1986 No. 179

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986

Made . . . . . *13th June 1986*

Coming into operation . . . *28th July 1986*

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation, commencement and interpretation

PART II

PRESCRIPTION OF DISEASES AND PRESUMPTION AS TO THEIR ORIGIN

2. Prescription of diseases and injuries and occupations for which they are prescribed
3. Sequelae or resulting conditions
4. Presumption that a disease is due to the nature of employment

PART III

DATE OF ONSET AND RECRUDESCENCE

5. Development of disease
6. Date of onset
7. Recrudescence
8. Workmen's compensation cases

PART IV

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

9. Definition of "relevant disease"
10. Application of Chapters IV and VI of Part II of the Act
11. Application of Claims and Payments Regulations and Benefit Regulations
12. Diseases contracted outside Northern Ireland
13. Assessment of extent of disablement
14. Death benefit for woman having care of deceased's children
15. Special provisions as to determination of regular occupation in relation to persons claiming an increase of benefit for special hardship
16. Exception from requirements as to notice
17. Provisions as to medical examination

PART V

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

18. Special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma
19. Pneumoconiosis — effects of tuberculosis
20. Pneumoconiosis — effects of emphysema and chronic bronchitis
21. Increase of benefit for special hardship — special provision for pneumoconiosis cases
22. Special requirement for pneumoconiosis claimants in unscheduled occupation cases
23. Time for claiming benefit in respect of occupational deafness
24. Claims in respect of occupational deafness
25. Further claims in respect of occupational deafness
26. Availability of disablement benefit in respect of occupational deafness
27. Period to be covered by assessment of disablement in respect of occupational deafness
28-29. Review of assessment for unforeseen aggravation in respect of occupational deafness
30. No appeal against initial provisional assessment of disablement in respect of occupational deafness
31. Cases in which re-assessment of disablement in respect of occupational deafness is final
32. Assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness
33. Commencement date of period of assessment in respect of occupational deafness
34. Time for claiming benefit in respect of occupational asthma

PART VI

TRANSITIONAL PROVISIONS AND REVOCATIONS

35. Transitional provisions regarding relevant dates
36. Transitional provisions regarding dates of development and dates of onset
37. Revocations

SCHEDULES

SCHEDULE 1—Part I— List of prescribed diseases and the occupations for which they are prescribed
Part II— Occupations for which pneumoconiosis is prescribed
SCHEDULE 2— Modifications of Chapters IV and VI of Part II of the Act in their application to benefit and claims to which these regulations apply
SCHEDULE 3— Assessment of the extent of occupational deafness
SCHEDULE 4— Prescribed diseases and relevant dates for the purposes of regulation 35

SCHEDULE 5— Transitional provisions regarding dates of development and dates of onset

SCHEDULE 6— Revocations

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 76, 77, 78, 113 and 146 of the Social Security (Northern Ireland) Act 1975(**a**) and Article 32(5) of the Social Security (Northern Ireland) Order 1982(**b**) and of all other powers enabling it in that behalf, and for the purpose only of consolidating the regulations hereby revoked, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986 and shall come into operation on 28th July 1986.

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

"the Act" means the Social Security (Northern Ireland) Act 1975;

"the Workmen's Compensation Acts" means the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943(**c**), or the enactments repealed by the Workmen's Compensation Act (Northern Ireland) 1927(**d**), or the enactments repealed by the Workmen's Compensation Act 1906(**e**);

"the Adjudication Regulations" means the Social Security (Adjudication) Regulations (Northern Ireland) 1984(**f**);

"the Benefit Regulations" means the Social Security (General Benefit) Regulations (Northern Ireland) 1984(**g**);

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(**h**);

"the old regulations" means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1983 as originally enacted(**i**);

"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);

(**a**) 1975 c. 15
(**b**) S.I. 1982/1084 (N.I. 16)
(**c**) 1927 c. 16 (N.I.); 1931 c. 16 (N.I.); 1940 c. 18 (N.I.); 1941 c. 16 (N.I.); 1943 c. 6 (N.I.); 1943 c. 13 (N.I.)
(**d**) 1927 c. 16 (N.I.)
(**e**) 1906 c. 58
(**f**) S.R. 1984 No. 144; as amended by S.R. 1984 Nos. 317 and 445 and S.R. 1985 No. 41
(**g**) S.R. 1984 No. 92; the relevant amending regulations are S.R. 1984 Nos. 174, 299 and 317 and S.R. 1985 No. 278
(**h**) S.R. 1977 No. 351; as amended by S.R. 1978 No. 90; S.R. 1979 No. 259; S.R. 1980 Nos. 267, 385 and 452; S.R. 1981 No. 281; S.R. 1982 Nos. 153, 284, 302 and 318; S.R. 1983 Nos. 36 and 203; S.R. 1984 Nos. 123, 174, 317 and 382; and S.R. 1985 Nos. 92 and 226
(**i**) S.R. 1983 No. 19

"determining authority" means, as the case may be, the Chief Adjudication Officer appointed under section 97(1B)(a), any other adjudication officer appointed under section 97(1), a social security appeal tribunal constituted under section 97(2) to (2E), the Chief or any other Social Security Commissioner appointed under section 97(3) or a Tribunal of 2 or 3 such Commissioners constituted under section 116;

"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 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;

"lung cancer" means the disease numbered D8 in Part I of Schedule 1 to these regulations;

"medical board" has the meaning assigned to it by regulation 33 of the Adjudication Regulations;

"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;

"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;

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

"tuberculosis" in the description of the disease numbered B5 in Part I of Schedule 1 to these regulations means disease due to tuberculosis infection, but when used elsewhere in these 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) *See* Article 3 of, and paragraph 1 of Schedule 1 to, the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17)). Subsections (2A) and (2B) of section 97 were subsequently substituted by Article 10(*a*) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8))

(*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;

(*b*) to a numbered regulation is a reference to the regulation 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;

(*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.

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 paragraphs (*b*) and (*c*) and to regulation 35(3), (5) and (6), each disease or injury set out in the first column of Part I of Schedule 1 to these regulations is prescribed in relation to all persons who have been employed on or after 5th July 1948 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 Schedule 1 to these regulations; 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 sub-paragraph) in force—

(*aa*) 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;

(*bb*) 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 and in the case of a person who during such period as is specified above has been concurrently employed in 2 or more of the occupations described in sub-paragraphs (*a*), (*b*), (*d*), (*e*), (*f*), (*g*) and (*h*) of the said paragraph A10 those occupations shall be treated as a single occupation for the purposes of determining whether that person has been employed wholly or mainly in work described in those sub-paragraphs.

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