STATUTORY INSTRUMENTS

1982 No. 249

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1982

Made - - - -	1*st March* 1982
Laid before Parliament	8*th March* 1982
Coming into Operation	29*th March* 1982

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 76, 77 and 113 of and Schedule 12 to the Social Security Act 1975(**a**) and of all other powers enabling him in that behalf, after reference to the Industrial Injuries Advisory Council, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1982, shall come into operation on 29th March 1982.

(2) In these regulations "the principal regulations" means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980 (**b**).

Amendments of principal regulations relating to occupational asthma and other specified diseases

2.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 1(2) (interpretation), there shall be inserted at the appropriate place in alphabetical order the following definition, namely—

"'occupational asthma' means the disease numbered 53 in Part I of Schedule 1 to these regulations;".

(3) In regulation 7(1) (recrudescence), for the words "or occupational deafness" there shall be substituted the words ", occupational deafness or occupational asthma".

(**a**) 1975 c. 14.
(**b**) S.I. 1980/377, to which there are amendments not relevant to these regulations.

(4) In regulation 12(1) (application of other regulations), after the words "these regulations" there shall be inserted the words "or of regulation 40 or 48A".

(5) In regulation 22 (determination of claims and questions), for the expression "and 44" there shall be substituted the expression ", 44 and 53".

(6) For paragraph (2) of regulation 25 (reference of diagnosis questions for medical report) there shall be substituted the following paragraph:—

"(2) Subject to the provisions of regulation 26, if a diagnosis or recrudescence question arises in any case, the insurance officer shall forthwith refer that question for report to one or more medical practitioners who, in the case of pneumoconiosis, byssinosis or each of the diseases numbered 17, 36, 37*(b)*, 40, 43, 44 and 53 in Part I of Schedule 1 to these regulations, shall be a member or members of a pneumoconiosis medical panel and shall have power, if he or they consider it to be necessary, to do any or all of the following, namely—

(a) to make or cause to be made a radiological examination of the person's lungs;

(b) to obtain the report of a radiologist or other physician on the case;

(c) to make or cause to be made serological or lung function tests or such other tests as he or they consider necessary;

(d) to obtain reports upon the results of such tests.".

(7) In regulation 33 (which deals, among other things, with the constitution of medical boards) there shall be inserted, at the end, the following paragraph:—

"(3) Notwithstanding the provisions of regulation 16(2) of the Determination of Claims and Questions Regulations (which provides among other things that a medical practitioner shall not act as a member of a medical board for the purpose of the consideration of a case if he has taken part in it as a medical practitioner to whom any question has been referred for report) a medical practitioner shall not be precluded from acting as a member of a medical board for the purpose of the consideration of a case solely because he has taken part in that case as a medical practitioner to whom a question relating to pneumoconiosis, byssinosis or any of the diseases numbered 17, 36, 37*(b)*, 40, 43, 44 and 53 in Part I of Schedule 1 to these regulations has been referred for report.".

(8) In regulation 34 (diseases in respect of which injury benefit is not payable) for the words "or occupational deafness" there shall be substituted the words "occupational deafness or occupational asthma".

(9) After regulation 48 there shall be inserted the following regulation:—

"Time for claiming benefit in respect of occupational asthma

48A.—(1) Subject to paragraphs (2) and (3), disablement benefit shall not be paid in pursuance of a claim in respect of occupational asthma which is made later than 10 years after the claimant or, as the case may be, the person in respect of whom the claim is made ceased to be employed in an occupation prescribed in relation to occupational asthma.

(2) Paragraph (1) shall not apply to any claim made before 29th March 1983 by or in respect of a person who ceased on or after 29th March 1972 to be employed in an occupation prescribed in relation to occupational asthma.

(3) Paragraph (1) shall not apply to any claim made by or in respect of a person who has at any time been found to be suffering from asthma as a result of an industrial accident and by virtue of that finding has been awarded disablement benefit either for life or for a period which includes the date on which the aforesaid claim is made.

(4) Subject to paragraphs (5) and (6), industrial death benefit shall not be paid in pursuance of a claim in respect of occupational asthma where the person in respect of whose death the benefit is being claimed died more than 10 years after he ceased to be employed in an occupation prescribed in relation to occupational asthma.

(5) Paragraph (4) shall not apply to any claim made in respect of the death of a person who died before 29th March 1983 and who ceased on or after 29th March 1972 to be employed in an occupation prescribed in relation to occupational asthma.

(6) Paragraph (4) shall not apply to any claim made in respect of the death of a person who had at any time been found to be suffering either from asthma as a result of an industrial accident or from occupational asthma and by virtue of that finding had been awarded disablement benefit either for life or for a period which included the date of his death.

(7) Regulation 14 of the Claims and Payments Regulations (time for claiming benefit) shall not apply to a claim in respect of occupational asthma made before 29th March 1983.".

(10) In regulation 49 (pneumoconiosis medical panels and boards), in paragraph (2) for the expression "and 44" there shall be substituted the expression ", 44 and 53", and in paragraph (3) for the word "radiographic" there shall be substituted the word "radiological".

(11) Part I of Schedule 1 shall be amended by the addition, at the end of the first and second columns thereof respectively, of the disease specified in the first column of Schedule 1 hereto and of the occupations set against that disease in the second column of that Schedule.

(12) Schedule 3 shall be amended by the addition, at the end of the first and second columns thereof respectively, of the disease specified in the first column of Schedule 2 hereto and of the relevant date set against that disease in the second column of that Schedule.

Miscellaneous amendments of principal regulations

3.—(1) The principal regulations shall be amended in accordance with the provisions of this regulation.

(2) For the heading to Part IV there shall be substituted the following:—

"PART IV

APPLICATION OF CHAPTERS IV AND VI OF PART II OF THE ACT AND OF REGULATIONS MADE THEREUNDER".

(3) For regulation 11 there shall be substituted the following regulation:—

"Application of Chapters IV and VI of Part II of the Act

11. The provisions of Chapters IV and VI of Part II of the Act which relate to industrial injuries benefit shall, in relation to prescribed diseases, be subject to the following provisions of this Part of these regulations, and, subject as aforesaid, to the additions and modifications set out in Schedule 2 hereto.".

(4) Schedule 2 shall be amended by the substitution, in the heading, of "CHAPTERS IV AND VI" for "CHAPTER IV", and by the substitution, in paragraph 1, of "Chapters IV and VI" for "Chapter IV".

Amendment of the Social Security (Determination of Claims and Questions) Regulations 1975

4. Regulation 16(2)*(b)* of the Social Security (Determination of Claims and Questions) Regulations 1975(**a**) (constitution of medical boards) shall be amended by the deletion of the words "examination and".

Norman Fowler,
Secretary of State for Social Services.

1st March 1982.

(**a**) S.I. 1975/558, to which there are amendments not relevant to these regulations.

Regulation 2(11) SCHEDULE 1

Description of disease or injury	Nature of occupation
53. Asthma which is due to exposure to any of the following agents: *(a)* isocyanates; *(b)* platinum salts; *(c)* fumes or dusts arising from the manufacture, transport or use of hardening agents (including epoxy resin curing agents) based on phthalic anhydride, tetrachlorophthalic anhydride, trimellitic anhydride or triethylenetetramine; *(d)* fumes arising from the use of rosin as a soldering flux; *(e)* proteolytic enzymes; *(f)* animals or insects used for the purposes of research or education or in laboratories; *(g)* dusts arising from the sowing, cultivation, harvesting, drying, handling, milling, transport or storage of barley, oats, rye, wheat or maize, or the handling, milling, transport or storage of meal or flour made therefrom (occupational asthma).	Any occupation involving exposure to any of the agents set out in column 1 of this paragraph.

Regulation 2(12) SCHEDULE 2

	Description of disease	Relevant date
53.	Occupational asthma.	29th March 1982

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations extend cover under the industrial injuries provisions of the Social Security Act 1975 to occupational asthma in the case of persons employed in occupations involving exposure to specified agents, by making an addition to the list of prescribed diseases in Part I of Schedule 1 to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980 ("the principal regulations").

Suffering from this disease may entitle a person to disablement benefit but not injury benefit. Any question of diagnosis relating to it is to be referred to one or more medical practitioners who must be a member or members of a pneumoconiosis medical panel.

The regulations contain transitional provisions relating to persons who are already suffering from occupational asthma on the date on which they come into operation.

An amendment is made to the usual rule that a medical practitioner to whom any question has been referred for report may not act as a member of a medical board in considering the same case. This rule is not to apply where the question related wholly to any of a number of prescribed diseases, including occupational asthma.

The regulations also secure that the provisions of Chapter VI (as well as those of Chapter IV) of Part II of the Social Security Act 1975 are to apply to prescribed diseases, but with the references to accidents construed as references to diseases, and with other modifications.

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