

## **EXPLANATORY MEMORANDUM**

### **THE SOCIAL SECURITY (RECOVERY OF BENEFITS) (LUMP SUM PAYMENTS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2014**

**S.R. 2014 No. 162**

#### **1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development (“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 section 165(4) to (6) of the Social Security Administration (Northern Ireland) Act 1992 and Articles 3A(1) and (3), 16(2) to (4), 21, 23(3) and 25(1), (2), (6A) and (7) of, and paragraph 4 of Schedule 1 to, the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997.
- 1.3 The Rule is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1 These Regulations amend the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008 to provide that lump sum payments made under the Pneumoconiosis etc. (Workers’ Compensation) (Northern Ireland) Order 1979 and the Mesothelioma, etc., Act (Northern Ireland) 2008 are recovered from scheme payments made under the Diffuse Mesothelioma Payment Scheme (“DMPS”).
- 2.2 The Regulations also enable lump sum payments made under the DMPS to be recovered in the same way as the existing lump sum payments from subsequent payments of civil compensation.

#### **3. Background**

- 3.1 The Mesothelioma Act 2014 (“the 2014 Act”), which extends to Northern Ireland, provides for the Secretary of State for Work and Pensions to establish a scheme for the purpose of making payments to people with diffuse mesothelioma, and to dependants of those persons who have died with diffuse mesothelioma.
- 3.2 The UK-wide DMPS was established by the Diffuse Mesothelioma Payment Scheme Regulations 2014 which came into force on 6th April 2014.
- 3.3 The 2014 Act also amended the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 to provide for the recovery of lump sum payments made by the Department from payments made under the DMPS and for the recovery of payments made under the DMPS from any later paid compensation.

#### **4. Consultation**

- 4.1 As these Regulations are made by virtue of, or are consequential upon, the provisions of the 2014 Act and before the end of the period of 6 months from the commencement of those provisions consultation with the Social Security Advisory Committee is not required.

#### **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.
- 5.2 The Regulations amend the recovery of benefits provisions in relation to lump sum payments to include payments under the DMPS, which brings the treatment of those payments into line with the treatment of payments under the existing Pneumoconiosis and Mesothelioma schemes and ensure that claimants are treated equally irrespective of whether they receive a payment under either of those schemes, the 2014 Act or a civil compensation payment.
- 5.3 In light of this, the Department considered that an equality impact assessment is not necessary.

#### **6. Regulatory Impact**

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new cost on business, charities, social economy enterprises or voluntary bodies.

#### **7. Financial Implications**

- 7.1 Any additional costs to the Department of effecting recoveries provided for by these Regulations are expected to be minimal.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
  - (b) is not incompatible with Community law,
  - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
  - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

## **9. EU Implications**

9.1 Not applicable.

## **10. Parity or Replicatory Measure**

10.1 The corresponding Great Britain Regulations are the Social Security (Recovery of Benefits) (Lump Sum Payments) (Amendment) Regulations 2014 (S.I. 2014/1456) which come into force on 1st July 2014. 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.