

Draft Regulations laid before Parliament under section 7(3) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

SOCIAL SECURITY

**The Pneumoconiosis etc. (Workers' Compensation)
(Payment of Claims) (Amendment) Regulations 2012**

Made - - - - 2012
Coming into force - - 1st April 2012

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 1(1), (2) and (4) and 7(2) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979⁽¹⁾.

In accordance with section 7(3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2012 and come into force on 1st April 2012.

(2) These Regulations apply only in relation to any case in which a person first fulfils the conditions of entitlement to a payment under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 on or after the day on which they come into force.

Amendment of the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988

2. In the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988⁽²⁾—

- (a) in regulations 5(1) and 8 (minimum amounts payable to dependant), for “£2,731” substitute “£2,873”;
- (b) in regulation 6(1)(a) (payment where pneumoconiosis is accompanied by tuberculosis), for “£5,648” (in both places) substitute “£5,942”; and

(1) 1979 c.41; section 1 was amended by section 24 of the Social Security Act 1985 (c.53) and section 7(3) was amended by section 58 of the Welfare Reform Act 2007 (c.5).
(2) S.I. 1988/668; relevant amending instruments are S.I. 1989/552, 2008/650, 2008/1963, 2009/747, 2010/1106 and 2011/1026.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2012 ISBN 978-0-11-152062-8

- (c) for the Schedule to those Regulations substitute the Schedule set out in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Work and Pensions

Date

Name
Parliamentary Under-Secretary of State,
Department for Work and Pensions

SCHEDULE

Regulation 2(c)

“SCHEDULE

Regulations 3, 4, 5 and 6

TABLE 1

1. This table is for the determination of payments to disabled persons under regulation 3 or regulation 6 and for the determination of payments to dependants of deceased sufferers under regulation 4(1).

2. The relevant period is the period specified in regulation 3(2) or (3) or, in the case of a disabled person to whom regulation 6 applies, the first period specified in regulation 6(1)(b).

3.—(1) The age of the disabled person is his age determined in accordance with regulation 3(2) or (3) or, in the case of a disabled person to whom regulation 6 applies, regulation 6(1)(b).

(2) In determining the amount payable to a dependant of a disabled person under regulation 4(1), the age to be taken for the purpose of calculating the sum to be deducted from the amount which would have been payable to the disabled person had he still been alive is the age of the deceased at his last birthday preceding his death.

4. Part A of the table prescribes payments to disabled persons to whom disablement benefits are payable under section 108 of the Social Security Contributions and Benefits Act 1992(3) or under any corresponding provision of the former Industrial Injuries Acts(4), or would be payable but for the disablement amounting to less than the appropriate percentage.

5. Part B of the table prescribes payments to disabled persons to whom an allowance is payable under a scheme made, or having effect as if made, under paragraph 4 of Schedule 8 to the Social Security Contributions and Benefits Act 1992 or under any corresponding provision of the former Old Cases Acts(5).

Part A

| Age of disabled or person less £ | Percentage assessment for the relevant period | | | | | | | | | |
|----------------------------------------------------|-----------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| | 10% | 11%- 20% | 21%- 30% | 31%- 40% | 41%- 50% | 51%- 60% | 61%- 70% | 71%- 80% | 81%- 90% | 91%- 100% |
| | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| 37 and under | 33,246 | 59,372 | 69,660 | 71,641 | 73,619 | 75,202 | 76,785 | 78,369 | 79,951 | 81,536 |
| 38 | 32,296 | 56,994 | 67,562 | 69,980 | 72,033 | 73,619 | 75,202 | 76,785 | 78,369 | 79,951 |
| 39 | 31,345 | 54,619 | 65,465 | 68,315 | 70,455 | 71,825 | 73,619 | 75,202 | 76,785 | 78,369 |
| 40 | 30,398 | 52,242 | 63,367 | 66,651 | 68,866 | 70,453 | 72,033 | 73,619 | 75,202 | 76,787 |
| 41 | 29,447 | 49,871 | 61,271 | 64,985 | 67,288 | 68,866 | 70,453 | 72,033 | 73,619 | 75,202 |
| 42 | 28,491 | 47,498 | 59,171 | 63,331 | 65,703 | 67,288 | 68,866 | 70,453 | 72,033 | 73,619 |
| 43 | 27,073 | 44,724 | 57,074 | 62,062 | 64,597 | 66,497 | 68,077 | 69,660 | 71,245 | 72,829 |

(3) 1992 c.4.

(4) “the former Industrial Injuries Acts” is defined in section 2(3) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979.

(5) “the former Old Cases Acts” is defined in section 2(3) of the Pneumoconiosis etc. (Workers' Compensation) Act 1979.

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| Age of disabled or person less | Percentage assessment for the relevant period | | | | | | | | | |
|--------------------------------|-----------------------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|----------|
| | 10% | 11%-20% | 21%-30% | 31%-40% | 41%-50% | 51%-60% | 61%-70% | 71%-80% | 81%-90% | 91%-100% |
| | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| 44 | 25,646 | 41,954 | 54,974 | 60,796 | 63,487 | 65,703 | 67,288 | 68,866 | 70,453 | 72,033 |
| 45 | 24,225 | 39,184 | 52,877 | 59,527 | 62,381 | 64,908 | 66,497 | 68,077 | 69,660 | 71,245 |
| 46 | 22,798 | 36,415 | 50,782 | 58,263 | 61,271 | 64,122 | 65,703 | 67,288 | 68,866 | 70,453 |
| 47 | 21,376 | 33,643 | 48,682 | 56,994 | 60,164 | 63,331 | 64,908 | 66,497 | 68,077 | 69,660 |
| 48 | 20,147 | 32,534 | 47,023 | 54,463 | 58,263 | 61,109 | 62,696 | 64,278 | 65,857 | 67,447 |
| 49 | 18,920 | 31,427 | 45,359 | 51,929 | 56,365 | 58,893 | 60,478 | 62,062 | 63,647 | 65,231 |
| 50 | 17,693 | 30,319 | 43,728 | 49,397 | 54,463 | 56,677 | 58,263 | 59,844 | 61,426 | 63,011 |
| 51 | 16,466 | 29,210 | 42,032 | 46,862 | 52,561 | 54,463 | 56,061 | 57,625 | 59,212 | 60,796 |
| 52 | 15,239 | 28,102 | 40,372 | 44,329 | 50,660 | 52,242 | 53,832 | 55,412 | 56,994 | 58,575 |
| 53 | 14,089 | 26,125 | 37,836 | 42,114 | 48,761 | 50,660 | 52,242 | 53,832 | 55,412 | 56,994 |
| 54 | 12,942 | 24,147 | 35,303 | 39,901 | 46,862 | 49,082 | 50,660 | 52,242 | 53,832 | 55,412 |
| 55 | 11,796 | 22,167 | 32,776 | 37,678 | 44,960 | 47,498 | 49,082 | 50,660 | 52,242 | 53,832 |
| 56 | 10,646 | 20,186 | 30,240 | 35,464 | 43,065 | 45,911 | 47,498 | 49,082 | 50,660 | 52,242 |
| 57 | 9,499 | 18,205 | 27,707 | 33,246 | 41,170 | 44,330 | 45,911 | 47,498 | 49,082 | 50,660 |
| 58 | 8,747 | 16,545 | 24,741 | 29,840 | 37,046 | 39,977 | 41,678 | 43,343 | 44,961 | 46,546 |
| 59 | 7,993 | 14,881 | 21,768 | 26,440 | 32,929 | 35,620 | 37,441 | 39,184 | 40,846 | 42,427 |
| 60 | 7,247 | 13,218 | 18,799 | 23,034 | 28,818 | 31,269 | 33,203 | 35,029 | 36,732 | 38,316 |
| 61 | 6,489 | 11,556 | 15,835 | 19,630 | 24,698 | 26,914 | 28,971 | 30,873 | 32,614 | 34,197 |
| 62 | 5,739 | 9,895 | 12,864 | 16,227 | 20,582 | 22,560 | 24,741 | 26,718 | 28,491 | 30,081 |
| 63 | 5,343 | 8,944 | 11,556 | 14,509 | 18,309 | 20,262 | 22,324 | 24,225 | 25,963 | 27,546 |
| 64 | 4,956 | 7,993 | 10,250 | 12,783 | 16,028 | 17,971 | 19,911 | 21,730 | 23,429 | 25,012 |
| 65 | 4,553 | 7,045 | 8,944 | 11,066 | 13,756 | 15,674 | 17,494 | 19,238 | 20,900 | 22,483 |
| 66 | 4,159 | 6,097 | 7,638 | 9,339 | 11,479 | 13,377 | 15,080 | 16,740 | 18,366 | 19,949 |
| 67 | 3,762 | 5,145 | 6,330 | 7,619 | 9,204 | 11,085 | 12,666 | 14,248 | 15,835 | 17,416 |
| 68 | 3,659 | 4,982 | 6,114 | 7,304 | 8,888 | 10,646 | 12,171 | 13,814 | 15,335 | 16,900 |
| 69 | 3,563 | 4,830 | 5,900 | 6,987 | 8,572 | 10,212 | 11,679 | 13,377 | 14,844 | 16,384 |
| 70 | 3,462 | 4,673 | 5,678 | 6,670 | 8,253 | 9,773 | 11,183 | 12,942 | 14,346 | 15,873 |
| 71 | 3,366 | 4,510 | 5,462 | 6,351 | 7,935 | 9,339 | 10,689 | 12,507 | 13,855 | 15,359 |
| 72 | 3,266 | 4,354 | 5,244 | 6,037 | 7,619 | 8,908 | 10,191 | 12,071 | 13,355 | 14,844 |
| 73 | 3,184 | 4,277 | 5,166 | 5,918 | 7,499 | 8,708 | 9,994 | 11,757 | 12,964 | 14,407 |

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| Age of disabled or person less | Percentage assessment for the relevant period | | | | | | | | | |
|--------------------------------|-----------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| | 10% | 11%- 20% | 21%- 30% | 31%- 40% | 41%- 50% | 51%- 60% | 61%- 70% | 71%- 80% | 81%- 90% | 91%- 100% |
| £ | £ | £ | £ | £ | £ | £ | £ | £ | £ | £ |
| 74 | 3,108 | 4,195 | 5,086 | 5,799 | 7,385 | 8,508 | 9,799 | 11,441 | 12,568 | 13,962 |
| 75 | 3,030 | 4,119 | 5,009 | 5,678 | 7,261 | 8,312 | 9,597 | 11,122 | 12,171 | 13,534 |
| 76 | 2,949 | 4,034 | 4,927 | 5,562 | 7,143 | 8,117 | 9,403 | 10,806 | 11,771 | 13,104 |
| 77 and over | 2,873 | 3,957 | 4,850 | 5,440 | 7,025 | 7,915 | 9,204 | 10,494 | 11,381 | 12,666 |

Part B

| Age of disabled person | Extent of incapacity for the relevant period | |
|------------------------|----------------------------------------------|------------|
| | Partial £ | Total £ |
| 37 and under | 59,372 | 81,536 |
| 38 | 56,994 | 79,951 |
| 39 | 54,619 | 78,369 |
| 40 | 52,242 | 76,787 |
| 41 | 49,871 | 75,202 |
| 42 | 47,498 | 73,619 |
| 43 | 44,724 | 72,829 |
| 44 | 41,954 | 72,033 |
| 45 | 39,184 | 71,245 |
| 46 | 36,415 | 70,453 |
| 47 | 33,643 | 69,660 |
| 48 | 32,534 | 67,447 |
| 49 | 31,427 | 65,231 |
| 50 | 30,319 | 63,011 |
| 51 | 29,210 | 60,796 |
| 52 | 28,102 | 58,575 |
| 53 | 26,125 | 56,994 |
| 54 | 24,147 | 55,412 |
| 55 | 22,167 | 53,832 |
| 56 | 20,186 | 52,242 |
| 57 | 18,205 | 50,660 |

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| <i>Age of disabled person</i> | <i>Extent of incapacity for the relevant period</i> | |
|-------------------------------|-----------------------------------------------------|--------------|
| | <i>Partial</i> | <i>Total</i> |
| | <i>£</i> | <i>£</i> |
| 58 | 16,545 | 46,546 |
| 59 | 14,881 | 42,427 |
| 60 | 13,218 | 38,316 |
| 61 | 11,556 | 34,197 |
| 62 | 9,895 | 30,081 |
| 63 | 8,944 | 27,546 |
| 64 | 7,993 | 25,012 |
| 65 | 7,045 | 22,483 |
| 66 | 6,097 | 19,949 |
| 67 | 5,145 | 17,416 |
| 68 | 4,982 | 16,900 |
| 69 | 4,830 | 16,384 |
| 70 | 4,673 | 15,873 |
| 71 | 4,510 | 15,359 |
| 72 | 4,354 | 14,844 |
| 73 | 4,277 | 14,407 |
| 74 | 4,195 | 13,962 |
| 75 | 4,119 | 13,534 |
| 76 | 4,034 | 13,104 |
| 77 and over | 3,957 | 12,666 |

TABLE 2

1. This table is for the determination of payments to dependants of deceased sufferers under regulation 4(2) or 6.

2. The relevant period is the period specified in regulation 3(2) or (3) or, in the case of a disabled person to whom regulation 6 applies, the first period specified in regulation 6(1)(b).

3.—(1) Parts A and B of the table prescribe payments to dependants of disabled persons who died as a result of a disease other than diffuse mesothelioma.

(2) Part C of the table prescribes payments to dependants of disabled persons who died as a result of diffuse mesothelioma.

4. Part A of the table prescribes payments to—

- (a) dependants to whom death benefit under section 108 of the Social Security Contributions and Benefits Act 1992(6) is payable;
- (b) dependants of a person to whom disablement benefit under that section or under any corresponding provision of the former Industrial Injuries Acts was payable immediately before that person died; and
- (c) dependants of a person to whom disablement benefit would have been payable immediately before that person died but for the occurrence of one of the circumstances listed in regulation 5(1)(a)(iii), or but for the person's disablement amounting to less than the appropriate percentage.

5. Part B of the table prescribes payments to—

- (a) dependants to whom death benefit has been paid under a scheme made, or having effect as if made, under paragraph 4 of Schedule 8 to the Social Security Contributions and Benefits Act 1992; and
- (b) dependants of persons to whom an allowance was payable under such a scheme or under a scheme made, or having effect as if made, under any corresponding provision of the former Old Cases Acts.

Part A

| Age of disabled person | Percentage assessment for the relevant period | | | | |
|------------------------|-----------------------------------------------|---------|---------|---------|--------------|
| | 10% or less | 11%-20% | 21%-30% | 31%-49% | 50% and over |
| | £ | £ | £ | £ | £ |
| 37 and under | 21,058 | 35,903 | 40,254 | 41,445 | 42,432 |
| 38 | 20,583 | 34,556 | 39,067 | 40,254 | 41,520 |
| 39 | 20,110 | 33,210 | 37,880 | 39,066 | 40,610 |
| 40 | 19,629 | 31,863 | 36,692 | 37,880 | 39,700 |
| 41 | 19,157 | 30,519 | 35,504 | 36,692 | 38,790 |
| 42 | 18,686 | 29,177 | 34,316 | 35,504 | 37,880 |
| 43 | 17,828 | 27,432 | 33,247 | 34,434 | 37,009 |
| 44 | 16,979 | 25,685 | 32,175 | 33,368 | 36,129 |
| 45 | 16,130 | 23,945 | 31,110 | 32,297 | 35,264 |
| 46 | 15,277 | 22,202 | 29,949 | 31,228 | 34,394 |
| 47 | 14,427 | 20,461 | 28,976 | 30,164 | 33,525 |
| 48 | 13,777 | 19,986 | 28,186 | 29,332 | 32,455 |
| 49 | 13,119 | 19,512 | 27,389 | 28,500 | 31,386 |
| 50 | 12,468 | 19,035 | 26,601 | 27,664 | 30,318 |
| 51 | 11,816 | 18,563 | 25,810 | 26,838 | 29,253 |
| 52 | 11,162 | 18,089 | 25,018 | 26,005 | 28,186 |
| 53 | 10,863 | 16,979 | 23,515 | 24,857 | 27,309 |

(6) 1992 c.4.

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| <i>Age of disabled person</i> | <i>Percentage assessment for the relevant period</i> | | | | |
|-------------------------------|------------------------------------------------------|----------------|----------------|----------------|---------------------|
| | <i>10% or less</i> | <i>11%-20%</i> | <i>21%-30%</i> | <i>31%-49%</i> | <i>50% and over</i> |
| | <i>£</i> | <i>£</i> | <i>£</i> | <i>£</i> | <i>£</i> |
| 54 | 10,568 | 15,870 | 22,007 | 23,709 | 26,441 |
| 55 | 10,273 | 14,762 | 20,503 | 22,563 | 25,570 |
| 56 | 9,976 | 13,654 | 18,999 | 21,417 | 24,695 |
| 57 | 9,499 | 12,550 | 17,494 | 20,267 | 23,827 |
| 58 | 8,747 | 11,753 | 15,776 | 18,250 | 21,417 |
| 59 | 7,993 | 10,961 | 14,055 | 16,229 | 18,999 |
| 60 | 7,247 | 10,175 | 12,329 | 14,210 | 16,586 |
| 61 | 6,489 | 9,380 | 10,610 | 12,192 | 14,170 |
| 62 | 5,739 | 8,593 | 8,885 | 10,175 | 11,753 |
| 63 | 5,343 | 8,531 | 8,771 | 9,795 | 11,064 |
| 64 | 4,956 | 7,993 | 8,646 | 9,420 | 10,379 |
| 65 | 4,553 | 7,045 | 8,531 | 9,042 | 9,676 |
| 66 | 4,159 | 6,097 | 7,638 | 8,668 | 8,986 |
| 67 and over | 2,873 | 3,957 | 4,850 | 5,440 | 7,915 |

Part B

| <i>Age of disabled person</i> | <i>Extent of incapacity for the relevant period</i> | |
|-------------------------------|-----------------------------------------------------|--------------|
| | <i>Partial</i> | <i>Total</i> |
| | <i>£</i> | <i>£</i> |
| 37 and under | 35,903 | 42,432 |
| 38 | 34,556 | 41,520 |
| 39 | 33,210 | 40,610 |
| 40 | 31,863 | 39,700 |
| 41 | 30,519 | 38,790 |
| 42 | 29,177 | 37,880 |
| 43 | 27,432 | 37,009 |
| 44 | 25,685 | 36,129 |
| 45 | 23,945 | 35,264 |
| 46 | 22,202 | 34,394 |
| 47 | 20,461 | 33,525 |
| 48 | 19,986 | 32,455 |
| 49 | 19,512 | 31,386 |

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| <i>Age of disabled person</i> | <i>Extent of incapacity for the relevant period</i> | |
|-------------------------------|-----------------------------------------------------|--------------|
| | <i>Partial</i> | <i>Total</i> |
| | <i>£</i> | <i>£</i> |
| 50 | 19,035 | 30,318 |
| 51 | 18,563 | 29,253 |
| 52 | 18,089 | 28,186 |
| 53 | 16,979 | 27,309 |
| 54 | 15,870 | 26,441 |
| 55 | 14,762 | 25,570 |
| 56 | 13,654 | 24,695 |
| 57 | 12,550 | 23,827 |
| 58 | 11,753 | 21,417 |
| 59 | 10,961 | 18,999 |
| 60 | 10,175 | 16,586 |
| 61 | 9,380 | 14,170 |
| 62 | 8,593 | 11,753 |
| 63 | 8,531 | 11,064 |
| 64 | 7,993 | 10,379 |
| 65 | 7,045 | 9,676 |
| 66 | 6,097 | 8,986 |
| 67 and over | 3,957 | 7,915 |

Part C

| <i>Age of disabled person</i> | <i>Payment</i> |
|-------------------------------|----------------|
| | <i>£</i> |
| 37 and under | 42,432 |
| 38 | 41,520 |
| 39 | 40,610 |
| 40 | 39,700 |
| 41 | 38,790 |
| 42 | 37,880 |
| 43 | 37,009 |
| 44 | 36,129 |
| 45 | 35,264 |
| 46 | 34,394 |

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| <i>Age of disabled person</i> | <i>Payment</i> |
|-------------------------------|----------------|
| | £ |
| 47 | 33,525 |
| 48 | 32,455 |
| 49 | 31,386 |
| 50 | 30,318 |
| 51 | 29,253 |
| 52 | 28,186 |
| 53 | 27,309 |
| 54 | 26,441 |
| 55 | 25,570 |
| 56 | 24,695 |
| 57 | 23,827 |
| 58 | 21,417 |
| 59 | 18,999 |
| 60 | 16,586 |
| 61 | 14,170 |
| 62 | 11,753 |
| 63 | 11,064 |
| 64 | 10,379 |
| 65 | 9,676 |
| 66 | 8,986 |
| 67 and over | 7,915" |

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 (c.41) ("the Act") lump sum payments may be made to certain persons disabled by a disease to which the Act applies, or to dependants of persons who were so disabled before they died.

These Regulations amend the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) Regulations 1988 (S.I. 1988/668) ("the Pneumoconiosis Regulations"). Regulation 2(c) of these Regulations substitutes a new Schedule into the Pneumoconiosis Regulations so as to increase

amounts payable under it. The increase in each case is 5.2 per cent. rounded up or down to the nearest £1 as appropriate.

The diseases to which the Act applies are pneumoconiosis, byssinosis, diffuse mesothelioma, primary carcinoma of the lung (where accompanied by asbestosis or diffuse pleural thickening) and diffuse pleural thickening.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.