EXPLANATORY MEMORANDUM TO

THE PNEUMOCONIOSIS ETC. (WORKERS' COMPENSATION) (PAYMENT OF CLAIMS) (AMENDMENT) REGULATIONS 2010

2010 No. [Draft]

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 Pneumoconiosis etc. (Workers' Compensation) Act 1979 (the 1979 Act) makes provision for lump sum compensation payments to people suffering from certain dust related diseases, or their dependants, who are unable to claim, or have not received payments of, damages from their employer. The compensation payments are set according to the age of the sufferer and the extent of their disability. This instrument increases the amounts of compensation paid to sufferers, or their dependants, under the 1979 Act by 1.5% from 1st April 2010.

2.2 In addition, from 1 April 2010 all dependant rates will be increased to reduce the disparity between the higher awards made to sufferers and the lower awards made to dependants. A £5000 increase will be made to dependants unless this would mean that the dependant would be paid more than the sufferer if he had claimed in life. In these cases the dependants payment will be equalised with equivalent sufferers rate.

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

3.1 None

4. Legislative Context

4.1 There is no statutory obligation to increase the rates of compensation payments in line with inflation under the 1979 Act. However, the Government has made a commitment to review the rates regularly in order to maintain their value in line with inflation. This instrument increases the current rates of payment under the 1979 Act by 1.5% from 1st April 2010.

4.2 In addition the Government gave a commitment to look at reducing the difference in payment between sufferers and dependants as funds became available. The rates payable to dependants will be increased by up to £5000 to reduce the differential.

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5. Territorial Extent and Application

5.1 This instrument applies to all of Great Britain.

6. European Convention on Human Rights

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

6.2 In my view the provisions of the Pneumoconiosis etc. (Workers Compensation) (Payment of Claims) (Amendment) Regulations 2010 are compatible with the Convention rights.

7. Policy background

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

7.1 The 1979 Act provides lump sum compensation payments to sufferers of certain dust-related diseases, or their dependants, who are unable to claim damages because the employer for whom they worked when the dust exposure occurred has ceased to carry on business.

7.2 There is no statutory obligation to increase payments in line with inflation under the 1979 Act. However, the Government in 2004 gave an undertaking to Parliament to regularly review the rates of payment and uprate them in line with other social security benefits. This review is normally conducted annually, using the Retail Prices Index (RPI), the rate which applies to a number of benefits, including Industrial Injuries Disablement Benefit (IIDB). This year, as the September RPI was negative, the Government decided to uprate IIDB by 1.5%. As entitlement under the 1979 Act is dependent on entitlement to IIDB, the government also decided to maintain the link between both schemes and uprate the 1979 Act using the rate used for IIDB,

7.3 This increase meets the Government's commitment to uprate 1979 Act payments in line with other social security benefits.

7.4 In addition Ministers have also given a commitment to to look at reducing the difference in payment to sufferers and dependants as funds became available. An additional £5000 is being added to the dependant rates and this goes some way to address the imbalance. However, a dependant will not be able to receive a higher payment than sufferer would have got. In these cases payment to the dependant will be made at the equivalent sufferers rate.

- **Consolidation**

7.5 This instrument is an annual up-rating and therefore consolidation is not relevant.

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, and in line with what happens with other social security benefits rates which are increased under the existing statutory provisions.

9. Guidance

9.1 A guidance bulletin detailing the new rates will be issued to claim processors in the Jobcentre Plus Barrow 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 The impact on the public sector is negligible.

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 rate of inflation. It is intended that this will be reviewed each year.

13. Contact

13.1 Malcolm Connell at the Department for Work and Pensions - Tel: 0113 232 4764 or email to Malcolm.connell@jobcentreplus.gsi.gov.uk - can answer any queries regarding the instrument.