

## EXPLANATORY MEMORANDUM TO

### THE VICTIMS' PAYMENTS (AMENDMENT) REGULATIONS 2020

2020 No. 490

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments (JCSI).

#### 2. Purpose of the instrument

- 2.1 This instrument makes minor corrections to the Statutory Instrument establishing a Scheme for payments to be made to those permanently disabled as a consequence of injury caused by a Troubles-related incident.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument corrects defects in S.I 2020/103. Those defects were reported by the Joint Committee on Statutory Instruments (JCSI) in the Committee's Sixth Report of Session 2019-21.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 In each case, the extent of the amendments made reflects the extent of the provisions being amended. Accordingly, regulation 2(2) and (4) to (7) extend to Northern Ireland and the remainder of the instrument extends to England and Wales, Scotland and Northern Ireland.

#### 5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### 6. Legislative Context

- 6.1 This amending SI corrects two minor errors identified by the JCSI. We are grateful to the Committee for drawing these to our attention.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Nothing in this Regulation is a change of policy - all changes are made by way of correction or clarification.
- 7.2 Paragraph (2) of regulation 2 corrects a cross reference in regulation 5(3) of the original instrument.
- 7.3 Paragraph (3) of regulation 2 corrects an error in regulation 29 of the original instrument. Sub-paragraphs (a) to (c) of paragraph 2 were intended to be a separate paragraph. It also corrects cross-references in consequence.
- 7.4 The Victims' Payment Regulations 2020 make provision allowing certain determinations to be appealed (regulation 34) or reviewed (regulation 43). The amendment made by paragraph (4) of regulation 2 makes clearer that, where the result of a review is the making of a new determination or the varying of a determination, an appeal may be brought in respect of that new determination or the determination as varied. The amendment made by paragraph (5) of regulation 2 provides that, when an appeal is brought against a determination that has been re-made or varied, it is handled in the same way as an appeal against the original determination.
- 7.5 Paragraph (6) corrects regulation 43(7) of the Victims' Payments Regulation 2020 which deals with notification to an appellant following the review of a determination. The provision mistakenly referred to notification following the determination of an appeal.
- 7.6 Paragraph 7 of Regulation 2 adds missing words omitted in error from regulation 49(3).

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 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 Notwithstanding a small number of consequential amendments, consolidation is not relevant.

## **10. Consultation outcome**

- 10.1 No substantive changes are being made by this Regulation. A summary of the consultation process which informed policy choices made to underpin the original instrument is set out below, for completeness.
- 10.2 A formal public consultation was conducted from 22 October to 26 November 2019, which sought views on the proposed shape of this Scheme. This included questions on the purpose and principles of the scheme (including how to support applicants through the process); approach to financial payments (including adopting the existing degrees of disablement methodology that underpins the Industrial Injuries Scheme and the War Pension Scheme); options for payments (including backdating and lump sum options for claimants over 60); date parameters [for determining eligibility]; and eligibility in relation to prior convictions, as well as other compensation.

- 10.3 367 responses were received. The consultation team also met with a range of interested groups and parties to discuss the proposals and the issues arising from them.
- 10.4 In summary, there was broad support for the proposed purpose and principles of approach, and the scheme was welcomed. Consultation responses reflected a spectrum of different views across several areas, which is understandable given the historically divisive and emotive subject matter. The Government has sought throughout to find a balanced way forward, particularly in these areas of divided opinion.
- 10.5 On the scheme's date parameters, for example, although an open-ended scheme is not considered appropriate, given the strength of opinion expressed, these regulations will confer on the Board the discretion to determine that a person is entitled to payments notwithstanding that the incident in which they were injured took place outside of the period from January 1966 to April 2010.
- 10.6 The Government's full response to this consultation can be found at the following link: [www.gov.uk/nio](http://www.gov.uk/nio).

## **11. Guidance**

- 11.1 The amending Regulation does not alter the guidance provisions.

## **12. Impact**

- 12.1 There is no significant impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the implementation of the scheme is expected to have little to no impact on businesses.

## **13. Regulating small business**

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

## **14. Monitoring & review**

- 14.1 None.

## **15. Contact**

- 15.1 Chris Atkinson at the Northern Ireland Office (telephone: 0207 210 6454 or email: [chris.atkinson@nio.gov.uk](mailto:chris.atkinson@nio.gov.uk)) can be contacted with any queries regarding the instrument.
- 15.2 Ruth Sloan, Deputy Director for the Legacy Group, at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Minister of State at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.