

EXPLANATORY MEMORANDUM TO
THE MESOTHELIOMA LUMP SUM PAYMENTS (CONDITIONS AND AMOUNTS)
(AMENDMENT) REGULATIONS 2022

2022 No. [XXXX]

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 The Child Maintenance and Other Payments Act 2008¹ (“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 disease sufferer has not received certain payments specified in Section 47 of the 2008 Act.
- 2.2 The compensation payments are paid according to the age of the disease sufferer and this instrument increases the amounts of compensation paid to sufferers, or their dependants, by 3.1%.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is Great Britain.
- 4.2 The territorial application of this instrument is Great Britain.
- 4.3 The Department for Communities in Northern Ireland will be making corresponding provisions for Northern Ireland.

5. European Convention on Human Rights

- 5.1 The Minister for Disabled People, Health and Work, Chloe Smith, has made the following statement regarding Human Rights:
- “In my view the provisions of the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 There is no obligation to increase the rates of payments 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 payments set out in the

¹ <https://www.legislation.gov.uk/ukpga/2008/6/contents>

Mesothelioma Lump Sum Payments (Conditions and Amounts) Regulations 2008² (“the 2008 Regulations”) by 3.1%.

- 6.2 The rates of payment set out in the 2008 Regulations were last updated on 1 April 2021.

7. Policy background

What is being done and why?

- 7.1 Part 4 of the 2008 Act enables a lump sum to be paid to people with Diffuse Mesothelioma, or to their dependants where the sufferers did not claim in their lifetime. “Dependant” has a specific meaning set out in section 3 of the Pneumoconiosis etc. (Workers' Compensation) Act 1979³.
- 7.2 Although there is no 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 3.1% - the rate of inflation as measured by the September 2021 Consumer Price Index. As payments made under this scheme are in respect of people who have been disabled through asbestos related disease, in some cases through work, they are being up-rated in line with other disability benefits.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

- 9.1 Consolidation is not necessary because this instrument is an uprating instrument.

10. Consultation outcome

- 10.1 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 September 2021 Consumer Prices Index, and are in line with the uprating of Industrial Injuries benefits and other social security disability benefits (such as Carers’ Allowance and Personal Independence Payment) which are increased under other statutory provisions.

11. Guidance

- 11.1 Prior to implementation a guidance bulletin detailing the new rates will be issued to claim processors in the DWP Barrow office which is responsible for processing all claims under the 2008 Act.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.

² <https://www.legislation.gov.uk/ukxi/2008/1963/contents>

³ <https://www.legislation.gov.uk/ukpga/1979/41/contents>

- 12.3 A full Impact Assessment has not been prepared for this instrument because the impact on the public sector is negligible. There will be an estimated £0.27 million increase to the DWP Departmental Expenditure Limit for 22/23. These estimates are at the time of the submission but delayed assessments due to Covid-19 may impact on final costings.

13. Regulating small business

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

14. Monitoring & review

- 14.1 The changes in the payable rates aim to maintain the value of payments in line with the rate of inflation. The approach to monitoring of this legislation is to review the rates each year.
- 14.2 The instrument does not include a statutory review clause.

15. Contact

- 15.1 Faith Phillips at the Department for Work and Pensions Telephone: 07832820754 or email: Faith.Phillips@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Louise Everett, Deputy Director for Industrial Injuries Scheme Policy, at Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Chloe Smith at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.