**EXPLANATORY MEMORANDUM TO**

**THE CORONERS ALLOWANCES, FEES AND EXPENSES (AMENDMENT) REGULATIONS 2018**

**2018 No. 1127**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 This instrument corrects an error in Regulation 17(1)(c) of the Coroners Allowances, Fees and Expenses Regulations 2013 (S.I. 2013/1615) ("the 2013 Regulations") to require funding authorities to indemnify coroners for any costs ordered to be paid in legal proceedings connected with the exercise of a coroner's duty. This instrument is being issued free of charge because the 2013 Regulations do not explicitly refer to costs indemnity when the intention was to do so. The Department has consulted with the SI Registrar in relation to this point.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 This instrument amends an error in the Coroners Allowances, Fees and Expenses Regulations 2013 and is being issued free of charge to all known recipients of that instrument.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

3.2 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

## 5. European Convention on Human Rights

5.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## 6. Legislative Context

6.1 The Coroners and Justice Act 2009 ("the 2009 Act") provides the Lord Chancellor with the power to make regulations for, among other things, meeting and reimbursing expenses incurred by a coroner in the exercise of their duties under the 2009 Act. The

Lord Chancellor exercised that power in making the 2013 Regulations. It was intended, when making the 2013 Regulations, to indemnify coroners against costs orders or awards made against them in the exercise of their duties under the 2009 Act. There was an error in drafting the 2013 Regulations which meant that the indemnity was not set out, contrary to intention, in the Regulations.

## 7. Policy background

***What is being done and why?***

7.1 It has recently been brought to our attention that an intended reference to costs was omitted from Regulation 17(1)(c) of the 2013 Regulations so it is uncertain whether coroners have the right to be indemnified by their funding authorities against adverse costs orders made against them in judicial reviews and other proceedings which challenge their judicial decisions. This has the potential to adversely affect the independence of judicial decision making. The instrument corrects the error so that the Regulations include, as intended, an express provision to indemnify coroners against costs awards or orders made against them in the exercise of their duties under the 2009 Act.

## 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 It is not intended to consolidate the Regulations at this time. In due course changes will appear on the legislation.gov.uk website.

## 10. Consultation outcome

10.1 As the instrument merely corrects an error in existing Regulations there was no need for consultation.

## 11. Guidance

11.1 As the instrument merely corrects an error in existing Regulations there is no need for Guidance.

## 12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sectors is foreseen.

## 13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## 14. Monitoring & review

14.1 As the instrument merely corrects an error in existing Regulations there is no need to monitor or review the instrument.

## 15. Contact

15.1 Judith Bernstein at the Ministry of Justice; Telephone: 020 3334 6407 or Email: judith.bernstein@justice.gov.uk can answer any queries regarding the instrument.