WORKMEN'S COMPENSATION

1954 No. 1443

The Industrial Diseases (Miscellaneous) Benefit Scheme, 1954

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Whereas a draft of the following Scheme was laid before Parliament and approved by resolution of each House of Parliament:

Now, therefore, the Minister of Pensions and National Insurance, with the consent of the Treasury, in exercise of powers conferred by the Pneumoconiosis and Byssinosis Benefit Act, 1951(a), as extended by the Industrial Diseases (Benefit) Act, 1954(b), and of all other powers enabling him in that behalf, hereby makes the said Scheme:—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Industrial Diseases (Miscellaneous) Benefit Scheme, 1954, and shall come into operation on the seventh day after the date of this instrument.

(2) In this Scheme, unless the context otherwise requires—

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

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 4. (b) 2 & 3 Eliz. 2. c. 16.
(c) 9 & 10 Geo. 6. c. 62.

" the Workmen's Compensation Acts " means the Workmen's Compensation Acts, 1925 to 1945 and any enactment repealed by the Workmen's Compensation Act, 1925(a);

" Industrial Diseases (Benefit) Scheme " means any Scheme (other than this Scheme) made under the Industrial Diseases (Benefit) Acts, 1951 and 1954;

" the Supplementation Scheme " means the Workmen's Compensation (Supplementation) Scheme, 1951(b);

" the Pneumoconiosis and Byssinosis Benefit Scheme " means the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(c), as amended(d);

" the Minister " means the Minister of Pensions and National Insurance;

" allowance " means an allowance payable under this Scheme and includes any increase thereof;

" death benefit " means the benefit payable under this Scheme in respect of the death of any person;

" claimant " means a person claiming an allowance or death benefit under this Scheme and includes, in relation to the review of an award or decision, a person entitled to benefit under the award or affected by the decision;

" the Administrative Board " means the Administrative Board established under Article 10 of the Pneumoconiosis and Byssinosis Benefit Scheme;

" the Benefit Regulations " means the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(e).

(3) For the purpose of the provisions of this Scheme relating to the making of claims, a claim for an allowance in respect of total disablement made by a person who has previously been awarded an allowance in respect of partial disablement shall be treated as a separate claim.

(4) References in this Scheme to any enactment, scheme or regulations shall include references to such enactment, scheme or regulations as amended by any subsequent enactment, scheme or regulations.

(5) Any notice or other document required or authorised to be given or sent to any person under the provisions of this Scheme shall be deemed to have been given or sent, if it was sent by post to that person at his ordinary or last known address.

(6) The Interpretation Act, 1889(f), applies to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

PART II

Allowances and Death Benefit

Benefit payable under this Scheme

2.—(1) Subject to the following provisions of this Scheme, benefit as hereinafter provided shall be payable out of the Industrial Injuries Fund to or in respect of any person who has been employed in Great Britain before the 5th July, 1948, in any of the occupations set out in the second column of the First Schedule hereto if—

(*a*) he is totally or partially disabled as a result of any of the diseases set against the occupation in the first column of that Schedule, and the disablement is likely to be permanent; or

(a) 15 & 16 Geo. 5. c. 84.
(b) S.I. 1951/1150 (1951 II, p. 1401).
(c) S.I. 1952/373 (1952 III, p. 3966).
(d) S.I. 1952/1301 (1952 III, p. 3983).
(e) S.I. 1948/1372 (Rev. XVI, p. 441: 1948 I, p. 2918).
(f) 52 & 53 Vict. c. 63.

(*b*) he has died at any time after the 31st December, 1949, as a result of any of the said diseases.

(2) For the purposes of this Scheme, the expression "partially disabled" means, in relation to any person, that, though not totally disabled by any of the said diseases set out in the First Schedule hereto, that person is suffering from the disease to such a degree that his general physical capacity for employment is thereby impaired.

Restrictions on payment of benefit

3. Benefit shall not be payable to or in respect of a person who is disabled or dies or has died as a result of any of the said diseases set out in the First Schedule hereto if throughout the employment mentioned in paragraph (1) of Article 2 he was employed otherwise than as a workman within the meaning of the Workmen's Compensation Act, 1925, or if in respect of any attack of the disease suffered by him—

(*a*) he or any other person is or has been entitled to benefit under the Industrial Injuries Act;

(*b*) he or any other person would be or would have been so entitled but for the operation of sections 29, 30 or 32 of that Act (which sections relate respectively to adjustments for successive accidents, overlapping benefits and disqualifications, forfeitures and suspensions);

(*c*) he or any person being a member of his family within the meaning of the Workmen's Compensation Act, 1925, has received or is entitled to compensation under the Workmen's Compensation Acts or by virtue of any scheme made or certified thereunder or by virtue of any scheme or law in force in any country or territory outside Great Britain providing for compensation in respect of the disease;

(*d*) he would have received or would be entitled to such compensation under the Workmen's Compensation Acts or by virtue of any scheme made or certified as aforesaid but for the fact that he was or is entitled to receive compensation in respect of disablement from any other disease or in respect of an injury by accident;

(*e*) he or his personal representative or any of his relatives has recovered any sum by way of damages whether at common law or under the Fatal Accident Acts, 1846 to 1908, or the Law Reform (Miscellaneous Provisions) Act, 1934(**a**):

Provided that the provisions of paragraphs (*c*), (*d*) and (*e*) of this Article shall not operate to prevent benefit from being payable to or in respect of any person in any case in which the Administrative Board are satisfied that the disablement or death in respect of which the claim is made is the result of a separate and fresh contraction of the disease.

Allowances payable under this Scheme

4.—(1) Subject to the provisions of this Scheme, the benefit payable in cases of disablement due to any of the said diseases set out in the First Schedule hereto shall be an allowance—

(*a*) for any period during which the disablement is total, at the weekly rate of forty shillings;

(*b*) for any period during which the disablement is partial, at the weekly rate of twenty shillings;

and shall be payable at the appropriate rate from the date (not being a date earlier than the date on which this Scheme comes into operation) as

(**a**) 24 & 25 Geo. 5. c. 41.

from which the Administrative Board determine that the claimant was totally or partially so disabled, as the case may be.

(2) A claimant shall not be entitled to an allowance unless he is ordinarily resident in the United Kingdom at the date of the claim.

(3) An increase of an allowance under the provisions of Articles 5, 6, 7 or 8 shall not be payable for any period during which the person entitled to the allowance is absent from the United Kingdom.

Increase of allowance in respect of a wife

5.—(1) For any period during which a person entitled to an allowance in respect of total disablement is residing with or wholly or mainly maintaining his wife, or would under the provisions of the Industrial Injuries Act be treated as doing so, the weekly rate of the allowance payable to that person shall, subject to the provisions of the Second Schedule hereto, be increased by the amount specified in paragraph (2) of this Article.

(2) For the purposes of paragraph (1) of this Article and of paragraph 2 of the said Second Schedule, the specified amount shall be an amount equal to the increase of benefit in respect of a wife, mentioned in section 18 of the Industrial Injuries Act(**a**).

Increase of allowance in respect of children

6. For any period during which a person entitled to an allowance in respect of total disablement has a family which includes a child or children within the meaning of section 17 of the Industrial Injuries Act(**b**), the weekly rate of the allowance payable to that person shall be increased by an amount equal to the increase (if any) which would be payable to him in respect of that child or those children under the said section 17 if he were entitled to injury benefit:

Provided that an increase of an allowance under this Article in respect of a child or children shall not be payable for any period during which an increase of benefit in respect of that child or those children is payable under the Industrial Injuries Act, the National Insurance Act, 1946(**c**), or any Industrial Diseases (Benefit) Scheme.

Increase of allowance on account of unemployability

7.—(1) Where a person could, for the purposes of section 13 of the Industrial Injuries Act(**a**) (which relates to unemployability supplement), be treated as being incapable of work and likely to remain permanently so incapable as the result of any disease in respect of which he is entitled to an allowance, the weekly rate of the allowance payable to him shall, subject to the provisions of paragraph (3) of this Article, be increased by an amount equal to the increase of disablement pension (if any) which would be payable to him under the said section 13 if he were entitled to a disablement pension in respect of the disease.

(2) An increase of an allowance under this Article shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

(3) An increase of an allowance under this Article shall not be payable to any person for any period during which he is entitled to an increase of

(**a**) As amended by section 3 of the Family Allowances and National Insurance Act, 1952 (15 & 16 Geo. 6 & 1 Eliz. 2. c. 29).

(**b**) As amended by section 3 (4) of the National Insurance Act, 1951 (14 & 15 Geo. 6. c. 34) and by section 3 of the Family Allowances and National Insurance Act, 1952 (15 & 16 Geo. 6 & 1 Eliz. 2. c. 29).

(**c**) 9 & 10 Geo. 6. c. 67.

disablement pension by way of unemployability supplement under the said section 13 or under section 82 of the Industrial Injuries Act or under any Industrial Diseases (Benefit) Scheme.

(4) Where a person is entitled to an allowance in respect of partial disablement and is also entitled to an increase of that allowance under this Article, the provisions of Articles 5 and 6 shall apply to him for any period during which he is entitled to such increase as they apply to a person entitled to an allowance in respect of total disablement.

Increase of allowance when constant attendance needed

8.—(1) Where a person entitled to an allowance in respect of total disablement requires constant attendance as a result of that disablement the weekly rate of the allowance payable to him shall, subject to the provisions of paragraph (2) of this Article, be increased by an amount equal to the increase of disablement pension (if any) which would be payable to him under section 15 of the Industrial Injuries Act(**a**) (which relates to constant attendance allowance) if he were entitled in respect of the disablement to a disablement pension calculated by reference to an assessment of one hundred per cent.

(2) An increase of an allowance under this Article shall not be payable to any person for any period during which he is entitled to an increase of disablement pension in respect of the need of constant attendance under the said section 15 or under section 82 of the Industrial Injuries Act or under any Industrial Diseases (Benefit) Scheme.

Death Benefit

9.—(1) The benefit payable in cases of death due to any of the said diseases set out in the First Schedule hereto shall be payable to or for the benefit of such of the dependants of the deceased as are specified in paragraph (2) of this Article, and subject to the following provisions of this Scheme, shall be a capital sum of an amount calculated in accordance with the provisions of paragraph (4) of this Article.

(2) The dependants of a person entitled to claim death benefit under this Scheme are such of the members of the deceased's family as were wholly or in part dependent on the earnings of the deceased at the time of his death, or are treated as having been so dependent under the provisions of paragraph (3) of this Article, and for the purposes of this paragraph the expression "member of a family" has the same meaning as it has for the purposes of the Workmen's Compensation Act, 1925(**b**):

Provided that for the purposes of this Article a dependant shall be disregarded—

(*a*) where he was only in part dependent upon the earnings of the deceased and there is another dependant who was wholly so dependent and who is entitled to death benefit;

(*b*) where the dependant has died before the date on which this Scheme comes into operation or (whether he has made a claim for death benefit or not) before an award of such benefit in respect of the deceased has been made;

(*c*) where the dependant was not ordinarily resident in the United Kingdom at the date of the death of the deceased.

(3) For the purposes of paragraph (2) of this Article a person shall be treated as having been wholly or in part dependent (as the case may be) upon

(**a**) As amended by section 3 of the Family Allowances and National Insurance Act, 1952 (15 & 16 Geo. 6 & 1 Eliz. 2. c. 29).

(**b**) *See* section 4 (3), Workmen's Compensation Act, 1925 (15 & 16 Geo. 5. c. 84) and Adoption of Children (Workmen's Compensation) Act, 1934 (24 & 25 Geo. 5. c. 34).

the earnings of the deceased at the time of his death if the following conditions or either of them are satisfied:—

(*a*) if that person would have been so dependent but for the disablement due to the disease;

(*b*) if that person, being the widow of the deceased, would have been so dependent but for the fact that she was in receipt of a retirement pension by virtue of her husband's insurance under the provisions of the National Insurance Act, 1946.

(4) The capital sum payable by way of death benefit shall be calculated as follows:—

(*a*) if the deceased leaves any dependants wholly dependent on his earnings, the capital sum shall be three hundred pounds;

(*b*) if the deceased does not leave any dependants wholly dependent on his earnings but leaves any dependants in part so dependent, the capital sum shall be such sum not exceeding three hundred pounds as may be determined by the Administrative Board to be reasonable and proportionate to the loss sustained by the said dependants.

PART III

CONSTITUTION AND PROCEDURE OF THE ADMINISTRATIVE BOARD

Constitution of the Administrative Board

10. This Scheme shall be administered by the Administrative Board appointed under the Pneumoconiosis and Byssinosis Benefit Scheme and the Board shall determine all questions assigned to them under this Scheme in accordance with the procedure prescribed by Article 11 of the Pneumoconiosis and Byssinosis Benefit Scheme for the purposes of that Scheme and with Article 11 of this Scheme.

Procedure on determination of claims and questions

11.—(1) Any claim for an allowance or death benefit and any question arising in connection with a claim for or an award of an allowance or death benefit (other than such a question as is mentioned in Article 13) shall be determined by the Administrative Board in accordance with the provisions of Article 10 and of this Article.

(2) For the purpose of determining any question assigned to them under this Scheme, the Administrative Board may refer the case to a registered medical practitioner for examination and report.

(3) Any claimant may make a request to the Administrative Board—

(*a*) for a hearing for the determination of any claim or question which they are required to determine under paragraph (1) of this Article; or

(*b*) for the reference of the case to a registered medical practitioner for examination and report;

and the Administrative Board shall grant the request unless they are satisfied that the claim or question can properly be determined without a hearing or without a reference, as the case may be, in which event they shall inform the claimant in writing and shall proceed with the determination of the case.

(4) If in accordance with the provisions of paragraph (3) of this Article a request for a hearing has been granted, or if notwithstanding that no request has been made, the Administrative Board are otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to the claimant.

(5) Every such hearing shall be in public, except in so far as the Administrative Board for special reasons may otherwise direct.

(6) The Administrative Board may require persons to attend at any such hearing to give evidence and to produce documents reasonably required for the purposes of determining the claim.

(7) The claimant, or an association of employed persons of which the claimant is or has been a member, shall have the right to be heard at any hearing by the Board of his case and may be represented by counsel or solicitor or other representative at any such hearing.

(8) If the claimant should fail to appear either in person or by representative at the hearing the Administrative Board may proceed to determine the claim or question notwithstanding his absence or may give such direction with a view to the determination of the claim or question as they think proper.

(9) The Administrative Board shall in each case record their decision in writing and the claimant shall be informed in writing of the decision as soon as practicable.

Finality of decisions of the Administrative Board

12. Except as provided by Article 25, any decision by the Administrative Board of a claim or question as provided by Article 11 shall be final for the purposes of this Scheme.

Reference of questions for determination under the Industrial Injuries Act

13.—(1) The following questions shall be determined in like manner as any corresponding question arising in respect of a claim for benefit under the Industrial Injuries Act—

(*a*) any question whether for any period a person is or was residing with or wholly or mainly maintaining his wife (or would under the provisions of the Industrial Injuries Act be treated as doing so);

(*b*) any question whether for any period his wife is or was engaged in any gainful occupation or occupations from which her weekly earnings exceed or exceeded the amounts specified in regulation 7 of the Benefit Regulations(**a**);

(*c*) any question whether a person is or was a child of a person's family (or would under the provisions of the Industrial Injuries Act be treated as being a child of a person's family);

(*d*) any question whether the conditions for an increase of an allowance on account of unemployability or in respect of the need of constant attendance set out in paragraph (1) of Article 7 and paragraph (1) of Article 8 respectively are or were satisfied, and as to the amount of any such increase.

(2) If on consideration of a claim or question the Administrative Board are of opinion that any such question as is mentioned in paragraph (1) of this Article arises, they shall refer that question to an Insurance Officer appointed under the Industrial Injuries Act, who shall himself determine the question or refer it for determination as required by that paragraph, and the determination of that question as provided by this Article shall be conclusive for the purposes of this Scheme subject to the same rights of appeal and review as would have been applicable if it had been given for the purposes of the Industrial Injuries Act.

(a) As amended by S.I. 1951/1233 (1951 I, p. 1501).

PART IV

Claims and Payments

Claims to be made to the Administrative Board in writing

14. Every claim for an allowance or for death benefit shall be made in writing to the Administrative Board, and, for the purposes of the provisions of this Part of this Scheme relating to the making of claims, every increase of an allowance shall be treated as a separate benefit.

Information to be given when making a claim or obtaining payment of allowance or death benefit

15. Every person who makes a claim for or is entitled to an allowance or death benefit and every person to whom or on whose behalf sums are payable by way of an allowance or death benefit shall furnish in such manner and at such times as the Administrative Board or the Minister, as the case may be, may determine, such certificates, documents, information and evidence affecting the right to the allowance or death benefit or to the receipt of any sums payable by way of an allowance or death benefit as may reasonably be required by the Administrative Board or the Minister, and, if so required, shall for that purpose attend at such office or place as the Administrative Board or the Minister may direct.

Obligation to undergo medical examination

16. The Administrative Board may by notice in writing require any claimant for and any person in receipt of an allowance to undergo medical or other examination not less than three clear days after the date of such notice, and any such person shall comply with every such requirement and shall attend at every such place and at every such time as may be required.

Sums not payable when delay in claiming

17.—(1) An allowance, or an increase of an allowance, shall not be payable to any person in respect of any period more than six months before the claim for the allowance or the increase, as the case may be, is made, except that in any particular case the Administrative Board may determine that the allowance or increase shall be payable from such earlier date as they may consider reasonable in the circumstances, not being a date before the date from which, apart from this Article, the allowance or increase would be payable.

(2) Death benefit shall not be payable in respect of the death of any person to or for the benefit of any dependant who fails to make a claim for that benefit within a period of six months beginning with the day of the death or the date on which this Scheme comes into operation, whichever is the later:

Provided that, where in the opinion of the Administrative Board there is reasonable cause for failure to make the claim before the date on which it is made, that period shall be extended to the date on which the claim is made.

Payment of allowances

18. Payment of allowances shall be made by the Minister, and accordingly the provisions of the Industrial Injuries Act and of the regulations made thereunder specified in the Third Schedule hereto shall be applicable with the necessary modifications to claims for and payment of allowances as the same apply to disablement benefit under that Act:

Provided that where an allowance is payable by means of orders for the payment through the Post Office of weekly sums on account of the allowance, the said weekly sums shall be payable on Thursdays.

Payment of death benefit

19.—(1) Any sums payable by way of death benefit shall be paid by the Minister for the benefit of the dependant or dependants entitled thereto into the county court of the district selected by the Administrative Board who, in a case where the said dependant or dependants or any of them has a place of residence in Great Britain, shall have regard to that place.

(2) Where money is paid into court under paragraph (1) of this Article—

(*a*) the Minister shall lodge with the registrar a form in duplicate, specifying the amount of the sum paid in and the names and addresses and relationship to the deceased of the dependants entitled thereto, and shall forthwith give notice to the said dependants of such payment having been made;

(*b*) the fee payable (being the fee payable on the payment into court of compensation for the benefit of the dependants of a deceased workman under the Workmen's Compensation Acts) shall be paid by the Minister.

(3) The proportion of the said amount payable to each dependant shall be settled by the county court.

(4) The provisions of the Second Schedule to the Workmen's Compensation Act, 1925, and the rules of court made thereunder, shall have effect with respect to money paid into court under this Scheme and the application and investment thereof as if the same were money paid into court under that Act and as if the dependants entitled thereto under this Scheme were entitled to such money under the said Act.

(5) In the application of this Article to Scotland, the expression "county court" means sheriff court; the expression "district" means sheriffdom; the expression "registrar" means sheriff clerk; and for any reference to rules of court there shall be substituted a reference to an Act of Sederunt.

Obligation to notify change of circumstances

20. Every person entitled to an allowance shall, as soon as may be practicable, notify the Minister in writing of any change of circumstances which he might reasonably be expected to know might affect the continuance of his right to any allowance or any part thereof awarded to him, or to the receipt of any such allowance or part, and the Minister shall thereupon notify the Administrative Board of any such change of circumstances.

Allowances to be inalienable

21. Subject to the following provisions of this Scheme, every assignment of, or charge on, an allowance, and every agreement to assign or charge an allowance shall be void, and on the bankruptcy of a person entitled to an allowance, the allowance shall not pass to any trustee or other person acting on behalf of his creditors.

Forfeiture of allowances

22. If a claimant or person entitled to an allowance—

(*a*) fails without reasonable cause to comply with any requirement of Articles 15, 16 or 20, he shall, if the Administrative Board so decide, forfeit any allowance which would, apart from this paragraph, be payable in respect of the period of such failure;

(*b*) wilfully obstructs or is guilty of other misconduct in connection with any medical or other examination which he is required under Article 16 to undergo, or with any proceedings under this Scheme for the determination of his right to an allowance or to the receipt thereof, he shall forfeit for such period as the Administrative Board shall determine any allowance which would, apart from this paragraph, be payable :

Provided that nothing in this Article providing for forfeiture of an allowance for failure to undergo medical or other examination or any obstruction or misconduct in connection with such examination shall authorise the disentitlement of the person concerned for a period exceeding six weeks on any forfeiture.

Suspension of payment of allowances

23. Where it appears to the Minister that a question has arisen whether an award of an allowance ought to be revised in accordance with Article 25, he may direct that the payment of the allowance shall be suspended in whole or in part until the question has been determined, but if he does so he shall forthwith refer the question to the Administrative Board for determination in accordance with the provisions of that Article.

Allowances during imprisonment

24. The provisions of the proviso to paragraph (2) of regulation 24 of the Benefit Regulations (which proviso limits the amount of benefit payable in respect of periods of imprisonment) and of paragraph (2) of regulation 25 of those regulations (which paragraph relates to suspension of payment of benefit during such periods) shall be applicable with the necessary modifications to the payment of sums by way of an allowance as the same apply to benefit under the Industrial Injuries Act.

PART V

Review, Overpayments, Recovery

Review of decisions of the Administrative Board

25.—(1) The Administrative Board may at any time and from time to time review any decision given by them under this Scheme—

(*a*) if it appears to them that the decision was erroneous either in view of new facts which have been brought to their notice since the date on which it was given or by reason of some mistake having been made with respect to the facts or the law ; or

(*b*) if there has been any relevant change of circumstances since the decision was given ; or

(*c*) if the decision was based on the decision of any such question as is specified in Article 13, and the decision of that question is revised in accordance with the Industrial Injuries Act.

(2) A question may be raised by the claimant or the Minister with a view to the review of any decision of the Administrative Board by means of an application in writing stating the grounds of the application and made to the Administrative Board.

(3) Where on review a decision of the Administrative Board is revised so as to make an allowance payable or to increase the rate of an allowance, then, subject to the provisions of this Scheme relating to the time of payment of allowances, the allowance shall be payable accordingly from such date as the Administrative Board may consider reasonable in the circumstances.

Requirement to repay wrongly paid allowances or death benefit

26.—(1) Where on review a decision of the Administrative Board is revised, the decision given on review shall require repayment to the Industrial Injuries Fund of any sums paid by way of an allowance or death benefit in pursuance of the original decision to the extent to which they would not have been payable if the decision on the review had been given in the first instance:

Provided that, subject to the following provisions of this Article, repayment shall not be required under this paragraph in any case where the person concerned is shown to the satisfaction of the Administrative Board to have acted in good faith in all respects as to the obtaining and receipt of the allowance or death benefit.

(2) Where on review a decision of the Administrative Board is revised so as, in respect of any period, to make an increase of an allowance under the provisions of Articles 5, 6, 7 or 8 not payable or to reduce such increase, and the person concerned has also been awarded a corresponding increase of benefit under the National Insurance Act, 1946, or the Industrial Injuries Act or the Supplementation Scheme or any Industrial Diseases (Benefit) Scheme, as the case may be, the decision on review shall require repayment to the Industrial Injuries Fund of so much of the said increase of the allowance paid in pursuance of the original decision of the Administrative Board as does not exceed the amount of the corresponding increase of benefit which has been so awarded in respect of the same period.

(3) Where in a case of disablement due to any of the said diseases set out in the First Schedule hereto a decision of the Administrative Board is revised on review so as, in respect of any period, to make an allowance not payable, and the person concerned has also been awarded benefit under the Industrial Injuries Act in respect of the same disease, the Administrative Board shall require repayment to the Industrial Injuries Fund of so much of the allowance paid in pursuance of the original decision of the Administrative Board as does not exceed the amount of the benefit under the Industrial Injuries Act which has been awarded in respect of the same period.

(4) Where by a decision on review or appeal an award of benefit under the Industrial Injuries Act in respect of any of the said diseases is revised so as, in respect of any period, to make the benefit not payable, and the person concerned has also been awarded an allowance in respect of the same disease, any benefit paid under the Industrial Injuries Act in pursuance of the award under that Act before the decision on review or appeal shall be treated as having been paid on account of the allowance payable for the same period except in so far as it has been directed to be repaid to the Industrial Injuries Fund by the decision on review or appeal.

Recovery of sums by deduction from other benefit

27.—(1) Where any sums paid by way of an allowance are required to be repaid to the Industrial Injuries Fund under Article 26, such sums may, without prejudice to any other method of recovery, be deducted from any allowance or from any benefit under the Industrial Injuries Act or from any allowance under the Supplementation Scheme, or under any Industrial Diseases (Benefit) Scheme then or thereafter payable to the person by whom they are to be repaid, or to any person entitled to receive any such allowance or benefit on his death, and such deduction may be made at such rate as the Minister may determine.

(2) Where, in the case of any person, any sum may be recovered by deduction—

(*a*) by virtue of any provision of the Industrial Injuries Act from any payment under that Act; or

(*b*) by virtue of any provision of the Supplementation Scheme from any payment under that Scheme ; or

(*c*) by virtue of any provision of any Industrial Diseases (Benefit) Scheme from any payment under that Scheme ;

it may instead be recovered in whole or in part by deduction from any allowance then or thereafter payable to him, or to any person entitled to receive such allowance on his death.

PART VI

MISCELLANEOUS

Exemption from stamp duty

28. Stamp duty shall not be chargeable upon such documents used in connection with business under this Scheme as are specified in the Fourth Schedule hereto.

Reciprocal arrangements with Northern Ireland

29. If in pursuance of subsection (1) of section 5 of the Supplementation Act (which relates to reciprocal arrangements with Northern Ireland), as applied by the Industrial Diseases (Benefit) Acts, 1951 and 1954, the Minister makes reciprocal arrangements for payments under corresponding legislation of Northern Ireland to be made out of the Industrial Injuries Fund, the provisions of this Scheme shall apply in relation to such payments as if they were payments made under this Scheme.

Breach of requirements of this Scheme

30. If any person contravenes or fails to comply with any requirement of Articles 15 or 20 he shall for such offence be liable on summary conviction to a penalty not exceeding ten pounds.

Dated this 29th day of October, 1954.

Osbert Peake,
Minister of Pensions and National Insurance.

We consent.

Dated this 1st day of November, 1954.

Martin Redmayne,
R. H. M. Thompson,
Two of the Lords Commissioners of Her Majesty's Treasury.

FIRST SCHEDULE Article 2

DISEASES AND OCCUPATIONS TO WHICH THIS SCHEME APPLIES

Description of disease	Nature of occupation
1. Epitheliomatous cancer or ulceration of the skin due to tar, pitch, bitumen, mineral oil (including paraffin) or any compound, product, or residue of any of these substances, including scrotal epithelioma (chimney sweep's cancer).	Any occupation involving: The use or handling of, or exposure to, tar, pitch, bitumen, mineral oil (including paraffin), soot or any compound, product, or residue of any of these substances.
2. Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues or of the bones, or anaemia of aplastic type, due to X-rays, radium, or other radio-active substance.	Exposure to X-rays, radium, or other radio-active substance.

SECOND SCHEDULE Article 5

CONDITIONS RELATING TO INCREASE OF ALLOWANCE IN RESPECT OF A WIFE

1. An increase of an allowance under the provisions of Article 5 in respect of a wife shall not be payable for any period for which an increase of disablement benefit in respect of a wife would not be payable under the provisions of—

(*a*) subsection (1) of section 32 of the Industrial Injuries Act (which subsection relates to disqualification for periods of absence from Great Britain and of imprisonment); or

(*b*) regulation 7 of the Benefit Regulations(**a**) (which regulation provides that an increase of benefit in respect of a wife shall not be payable where her weekly earnings exceed the amount therein specified):

Provided that for the purpose of this sub-paragraph the weekly earnings of a wife shall be ascertained in the manner specified in sub-paragraph (*b*) or (*c*) of paragraph (2) of the said regulation (which sub-paragraphs relate to computation of earnings), whichever is appropriate.

2. Where for any period—

(*a*) any benefit payable otherwise than under this Scheme which is specified as a dependency benefit in paragraph (2) of regulation 5 of the National Insurance (Overlapping Benefits) Regulations, 1948(**b**) (which regulation relates to the adjustment of dependency benefit under the National Insurance Act, 1946, by reference to other dependency benefits) or any increase of an allowance under the Supplementation Scheme or under any Industrial Diseases (Benefit) Scheme is payable to a person in respect of his wife or any other adult dependant or to any other person in respect of his wife; or

(*b*) any one or more of the personal benefits specified in paragraph (2) of regulation 29 of the Benefit Regulations(**c**) (which regulation relates to adjustment of dependency benefit under the Industrial Injuries Act by reference to personal benefits) is or are payable to his wife;

(**a**) As amended by S.I. 1951/1233 (1951 I, p. 1501).
(**b**) S.I. 1948/2711 (Rev. XVI, p. 196: 1948 I, p. 2657).
(**c**) As amended by S.I. 1951/1606 (1951 I, p. 1502).

at a weekly rate or (if more than one) at an aggregate weekly rate—

(i) which is equal to or exceeds the amount specified in paragraph (2) of Article 5, then for that period an increase of an allowance in respect of his wife shall not be payable ; or

(ii) of less than the amount specified in paragraph (2) of Article 5, then for that period such increase shall be reduced by an amount equal to the weekly rate or the aggregate weekly rate of such benefit or benefits.

THIRD SCHEDULE

Article 18

PROVISIONS OF THE INDUSTRIAL INJURIES ACT AND OF THE REGULATIONS MADE THEREUNDER APPLICABLE (WITH THE NECESSARY MODIFICATIONS) TO CLAIMS FOR AND PAYMENTS OF ALLOWANCES

Provisions of the Industrial Injuries Act and of the Regulations made thereunder	Subject matter
Subsection (4) of section 27	Fractions of a penny to be disregarded.
The National Insurance (Industrial Injuries) (Claims and Payments) Regulations, 1948(a),—	
Regulation 15	Time and manner of payment of benefit.
Regulation 18	Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time.
Regulation 22	Persons unable to act.
Regulation 23	Payments on death.

FOURTH SCHEDULE

Article 28

DOCUMENTS EXEMPT FROM STAMP DUTY

1. Draft or order or receipt given in respect of an allowance or death benefit.

2. Appointment or revocation of an appointment of an agent and any other document authorised by or in pursuance of this Scheme or otherwise required in order to give effect to the provisions of this Scheme.

EXPLANATORY NOTE

(This Note is not part of the Scheme, but is intended to indicate its general purport.)

This Scheme is made in exercise of powers conferred on the Minister of Pensions and National Insurance by the Pneumoconiosis and Byssinosis Benefit Act, 1951, as extended to certain other diseases by the Industrial Diseases (Benefit) Act, 1954.

(a) S.I. 1948/1362 (Rev. XVI, p. 505: 1948 I, p. 2942).

The Scheme provides for payment of benefit out of the Industrial Injuries Fund to or in respect of certain persons who are disabled or die or have died after the 31st December, 1949, as a result of certain malignant and other diseases due to occupational exposure to carcinogens, in cases where neither workmen's compensation nor benefit under the National Insurance (Industrial Injuries) Act, 1946, is payable.

These persons must have been employed before the 5th July, 1948, in one of the occupations specified in the Scheme.

The benefit for a person disabled by any of the diseases is a weekly allowance of forty shillings where the disablement is total, and of twenty shillings where it is partial. The allowance may in certain instances be increased where the person entitled to the allowance has a wife or children or is unemployable or needs constant attendance. The benefit in cases of death is a lump sum which will be paid into the county court (in Scotland, the sheriff court) for the benefit of relatives who were wholly or partly dependent on the deceased's earnings. In the case of total dependants, the lump sum is three hundred pounds, and in the case of partial dependants, a sum not exceeding three hundred pounds proportionate to the loss sustained.

The Scheme provides for administration by a Board appointed by the Minister, and contains detailed provisions relating to claims and payments and other incidental matters based on the corresponding provisions of the Industrial Injuries Act.

1954 No. 1444

The Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1954

Laid before Parliament in draft
Made - - - - 1*st November,* 1954
Coming into Operation 8*th November,* 1954

Whereas a draft of the following Scheme was laid before Parliament and approved by resolution of each House of Parliament:

Now, therefore, the Minister of Pensions and National Insurance, with the consent of the Treasury, in exercise of powers conferred by the Pneumoconiosis and Byssinosis Benefit Act, 1951(**a**), as extended by the Industrial Diseases (Benefit) Act, 1954(**b**), and of all other powers enabling him in that behalf, hereby makes the said Scheme:—

Citation, commencement and interpretation

1. This Scheme (hereinafter referred to as "the Amendment Scheme"), which may be cited as the Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1954, shall be read as one with the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(**c**) (hereinafter referred to as "the principal Scheme"), as amended(**d**), and shall come into operation on the seventh day after the date of this instrument.

Date of operation of further amendments to principal Scheme

2. As from the date on which the Amendment Scheme comes into operation the principal Scheme, as amended, shall have effect subject to the further amendments set out in the following Articles.

(**a**) 15 & 16 Geo. 6. & 1 Eliz. 2. c. 4. (**b**) 2 & 3 Eliz. 2. c. 16.
(**c**) S.I. 1952/373 (1952 III, p. 3966). (**d**) S.I. 1952/1301 (1952 III, p. 3983).