

(9) Shipping Industry (Pneumoconiosis) Compensation Scheme

THE SHIPPING INDUSTRY (PNEUMOCONIOSIS) COMPENSATION SCHEME, 1946, DATED JANUARY 30, 1946, MADE BY THE MINISTER OF NATIONAL INSURANCE UNDER THE WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 GEO. 5. C. 84), THE WORKMEN'S COMPENSATION (SILICOSIS AND ASBESTOSIS) ACT, 1930 (20 & 21 GEO. 5. C. 29) AND THE WORKMEN'S COMPENSATION ACT, 1943 (6 & 7 GEO. 6. C. 6).

1946 No. 155

In pursuance of the powers conferred on him by Section 47 of the Workmen's Compensation Act, 1925, as extended by the Workmen's Compensation (Silicosis and Asbestosis) Act, 1930, the Workmen's Compensation Act, 1943, and by the Ministry of National Insurance (Workmen's Compensation) Order, 1945,^(a) and of all other powers enabling him in that behalf, the Minister of National Insurance hereby makes the Scheme of Compensation annexed hereto in respect of pneumoconiosis in the Shipping Industry.

Signed by Order of the Minister of National Insurance this 30th day of January, 1946.

T. W. Phillips,
Secretary of the Ministry of
National Insurance.

THE SHIPPING INDUSTRY (PNEUMOCONIOSIS) COMPENSATION SCHEME,
1946

1. *Title of Scheme.*—This Scheme may be cited as “The Shipping Industry (Pneumoconiosis) Compensation Scheme, 1946.”

(a) S.R. & O. 1945 No. 318, *see* the title “Ministers of the Crown (Transfer of Functions, &c.)”.

WORKMEN'S COMPENSATION

2. *Commencement and application of Scheme.*—This Scheme shall come into force on the 1st March, 1946, and shall apply to all workmen employed at any time on or after that date in the operation of coal trimming in any ship, barge, or lighter, in any dock or harbour, or at any wharf or quay.

3. *Definitions.*—In this Scheme, unless the context otherwise requires :—

“Coal trimming” means the handling, moving, stowing, or packing of coal for transportation in the hold of any ship, barge, or lighter.

“The industry” means any operation or work mentioned in paragraph 2.

“The Acts” means the Workmen’s Compensation Acts, 1925 to 1945.

The expressions “employer”, “workman”, and “dependant” have the same meanings as in the Workmen’s Compensation Act, 1925.

“Medical Arrangements Scheme” means the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931,(a) as subsequently amended.

“Medical Board” means the Medical Board appointed by the Secretary of State under the Medical Arrangements Scheme.

“Prescribed” means prescribed by the Minister of National Insurance.

“Pneumoconiosis” means fibrosis of the lungs due to silica dust, asbestos dust, or other dust, and includes the condition of the lungs known as dust-reticulation.

“Tuberculosis” means tuberculosis of the lungs.

“The disease” means pneumoconiosis or pneumoconiosis accompanied by tuberculosis.

PART I.—RIGHT TO COMPENSATION

4. Where the Medical Board certify :—

- (1) that the death of a workman has been caused by pneumoconiosis or by pneumoconiosis accompanied by tuberculosis ; or
- (2) that a workman is totally disabled from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis ; or
- (3) that a workman, though not totally disabled, is suffering from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis to such a degree as to make it dangerous for him to continue work in the industry and is for that reason suspended from employment ;

and where the disease is due to employment in the industry whether under one or more employers, the workman or his dependants, as the case may be, shall be entitled to claim compensation as if the disease as aforesaid were a personal injury by accident arising out of and in the course of that employment, as provided by the Acts, but subject to the modifications hereinafter contained.

(a) S.R. & O. 1931 No. 341, p. 642 below.

Provided that no compensation shall be payable :—

- (a) if the Medical Board certify that the disease cannot have been contracted in the industry owing to the shortness of the time during which the workman has been employed therein ;
- (b) in cases where the workman has neither been employed in the industry nor been in receipt of weekly payments under this Scheme at any time within the five years previous to the date of the injury ;
- (c) in cases where the workman, or his dependants, as the case may be, are in receipt of compensation under any other scheme or enactment providing compensation for any form of pneumoconiosis whether in Great Britain or elsewhere.

5. If the workman has been employed in the industry for a period or periods amounting to not less than five years, the disease shall be deemed to be due to employment in the industry unless the employer proves the contrary.

6. For the purposes of this Scheme the date of the injury shall be deemed to be the date on or from which the workman is certified to be totally disabled or, while not totally disabled, is suspended from employment in the industry, as the case may be, or, in cases where the workman dies without having been certified to be totally disabled or suspended, the date of death.

7. Where a workman claims to be suffering form pneumoconiosis or pneumoconiosis accompanied by tuberculosis, the employer may agree with the workman that he is liable to pay compensation without requiring the workman to obtain a certificate from the Medical Board, and thereupon the workman shall be deemed to be suspended from employment in the industry and shall be entitled to compensation as from the date of the agreement or from such other date as may be agreed.

Any such agreement may be recorded in the manner provided by section 23 of the Workmen's Compensation Act, 1925, as applied by this Scheme, and shall be enforceable against the employer in like manner and subject to the same provisions as an agreement to pay compensation in case of an injury under that Act.

8.—(1) The compensation shall be claimed and recoverable from the employer who last employed the workman in the industry ; except that in the case of a newly engaged workman who is suspended from employment in the industry at an initial examination in pursuance of paragraph 12 of the Medical Arrangements Scheme, the employer from whom compensation shall be claimed and recoverable shall be the employer who last employed the workman in the industry previously to the new engagement.

(2) Any other employers who employed the workman in the industry during the five years preceding the date of the injury shall, unless they had at the commencement of this Scheme ceased to carry on the industry, be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined by arbitration under this Scheme.

WORKMEN'S COMPENSATION

Provided that no employer shall be liable to make any such contribution—

- (i) in any case where the employer from whom compensation is recoverable has admitted liability to pay compensation in pursuance of paragraph 7 of this Scheme without requiring a certificate from the Medical Board ; or
- (ii) in respect of any period of employment more than twelve months previous to the commencement of this Scheme.

PART II.—AMOUNT OF COMPENSATION

9.—(1) In cases of death or total disablement the compensation payable under this Scheme shall be determined in accordance with the provisions contained in the Acts for fixing the compensation in cases of death or total incapacity.

In cases of total disablement the compensation shall be payable from the date certified by the Medical Board as the date on which such disablement commenced, or, if the Board are unable to certify such a date, the date on which the certificate is given.

(2) In cases of suspension due to pneumoconiosis or pneumoconiosis accompanied by tuberculosis where the workman is not totally disabled :

- (a) if the Medical Board certify that the workman's general physical capacity for employment is impaired by reason of the disease, the workman shall be entitled, while impairment continues, to a weekly payment fixed in accordance with the provisions of the Acts for fixing the compensation in cases of partial incapacity ;
- (b) if the Medical Board certify that the workman's general physical capacity for employment is not impaired by reason of the disease, the workman, if unable immediately to obtain suitable employment at a rate of remuneration not less than he was earning in the industry, shall be entitled while he remains out of such employment, to such weekly payment as, in the absence of agreement, the County Court Judge or other arbitrator may direct.

Provided that such compensation shall not be payable for more than thirteen weeks in all, and shall in no case exceed 50 per cent. of the workman's average weekly earnings computed in accordance with the provisions of the Acts.

(3) In the application of the aforesaid provisions of the Acts the amount of compensation shall be calculated with reference to the earnings of the workman under the employer from whom compensation is recoverable under this Scheme.

PART III.—CONDITIONS OF COMPENSATION

10. The provisions as to notice of accident and claim for compensation contained in section 14 of the Workmen's Compensation Act, 1925, shall apply in cases of death, total disablement or suspension arising under this Scheme subject to the following modifications :—