Prescribed Diseases

REGULATIONS, DATED 3RD JULY, 1948, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT (NORTHERN IRELAND), 1946.

1948. No. 212

The Ministry of Labour and National Insurance, in exercise of the powers conferred by sections 54, 55, 56 and 85 of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946, and of all other powers enabling it in that behalf, hereby makes the following regulations:—

Amended 1949 S.R.&O.(N.I.) 173

PART I

General

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland), 1948, and shall come into operation on the 5th July, 1948.

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

"the Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946;

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Workmen's Compensation Acts" means the Workmen's Compensation Acts (Northern Ireland), 1927 to 1943, or the enactments repealed by the Workmen's Compensation Act (Northern Ireland), 1927, or the enactments repealed by the Workmen's Compensation Act, 1906;

"Benefit Regulations" means the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland), 1948;

"Claims and Payments Regulations" means the National Insurance (Industrial Injuries) (Claims and Payments) Regulations (Northern Ireland), 1948;

"Determination of Claims and Questions Regulations" means the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations (Northern Ireland), 1948;

"the Ministry" means the Ministry of Labour and National Insurance for Northern Ireland;

"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);

"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;

"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;

"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 but does not include byssinosis;

"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" means tuberculosis of the respiratory system;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) The Interpretation Act, 1921, applies to the interpretation of these regulations as it applies to the interpretation of an Act of the Parliament of Northern Ireland.

PART II

Prescription of diseases and presumption as to their origin

2. For the purposes of Part IV of the Act— Prescription of diseases and injuries.

(*a*) each disease or injury set out in the first column of Part I of the First Schedule hereto is prescribed in relation to all insured persons who have been employed on or after the appointed day in insurable employment in any occupation set against such disease or injury in the second column of the said Schedule;

(*b*) pneumoconiosis is prescribed in relation to all insured persons who have been employed on or after the appointed day in insurable employment in any occupation set out in Part II of the said Schedule.

Sequelae or resulting conditions.

3. Where a person—

(*a*) is insured under the Act and these regulations against a prescribed disease; and

(*b*) is suffering from a condition which, in his case, has resulted from that disease;

the provisions of Part IV of the Act and of these regulations shall apply to him as if he were suffering from that disease, whether or not the condition from which he is suffering is itself a prescribed disease.

Presumption.

4.—(1) Where an insured person has developed a disease which is prescribed in relation to him in Part I of the First Schedule hereto, that disease shall, unless the contrary is proved, be presumed to be due to the nature of his insurable employment if that employment was in any occupation set against that disease in the second column of the said Part and he was so employed on, or at any time within one month immediately preceding, the date on which, under the subsequent provisions of these regulations, he is treated as having developed the disease:

Provided that this paragraph shall not apply to the disease numbered 24 (*b*) in the said Schedule.

(2) Where an insured person in relation to whom pneumoconiosis is prescribed in Part II of the said First Schedule has developed pneumoconiosis, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his insurable employment if he has been employed in one or other of the occupations set out in the said Part II for a period or periods amounting in the aggregate to not less than two years in employment which either—

(*a*) was insurable employment; or

(*b*) would have been insurable employment if it had taken place on or after the appointed day.

PART III

Date of development and recrudescence

Development of disease.

5. If on a claim for benefit under Part IV of the Act in respect of a prescribed disease, a person is found to be or to have been suffering from the disease, or to have died as the result thereof, the disease shall, for the purposes of such claim, be treated as having developed on a date (hereafter in these regulations referred to as "the date of development") determined in accordance with the provisions of the two next following regulations.

6.—(1) For the purposes of the first claim in respect of a prescribed disease suffered by an insured person, the date of development shall be determined in accordance with the following provisions of this regulation, and, save as provided in regulation 7, that date shall be treated as the date of development for the purposes of any subsequent claim in respect of the same disease suffered by the same person: Date of development.

Provided that if, on the consideration of a claim, no award of benefit is made, any date of development determined for the purposes of that claim shall be disregarded for the purposes of any subsequent claim.

(2) Where the claim for the purposes of which the date of development is to be determined is—

(*a*) a claim for injury benefit, the date of development shall be the first day on which the claimant was incapable of work as the result of the disease on or after the appointed day; or, if later, the date as from which benefit could be paid on that claim;

(*b*) a claim for disablement benefit, the date of development shall be the day on which the claimant first suffered from the relevant loss of faculty on or after the appointed day; or, if later, the date as from which benefit could be paid on that claim; or

(*c*) a claim for death benefit, the date of development shall be the date of death.

(3) In the foregoing paragraph, the expression "the date as from which benefit could be paid on that claim" means, in relation to any claim, the first day of the period in respect of which benefit could be paid on that claim having regard to the provisions of regulation 17 (2) of the Claims and Payments Regulations, or could have been so paid but for the proviso to subsection (1) of section 11 of the Act (which provides that, in the circumstances therein specified, injury benefit shall not be payable in respect of the first three days of incapacity in the injury benefit period).

7.—(1) If a person after having been awarded benefit in respect of a prescribed disease other than pneumoconiosis recovers wholly or partially from the attack of the disease, and thereafter suffers from another attack of the same disease or dies as the result thereof, then— Recrudescence.

(*a*) if the further attack commences or the death occurs during an injury benefit period or during a period taken into account by an assessment of disablement relating to such a previous award (either of which periods is hereinafter referred to as a "relevant period"), the disease shall be treated as a recrudescence of the attack to which the relevant period relates, unless it is otherwise determined in the manner referred to in the following sub-paragraph;

(*b*) if the further attack commences or the death occurs otherwise than during a relevant period, or if it is determined in the manner provided in Part V of these regulations that the disease was in fact contracted afresh, it shall be treated as having been so contracted.

(2) For the purposes of the foregoing paragraph, a further attack of a prescribed disease shall be deemed to have commenced on the date which would be treated as the date of development under the provisions of regulation 6 if no previous claim had been made in respect of that disease.

(3) Where, under the foregoing provisions of this regulation, a disease is treated as having been contracted afresh, the provisions of regulation 6 shall be applied as though no previous claim had been made in respect of that disease and the date of development shall be determined accordingly.

(4) Where, under the provisions aforesaid, a disease is treated as a recrudescence during a period taken into account by a previous assessment of disablement, any assessment of disablement in respect of the recrudescence shall be by way of review of such previous assessment, and such review shall be subject to the provisions of regulation 29.

Transitional provisions.

8.—(1) If under the foregoing provisions of this Part of these regulations a date of development has to be determined for the purposes of a claim for benefit in respect of a prescribed disease, other than pneumoconiosis, suffered by a person to whom compensation under the Workmen's Compensation Acts has been awarded or paid in respect of the same disease and, at the date of such claim for benefit, or, if it is a claim for death benefit, at the date of death—

(*a*) that person was in receipt of weekly payments in respect of such compensation; or

(*b*) any liability or alleged liability for such compensation had been redeemed by the payment of a lump sum, or had been the subject of a composition agreement under the provisions of the said Acts;

the disease in respect of which the claim is made shall be treated for the purposes of these regulations as a recrudescence of the disease in respect of which such compensation was awarded or paid and not as having developed on or after the appointed day unless it is determined in the manner provided in Part V of these regulations that the disease was in fact contracted afresh.

(2) If it is determined as provided in the foregoing paragraph that the disease was contracted afresh, or if compensation is not being