
STATUTORY INSTRUMENTS

1997 No. 810

SOCIAL SECURITY

**The Social Security (Industrial Injuries)
(Miscellaneous Amendments) Regulations 1997**

<i>Made</i>	- - - -	<i>13th March 1997</i>
<i>Laid before Parliament</i>		<i>19th March 1997</i>
<i>Coming into force</i>	- -	<i>9th April 1997</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 108(2), 109(2), 122(1) and 175(1), (2) and (3) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and sections 59(1), 62(1) and 189(1) and (4) of, and paragraph 2 of Schedule 3 to, the Social Security Administration Act 1992⁽²⁾ and of all other powers enabling him in that behalf, after reference to the Industrial Injuries Advisory Council⁽³⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Industrial Injuries) (Miscellaneous Amendments) Regulations 1997 and shall come into force on 9th April 1997.

(2) In these Regulations—

- (a) “the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1995⁽⁴⁾;
- (b) “the Prescribed Diseases Regulations” means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985⁽⁵⁾.

Amendment of regulation 46 of the Adjudication Regulations

2. In regulation 46(1) of the Adjudication Regulations (procedure on receipt of medical report) after the words “of paragraph (4)” there shall be inserted the words “and of regulation 47(1)”.

(1) 1992 c. 4; Section 122(1) is cited for the definition which it gives of the word “prescribe”.

(2) 1992 c. 5.

(3) See section 172(2) of the Social Security Administration Act 1992.

(4) S.I.1995/1801.

(5) S.I. 1985/967; the relevant amending instruments are S.I. 1986/1561, 1987/335, 1993/862 and 1985.

Amendment of regulation 47 of the Adjudication Regulations

3. In regulation 47 of the Adjudication Regulations (restriction of adjudication officer’s power to determine diagnosis and recrudescence questions) for paragraph (1) there shall be substituted the following paragraph—

“(1) Where a diagnosis or recrudescence question is referred to one or more medical practitioners for report under regulation 45(1) and they consider that a disablement question arises they shall refer the diagnosis or recrudescence question and the disablement question to an adjudicating medical authority.”.

Insertion of regulation 48A into the Adjudication Regulations

4. After regulation 48 of the Adjudication Regulations (appeal against decision of adjudication officer) there shall be inserted the following regulation—

“Powers of adjudicating medical authority upon determining the question referred

48A. Where a diagnosis or recrudescence question is referred to an adjudicating medical authority, that authority upon determining the question referred—

- (a) may proceed to determine any diagnosis or recrudescence question which arises in connection therewith and any disablement question which arises in consequence thereof; and
- (b) if it is determined that the disease is a recrudescence of an attack to which an earlier decision of an adjudicating medical authority or a medical appeal tribunal relates, may proceed to review that earlier decision under the provisions of section 47(4) of the Administration Act.”.

Amendment of regulation 20 of the Prescribed Diseases Regulations

5. In regulation 20 of the Prescribed Diseases Regulations (special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma) after paragraph (3) there shall be added the following paragraph—

“(4) On a claim for disablement pension in respect of diffuse mesothelioma—

- (a) section 103(6) of the Social Security Contributions and Benefits Act 1992 shall apply as if for the words “after the expiry of the period of 90 days (disregarding Sundays) beginning with the day of the relevant accident”, there were substituted the words, “the day on which he first suffers from a loss of faculty due to diffuse mesothelioma”;
- (b) paragraph 6(1) of Schedule 6 to the Social Security Contributions and Benefits Act 1992 shall apply as if the words “beginning not earlier than the end of the period of 90 days referred to in section 103(6) above and in paragraph 9(3) of that Schedule and” were omitted.”.

Amendment of Schedule 1 to the Prescribed Diseases Regulations

6.—(1) Part I of Schedule 1 to the Prescribed Diseases Regulations (list of prescribed diseases and the occupations for which they are prescribed), shall be amended in accordance with the following paragraphs of this regulation.

(2) In column 2 for the entry relating to disease D3 (diffuse mesothelioma) there shall be substituted the following entry—

“Exposure to asbestos, asbestos dust or any admixture of asbestos at a level above that commonly found in the environment at large.”.

(3) In column 1 of the entry relating to disease D8 (primary carcinoma of the lung etc.) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) unilateral or bilateral diffuse pleural thickening extending to a thickness of 5mm or more at any point within the area affected as measured by a plain chest radiograph (not being a computerised tomography scan or other form of imaging) which—

(i) in the case of unilateral diffuse pleural thickening, covers 50% or more of the area of the chest wall of the lung affected; or

(ii) in the case of bilateral diffuse pleural thickening, covers 25% or more of the combined area of the chest wall of both lungs.”.

(4) In column 1 for the entry relating to disease D9 (bilateral diffuse pleural thickening) there shall be substituted the following entry—

“**D9.** Unilateral or bilateral diffuse pleural thickening extending to a thickness of 5mm or more at any point within the area affected as measured by a plain chest radiograph (not being a computerised tomography scan or other form of imaging) which—

(i) in the case of unilateral diffuse pleural thickening, covers 50% or more of the area of the chest wall of the lung affected; or

(ii) in the case of bilateral diffuse pleural thickening, covers 25% or more of the combined area of the chest wall of both lungs.”.

(5) For the entry relating to disease D12 (chronic bronchitis and emphysema) there shall be substituted the following entry—

“**D12.** Except in the circumstances specified in regulation 2(d)—
(a) chronic bronchitis; or
(b) emphysema; or
(c) both, Exposure to coal dust by reason of working underground in a coal mine for a period or periods amounting in aggregate to at least 20 years (whether before or after 5th July 1948) and any such period or periods shall include a period or periods of incapacity while engaged in such an occupation.”.

where there is accompanying evidence of a forced expiratory volume in one second (measured from the position of maximum inspiration with the claimant making maximum effort) which is—

(i) at least one litre below the mean value predicted in accordance with “Lung Function: Assessment and Application in Medicine” by J E Cotes, 5th Edition 1994 published at Oxford by Blackwell Scientific Publications Limited (ISBN 0-632-03926-9) for a person of the claimant’s age, height and sex; or

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(ii) less than one litre.

Signed by authority of the Secretary of State for Social Security.

13th March 1997

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Adjudication) Regulations 1995 and the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 by—

- (a) modifying the provisions for the reference of diagnosis, recrudescence and disablement questions to an adjudicating medical authority;
- (b) providing that entitlement may arise from the first day a person suffers from a loss of faculty due to diffuse mesothelioma;
- (c) amending the occupational prescription in respect of disease number D3 (diffuse mesothelioma) to include exposure to asbestos, asbestos dust and admixtures of asbestos at levels above those found in the environment at large;
- (d) changing the description of diseases D8 (primary carcinoma of the lung etc.) and D9 (bilateral diffuse pleural thickening) so as to require either unilateral or bilateral diffuse pleural thickening extending to a defined thickness and measured in a specified manner in either or both lungs;
- (e) changing the description of disease D12 (chronic bronchitis and emphysema) so as to cease to require evidence of an X-ray and amending the occupational prescription to include periods of incapacity while engaged in the occupation of working underground in a coal mine in the specified period of service;
- (f) making consequential and drafting amendments.

A full compliance cost assessment of the effect these Regulations have on costs of business is available from the House of Commons and House of Lords Libraries. Copies can be obtained by post from the Department of Social Security, Deregulation Unit, Adelphi, John Adam Street, London WC2 6HT.