EXPLANATORY MEMORANDUM TO

The Damages for Bereavement (Variation of Sum) Order (Northern Ireland) 2025

S.R. 2025 No. 173

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 3A(5) of the Fatal Accidents (Northern Ireland) Order 1977 ("the 1977 Order") and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Statutory Rule is to increase the level of the bereavement award in line with inflation as measured by the Consumer Price Index ("CPI"), rounded to the nearest £100. Based on the CPI for September 2025, this brings it to £19,700 for causes of action arising on or after 1 December 2025.

3. Background

3.1. When a person dies as the result of an accident, their common law right of action against the negligent person dies with them. However, under the 1977 Order, where a death has been caused by the negligence of another person, there is a statutory right for the dependants of the deceased person to claim for damages, for example, for the loss of earnings of the deceased person. A limited category of people may also claim for a fixed award of damages for bereavement. If the claim for negligence is successful, the damages are paid by the defendant. The bereavement award is a token payment in acknowledgement of the grief caused by the death of the deceased person. It is not intended to reflect the value of the life of the deceased person or to punish the defendant.

3.2. The availability of bereavement damages is a matter for the Department of Finance, as it is responsible for the substantive law on damages. The Department of Justice is responsible for setting, by negative resolution order, the fixed amount of bereavement damages under the 1977 Order.

3.3. The amount was previously set at £17,200 for causes of action arising from 1 November 2022, following a commitment given in 2016 by the then Minister of Justice to adjust the amount in line with inflation every three years.

4. Consultation

4.1. None as the Statutory Rule only makes an inflationary uplift and the Department had conducted a consultation on a review of the level of bereavement damages prior to the 2016 increase.

5. Equality Impact

5.1. The Department has carried out an equality screening exercise on the proposed amendment. No adverse impacts for any of the nine categories in section 75 of the Northern Ireland Act 1998 were identified. A full Equality Impact Assessment was, therefore, not required.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment is not considered necessary.

7. Financial Implications

7.1. The Statutory Rule will increase, to reflect inflation, bereavement damages to be paid by defendants in circumstances where they are found liable in negligence for causing the death of a person.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1988 and is satisfied that the Statutory Rule is not incompatible with the Convention rights; is not incompatible with Article 2(1) of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (rights of individuals); does not discriminate against a person or class of person on the grounds of religious belief or political opinion; and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. England and Wales has a similar statutory regime to that under the 1977 Order and the level of bereavement damages is set at £15,120 for causes of action accruing on or after 1 May 2020. A different statutory regime applies in Scotland where bereavement damages are not fixed: each case is decided on an individual basis.

11. Additional Information

11.1. Not applicable.