1954 No. 5

The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations, 1954

Made - - - -	4*th January*, 1954
Laid before Parliament	5*th January*, 1954
Coming into Operation	11*th January*, 1954

The Minister of Pensions and National Insurance, in exercise of powers conferred by sections 55, 56, 57 and 86 of the National Insurance (Industrial Injuries) Act, 1946(**a**), and of all other powers enabling him 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, 1954, shall be read as one with the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948(**b**) (hereinafter referred to as "the principal regulations") as amended(**c**), and shall come into operation on the 11th January, 1954.

Amendment of regulation 1 *of principal regulations*

2. In paragraph (2) of regulation 1 of the principal regulations (which contains definitions), after the definition of "coal mine" there shall be inserted the following definition:—

"'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;".

Amendment relating to occupations in relation to which pneumoconiosis is prescribed

3.—(1) There shall be substituted for paragraph (*b*) of regulation 2 of the principal regulations (which paragraph specifies the insured persons in relation to whom pneumoconiosis is prescribed) the following paragraph:—

"(*b*) pneumoconiosis is prescribed—

(i) 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; and

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(**a**) 9 & 10 Geo. 6. c. 62. (**b**) S.I. 1948/1371 (Rev. XVI, p. 482: 1948 I, p. 3001).
(**c**) S.I. 1948/2723 (Rev. XVI, p. 482: 1948 I, p. 3022), S.I. 1949/230, 1697, 2316, 1950/1565, 1951/305, 306, 918, 1542, 1952/1208, 1250, 1953/669, 1227, 1740 (1949 I, pp. 2765–8; 1950 II, p. 41; 1951 I, pp. 1511–9; 1952 II, pp. 2216, 2231; 1953 I, pp. 1450, 1419, 1452).

(ii) in relation to all other insured persons who have been so employed in any occupation involving exposure to dust and who have not worked at any time (whether in insurable employment or not) in any occupation in relation to which pneumoconiosis is prescribed by virtue of regulations (apart from this sub-paragraph) in force at the relevant date as defined in regulation 2A ; ".

(2) The following new regulation shall be inserted after regulation 2 of the principal regulations:—

" *Definition of relevant date*

2A. For the purposes of sub-paragraph (ii) of paragraph (*b*) of regulation 2, the expression 'the relevant date' means—

(*a*) in relation to 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 by virtue of the said sub-paragraph (ii), the 11th January, 1954, or the date of the claim for disablement benefit, whichever is the later ;

(*b*) in relation to a claim for death benefit in respect of the death of any other person, the 11th January, 1954, or the date of the death of that person, whichever is the later."

(3) There shall be substituted for paragraph 4 of Part II of the First Schedule to the principal regulations, as amended(**a**) (which Part sets out the occupations in relation to which pneumoconiosis is prescribed) the following paragraph:—

" 4. Any occupation involving work in a foundry or the performance of, or substantial exposure to the dust arising from, any of the following operations:—

(*a*) the freeing of steel castings from adherent siliceous substance ;

(*b*) the freeing of metal castings from adherent siliceous substance—

(i) by blasting with an abrasive propelled by compressed air, by steam or by a wheel ; or

(ii) by the use of power-driven tools."

(4) There shall be substituted for sub-paragraph (*a*) of paragraph 10 of the said Part II, the following sub-paragraph:—

" (*a*) work underground in any mine in which one of the objects of the mining operations is the getting of any mineral ; "

Transitional provisions

4.—(1) Where a person, who has been employed on or at any time after the appointed day(**b**) in insurable employment—

(*a*) in any occupation which is prescribed in relation to him by virtue of sub-paragraph (ii) of paragraph (*b*) of regulation 2 of the principal regulations ; or

(*b*) in any occupation set out in the paragraph or sub-paragraph respectively substituted by the last foregoing regulation for paragraph 4 and sub-paragraph (*a*) of paragraph 10 of Part II of the First Schedule to the principal regulations (not being an occupation in relation to which pneumoconiosis is prescribed immediately before the date on which these regulations come into operation) ;

(**a**) *See* Regulation 2, S.I. 1950/1565 (1950 II, p. 41).
(**b**) 5th July, 1948, *see* S.I. 1948/53 (Rev. XVI, p. 422: 1948 I, p. 2914).

is suffering from a loss of faculty as the result of pneumoconiosis on the date on which these regulations come into operation, and the disease is due to the nature of that employment, the provisions of regulation 6 of the principal regulations (which relates to date of development) shall be applied subject to the modification that the said date on which these regulations come into operation shall be treated as the day on which he first suffered from the relevant loss of faculty, and the date of development shall be determined accordingly.

(2) Where a person to whom the last foregoing paragraph applies is awarded disablement benefit in respect of pneumoconiosis and claims an increase of that benefit under section 14 of the Act (which section relates to increases of disablement pension in cases of special hardship), then, if at any time after having been employed as aforesaid but before the date on which these regulations come into operation that person has abandoned any occupation as a result of the 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.

(3) Where at any time after the appointed day but before the date on which these regulations come into operation, the death of any person who has been employed as aforesaid has resulted from pneumoconiosis, 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 amended, as if these regulations had been in force at the date of death, subject 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 limit 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.

(4) Notwithstanding the foregoing provisions of these regulations, benefit shall not be payable by virtue of the provisions of paragraph (3) or paragraph (4) of regulation 3—

(*a*) in respect of the disablement or death of any person to whom an allowance has been awarded under the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(**a**), as amended(**b**), before the date on which these regulations come into operation;

(*b*) in respect of the death of any person who has died before the said date and in respect of whose death death benefit under the said Scheme has been awarded before that date or is awarded at any time thereafter.

(**a**) S.I. 1952/373 (1952 III, p. 3966). (**b**) S.I. 1952/1301 (1952 III, p. 3983).

Amendment relating to disablement pensions for pneumoconiosis

5. Paragraph (1) of regulation 33 of the principal regulations, as amended(**a**), (which paragraph specifies the rates of disablement pension payable in respect of pneumoconiosis where the assessment is less than twenty per cent.) shall be further amended by the deletion of the words "and not less than five per cent." and by the substitution for the words "fourteen per cent." of the words "ten per cent." and that paragraph shall accordingly have effect as set out in the Schedule hereto.

Transitional provisions in relation to disablement pensions for pneumoconiosis

6. Where the extent of a claimant's disablement as the result of pneumoconiosis has been assessed before the date on which these regulations come into operation, and the period taken into account by the assessment includes that date, the right of the claimant under regulation 33 of the principal regulations, as amended by the foregoing regulation, to a disablement pension or to such a pension at a higher weekly rate as from the said date shall be determined by the insurance officer in accordance with that assessment without any claim being made therefor:

Provided that, where the degree of disablement or the period taken into account by the assessment has not been specified with such particularity as will enable the claimant's right to be so determined, the insurance officer shall refer the case again to a medical board for determination of the disablement questions in accordance with section 39 of the Act, and the right of the claimant under the said regulation 33 as so amended to a disablement pension or to such a pension at a higher weekly rate as from the said date on which these regulations come into operation shall be determined in accordance with the assessment made on that reference.

Amendments in relation to claims in respect of pneumoconiosis and suspension

7.—(1) Part VI of the principal regulations as amended(**b**) (which Part contains special provisions as to pneumoconiosis and byssinosis) shall, in its application in respect of pneumoconiosis, be further amended in accordance with the following provisions of this regulation.

(2) After regulation 34A, there shall be inserted the following new regulation:—

"*Special provision as to determination of certain claims in respect of pneumoconiosis*

34B.—(1) Part V of these regulations shall apply to any claim for disablement benefit in respect of pneumoconiosis by an insured person in relation to whom the disease is prescribed by virtue of sub-paragraph (ii) of paragraph (*b*) of regulation 2 subject to the modification that if the claimant fails to show to the satisfaction of the insurance officer that there is reasonable cause for suspecting that the claimant is suffering or has suffered from the disease, the insurance officer shall on that ground and without referring the diagnosis question as provided in paragraph (2) of regulation 24, determine that an award cannot be made.

(2) The provisions of the last foregoing paragraph shall apply to a local tribunal and the Commissioner as they apply to the insurance officer."

(**a**) *See* regulation 2, S.I. 1952/1250 (1952 II, p. 2231).
(**b**) *See* S.I. 1948/2723 (Rev. XVI, p. 482: 1948 I, p. 3022), 1952/1250 (1952 II, p. 2231).

(3) In regulations 38 and 41 of the principal regulations (which regulations relate respectively to periodical examinations and conditions of suspension), there shall be substituted for the words "occupation included in Part II of the First Schedule hereto", wherever those words occur, the words "occupation in relation to which pneumoconiosis is prescribed", and in regulation 40 of the said regulations (which regulation relates to suspension on periodical examination), there shall be substituted for paragraph (*a*) of the proviso the following paragraph:—

"(*a*) is employed in an occupation included in paragraph 10 of Part II of the First Schedule hereto or in an occupation to which sub-paragraph (ii) of paragraph (*b*) of regulation 2 applies where in either case the occupation involves work at any coal mine or the trimming of coal; or".

Dated this 4th day of January, 1954.

Osbert Peake,
Minister of Pensions and National Insurance.

SCHEDULE

Regulation 5

REGULATION 33 (1) OF THE PRINCIPAL REGULATIONS AS AMENDED

Special conditions for disablement benefit

33.—(1) No disablement gratuity shall be payable in respect of pneumoconiosis, but if in any case the extent of disablement is such that, when assessed in accordance with section 12 of the Act (which relates to disablement benefit), it amounts to less than twenty per cent., the beneficiary shall, subject to the proviso to subsection (7) of the said section 12, be entitled to a disablement pension for the period taken into account by the assessment, payable, if such assessment does not exceed ten per cent., at the weekly rate of five shillings and sixpence, and in any other case at the weekly rate of eleven shillings.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations, which amend the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948, by substituting new provisions for regulation 2 (*b*), and paragraphs 4 and 10 (*a*) of Part II of the First Schedule, extend insurance under the National Insurance (Industrial Injuries) Act, 1946, against pneumoconiosis to further classes of foundry workers and underground miners, and to certain other persons in occupations involving exposure to dust.

They also contain transitional provisions relating to persons who have already died from the disease or are suffering from it on the date when these regulations come into operation.

In addition, they provide for payment of disablement pension for the disease in respect of assessments of one per cent. or more, and specify the rates of pension in respect of assessments of less than twenty per cent. with appropriate machinery for applying the new provisions to current cases.

They also make special provision in connection with the determination of claims for disablement pension by persons in the dusty occupations to which insurance is extended, and contain certain consequential amendments relating to periodical examinations and suspension.