
STATUTORY INSTRUMENTS

1985 No. 967

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

PART III

DATE OF ONSET AND RECRUDESCENCE

Development of disease

5.—^[F1(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.

^[F2(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.]

- | |
|---|
| <p>F1 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</p> <p>F2 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</p> |
|---|

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—

- (a) ^{F3}... 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, ^[F4]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⁽¹⁾ by a person to whom regulation 8(1) applies (except in respect of pneumoconiosis, byssinosis, diffuse

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

Status: This revised version has been created from an electronic version contributed by Westlaw which was originally derived from the printed publication. **Read more** (See end of Document for details) **Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, PART III. (See end of Document for details)

mesothelioma, occupational deafness, occupational asthma, [^{F5}primary carcinoma of the lung][^{F6}, bilateral diffuse pleural thickening or [^{F7}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, [^{F5}primary carcinoma of the lung][^{F8}, bilateral diffuse pleural thickening or [^{F9}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.

F3	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
F4	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
F5	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
F6	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
F7	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)
F8	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
F9	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)

Recrudescence

7.—(1) [^{F10}Where in respect of a prescribed disease other than pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness, occupational asthma, [^{F11}primary carcinoma of the lung][^{F12}, bilateral diffuse pleural thickening or [^{F13}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 [^{F14}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;

Status: This revised version has been created from an electronic version contributed by Westlaw which was originally derived from the printed publication. **Read more** (See end of Document for details) **Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, PART III. (See end of Document for details)

- (b) if the further attack commences or the death occurs otherwise than during a relevant period, or if it is determined^{F15} ... 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 [^{F16}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.

- | | |
|------------|--|
| F10 | 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) |
| F11 | 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 |
| F12 | 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 |
| F13 | 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) |
| F14 | 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) |
| F15 | 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 |
| F16 | 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 ^{F17} ... that the disease was in fact contracted afresh.

Status: This revised version has been created from an electronic version contributed by Westlaw which was originally derived from the printed publication. **Read more** (See end of Document for details)**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, PART III. (See end of Document for details)

(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 [F18: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 [F18:revised or superseded] as if it had been given in ignorance of a material fact, and on such [F18:revision or supersession] the [F18: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.

F17 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

F18 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**

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

Status: This revised version has been created from an electronic version contributed by Westlaw which was originally derived from the printed publication. **Read more** (See end of Document for details) **Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, PART III. (See end of Document for details)

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 [^{F19}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:—

[^{F20}(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 [^{F21}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, [^{F22}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 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.

F19 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)**

F20 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)**

F21 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)**

Status: This revised version has been created from an electronic version contributed by Westlaw which was originally derived from the printed publication. **Read more** (See end of Document for details)**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, PART III. (See end of Document for details)

F22 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)**

Status:

This revised version has been created from an electronic version contributed by Westlaw which was originally derived from the printed publication.

Read more**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, PART III.