
STATUTORY INSTRUMENTS

1977 No. 993

SOCIAL SECURITY

The Refractories Industries (Silicosis) and Sandstone Industry (Silicosis) Schemes (Transfer of Beneficiaries) Scheme 1977

<i>Made</i>	- - - -	<i>9th June 1977</i>
<i>Laid before Parliament</i>		<i>10th June 1977</i>
<i>Coming into Operation</i>		<i>1st July 1977</i>

The Secretary of State for Social Services after consultation with the Council on Tribunals in so far as required by section 10 of the Tribunals and Inquiries Act 1971 with the consent of the Treasury, in exercise of the powers conferred by section 10(1) of, and Part I of Schedule 1 to, the Social Security (Miscellaneous Provisions) Act 1977 and of all other powers enabling him in that behalf, hereby makes the following scheme:—

Citation, commencement and interpretation

1.—(1) This scheme, which may be cited as the Refractories Industries (Silicosis) and Sandstone Industry (Silicosis) Schemes (Transfer of Beneficiaries) Scheme 1977, shall come into operation on 1st July 1977.

(2) In this scheme, unless the context otherwise requires—

“the Old Cases Act” means the Industrial Injuries and Diseases (Old Cases) Act 1975;

“the appropriate determining authority” means an insurance officer or, as the case may be, a local tribunal or a National Insurance Commissioner within the meaning of section 97 of the Social Security Act 1975;

“the operative date” means 1st July 1977 (the date on which section 10(1) of the Social Security (Miscellaneous Provisions) Act 1977 comes into operation⁽¹⁾);

“the Silicosis Schemes” means the Refractories Industries (Silicosis) Scheme 1931⁽²⁾ and the Sandstone Industry (Silicosis) Scheme 1931⁽³⁾ as amended⁽⁴⁾, “Silicosis Scheme” means either of those schemes as the case may be and “the relevant Silicosis Scheme” means

⁽¹⁾ See S.I. 1977/618 (1977 I, p. 1935).

⁽²⁾ (Rev. XXIV, p. 608: 1931, p. 714).

⁽³⁾ (Rev. XXIV, p. 620: 1931, p. 728).

⁽⁴⁾ The amending instruments are S.R. & O. 1939/635, (Rev. XXIV, p. 620: 1939 II, p. 3552), 1946/595 (Rev. XXIV, p. 634: 1946 I, p. 2236).

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the Silicosis Scheme under which the claimant or beneficiary claimed or was entitled to compensation.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply for the purposes of the interpretation of this scheme as they apply for the purposes of the interpretation of an Act of Parliament.

Entitlement to Benefit for Former Beneficiaries under the Silicosis Schemes

2. Notwithstanding anything in section 6 of the Old Cases Act (which restricts the scope of certain schemes under that Act), payment of benefit shall be made under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966⁽⁵⁾ as amended⁽⁶⁾ to persons who immediately before the operative date were entitled to compensation under a Silicosis Scheme and, subject to the provisions of this scheme, the provisions of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 shall apply in respect of such persons in like manner as they apply to other beneficiaries under that scheme.

Benefit payable under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966

3. A person who immediately before the operative date was entitled under a Silicosis Scheme to the compensation which is set out in the first column of the Schedule to this scheme shall be entitled under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 to the benefit which is set out in the second column of the said Schedule opposite the first-mentioned compensation.

Transitional Provision Relating to Amount of Benefit Payable

4.—(1) The provision of the next succeeding paragraph of this article shall apply to a person who, before the operative date, was entitled to compensation under a Silicosis Scheme together with a lesser incapacity allowance under article 5 of the Workmen's Compensation (Supplementation) Scheme 1966⁽⁷⁾ which amounted, in the aggregate, to a sum greater than the allowance in respect of partial disablement under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 to which he is entitled by virtue of article 2 of this scheme.

(2) A person to whom the last preceding paragraph applies shall, notwithstanding the revocation of the Silicosis Schemes, be treated as entitled to benefit under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 at the rate or rates to which he would have been entitled if such revocation had not taken place and this scheme had not been made and he shall continue to be so entitled until such time, if ever, as his entitlement to partial disablement allowance under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 equals or exceeds the aggregate sum referred to in the preceding paragraph of this article.

General Transitional Provisions

5.—(1) The following paragraphs of this article apply to any person who before the operative date had claimed compensation under either of the Silicosis Schemes but who had not at that date become entitled to compensation under that scheme.

(2) Such person shall, upon proving to the satisfaction of the appropriate determining authority that he would have been entitled to compensation under a Silicosis Scheme had his claim been

(5) (1966 I, p. 303).

(6) The relevant amending instruments are S.I./1966/581; 1967/1205, 1233; 1969/722, 1196; 1971/1222; 1973/1439; 1975/1139; 1977/380 (1966 II, p. 1346; 1967 II, pp. 3536, 3594; 1969 II, pp. 1949, 3531; 1971 II, p. 3576; 1973 II, p. 4393; 1975 II, p. 3999; 1977 I, p. 1254).

(7) (1966 I, p. 325).

determined before the operative date, be entitled to payment of benefit under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 and, subject to paragraphs (3) and (4) of this article, the provisions of that latter scheme shall apply in respect of such person.

(3) In a case to which this article applies—

- (a) any question whether one of the Silicosis Schemes had applied to the claimant shall be referred to the Secretary of State;
- (b) any other question relating to right to compensation under one of the Silicosis Schemes shall be referred to the appropriate determining authority;

and, in either case, the question shall, subject to the foregoing provisions of this paragraph, be determined in accordance with the provisions of the relevant Silicosis Scheme in force when the claim was made.

(4) In a case where the appropriate determining authority decides that compensation under a Silicosis Scheme in respect of total or partial disablement would have been payable to the claimant for a period before the operative date, benefit under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 shall be payable for that period at the rate at which compensation for total or partial disablement would have been payable under the relevant Silicosis Scheme.

Refund of Assets of the Silicosis Schemes

6.—(1) On the coming into force of paragraph 1 of Schedule 1 to the Social Security (Miscellaneous Provisions) Act 1977 (transfer of assets of compensation funds established under the Silicosis Schemes) or as soon thereafter as may be practicable, the Secretary of State shall, after deduction of the amounts specified in the next succeeding paragraph, make payment out of the National Insurance Fund of a sum of money equal to the value of all such money and securities as have been transferred to that Fund under that paragraph—

- (a) in so far as the money and securities were transferred from the general compensation fund established under the Refractories Industries (Silicosis) Scheme 1931, to that general compensation fund;
- (b) in so far as the money and securities were transferred from the general compensation fund established under the Sandstone Industry (Silicosis) Scheme 1931, to that general compensation fund.

(2) The amounts referred to in the last foregoing paragraph shall be such amounts, in relation to the aforementioned schemes severally, as

(a) the Secretary of State considers reasonable for—

- (i) the payment of all liabilities incurred by or in connection with the aforementioned schemes before the date on which they are revoked by the Social Security (Miscellaneous Provisions) Act 1977 and not paid by that date; and
- (ii) the payment of all expenses incurred in connection with the said revocation or which are incidental to or consequential upon that revocation or which are incurred in connection with the transfer of the aforementioned money and securities; and

(b) the Government Actuary certifies as reasonable for the cost, from the date of the aforementioned revocation of—

- (i) the future administration of benefit in relation to the former beneficiaries of the Silicosis Schemes; and
- (ii) the payment of benefit to the aforementioned beneficiaries at the rate or rates to which they would have been entitled under those schemes if the said revocation had not taken place.

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2nd June 1977

David Ennals
Secretary of State for Social Services

9th June 1977

T. E. Graham
David Stoddart
Two of the Lords Commissioners of Her
Majesty's Treasury

THE SCHEDULE

Article 3

Table of corresponding benefits

<i>Compensation under a Silicosis Scheme</i>	<i>Benefit under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966</i>
1. Compensation in respect of total disablement certified as in article 4(2).	1. Total incapacity allowance under article 4(1)(a)(i).
2. Compensation in respect of partial disablement certified as in article 4(3)	2. Partial incapacity allowance under article 4(1)(a)(ii).

EXPLANATORY NOTE

Article 2 of this Scheme makes provision for the transfer of the beneficiaries of the revoked Refractories Industries (Silicosis) Scheme 1931 and the Sandstone Industry (Silicosis) Scheme 1931 to the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966.

Article 4 provides that former beneficiaries under a Silicosis Scheme shall continue to receive under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 benefit at a rate which is not less than that which they would have been entitled to receive if the Silicosis Schemes had not been revoked.

Article 5 makes provision for the determination of claims made but not determined before the operative date.

Article 6 provides for the refund to the general compensation funds of the Silicosis Schemes of assets transferred from those funds to the National Insurance Fund after deduction of liabilities assumed by the National Insurance Fund.

The other articles are of a minor or consequential nature.