EXPLANATORY MEMORANDUM TO

THE MESOTHELIOMA LUMP SUM PAYMENTS (CONDITIONS AND AMOUNTS) (AMENDMENT) REGULATIONS 2017

2017 No. 437

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 Part 4 of 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. 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 1.0%.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland.

4. Legislative Context

4.1 There is no obligation to increase the rates of payment 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 payment set out in the Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008[2] (the 2008 Regulations) by 1.0%. The rates of payment set out in the 2008 Regulations were last uprated on 1 April 2015.

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

5.3 Subject to the agreement of the Northern Ireland Assembly, the Department for Communities in Northern Ireland will be making corresponding provision for Northern Ireland.

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[1] http://www.legislation.gov.uk/ukpga/2008/6/part/4/data.pdf
[2] http://www.legislation.gov.uk/uksi/2008/1963/made/data.pdf.

6. European Convention on Human Rights

6.1 The Minister for Disabled People, Health and Work, Penny Mordaunt MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2017 are compatible with the Convention rights."

7. Policy background

7.1 Part 4 of the Child Maintenance and Other Payments Act 2008[3] (the 2008 Act) enables lump sum compensation payments to be paid to people who have Diffuse Mesothelioma, or to their dependants where the sufferers did not claim in their lifetime. Under the 2008 Act payments are made without the need to prove negligent exposure to asbestos, or that the exposure occurred during employment.

7.2 Although there is no statutory 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 1.0% - the rate of inflation as measured by the September 2016 Consumer Price Index. This is in line with the uprating of industrial injuries benefits and other social security benefits (such as Carers' Allowance and Personal Independence Payments).

Consolidation

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

8. Consultation outcome

8.1 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 Consumer Prices Index, and are in line with the uprating of industrial injuries benefits and other social security disability benefits which are increased under other statutory provisions.

9. Guidance

9.1 A guidance bulletin detailing new rates will be issued to claim processors in the Barrow office of the Department for Work and Pensions with responsibility for processing these claims, in advance of this statutory instrument coming into force.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible. From April 2015 to March 2016 400 people made a claim in respect of Diffuse Mesothelioma and 10 of these claims were from dependants.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

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

[3] http://www.legislation.gov.uk/ukpga/2008/6/part/4/data.pdf

12. Monitoring & review

12.1 The changes aim to maintain the value of payments in line with inflation. It is intended that these rates will be reviewed each year.

13. Contact

13.1 Neil Walker at the Department for Work and Pensions. Telephone: 0113 232 4242 or email: mailto:neil.walker@dwp.gsi.gov.uk can answer any queries regarding the instrument.