STATUTORY RULES OF NORTHERN IRELAND

2015 No. 52

SOCIAL SECURITY

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

Made - - - - 12th February 2015

Coming into operation 16th March 2015

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 108(2), 109(2) and 171(1) and (3) to (5) of, and paragraph 2 of Schedule 6 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and now vested in it(**2**).

It is satisfied of the matters referred to in section 108(2) of that Act.

Citation and commencement

1. These Regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 2015 and shall come into operation on 16th March 2015.

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations

2.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986(**3**) are amended in accordance with paragraphs (2) to (6).

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

(**1**) 1992 c. 7; section 109(2) was amended by paragraph 47 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and in section 171 subsection (1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)

(**2**) *See* Article 8(b) of S.R. 1999 No. 481

(**3**) S.R. 1986 No. 179; relevant amending Regulations are S.R. 1989 No. 319, S.R. 1993 Nos.148 and 350, S.R. 1996 No. 57, S.R. 1997 No. 158, S.R. 2000 No. 214, S.R. 2003 No. 63, S.R. 2005 No. 37, S.R. 2006 No. 96, S.R. 2008 No. 258 and S.R. 2011 No. 231

(**4**) Regulation 4 was amended by regulation 3 of S.R. 1993 No. 148, regulation 3 of S.R. 1993 No. 350, regulation 3(2) of S.R. 1996 No. 57 and regulation 2(2) of S.R. 2003 No. 63

"**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 to these Regulations in paragraph 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 his 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) he was so employed on, or at any time within one month immediately preceding, the date on which, under these Regulations, he is treated as having developed the disease.

(2) Where a person has developed a disease which is prescribed in Part I of Schedule 1 to these Regulations in paragraph A1, A2, A3(b), A10, A13, A14, B2, B6, B8B, B13, C17, C18, C22(a), C24, C31, C32, D2, D3, D6, D8, D8A, D9, D10, D11, D12 or D13 that disease shall, unless the contrary is proved, be presumed to be due to the nature of his 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 to these Regulations in respect of the occupation set out in sub-paragraph (a) in the second column of that paragraph develops that disease it shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment if the date on which, under these Regulations, he is treated as having developed the disease is—

(a) not less than 6 weeks after the date on which he was first employed in that occupation; and

(b) not more than 2 years after the date on which he was last so employed in that occupation.

(4) Where a person has developed a disease which is prescribed in Part I of Schedule 1 to these Regulations 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 his 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) he was so employed—

(i) on the date on which, under these Regulations, he is treated as having developed the disease, or

(ii) on a date at any time within—

(aa) in the case of paragraph B1(b) or B8A, 2 months;

(bb) in the case of paragraph B7, 6 months; or

(cc) in the case of paragraph B4(b), 12 months,

immediately preceding the date on which, under these Regulations, he 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 to these Regulations in respect of the occupation set out in sub-paragraph (b) in the second column of that paragraph, develops that disease it shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment if he was employed in that occupation on the date, or at any time within one month immediately preceding the date on which, under these Regulations, he 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 to these Regulations in respect of the occupation set out in sub-paragraph (a), (b) or (e) in the second column of that paragraph develops that disease it shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment.

(7) Where a person in relation to whom pneumoconiosis is prescribed in regulation 2(b)(i) develops pneumoconiosis it shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment if he has been employed in either of the occupations set out in Part II of Schedule 1 to these Regulations 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.".

(3) In regulations 6(2)(a) and (b)(**5**) and 7(1)(**6**) (date of onset and recrudescence) for "chronic bronchitis or emphysema" substitute "chronic obstructive pulmonary disease".

(4) For regulation 18B(**7**) (asbestos-related primary carcinoma of the lung – special conditions and prescribed loss of faculty) substitute—

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

18B.—(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 to these Regulations.

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

(a) section 103(6) of the Contributions and Benefits Act (entitlement after expiry of 90 days) shall apply as if for "after the expiry of the period of 90 days (disregarding Sundays) beginning with the day of the relevant accident" there were substituted "the day on which he 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 Contributions and Benefits Act (period to be taken into account by an assessment) shall apply as if "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" was omitted.

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

(5) In regulation 20 (pneumoconiosis - effects of emphysema and chronic bronchitis)—

(a) in the heading for "emphysema and chronic bronchitis" substitute "chronic obstructive pulmonary disease"; and

(b) in paragraph (1)(**8**) for "any emphysema and of any chronic bronchitis" substitute "any chronic obstructive pulmonary disease".

(6) In Part 1 of Schedule 1 (list of prescribed diseases and the occupations for which they are prescribed)—

(**5**) Regulation 6(2) was amended by regulation 4 of S.R. 1993 No. 148 and regulation 4 of S.R. 1993 No. 350

(**6**) Regulation 7(1) was amended by regulation 3 of S.R. 1989 No. 319, regulation 5 of S.R. 1993 No. 148, regulation 5 of S.R. 1993 No. 350 and regulation 2(3) of S.R. 2003 No. 63

(**7**) Regulation 18B was inserted by regulation 2(3) of S.R. 2006 No. 96

(**8**) Paragraph (1) was amended by regulation 6(a) of S.R. 1993 No. 350