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The Pneumoconiosis and Byssinosis Benefit Scheme, 1952

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The Minister of National Insurance, with the consent of the Treasury, in exercise of powers conferred by the Pneumoconiosis and Byssinosis Benefit Act, 1951(a), and of all other powers enabling him in that behalf, hereby makes the following Scheme:—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Pneumoconiosis and Byssinosis Benefit Scheme, 1952, and shall come into operation on the fourteenth day after the date of this instrument.

(2) In this Scheme, unless the context otherwise requires—

"the Act" means the Pneumoconiosis and Byssinosis Benefit Act, 1951;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act, 1946(b);

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 4. (b) 9 & 10 Geo. 6. c. 62.

" the Workmen's Compensation Acts " means the Workmen's Compensation Acts, 1925 to 1945 and any enactment repealed by the Workmen's Compensation Act, 1925(**a**) ;

" the Supplementation Scheme " means the Workmen's Compensation (Supplementation) Scheme, 1951(**b**) ;

" the Minister " means the Minister of National Insurance ;

" allowance " means an allowance payable under this Scheme and includes any increase thereof ;

" death benefit " means the benefit payable under this Scheme in respect of the death of any person ;

" claimant " means a person claiming an allowance or death benefit under this Scheme and includes, in relation to the review of an award or decision, a person entitled to benefit under the award or affected by the decision ;

" pneumoconiosis " has the meaning assigned to it by sub-section (3) of section 57 of the Industrial Injuries Act, and in the case of a person who suffers or has suffered from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of this Scheme as if they were effects of the pneumoconiosis ;

" the Administrative Board " means the Administrative Board established under Article 10 of this Scheme ;

" the Medical Arrangements Scheme " means the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931(**c**) ;

" the Medical Board " means the Medical Board appointed under paragraph 3 of the Medical Arrangements Scheme ;

" the Prescribed Diseases Regulations " means the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948(**d**) ;

" the Benefit Regulations " means the National Insurance (Industrial Injuries) (Benefit) Regulations, 1948(**e**).

(3) Except for the purposes of condition (1) of Article 2, references in this Scheme to any enactment, scheme or regulations shall include references to such enactment, scheme or regulations as amended by any subsequent enactment, scheme or regulations.

(4) Any notice or other document required or authorised to be given or sent to any person under the provisions of this Scheme shall be deemed to have been given or sent, if it was sent by post to that person at his ordinary or last known address.

(5) The Interpretation Act, 1889(**f**), applies to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

PART II

ALLOWANCES AND DEATH BENEFIT

Benefit payable under this Scheme

2. Subject to the following provisions of this Scheme, benefit as hereinafter provided shall be payable out of the Industrial Injuries Fund to or in respect of any person who is totally disabled or dies, or who has died

(a) 15 & 16 Geo. 5. c. 84. (b) S.I. 1951/1150; 1951 II, p. 1401.
(c) S.R. & O. 1931/341; Rev. XXIV, p. 142; 1931, p. 680.
(d) S.I. 1948/1371; Rev. XVI, p. 482; 1948 I, p. 3001.
(e) S.I. 1948/1372; Rev. XVI, p. 441; 1948 I, p. 2918.
(f) 52 & 53 Vict. c. 63.

at any time after the 31st December, 1949, as a result of pneumoconiosis or byssinosis, if the following conditions are satisfied:—

(1) that he has been employed in Great Britain before the 5th July, 1948, in any of the occupations in the case of which the disease is prescribed in relation to insured persons employed in insurable employment by virtue of regulations under section 55 of the Industrial Injuries Act which are in force at the date on which this Scheme comes into operation(a) or are made at any time thereafter during his lifetime;

(2) that he has not been employed on or after the 5th July, 1948, in insurable employment in any of the said occupations other than an occupation in the case of which the disease is prescribed as aforesaid after he has been awarded an allowance;

(3) if he is disabled or dies or has died as a result of byssinosis, that he has been employed for a period or periods amounting in the aggregate to not less than twenty years in any of the occupations in the case of which that disease is prescribed as aforesaid;

(4) that it is certified as provided in Article 15 that he is totally disabled or has died as a result of the disease, and, in the case of a person so disabled as a result of byssinosis, that the disablement is likely to be permanent:

Provided that benefit shall not be payable under this Scheme to or in respect of any such person—

(*a*) if he or any person being a member of his family within the meaning of the Workmen's Compensation Act, 1925, has received or is entitled to compensation in respect of the disablement or death by virtue of any scheme made or certified under the Workmen's Compensation Acts, or by virtue of any scheme or law in force in any country or territory outside Great Britain providing for compensation in respect of the disease;

(*b*) if he would have received or would be entitled to such compensation by virtue of any scheme made or certified as aforesaid but for the fact that he was or is entitled to receive compensation in respect of disablement from any other disease or in respect of an injury by accident;

(*c*) if he or his personal representative or any of his relatives has recovered any sum by way of damages in respect of the disablement or death, whether at common law or under the Fatal Accident Acts, 1846 to 1908, or the Law Reform (Miscellaneous Provisions) Act, 1934(b);

(*d*) if throughout the employment mentioned in condition (1) of this Article he was employed otherwise than as a workman within the meaning of the Workmen's Compensation Act, 1925.

Allowances payable under this Scheme

3.—(1) Subject to the provisions of this Scheme, the benefit payable in cases of total disablement due to pneumoconiosis or byssinosis shall be an allowance at the weekly rate of forty shillings, and shall be payable as from the date on which this Scheme comes into operation, or, if a later date is certified by the Medical Board in accordance with the provisions of paragraph (2) of Article 15, as from that later date:

(a) *See* Part II First Schedule and Regulation 2 (c), National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948, S.I. 1948/1371; Rev. XVI, p. 482; 1948 I, p. 3001, as amended by S.I. 1950/1565; 1951/306, 1542: 1950 II, p. 41; 1951 I, pp. 1514, 1519.
(b) 24 & 25 Geo. 5. c. 41.

Provided that where by regulations made under section 55 of the Industrial Injuries Act the disease is first prescribed in relation to insured persons employed in insurable employment in the occupation in respect of which the claim is made after the date on which this Scheme comes into operation, an allowance shall not be payable to the claimant in respect of any period before the date on which those regulations come into operation.

(2) A claimant shall not be entitled to an allowance unless he is ordinarily resident in Great Britain at the date of the claim or is, immediately before the date on which this Scheme comes into operation, in receipt of any such benefit or payment as is mentioned in Article 9.

(3) An increase of an allowance under the provisions of Articles 4, 5, 6 or 7 shall not be payable for any period during which the person entitled to the allowance is absent from Great Britain.

Increase of allowance in respect of a wife

4. For any period during which a person entitled to an allowance 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, the weekly rate of the allowance payable to that person shall, subject to the provisions of the First Schedule hereto, be increased by sixteen shillings.

Increase of allowance in respect of children

5. For any period during which a person entitled to an allowance has a family which includes a child or children within the meaning of section 17 of the Industrial Injuries Act(**a**), the weekly rate of the allowance payable to that person shall be increased by an amount equal to the increase (if any) which would be payable to him in respect of that child or those children under the said section 17 if he were entitled to injury benefit:

Provided that an increase of an allowance under this Article in respect of a child or children shall not be payable for any period during which an increase of benefit in respect of that child or those children is payable under the provisions of the said section 17 or under the National Insurance Act, 1946(**b**).

Increase of allowance on account of unemployability

6.—(1) Where a person entitled to an allowance could, for the purposes of section 13 of the Industrial Injuries Act (which relates to unemployability supplement), be treated as being incapable of work and likely to remain permanently so incapable as the result of pneumoconiosis or byssinosis, the weekly rate of the allowance payable to him shall, subject to the provisions of paragraph (3) of this Article, be increased by an amount equal to the increase of disablement pension (if any) which would be payable to him under the said section 13 if he were entitled to a disablement pension in respect of the disease.

(2) An increase of an allowance under this Article shall be payable for such period as may be determined at the time it is granted, but may be renewed from time to time.

(3) An increase of an allowance under this Article shall not be payable to any person for any period during which he is entitled to an increase of disablement pension by way of unemployability supplement under the said section 13 or under section 82 of the Industrial Injuries Act.

(a) As amended by section 3 (4) of the National Insurance Act, 1951 (14 & 15 Geo. 6. c. 34).
(b) 9 & 10 Geo. 6. c. 67.

Increase of allowance when constant attendance needed

7.—(1) Where as the result of disablement from pneumoconiosis or byssinosis, a person entitled to an allowance—

(*a*) is subject to disabilities which are such that if they had resulted from an accident against which he had been insured under the Industrial Injuries Act, the extent of the resulting disablement would be assessed at one hundred per cent.; and

(*b*) requires constant attendance;

the weekly rate of the allowance payable to him shall, subject to the provisions of paragraph (2) of this Article, be increased by an amount equal to the increase of disablement pension (if any) which would be payable to him under section 15 of the Industrial Injuries Act (which relates to constant attendance allowance) if he were entitled in respect of the disease to a disablement pension calculated by reference to an assessment of one hundred per cent.

(2) An increase of an allowance under this Article shall not be payable to any person for any period during which he is entitled to an increase of disablement pension in respect of the need of constant attendance under the said section 15 or under section 82 of the Industrial Injuries Act.

Death benefit

8.—(1) The benefit payable in cases of death due to pneumoconiosis or byssinosis shall be payable to or for the benefit of such of the dependants of the deceased as are specified in paragraph (2) of this Article, and subject to the following provisions of this Scheme, shall be a capital sum of an amount calculated in accordance with the provisions of paragraph (4) of this Article.

(2) The dependants of a person entitled to claim death benefit under this Scheme are such of the members of the deceased's family as were wholly or in part dependent on the earnings of the deceased at the time of his death, or are treated as having been so dependent under the provisions of paragraph (3) of this Article, and for the purposes of this paragraph the expression "member of a family" has the same meaning as it has for the purposes of the Workmen's Compensation Act, 1925(**a**):

Provided that for the purposes of this Article a dependant shall be disregarded—

(*a*) where he was only in part dependent upon the earnings of the deceased and there is another dependant who was wholly so dependent and who is entitled to death benefit;

(*b*) where the dependant has died before the date on which this Scheme comes into operation or (whether he has made a claim for death benefit or not) before an award of such benefit in respect of the deceased has been made;

(*c*) where the dependant was not ordinarily resident in Great Britain at the date of the death of the deceased.

(3) For the purposes of paragraph (2) of this Article a person shall be treated as having been wholly or in part dependent (as the case may be) upon the earnings of the deceased at the time of his death if the following conditions or either of them are satisfied:—

(*a*) if that person would have been so dependent but for the disablement due to the disease;

(**a**) *See* section 4 (3), Workmen's Compensation Act, 1925 (15 & 16 Geo. 5. c. 84) and Adoption of Children (Workmen's Compensation) Act, 1934 (24 & 25 Geo. 5. c. 34).

(*b*) if that person, being the widow of the deceased, would have been so dependent but for the fact that she was in receipt of a retirement pension by virtue of her husband's insurance under the provisions of the National Insurance Act, 1946.

(4) The capital sum payable by way of death benefit shall be calculated as follows:—

(*a*) if the deceased leaves any dependants wholly dependent on his earnings, the capital sum shall be three hundred pounds;

(*b*) if the deceased does not leave any dependants wholly dependent on his earnings but leaves any dependants in part so dependent, the capital sum shall be such sum not exceeding three hundred pounds as may be determined by the Administrative Board to be reasonable and proportionate to the loss sustained by the said dependants.

Reduction of allowance or death benefit where benefit payable or paid under existing benefit schemes

9.—(1) Where benefit is payable or has been paid to or in respect of any person under the Byssinosis (Benefit) Scheme, 1941(**a**), or the Pneumoconiosis (Benefit) Scheme, 1943(**b**),—

(*a*) the amount of an allowance payable to him for any period shall be reduced by the amount of any weekly payments of such benefit for the same period; and

(*b*) the amount of death benefit shall be reduced by the amount of any benefit paid or payable in respect of his death under the said Pneumoconiosis (Benefit) Scheme.

(2) For the purposes of paragraph (1) of this Article, any payments made by the National Coal Board to or in respect of a person in whose case benefit would have been payable under the Pneumoconiosis (Benefit) Scheme, 1943, but for the fact that he was certified as totally disabled, or that he died, more than five years after the 1st July, 1943, shall be treated as if they had been payments by way of benefit under the said Scheme up to the amount of the benefit which would have been so payable.

PART III

CONSTITUTION AND PROCEDURE OF THE ADMINISTRATIVE BOARD

Constitution of the Administrative Board

10.—(1) There shall be established for the administration of this Scheme and for the determination of all questions assigned to them under this Scheme an Administrative Board consisting of—

(*a*) members appointed by the Minister, of whom one-third shall be chosen after consultation with such organisations representing employers and one-third after consultation with such organisations representing employed persons, as the Minister thinks fit; and

(*b*) a Chairman and deputy Chairman appointed by the Minister.

(2) The Chairman and deputy Chairman shall be barristers or advocates of not less than ten years standing.

(**a**) S.R. & O. 1941/525; Rev. XXIV, p. 561; 1941 I, p. 1239, as amended by S.R. & O. 1944/504; Rev. XXIV, p. 561; 1944 I, p. 1099; S.R. & O. 1947/826; Rev. XXIV, p. 561; 1947 I, p. 2677, and modified by S.I. 1950/476; 1951/671: 1950 II, p. 1522; 1951 II, p. 1399.
(**b**) S.R. & O. 1943/886; Rev. XXIV, p. 597; 1943 I, p. 1016.

(3) The Chairman and deputy Chairman and other members of the Administrative Board shall hold office for such period as the Minister may fix in any particular case, and shall be eligible for reappointment.

(4) The Minister shall appoint a Secretary to the Administrative Board.

Procedure of the Administrative Board

11.—(1) The Administrative Board may meet together for the determination of all questions assigned to them under this Scheme and for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

(2) The proceedings of the Administrative Board shall not be invalidated—

(*a*) by any vacancy in their number or by any defect in the appointment of any member of the Administrative Board ;

(*b*) by the absence from any meeting of the Administrative Board of any member thereof:

Provided that the Administrative Board shall not proceed with the determination of any such question as is mentioned in paragraph (1) of this Article or with the despatch of any other business if both the Chairman and the Deputy Chairman are absent.

(3) Questions arising at any meeting shall be decided by a majority of votes and in case of equality of votes, the Chairman, or in his absence, the deputy Chairman, shall have a casting vote.

(4) The Administrative Board may delegate any of their powers to a sub-committee of the Administrative Board consisting of the Chairman or deputy Chairman and such other members as the Administrative Board may determine, and in particular may authorise any such sub-committee to determine any questions assigned to the Administrative Board under this Scheme and to exercise any of the powers of the Administrative Board under Article 12 relating to such determination.

(5) Subject to the provisions of this Article and of Article 12, the procedure at any meeting of the Administrative Board shall be such as the Administrative Board may from time to time determine.

(6) Every document purporting to be an instrument issued by the Administrative Board, and to be signed by their Secretary or any person authorised to act in that behalf, shall be received in evidence and be deemed to be such an instrument without further proof unless the contrary is shown.

Procedure on determination of claims and questions

12.—(1) Any claim for an allowance or death benefit and any question arising in connection with a claim for or an award of an allowance or death benefit (other than such a question as is mentioned in Articles 14 to 16 inclusive) shall be determined by the Administrative Board in accordance with the provisions of Article 11 and of this Article.

(2) Any claimant may make a request to the Administrative Board for a hearing for the determination of any claim or question which they are required to determine under paragraph (1) of this Article, and the Administrative Board shall grant such request unless they are satisfied that the claim or question can properly be determined without a hearing, in which event they shall inform the claimant in writing and may proceed to determine the case without a hearing.

(3) If in accordance with the provisions of paragraph (2) of this Article a request for a hearing has been granted, or if notwithstanding that no request has been made, the Administrative Board are otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to the claimant.

(4) Every such hearing shall be in public, except in so far as the Administrative Board for special reasons may otherwise direct.

(5) The Administrative Board may require persons to attend at any such hearing to give evidence and to produce documents reasonably required for the purposes of determining the claim.

(6) The claimant, or an association of employed persons of which the claimant is or has been a member, shall have the right to be heard at any hearing by the Board of his case and may be represented by counsel or solicitor or other representative at any such hearing.

(7) If the claimant should fail to appear either in person or by representative at the hearing, the Administrative Board may proceed to determine the claim or question notwithstanding his absence or may give such direction with a view to the determination of the claim or question as they think proper.

(8) The Administrative Board shall in each case record their decision in writing and the claimant shall be informed in writing of the decision as soon as practicable.

Finality of decisions of the Administrative Board

13. Except as provided by Article 28, any decision by the Administrative Board of a claim or question as provided by Article 12 shall be final for the purposes of 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*) any question whether for any period a person is or was residing with or wholly or mainly maintaining his wife (or would under the provisions of the Industrial Injuries Act be treated as doing so);

(*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);

(*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.

(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.

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

Reference of questions to the Medical Board

15.—(1) If on consideration of a claim for an allowance the Administrative Board are satisfied that—

(*a*) the claimant fulfils the conditions relating to an allowance apart from the condition as to a certificate by the Medical Board ; and

(*b*) there is reasonable cause for suspecting that he is totally disabled by pneumoconiosis or byssinosis ;

then, subject to the provisions of paragraph (5) of this Article, they shall refer his case to the Medical Board.

(2) Where a case is referred to the Medical Board under the provisions of paragraph (1) of this Article—

(*a*) the Medical Board shall examine the claimant, and if satisfied—

(i) where the claim is made in respect of pneumoconiosis, that he is totally disabled by the disease ; or

(ii) where the claim is made in respect of byssinosis, that he is totally disabled by the disease and that the disablement is likely to be permanent ;

they shall give a certificate to that effect ;

(*b*) a certificate given under sub-paragraph (*a*) of this paragraph shall state whether the relevant condition specified in that sub-paragraph was satisfied on the date on which this Scheme came into operation or, if it was not satisfied on that date, shall specify the later date from which it became satisfied.

(3) If on consideration of a claim for death benefit the Administrative Board are satisfied that—

(*a*) the deceased left a dependant or dependants within the meaning of Article 8 ; and

(*b*) the other conditions relating to death benefit apart from the condition as to a certificate by the Medical Board were fulfilled in his case ;

then, subject to the provisions of paragraph (5) of this Article, they shall refer to the Medical Board the question whether the deceased died as a result of pneumoconiosis or byssinosis, and the Medical Board shall certify whether or not the death of the deceased was so caused.

(4) Any certificate given by the Medical Board 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.

(5) Where a certificate has at any time been given—

(*a*) by the Medical Board under the provisions of the Medical Arrangements Scheme, that a person has been totally disabled or has died as the result of pneumoconiosis ; or

(*b*) by the medical board appointed under the Byssinosis (Benefit) Scheme, 1941, that a person has been totally and permanently incapacitated as the result of byssinosis ;

the Administrative Board may in their discretion accept such certificate for the purposes of any claim made under this Scheme by or in respect of that person instead of referring the case to the Medical Board, and such certificate shall thereupon have effect for the purposes of this Scheme as if it had been a certificate given under this Article.

Reference of questions to the Industrial Injuries Commissioner

16. If on the consideration of any claim or question, it appears to the Administrative Board that the question whether a person has been employed in any occupation in the case of which the disease is prescribed within the meaning of Article 2 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 a corresponding question 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.

PART IV

CLAIMS AND PAYMENTS

Claims to be made to the Administrative Board in writing

17. Every claim for an allowance or for death benefit shall be made in writing to the Administrative Board, and, for the purposes of the provisions of this part of this Scheme relating to the making of claims, every increase of an allowance shall be treated as a separate benefit.

Information to be given when making a claim or obtaining payment of allowance or death benefit

18. Every person who makes a claim for or is entitled to an allowance or death benefit and every person to whom or on whose behalf sums are payable by way of an allowance or death benefit shall furnish in such manner and at such times as the Administrative Board or the Minister, as the case may be, may determine, such certificates, documents, information and evidence affecting the right to the allowance or death benefit or to the receipt of any sums payable by way of an allowance or death benefit as may reasonably be required by the Administrative Board or the Minister, and, if so required, shall for that purpose attend at such office or place as the Administrative Board or the Minister may direct.

Obligation to undergo medical examination

19. The Administrative Board may by notice in writing require any claimant for and any person in receipt of an allowance to undergo medical or other examination not less than three clear days after the date of such notice, and any such person shall comply with every such requirement and shall attend at every such place and at every such time as may be required.

Sums not payable when delay in claiming

20.—(1) An allowance, or an increase of an allowance, shall not be payable to any person in respect of any period more than six months before the claim for the allowance or the increase, as the case may be, is made, except that in any particular case the Administrative Board may determine that the allowance or increase shall be payable from such earlier date as they may consider reasonable in the circumstances, not being a date before the date from which, apart from this Article, the allowance or increase would be payable.

(2) Death benefit shall not be payable in respect of the death of any person to or for the benefit of any dependant who fails to make a claim for that benefit within a period of six months beginning with the day of the death or the date on which this Scheme comes into operation, whichever is the later :

Provided that, where in the opinion of the Administrative Board there is reasonable cause for failure to make the claim before the date on which it is made, that period shall be extended to the date on which the claim is made.

Payment of allowances

21. Payment of allowances shall be made by the Minister, and accordingly the provisions of the Industrial Injuries Act and of the regulations made thereunder specified in the Second Schedule hereto shall be applicable with the necessary modifications to claims for and payment of allowances as the same apply to disablement benefit under that Act:

Provided that where an allowance is payable by means of orders for the payment through the Post Office of weekly sums on account of the allowance, the said weekly sums shall be payable on Thursdays.

Payment of death benefit

22.—(1) Except as provided in paragraph (5) of this Article, any sums payable by way of death benefit shall be paid by the Minister into the appropriate county court for the benefit of the dependant or dependants entitled thereto, and, for the purposes of this paragraph, the appropriate county court shall be the county court of the district selected by the Administrative Board after having regard to the place of residence of the said dependant or dependants.

(2) Where money is paid into court under paragraph (1) of this Article—

(*a*) the Minister shall lodge with the registrar a form in duplicate, specifying the amount of the sum paid in and the names and addresses and relationship to the deceased of the dependants entitled thereto, and shall forthwith give notice to the said dependants of such payment having been made;

(*b*) the fee payable (being the fee payable on the payment into court of compensation for the benefit of the dependants of a deceased workman under the Workmen's Compensation Acts) shall be paid by the Minister.

(3) The proportion of the said amount payable to each dependant shall be settled by the county court.

(4) The provisions of the Second Schedule to the Workmen's Compensation Act, 1925, and the rules of court made thereunder, shall have effect with respect to money paid into court under this Scheme and the application and investment thereof as if the same were money paid into court under that Act and as if the dependants entitled thereto under this Scheme were entitled to such money under the said Act.

(5) Where the amount of death benefit payable in any case is reduced by virtue of the provisions of Article 9, the sum payable by way of that benefit shall not be paid into the county court under the provisions of paragraph (1) of this Article, but shall be paid by the Minister to or for the benefit of the dependant or dependants entitled thereto in such manner as the Administrative Board may determine.

(6) In the application of this Article to Scotland, the expression "county court" means sheriff court; the expression "district" means sheriffdom; the expression "registrar" means sheriff clerk; and for any reference to rules of court there shall be substituted a reference to an Act of Sederunt.

Obligation to notify change of circumstances

23. Every person entitled to an allowance shall, as soon as may be practicable, notify the Minister in writing of any change of circumstances which he might reasonably be expected to know might affect the continuance of his right to any allowance or any part thereof awarded to him, or to the receipt of any such allowance or part, and the Minister shall thereupon notify the Administrative Board of any such change of circumstances.

Allowances to be inalienable

24. Subject to the following provisions of this Scheme, every assignment of, or charge on, an allowance, and every agreement to assign or charge an allowance shall be void, and on the bankruptcy of a person entitled to an allowance, the allowance shall not pass to any trustee or other person acting on behalf of his creditors.

Forfeiture of allowances

25. If a claimant or person entitled to an allowance—

(*a*) fails without reasonable cause to comply with any requirement of Articles 18, 19 or 23, he shall, if the Administrative Board so decide, forfeit any allowance which would, apart from this paragraph, be payable in respect of the period of such failure ;

(*b*) wilfully obstructs or is guilty of other misconduct in connection with any medical or other examination which he is required under Article 19 to undergo, or with any proceedings under this Scheme for the determination of his right to an allowance or to the receipt thereof, he shall forfeit for such period as the Administrative Board shall determine any allowance which would, apart from this paragraph, be payable:

Provided that nothing in this paragraph providing for forfeiture of an allowance for failure to undergo medical or other examination or any obstruction or misconduct in connection with such examination shall authorise the disentitlement of the person concerned for a period exceeding six weeks on any forfeiture.

Suspension of payment of allowances

26. Where it appears to the Minister that a question has arisen whether an award of an allowance ought to be revised in accordance with Article 28, he may direct that the payment of the allowance shall be suspended in whole or in part until the question has been determined, but if he does so he shall forthwith refer the question to the Administrative Board for determination in accordance with the provisions of that Article.

Allowances during imprisonment

27. The provisions of the proviso to paragraph (2) of regulation 24 of the Benefit Regulations (which proviso limits the amount of benefit payable in respect of periods of imprisonment) and of paragraph (2) of regulation 25 of those regulations (which paragraph relates to suspension of payment of benefit during such periods) shall be applicable with the necessary modifications to the payment of sums by way of an allowance as the same apply to benefit under the Industrial Injuries Act.

PART V

REVIEW, OVERPAYMENTS, RECOVERY

Review of decisions of the Administrative Board

28.—(1) The Administrative Board may at any time and from time to time review any decision given by them under this Scheme—

(*a*) if it appears to them that the decision was erroneous either in view of new facts which have been brought to their notice since the date on which it was given or by reason of some mistake having been made with respect to the facts or the law ; or

(*b*) if there has been any relevant change of circumstances since the decision was given ; or

(*c*) if the decision was based on the decision of any such question as is specified in Article 14, and the decision of that question is revised in accordance with the Industrial Injuries Act ; or

(*d*) if the decision was based on the decision of any such question as is mentioned in Article 16, and the decision on that question is revised in accordance with paragraph (2) of this Article.

(2) Any decision of the Industrial Injuries Commissioner under Article 16 may be reviewed at any time by the said Commissioner in any of the circumstances in which a decision of the Administrative Board may be reviewed under the provisions of sub-paragraph (*a*) of paragraph (1) of this Article.

(3) A question may be raised by the claimant or the Minister with a view to the review of any decision of the Administrative Board or of the Industrial Injuries Commissioner by means of an application in writing stating the grounds of the application and made to the Administrative Board, who shall forthwith refer the application to the said Commissioner if it relates to a decision given by him.

(4) Where on review a decision of the Administrative Board is revised so as to make an allowance payable or to increase the rate of an allowance, then, subject to the provisions of this Scheme relating to the time of payment of allowances, the allowance shall be payable accordingly from such date as the Administrative Board may consider reasonable in the circumstances.

Requirement to repay wrongly paid allowances or death benefit

29.—(1) Where on review a decision of the Administrative Board is revised, the decision given on review shall require repayment to the Industrial Injuries Fund of any sums paid by way of an allowance or death benefit in pursuance of the original decision to the extent to which they would not have been payable if the decision on the review had been given in the first instance:

Provided that, subject to the provisions of paragraph (2) of this Article, repayment shall not be required under this paragraph in any case where the person concerned is shown to the satisfaction of the Administrative Board to have acted in good faith in all respects as to the obtaining and receipt of the allowance or death benefit.

(2) Where on review a decision of the Administrative Board is revised so as, in respect of any period, to make an increase of an allowance under the provisions of articles 4, 5, 6 or 7 not payable or to reduce such increase, and

the person concerned has also been awarded a corresponding increase of benefit under the National Insurance Act, 1946, or the Industrial Injuries Act or the Supplementation Scheme, as the case may be, the decision on review shall require repayment to the Industrial Injuries Fund of so much of the said increase of the allowance paid in pursuance of the original decision of the Administrative Board as does not exceed the amount of the corresponding increase of benefit which has been so awarded in respect of the same period.

Recovery of sums by deduction from allowances or benefit under the Industrial Injuries Act or allowances under the Supplementation Scheme

30.—(1) Where any sums paid by way of an allowance are required to be repaid to the Industrial Injuries Fund under Article 29, such sums may, without prejudice to any other method of recovery, be deducted from any allowance or from any benefit under the Industrial Injuries Act or from any allowance under the Supplementation Scheme then or thereafter payable to the person by whom they are to be repaid, or to any person entitled to receive any such allowance or benefit on his death, and such deduction may be made at such rate as the Minister may determine.

(2) Where, in the case of any person, any sum may be recovered by deduction—

(*a*) by virtue of any provision of the Industrial Injuries Act from any payment under that Act ; or

(*b*) by virtue of any provision of the Supplementation Scheme from any payment under that Scheme ;

it may instead be recovered in whole or in part by deduction from any allowance then or thereafter payable to him, or to any person entitled to receive such allowance on his death.

PART VI

MISCELLANEOUS

Exemption from stamp duty

31. Stamp duty shall not be chargeable upon such documents used in connection with business under this Scheme as are specified in the Third Schedule hereto.

Reciprocal arrangements with Northern Ireland

32. If in pursuance of subsection (1) of section 5 of the Supplementation Act (which relates to reciprocal arrangements with Northern Ireland), as applied by subsection (1) of section 4 of the Act, the Minister makes reciprocal arrangements for payments under corresponding legislation of Northern Ireland to be made out of the Industrial Injuries Fund, the provisions of this Scheme shall apply in relation to such payments as if they were payments made under this Scheme.

Breach of requirements of this Scheme

33. If any person contravenes or fails to comply with any requirement of Articles 18 or 23 he shall for such offence be liable on summary conviction to a penalty not exceeding ten pounds.

Dated this 22nd day of February, 1952.

Osbert Peake,
Minister of National Insurance.

We consent.

Dated this 25th day of February, 1952.

Herbert Butcher,
H. R. Mackeson,
Two of the Lords Commissioners of Her Majesty's Treasury.

FIRST SCHEDULE

Article 4.

CONDITIONS RELATING TO INCREASE OF ALLOWANCE IN RESPECT OF A WIFE

1. An increase of an allowance under the provisions of Article 4 in respect of a wife shall not be payable for any period for which an increase of disablement benefit in respect of a wife would not be payable under the provisions of—

(*a*) subsection (1) of section 32 of the Industrial Injuries Act (which subsection relates to disqualification for periods of absence from Great Britain and of imprisonment); or

(*b*) regulation 7 of the Benefit Regulations(a) (which regulation provides that an increase of benefit in respect of a wife shall not be payable where her weekly earnings exceed the amount therein specified):

Provided that for the purpose of this sub-paragraph the weekly earnings of a wife shall be ascertained in the manner specified in sub-paragraphs (*b*) or (*c*) of paragraph (2) of the said regulation (which sub-paragraphs relate to computation of earnings), whichever is appropriate.

2. Where for any period—

(*a*) any benefit payable otherwise than under this Scheme which is specified as a dependency benefit in paragraph (2) of regulation 5 of the National Insurance (Overlapping Benefits) Regulations, 1948(b) (which regulation relates to the adjustment of dependency benefit under the National Insurance Act, 1946, by reference to other dependency benefits) or any increase of an allowance under the Supplementation Scheme is payable to a person in respect of his wife or any other adult dependant or to any other person in respect of his wife; or

(*b*) any one or more of the personal benefits specified in paragraph (2) of regulation 29 of the Benefit Regulations(c) (which regulation relates to adjustment of dependency benefit under the Industrial Injuries Act by reference to personal benefits) is or are payable to his wife,

at a weekly rate or (if more than one) at an aggregate weekly rate—

(i) which is equal to or exceeds sixteen shillings, then for that period an increase of an allowance in respect of his wife shall not be payable; or

(ii) of less than sixteen shillings, then for that period such increase shall be reduced by an amount equal to the weekly rate or the aggregate weekly rate of such benefit or benefits.

(a) As amended by S.I. 1951/1233; 1951 I, p. 1501.
(b) S.I. 1948/2711; Rev. XVI, p. 196; 1948 I, p. 2657.
(c) As amended by S.I. 1951/1606; 1951 I, p. 1502.

SECOND SCHEDULE

Article 21.

PROVISIONS OF THE INDUSTRIAL INJURIES ACT AND OF THE REGULATIONS MADE THEREUNDER APPLICABLE (WITH THE NECESSARY MODIFICATIONS) TO CLAIMS FOR AND PAYMENTS OF ALLOWANCES

Provisions of the Industrial Injuries Act and of the Regulations made thereunder	Subject matter
Subsection (4) of section 27	Fractions of a penny to be disregarded.
The National Insurance (Industrial Injuries) (Claims and Payments) Regulations, 1948(a)—	
Regulation 15	Time and manner of payment of benefit.
Regulation 18	Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time.
Regulation 22	Persons unable to act.
Regulation 23	Payments on death.

THIRD SCHEDULE

Article 31.

DOCUMENTS EXEMPT FROM STAMP DUTY

1. Draft or order or receipt given in respect of an allowance or death benefit.

2. Appointment or revocation of an appointment of an agent and any other document authorised by or in pursuance of this Scheme or otherwise required in order to give effect to the provisions of this Scheme.

EXPLANATORY NOTE

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

This Scheme is made in exercise of powers conferred on the Minister of National Insurance by the Pneumoconiosis and Byssinosis Benefit Act, 1951.

The Scheme provides for payment of benefit out of the Industrial Injuries Fund to or in respect of certain persons who are totally disabled or die or have died after the 31st December, 1949, as a result of pneumoconiosis or byssinosis, 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 in the case of which these diseases are prescribed under the Industrial Injuries Act.

The benefit for a person totally disabled is a weekly allowance of forty shillings, which may be increased where he 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. 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.

(a) S.I. 1948/1362; Rev. XVI, p. 505; 1948 I, p. 2942.