STATUTORY INSTRUMENTS

# 1983 No. 185

# SOCIAL SECURITY

## The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1983

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| *Made* - - - - | 17*th February* 1983 |
| *Laid before Parliament* | 28*th February* 1983 |
| *Coming into Operation* | 6*th April* 1983 |

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 76, 77 and 113 of the Social Security Act 1975 (**a**) and section 39(5) of the Social Security and Housing Benefits Act 1982 (**b**) 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.** These regulations, which may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1983, shall be read as one with the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980 (**c**) (hereinafter referred to as "the principal regulations"), and shall come into operation on 6th April 1983.

*Amendment of the principal regulations*

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

(2) The words "date of onset" are substituted for the words "date of development" in the heading to Part III, regulation 5, the heading to regulation 6, regulations 6, 8, 9, 10, 12, 17, 18, 24 and 38*(b)* and paragraph 1 of Schedule 2, in each place where the words "date of development" occur.

(3) For regulation 6(2)*(a)* there is substituted—

"*(a)* a claim for sickness benefit made by virtue of section 50A of the Act (**d**) by a person to whom regulation 8(1) applies (except in respect of pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness or occupational asthma) the date of onset shall be the first day on which the claimant was incapable of work as the result of the disease on or after 5th July 1948;".

(4) In regulation 6(2)*(b)* for the words "or, if later, the date as from which benefit could be paid on that claim" there are substituted the words "and the date of onset so determined shall be the date of onset for the purposes of a claim for sickness benefit made by virtue of section 50A of the Act in respect of pneumoconiosis, byssinosis, diffuse mesothelioma or occupational asthma".

(**a**) 1975 c.14.
(**b**) 1982 c.24.
(**c**) S.I. 1980/377; the relevant amending instrument is S.I. 1982/249.
(**d**) Section 50A was inserted by the Social Security and Housing Benefits Act 1982, section 39(4).

(5) Regulation 6(3) is revoked.

(6) For regulation 7 there is substituted the following regulation:—

*"Recrudescence*

**7.**—(1) If a person after having been awarded benefit in respect of a prescribed disease other than pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness or occupational asthma suffers from another attack of the same disease, or dies as a result thereof, then—

*(a)* if the further attack commences or the death occurs during a period taken into account by an assessment of disablement relating to such a previous award (which period is in this regulation referred to as a 'relevant period') the disease shall be treated as a recrudescence of the attack to which the relevant period relates, unless it is otherwise determined in the manner referred to in the following sub-paragraph;

*(b)* if the further attack commences or the death occurs otherwise than during a relevant period, or if it is determined in the manner provided in Part V of these regulations that the disease was in fact contracted afresh, it shall be treated as having been so contracted.

(2) For the purposes of paragraph (1), a further attack of a prescribed disease shall be deemed to have commenced on the date on which the person concerned was first incapable of work or first suffered from the relevant loss of faculty, whichever is earlier, as a result of that further attack.

(3) Where, under the foregoing provisions of this regulation, a disease is treated as having been contracted afresh, the date of onset of the disease in relation to the fresh contraction shall be the date on which the person concerned was first incapable of work or first suffered from the relevant loss of faculty, whichever is earlier, as a result of the further attack, or in the event of his death, the date of death.

(4) Where, under the provisions aforesaid, a disease is treated as a recrudescence, any assessment of disablement in respect of the recrudescence during a period taken into account by a previous assessment of disablement shall be by way of review of the assessment relating to the relevant period, and the review shall be subject to the provisions of regulation 31.

(5) This regulation shall not apply in relation to a claim for sickness benefit made by virtue of section 50A of the Act except where such a claim is made by a person to whom regulation 8(1) applies.".

(7) In regulation 11 after the words "industrial injuries benefit" there are inserted the words "and sickness benefit made by virtue of section 50A of the Act".

(8) Regulations 15 and 16 are revoked.

(9) In regulation 17, for the words "received on" there are substituted the words "received or".

(10) In regulation 19, for the words "date on which it is treated as having developed under regulation 6" there are substituted the words "first day for which he is or has been awarded disablement benefit in respect of that disease", and the words after "section 60" (in the second place where it occurs) are omitted.

(11) In regulation 25(1) for the words "injury benefit" there are substituted the words "sickness benefit made by virtue of section 50A of the Act".

(12) Regulation 34 is revoked.

(13) In regulation 40(2) after the words "Disablement benefit" there are inserted the words "or sickness benefit made by virtue of section 50A of the Act".

(14) After regulation 40 there is inserted the following regulation—

*"Claims in respect of occupational deafness*

**40A.** Where it appears that a person who has made a claim for sickness benefit by virtue of section 50A of the Act in respect of occupational deafness—

*(a)* may be entitled to disablement benefit, and

*(b)* has not previously made a claim for disablement benefit in respect of occupational deafness or such a previous claim has been disallowed,

such a claim for sickness benefit may also be treated as a claim for disablement benefit.".

(15) In regulation 41(1) after the words "disablement benefit" in both places where they occur there shall be inserted the words "or sickness benefit made by virtue of section 50A of the Act".

(16) After regulation 41 there is inserted the following regulation:—

*"Availability of disablement benefit in respect of occupational deafness*

**41A.** Where a person is awarded disablement benefit in respect of occupational deafness, section 57(4) (period for which disablement benefit is not available) shall not apply.".

(17) In regulation 45 for the words "shall required" there are substituted the words "shall be required".

(18) Paragraphs (5) and (6) of regulation 56 are revoked.

(19) In paragraph 3 of Schedule 2 for the words "injury benefit" are substituted the words "sickness benefit made by virtue of section 50A of the Act".

*Dates of development and onset in transitional cases*

**3.**—(1) In this regulation the expression "date of development" has the meaning attributed to it by regulations 5, 6, 7 and 56 of the principal regulations immediately before the coming into operation of these regulations.

(2) Where a claim for benefit has been made before 6th April 1983, a date of development shall be determined and regulation 16 of the principal regulations shall apply as if these regulations had not come into operation.

(3) Where a claim for benefit is made after 5th April 1983 and a date of onset is determined which is before 6th April 1983 regulation 16 of the principal regulations shall apply as if these regulations had not come into operation.

(4) Where in pursuance of a claim made before 6th April 1983 a date of development has been determined and an award of benefit has been made the principal regulations shall have effect in relation to that claim and any subsequent claim made by or on behalf of the same person in respect of the same disease (except where under regulation 7 of the principal regulations the disease is treated as having been contracted afresh) as if references to the date of onset were references to that date of development.

(5) Subject to paragraph (7), where a claim for injury benefit for a day falling or a period beginning before 6th April 1983 is made after 5th April 1983 and no date of development or date of onset which can be treated as such for the purposes of that claim has already been determined, for the purpose only of determining the date on which the injury benefit period (if any) is to begin, a date of development shall be determined, so however that if it is later than 5th April 1983 no injury benefit period shall begin and injury benefit shall not be payable.

(6) For all other purposes of the Act and the principal regulations, a date of onset shall be determined as if on the day or days for which benefit is claimed regulation 2 of these regulations had already been in force.

(7) A person who—

*(a)* is or has been suffering from a disease set out in the first column of Schedule 3 to the principal regulations; or

*(b)* is or has been suffering from byssinosis and does not satisfy the condition set out in paragraph (3)*(b)* of regulation 56 of the principal regulations; or

*(c)* is or has been suffering from infection by leptospira and does not satisfy the condition set out in paragraph (4)*(b)* of that regulation,

shall not be entitled to benefit for any day which is earlier than the relevant date as defined in that regulation.

*Norman Fowler,*
Secretary of State for Social Services.

17th February 1983.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations, which are consequential upon the abolition of injury benefit by section 39(1) of the Social Security and Housing Benefits Act 1982 and the provision of sickness benefit in respect of industrial injury by section 50A of the Social Security Act 1975, which was inserted by section 39(4) of the 1982 Act, amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980.

The main changes made by regulation 2 of the regulations are—

*(a)* the substitution for references in provisions of the principal regulations to the date of development of a prescribed disease of references to the date of onset of a prescribed disease;

*(b)* the substitution for references in provisions of the principal regulations to injury benefit by references to sickness benefit;

*(c)* provision for a date of onset to be determined in respect of certain claims for sickness benefit;

*(d)* to enable a claim for sickness benefit by virtue of section 50A of the 1975 Act in respect of occupational deafness to be treated as a claim for disablement benefit and to enable persons suffering from occupational deafness to be entitled to disablement benefit from the date of onset of the disease.

Regulation 3 contains transitional provisions relating to claims for injury benefit made after 5th April 1983 in respect of periods before the abolition of that benefit.

The regulations also make minor corrections.

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