

1982 No. 59

## SOCIAL SECURITY

**The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1982**

*Made* . . . . . 3rd March 1982

*Coming into operation* . . . . . 29th March 1982

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 76, 77 and 113 of, and Schedule 12 to, the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1982, and shall come into operation on 29th March 1982.

(2) In these regulations “the principal regulations” means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1977(b).

*Amendments of principal regulations relating to occupational asthma and other specified diseases*

2.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(2) (interpretation) there shall be inserted at the appropriate place in alphabetical order the following definition, namely—

“‘occupational asthma’ means the disease numbered 53 in Part I of Schedule 1 to these regulations;”.

(3) In regulation 7(1) (recrudescence) for “or occupational deafness” there shall be substituted “,occupational deafness or occupational asthma”.

(4) In regulation 11(1) (application of Claims and Payments Regulations and Benefit Regulations) after “these regulations” there shall be inserted “or of regulation 38 or 46A”.

(5) In regulation 20 (determination of claims and questions) for the expression “and 44” there shall be substituted the expression “,44 and 53”.

(6) For paragraph (2) of regulation 23 (reference of diagnosis and recrudescence questions for medical report) there shall be substituted the following paragraph—

“(2) Subject to the provisions of regulation 24, if a diagnosis or recrudescence question arises in any case, the insurance officer shall forthwith refer that question for report to one or more medical practitioners who, in the case of pneumoconiosis, byssinosis or each of the diseases numbered 17, 36, 37(b), 40, 43, 44 and 53 in Part I of Schedule 1 to these regulations, shall have power, if he or they consider it to be necessary, to do any or all of the following, namely—

(a) to make or cause to be made a radiological examination of the person’s lungs;

(b) to obtain the report of a radiologist or other physician on the case;

(a) 1975 c. 15

(b) S.R. 1977 No. 272, to which there are amendments not relevant to these regulations

(c) to make or cause to be made serological or lung function tests or such other tests as he or they consider necessary;

(d) to obtain reports upon the results of such tests.”

(7) In regulation 31 (which deals, among other things, with the constitution of medical boards) there shall be inserted, at the end, the following paragraph—

“(3) Notwithstanding the provisions of regulation 16(2) of the Determination of Claims and Questions Regulations (which provides among other things that a medical practitioner shall not act as a member of a medical board for the purpose of the consideration of a case if he has taken part in it as a medical practitioner to whom any question has been referred for report) a medical practitioner shall not be precluded from acting as a member of a medical board for the purpose of the consideration of a case solely because he has taken part in that case as a medical practitioner to whom a question relating to pneumoconiosis, byssinosis or any of the diseases numbered 17, 36, 37(b), 40, 43, 44 and 53 in Part I of Schedule 1 to these regulations has been referred for report.”

(8) In regulation 32 (diseases in respect of which injury benefit is not payable) for “or occupational deafness” there shall be substituted “,occupational deafness or occupational asthma”.

(9) After regulation 46 there shall be inserted the following regulation—

*“Time for claiming benefit in respect of occupational asthma*

**46A.**—(1) Subject to paragraphs (2) and (3), disablement benefit shall not be paid in pursuance of a claim in respect of occupational asthma which is made later than 10 years after the claimant or, as the case may be, the person in respect of whom the claim is made ceased to be employed in an occupation prescribed in relation to occupational asthma.

(2) Paragraph (1) shall not apply to any claim made before 29th March 1983 by or in respect of a person who ceased on or after 29th March 1972 to be employed in an occupation prescribed in relation to occupational asthma.

(3) Paragraph (1) shall not apply to any claim made by or in respect of a person who has at any time been found to be suffering from asthma as a result of an industrial accident and by virtue of that finding has been awarded disablement benefit either for life or for a period which includes the date on which the aforesaid claim is made.

(4) Subject to paragraphs (5) and (6), industrial death benefit shall not be paid in pursuance of a claim in respect of occupational asthma where the person in respect of whose death the benefit is being claimed died more than 10 years after he ceased to be employed in an occupation prescribed in relation to occupational asthma.

(5) Paragraph (4) shall not apply to any claim made in respect of the death of a person who died before 29th March 1983 and who ceased on or after 29th March 1972 to be employed in an occupation prescribed in relation to occupational asthma.

(6) Paragraph (4) shall not apply to any claim made in respect of the death of a person who had at any time been found to be suffering either from asthma as a result of an industrial accident or from occupational asthma and by virtue of that finding had been awarded disablement benefit either for life or for a period which included the date of his death.

(7) Regulation 14 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(a) (time for claiming benefit) shall not apply to a claim in respect of occupational asthma made before 29th March 1983.”

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(a) S.R. 1977 No. 351, to which there are amendments not relevant to these regulations.

(10) In regulation 47 (special power of medical board in cases of pneumoconiosis, byssinosis and certain other diseases) for the expression “and 44” there shall be substituted the expression “,44 and 53”, and for “radiographic” there shall be substituted “radiological”.

(11) Part I of Schedule 1 shall be amended by the addition, at the end of the first and second columns thereof respectively, of the disease specified in the first column of the Schedule hereto and of the occupations set against that disease in the second column of that Schedule.

(12) Where a person, who has been employed on or at any time after 5th July 1948 in employed earner’s employment in any occupation referred to in the second column of the Schedule hereto, is, as the result of occupational asthma, either incapable of work or suffering from a loss of faculty on the date on which these regulations come into operation, and the disease is due to the nature of the employment, the provisions of regulation 6 of the principal regulations (date of development) shall be applied subject to the modification that the date on which these regulations come into operation shall be treated as the first day on which he was incapable of work, or, as the case may be, as the day on which he first suffered from the relevant loss of faculty, and the date of development shall be determined accordingly.

*Miscellaneous amendments of principal regulations*

3.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) For the heading to Part IV there shall be substituted the following—

“PART IV

APPLICATION OF CHAPTERS IV AND VI OF PART II OF THE ACT AND OF REGULATIONS MADE THEREUNDER”.

(3) For regulation 10 there shall be substituted the following regulation—

*“Application of Chapters IV and VI of Part II of the Act*

10. The provisions of Chapters IV and VI of Part II of the Act which relate to industrial injuries benefit shall, in relation to prescribed diseases, be subject to the following provisions of this Part of these regulations, and, subject as aforesaid, to the additions and modifications set out in Schedule 2 hereto.”.

(4) Schedule 2 shall be amended by the substitution, in the heading, of “CHAPTERS IV AND VI” for “CHAPTER IV”, and by the substitution, in paragraph 1, of “Chapters IV and VI” for “Chapter IV”.

*Amendment of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975*

4. Regulation 16(2)(b) of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(a) (constitution of medical boards) shall be amended by the deletion of “examination and”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd March 1982.

(L.S.)

*I. M. S. Jordan* (Miss)

Assistant Secretary

(a) S.R. 1975 No. 100, to which there are amendments not relevant to these regulations

## SCHEDULE

Regulation 2(11)

<i>Description of disease or injury</i>	<i>Nature of occupation</i>
<p>53. Asthma which is due to exposure to any of the following agents:</p> <ul style="list-style-type: none"> <li>(a) isocyanates;</li> <li>(b) platinum salts;</li> <li>(c) fumes or dusts arising from the manufacture, transport or use of hardening agents (including epoxy resin curing agents) based on phthalic anhydride, tetrachlorophthalic anhydride, trimellitic anhydride or triethylenetetramine;</li> <li>(d) fumes arising from the use of rosin as a soldering flux;</li> <li>(e) proteolytic enzymes;</li> <li>(f) animals or insects used for the purposes of research or education or in laboratories;</li> <li>(g) dusts arising from the sowing, cultivation, harvesting, drying, handling, milling, transport or storage of barley, oats, rye, wheat or maize, or the handling, milling, transport or storage of meal or flour made therefrom</li> </ul> <p>(occupational asthma).</p>	<p>Any occupation involving: Exposure to any of the agents set out in column 1 of this paragraph.</p>

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations extend cover under the industrial injuries provisions of the Social Security (Northern Ireland) Act 1975 to occupational asthma in the case of persons employed in occupations involving exposure to specified agents, by making an addition to the list of prescribed diseases in Part I of Schedule 1 to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1977 ("the principal regulations").

Suffering from this disease may entitle a person to disablement benefit but not injury benefit. Any question of diagnosis relating to it is to be referred to one or more medical practitioners.

The regulations contain transitional provisions relating to persons who are already suffering from occupational asthma on the date on which the regulations come into operation.

An amendment is made to the usual rule that a medical practitioner to whom any question has been referred for report may not act as a member of a medical board in considering the same case. This rule is not to apply where the question related wholly to any of a number of prescribed diseases, including occupational asthma.

The regulations also secure that the provisions of Chapter VI (as well as those of Chapter IV) of Part II of the Social Security (Northern Ireland) Act 1975 are to apply to prescribed diseases, but with the references to accidents construed as references to diseases, and with other modifications.