EXPLANATORY MEMORANDUM TO

The Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) (Amendment No. 2) Regulations (Northern Ireland) 2026

S.R. 2026 No. 170

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 Articles 3(3), 4(3) and 11(1) and (4) of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 ("the Order") and is subject to the affirmative resolution procedure.

2. Purpose

2.1. These Regulations amend the Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) Regulations (Northern Ireland) 1988 to:

- remove references to defunct assessment boards;
- align the rates of payments for dependants with the rates for sufferers;
- remove the top-up awards;
- introduce a clear relevant date for the purposes of calculating awards;
- clarify to whom payment is to be made where a person makes a claim in life but dies before it can be paid.

3. Background

3.1. The Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations (Northern Ireland) 1988 (the 1988 Regulations) provide the compensation rates and assessment processes for the occupational compensation scheme (the compensation scheme) established under the Pneumoconiosis etc. (Workers' Compensation) (Northern Ireland) Order 1979 (The 1979 Order). 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 disabled by a disease. Currently payments to a dependant are set at a lower rate than those payable to a person disabled by a disease and may be supplemented by a range of complex

"top-up" payments depending on the circumstance of the claim. As a result of these changes, dependants will receive awards calculated on the same basis and at the same rate as those payable to a person disabled by a disease, removing this disparity.

3.3. Awards will continue to vary according to the statutory criteria prescribed in the 1988 Regulations, including the age of a person disabled by a disease at the relevant date and the level of assessed disablement.

3.4. This SR also introduces a clear definition of the "relevant date" for calculating awards. Under the new provisions, where a claim is made by a person disabled by a disease, the relevant date is the date the claim under the compensation scheme is received. The person's age on that date, and the award rates in force at that time, will be used to determine the amount of the award. For a claim made by a dependant, the relevant date will be the date of death of a person disabled by a disease. The award will be based on the age of the person disabled by a disease at that point and the rates in force at that time. This provides greater clarity, reduces the potential for dispute, and ensures that awards are calculated in a consistent and transparent manner.

3.5. The rule also introduces provision for payment to be made to a representative of a person disabled by a disease, 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.

3.6. In addition, the rule removes the top-up payment for a dependant (including the minimum payment provision) and the tuberculosis rate top-up for pneumoconiosis for a person disabled by a disease. The introduction of a single rate structure removes the need for supplementary payments. These changes will have a positive impact on dependants, as they will benefit from higher basic award amounts under the revised provisions. By aligning the rate of awards payable to dependants with those paid to a person disabled by a disease, the rule ensures that dependants will be better off overall without the need for supplementary top-up payments.

3.7. The removal of these provisions also reflects the simplification of the scheme. The existing top-ups are administratively complex and can result in inconsistencies in award outcomes. Their removal will streamline the process for determining awards and reduce the administrative burden while also compensating both the persons disabled by a disease and any dependants fairly and accurately.

3.8. 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.

What was the previous policy, how is this different?

3.9. Under the previous policy, awards payable to a person disabled by a disease under the compensation scheme were generally set at a higher level than those payable in respect of a dependant of a person disabled by a disease, although in some circumstances the awards could be the same. In addition, a dependant could be entitled to further payments under Part 2 of the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations (Northern Ireland) 2026 (The 2026 Regulations) including a dependant top-up payment and a minimum payment provision. In certain circumstances, a person disabled by pneumoconiosis may also receive an additional payment where pneumoconiosis is accompanied by tuberculosis.

3.10. This SR revises the previous policy by increasing awards payable in respect of a dependant of a person disabled by a disease so that they are equal to those payable to a person disabled by a disease, thereby removing the disparity between the two groups. As part of this equalisation, the rule also removes additional dependant payments including the minimum payment provision and the tuberculosis related top-up.

3.11. Awards to both dependants and a person disabled by a disease under the 1979 Act vary by the percentage disablement and age of the person disabled by a disease (age at death for dependants). There are 410 different rates for a person disabled by a disease and 155 different rates for dependants (as per section two of The 2026 Regulations), reflecting the age-related and disablement criteria used to calculate awards. In 2026/27 a person disabled by a disease age 37 or younger with 50% disablement will receive £108,858. The dependant of a person disabled by a disease who died under the age of 37 with 50% disablement will receive £62,743. A person disabled by a disease age 67 with 50% disablement will receive £13,608. The dependant of a person disabled by a disease who died aged 67 with 50% disablement will receive £10,387. The compensation scheme dependant awards vary as a proportion of the awards of those paid to a person disabled by a disease.

3.12. These changes simplify the structure of payments under the scheme, improve fairness between persons disabled by a disease and their dependants, and remove complexity arising from supplementary payments.

3.13. Reference to assessment bodies have been removed and replaced with references to medical practitioners appointed by the Department. The

amendments also clarify the person to whom payments are made where a person with the disease dies before payment is made.

4. Consultation

4.1. There is no requirement to consult with the Industrial Injuries Advisory Council 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 Pneumoconiosis 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 Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) (No. 2) Regulations 2026, due to come into force from 31 October 2026.

10.2. In order for people here to benefit from these provisions from the same date as people in Great Britain, the Northern Ireland Rule should be made and implemented to timescales which align as closely as possible with the GB Instrument. Subject to the approval of the Assembly, these Regulations should come into operation on 31 October 2026, consistent with the corresponding GB Regulations.

11. Additional Information

11.1. Not applicable.