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STATUTORY INSTRUMENTS

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**2015 No. 87**

**SOCIAL SECURITY**

**The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015**

<i>Made</i>	- - - -	<i>29th January 2015</i>
<i>Laid before Parliament</i>		<i>5th February 2015</i>
<i>Coming into force</i>	- -	<i>16th March 2015</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 108(2), 109(2), 122(1), 175(1) and (3) to (5) of, and paragraph 2 of Schedule 6 to, the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> after reference to the Industrial Injuries Advisory Council<sup>(2)</sup>.

The Secretary of State is satisfied of the matters referred to in section 108(2)(a) and (b) of that Act.

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015 and come into force on 16th March 2015.

(2) In these regulations “the principal Regulations” means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985<sup>(3)</sup>.

**Substitution of regulation 4 of the principal Regulations**

2. For regulation 4 of the principal Regulations (presumption that a disease is due to the nature of employment) substitute—

**“Presumption that a disease is due to the nature of employment**

4.—(1) Where a person has developed a disease which is prescribed in Part I of Schedule 1 in paragraphs A3(a), A4, A5, A6, A7, A8, A11, B1(a), B3, B4(a), B9, B10, B11, B12, B14, B15, C3, C24A, D4 or D7, that disease shall, unless the contrary is proved, be presumed to be due to the nature of that person’s employed earner’s employment if—

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(1) 1992 c.4. Section 109(2) is amended by paragraph 65 of Schedule 7 to the Social Security Act 1998 (c.14), section 175(1) and (4) is amended by the Social Security Contributions (Transfer of Functions etc) Act 1999 (c.2), section 175(5) is amended by the Social Security (Incapacity for Work) Act 1994 (c.18), section 122(1) is cited for the meaning of “prescribe”.  
(2) See sections 171 and 172(2) of the Social Security Administration Act 1992 (c.5).  
(3) S.I. 1985/967.

- (a) that employment was in any occupation set against that disease in the second column of that Part; and
- (b) the person was so employed on, or at any time within one month immediately preceding, the date on which, under these Regulations, that person is treated as having developed the disease.

(2) Where a person has developed a disease which is prescribed in Part I of Schedule 1 in paragraphs A1, A2, A3(b), A10, A13, A14, B2, B6, B8B, B13, C17, C18, C22(a), C24, C31, C32, D2, D3, D6, D8, D8A, D9, D10, D11, D12 or D13, that disease shall, unless the contrary is proved, be presumed to be due to the nature of that person's employed earner's employment if that employment was in any occupation set against that disease in the second column of that Part.

(3) Where a person in relation to whom tuberculosis is prescribed in paragraph B5 of Part I of Schedule 1 in respect of the occupation set out in sub-paragraph (a) in the second column of the entry relating to that disease, develops that disease, that disease shall, unless the contrary is proved, be presumed to be due to the nature of that person's employed earner's employment if the date on which, under these Regulations, that person is treated as having developed the disease is—

- (a) not less than six weeks after the date on which that person was first employed in that occupation; and
- (b) not more than two years after the date on which that person was last so employed in that occupation.

(4) Where a person has developed a disease which is prescribed in Part I of Schedule 1 in paragraphs B1(b), B4(b), B7 and B8A, that disease shall, unless the contrary is proved, be presumed to be due to the nature of that person's employed earner's employment if—

- (a) that employment was in any occupation set against that disease in the second column of that Part; and
- (b) that person was so employed—
  - (i) on the date on which, under these Regulations, that person is treated as having developed the disease; or
  - (ii) on a date at any time within—
    - (aa) in the case of B1(b) or B8A, two months;
    - (bb) in the case of B7, six months; or
    - (cc) in the case of B4(b), twelve months

immediately preceding the date on which, under these Regulations, that person is treated as having developed the disease.

(5) Where a person in relation to whom carpal tunnel syndrome is prescribed in paragraph A12 of Part I of Schedule 1 in respect of the occupation set out in sub-paragraph (b) in the second column of the entry relating to that disease, develops that disease, it shall, unless the contrary is proved, be presumed to be due to the nature of that person's employed earner's employment if that person was employed in that occupation on the date, or at any time within one month immediately preceding the date, on which under these Regulations that person is treated as having developed the disease.

(6) Where a person in relation to whom primary neoplasm of the epithelial lining of the urinary tract is prescribed in paragraph C23 of Part I of Schedule 1 in respect of the occupation set out in sub-paragraph (a), (b) or (e) in the second column of the entry relating to that disease, develops that disease, it shall, unless the contrary is proved, be presumed to be due to the nature of that person's employed earner's employment.

(7) Where a person in relation to whom pneumoconiosis is prescribed in regulation 2(b)(i) develops pneumoconiosis, the disease shall, unless the contrary is proved, be presumed to be due to the nature of that person's employed earner's employment if that person has been employed in either of the occupations set out in Part II of Schedule 1 for a period or periods amounting in aggregate to not less than 2 years in employment which either was employed earner's employment or would have been employed earner's employment if it had taken place on or after 5th July 1948."

### **Substitution of regulation 20B of the principal Regulations**

3. For regulation 20B of the principal Regulations (asbestos-related primary carcinoma of the lung-special conditions and prescribed loss of faculty)(4) substitute—

#### **"Primary carcinoma of the lung and angiosarcoma of the liver—special conditions and prescribed loss of faculty**

**20B.**—(1) This regulation applies to a claim for disablement pension made in respect of the diseases prescribed in paragraphs C4, C22(b), C24(a), D8, D8A, D10 and D11 of Part 1 of Schedule 1.

(2) On a claim to which this regulation applies—

(a) section 103(6) of the Social Security Contributions and Benefits Act 1992 (entitlement after expiry of 90 days) 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 that person first suffers from a loss of faculty due to primary carcinoma of the lung or bronchus or angiosarcoma of the liver"; and

(b) paragraph 6(1) of Schedule 6 to the Social Security Contributions and Benefits Act 1992 (period to be taken into account by an assessment) 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.

(3) On a claim to which this regulation applies, the loss of faculty prescribed for the purposes of sub-paragraph (d) of paragraph 1 of Schedule 6 to the Social Security Contributions and Benefits Act 1992 (assessment of the extent of disablement) is lung impairment caused by primary carcinoma of the lung or bronchus, or impairment caused by angiosarcoma of the liver."

### **Amendment of Part 1 of Schedule 1 to the principal Regulations**

4.—(1) Column 1 of Part 1 of Schedule 1 to the principal Regulations (list of prescribed diseases and the occupations for which they are prescribed)(5) is amended in accordance with paragraphs (2) to (6).

(2) For A3, substitute—

"A3

(a) Dysbarism, including decompression sickness and barotrauma;

(b) Osteonecrosis."

(3) For B1, substitute—

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(4) Inserted by S.I. 2006/586.

(5) As amended by S.I. 1986/1374, 1987/335, 1989/1207, 1991/1938, 1993/862, 1993/1985, 1994/2343, 1996/425, 1997/810, 2000/1588, S.I. 2003/270 and 2190, 2005/324, 2006/586, 2007/811, 2007/1753, 2008/14 and 1552, 2009/1396, 2011/1497, 2012/647 and 1634.

“B1

- (a) Cutaneous anthrax;
- (b) Pulmonary anthrax.”.
- (4) For B4, substitute—

“B4

- (a) Cutaneous larva migrans;
- (b) Iron deficiency anaemia caused by gastrointestinal infection by hookworm.”.
- (5) After “C32 Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma)”, insert “C33 Chloracne.”.
- (6) In D12—
  - (a) for “(a) chronic bronchitis; or (b) emphysema; or (c) both,” substitute “chronic obstructive pulmonary disease.”;
  - (b) after sub-paragraph (ii) insert “The value of one litre in (i) and (ii) shall be construed as fixed and shall not vary by virtue of any treatment or treatments.”.
- (7) Column 2 of Part 1 of Schedule 1 to the principal Regulations is amended in accordance with paragraphs (8) and (9).
- (8) In B5 Tuberculosis, for “Contact with a source of tuberculous infection” substitute—

“B5

Contact with a source of tuberculosis while undertaking—

- (a) work in a hospital, mortuary in which post mortems are conducted, or laboratory; or
- (b) work in any other workplace.”.
- (9) After C32 insert “Exposure to a substance causing chloracne.”.

### **Consequential amendments to the principal Regulations**

- 5. The principal Regulations are amended as follows —
  - (a) in regulations 6(2)(a) and (b) and 7(1) for “chronic bronchitis or emphysema” substitute “chronic obstructive pulmonary disease”;
  - (b) in the title to regulation 22 for “emphysema and chronic bronchitis” substitute “chronic obstructive pulmonary disease”;
  - (c) in regulation 22(1) for “any emphysema and of any chronic bronchitis” substitute “any chronic obstructive pulmonary disease”.

Signed by authority of the Secretary of State for Work and Pensions.

29th January 2015

*Mark Harper*  
Minister of State  
Department for Work and Pensions

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (“the principal Regulations”) which provide for Industrial Injuries Disability Benefit to be paid to individuals whose employment has caused them to develop one or more of certain prescribed diseases listed in the principal Regulations.

Regulation 2 substitutes regulation 4 of the principal Regulations, which provides that certain prescribed diseases are to benefit from a presumption that those diseases were caused by a person’s employed earner’s employment.

The new regulation 4 provides for a person who has developed one of twenty prescribed diseases referred to in regulation 4(1) to benefit from the presumption that that disease was caused by that person’s employed earner’s employment, provided that that person was employed within the relevant prescribed occupation for that disease within one month of the date on which they developed that prescribed disease. It then provides for a person who has developed one of the twenty six diseases referred to in regulation 4(2) to benefit from the same presumption regardless of when they were last employed within the relevant prescribed occupation for that prescribed disease.

The new regulation 4 also prescribes, in paragraphs (3) to (7), additional disease specific rules regarding presumption in respect of eight other specified prescribed diseases.

Regulation 3 substitutes regulation 20B of the principal Regulations. The new regulation 20B lists seven diseases in respect of which certain words contained in section 103(6) of, and paragraph 6(1) of Schedule 6 to, the Social Security Contributions and Benefits Act 1992 are substituted or omitted.

Regulation 4(1) to (6) amends column 1 Part 1 of Schedule 1 to the principal Regulations, which prescribes the diseases for which industrial injuries benefit is payable, by amending the description of four prescribed diseases and inserting one new prescribed disease.

Regulation 4(7) to (9) amends column 2 of that Part of that Schedule by amending the description of the prescribed occupation for one prescribed disease and inserting details of the prescribed occupation for one new prescribed disease.

Regulation 5 makes consequential amendments to the principal Regulations as a result of the amendment to the description of prescribed disease D12 by regulation 4(6)(a).

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.