EXPLANATORY MEMORANDUM TO

THE MESOTHELIOMA LUMP SUM PAYMENTS (CONDITIONS AND AMOUNTS) (AMENDMENT) (NO. 2) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Sir Stephen Timms MP, Minister for Social Security and Disability at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Natalie Keogh, Deputy Director for Health and Disability Delivery Division, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Roberta Owen at the Department for Work and Pensions can be contacted by email at the following address with any queries regarding the instrument: roberta.owen@dwp.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument brings payments made to a dependant of a person disabled by a disease ("dependant") under Part Four of the Child Maintenance and Other Payments Act 2008 (the 2008 Act)[1] in line with the rates payable to a person with mesothelioma. It also introduces provision for payment to be made to a person's personal representatives where a valid claim has been made but the person dies before payment is made.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 This instrument amends the 2008 Act to increase the rates of awards payable to a dependant so that they are brought into line with those payable to a person with mesothelioma.

[1] https://www.legislation.gov.uk/ukpga/2008/6/section/46

5.2 This change equalises the rate of awards payable to a dependant and a person with mesothelioma by introducing a single rate structure. Currently awards payable to a dependant are set at a lower rate than those payable to a person with mesothelioma. As a result of these changes a dependant will receive awards calculated on the same basis and at the same rate as a person with mesothelioma, removing this disparity. Awards will continue to vary according to the criteria used to calculate awards under the scheme, including the age of a person with mesothelioma at the relevant date.

5.3 These changes simplify the scheme and establish a clearer legislative framework for its operation. By aligning awards payable to dependants with those payable to a person with mesothelioma, and by making clear the basis on which awards are to be calculated in all circumstances, the instrument removes uncertainty about the applicable rate and calculation methodology, improves consistency and reduces the risk of legal challenge.

5.4 The instrument also introduces provision for payment to be made to a person's personal representatives where a valid claim has been made but the person dies before the payment can be issued. Payment will be made on receipt of the appropriate probate, administration or confirmation documentation. This ensures that payments can still be made where entitlement has been established but the person dies before an award is paid. This removes uncertainty about who is entitled to receive the award in such circumstances, improving consistency and reducing the risk of legal challenge.

What was the previous policy, how is this different?

5.5 Under the previous policy, awards payable to dependants under the 2008 Act scheme were set at lower rates than those payable to a person with mesothelioma. This instrument revises that policy by increasing awards payable to a dependant so that they are equal to those payable to a person with mesothelioma, thereby removing the disparity between the two groups.

5.6 The instrument also introduces a new provision enabling payment to be made to a person’s personal representative where the person dies after making a claim but before payment is made as previously, there was no specific provision covering such cases.

5.7 The amendments apply only where entitlement to a payment under the scheme first arises on or after 31 October 2026. Existing entitlements will continue to be determined under the current legislative framework.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument introduces a single rate structure for calculating awards, as it amends the 2008 Act scheme to increase the amounts payable to dependants under the 2008 Act scheme so that they are equal to the amounts payable to an eligible person with mesothelioma, thereby removing the disparity between the awards made to those two groups.

6.2 This instrument also provides that, where a person dies after making a claim but before payment is made, the lump sum may be paid to that person’s personal representatives, subject to the appropriate probate, administration or confirmation documentation being provided. Currently, there is no provision for addressing who may receive payment in such circumstances. These amendments therefore provide a clear legal basis for such payments.

Why was this approach taken to change the law?

6.3 The changes address the disparity between awards payable to dependants and those payable to a person with mesothelioma under the 2008 Act. A legislative amendment was required to remove this disparity. Aligning the rates through a single structure provides a simpler and more transparent approach than maintaining separate award rates.

6.4 The amendments also provide greater legal certainty by clarifying who may receive a lump sum payment where a person dies after making a claim but before payment is made.

7. Consultation

Summary of consultation outcome and methodology

7.1 There is no duty to consult on these amendments, and a voluntary consultation was not considered necessary as they are legislative changes to equalise payments under the scheme. The amendments align payments to dependants with those payable to a person with mesothelioma and do not create any new entitlement. Consequently, a consultation has not been undertaken.

8. Applicable Guidance

8.1 No bespoke guidance is being produced for these amendments. However, prior to implementation, updated internal operational instructions will be available for DWP colleagues.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the impact on the public sector is negligible. There is provision for an increase in spend within the Department for Work and Pensions (DWP Departmental Expenditure Limit 2026-27 and 2028-29).

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on businesses, charities or voluntary bodies because this instrument equalises payments to a person with mesothelioma and a dependant.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the volume of payments is low.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through routine monitoring of claims, awards and expenditure under the scheme.

10.2 This instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Social Security and Disability, Sir Stephen Timms MP, has made the following statement regarding Human Rights:
"In my view the provisions of The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) (No. 2) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").