Prescribed Diseases

REGULATIONS, DATED 3RD JULY, 1958, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND), 1946.

1958. No. 120 [C]

The Ministry of Labour and National Insurance, in exercise of powers conferred by sections 54, 55 and 85 of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations (Northern Ireland), 1958, shall be read as one with the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland), 1948(b) (hereinafter referred to as " the principal regulations "), and shall come into operation on the 7th July, 1958.

Amendment of Part I of the First Schedule to, and of Regulation 4 of, the principal regulations and consequential provisions

2.—(1) Subject to the provisions of regulation 3 of these regulations, the First Schedule hereto shall be substituted for, and shall be deemed to be, Part I of the First Schedule to the principal regulations (which, as amended by the regulations referred to in the next succeeding paragraph, lists the diseases and the injuries which are prescribed by the regulations against the occupations in relation to which they are so prescribed) and the said Part I of the First Schedule to the principal regulations as hitherto in operation is accordingly revoked.

(2) Subject as aforesaid the regulations specified in Part I of the Second Schedule to these regulations are hereby revoked to the extent mentioned in the third column of that part of the Schedule.

(3) In regulation 1(2) of the principal regulations, for the definition of " tuberculosis " there shall be substituted the following:—

" ' tuberculosis ' in the description of the disease numbered 38 in Part I of the First Schedule to these regulations means disease due to tuberculous infection, but when used elsewhere in these regulations in connection with pneumoconiosis means tuberculosis of the respiratory system only;"

(4) In regulation 4 of the principal regulations (which relates to the giving of a presumption in certain cases that a prescribed disease is due to the nature of an insurable employment)—

(a) 1946. c. 21. (b) S.R. & O. 1948, No. 212.

(*a*) for the proviso to paragraph (1) there shall be substituted the following proviso:—

"Provided that this paragraph shall not apply to the diseases numbered 38, 41 and 42, respectively, in the said Schedule.";

(*b*) paragraph (3) which was added by regulation 3 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations (Northern Ireland), 1951(a) (which regulations are revoked by paragraph (2) of this regulation) is hereby re-enacted in the same form;

and the regulation shall accordingly have effect as set out in Part II of the Second Schedule to these regulations.

Transitional Provisions

3.—(1) In this regulation, "the old Schedule" means Part I of the First Schedule to the principal regulations as in force immediately before the coming into operation of these regulations, and "the new Schedule" means the First Schedule hereto.

(2) Where a disease was prescribed in relation to any person under the old Schedule and is not so prescribed under the new Schedule, the old Schedule shall continue to apply for the purposes of any claim by that person in respect of that disease, and of any claim in respect of his death therefrom, if—

(*a*) he would under the provisions of the principal regulations be treated for the purposes of that claim, assuming the disease to be prescribed in relation to him, as having developed the disease on a date between the 5th July, 1948 and the date on which these regulations come into operation, or

(*b*) he has been awarded benefit in respect of the disease at any time before the date when these regulations come into operation and that award has not been reversed on appeal or review.

(3) Where a disease was not prescribed in relation to a person under the old Schedule and is so prescribed under the new Schedule then—

(*a*) if on the date on which these regulations come into operation the person is incapable of work or, as the case may be, suffering from a loss of faculty as the result of that disease, the provisions of regulation 6 of the principal regulations (which relates to date of development) shall be applied subject to the modification that the date on which these regulations come into operation shall be treated as the first day on which he was incapable of work or, as the case may be, as the day on which he first suffered from the relevant loss of faculty, and the date of development shall be determined accordingly;

(a) S.R. & O. 1951, No. 31.

(*b*) if disablement benefit is awarded in respect of that disease and an increase of that benefit is claimed under section 14 of the Act (which section relates to increase of disablement pension in cases of special hardship), and, if at any time after having been employed in an occupation in respect of which that disease is prescribed but before the date on which these regulations come into operation the claimant has abandoned any occupation as a result of the relevant disease, the fact that he has abandoned that occupation shall be disregarded in determining his regular occupation for the purposes of the said section 14.

(4) Where at any time after the 5th July, 1948 but before the date on which these regulations come into operation, the death of any person has resulted from a disease which was not included or was not prescribed in relation to him in the old Schedule, but the disease is included in the new Schedule and he had been employed in insurable employment on or after the 5th July, 1948 in any occupation which is set against that disease in that Schedule and the disease was due to the nature of that employment, that person shall be treated for the purposes of Part IV of the Act (which relates to extension of insurance to diseases) and of the principal regulations, as if these regulations had been in force at the date of death, subject only to the following modifications:—

(*a*) no benefit shall be payable in respect of the death of that person—

(i) by way of pension or allowance for any period before the said date on which these regulations come into operation:

(ii) by way of gratuity, on a claim made by or on behalf of any other person who has died before that date, or to the widow of the deceased if she has remarried before that date:

Provided that a person who would be entitled to any benefit but for the operation of this sub-paragraph shall (except as provided in the next succeeding sub-paragraph) be treated as if he were entitled thereto for the purposes of any rights or obligations under the Act (whether of himself or any other person) which depend on his being so entitled, other than the right to payment of that benefit;

(*b*) in applying, in respect of the death of that person, the provisions of the Fourth Schedule to the Act (which limits benefit payable in respect of any death), any person who has died before the said date on which these regulations come into operation shall be disregarded.

(5) The construction of references in the principal regulations to persons suffering from "the same disease" shall not be affected by re-numbering or by changes in the description of diseases in the new Schedule as compared with the old Schedule:

Provided that where, having suffered before the date on which these regulations come into force from an attack of one of the diseases numbered 24(*a*), 24(*b*) or 25 in the old Schedule, a person suffers after that date from an attack of one of the diseases numbered 25, 41 or 42 in the new Schedule or, having suffered before the said date from an attack of one of the diseases numbered 28, 29 or 30 in the old Schedule, a person suffers after that date from an attack of the disease numbered 28 in the new Schedule, regulation 7 of the principal regulations shall apply as if he had suffered from another attack of the same disease.

(6) Save as provided in this regulation the revocation of the old Schedule and of the regulations mentioned in Part I of the Second Schedule hereto shall be without prejudice to anything duly done or suffered or to any right, privilege, or obligation or liability acquired, accrued or incurred thereunder.

Sealed with the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 3rd day of July, 1958 in the presence of

(L.S.) *H. A. Lowry,*
Assistant Secretary to the Ministry of Labour and National Insurance for Northern Ireland.

FIRST SCHEDULE

Regulation 2.

(*Note.* The following provisions are by regulation 2 of these regulations substituted for, and are deemed to be, Part I of the First Schedule to the principal regulations).

"FIRST SCHEDULE

Regulations 2 and 4.

PART I

Description of disease or injury	Nature of occupation
Poisoning by:	Any occupation involving:
1. Lead or a compound of lead.	The use or handling of, or exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead.
2. Manganese or a compound of manganese.	The use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese.
3. Phosphorus or phosphine or poisoning due to the anti-cholinesterase action of organic phosphorus compounds.	The use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus.
4. Arsenic or a compound of arsenic.	The use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic.
5. Mercury or a compound of mercury.	The use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury.
6. Carbon bisulphide	The use or handling of, or exposure to the fumes or vapour of, carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide.
7. Benzene or a homologue ...	The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.
8. A nitro- or amino- or chloro-derivative of benzene or of a homologue of benzene, or poisoning by nitrochlorbenzene.	The use or handling of, or exposure to the fumes of, or vapour containing, a nitro- or amino- or chloro-derivative of benzene or a homologue of benzene or nitrochlorbenzene.