1962 No. 282

WORKMEN'S COMPENSATION

The Pneumoconiosis and Byssinosis Benefit Amendment Scheme, 1962

Laid before Parliament in draft
Made - - - - *8th February,* 1962
Coming into Operation *28th February,* 1962

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 section 4 of the National Insurance (No. 2) Act, 1957(c), and by section 1 (3) of the Family Allowances and National Insurance Act, 1961(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, 1962, shall be read as one with the Pneumoconiosis and Byssinosis Benefit Scheme, 1952(e), as amended(f), (hereinafter referred to as " the principal Scheme "), and shall come into operation on the 28th February, 1962.

Amendment of Article 3 of the principal Scheme

2. To paragraph (1) of Article 3 of the principal Scheme (which paragraph specifies the allowances payable under the Scheme and in which the reference to twenty shillings is, by virtue of the Family Allowances and National Insurance Act, 1961, to have effect as from the 28th February, 1962, as if it were a reference to twenty-seven shillings and sixpence) there shall be added the following proviso, and, accordingly, the paragraph shall have effect as set out in the Schedule to this Scheme:—

" Provided that for any period during which the disablement due to pneumoconiosis or byssinosis is partial and for which as a result of that disease, with any other injury or disease, the Workmen's Compensation and Benefit (Supplementation) Act, 1956(g), applies, the allowance shall be at a weekly rate of twenty shillings."

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 4. (b) 2 & 3 Eliz. 2. c. 16.
(c) 6 & 7 Eliz. 2. c. 1. (d) 10 & 11 Eliz. 2. c. 6. (e) S.I. 1952/373 (1952 III, p. 3966).
(f) S.I. 1952/1301, 1954/1444, 1957/2212, 1958/1240 (1952 III, p. 3983; 1954 II, p. 2964; 1957 II, p. 3063; 1958 II, p. 2877). (g) 4 & 5 Eliz. 2. c. 51.

Amendment of Article 29 of the principal Scheme

3. For the proviso to paragraph (1) of Article 29 of the principal Scheme (which Article relates to the requirement to repay wrongly paid allowances or death benefit) there shall be substituted the following proviso:—

"Provided that, subject to the provisions of paragraph 2 of this Article, repayment of sums paid by way of an allowance or death benefit in pursuance of the original decision shall not be required under this paragraph in any case where it is shown to the satisfaction of the Administrative Board that in the obtaining and receipt of those sums the person concerned and any person acting for him has throughout used due care and diligence to avoid overpayment."

Provisions added to the principal Scheme

4. The following Article shall be inserted after Article 30 in the principal Scheme:—

"*Set-off of overpayments on account of allowances*

30A. Where any person has received any sum under the Supplementation Scheme to which, by virtue of any provisions of that Scheme he was disentitled by reason of his being entitled in respect of the same period to an allowance under this Scheme subsequently awarded, and there has not been a requirement to repay that sum (hereinafter referred to as "the overpayment") to the Industrial Injuries Fund, then the rate of the allowance, which would apart from this provision be payable for any week in that period, shall be reduced by the amount of that part of the overpayment made in respect of that week."

Dated this Seventh day of February, 1962.

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

We consent.

Dated this Eighth day of February, 1962.

Michael Hughes-Young,
John Hill,
Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE Article 2

PARAGRAPH (1) OF ARTICLE 3 OF THE PRINCIPAL SCHEME AS AMENDED*

3.—(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 seven shillings and six pence;

* The words added by this Scheme are shown in italics.

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:

Provided that for any period during which the disablement due to pneumoconiosis or byssinosis is partial and for which as a result of that disease, with any other injury or disease, the Workmen's Compensation and Benefit (Supplementation) Act, 1956, applies, the allowance shall be at a weekly rate of twenty shillings.

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, in consequence of the Family Allowances and National Insurance Act, 1961, to provide that the increase in the rate of allowance payable in cases of partial disablement by virtue of the amendment to the principal Scheme made by the 1961 Act, shall not be payable to a person who is entitled to an allowance in respect of total incapacity or disablement under the Workmen's Compensation and Benefit (Supplementation) Act, 1956; the rate of the latter allowance having been increased by the 1961 Act.

The Scheme, in addition, makes changes corresponding to those made by the 1961 Act in the condition under which a person is liable to refund an overpayment of an allowance or death benefit, and provides for the set-off of overpayments made under the Workmen's Compensation (Supplementation) Scheme, 1951, against allowances payable under the principal Scheme.