

## 1986 No. 208

## SOCIAL SECURITY

**Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) Regulations (Northern Ireland) 1986**

*Made* . . . . . 3rd July 1986

*Coming into operation* . . . . . 18th August 1986

*To be laid before Parliament under paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974*

The Department of Economic Development(a), in exercise of the powers conferred on it by Articles 3(3), 4(3), 11(1) and 11(4) of the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979(b) and of every other power enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and application*

1.—(1) These regulations may be cited as the Pneumoconiosis, etc., (Workers' Compensation) (Payment of Claims) Regulations (Northern Ireland) 1986 and shall come into operation on 18th August 1986.

(2) These regulations will apply to any case in which a person first satisfies the conditions of entitlement to a payment under the Order on or after 18th August 1986.

*Interpretation*

2. In these regulations—

“claim” means a claim made in accordance with the Pneumoconiosis, etc., (Workers' Compensation) (Determination of Claims) Regulations (Northern Ireland) 1986(c);

“determination” as respects a medical board or a medical appeal tribunal means a determination in connection with a claim for disablement benefit;

“disease” means a disease to which the Order applies, namely pneumoconiosis, byssinosis, diffuse mesothelioma, primary carcinoma of the lung and bilateral diffuse pleural thickening;

“medical board” means 2 or more adjudicating medical practitioners appointed under paragraph (1) of Schedule 12 to the Social Security (Northern Ireland) Act 1975(d) and nominated by the Department of Health and Social Services for Northern Ireland to act jointly in the consideration of a case;

“medical appeal tribunal” means a tribunal appointed by the Department of Health and Social Services for Northern Ireland consisting of a chairman and two medical practitioners as constituted under paragraph 2 of Schedule 12 to the Social Security (Northern Ireland) Act 1975;

“the Order” means the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979;

(a) Formerly the Department of Manpower Services: see S.I. 1982/846 (N.I. 11) Article 3

(b) S.I. 1979/925 (N.I. 9) as amended by S.I. 1985/1209 (N.I. 16) Article 22

(c) S.R. 1986 No. 207

(d) 1975 c. 15 as amended by paragraph 7(a) of Schedule 2 to the Social Security Adjudications (Northern Ireland) Order 1983 S.I. 1983/1524 (N.I. 17)

“percentage assessment” means percentage disability assessed in respect of a disease by a medical board or medical appeal tribunal, as the case may be, for the purpose of determining entitlement to disablement benefit under section 76 of the Social Security (Northern Ireland) Act 1975(a) or under any corresponding provision of the former Industrial Injuries Acts(b);

“primary carcinoma of the lung” means primary carcinoma of the lung where there is accompanying evidence of one or both of the following:—

- (i) asbestosis
- (ii) bilateral diffuse pleural thickening.

#### *Payments to persons disabled by a disease*

3.—(1) The amount of any payment made to any person disabled by a disease who has made a claim for, and in respect of whom there is entitlement to a payment under the Order, shall be determined in accordance with Table 1 of the Schedule.

(2) For the purpose of a determination as respects Table 1 of the Schedule the age of the person concerned and the percentage assessment shall be related to the first determination that he was suffering from the disease in the following manner—

- (a) in any case where the first determination was a determination of a medical board, the age of the person concerned shall be the age of the person at his last birthday preceding the first day of the month in which that determination was made, and the percentage assessment shall be that which is applicable either at the time or retrospectively for the period immediately following the date of the determination by that board;
- (b) in any case where the first determination was a determination of a medical appeal tribunal, the age of that person shall be his age at his last birthday preceding the first day of the month in which his case was last considered by a medical board (being at a time prior to the first determination of a medical appeal tribunal) and the percentage assessment shall be that which is applicable for the period immediately following the date of that last consideration by a medical board.

(3) In any case where, at the time of the first determination of a medical board or a medical appeal tribunal that the disabled person was suffering from the disease, the board or tribunal, as the case may be, diagnosed that pneumoconiosis was accompanied by tuberculosis, this regulation shall apply subject to regulation 6.

#### *Payments to dependants of persons disabled by a disease*

4.—(1) The amount of any payment made to a dependant of a person to whom disablement benefit in respect of a disease was payable immediately before he died, being the dependant entitled to a payment under the Order, shall be determined by ascertaining the amount which would have been payable to the deceased in accordance with regulation 3 had he still been alive and had duly made a claim for payment under the Order, deducting from that amount the sum which would have been payable to the deceased if his age at his last birthday preceding his death were substituted for the age used in ascertaining the amount in accordance with regulation 3.

(2) Where the Department is satisfied that the deceased died as a result of the disease, there shall be added to the amount calculated in accordance with paragraph (1) a further amount determined in accordance with Table 2 of the Schedule and for this purpose—

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(a) 1975 c. 15

(b) 1946 c. 21 (N.I.) and 1966 c. 9 (N.I.)

- (a) the age of the deceased shall be his age at his last birthday preceding his death;
- (b) in the case of a disease other than diffuse mesothelioma, the percentage assessment shall be the same as that used in determining the amount payable under regulation 3.

(3) For the purpose of determining whether a payment should be made under paragraph (2), it shall be sufficient evidence that the deceased died as a result of the disease if death benefit is payable or was paid as a lump sum by reason of the deceased's death as a result of the disease.

(4) It shall not be open to the Department to be satisfied that the deceased died as a result of the disease if there is clear evidence that a claim for death benefit has been disallowed on the ground that the deceased did not die as a result of the disease.

(5) Where no claim for death benefit has been made, it shall not be open to the Department to be satisfied that the deceased died as a result of the disease if there is clear evidence available that in the opinion of two doctors of a medical board the deceased did not die as a result of the disease.

(6) A dependant of a person to whom disablement benefit in respect of a disease was not payable immediately before he died, being the dependant entitled to a payment under the Order, shall be paid an amount determined in accordance with Table 2 of the Schedule and the relevant percentage assessment for the purposes of Part A of that Table shall be that determined by a medical board in respect of the period immediately prior to the deceased's death or if no such determination was made the relevant percentage assessment shall be taken as 10 per cent. and the age of the deceased, for this purpose, shall be taken as his age at his last birthday preceding his death.

(7) As respects any claim made by the dependant of a deceased person where that person has died as a result of diffuse mesothelioma, this regulation shall apply subject to regulation 5.

#### *Payment where death results from diffuse mesothelioma*

5.—(1) Subject to paragraph (2), in any case where the Department is satisfied, as respects a claim made by a dependant of a deceased person who died on or after 22nd August 1966, (the said dependant being the dependant who is entitled to a payment under the Order) that the said deceased person died as a result of diffuse mesothelioma the amount of the payment to that dependant shall be—

- (a) the amount payable in accordance with regulation 4 in respect of diffuse mesothelioma if—
  - (i) disablement benefit was payable to the deceased immediately before he died solely in respect of diffuse mesothelioma, or
  - (ii) death benefit is payable to or in respect of the said dependant where disablement benefit in respect of a disease was not payable to the deceased immediately before he died;
- (b) if disablement benefit was payable to the deceased immediately before he died solely in respect of pneumoconiosis, either—
  - (i) the total amount payable in accordance with regulation 4 in a case where the deceased's death resulted from pneumoconiosis or, if greater—
  - (ii) the amount payable in accordance with regulation 4(6) in respect of the deceased's death as a result of diffuse mesothelioma;
- (c) if death benefit is payable to or on behalf of the said dependant and disablement benefit was payable to the deceased immediately before he died in respect of both pneumoconiosis and diffuse mesothelioma, either the amount payable in accordance with paragraph (a) or that payable in accordance with paragraph (b)(i), whichever is the greater.

(2) In any case where disablement benefit was payable to the disabled person immediately before he died, the total payment to that dependant shall not be less than £1,164 more than the amount which would have been due had disablement benefit not been so payable to the disabled person.

(3) If any amount is payable in accordance with this regulation to the dependant of a deceased person, the Department shall deduct from that amount a sum equal to any payment made under the provisions of the Order to the said deceased person prior to death, save that any amount so payable after any such deduction shall not, in any event, be less than the minimum payment prescribed in regulation 7.

*Payment where pneumoconiosis is accompanied by tuberculosis*

6.—(1) In any case where, at the time of the first determination of a medical board or medical appeal tribunal that the disabled person was suffering from the disease, the board or tribunal, as the case may be, diagnosed that pneumoconiosis was accompanied by tuberculosis, the amount payable to any such disabled person under the provisions of the Order shall be determined by adding together—

- (a) the sum of £2,408, if the percentage assessment applicable for the period immediately following the date relevant for the purposes of regulation 3(2) was one hundred per cent., or if less than one hundred per cent. that percentage of £2,408, in respect of the year beginning on that date (that is to say the date relevant for the purpose of regulation 3(2)), and in respect of each successive year beginning on the anniversary of that date on the first day of which the said disabled person was, or appears to the Department to have been, suffering from pneumoconiosis accompanied by active tuberculosis, and
- (b) a lump sum, determined in accordance with Table 1 of the Schedule, taking, for this purpose, the age of the disabled person as his age at his last birthday prior to the end of the last year to which paragraph (1)(a) applies, and taking also for this purpose the percentage assessment as that applicable for the period immediately following the end of the period during which the said disabled person was suffering from pneumoconiosis accompanied by active tuberculosis.

(2) The amount payable to a dependant of any disabled person who, had he been alive, would have been entitled to a payment determined in accordance with paragraph (1), being the dependant entitled to a payment under the Order, shall be determined in accordance with regulation 4, save that the amount which would have been payable to the deceased in accordance with paragraph (1) shall be substituted for the amount which would have been payable to him in accordance with regulation 3 with the percentage disablement taken for the purpose of determining the sum to be deducted under regulation 4(1) from the aforesaid amount being the percentage disablement used for the purpose of determining the lump sum under paragraph (1)(b).

(3) In any case to which this regulation applies and where it appears to the Department that tuberculosis either remains active at the time a claim is made under the Order, or remained active until the time when the disabled person died, the amount of the payment shall be determined as if at the time of its first determination that the disabled person was suffering from the disease the medical board or medical appeal tribunal, as the case may be, had not diagnosed that pneumoconiosis was accompanied by tuberculosis.

(4) No payment made in accordance with this regulation shall exceed the amount which would have been payable if at the time of its first determination that the disabled person was suffering from the disease the medical board or medical appeal tribunal, as the case may be, had not diagnosed that the pneumoconiosis was accompanied by tuberculosis.

*Minimum amount payable to dependant*

7. In any case where entitlement to payment under the Order has been established by the dependant of any person who immediately before he died was disabled by a disease and the amount of any payment to the dependant under the foregoing provisions is less than the sum of £1,164 the amount actually payable to that dependant shall, in no such case, be less than that sum.

Sealed with the Official Seal of the Department of Economic Development on 3rd July 1986.

(L.S.)

*D. J. Watkins*

Assistant Secretary

## SCHEDULE

Regulations 3, 4, 5 and 6

TABLE 1

(1) Table 1 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, in the case of a disabled person to whom regulation 6 applies (Payment where pneumoconiosis is accompanied by tuberculosis), the period specified in paragraph (1)(b) of that regulation.

(3) The age to be taken for the purpose of determining the amount payable to a disabled person is his age on the date specified in regulation 3(2) or, in the case of a disabled person to whom regulation 6 applies (Payment where pneumoconiosis is accompanied by tuberculosis) his age on the date specified in paragraph (1) of that regulation. With a view to 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.

PAYMENTS TO DISABLED PERSONS TO WHOM IS PAYABLE DISABLEMENT BENEFIT  
UNDER SECTION 76 OF THE SOCIAL SECURITY (NORTHERN IRELAND) ACT 1975 OR  
UNDER ANY CORRESPONDING PROVISION OF THE FORMER INDUSTRIAL INJURIES ACTS.

Age of disabled person	Percentage assessment for the relevant period									
	10% or less	11%-20%	21%-30%	40%	50%	60%	70%	80%	90%	100%
	£	£	£	£	£	£	£	£	£	£
37 and under	13,484	24,079	28,252	29,055	29,858	30,499	31,142	31,784	32,426	33,068
38	13,099	23,116	27,402	28,382	29,215	29,858	30,499	31,142	31,784	32,426
39	12,713	22,152	26,551	27,706	28,574	29,215	29,858	30,499	31,142	31,784
40	12,329	21,189	25,700	27,032	27,931	28,574	29,215	29,858	30,499	31,142
41	11,943	20,226	24,849	26,357	27,290	27,931	28,574	29,215	29,858	30,499
42	11,557	19,263	23,999	25,684	26,647	27,290	27,931	28,574	29,215	29,858
43	10,980	18,139	23,147	25,171	26,198	26,968	27,610	28,252	28,894	29,537
44	10,402	17,015	22,297	24,656	25,748	26,647	27,290	27,931	28,574	29,215
45	9,824	15,892	21,446	24,143	25,299	26,326	26,968	27,610	28,252	28,894
46	9,246	14,768	20,595	23,629	24,849	26,005	26,647	27,290	27,931	28,574
47	8,669	13,645	19,744	23,116	24,400	25,684	26,326	26,968	27,610	28,252
48	8,170	13,194	19,071	22,088	23,629	24,785	25,427	26,069	26,711	27,354
49	7,673	12,746	18,396	21,060	22,859	23,886	24,528	25,171	25,813	26,455
50	7,176	12,296	17,722	20,034	22,088	22,987	23,629	24,271	24,913	25,555
51	6,678	11,847	17,047	19,006	21,318	22,088	22,730	23,372	24,015	24,656
52	6,180	11,397	16,374	17,979	20,547	21,189	21,832	22,473	23,116	23,757
53	5,714	10,595	15,346	17,080	19,776	20,547	21,189	21,832	22,473	23,116
54	5,249	9,792	14,318	16,182	19,006	19,905	20,547	21,189	21,832	22,473
55	4,784	8,989	13,292	15,282	18,235	19,263	19,905	20,547	21,189	21,832
56	4,318	8,187	12,264	14,383	17,466	18,621	19,263	19,905	20,547	21,189
57	3,852	7,384	11,237	13,484	16,695	17,979	18,621	19,263	19,905	20,547
58	3,548	6,711	10,034	12,103	15,024	16,213	16,903	17,578	18,235	18,877
59	3,242	6,035	8,828	10,724	13,355	14,447	15,185	15,892	16,566	17,207
60	2,938	5,361	7,625	9,342	11,687	12,682	13,467	14,207	14,897	15,539
61	2,632	4,687	6,421	7,962	10,017	10,916	11,750	12,521	13,228	13,869
62	2,328	4,013	5,217	6,581	8,348	9,150	10,034	10,836	11,557	12,200
63	2,167	3,628	4,687	5,884	7,425	8,218	9,054	9,824	10,530	11,172
64	2,008	3,242	4,157	5,185	6,502	7,288	8,075	8,813	9,503	10,145
65	1,847	2,858	3,628	4,487	5,578	6,357	7,095	7,802	8,476	9,118
66	1,686	2,473	3,098	3,788	4,656	5,426	6,116	6,790	7,449	8,090
67	1,526	2,086	2,568	3,090	3,733	4,495	5,137	5,779	6,421	7,063
68	1,485	2,022	2,480	2,961	3,604	4,318	4,936	5,602	6,220	6,854
69	1,445	1,958	2,392	2,834	3,476	4,142	4,736	5,426	6,021	6,645
70	1,404	1,894	2,303	2,705	3,347	3,965	4,535	5,249	5,819	6,438
71	1,365	1,830	2,216	2,576	3,218	3,788	4,334	5,073	5,619	6,229
72	1,325	1,766	2,127	2,449	3,090	3,612	4,133	4,896	5,417	6,021
73	1,292	1,735	2,095	2,400	3,042	3,531	4,053	4,768	5,257	5,843
74	1,260	1,701	2,063	2,352	2,995	3,451	3,973	4,639	5,097	5,667
75	1,229	1,670	2,031	2,303	2,945	3,371	3,893	4,511	4,936	5,489
76	1,196	1,637	1,998	2,255	2,897	3,292	3,813	4,383	4,775	5,314
77 and over	1,164	1,605	1,967	2,207	2,849	3,211	3,733	4,255	4,615	5,137

## TABLE 2

(1) Table 2 is for the determination of additional payments under regulation 4(2) or 4(6) to dependants of deceased sufferers who died as a result of the disease.

(2) The relevant period is the period specified in regulation 3(2) or 3(3) or, in the case of a disabled person to whom regulation 6 applies (Payment where pneumoconiosis is accompanied by tuberculosis), the period specified in paragraph (1)(b) of that regulation.

## PART A

PAYMENTS TO DEPENDANTS TO WHOM DEATH BENEFIT UNDER SECTION 76 OF THE SOCIAL SECURITY (NORTHERN IRELAND) ACT 1975 IS PAYABLE, OR TO DEPENDANTS OF PERSONS TO WHOM DISABLEMENT BENEFIT UNDER THAT SECTION OR UNDER ANY CORRESPONDING PROVISION OF THE FORMER INDUSTRIAL INJURIES ACT WAS PAYABLE, IN CIRCUMSTANCES WHERE THE DISABLED PERSON DIED AS A RESULT OF A DISEASE OTHER THAN DIFFUSE MESOTHELIOMA



Age of disabled person at his last birthday preceding death	Percentage assessment for the relevant period				
	10% or less	11%-20%	21%-30%	40%	50% and over
	£	£	£	£	£
37 and under	6,341	12,361	14,126	14,608	15,010
38	6,148	11,815	13,645	14,126	14,639
39	5,956	11,269	13,163	13,645	14,271
40	5,762	10,724	12,682	13,163	13,901
41	5,570	10,178	12,200	12,682	13,532
42	5,378	9,632	11,718	12,200	13,163
43	5,032	8,925	11,284	11,766	12,810
44	4,687	8,218	10,851	11,333	12,453
45	4,342	7,513	10,418	10,899	12,103
46	3,996	6,806	9,984	10,465	11,750
47	3,652	6,099	9,552	10,034	11,397
48	3,387	5,907	9,231	9,696	10,964
49	3,122	5,714	8,909	9,359	10,530
50	2,858	5,522	8,589	9,021	10,097
51	2,592	5,329	8,268	8,685	9,663
52	2,328	5,137	7,946	8,348	9,231
53	2,207	4,687	7,336	7,882	8,877
54	2,086	4,238	6,725	7,416	8,524
55	1,967	3,788	6,116	6,951	8,170
56	1,847	3,339	5,506	6,486	7,817
57	1,725	2,890	4,896	6,021	7,464
58	1,613	2,568	4,198	5,202	6,486
59	1,500	2,247	3,500	4,383	5,506
60	1,389	1,927	2,801	3,564	4,527
61	1,277	1,605	2,103	2,746	3,548
62	1,164	1,284	1,404	1,927	2,568
63	1,164	1,260	1,357	1,773	2,288
64	1,164	1,236	1,308	1,621	2,008
65	1,164	1,212	1,260	1,469	1,725
66	1,164	1,189	1,212	1,316	1,445
67 and over	1,164	1,164	1,164	1,164	1,164

## PART B

PAYMENTS TO DEPENDANTS OF PERSONS WHO DIED AS A RESULT OF  
DIFFUSE MESOTHELIOMA

<i>Age of disabled person at his last birthday preceding death</i>	<i>Payment</i>
	£
37 and under	15,010
38	14,639
39	14,271
40	13,901
41	13,532
42	13,163
43	12,810
44	12,453
45	12,103
46	11,750
47	11,397
48	10,964
49	10,530
50	10,097
51	9,663
52	9,231
53	8,877
54	8,524
55	8,170
56	7,817
57	7,464
58	6,486
59	5,506
60	4,527
61	3,548
62	2,568
63	2,288
64	2,008
65	1,725
66	1,445
67 and over	1,164

## EXPLANATORY NOTE

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

These regulations, which come into operation on 18th August 1986, prescribe the amount of payments to be made under the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 ("the Order") to persons disabled by a disease to which the Order applies (namely pneumoconiosis, byssinosis, diffuse mesothelioma, primary carcinoma of the lung (where accompanied by asbestosis or bilateral diffuse pleural thickening) and bilateral diffuse pleural thickening) or to dependants of persons who immediately before they died were disabled by such a disease. All such persons should satisfy the conditions of entitlement prescribed in Articles 3 and 4 of the Order. The amount of payments in accordance with these regulations varies as respects different circumstances and cases.

The principal provisions of the regulations cover—

- (a) determination of the amount of payments to disabled persons (regulation 3);
- (b) determination of the amount of payments to dependants of deceased disabled persons (regulation 4);
- (c) particular provisions as respects payments to dependants of disabled persons who died as a result of diffuse mesothelioma (regulation 5);
- (d) particular provisions as respect payments to disabled persons and dependants in circumstances where a disabled person who suffered from pneumoconiosis also had tuberculosis when the disease was first diagnosed (regulation 6);
- (e) payment to a dependant who is entitled to payment under the Order so as to ensure that he obtains no less than a specific minimum amount (regulation 7).

Primary carcinoma of the lung and bilateral diffuse pleural thickening are diseases to which these regulations apply by virtue of the Pneumoconiosis, etc., (Workers' Compensation) (Specified Diseases) Order (Northern Ireland) 1986.