EXPLANATORY MEMORANDUM TO

THE MESOTHELIOMA LUMP SUM PAYMENTS (CONDITIONS AND AMOUNTS) (AMENDMENT) REGULATIONS 2020

2020 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.

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

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 disease sufferer has not received certain payments specified in Section 46 of the 2008 Act.

2.2 The compensation payments are paid according to the age of the disease sufferer and this instrument increases the amounts of compensation paid to sufferers, or their dependants, by 1.7%.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These draft Regulations supersede the draft Regulations with the same name that were originally laid before Parliament on 16 January 2020. This is being done to correct an error on Table 2, which relates to the amount of lump sum payment to dependants. Where the age of the person with mesothelioma at death was either 46 or 50, the draft Regulations as originally laid on 16 January did not accurately reflect the 1.7% increase intended. In addition, the draft Regulations originally laid on 16 January refers to both 'dependants' and 'dependents'. These draft Regulations refer only to 'dependants' for consistency.

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.

[1] Child Maintenance and Other Payments Act 2008

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, Justin Tomlinson, has made the following statement regarding Human Rights:

"In my view the provisions of the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2020 are compatible with the Convention rights."

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 1.7%.

6.2 The rates of payment set out in the 2008 Regulations were last uprated on 1 April 2019.

7. Policy background

What is being done and why?

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 1.7% - the rate of inflation as measured by the September 2019 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.

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

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 2019 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.

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 £129 thousand 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 Jamal Saddique at the Department for Work and Pensions. Telephone: 0113 366 8060 or email: Jamal.Saddique@dpw.gov.uk, can answer any queries regarding the instrument.

15.2 Katy Roberts, 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 Justin Tomlinson, Minister for Disabled People, Health and Work, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.