EXPLANATORY NOTE

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

The purpose of this Order is to amend the West African Court of Appeal Orders in Council, 1948 to 1957, so as to permit acting appointments as members of the Court of persons who are qualified for appointment as Judges of the Supreme Court of either of the Territories.

WORKMEN'S COMPENSATION

1958 No. 1240

The Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1958

Laid before Parliament in draft

Made - - - -	28*th July*, 1958
Coming into Operation	4*th August*, 1958

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 section 1 of the Pneumoconiosis and Byssinosis Benefit Act, 1951(a) and by section 4 of that Act (which applies, inter alia, the powers conferred by section 3 (3) of the Workmen's Compensation (Supplementation) Act, 1951(b)), 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, 1958, shall be read as one with the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(c), as amended(d), (hereinafter referred to as "the principal Scheme") and shall come into operation on the seventh day after the date of this instrument.

Amendment of Article 14 of the principal Scheme

2.—(1) Article 14, as amended(e), of the principal Scheme, (which provides for the reference of certain questions for determination under the National Insurance (Industrial Injuries) Act, 1946(f)), shall be further amended in accordance with the succeeding paragraphs of this Article, and accordingly shall have effect as set out in the Schedule to this Scheme.

(2) In paragraph (1) of Article 14 there shall be added after sub-paragraph (*d*) the following sub-paragraph:—

"(*e*) any question arising on a claim for death benefit whether the deceased died as a result of pneumoconiosis or byssinosis."

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 4. (b) 14 & 15 Geo. 6. c. 22.
(c) S.I. 1952/373 (1952 III, p. 3966).
(d) S.I. 1952/1301 1954/1444, 1957/2212 (1952 III, p. 3983; 1954 II, p. 2964; 1957 II, p. 3063).
(e) *See* Article 4, S.I. 1957/2212 (1957 II, p. 3063). (f) 9 & 10 Geo. 6. c. 62.

(3) At the end of paragraph (2) of Article 14 there shall be added the following proviso :—

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

Amendment of Article 15 of the principal Scheme

3. Paragraph (7) of Article 15, as amended(a), of the principal Scheme, (which paragraph provides, on consideration of a claim for death benefit, for reference by the Administrative Board to the Medical Board, as defined by the principal Scheme, of the question whether the deceased died as a result of pneumoconiosis or byssinosis) is hereby revoked, but without prejudice to the finality of any certificate given thereunder.

Consequential and Transitional Provisions

4.—(1) In paragraph (4), as amended(b), of the conditions set out in Article 2 of the principal Scheme (which Article relates to the conditions for the payment of benefit) there shall be inserted after the words " that it is certified as provided in Article 15 " the words " or determined as provided in Article 14, as the case may require— ".

(2) Where on a claim for death benefit a question has been referred by the Administrative Board in accordance with paragraph (7) of Article 15 of the principal Scheme before the date on which this Scheme comes into operation but the Medical Board have not given a certificate on that reference before that date, the reference shall be treated as a reference to an Insurance Officer for determination as provided in Article 14 as amended by this Scheme.

Dated this twenty-fifth day of July, 1958.

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

Dated this twenty-eighth day of July, 1958.

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

SCHEDULE Article 2.

ARTICLE 14 OF THE PRINCIPAL SCHEME AS AMENDED BY THIS SCHEME*

Reference of questions for determination under the Industrial Injuries Act

14.—(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) *See* Article 5, S.I. 1957/2212 (1957 II, p. 3063).
(b) *See* Article 4, S.I. 1954/1444 (1954 II, p. 2964).

* The words added by these regulations are shown in italics.

(*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;

(*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), and any question whether the requirements of subsections (3) and (4) of section 6 of the National Insurance Act, 1957, are satisfied;

(*d*) any question whether the conditions for an increase of an allowance on account of unemployability or in respect of the need for constant attendance set out in paragraph (1) of Article 6 and paragraph (1) of Article 7 respectively are or were satisfied, and as to the amount of any such increase;

(*e*) *any question arising on a claim for death benefit whether the deceased died as a result of pneumoconiosis or byssinosis.*

(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.

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

EXPLANATORY NOTE

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

This Scheme which is made under the Pneumoconiosis and Byssinosis Benefit Act, 1951, amends the provisions of the Pneumoconiosis and Byssinosis Benefit Scheme, 1952, relating to adjudication on claims for death benefit, so as to provide that the question whether the deceased died as a result of pneumoconiosis or byssinosis, (which was a question for determination by the Medical Board appointed under the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931) shall in future be determined in the same way as similar questions under the National Insurance (Industrial Injuries) Act, 1946, that is, by an insurance officer with a right of appeal to the local appeal tribunal and the Industrial Injuries Commissioner.

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