EXPLANATORY MEMORANDUM TO

THE COMPENSATION FOR MISCARRIAGES OF JUSTICE (ALTERATION OF OVERALL COMPENSATION LIMITS) ORDER (NORTHERN IRELAND) 2026

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under under section 133A(7) and (9) of the Criminal Justice Act 198 and is subject to the draft affirmative resolution procedure.

2. Purpose

2.1. The purpose of this Order is to increase the statutory maximum compensation awards payable by the Department of Justice in miscarriage of justice cases. The Order increases the maximum award from £1 million to £1.3 million where a person has spent more than ten years in custody, and from £500,000 to £650,000 in any other case. The Order does not alter the eligibility criteria for compensation, the statutory test for entitlement, or the process for determining claims.

3. Background

3.1. Section 133 of the Criminal Justice Act 1988 provides for the payment of compensation to individuals who have suffered a miscarriage of justice following conviction. Section 133A(5) sets overall compensation limits applicable to such awards.

3.2. The statutory maximum awards have remained unchanged since 2008. On 15 July 2025, the Ministry of Justice announced a 30% increase in the equivalent statutory maximum awards in England and Wales and for national security cases in Northern Ireland. Following consideration of those changes, and recognising the passage of time since the Northern Ireland limits were introduced, the Department consulted on whether the statutory maximum awards should be increased in Northern Ireland. The Department concluded that the maximum awards should be increased by 30% to align with those operating in England and Wales.

4. Consultation

4.1. A public consultation was conducted between 22 June 2026 and 17 August 2026. Seven responses were received. The majority of respondents supported increasing the statutory maximum awards and aligning Northern Ireland with England and Wales. Five respondents specifically supported alignment on grounds of consistency and fairness across jurisdictions operating under the same legislative framework. No respondent supported retaining the existing statutory limits unchanged.

4.2. The consultation also sought views on possible future reforms to the miscarriage of justice compensation scheme. While respondents expressed a range of views on potential future changes, these issues are not addressed by this Order.

5. Equality Impact

5.1. An Equality Impact Screening exercise was undertaken. The screening concluded that a full Equality Impact Assessment was not required. The policy increases the statutory maximum compensation awards available to persons who satisfy the statutory requirements for compensation and applies equally to all eligible applicants. It does not alter eligibility criteria or introduce differential treatment affecting any of the Section 75 groups. No adverse equality impacts were identified.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been undertaken as the proposal does not impose costs, regulatory requirements or administrative burdens on businesses, charities, voluntary organisations or social enterprises. The measure concerns only the statutory maximum compensation awards payable in a limited number of miscarriage of justice cases and has no direct impact on commercial activity or the wider economy.

7. Financial Implications

7.1. There are no implementation or administrative costs associated with the Order. Compensation awards are assessed on a case-by-case basis by an independent assessor and only a small proportion of cases have historically approached the statutory maximum limits. Accordingly, any financial impact is expected to be limited and manageable within existing budgetary arrangements.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that the Order is compatible with Convention rights.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The Order maintains broad parity with provision made in England and Wales through The Compensation for Miscarriages of Justice (Alteration of Overall Compensation Limits) Order 2025 (SI 2025/1139), which increased the corresponding statutory maximum awards by 30%.

11. Additional Information

11.1. The Order applies to applications made on or after the date it comes into operation and to applications already submitted where an assessment of compensation has not yet been completed. It does not alter the overall compensation limits applicable to national security cases determined by the Secretary of State.