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).

Amendment of Article 1 of the principal Scheme

3.—(1) In Paragraph (2) of Article 1 of the principal Scheme (which contains definitions), there shall be inserted after the definition of "the Medical Board" the following definitions:—

"'a specially qualified medical practitioner' means a member of the Medical Board;

'the Amendment Scheme' means the Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1954;".

(2) After paragraph (2) of Article 1 of the principal Scheme, there shall be inserted the following paragraph:—

"(2A) For the purposes 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."

Extension of principal Scheme to cases of partial disablement

4.—(1) In Article 2 of the principal Scheme (which includes provision for paying benefit to persons totally disabled as a result of pneumoconiosis or byssinosis), for the word "totally", where that word first appears, there shall be substituted the words "either totally or partially".

(2) For paragraph (2) of the conditions set out in the said Article 2 (which paragraph restricts the class of persons eligible for benefit), there shall be substituted the following paragraph:—

"(2) that neither he nor any other person is or has been entitled to benefit in respect of the disablement or death under the Industrial Injuries Act and (except in a case where benefit under this Scheme in respect of the disease has previously been awarded) that the disease is not prescribed in relation to him under that Act;".

(3) For paragraph (4) of the said conditions (which makes the obtaining of a certificate of disablement or death a condition of benefit), there shall be substituted the following paragraph:—

"(4) that it is certified as provided in Article 15—

(*a*) that he is totally disabled as a result of the disease; or

(*b*) that, though not totally disabled, he is or was partially disabled within the meaning of that Article as a result of the disease;

and in a case of byssinosis (whether of total or partial disablement) that the disablement is likely to be permanent; or

(*c*) that he has died as a result of the disease."

Amendments relating to payment of benefit

5.—(1) For paragraph (1) of Article 3 of the principal Scheme (which paragraph relates to the weekly rate of an allowance in respect of total disablement), there shall be substituted the following paragraph:—

"(1) Subject to the provisions of this Scheme, the benefit payable in cases of disablement due to pneumoconiosis or byssinosis shall be an allowance—

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

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

and shall be payable in either case at the appropriate rate as from the date certified by the specially qualified medical practitioner in accordance with the provisions of paragraph (6) of Article 15."

(2) Paragraphs (2) and (3) of Article 3 of the principal Scheme and (as respects the death of any person on or after the date on which the Amendment Scheme comes into operation) proviso (*c*) to paragraph (2) of Article 8 of that Scheme (which paragraphs and proviso specify the circumstances in which residence in Great Britain is a condition for benefit shall be amended by the substitution in each case for the words "Great Britain" of the words "the United Kingdom".

(3) For paragraph (1) of Article 22 of the principal Scheme (which relates to payment of death benefit), there shall be substituted the following paragraph:—

"(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."

Increase of allowances

6. Article 7 of the principal Scheme (which relates to increase of allowances where constant attendance is needed) shall not apply to a person entitled to an allowance in respect of partial disablement, and Article 4 of that Scheme, as amended(**a**), and Article 5 thereof (which Articles relate respectively to increases of allowances in respect of a wife and in respect of children) shall only apply to such a person for any period during which that person is entitled to an increase of the allowance under Article 6 of the principal Scheme on account of unemployability.

Amendments relating to certification

7. For Article 15 of the principal Scheme (which relates to reference of questions to the Medical Board), there shall be substituted the following Article:—

"*Reference of questions to medical authorities*

15.—(1) Subject to the provisions of paragraph (2) of this Article, the Administrative Board on the consideration of a claim for an allowance shall refer the case to a specially qualified medical practitioner:

Provided that the Administrative Board may in their discretion determine the order in which cases shall be so referred.

(2) The Administrative Board need not refer the case as provided in paragraph (1) of this Article, but may determine that an award cannot be made on the claim, if the claimant fails to satisfy them—

(*a*) that he fulfils the conditions relating to the allowance apart from the condition as to a certificate;

(*b*) that there is reasonable cause for suspecting that he is totally or partially disabled within the meaning of this Scheme as a result of pneumoconiosis or byssinosis, or, where he has previously been awarded an allowance in respect of partial disablement and claims that he has become totally disabled, that he is totally so disabled.

(a) *See* Article 2 (1), S.I. 1952/1301 (1952 III, p. 3983).

(3) For the purpose of determining whether there is reasonable cause for suspecting that the claimant is totally or partially disabled by pneumoconiosis, the Administrative Board shall have power, in any case where they consider necessary, to obtain a radiological report on the case.

(4) Where a case is referred to a specially qualified medical practitioner under the provisions of paragraph (1) of this Article, he shall, except as provided in paragraph (5) of this Article, examine the claimant and shall give a certificate—

(*a*) that the claimant is totally disabled as a result of the disease, if satisfied that he is so disabled;

(*b*) that the claimant is or was partially disabled as a result of the disease if satisfied—

(i) where the claim is made in respect of pneumoconiosis, that, though not totally disabled as a result of the disease, he is or was suffering from the disease to such a degree that his general physical capacity for employment is or was impaired by reason of the disease; or

(ii) where the claim is made in respect of byssinosis, that, though not totally disabled as a result of the disease, he is or was suffering from the disease to such a degree that, if he had been insured against it under the Industrial Injuries Act, the resulting disablement would, in the opinion of the specially qualified medical practitioner, have been assessed at not less than the minimum degree of disablement for which disablement benefit in respect of byssinosis is payable under that Act:

Provided that in the case of a claimant disabled as a result of byssinosis, the specially qualified medical practitioner shall not give a certificate as provided in this paragraph unless he is satisfied that the disablement is likely to be permanent, in which event he shall include a statement to that effect in the certificate.

(5) A specially qualified medical practitioner may give a certificate in accordance with the provisions of paragraph (4) of this Article without examining the claimant, if he is satisfied that such examination can be dispensed with having regard to any medical reports available as a result of any previous examination of the claimant carried out by the Medical Board or a specially qualified medical practitioner, whether in accordance with this Scheme or otherwise.

(6) A certificate given under paragraph (4) of this Article shall state—

(*a*) where the specially qualified medical practitioner is satisfied that the relevant condition specified in sub-paragraph (*a*) of that paragraph is fulfilled, the date (not being a date earlier than the 10th March, 1952) as from which it was fulfilled;

(*b*) where the said practitioner is satisfied that the relevant condition specified in sub-paragraph (*b*) of that paragraph is or was fulfilled, the date (not being a date earlier than the date on which the Amendment Scheme came into operation) as from which it was fulfilled.

(7) The Administrative Board on the consideration of a claim for death benefit shall refer to the Medical Board the question whether the deceased died as a result of pneumoconiosis or byssinosis, and the Board shall certify whether or not the death of the deceased was so caused:

Provided that the Administrative Board may postpone the reference of that question to the Medical Board until after other questions arising in connection with the claim have been determined, and in cases where the determination of any such questions disposes of the claim, may determine without any such reference to the Medical Board that an award cannot be made.

(8) Any certificate given in pursuance of the provisions of this Article shall be forwarded to the Administrative Board and shall for the purpose of this Scheme be conclusive evidence of the matters therein certified."

Reference of questions to the Industrial Injuries Commissioner

8. For Article 16 of the principal Scheme, there shall be substituted the following Article:—

"16. If on the consideration of any claim or question, it appears to the Administrative Board that the question—

(*a*) whether the claimant or any other person is or has been entitled to benefit under the Industrial Injuries Act in respect of the disablement or death; or

(*b*) whether the disease is prescribed in relation to any person under that Act;

is one of special difficulty, they may refer that question for determination by the Industrial Injuries Commissioner, who shall decide it in the same manner as if it were a question arising for determination by him under the Industrial Injuries Act, and his determination of that question shall, except as provided by paragraph (2) of Article 28, be conclusive for the purposes of this Scheme."

Amendment to Article 29 of the principal Scheme

9. There shall be inserted after paragraph (2) of Article 29 of the principal Scheme the following paragraphs:—

"(3) Where in a case of disablement due to pneumoconiosis or byssinosis 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 pneumoconiosis or byssinosis 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."

Transitional provisions relating to claims and references to the Medical Board

10.—(1) The provisions of Articles 3 and 15 of the principal Scheme set out respectively in Articles 5 and 7 of the Amendment Scheme shall, in their application to claims for an allowance which are made within one

year from the date on which the Amendment Scheme comes into operation, have effect subject to the following modifications:—

(*a*) where on any such claim a certificate that the claimant is or was partially disabled by the disease is given in accordance with sub-paragraph (*b*) of paragraph (4) of the said Article 15, the specially qualified medical practitioner shall not state the date, as required by paragraph (6) of that Article, as from which the relevant condition specified in that sub-paragraph was fulfilled, but shall specify any period commencing with the date on which the Amendment Scheme comes into operation in respect of which he is satisfied that the said condition was not fulfilled;

(*b*) the said condition shall be deemed to have been fulfilled, in a case where a period is specified in accordance with sub-paragraph (*a*) of this paragraph, as from the last day of that period, and in any other case, as from the said date on which the Amendment Scheme comes into operation;

(*c*) the date as from which the said condition is deemed to have been fulfilled by virtue of sub-paragraph (*b*) of this paragraph shall be substituted for the date mentioned in paragraph (1) of the said Article 3 as the date from which, subject to the provisions of the principal Scheme, the allowance shall be payable.

(2) The provisions of Article 2 of the principal Scheme set out in paragraph (3) of Article 4 of the Amendment Scheme, and of the said Articles 3 and 15 shall, in their application to a claim for an allowance in respect of pneumoconiosis made by a person who has been examined by the Medical Board before the date on which the Amendment Scheme comes into operation, but who has not been certified by them as totally disabled, have effect subject to the following modifications:—

(*a*) where a specially qualified medical practitioner has reported that the records available as a result of the examination of the claimant by the Medical Board disclose that the claimant was suffering from the disease at the date of the examination to such a degree that his general physical capacity for employment was impaired by reason of the disease, the Administrative Board may make an award of an allowance in respect of partial disablement without referring the case as required by the said Article 15 and notwithstanding that a certificate has not been given in accordance with that Article;

(*b*) where an allowance has been awarded by virtue of the foregoing sub-paragraph—

(i) the date on which the Amendment Scheme comes into operation shall be substituted for the date mentioned in paragraph (1) of the said Article 3 as the date from which, subject to the provisions of the principal Scheme, the allowance shall be payable;

(ii) the Administrative Board, notwithstanding that they have made an award in respect of partial disablement, shall refer the case as provided in paragraph (1) of the said Article 15, if they are satisfied that there is reasonable cause for suspecting that, since the date of his examination by the Medical Board, the claimant has become totally disabled as a result of the disease.

(3) Where on a claim for an allowance a case has been referred to the Medical Board by the Administrative Board before the date on which the Amendment Scheme comes into operation, but the Medical Board have not

examined the claimant on that reference before that date, the case shall be dealt with by a specially qualified medical practitioner in the same way as if the reference had been made on or after that date.

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.

EXPLANATORY NOTE

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

This Scheme extends the Pneumoconiosis and Byssinosis Benefit Scheme, 1952, to cases of partial disablement as a result of pneumoconiosis or byssinosis. The benefit in such cases, which is payable out of the Industrial Injuries Fund, is a weekly allowance of twenty shillings, which may be increased where the person entitled to the allowance is unemployable as a result of the disease.

The Scheme also re-defines the class of persons excluded from benefit under the Schemes on the ground that their case falls within the National Insurance (Industrial Injuries) Act, 1946, and amends the provisions of the 1952 Scheme relating to the reference of questions to the Medical Board, by providing, in particular, for the issue of certificates of disablement by a single member of the Medical Board instead of by the Board itself.

The Scheme also provides for adjustment of allowances and of benefit under the Industrial Injuries Act in cases where payments in respect of the disease under the Scheme or the Act have been wrongly made.

In addition, it contains transitional provisions relating to claims for allowances made within a year of the date of operation of the Scheme and to persons previously examined by the Medical Board.

The remaining amendments are of a minor or consequential nature.