
STATUTORY INSTRUMENTS

1985 No. 1645

SOCIAL SECURITY

**The Pneumoconiosis Etc. (Workers' Compensation)
(Determination of Claims) Regulations 1985**

<i>Made</i>	- - - -	<i>29th October 1985</i>
<i>Laid before Parliament</i>		<i>7th November 1985</i>
<i>Coming into Operation</i>		<i>1st January 1986</i>

The Secretary of State in exercise of the powers conferred on him by sections 4, 5 and 7 of the Pneumoconiosis etc. (Workers' Compensation) Act 1979⁽¹⁾ and of all other powers enabling him in that behalf hereby makes the following Regulations:—

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Pneumoconiosis etc. (Workers' Compensation) (Determination of Claims) Regulations 1985 and shall come into operation on 1st January 1986.

(2) The Pneumoconiosis etc. (Workers' Compensation) (Determination of Claims) Regulations 1979 are hereby revoked.

Interpretation

2. In these Regulations—

- (a) “the Act” means the Pneumoconiosis etc. (Workers' Compensation) Act 1979, as amended by section 24 of the Social Security Act 1985; and
- (b) “a specified disease” means a disease specified in an order under section 1 of the Act.

Manner of making claims

3. Any claim made under the provisions of the Act, by a person who is disabled by a disease to which the Act applies or by the dependant of a person who immediately before he died was disabled by a disease to which the Act applies, shall be made in writing, signed by or on behalf of the person making the claim, in such form, provided by the Secretary of State, as he may determine.

(1) sections 1 and 4 of the Act were amended by section 24 of the Social Security Act 1985 (c.53).

Time for making claims

4.—(1) In the case of a person disabled by a disease to which the Act applies other than a specified disease, no claim shall be considered for payment by the Secretary of State unless it is made within the period of 12 months from the date on which disablement benefit first became payable to that person or, if such benefit first became payable before the Act came into force, before 4th July 1980.

(2) In the case of a dependant of a person who immediately before he died was disabled by a disease to which the Act applies other than a specified disease, no claim shall be considered for payment by the Secretary of State unless it is made within the period of 12 months from the date of the deceased's death or, if such death occurred before the Act came into force, before 4th July 1980.

(3) In the case of a person disabled by a specified disease, no claim shall be considered for payment by the Secretary of State unless it is made within the period of 12 months from the date on which disablement benefit first became payable to that person in respect of the disease or from the date of the coming into force of the order specifying the disease, whichever is the later.

(4) In the case of a dependant of a person who immediately before he died was disabled by a specified disease, no claim shall be considered for payment by the Secretary of State unless it is made within the period of 12 months from the date of the deceased's death or from the date of the coming into force of the order specifying the disease, whichever is the later.

(5) Notwithstanding the previous provisions of this Regulation the Secretary of State may extend the period for making any claims referred to in the said provisions for such further period as he considers appropriate, having regard to the circumstances of any particular case.

Particulars to be supplied as respects claims

5. As respects any claim made under the provisions of the Act the Secretary of State may require the applicant to give such information in relation to the claim and supply such evidence in connection therewith as will enable the Secretary of State adequately to determine any such claim.

Reconsideration by Secretary of State

6. Any person who has made a claim for payment under the provisions of the Act, the Secretary of State having determined in relation to that claim that payment should not be made, may apply to the Secretary of State for reconsideration of the determination on either of the grounds specified in section 5 of the Act, namely that there has been a material change of circumstances since the determination was made or that the determination was made in ignorance of, or was based on a mistake as to, some material fact.

Manner of application for reconsideration

7. Any application for reconsideration referred to in Regulation 6 above shall be made in writing to the Secretary of State and signed by or on behalf of the person making the claim. Any person making such application shall specify the grounds upon which it is requested that the said determination be reconsidered and shall give such other relevant information as the Secretary of State may require in order that he may adequately deal with the said reconsideration.

Time for application for reconsideration

8.—(1) In the case of a person disabled by a disease to which the Act applies other than a specified disease, application for reconsideration on the ground that there has been a material change of circumstances since the determination was made, shall be made, in each case, to the Secretary of State within the period of 12 months from the date on which disablement benefit became payable to that person or, if such benefit first became payable before the Act came into force, before 4th July 1980.

(2) In the case of the dependant of a person who immediately before he died was disabled by a disease to which the Act applies other than a specified disease, application for reconsideration on the ground that there has been a material change of circumstances since the determination was made shall be made to the Secretary of State within the period of 12 months from the date of the deceased's death or, if such death occurred before the Act came into force, before 4th July 1980.

(3) In the case of a person disabled by a specified disease, application for reconsideration on the ground that there has been a material change of circumstances since the determination was made shall be made in each case to the Secretary of State within the period of 12 months from the date on which disablement benefit first became payable to that person in respect of the disease or from the date of the coming into force of the order specifying the disease, whichever is the later.

(4) In the case of a dependant of a person who immediately before he died was disabled by a specified disease, application for reconsideration on the ground that there has been a material change of circumstances since the determination was made shall be made to the Secretary of State within the period of 12 months from the date of the deceased's death or from the date of the coming into force of the order specifying the disease, whichever is the later.

(5) Notwithstanding the previous provisions of this Regulation the Secretary of State may extend the period for reconsideration referred to in the said provisions for such further period as he considers appropriate, having regard to the circumstances of any particular case.

(6) In the case of a person disabled by a disease to which the Act applies or in the case of the dependant of a person who immediately before he died was disabled by a disease to which the Act applies, application for reconsideration on the ground that the determination was made in ignorance of, or was based on a mistake as to, some material fact, shall be made, in each case, to the Secretary of State within a period of 3 months from the date on which the applicant became aware that the determination appeared to be so made or so based.

Reconsideration on the motion of the Secretary of State

9. The Secretary of State may, if he sees fit, at any time, of his own motion, institute a reconsideration of a determination on either of the grounds specified in sub-section (1) of section 5 of the Act.

Signed by order of the Secretary of State.

29th October 1985

Peter Bottomley
Parliamentary Under Secretary of State
Department of Employment

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EXPLANATORY NOTE

These Regulations, which come into operation on 1st January 1986, prescribe the manner in which claims for payment must be made for determination by the Secretary of State under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 and also the manner in which applications for reconsideration of such determinations must be made. Time limits for making such claims and applications are prescribed, though the Secretary of State has power to extend these time limits where appropriate.

The Regulations apply to the diseases to which the 1979 Act applies namely to pneumoconiosis, byssinosis, diffuse mesothelioma and to any other disease specified from time to time by the Secretary of State for the purposes of that Act. The Pneumoconiosis etc. (Workers' Compensation) (Determination of Claims) Regulations 1979 are revoked.