EXPLANATORY MEMORANDUM TO

THE PNEUMOCONIOSIS ETC. (WORKERS' COMPENSATION) (PAYMENT OF CLAIMS) (AMENDMENT) REGULATIONS 2009

2009 No.

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 This Statutory Instrument (SI) increases the current rates of lump sum payment under the Pneumoconiosis etc. (Workers Compensation) Act 1979 ("the Act") by 5% from 1st April 2009. The amount paid to sufferers of the five respiratory diseases covered by the legislation is calculated taking account of the age of the sufferer and the level of disablement. Dependants are paid a proportion of the sufferers rate.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None

4. Legislative Context

4.1 Although there is no statutory obligation to increase payments in line with inflation under the Act, the Government has made a commitment to review the rates regularly in order to maintain their value in line with inflation. This Statutory Instrument increases the current rates of payment under the Act by 5% from 1st April 2009 and maintains alignment with other social security benefits.

5. Territorial Extent and Application

5.1 This instrument applies to all of Great Britain.

6. European Convention on Human Rights

The Parliamentary Under-Secretary of State, Lord McKenzie of Luton, has made the following statement regarding Human Rights:

In my view the provisions of the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2009 are compatible with the Convention rights.

7. Policy background

7.1 The Act was introduced in 1979 to provide compensation to sufferers of certain dust-related diseases, or their dependents, who are unable to claim damages from the employer because the employer has ceased to carry on business. The scheme was originally administered by the Department for Transport and transferred to the Department for Work and Pensions in 2002.

7.2 The Government in 2004 gave an undertaking to Parliament to annually review the rates of payment in order to maintain their value broadly in line with inflation. This makes sense, given that the awarding of Industrial Injuries Disablement Benefit is one of the conditions to be met when considering eligibility for a payment under the Act.

7.3 In October 2008 the Office of National Statistics announced the RPI increase as 5% and this is the amount by which the rates paid under the Act will be increased. This increase will maintain parity with Social Security benefits.

8. Consultation outcome

8.1 Consultation is not necessary because previous Governments have given an undertaking to Parliament to annually review the rates of payment in order to maintain their value in line with inflation.

9. Guidance

9.1 A guidance bulletin detailing new rates will be issued to claim processors in the office with responsibility for processing all 1979 Act claims.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A full impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The changes in the payable rate aim to maintain the value of payment in line with the agreed rate of inflation.

12.2 An internal review will be conducted on 1st April to ensure the uprating has been successfully implemented.

13. Contact

Su Ensor at the Department for Work and Pensions Tel: 0113 232 7456 or mail to su.ensor@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.