WORKMEN'S COMPENSATION

1957 No. 2212

The Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1957

Laid before Parliament in draft

Made - - - - 20*th December*, 1957
Coming into Operation 27*th December*, 1957

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 as amended by the National Insurance Act, 1957(**c**), and the National Insurance (No. 2) Act, 1957(**d**), and of all other powers enabling him in that behalf, hereby makes the said Scheme:—

Citation, commencement and interpretation

1. This Scheme, which may be cited as the Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1957, shall be read as one with the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(**e**) (hereinafter referred to as "the principal Scheme"), as amended(**f**), and shall come into operation on the seventh day after the date of this instrument.

Amendment relating to byssinosis

2. In paragraph (3) of the conditions set out in Article 2 of the principal Scheme (which paragraph makes it a condition of the payment of benefit to or in respect of a person who contracted the disease of byssinosis that he has been employed for not less than twenty years in any of the occupations in the case of which the disease is prescribed), for the words "twenty years" there shall be substituted the words "ten years":

Provided that this amendment shall apply only in respect of disablement after this Scheme comes into operation and in respect of deaths occurring after the passing of the National Insurance (No. 2) Act, 1957.

Amendment relating to increase of allowance in respect of a wife

3. In paragraph (1) of Article 4 of the principal Scheme, as amended(**g**) (which Article relates to increase of allowance in respect of a wife), for the words "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," there shall be substituted the words "would under the provisions of the Industrial Injuries Act be treated as residing with his wife or contributing

(**a**) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 4. (**b**) 2 & 3 Eliz. 2. c. 16. (**c**) 5 & 6 Eliz. 2. c. 26.
(**d**) 6 Eliz. 2. c. 1. (**e**) S.I. 1952/373 (1952 III, p. 3966). (**f**) S.I. 1952/1301, 1954/1444 (1952 III, p. 3983; 1954 II, p. 2964).
(**g**) See Article 2 (1), S.I. 1952/1301 (1952 III, p. 3983).

towards her maintenance at a weekly rate not less than the amount specified in paragraph (2) of this Article ".

Amendments relating to reference of questions for determination under the Industrial Injuries Act

4.—(1) For sub-paragraph (*a*) of paragraph (1) of Article 14 of the principal Scheme, there shall be substituted the following sub-paragraph:—

"(*a*) any question whether for any period a person would under the provisions of the Industrial Injuries Act be treated as residing with his wife or contributing towards her maintenance at a weekly rate not less than the amount specified in paragraph (2) of Article 4;".

(2) In sub-paragraph (*c*) of paragraph (1) of Article 14 of the principal Scheme, there shall be added at the end the words "and any question whether the requirements of subsections (3) and (4) of section 6 of the National Insurance Act, 1957, are satisfied".

Amendment relating to reference of questions to medical authorities

5.—(1) Article 15 of the principal Scheme, as amended(**a**) (which Article relates to reference of questions to the medical authorities), shall be further amended in accordance with the following paragraphs of this Article and shall accordingly have effect as set out in the Schedule hereto.

(2) The duties assigned to a specially qualified medical practitioner under the said Article 15 shall, as from the date on which this Scheme comes into operation, be assigned to the Medical Board and accordingly for every reference in the said Article to such a practitioner (excepting only the last such reference in paragraph (5) of the said Article) there shall be substituted a reference to the Medical Board.

(3) In paragraph (5) of the said Article 15 there shall be added at the end the words "or if the claimant has died after having claimed the allowance but before having been examined by the Medical Board on the reference under paragraph (1) of this Article".

(4) In paragraph (8) of the said Article, after the words "shall be" there shall be inserted the words "signed by not less than two members of the Medical Board on behalf of the said Board and . . .".

Transitional provision relating to reference of questions to medical authorities

6. Where on a claim for an allowance a case has been referred to a specially qualified medical practitioner by the Administrative Board before the date on which this Scheme comes into operation, but the specially qualified medical practitioner has not examined the claimant on that reference before that date, the case shall be dealt with by the Medical Board in the same way as if the reference had been made on or after that date.

Dated this 20th day of December, 1957.

John Boyd-Carpenter,
Minister of Pensions and National Insurance.

Dated this 20th day of December, 1957.

Martin Redmayne,
R. Brooman-White,
Two of the Lords Commissioners of Her Majesty's Treasury.

(a) See Article 7, S.I. 1954/1444 (1954 II, p. 2964).

SCHEDULE Article 5

CONTAINING ARTICLE 15 OF THE PRINCIPAL SCHEME AS AMENDED BY THIS SCHEME*

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 *the Medical Board*:

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.

(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 *the Medical Board* under the provisions of paragraph (1) of this Article, *the Medical Board* 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 Medical Board*, 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 Medical Board* shall not give a certificate as provided in this paragraph unless satisfied that the disablement is likely to be permanent, in which event *the Medical Board* shall include a statement to that effect in the certificate.

(5) *The Medical Board* may give a certificate in accordance with the provisions of paragraph (4) of this Article without examining the claimant, if 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, *or if the claimant has died after having claimed the allowance but before having been examined by the Medical Board on the reference under paragraph* (1) *of this Article.*

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

(*a*) where *the Medical Board* 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:

* Words added or substituted by this Scheme are shown in italics.

(*b*) where *the Medical Board* 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 *signed by not less than two members of the Medical Board on behalf of the said Board and* forwarded to the Administrative Board and shall for the purpose of this Scheme be conclusive evidence of the matters therein certified.

EXPLANATORY NOTE

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

This Scheme amends the provisions of the Pneumoconiosis and Byssinosis Benefit Scheme, 1952, relating to increases of an allowance in respect of a wife and children. It also amends the provisions of the 1952 Scheme relating to the conditions for entitlement to benefit in respect of byssinosis, by reducing the period of qualifying employment in any prescribed occupation from twenty years to ten years. These amendments, which have been made pursuant to the National Insurance Act, 1957, and the National Insurance (No. 2) Act, 1957, keep the Scheme in line with the corresponding provisions under the National Insurance (Industrial Injuries) Acts.

The Scheme, in addition, amends the provisions relating to the reference of questions to the medical authorities by providing that certificates of disablement shall be issued by the Medical Board (as was the case before the 1954 Amendment Scheme) instead of by a single member of the Medical Board.

The remaining amendments are of a minor or consequential nature.