EXPLANATORY MEMORANDUM TO

THE MESOTHELIOMA LUMP SUM PAYMENTS (CONDITIONS AND AMOUNTS) (AMENDMENT) REGULATIONS 2011

2011 No. 1024

1. This explanatory memorandum has been prepared by Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

The 2008 Diffuse Mesothelioma Scheme (the 2008 scheme) provides for lump sum compensation payments to people suffering from mesothelioma, or to their dependents, who are not eligible for a payment under the Pneumoconiosis etc (Workers Compensation) Act 1979. The compensation payments are set according to the age of the sufferer and the extent of their disability. This instrument increases the amounts of compensation paid to sufferers, or their dependents, under the 2008 scheme by 3.1% from 1st April 2011. Where a claim is made by a sufferer the new rates will apply to those diagnosed with mesothelioma on or after 1 April 2011. Where a claim is made is made by a dependant the new rates will apply where the sufferer died on or after 1 April 2010.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

None.

4. Legislative Context

There is no statutory obligation to increase the rates of payments under the 2008 scheme. However, the Government has reviewed the rates in order to maintain their value in line with inflation. This instrument increases the current rates of payment set out in the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008 by 3.1% from 1st April 2011.

5. Territorial Extent and Application

This instrument applies to all of Great Britain.

6. European Convention on Human Rights

The Minister for Welfare Reform, Lord Freud of Eastry has made the following statement regarding Human Rights:

In my view the provisions of The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2011 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1. The 2008 Mesothelioma Scheme (the 2008 scheme) as set out in Part 4 of the Child Maintenance and Other Payments Act 2008 pays a lump sum to people with mesothelioma; or to their dependants where the sufferers were unable to claim in lifetime. The 2008 scheme is wholly funded from compensation recovery, where 1979 Act and 2008 scheme payments are recovered from any subsequent civil damages paid in respect of the same disease.

7.2. To align with legislation regarding how the lump sum payments under the scheme are assessed, any increase in the amounts set out in the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008 are made from 1 April each year.

- *Consolidation*

7.3. This instrument increases the rates paid under the 2008 scheme and therefore consolidation is not relevant.

8. Consultation

Consultation is not necessary because there is no change in policy, and there is no scope to change the outcome. These increases are at the rate of inflation as measured by the Consumer Prices Index, and in line with other social security benefits rates which are increased under the existing statutory provisions.

9. Guidance

A guidance bulletin detailing new rates will be issued to claim processors in the Jobcentre Plus Barrow office with responsibility for processing these claims.

10. Impact

10.1. This instrument has no impact on the private sector and civil society organisations.

10.2. The impact on the public sector is negligible

10.3. A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The changes in the payable rate aim to maintain the value of payments in line with inflation. It is intended that this will be reviewed each year in line with the annual

changes to rates under the Industrial Injuries Disablement Benefit scheme.

13. Contact

Malcolm Connell at the Department for Work and Pensions Tel: 0113 232 4764 or mail to Malcolm.connell@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.