EXPLANATORY MEMORANDUM TO

The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment No. 2) Regulations (Northern Ireland) 2026

S.R. 2026 No. 169

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Communities ("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 sections 1(3) and 9(1) and (2) of the Mesothelioma, etc., Act (Northern Ireland) 2008 ("the Act") and is subject to the confirmatory resolution procedure.

2. Purpose

2.1. These Regulations amend the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations (Northern Ireland) 2008 to:

- bring the dependant rates of payment in line with the rates for persons with diffuse mesothelioma; and
- make it clear to whom payment can be made to in the event the person making the claim dies before it is paid.

3. Background

3.1. The Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations (Northern Ireland) 2008 (the 2008 Regulations) provide the compensation rates and assessment processes for the occupational compensation scheme (the compensation scheme) established under the Mesothelioma, etc., Act (Northern Ireland) 2008 (the Act). The scheme provides compensation to people disabled by a prescribed disease and where applicable, their dependants.

3.2. This Statutory Rule (SR) amends the compensation scheme to increase the rate of awards payable to dependants so that they are brought into line with those payable to a person with mesothelioma.

3.3. 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.

3.4. 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, this SR removes uncertainty about the applicable rate and calculation methodology, improves consistency and reduces the risk of legal challenge.

3.5. The SR also introduces provision for payment to be made to a person's personal representative 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.

3.6. 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.

4. Consultation

4.1. There is no requirement to consult in relation to these Regulations.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on proposals for these Regulations and concluded that they do not have significant implications for equality of opportunity or good relations. In light of this, the Department considered that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. The Regulations do not require a Regulatory Impact Assessment as they do not impose any costs on business, charities, social enterprises or voluntary bodies.

7. Financial Implications

7.1. As there is a mechanism within Northern Ireland that enables the recoupment of Mesothelioma payments through the Northern Ireland Compensation Recovery Scheme, the expectation is that costs will be minimal with the payments offset against the recoveries in the Departmental Resource DEL Spend.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department is satisfied that these Regulations comply with section 24 of the Northern Ireland Act 1998 (Convention rights etc.).

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The corresponding Great Britain Regulations are the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) (No. 2) Regulations 2026, due to come into force from 31 October 2026.

10.2. In line with the long-standing policy of parity in social security, the Regulations will come into operation on the same date as the corresponding Great Britain Regulations. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.

11. Additional Information

11.1. Not applicable.