1993 No. 350

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 2) Regulations (Northern Ireland) 1993

Made . . . . . *6th August 1993*

Coming into operation . . *13th September 1993*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 108(2) and (4), 109(2) and (3) and 110(1) and (2) of, and paragraph 2 of Schedule 6 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and sections 5(1)(*a*) and (*b*), 56(1) and 60(1) of the Social Security Administration (Northern Ireland) Act 1992(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 2) Regulations (Northern Ireland) 1993 and shall come into operation on 13th September 1993.

(2) Regulations 1 to 7 and 10 shall be read as one with the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986(**c**), hereinafter referred to as "the principal regulations".

Amendment of regulation 2 of the principal regulations

2. In regulation 2 of the principal regulations (prescription of diseases and injuries and occupations for which they are prescribed) after paragraph (*c*) there shall be added the following paragraph—

"(*d*) the disease specified in paragraph D12 of Part I of Schedule 1 to these regulations is not prescribed in relation to persons to whom regulation 20 applies.".

Amendment of regulation 4 of the principal regulations

3. In regulation 4 of the principal regulations (presumption that a disease is due to the nature of employment)—

(*a*) in paragraph (1) for "and D5" there shall be substituted ", D5 and D12"; and

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(**a**) 1992 c. 7
(**b**) 1992 c. 8
(**c**) S.R. 1986 No. 179; relevant amending regulations are S.R. 1987 No. 116, S.R. 1989 No. 319 and S.R. 1993 Nos. 148 and 168

(*b*) after paragraph (5) there shall be added the following paragraph—

"(6) Where a person in relation to whom chronic bronchitis or emphysema is prescribed in paragraph D12 of Part I of Schedule 1 to these regulations develops chronic bronchitis or emphysema, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment.".

Amendment of regulation 6 of the principal regulations

4. In regulation 6(2) of the principal regulations (date of onset) for "or bilateral diffuse pleural thickening" in both places where it occurs there shall be substituted ", bilateral diffuse pleural thickening or chronic bronchitis or emphysema".

Amendment of regulation 7 of the principal regulations

5. In regulation 7(1) of the principal regulations (recrudescence) for "or bilateral diffuse pleural thickening" there shall be substituted ", bilateral diffuse pleural thickening or chronic bronchitis or emphysema".

Amendment of regulation 20 of the principal regulations

6. In regulation 20 of the principal regulations (pneumoconiosis — effects of emphysema and chronic bronchitis)—

(*a*) in paragraph (1) at the beginning there shall be inserted "Except in the circumstances specified in paragraph (1A),"; and

(*b*) after paragraph (1) there shall be inserted the following paragraph—

"(1A) The circumstances referred to in paragraph (1) are that the person is entitled to industrial injuries disablement benefit on account of the disease specified in paragraph D12 of Part I of Schedule 1 to these regulations.".

Amendment of Schedule 1 to the principal regulations

7. In Part I of Schedule 1 to the principal regulations (list of prescribed diseases and the occupations for which they are prescribed) after the entry relating to the disease numbered D11 (primary carcinoma of the lung where there is accompanying evidence of silicosis) there shall be inserted—

(*a*) in the first column, the following disease—

"D12. Except in the circumstances specified in regulation 2(*d*)—

(*a*) chronic bronchitis; or

(*b*) emphysema; or

(*c*) both,

where there is accompanying evidence of—

(i) coal dust retention demonstrated by a chest radiograph to at least the level of Category 1 in the International Labour Office's publication "The Classification of Radiographs of Pneumoconioses" Revised Edition 1980, 8th Impression 1992 published at Geneva; and

(ii) a forced expiratory volume in one second of at least one litre below the mean value predicted in accordance with "Lung Function: Assessment and Application in Medicine" by J E Cotes, 4th Edition 1979 published at Oxford by Blackwell Scientific Publications Limited (ISBN 0-632-00033-3) for a person of the claimant's age, height and sex, measured from the position of maximum inspiration with the claimant making maximum effort."; and

(*b*) in the second column, against the disease numbered D12—

"Exposure to coal dust by reason of working underground in a coal mine for a period of, or periods amounting in the aggregate to, at least 20 years (whether before or after 5th July 1948).".

Amendment of the Social Security (General Benefit) Regulations

8.—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984(**a**) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In regulation 1(2) (interpretation) after the definition of "parent" there shall be inserted the following definition—

" "the Prescribed Diseases Regulations" means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986(**b**);".

(3) In regulation 11 (further definition of the principles of assessment of disablement and prescribed degrees of disablement)—

(*a*) in paragraphs (3), (4) and (5) at the beginning there shall be inserted "Subject to paragraphs (5A) and (5B),"; and

(*b*) after paragraph (5) there shall be inserted the following paragraphs—

"(5A) Where—

(*a*) a person has an award of industrial injuries disablement benefit in respect of the disease specified in paragraph D1 of Part I of Schedule 1 to the Prescribed Diseases Regulations (in this paragraph and in paragraph (5B) referred to as "disease D1"); and

(*b*) by virtue of either paragraph (3) or (4) that award takes account of disablement resulting from the effects of chronic bronchitis or emphysema, not being chronic bronchitis or emphysema prescribed in paragraph D12 of Part I of Schedule 1 to the Prescribed Diseases Regulations (in this paragraph and paragraph (5B) referred to as "disease D12"); and

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(**a**) S.R. 1984 No. 92, to which there are amendments not relevant to these regulations

(**b**) S.R. 1986 No. 179; relevant amendment is insertion of disease D12 by regulation 7 of these regulations