
STATUTORY INSTRUMENTS

1985 No. 967

The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 and shall come into operation on 31st July 1985.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

[^{F1}“the 1998 Act” means the Social Security Act 1998;]

“the Workmen's Compensation Acts” means the Workmen's Compensation Acts 1925 to 1945, or the enactments repealed by the Workmen's Compensation Act 1925, or the enactments repealed by the Workmen's Compensation Act 1906;

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1984(1);

“the Benefit Regulations” means the Social Security (General Benefit) Regulations 1982(2);

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1979(3);

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...

“asbestosis” means fibrosis of the parenchyma of the lungs due to the inhalation of asbestos dust;

“asbestos textiles” means yarn or cloth composed of asbestos or of asbestos mixed with any other material;

“coal mine” means any mine where one of the objects of the mining operations is the getting of coal (including bituminous coal, cannel coal, anthracite, lignite, and brown coal);

“diffuse mesothelioma” means the disease numbered D3 in Part I of Schedule 1 to these regulations;

“employed earner” means employed earner for the purposes of industrial injuries benefit and the term “employed earner's employment” shall be construed accordingly;

“foundry” means those parts of industrial premises where the production of metal articles (other than pig iron or steel ingots) is carried on by casting (not being diecasting or other casting in metal moulds), together with any part of the same premises where any of the following

(1) amended by S.I. 1984/613, 1991 and 1985/159.

(2) relevant amending instruments are S.I. 1983/186, 981.

(3) relevant amending instruments are S.I. 1980/1621, 1982/1241, 1344, 1983/1015, 1984/458, 550 and 1985/600.

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processes are carried on incidentally to such production, namely, the drying and subsequent preparation of sand for moulding (including the reclamation of used moulding sand), the preparation of moulds and cores, knock-out operations and dressing or fettling operations;

“grindstone” means a grindstone composed of natural or manufactured sandstone and includes a metal wheel or cylinder into which blocks of natural or manufactured sandstone are fitted;

[^{F3}“knock out and shake out grid” means a grid used for mechanically separating moulding sand from mouldings and castings;]

“a local office” means any office appointed by the Secretary of State as a local office for the purposes of the Act or of these regulations;

^{F4}
...

“medical board” has the same meaning as in regulation 30 of the Adjudication Regulations;

[^{F5}“medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;]

[^{F6}“metal” for the purposes of the disease number A10 in Part I of Schedule 1 to these Regulations, does not include stone, concrete, aggregate or similar substances for use in road or railway construction;]

“mine” includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways and sidings, both below ground and above ground, in and adjacent to and belonging to the mine, but does not include any part of such premises on which any manufacturing process is carried on other than a process ancillary to the getting or dressing of minerals or the preparation of minerals for sale;

“occupational asthma” means the disease numbered D7 in Part I of Schedule 1 to these regulations;

“occupational deafness” means the disease numbered A10 in Part I of Schedule 1 to these regulations;

“the old regulations” means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980, as amended by the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1980, the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1982 and the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1982;

“prescribed disease” means a disease or injury prescribed under Part II of these regulations, and references to a prescribed disease being contracted shall be deemed to include references to a prescribed injury being received;

[^{F7}“primary carcinoma of the lung” means the diseases numbered D8, [^{F8}D8A,] D10 and D11 in Schedule 1 to these Regulations;]

“the Secretary of State” means the Secretary of State for Social Services;

“silica rock” means quartz, quartzite, ganister, sandstone, gritstone and chert, but not natural sand or rotten rock;

[^{F3}“skid transfer bank” means the area of a steel mill where the steel product is moved from the area of its formation to the finishing area;]

^{F2}
...

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...

“tuberculosis” in the description of the disease numbered B5 in Part I of Schedule 1 to these regulations means disease due to tuberculous infection, but when used elsewhere in these

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regulations in connection with pneumoconiosis means tuberculosis of the respiratory system only;

and other expressions have the same meanings as in the Act.

- (3) Unless the context otherwise requires, any reference in these regulations—
- (a) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number; and
 - (b) to a numbered regulation is a reference to the regulations bearing that number in these regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number; and
 - (c) to any provision made by or contained in any enactment or instrument shall be construed as including a reference to any provision which it re-enacts or replaces, with or without modification.

[^{F9}(4) In these Regulations, any reference to death benefit shall be taken as including also a reference to any benefit in respect of which contribution conditions are taken as having been satisfied in accordance with paragraph 10 of Schedule 3 to the Social Security Act 1986.]

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| F1 | Words in reg. 1(2) inserted (4.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958) , art. 4, Sch. 8 para. 1(a) |
| F2 | Words in reg. 1(2) revoked (4.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958) , art. 4, Sch. 8 para. 1(b) |
| F3 | Words in reg. 1(2) inserted (10.10.1994) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1994 (S.I. 1994/2343) , regs. 1, 2 |
| F4 | Words in reg. 1 omitted (19.4.1993) by virtue of The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1993 (S.I. 1993/862) , regs. 1, 2(a) |
| F5 | Words in reg. 1(2) inserted (4.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958) , art. 4, Sch. 8 para. 1(c) |
| F6 | Words in reg. 1(2) inserted (13.12.1990) by The Social Security (Industrial Injuries)(Prescribed Diseases) Amendment Regulations 1990 (S.I. 1990/2269) , regs. 1, 2(2) |
| F7 | Words in reg. 1 inserted (19.4.1993) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1993 (S.I. 1993/862) , regs. 1, 2(b) |
| F8 | Word in reg. 1(2) inserted (6.4.2006) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2006 (S.I. 2006/586) , regs. 1(1), 2(1) |
| F9 | Reg. 1(4) inserted (11.4.1988) by The Social Security (Industrial Injuries) (Miscellaneous Amendments) Regulations 1988 (S.I. 1988/553) , regs. 1, 5 |

PART II

PRESCRIPTION OF DISEASES AND PRESUMPTION AS TO THEIR ORIGIN

Prescription of diseases and injuries and occupations for which they are prescribed

2. For the purposes of Chapter V of Part II of the Act—
- (a) subject to [^{F10}the following paragraphs] of this regulation and to regulation 43(3), (5) and (6), each disease or injury set out in the first column of Part I of Schedule 1 hereto is prescribed in relation to all persons who have been employed on or after 5th July 1948

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in employed earner's employment in any occupation set against such disease or injury in the second column of the said Part;

- (b) pneumoconiosis is prescribed—
- (i) in relation to all persons who have been employed on or after 5th July 1948 in employed earner's employment in any occupation set out in Part II of the said Schedule; and
 - (ii) in relation to all other persons who have been so employed in any occupation involving exposure to dust and who have not worked at any time (whether in employed earner's employment or not) in any occupation in relation to which pneumoconiosis is prescribed by virtue of regulations (apart from this subparagraph) in force—
 - (a) in the case of any claim for disablement benefit or a claim for death benefit in respect of the death of a person to whom disablement benefit has been awarded in respect of pneumoconiosis, on the date of the claim for disablement benefit;
 - (b) in the case of a claim for death benefit in respect of the death of any other person, on the date of the death of that person;
- (c) occupational deafness is prescribed in relation to all persons who have been employed in employed earner's employment—
- (i) at any time on or after 5th July 1948; and
 - (ii) for a period or periods (whether before or after 5th July 1948) amounting in the aggregate to not less than 10 years
- in one or more of the occupations set out in the second column of paragraph A10 of Part I of Schedule 1 to these regulations ^{F11}...
- [^{F12}(d) the disease specified in paragraph D12 of Part I of Schedule 1 is not prescribed in relation to persons to whom regulation 22 applies.]
- [^{F13}(e) cataract is not prescribed unless the person was employed in employed earner's employment in an occupation set out in the second column of paragraph A2 of Part I of Schedule 1 to these regulations for a period or periods amounting in aggregate to not less than 5 years.]

F10 Words in reg. 2(a) substituted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **2(2)**

F11 Words in reg. 2(c) omitted (14.3.2005) by virtue of [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2005 \(S.I. 2005/324\)](#), regs. 1(1), **2(1)**

F12 Reg. 2(d) inserted (13.9.1993) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1985\)](#), regs. 1, **2**

F13 Reg. 2(e) inserted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **2(3)** (with reg. 7)

Sequelae or resulting conditions

3. Where a person—
- (a) is or was in employed earner's employment and a disease is or was prescribed under the Act and these regulations in relation to him in such employment; and
 - (b) is suffering from a condition which, in his case, has resulted from that disease;

the provisions of Chapter V of Part II of the Act and of these regulations shall apply to him as if he were suffering from that disease, whether or not the condition from which he is suffering is itself a prescribed disease.

[^{F14}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—

- (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, [^{F15}A15,] B2, B6, B8B, B13, C17, C18, C22(a), C24, C31, C32, [^{F16}C34,] 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 monthsimmediately 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

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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.]

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| F14 | Reg. 4 substituted (16.3.2015) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015 (S.I. 2015/87) , regs. 1(1), 2 |
| F15 | Word in reg. 4(2) inserted (9.12.2019) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2019 (S.I. 2019/1241) , regs. 1, 2(2) |
| F16 | Word in reg. 4(2) inserted (30.3.2017) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2017 (S.I. 2017/232) , regs. 1(1), 2 |

PART III

DATE OF ONSET AND RECRUDESCENCE

Development of disease

5.—^{F17}(1) If on a claim for benefit under Chapter V of Part II of the Act in respect of a prescribed disease a person is found to be or to have been suffering from the disease, or to have died as the result thereof, the disease shall, for the purposes of such claim, be treated as having developed on a date (hereafter in these regulations referred to as “the date of onset”) determined in accordance with the provisions of the next 2 following regulations.

^{F18}(2) Where a person claims benefit under Part V of the Contributions and Benefits Act and it is decided that he is not entitled on the basis of a finding that he was not suffering from a prescribed disease, the finding shall be conclusive for the purpose of a decision on a subsequent claim of that kind in respect of the same disease and the same person.]

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| F17 | Reg. 5(1): reg. 5 renumbered as reg. 5(1) (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337) , regs. 1, 5 |
| F18 | Reg. 5(2) added (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337) , regs. 1, 5 |

Date of onset

6.—(1) For the purposes of the first claim in respect of a prescribed disease suffered by a person, the date of onset shall be determined in accordance with the following provisions of this regulation, and, save as provided in regulation 7, that date shall be treated as the date of onset for the purposes of any subsequent claim in respect of the same disease suffered by the same person, so however that—

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- (a) ^{F19}... any date of onset determined for the purposes of that claim shall not preclude fresh consideration of the question whether the same person is suffering from the same disease on any subsequent claim for or award of benefit; and
 - (b) if, on the consideration of a claim, [^{F20}the degree of disablement is assessed at less than one per cent], any date of onset determined for the purposes of that claim shall be disregarded for the purposes of any subsequent claim.
- (2) Where the claim for the purposes of which the date of onset is to be determined is—
- (a) a claim for sickness benefit made by virtue of section 50A of the Act⁽⁴⁾ by a person to whom regulation 8(1) applies (except in respect of pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness, occupational asthma, [^{F21}primary carcinoma of the lung][^{F22}, bilateral diffuse pleural thickening or [^{F23}chronic obstructive pulmonary disease]] the date of onset shall be the first day on which the claimant was incapable of work as the result of the disease on or after 5th July 1948;
 - (b) a claim for disablement benefit (except in respect of occupational deafness), the date of onset shall be the day on which the claimant first suffered from the relevant loss of faculty on or after 5th July 1948; and the date of onset so determined shall be the date of onset for the purposes of a claim for sickness benefit made by virtue of section 50A of the Act in respect of pneumoconiosis, byssinosis, diffuse mesothelioma, occupational asthma, [^{F21}primary carcinoma of the lung][^{F24}, bilateral diffuse pleural thickening or [^{F25}chronic obstructive pulmonary disease]] ;
 - (c) a claim for disablement benefit in respect of occupational deafness, the date of onset shall be the day on which the claimant first suffered from the relevant loss of faculty on or after 3rd February 1975; or, if later—
 - (i) 3rd September 1979 in the case of a claim made before that date which results in the payment of benefit commencing on that date, and
 - (ii) in any other case, the date on which such claim is made as results in the payment of benefit; or
 - (d) a claim for death benefit, the date of onset shall be the date of death.

F19 Words in reg. 6(1)(a) deleted (4.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958), art. 4, **Sch. 8 para. 2**

F20 Words in reg. 6(1)(b) substituted (9.8.1989) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1989 (S.I. 1989/1207), regs. 1, **2**

F21 Words in reg. 6(2) substituted (19.4.1993) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1993 (S.I. 1993/862), regs. 1, **4**

F22 Words in reg. 6(2)(a) substituted (13.9.1993) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1993 (S.I. 1993/1985), regs. 1, **4**

F23 Words in reg. 6(2)(a) substituted (16.3.2015) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015 (S.I. 2015/87), regs. 1(1), **5(a)**

F24 Words in reg. 6(2)(b) substituted (13.9.1993) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1993 (S.I. 1993/1985), regs. 1, **4**

F25 Words in reg. 6(2)(b) substituted (16.3.2015) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015 (S.I. 2015/87), regs. 1(1), **5(a)**

(4) Section 50A was inserted by the Social Security and Housing Benefits Act 1982 (c.24), section 39(4) .

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Recrudescence

7.—(1) [^{F26}Where in respect of a prescribed disease other than pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness, occupational asthma, [^{F27}primary carcinoma of the lung]^{F28}, bilateral diffuse pleural thickening or [^{F29}chronic obstructive pulmonary disease]], a person’s disablement has been assessed at not less than one per cent. and he] suffers from another attack of the same disease, or dies as a result thereof, then—

- (a) if the further attack commences or the death occurs during a period taken into account by^{F30} that assessment] (which period is in this regulation referred to as a “relevant period”) the disease shall be treated as a recrudescence of the attack to which the relevant period relates, unless it is otherwise determined in the manner referred to in the following subparagraph;
- (b) if the further attack commences or the death occurs otherwise than during a relevant period, or if it is determined^{F31}... that the disease was in fact contracted afresh, it shall be treated as having been so contracted.

(2) For the purposes of paragraph (1), a further attack of a prescribed disease shall be deemed to have commenced on the date on which the person concerned was first incapable of work or first suffered from the relevant loss of faculty, whichever is earlier, as a result of that further attack.

(3) Where, under the foregoing provisions of this regulation, a disease is treated as having been contracted afresh, the date of onset of the disease in relation to the fresh contraction shall be the date on which the person concerned was first incapable of work or first suffered from the relevant loss of faculty, whichever is earlier, as a result of the further attack, or in the event of his death, the date of death.

(4) Where, under the provisions aforesaid, a disease is treated as a recrudescence, any assessment of disablement in respect of the recrudescence during a period taken into account by a previous assessment of disablement shall be by way of [^{F32}a supersession of the assessment relating to the relevant period.]

(5) This regulation shall not apply in relation to a claim for sickness benefit made by virtue of section 50A of the Act except where such a claim is made by a person to whom regulation 8(1) applies.

- F26** Words in reg. 7(1) substituted (9.8.1989) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1989 \(S.I. 1989/1207\)](#), regs. 1, **3(a)**
- F27** Words in reg. 7(1) substituted (19.4.1993) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1993 \(S.I. 1993/862\)](#), regs. 1, **5**
- F28** Words in reg. 7(1) substituted (13.9.1993) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No. 2\) Regulations 1993 \(S.I. 1993/1985\)](#), regs. 1, **4**
- F29** Words in reg. 7(1) substituted (16.3.2015) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2015 \(S.I. 2015/87\)](#), regs. 1(1), **5(a)**
- F30** Words in reg. 7(1)(a) substituted (9.8.1989) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1989 \(S.I. 1989/1207\)](#), regs. 1, **3(b)**
- F31** Words in reg. 7(1)(b) omitted (17.3.2003) by virtue of [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2003 \(S.I. 2003/270\)](#), regs. 1(1), **3**
- F32** Words in reg. 7(4) substituted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **2**

Workmen's compensation cases

8.—(1) If under the foregoing provisions of this Part of these regulations a date of onset has to be determined for the purposes of a claim for benefit in respect of a prescribed disease, other than

pneumoconiosis or byssinosis, suffered by a person to whom compensation under the Workmen's Compensation Acts has been awarded or paid in respect of the same disease and, at the date of such claim for benefit, or, if it is a claim for death benefit, at the date of death—

- (a) that person was in receipt of weekly payments in respect of such compensation; or
- (b) any liability or alleged liability for such compensation had been redeemed by the payment of a lump sum, or had been the subject of a composition agreement under the provisions of the said Acts;

the disease in respect of which the claim is made shall be treated for the purposes of these regulations as a recrudescence of the disease in respect of which such compensation was awarded or paid and not as having developed on or after 5th July 1948 unless it is determined ^{F33}... that the disease was in fact contracted afresh.

(2) If it is determined as provided in the foregoing paragraph that the disease was contracted afresh, or if compensation is not being or has not been paid as provided in sub-paragraph (a) or (b) thereof, the date of onset shall be determined in accordance with regulations 5 to 7 as if no compensation under the Workmen's Compensation Acts had been paid in respect of that disease.

(3) If the date of onset has to be determined as aforesaid in respect of pneumoconiosis or byssinosis suffered by a person to whom compensation has been awarded or paid in respect of the same disease or in respect of whose death compensation has been awarded or paid under the provisions of any scheme made under the provisions of the Workmen's Compensation Acts relating to compensation for silicosis, asbestosis, pneumoconiosis or byssinosis, the disease in respect of which the claim is made shall (subject to the provisions of regulation 9(2)(b)) be treated for the purposes of these regulations as not having developed on or after 5th July 1948.

(4) If, after the date of a claim for benefit in respect of a prescribed disease, the claimant receives a weekly payment of compensation in respect of that disease under the Workmen's Compensation Acts which he was not receiving at the date of such claim, or if the amount of any such weekly payment which he was receiving at that date is increased, then any decision on any [^{F34}issue] arising in connection with that claim, if given before the date of, or in ignorance of the fact of, the receipt of such weekly payment or increased weekly payment, may be [^{F34}revised or superseded] as if it had been given in ignorance of a material fact, and on such [^{F34}revision or supersession] the [^{F34}issue] may be decided as if the claimant had been in receipt of such weekly payment or increased weekly payment at the date of the claim, and the foregoing provisions of this regulation shall apply accordingly.

(5) For the purposes of this regulation, a person shall be deemed to be, or to have been, in receipt of a weekly payment of compensation if—

- (a) he is or was in fact receiving such payment; or
- (b) he is or was entitled thereto under an award or agreement made under the Workmen's Compensation Acts.

(6) This regulation shall apply to compensation under any contracting out scheme duly certified under the Workmen's Compensation Acts as it applies to compensation under those Acts.

F33 Words in reg. 8(1) omitted (17.3.2003) by virtue of [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2003 \(S.I. 2003/270\)](#), regs. 1(1), 4

F34 Words in reg. 8(4) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, [Sch. 8 para. 3](#)

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Re-employment of pneumoconiotics and special provisions for benefit (workmen's compensation cases)

9.—(1) Where a person—

- (a) has been certified by a medical board under the provisions of any scheme made under the provisions of the Workmen's Compensation Acts to be suffering from silicosis or pneumoconiosis not accompanied in either case by tuberculosis and has been awarded or paid compensation under the provisions of any such scheme, and by reason of such certification has been suspended from employment in any industry or process or in any particular operation or work in any industry, and
- (b) wishes to start work in employed earner's employment in any occupation involving work underground in any coal mine, or the working or handling above ground at any coal mine of any minerals extracted therefrom, or any operation incidental thereto, being an occupation in which he is allowed by certificate of the medical board under the provisions of the scheme to engage,

he shall, before starting any such work, submit himself under arrangements made or approved by the Secretary of State for medical examination by a [^{F35}medical practitioner].

(2) Where a person submits himself for medical examination in accordance with the provisions of the foregoing paragraph, the provisions of the Act and the regulations made thereunder shall apply to him subject to the following modifications:—

- [^{F36}(a) A medical practitioner shall provide a report to the Secretary of State to enable him to determine at what degree the extent of disablement resulting from pneumoconiosis should be assessed in his case.]
- (b) Where the extent of disablement has been determined in his case in accordance with the provisions of the foregoing sub-paragraph by [^{F37}the Secretary of State or an appeal tribunal], and he starts any such work as is mentioned in the foregoing paragraph, the provisions of regulation 38(a) (periodical examinations) shall apply to him as if he were making a claim for benefit in respect of pneumoconiosis, and the provisions of regulation 8(3) (pneumoconiosis shall in certain cases be treated as not having developed on or after 5th July 1948) shall cease to apply to him as from the date of starting such work.
- (c) If, after having started work as aforesaid, he makes a claim at any time for disablement benefit in respect of pneumoconiosis, the extent of disablement in his case shall be assessed as if, [^{F38}to the extent decided by the Secretary of State or an appeal tribunal] his disabilities resulting from pneumoconiosis were contracted before the date of onset and were not incurred as the result of the relevant loss of faculty.
- (d) A person to whom a disablement pension is payable in respect of an assessment made in accordance with the provisions of the last foregoing sub-paragraph and who requires constant attendance shall, if the sum of that assessment and the assessment made in his case in accordance with the provisions of sub-paragraph (a) of this paragraph is not less than 100 per cent, have the like right to payments in respect of the need of such constant attendance as if the disablement pension were payable in respect of an assessment of 100 per cent.

(3) Where a person to whom sub-paragraph (a) of paragraph (1) applies has started any such work as is mentioned in sub-paragraph (b) thereof without having submitted himself for medical examination in accordance with the provisions of that paragraph, he may nevertheless, at any time whilst he is engaged in any such work, so submit himself for medical examination, and the provisions of the foregoing paragraph shall, if he continues thereafter to be engaged in any such work, apply to him as if he had started that work immediately after the medical examination.

(4) The Secretary of State, in making or approving any such arrangements for medical examination of any person as are mentioned in paragraph (1) shall, as far as possible, co-ordinate

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those arrangements with any arrangements for medical examination of that person made or approved under Part V of these regulations or under the Workmen's Compensation Acts.

- F35** Words in reg. 9(1) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 4(a)**
- F36** Reg. 9(2)(a) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 4(b)(i)**
- F37** Words in reg. 9(2)(b) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 4(b)(ii)**
- F38** Words in reg. 9(2)(c) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 4(b)(iii)**

PART IV

APPLICATION OF CHAPTERS IV AND VI OF PART II OF THE ACT AND OF REGULATIONS MADE THEREUNDER

Definition of “relevant disease”

10. In this Part of these regulations, unless the context otherwise requires, the expression “relevant disease” means, in relation to any claim for benefit in respect of a prescribed disease, the prescribed disease in respect of which benefit is claimed, but does not include any previous or subsequent attack of that disease, suffered by the same person, which, under the provisions of Part III of these regulations, is or has been treated—

- (a) as having developed on a date other than the date which, under the said provisions, is treated as the date of onset for the purposes of the claim under consideration;
- (b) as a recrudescence of a disease for which compensation has been paid or awarded under the Workmen's Compensation Acts.

Application of Chapters IV and VI of Part II of the Act

11. The provisions of Chapters IV and VI of Part II of the Act which relate to industrial injuries benefit and sickness benefit made by virtue of section 50A of the Act shall, in relation to prescribed diseases, be subject to the following provisions of this Part of these regulations, and, subject as aforesaid, to the additions and modifications set out in Schedule 2 hereto.

Application of Claims and Payments Regulations and Benefit Regulations

12.—(1) Save in so far as they are expressly varied or excluded by, or are inconsistent with, the provisions of this Part of these regulations or of regulation 25 or 36, the Claims and Payments Regulations and the Benefit Regulations shall apply in relation to prescribed diseases as they apply in relation to accidents.

(2) Save as provided in this Part of these regulations or where the context otherwise requires, references in the aforesaid regulations to accidents shall be construed as references to prescribed diseases, references to the relevant accident shall be construed as references to the relevant disease, references to the date of the relevant accident shall be construed as references to the date of onset of

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the relevant disease, and in regulation 17 of the Benefit Regulations (increase of disablement pension in cases of special hardship), the reference to the effects of the relevant injury shall be construed as a reference to the effects of the relevant disease.

Benefit not payable in cases covered by the Industrial Injuries and Diseases (Old Cases) Act 1975

13. Benefit shall not be payable by virtue of the provisions of these regulations in respect of the incapacity, disablement or death of any person as a result of any disease, if an award of benefit under the provisions of any Scheme made under the Industrial Injuries and Diseases (Old Cases) Act 1975 (not being an award which is subsequently [^{F39}revised or superseded so as to terminate entitlement]) has at any time been made in respect of any attack of the disease suffered by him, or in respect of his death.

F39 Words in reg. 13 substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, [Sch. 8 para. 5](#)

Diseases contracted outside Great Britain

14. For section 50(5) (accidents happening outside Great Britain) there shall be substituted the provision that, subject to the provisions of sections 129, 131 and 132, for the purpose of determining whether a prescribed disease is, or, under the provisions of Part II of these regulations is to be presumed to be, due to the nature of the person's employed earner's employment, that person shall be regarded as not being or as not having been in employed earner's employment during any period for which he is or was outside Great Britain, and accordingly benefit shall not be payable in respect of a prescribed disease which is due to the nature of employment in an occupation in which the person has only been engaged outside Great Britain.

[^{F40}Modification of paragraph 11(1) of Schedule 7 to the Social Security Contributions and Benefits Act 1992

14A. The provisions of paragraph 11(1) of Schedule 7 to the Social Security Contributions and Benefits Act 1992 shall be modified by adding after the words “(the day on which section 3 of the Social Security Act 1990 came into force)” the words

“and a person shall not be entitled to reduced earnings allowance—

- (i) in relation to a disease prescribed on or after 10th October 1994 under section 108(2) above; or
- (ii) in relation to a disease prescribed before 10th October 1994 whose prescription is extended on or after that date under section 108(2) above but only in so far as the prescription has been so extended”]

F40 Reg. 14A inserted (10.10.1994) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1994 \(S.I. 1994/2343\)](#), regs. 1, 3

Assessment of extent of disablement

15. For the purposes of paragraph 1(b) of Schedule 8 (disabilities to be taken into account in assessing the extent of the claimant's disablement) and of regulation 11 of the Benefit Regulations (which further defines the principles of assessment of disablement), an injury or disease other than the relevant disease shall be treated as having been received or contracted before the relevant disease

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if it was received or contracted on or before the date of onset, and as having been received or contracted after the relevant disease if it was received or contracted after that date.

[^{F41}Aggregation of Percentages of Disablement

15A.—(1) After the extent of an employed earner's disablement resulting from the relevant disease has been determined, the [^{F42}Secretary of State] shall add to the percentage of that disablement the assessed percentage of any present disablement of his resulting from

- (a) any accident after 4th July 1948 arising out of and in the course of his employment, being employed earner's employment, or
- (b) any other relevant disease due to the nature of that employment and developed after 4th July 1948,

and in respect of which a disablement gratuity was not paid to him under the Act after a final assessment of disablement.

(2) In determining the extent of an employed earner's disablement for the purposes of section 57 of the Act there shall be added to the percentage of disablement resulting from any relevant accident the assessed percentage of any present disablement of his resulting from any disease or injury prescribed for the purposes of Chapter V of Part II of the Act, which was both due to the nature of the employment and developed after 4th July 1948, and in respect of which a disablement gratuity was not paid to him under the Act after a final assessment of his disablement.

(3) This regulation is subject to the provisions of regulation 15B(3).]

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| <p>F41 Regs. 15A-15B inserted (1.10.1986) by The Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986 (S.I. 1986/1561), regs. 1(1), 3(2)</p> <p>F42 Words in reg. 15A substituted (4.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958), art. 4, Sch. 8 para. 6</p> |
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[^{F41}Rounding

15B.—(1) Subject to the provisions of this regulation, where the assessment of disablement is a percentage between 20 and 100 which is not a multiple of 10, it shall be treated—

- (a) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10; and
- (b) if it is not a multiple of 5 as being the nearest percentage which is a multiple of 10,

and where it is 14 per cent. or more but less than 20 per cent. it shall be treated as 20 per cent.

(2) In a case to which regulation 15A (aggregation of percentages of disablement) applies, paragraph (1) shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.

(3) [^{F43}Where an assessment or a reassessment] states the degree of disablement due to occupational deafness as less than 20 per cent. that percentage shall be disregarded for the purposes of regulation 15A and this regulation.]

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| <p>F41 Regs. 15A-15B inserted (1.10.1986) by The Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986 (S.I. 1986/1561), regs. 1(1), 3(2)</p> <p>F43 Words in reg. 15B(3) substituted (13.12.1990) by The Social Security (Industrial Injuries)(Prescribed Diseases) Amendment Regulations 1990 (S.I. 1990/2269), regs. 1, 2(3)</p> |
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Death benefit for woman having care of deceased's children

16.—(1) Section 73 (the entitlement to death benefit of a woman having the care of a child or children in respect of whom the deceased was entitled to child benefit) shall have effect as if for references to the date of the relevant accident there were substituted references to the relevant date.

(2) For the purposes of the last foregoing paragraph, the relevant date means the date of onset of the relevant disease, or the first day of the period of 26 weeks ending with the date of death, whichever is the later.

[^{F44}Special provisions as to determination of regular occupation in relation to persons claiming reduced earnings allowance

17. Where a person who has been assessed as at least one per cent. disabled in respect of a prescribed disease establishes that he has abandoned any occupation as a result of the relevant disease at any time after having been employed in employed earner's employment in any occupation prescribed for that disease but before the first day in respect of which he was so assessed, then for the purpose of determining his right to, or the rate of, reduced earnings allowance under Section 59A, any occupation he has so abandoned may be treated as his regular occupation for the purposes of that section.]

F44 Reg. 17 substituted (1.10.1986) by [The Social Security \(Industrial Injuries and Diseases\) Miscellaneous Provisions Regulations 1986 \(S.I. 1986/1561\)](#), regs. 1(1), **6(2)**

Exception from requirements as to notice

18. Regulation 24 of the Claims and Payments Regulations (giving of notice of accidents in respect of which benefit may be payable) shall not apply in relation to prescribed diseases.

Provisions as to medical examination

19. Those provisions of section 89(1) and (2) which relate to the obligation of claimants to submit themselves to medical examination for the purpose of determining the effect of the relevant accident shall apply also to medical examinations for the purpose of determining whether a claimant or beneficiary is suffering or has suffered from a prescribed disease, and regulation 26 of the Claims and Payments Regulations shall be construed accordingly.

PART V

SPECIAL PROVISIONS AS TO PNEUMOCONIOSIS, BYSSINOSIS, OCCUPATIONAL DEAFNESS AND CERTAIN OTHER DISEASES

SECTION A

BENEFIT

*Special conditions for disablement benefit for
pneumoconiosis, byssinosis and diffuse mesothelioma*

20.—[^{F45}(1) On a claim for disablement pension in respect of pneumoconiosis [^{F46}or byssinosis] section 57(1) shall apply as if for “14 per cent.” there was substituted “1 per cent.”.]

(1A) Where on a claim for disablement pension in respect of pneumoconiosis [^{F47}or byssinosis] the extent of the disablement is assessed at one per cent. or more, but less than 20 per cent., disablement pension shall be payable at the 20 per cent. rate if the resulting degree of disablement is greater than 10 per cent. and if it is not at one-tenth of the 100 per cent. rate, with any fraction of a penny being for this purpose treated as a penny.

(1B) Where immediately before 1st October 1986 a person is entitled to a disablement pension on account of pneumoconiosis [^{F48}or byssinosis] and in determining the extent of his disablement other disabilities were taken into account in accordance with regulation 11 of the Social Security (General Benefit) Regulations 1982, disablement pension shall continue to be payable on or after 1st October 1986 at the weekly rate applicable to the degree of disablement determined on the last assessment made before 1st October 1986 until—

- (a) [^{F49}on a reassessment of the extent of disablement or in consequence of an application for revision or supersession] the degree of disablement is assessed either as less than 1 per cent. or as equal to or more than that determined on that last assessment, or
- (b) the other disability ceases to exist.]

(2) Section 78(4)(b), in so far as it provides that disablement benefit shall not be payable in respect of byssinosis unless the claimant is found to be suffering from loss of faculty which is likely to be permanent, shall not apply.

(3) Notwithstanding paragraph 4(a) of Schedule 8 (period to be taken into account by an assessment of the extent of the claimant's disablement), the period to be taken into account by an assessment of the extent of the claimant's disablement in respect of byssinosis, if not limited by reference to the claimant's life, shall not be less than one year.

[^{F50}(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.]

F45 Reg. 20(1)(1A)(1B) substituted for reg. 20(1) (1.10.1986) by [The Social Security \(Industrial Injuries and Diseases\) Miscellaneous Provisions Regulations 1986 \(S.I. 1986/1561\)](#), regs. 1(1), **3(3)**

F46 Words in reg. 20(1) substituted (29.7.2002) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2002 \(S.I. 2002/1717\)](#), regs. 1, **2(2)**

F47 Words in reg. 20(1A) substituted (29.7.2002) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2002 \(S.I. 2002/1717\)](#), regs. 1, **2(2)**

F48 Words in reg. 20(1B) substituted (29.7.2002) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2002 \(S.I. 2002/1717\)](#), regs. 1, **2(2)**

F49 Words in reg. 20(1B)(a) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 7**

F50 Reg. 20(4) inserted (9.4.1997) by [The Social Security \(Industrial Injuries\) \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/810\)](#), regs. 1, **5**

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[^{F51}Diffuse mesothelioma—prescribed loss of faculty

20A.—(1) For the purposes of paragraph 1 of Schedule 6 to the Social Security Contributions and Benefits Act 1992 (which provides for the assessment of the extent of disablement for the purposes of industrial injuries disablement benefit), the loss of faculty set out in paragraph (2) below is prescribed under sub-paragraph (d) of that paragraph 1 (loss of faculty from which the resulting disabilities are to be taken as amounting to 100 per cent. disablement).

(2) The loss of faculty referred to in paragraph (1) above is impaired function of the pleura, pericardium or peritoneum function caused by diffuse mesothelioma.]

F51 Reg. 20A inserted (29.7.2002) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2002 \(S.I. 2002/1717\)](#), regs. 1, **2(3)**

[^{F52}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.]

F52 Reg. 20B substituted (16.3.2015) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2015 \(S.I. 2015/87\)](#), regs. 1(1), **3**

Pneumoconiosis—effects of tuberculosis

21. Where any person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of Chapter V of Part II of the Act and of these regulations as if they were effects of the pneumoconiosis.

Pneumoconiosis—effects of [^{F53}chronic obstructive pulmonary disease]

F53 Words in [reg. 22 heading](#) substituted (16.3.2015) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2015 \(S.I. 2015/87\)](#), regs. 1(1), **5(b)**

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22.—(1) [^{F54}Except in the circumstances specified in paragraph (1A),] where any person is disabled by pneumoconiosis or pneumoconiosis accompanied by tuberculosis to an extent which would, if his physical condition were otherwise normal, be assessed at not less than 50 per cent, the effects of [^{F55}any chronic obstructive pulmonary disease] from which that person is found to be suffering shall be treated for the purposes of Chapter V of Part II of the Act and of these regulations as if they were effects of the pneumoconiosis.

[^{F56}(1A) The circumstances referred to in paragraph (1) are that the person is entitled to industrial injuries disablement benefit on account of the disease set out in paragraph D12 of Part I of Schedule 1.]

(2) Where, on a claim for death benefit, the question arises whether the extent of a person's disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis would, if his physical condition were otherwise normal, have been assessed at not less than 50 per cent—

- (a) if there has been no assessment of disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis made during the person's life, or if there is no such assessment current at the time of death [^{F57}that issue shall be determined by the Secretary of State;]
- (b) if there is an assessment of disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis current at the time of the person's death, that [^{F57}issue] shall be treated as having been determined by the decision of [^{F58}the][^{F57}Secretary of State or, as the case may be, appeal tribunal,] which made such assessment.

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| <p>F54 Words in reg. 22(1) inserted (13.9.1993) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1993 (S.I. 1993/1985), regs. 1, 5(2)</p> <p>F55 Words in reg. 22(1) substituted (16.3.2015) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015 (S.I. 2015/87), regs. 1(1), 5(c)</p> <p>F56 Reg. 22(1A) inserted (13.9.1993) by The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1993 (S.I. 1993/1985), regs. 1, 5(3)</p> <p>F57 Words in reg. 22(2)(a)-(b) substituted (4.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958), art. 4, Sch. 8 para. 8(a)(b)(i)(ii)</p> <p>F58 Words in reg. 22(2)(b) substituted (19.4.1993) by The Social Security (Industrial Injuries and Adjudication) Regulations 1993, arts. 1(1), 19(3)</p> |
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[^{F59}Reduced earnings allowance—special provision for pneumoconiosis cases

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| <p>F59 Words in reg. 23 substituted (1.10.1986) by The Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986 (S.I. 1986/1561), regs. 1(1), 6(3)</p> |
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23. Where a beneficiary in receipt of a disablement pension in respect of pneumoconiosis receives advice from [^{F60}the Secretary of State] that in consequence of the disease he should not follow his regular occupation unless he complies with certain special restrictions as to the place, duration or circumstances of his work, or otherwise, then for the purpose of determining whether he fulfils the conditions laid down in section 59A (reduced earnings allowance)] and for that purpose only—

- (a) the beneficiary shall be deemed, unless the contrary is proved by evidence other than the aforesaid advice—

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- (i) to be incapable of following his regular occupation and likely to remain permanently so incapable, and
 - (ii) to be incapable of following employment of an equivalent standard which is suitable in his case;
- (b) where the beneficiary has ceased to follow any occupation to which the aforesaid special restrictions were applicable, the fact that he had followed such an occupation in the period between the date of onset of the disease and the date of the current assessment of his disablement, or for a reasonable period of time thereafter, shall be disregarded.

F60 Words in reg. 23 substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 9**

[F61] Special requirement for pneumoconiosis claimants in unsheduled occupation cases

F61 Reg. 24 substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 10**

24.—(1) A claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(b)(ii) shall be referred by the Secretary of State to a medical practitioner for a report, unless the Secretary of State is satisfied on reasonable grounds that the claimant is not suffering or has not suffered from pneumoconiosis, in which case he may decide the claim without such a report.

(2) The provisions of paragraph (1) of this regulation shall apply to an appeal tribunal and a Commissioner as they apply to the Secretary of State.]

Time for claiming benefit in respect of occupational deafness

25.—(1) Regulation 14 of the Claims and Payments Regulations (time for claiming benefit) shall not apply in relation to occupational deafness except in relation to a claim for sickness benefit payable by virtue of section 50A.

(2) Subject to regulation 27(1)(c), disablement benefit, or sickness benefit payable by virtue of section 50A of the Act, shall not be paid in pursuance of a claim in respect of occupational deafness which is made later than 5 years after the latest date, before the date of the claim, on which the claimant worked ^{F62}in employed earner’s employment] in an occupation prescribed in relation to occupational deafness. ^{F63}...

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F62 Words in reg. 25(2) inserted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **3(2)** (with reg. 7)

F63 Words in reg. 25(2) omitted (14.3.2005) by virtue of [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2005 \(S.I. 2005/324\)](#), regs. 1(1), **2(2)**

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Claims in respect of occupational deafness

26. Where it appears that a person who has made a claim for sickness benefit by virtue of section 50A of the Act in respect of occupational deafness—

- (a) may be entitled to disablement benefit, and
- (b) has not previously made a claim for disablement benefit in respect of occupational deafness or such a previous claim has been disallowed,

such a claim for sickness benefit may also be treated as a claim for disablement benefit.

Further claims in respect of occupational deafness

27.—(1) In the event of disallowance of a claim for disablement benefit or sickness benefit made by virtue of section 50A of the Act in respect of occupational deafness because the claimant has failed to satisfy the minimum hearing loss requirement prescribed in column 1 of paragraph A10 of Part I of Schedule 1 hereto, disablement benefit or sickness benefit made by virtue of section 50A of the Act shall not be paid in pursuance of a further claim in respect of occupational deafness made by or on behalf of that claimant unless—

- (a) it is a claim made after the expiration of 3 years from the date of a claim which was disallowed because the claimant was not suffering from occupational deafness; or
- (b) it is a claim made after the expiration of 3 years from the date of a reassessment by [^{F64}the Secretary of State or an appeal tribunal] or medical appeal tribunal of the extent of the claimant's disablement at less than 20 per cent; or
- (c) if the claimant would otherwise be precluded by regulation 25(2) from making a further claim after the expiration of 3 years from the date of the disallowed claim or from the date of a reassessment by [^{F64}the Secretary of State or an appeal tribunal] or a medical appeal tribunal of the extent of his disablement at less than 20 per cent, as the case may be, it is the first claim made since that date and within 5 years from the latest date, before the date of the claim, on which he worked [^{F65}in employed earner's employment] in any occupation specified in column 2 of paragraph A10 of Part I of Schedule I hereto.

[^{F66}(2) A claim to be paid benefit by virtue of paragraph (1)(c) may be disallowed by the Secretary of State, an appeal tribunal or a Commissioner (“the determining authority”) without reference to a medical practitioner where the determining authority is satisfied by medical evidence that the claimant is not suffering from occupational deafness.]

F64 Words in reg. 27(1)(b)(c) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, [Sch. 8 para. 12\(a\)](#)

F65 Words in reg. 27(1)(c) inserted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, 4 (with reg. 7)

F66 Reg. 27(2) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, [Sch. 8 para. 12\(b\)](#)

Availability of disablement benefit in respect of occupational deafness

28. Where a person is awarded disablement benefit in respect of occupational deafness, section 57(4) (period for which disablement benefit is not available) shall not apply.

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Period to be covered by assessment of disablement in respect of occupational deafness

[^{F67}29. Paragraph 6(1) and (2) of Schedule 6 to the Social Security Contributions and Benefits Act 1992 shall be modified so that in respect of occupational deafness, the period to be taken into account by an assessment of the extent of a claimant’s disablement shall be the remainder of the claimant’s life.]

F67 Reg. 29 substituted (22.9.2003) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No.2\) Regulations 2003 \(S.I. 2003/2190\)](#), regs. 1(1), **2(2)**

Review of assessment for unforeseen aggravation in respect of occupational deafness

^{F68}30.

F68 Reg. 30 revoked (22.9.2003) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No.2\) Regulations 2003 \(S.I. 2003/2190\)](#), regs. 1(1), **2(3)**

^{F69}31.

F69 Reg. 31 revoked (22.9.2003) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No.2\) Regulations 2003 \(S.I. 2003/2190\)](#), regs. 1(1), **2(3)**

No appeal against initial provisional assessment of disablement in respect of occupational deafness

^{F70}32.

F70 Reg. 32 revoked (22.9.2003) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No.2\) Regulations 2003 \(S.I. 2003/2190\)](#), regs. 1(1), **2(3)**

Cases in which reassessment of disablement in respect of occupational deafness is final

^{F71}33.

F71 Reg. 33 revoked (22.9.2003) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment \(No.2\) Regulations 2003 \(S.I. 2003/2190\)](#), regs. 1(1), **2(3)**

Assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness

34.—(1) Subject to the provisions of Schedule 8 and regulations made thereunder and the following provisions of this regulation, the first assessment of the extent of disablement in respect of occupational deafness made in pursuance of a claim made before 3rd September 1979 by a person to whom disablement benefit in respect of occupational deafness is payable for a period before 3rd September 1979 [^{F72}shall be the percentage calculated by—

- (a) determining the average total hearing loss due to all causes for each ear at 1, 2 and 3 kHz frequencies; and then by

- (b) determining the percentage degree of disablement for each ear in accordance with Part I of Schedule 3; and then by
- (c) determining the average percentage degree of binaural disablement in accordance with the formula set out in Part III of Schedule 3.]

(2) Except in any case to which paragraph (1) applies and subject to the provisions of Schedule 8 and regulations made thereunder and the following provisions of this regulation, the extent of disablement in respect of occupational deafness [^{F73}shall be the percentage calculated by—

- (a) determining the average total hearing loss due to all causes for each ear at 1, 2 and 3 kHz frequencies; and then by
- (b) determining the percentage degree of disablement for each ear in accordance with Part II of Schedule 3; and then by
- (c) determining the average percentage degree of binaural disablement in accordance with the formula set out in Part III of Schedule 3.]

(3) In ^{F74}... Schedule 3 hereto “better ear” means that ear in which the claimant's hearing loss due to all causes is the less and “worse ear” means that ear in which the claimant's hearing loss due to all causes is the more.

[^{F75}(3A) For the purposes of determining the percentage degree of disablement in Parts I and II of Schedule 3 to these Regulations, any fraction of an average hearing loss shall, where the average hearing loss is over 50dB, be rounded down to the next whole figure.]

(4) The extent of disablement in respect of occupational deafness may be subject to such increase or reduction of the degree of disablement as may be reasonable in the circumstances of the case where, having regard to the provisions of Schedule 8 and to regulations made thereunder, that degree of disablement does not provide a reasonable assessment of the extent of disability resulting from the relevant loss of faculty.

[^{F76}(5) Where on re-assessment of the extent of disability in respect of occupational deafness the average sensorineural hearing loss over 1, 2 and 3 kHz frequencies is not 50 db or more in each ear, or where there is such a loss but the loss in one or each ear is not 50 db or more due to occupational noise, the extent of disablement shall be assessed at less than 20 per cent.]

(6) Where the extent of disablement is reassessed at less than 20 per cent disablement benefit [^{F77}or reduced earnings allowance] shall not be payable.

(7) In the case of a person to whom disablement benefit by reason of occupational deafness was payable in respect of a period before 3rd September 1979—

- (a) if no assessment of the extent of his disability has been made, [^{F78}revised or superseded] on or after that date, the rate of any disablement benefit payable to him shall be the rate payable for the degree of disablement assessed in accordance with paragraph (1), but
- (b) if such an assessment has been made, [^{F78}revised or superseded] in respect of a period commencing on or after that date and before 3rd October 1983, the rate of any disablement benefit payable to him shall be either—
 - (i) the rate which would be payable if an assessment were made in accordance with paragraph (2), or
 - (ii) the rate which was payable immediately before the first occasion on which such [^{F78}revision or supersession] took place,

whichever is the more favourable to him.

(8) Where in the case of a person to whom disablement benefit by reason of occupational deafness was payable in respect of a period before 3rd September 1979 the extent of his disability is reassessed and the period taken into account on reassessment begins on or after 3rd October 1983 and—

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- (a) immediately before that date, by virtue of paragraph (7) the rate at which disablement benefit was payable to him was higher than the rate which would otherwise have been payable, or,
- (b) the reassessment is the first reassessment for a period commencing after 3rd September 1979,

the rate of disablement benefit payable to him shall be whichever of the rates specified in paragraph (9) is applicable.

(9) The rate of disablement benefit payable in the case of a person to whom paragraph (8) applies shall be—

- (a) if the current rate appropriate to the extent of his disability as reassessed is the same as or more than the rate at which disablement benefit was payable immediately before the beginning of the period taken into account on reassessment, the current rate, or
- (b) if the current rate is less than the rate at which disablement benefit was payable immediately before the beginning of the period taken into account on reassessment, the lower of the following rates—
 - (i) the rate at which benefit would have been payable if the reassessment of the extent of his disability had been made in accordance with paragraph (1), or
 - (ii) the rate at which benefit was payable immediately before the beginning of the period taken into account on reassessment.

- F72** Words in reg. 34(1) substituted (16.10.1989) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1989 \(S.I. 1989/1207\)](#), regs. 1, **4(1)**
- F73** Words in reg. 34(2) substituted (16.10.1989) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1989 \(S.I. 1989/1207\)](#), regs. 1, **4(2)**
- F74** Words in reg. 34(3) deleted (16.10.1989) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1989 \(S.I. 1989/1207\)](#), regs. 1, **4(3)**
- F75** Words in reg. 34(3A) inserted (16.10.1989) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1989 \(S.I. 1989/1207\)](#), regs. 1, **4(4)**
- F76** Reg. 34(5) substituted (1.9.1986) by [The Social Security \(Industrial Injuries and Adjudication\) Miscellaneous Amendments Regulations 1986 \(S.I. 1986/1374\)](#), regs. 1, **3**
- F77** Words in reg. 34(6) inserted (1.10.1986) by [The Social Security \(Industrial Injuries and Diseases\) Miscellaneous Provisions Regulations 1986 \(S.I. 1986/1561\)](#), regs. 1(1), **6(4)**
- F78** Words in reg. 34(7)(a)-(b) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 16**

Commencement date of period of assessment in respect of occupational deafness

35. Notwithstanding ^{F79}... Schedule 8, the period to be taken into account by an assessment of the extent of disablement in respect of occupational deafness shall not commence before 3rd February 1975.

- F79** Words in reg. 35 deleted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 17**

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Time for claiming benefit in respect of occupational asthma

36.—(1) Subject to paragraphs (2) and (3), disablement benefit and sickness benefit payable by virtue of section 50A shall not be paid in pursuance of a claim in respect of occupational asthma which is made later than 10 years after the latest date, before the date of the claim, on which the claimant or, as the case may be, the person in respect of whom the claim is made worked [^{F80}in employed earner’s employment] in an occupation prescribed in relation to occupational asthma.

(2) Paragraph (1) shall not apply to any claim made before 29th March 1983 by or in respect of a person who ceased on or after 29th March 1972 to [^{F81}work in employed earner’s employment] in an occupation prescribed in relation to occupational asthma.

(3) Paragraph (1) shall not apply to any claim made by or in respect of a person who has at any time been found to be suffering from asthma as a result of an industrial accident and by virtue of that finding has been awarded disablement benefit either for life or for a period which includes the date on which the aforesaid claim is made.

(4) Subject to paragraphs (5) and (6), industrial death benefit shall not be paid in pursuance of a claim in respect of occupational asthma where the person in respect of whose death the benefit is being claimed died more than 10 years after the latest day on which he worked [^{F82}in employed earner’s employment] in an occupation prescribed in relation to occupational asthma.

(5) Paragraph (4) shall not apply to any claim made in respect of the death of a person who died before 29th March 1983 and who on or after 29th March 1972 had not worked [^{F83}in employed earner’s employment] in an occupation prescribed in relation to occupational asthma.

(6) Paragraph (4) shall not apply to any claim made in respect of the death of a person who had at any time been found to be suffering either from asthma as a result of an industrial accident or from occupational asthma and by virtue of that finding had been awarded disablement benefit either for life or for a period which included the date of his death.

(7) Regulation 14 of the Claims and Payments Regulations (time for claiming benefit) shall not apply to a claim in respect of occupational asthma made before 29th March 1983.

- F80** Words in reg. 36(1) inserted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **5(2)**
- F81** Words in reg. 36(2) substituted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **5(3)**
- F82** Words in reg. 36(4) inserted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **5(4)**
- F83** Words in reg. 36(5) inserted (10.7.2000) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 2000 \(S.I. 2000/1588\)](#), regs. 1, **5(5)**

SECTION B

MEDICAL EXAMINATIONS AND SUSPENSION

Initial examinations

^{F84}37.

- F84** Reg. 37 revoked (10.10.1994) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1994 \(S.I. 1994/2343\)](#), regs. 1, **5**

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Periodical examinations

^{F85}38.

F85 Reg. 38 revoked (10.10.1994) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1994 \(S.I. 1994/2343\)](#), regs. 1, 5

Suspension from employment

39. A certificate of suspension issued under the provisions of either regulation 43 or regulation 44 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959 (regulations revoked with effect from 27th November 1974 by regulation 7(1) of the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1974) and in force immediately before 27th November 1974 shall continue in force subject to and in accordance with the provisions of regulation 40 of these regulations.

Conditions of suspension

40.—(1) A certificate of suspension issued under the provisions of either regulation 43 or regulation 44 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959, and remaining in force by virtue of the last preceding regulation, shall suspend the person to whom it relates from further employment in any occupation in relation to which pneumoconiosis is prescribed, with such exceptions and subject to such conditions (if any) as may be specified in the certificate.

(2) [^{F86}The Secretary of State] may at any time revoke or vary a certificate of suspension on the application of the person to whom it relates, but unless so revoked or varied such certificate shall remain in force throughout the life of such person.

(3) No person who has been suspended from employment may engage or continue in employment, and no employer may employ or continue to employ any such person, in any occupation in relation to which pneumoconiosis is prescribed, except in accordance with the terms of the certificate of suspension in his case.

F86 Words in reg. 40(2) substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, **Sch. 8 para. 18**

Duties of employers

^{F87}41.

F87 Reg. 41 revoked (10.10.1994) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1994 \(S.I. 1994/2343\)](#), regs. 1, 5

Fees for initial and periodical examination

^{F88}42.

F88 Reg. 42 revoked (10.10.1994) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1994 \(S.I. 1994/2343\)](#), regs. 1, 5

PART VI

TRANSITIONAL PROVISIONS AND REVOCATION

Transitional provisions regarding relevant dates

43.—(1) Subject to paragraph (2) the “relevant date”, in relation to each disease set out in the first column of Schedule 4 hereto, is the date set against that disease in the second column of that Schedule.

(2) Where a disease set out in the first column of Schedule 4 hereto was prescribed in relation to any person by regulations which came into operation on a date earlier than the date set against that disease in the second column of that Schedule, the “relevant date” in relation to such disease is such earlier date on which the disease was prescribed in relation to the person in question.

(3) It shall be a condition of a person's right to benefit in respect of any disease set out in Schedule 4 that he was—

- (a) incapable of work, or
- (b) suffering from a loss of faculty,

as a result of that disease on or after the relevant date.

(4) The “relevant date” in relation to byssinosis—

- (a) in the case of a person employed in an occupation involving work in any room in which the weaving of cotton or flax or any other process which takes place between, or at the same time as, the winding or beaming and weaving of cotton or flax is carried on in a factory in which any or all of those processes are carried on is 3rd October 1983;
- (b) in any other case, is 6th April 1979 except that where the disease was prescribed in relation to any person by regulations which came into operation on a date earlier than 6th April 1979 the relevant date is that earlier date.

(5) Byssinosis is not prescribed in relation to any person if neither of the following conditions is satisfied, namely:—

- (a) that he was suffering from a loss of faculty as a result of byssinosis on or after the relevant date;
- (b) that he has been employed in employed earner's employment in any occupation mentioned in regulation 2(c) of the old regulations for a period or periods (whether before or after 5th July 1948) amounting in the aggregate to 5 years.

(6) Notwithstanding that a person does not satisfy paragraph (3) infection by leptospira is prescribed in relation to any person if he is or has been either incapable of work or suffering from a loss of faculty as a result of infection by—

- (a) leptospira icterohaemorrhagiae in the case of a person employed in employed earner's employment before 7th January 1980 in any occupation involving work in places which are, or are liable to be, infested by rats, or
- (b) leptospira canicola in the case of a person so employed in any occupation involving work at dog kennels or the care or handling of dogs.

(7) A person who, immediately before 3rd October 1983, was in receipt of benefit in respect of a disease or injury which was prescribed by virtue of the old regulations, or who makes a claim for benefit in respect of a prescribed disease after 2nd October 1983 where the date of onset of the disease or injury was before 3rd October 1983, shall be treated for the purpose only of determining whether the disease or injury is in relation to him a prescribed disease by virtue of the occupation in which he is or was engaged as if the old regulations were still in force and these regulations had not come into operation, if that would be more favourable to him.

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Transitional provisions regarding dates of development and dates of onset

44. Where a claim for benefit has been made before 6th April 1983 or a date of onset is determined which is before 6th April 1983 or a claim for injury benefit is made after 5th April 1983 for a day falling or a period beginning before 6th April 1983, these regulations shall take effect subject to the provisions of Schedule 5.

Revocation

45. The regulations specified in Schedule 6 hereto are hereby revoked to the extent mentioned in the third column of that Schedule.

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

Tony Newton
Minister of State
Department of Health and Social Security

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