Social Security Contributions and Benefits (Northern Ireland) Act 1992

1992 CHAPTER 7

PART V

BENEFIT FOR INDUSTRIAL INJURIES

Prescribed industrial diseases, etc.

108 Benefit in respect of prescribed industrial diseases, etc

(1) Industrial injuries benefits shall, in respect of a person who has been in employed earner's employment, be payable in accordance with this section and sections 109 and 110 below in respect of—

(a) any prescribed disease, or

(b) any prescribed personal injury (other than an injury caused by accident arising out of and in the course of his employment),

which is a disease or injury due to the nature of that employment and which developed after 4th July 1948.

(2) A disease or injury may be prescribed in relation to any employed earners if the Department is satisfied that—

(a) it ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons; and

(b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.

(3) Regulations prescribing any disease or injury for those purposes may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations (being a date before the regulations came into force but not before 5th July 1948) shall be treated, subject to any prescribed modifications of this section or

section 109 or 110 below, as if the regulations had been in force when he developed the disease or injury.

(4) Provision may be made by regulations for determining—

(a) the time at which a person is to be treated as having developed any prescribed disease or injury; and

(b) the circumstances in which such a disease or injury is, where the person in question has previously suffered from it, to be treated as having recrudesced or as having been contracted or received afresh.

(5) Notwithstanding any other provision of this Act, the power conferred by subsection (4)(a) above includes power to provide that the time at which a person shall be treated as having developed a prescribed disease or injury shall be the date on which he first makes a claim which results in the payment of benefit by virtue of this section or section 110 below in respect of that disease or injury.

(6) Nothing in this section or in section 109 or 110 below affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Part of this Act, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.