. She is a Fellow of the Chartered Institute of Arbitrators and is an advisor at a local Citizens Advice Bureau.  
Contact Tel: 01603 214205



### Rosemary Escott

Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.  
Contact Tel: 01603 674539



### Mark Fitch

Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.  
Contact Tel: 01603 674552



### Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an Accredited Senior Litigator of the Association of Personal Injury Lawyers.  
Contact Tel: 01603 674544



### John Cushing

John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a vast number of possession actions, rent collection matters and damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.  
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## Solicitors

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