EXPLANATORY MEMORANDUM TO

THE PNEUMOCONIOSIS ETC. (WORKERS' COMPENSATION) (PAYMENT OF CLAIMS) (AMENDMENT) REGULATIONS 2013

2013 No. 690

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

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 to their dependants, who are unable to claim, or have not received, payments for damages from their employer. The compensation payments are set according to the age of sufferers and the extent of their disability. This instrument increases the amounts of compensation paid to sufferers, or their dependants, under the 1979 Act by 2.2% from 1st April 2013.
http://www.legislation.gov.uk/ukpga/1979/41/data.pdf

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

None

4. Legislative Context

There is no statutory obligation to increase the rates of compensation payments in line with inflation under the 1979 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 payment of the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988 (the 1988 Regulations) (as amended) by 2.2% from 1st April 2013. It also amends the 1988 Regulations to remove references to the pre 1948 schemes, the 'Old Schemes',[1] which were abolished under the Welfare Reform Act 2012, and omits tables and amounts which, as a result of repeals made by section 64 of that Act, are no longer required.
http://www.legislation.gov.uk/uksi/1988/668/made/data.pdf

5. Territorial Extent and Application

This instrument applies to all of Great Britain.

6. European Convention on Human Rights

The Minister for Welfare Reform, Lord Freud of Eastry, has made the following statement regarding Human Rights:

[1] The Workmen's Compensation (Supplementation) Scheme, and the Pneumoconiosis, Byssinosis & Miscellaneous Diseases Benefit Scheme.

In my view the provisions of the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2013 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. Although there is no statutory obligation to increase payments in line with inflation under the 1979 Act, the Government decided to increase the amounts in the regulations by 2.2% - the rate of inflation as measured by the September 2012 Consumer Prices Index, and in line with Industrial Injuries Disablement Benefit and other Social Security disability benefits.

7.3. One of the conditions of entitlement is that a person must be entitled, or would have been entitled had he claimed, to Industrial Injuries Disablement Benefit or payment under one of the pre 1948 schemes, the 'Old Schemes'. The references relevant to the pre 1948 schemes are removed as they are no longer required. The pre 1948 schemes were abolished under the Welfare Reform Act 2012 and the existing customers have been transferred to Industrial Injuries Disablement Benefit. No one lost any benefit from this change. Any person whose injury was sustained before July 1948, will now be eligible to claim under the Industrial Injuries Disablement Benefit scheme.
http://www.legislation.gov.uk/ukpga/2012/5/section/64/data.pdf

7.4. To align with legislation regarding how the lump sum payments under the scheme are assessed, any increase in the amounts in the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988 are made from 1st April each year.

- *Consolidation*

7.5. Consolidation is not necessary because this instrument is an annual up-rating and therefore consolidation is not relevant

8. Consultation outcome

Consultation is not necessary, as these increases are at the rate of inflation as measured by the Consumer Prices Index, and in line with Industrial Injuries Disablement Benefit and other social security disability benefits rates which are increased under the existing statutory provisions.

9. Guidance

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

10. Impact

10.1. This instrument has no impact on business and civil society organisations.

10.2. The impact on the public sector is negligible.

10.3. An impact assessment has not been prepared for this instrument.

11. Regulating small business

This instrument does not apply to small business.

12. Monitoring & review

The changes in the payable rates aim to maintain the value of payments in line with the rate of inflation. It is intended that these rates will be reviewed each year.

13. Contact

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