EXPLANATORY MEMORANDUM TO

THE MESOTHELIOMA LUMP SUM PAYMENTS (CONDITIONS AND AMOUNTS) (AMENDMENT) REGULATIONS 2019

2019 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 Her Majesty.

2. Purpose of the instrument

2.1 The Child Maintenance and Other Payments Act 2008[1] ("the 2008 Act") makes provision for lump sum compensation payments to be made to people suffering from Diffuse Mesothelioma, or their dependants, who meet the conditions of entitlement. One of the conditions of entitlement is that the sufferer has not received certain payments specified in the 2008 Act.

2.2 The compensation payments are paid according to the age of the sufferer and this instrument increases the amounts of compensation paid to sufferers, or their dependants, by 2.4%.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 The territorial application of this instrument includes Scotland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

4.3 The Department for Communities in Northern Ireland will be making corresponding provisions for Northern Ireland.

5. European Convention on Human Rights

5.1 The Minister for Disabled People, Health and Work, Sarah Newton, has made the following statement regarding Human Rights:

"In my view the provisions of the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2019 are compatible with the Convention rights."

[1] Child Maintenance and Other Payments Act 2008

6. Legislative Context

6.1 There is no obligation to increase the rates of payments under the 2008 Act; however the Government has reviewed the rates in order to maintain their value in line with inflation. This instrument increases the current rates of payments set out in the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008[2] ("the 2008 Regulations") by 2.4%.

6.2 The rates of payment set out in the 2008 Regulations were last uprated on 1 April 2018.

7. Policy background

7.1 Part 4 of the 2008 Act enables a lump sum to be paid to people with Diffuse Mesothelioma, or to their dependants where the sufferers did not claim in their lifetime. "Dependant" has a specific meaning set out in section 3 of the Pneumoconiosis etc. (Workers' Compensation) Act 1979[3].

7.2 Although there is no obligation under the legislation to increase the level of payments, the Government has decided to increase the amounts set out in the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008 by 2.4% - the rate of inflation as measured by the September 2018 Consumer Price Index. As payments made under this scheme are in respect of people who have been disabled through asbestos related disease, in some cases through work, they are being up-rated in line with other disability benefits.

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 Consolidation is not necessary because this instrument is an up-rating instrument.

10. Consultation outcome

10.1 There is no duty to consult over these increases and a consultation has not been carried out. These increases are at the rate of inflation as measured by the September 2018 Consumer Prices Index, and are in line with the uprating of Industrial Injuries benefits and other social security disability benefits (such as Carers' Allowance and Personal Independence Payment) which are increased under other statutory provisions.

11. Guidance

11.1 Prior to implementation a guidance bulletin detailing the new rates will be issued to claim processors in the DWP Barrow office with the responsibility for processing all claims under the 2008 Act.

[2] The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008
[3] Pneumoconiosis etc. (Workers' Compensation) Act 1979

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 An Impact Assessment has not been prepared for this instrument because the impact on the public sector is negligible. There will be an estimated £0.2m increase to the DWP Departmental Expenditure Limit.

13. Regulating small business

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

14. Monitoring & review

14.1 The changes in the payable rates aim to maintain the value of payments in line with the rate of inflation. The approach to monitoring of this legislation is to review the rates each year.

15. Contact

15.1 Susan Sedgwick at the Department for Work and Pensions. Telephone: 0113 251 9129 or email: susan.sedgwick@dwp.gsi.gov.uk can answer any queries regarding the instrument.

15.2 Louise Everett, Deputy Director for Industrial Injuries Scheme Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Sarah Newton, Minister for Disabled People, Health and Work at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.