STATUTORY INSTRUMENTS

1975 No. 1537

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1975

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The Secretary of State for Social Services, in exercise of powers conferred by sections 76, 77, 78, 113 and 155 of the Social Security Act 1975**(a)**, and of all other powers enabling her in that behalf, and for the purpose only of consolidating regulations hereinafter revoked, after consultation with the Council on Tribunals in so far as required by section 10 of the Tribunals and Inquiries Act 1971**(b)**, hereby makes the following regulations:—

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1975, and shall come into operation on 22nd October 1975.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Social Security Act 1975;

(a) 1975 c. 14. **(b)** 1971 c. 62.

"the Workmen's Compensation Acts" means the Workmen's Compensation Acts 1925 to 1945, or the enactments repealed by the Workmen's Compensation Act 1925(a), or the enactments repealed by the Workmen's Compensation Act 1906(b);

"the Benefit Regulations" means the Social Security (Industrial Injuries) (Benefit) Regulations 1975(c);

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations 1975(d);

"the Determination of Claims and Questions Regulations" means the Social Security (Determination of Claims and Questions) Regulations 1975(e);

"asbestos textiles" means yarn or cloth composed of asbestos or of asbestos mixed with any other material;

"coal mine" means any mine where one of the objects of the mining operations is the getting of coal (including bituminous coal, cannel coal, anthracite, lignite, and brown coal);

"diffuse mesothelioma" means the disease numbered 44 in Part I of Schedule 1 to these regulations;

"employed earner" means employed earner for the purposes of industrial injuries benefit and the term "employed earner's employment" shall be construed accordingly;

"farmer's lung" means the disease numbered 43 in Part I of Schedule 1 to these regulations;

"foundry" means those parts of industrial premises where the production of metal articles (other than pig iron or steel ingots) is carried on by casting (not being diecasting or other casting in metal moulds), together with any part of the same premises where any of the following processes are carried on incidentally to such production, namely, the drying and subsequent preparation of sand for moulding (including the reclamation of used moulding sand), the preparation of moulds and cores, knock-out operations and dressing or fettling operations;

"grindstone" means a grindstone composed of natural or manufactured sandstone and includes a metal wheel or cylinder into which blocks of natural or manufactured sandstone are fitted;

"a local office" means any office appointed by the Secretary of State as a local office for the purposes of the Act or of these regulations;

"mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways and sidings, both below ground and above ground, in and adjacent to and belonging to the mine, but does not include any part of such premises on which any manufacturing process is carried on other than a process ancillary to the getting or dressing of minerals or the preparation of minerals for sale;

"occupational deafness" means the disease numbered 48 in Part I of Schedule 1 to these regulations;

"pneumoconiosis" means fibrosis of the lungs due to silica dust, asbestos dust or other dust, and includes the condition of the lungs known as dust reticulation but does not include byssinosis;

(a) 1925 c. 84.
(b) 1906 c. 58.
(c) S.I. 1975/559 (1975 I, p. 1979).
(d) S.I. 1975/560 (1975 I, p. 2014).
(e) S.I. 1975/558 (1975 I, p. 1956).

"pneumoconiosis medical board" and "pneumoconiosis medical panel" mean respectively a pneumoconiosis medical board appointed, and a pneumoconiosis medical panel constituted, by the Secretary of State under regulation 49;

"prescribed disease" means a disease or injury prescribed under Part II of these regulations, and references to a prescribed disease being contracted shall be deemed to include references to a prescribed injury being received;

"the Secretary of State" means the Secretary of State for Social Services;

"silica rock" means quartz, quartzite, ganister, sandstone, gritstone and chert, but not natural sand or rotten rock;

"tuberculosis" in the description of the disease numbered 38 in Part I of Schedule 1 to these regulations means disease due to tuberculous infection, but when used elsewhere in these regulations in connection with pneumoconiosis means tuberculosis of the respiratory system only;

and other expressions have the same meanings as in the Act.

(3) Unless the context otherwise requires, any reference in these regulations—

(*a*) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number;

(*b*) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(*c*) to any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(a)** shall apply in relation to this instrument and in relation to any revocation effected thereby as if this instrument, the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

PART II

PRESCRIPTION OF DISEASES AND PRESUMPTION AS TO THEIR ORIGIN

Prescription of diseases and injuries and occupations for which they are prescribed

2. For the purposes of Chapter V of Part II of the Act—

(*a*) subject to paragraph (*d*) of this regulation each disease or injury set out in the first column of Part I of Schedule 1 hereto is prescribed in relation to all persons who have been employed on or after 5th July 1948 in employed earner's employment in any occupation set against such disease or injury in the second column of the said Part;

(*b*) pneumoconiosis is prescribed—

(i) in relation to all persons who have been employed on or after 5th July 1948 in employed earner's employment in any occupation set out in Part II of the said Schedule; and

(a) 1889 c. 63.

(ii) in relation to all other persons who have been so employed in any occupation involving exposure to dust and who have not worked at any time (whether in employed earner's employment or not) in any occupation in relation to which pneumoconiosis is prescribed by virtue of regulations (apart from this sub-paragraph) in force—

(*a*) in the case of any claim for disablement benefit or a claim for death benefit in respect of the death of a person to whom disablement benefit has been awarded in respect of pneumoconiosis, on the date of the claim for disablement benefit;

(*b*) in the case of a claim for death benefit in respect of the death of any other person, on the date of the death of that person;

(*c*) byssinosis is prescribed in relation to all persons who have been employed—

(i) in employed earner's employment at any time on or after 5th July 1948; and

(ii) for a period or periods (whether before or after 5th July 1948) amounting in the aggregate to not less than five years;

in any occupation in any room where any process up to and including the winding or beaming process is performed in factories in which the spinning or manipulation of raw or waste cotton or of flax is carried on;

(*d*) occupational deafness is prescribed in relation to all persons who have been employed—

(i) in employed earner's employment at any time on or after 5th July 1948; and

(ii) for a period or periods (whether before or after 5th July 1948) amounting in the aggregate to not less than twenty years;

in one or more of the occupations set out in the second column of paragraph 48 of Part I of Schedule 1 to these regulations.

Sequelae or resulting conditions

3. Where a person—

(*a*) is or was in employed earner's employment and a disease is or was prescribed under the Act and these regulations in relation to him in such employment; and

(*b*) is suffering from a condition which, in his case, has resulted from that disease;

the provisions of Chapter V of Part II of the Act and of these regulations shall apply to him as if he were suffering from that disease, whether or not the condition from which he is suffering is itself a prescribed disease.

Presumption that a disease is due to the nature of employment

4.—(1) Where a person has developed a disease which is prescribed in relation to him in Part I of Schedule 1 hereto, that disease shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment if that employment was in any occupation set against that disease in the second column of the said Part and he was so employed on, or

at any time within one month immediately preceding, the date on which, under the subsequent provisions of these regulations, he is treated as having developed the disease:

Provided that this paragraph shall not apply to the diseases numbered 38, 41, 42 and 48, respectively, in the said Schedule.

(2) Where a person in relation to whom tuberculosis is prescribed in paragraph 38 of Part I of Schedule 1 hereto develops that disease, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment if the date on which, under the subsequent provisions of these regulations, he is treated as having developed the disease is not less than six weeks after the date on which he was first employed in any occupation set against the disease in the second column of the said Part and not more than two years after the date on which he was last so employed in employed earner's employment.

(3) Where a person in relation to whom pneumoconiosis is prescribed in regulation 2(*b*)(i) develops pneumoconiosis, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment if he has been employed in one or other of the occupations set out in Part II of the said Schedule 1 for a period or periods amounting in the aggregate to not less than two years in employment which either—

(*a*) was employed earner's employment; or

(*b*) would have been employed earner's employment if it had taken place on or after 5th July 1948.

(4) Where a person in relation to whom byssinosis is prescribed in regulation 2(*c*) develops byssinosis, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment.

(5) Where a person in relation to whom occupational deafness is prescribed in regulation 2(*d*) develops occupational deafness the disease shall, unless the contrary is proved, be presumed to be due to the nature of his employed earner's employment.

PART III

DATE OF DEVELOPMENT AND RECRUDESCENCE

Development of disease

5. If on a claim for benefit under Chapter V of Part II of the Act in respect of a prescribed disease a person is found to be or to have been suffering from the disease, or to have died as the result thereof, the disease shall, for the purposes of such claim, be treated as having developed on a date (hereafter in these regulations referred to as "the date of development") determined in accordance with the provisions of the next two following regulations.

Date of development

6.—(1) For the purposes of the first claim in respect of a prescribed disease suffered by a person, the date of development shall be determined in accordance with the following provisions of this regulation, and, save as provided in regulation 7, that date shall be treated as the date of development for the purposes of any subsequent claim in respect of the same disease suffered by the same person:

Provided that—

(*a*) subject to the provisions of section 117(4), as modified by Schedule 2 hereto, any date of development determined for the purpose of that

claim shall not preclude fresh consideration of the question whether the same person is suffering from the same disease on any subsequent claim for or award of benefit; and

(*b*) if, on the consideration of a claim, no award of benefit is made, any date of development determined for the purposes of that claim shall be disregarded for the purposes of any subsequent claim.

(2) Where the claim for the purposes of which the date of development is to be determined is—

(*a*) a claim for injury benefit, the date of development 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; or, if later, the date as from which benefit could be paid on that claim;

(*b*) a claim for disablement benefit (except in respect of occupational deafness), the date of development shall be the day on which the claimant first suffered from the relevant loss of faculty on or after 5th July 1948; or, if later, the date as from which benefit could be paid on that claim;

(*c*) a claim for disablement benefit in respect of occupational deafness, the date of development shall be the day on which the claimant first suffered from the relevant loss of faculty on or after 3rd February 1975; or, if later, the date on which such claim is made as results in the payment of benefit; or

(*d*) a claim for death benefit, the date of development shall be the date of death.

(3) In the foregoing paragraph, the expression "the date as from which benefit could be paid on that claim" means, in relation to any claim, the first day of the period in respect of which benefit could be paid on that claim having regard to the provisions of regulation 13 of, and Schedule 2 to, the Claims and Payments Regulations, or could have been so paid but for the provisions of section 56(5)(*b*) (restriction on injury benefit for first three days of a period of interruption of employment).

Recrudescence

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

(*a*) if the further attack commences or the death occurs during an injury benefit period or during a period taken into account by an assessment of disablement relating to such a previous award (either of which periods is hereinafter 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 the foregoing paragraph, a further attack of a prescribed disease shall be deemed to have commenced on the date which

would be treated as the date of development under the provisions of regulation 6 if no previous claim had been made in respect of that disease.

(3) Where, under the foregoing provisions of this regulation, a disease is treated as having been contracted afresh, the provisions of regulation 6 shall be applied as though no previous claim had been made in respect of that disease and the date of development shall be determined accordingly.

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

Transitional provisions—workmen's compensation cases

8.—(1) If under the foregoing provisions of this Part of these regulations a date of development has to be determined for the purposes of a claim for benefit in respect of a prescribed disease, other than pneumoconiosis or byssinosis, suffered by a person to whom compensation under the Workmen's Compensation Acts has been awarded or paid in respect of the same disease and, at the date of such claim for benefit, or, if it is a claim for death benefit, at the date of death—

(*a*) that person was in receipt of weekly payments in respect of such compensation; or

(*b*) any liability or alleged liability for such compensation had been redeemed by the payment of a lump sum, or had been the subject of a composition agreement under the provisions of the said Acts;

the disease in respect of which the claim is made shall be treated for the purposes of these regulations as a recrudescence of the disease in respect of which such compensation was awarded or paid and not as having developed on or after 5th July 1948 unless it is determined in the manner provided in Part V of these regulations that the disease was in fact contracted afresh.

(2) If it is determined as provided in the foregoing paragraph that the disease was contracted afresh, or if compensation is not being or has not been paid as provided in sub-paragraph (*a*) or (*b*) thereof, the date of development shall be determined in accordance with regulations 5 to 7 as if no compensation under the Workmen's Compensation Acts had been paid in respect of that disease.

(3) If the date of development has to be determined as aforesaid in respect of pneumoconiosis or byssinosis suffered by a person to whom compensation has been awarded or paid in respect of the same disease or in respect of whose death compensation has been awarded or paid under the provisions of any scheme made under the provisions of the Workmen's Compensation Acts relating to compensation for silicosis, asbestosis, pneumoconiosis or byssinosis, the disease in respect of which the claim is made shall (subject to the provisions of regulation 9(2)(*b*)) be treated for the purposes of these regulations as not having developed on or after 5th July 1948.

(4) If, after the date of a claim for benefit in respect of a prescribed disease, the claimant receives a weekly payment of compensation in respect of that disease under the Workmen's Compensation Acts which he was not receiving at the date of such claim, or if the amount of any such weekly payment which he was receiving at that date is increased, then any decision on any question arising in connection with that claim, if given before the date of, or in

ignorance of the fact of, the receipt of such weekly payment or increased weekly payment, may be reviewed as if it had been given in ignorance of a material fact, and on such review the question may be decided as if the claimant had been in receipt of such weekly payment or increased weekly payment at the date of the claim, and the foregoing provisions of this regulation shall apply accordingly.

(5) For the purposes of this regulation, a person shall be deemed to be, or to have been, in receipt of a weekly payment of compensation if—

(*a*) he is or was in fact receiving such payment; or

(*b*) he is or was entitled thereto under an award or agreement made under the Workmen's Compensation Acts.

(6) This regulation shall apply to compensation under any contracting out scheme duly certified under the Workmen's Compensation Acts as it applies to compensation under those Acts.

Re-employment of pneumoconiotics and special provisions for benefit (workmen's compensation cases)

9.—(1) Where a person—

(*a*) has been certified by a medical board under the provisions of any scheme made under the provisions of the Workmen's Compensation Acts to be suffering from silicosis or pneumoconiosis not accompanied in either case by tuberculosis and has been awarded or paid compensation under the provisions of any such scheme, and by reason of such certification has been suspended from employment in any industry or process or in any particular operation or work in any industry, and

(*b*) wishes to start work in employed earner's employment in any occupation involving work underground in any coal mine, or the working or handling above ground at any coal mine of any minerals extracted therefrom, or any operation incidental thereto, being an occupation in which he is allowed by certificate of the medical board under the provisions of the scheme to engage,

he shall, before starting any such work, submit himself under arrangements made or approved by the Secretary of State for medical examination by a pneumoconiosis medical board.

(2) Where a person submits himself for medical examination in accordance with the provisions of the foregoing paragraph, the provisions of the Act and the regulations made thereunder shall apply to him subject to the following modifications:—

(*a*) The pneumoconiosis medical board shall determine at what degree the extent of disablement resulting from pneumoconiosis at the time of their examination would be assessed in his case, if that question had been referred to them for determination by an insurance officer on consideration of a claim for disablement benefit, and the provisions of the Act and of the Determination of Claims and Questions Regulations which relate to the determination of disablement questions (other than the provisions relating to the review of assessments on the ground of unforeseen aggravation) shall apply as if the decision of the pneumoconiosis medical board were a final assessment of the extent of disablement.

(*b*) Where the extent of disablement has been determined in his case in accordance with the provisions of the foregoing sub-paragraph by a pneumoconiosis medical board or a medical appeal tribunal, and he starts any such work as is mentioned in the foregoing paragraph, the

provisions of regulation 51(*a*) (periodical examinations) shall apply to him as if he were making a claim for benefit in respect of pneumoconiosis, and the provisions of regulation 8(3) (pneumoconiosis shall in certain cases be treated as not having developed on or after 5th July 1948) shall cease to apply to him as from the date of starting such work.

(*c*) If, after having started work as aforesaid, he makes a claim at any time for disablement benefit in respect of pneumoconiosis, the extent of disablement in his case shall be assessed as if, to the extent certified in the decision of the pneumoconiosis medical board or medical appeal tribunal given under sub-paragraph (*a*) of this paragraph, his disabilities resulting from pneumoconiosis were contracted before the date of development and were not incurred as the result of the relevant loss of faculty.

(*d*) A person to whom a disablement pension is payable in respect of an assessment made in accordance with the provisions of the last foregoing sub-paragraph and who requires constant attendance shall, if the sum of that assessment and the assessment made in his case in accordance with the provisions of sub-paragraph (*a*) of this paragraph is not less than one hundred per cent, have the like right to payments in respect of the need of such constant attendance as if the disablement pension were payable in respect of an assessment of one hundred per cent.

(3) Where a person to whom sub-paragraph (*a*) of paragraph (1) applies has started any such work as is mentioned in sub-paragraph (*b*) thereof without having submitted himself for medical examination in accordance with the provisions of that paragraph, he may nevertheless, at any time whilst he is engaged in any such work, so submit himself for medical examination, and the provisions of the foregoing paragraph shall, if he continues thereafter to be engaged in any such work, apply to him as if he had started that work immediately after the medical examination.

(4) The Secretary of State, in making or approving any such arrangements for medical examination of any person as are mentioned in paragraph (1) of this regulation, shall, as far as possible, co-ordinate those arrangements with any arrangements for medical examination of that person made or approved under Part VI of these regulations or under the Workmen's Compensation Acts.

PART IV

APPLICATION OF CHAPTER IV OF PART II OF THE ACT AND OF REGULATIONS MADE THEREUNDER

Definition of "relevant disease"

10. In this Part of these regulations, unless the context otherwise requires, the expression "relevant disease" means, in relation to any claim for benefit in respect of a prescribed disease, the prescribed disease in respect of which benefit is claimed, but does not include any previous or subsequent attack of that disease, suffered by the same person, which, under the provisions of Part III of these regulations, is or has been treated—

(*a*) as having developed on a date other than the date which, under the said provisions, is treated as the date of development for the purposes of the claim under consideration;

(*b*) as a recrudescence of a disease for which compensation has been paid or awarded under the Workmen's Compensation Acts.

Application of Chapter IV of Part II of the Act

11. The provisions of Chapter IV 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.

Application of Claims and Payments Regulations and Benefit Regulations

12.—(1) Save in so far as they are expressly varied or excluded by, or are inconsistent with, the provisions of this Part of these regulations, the Claims and Payments Regulations and the Benefit Regulations shall apply in relation to prescribed diseases as they apply in relation to accidents.

(2) Save as provided in this Part of these regulations or where the context otherwise requires, references in the aforesaid regulations to accidents shall be construed as references to prescribed diseases, references to the relevant accident shall be construed as references to the relevant disease, references to the date of the relevant accident shall be construed as references to the date of development of the relevant disease, and in regulation 9 of the Benefit Regulations (increase of disablement pension in cases of special hardship) the reference to the effects of the relevant injury shall be construed as a reference to the effects of the relevant disease.

Benefit not payable in cases covered by the Industrial Injuries and Diseases (Old Cases) Act 1975

13. Benefit shall not be payable by virtue of the provisions of these regulations in respect of the incapacity, disablement or death of any person as a result of any disease, if an award of benefit under the provisions of any Scheme made under the Industrial Injuries and Diseases (Old Cases) Act 1975 (not being an award which is subsequently reversed on review) has at any time been made in respect of any attack of the disease suffered by him, or in respect of his death.

Diseases contracted outside Great Britain

14. For section 50(5) (accidents happening outside Great Britain) there shall be substituted the provision that, subject to the provisions of sections 129, 131 and 132, for the purpose of determining whether a prescribed disease is, or, under the provisions of Part II of these regulations is to be presumed to be, due to the nature of the person's employed earner's employment, that person shall be regarded as not being or as not having been in employed earner's employment during any period for which he is or was outside Great Britain, and accordingly benefit shall not be payable in respect of a prescribed disease which is due to the nature of employment in an occupation in which the person has only been engaged outside Great Britain.

Injury benefit

15. Save as provided in the next following regulation, the injury benefit period shall begin with the date of development.

Disablement benefit not preceded by injury benefit

16. Where a person, not having been entitled to injury benefit in respect of the relevant disease, claims disablement benefit in respect of that disease, and under the provisions of Part III of these regulations a date of development

is determined for the purposes of that claim, the following provisions shall apply, that is to say:—

(*a*) sections 56(4) and 57(4) (period for which disablement benefit is not available) shall not apply and the claim shall be treated as if there had been no injury benefit period;

(*b*) paragraph 4 of Schedule 8 (period to be taken into account by an assessment of the extent of the claimant's disablement) and section 60(1) and regulation 9 of the Benefit Regulations (increase of disablement pension in cases of special hardship) shall have effect as if for references therein to the end of the injury benefit period (wherever those words occur) were substituted references to the date of development.

Assessment of extent of disablement

17. For the purposes of paragraph 1(*b*) of Schedule 8 (disabilities to be taken into account in assessing the extent of the claimant's disablement) and of regulation 2 of the Benefit Regulations (which further defines the principles of assessment of disablement), an injury or disease other than the relevant disease shall be treated as having been received or contracted before the relevant disease if it was received or contracted on or before the date of development, and as having been received or contracted after the relevant disease if it was received or contracted after that date.

Death benefit for woman having care of deceased's children

18.—(1) Section 73 (the entitlement to death benefit of a woman having the care of a child or children of the deceased's family) shall have effect as if for references to the date of the relevant accident there were substituted references to the relevant date.

(2) For the purposes of the last foregoing paragraph, the relevant date means the date of development of the relevant disease, or the first day of the period of twenty-six weeks ending with the date of death, whichever is the later.

Special provisions as to determination of regular occupation in relation to persons claiming an increase of benefit for special hardship

19. Where a person who is or has been awarded disablement benefit in respect of a prescribed disease establishes that he has abandoned any occupation as a result of the relevant disease at any time after having been employed in employed earner's employment in any occupation prescribed for that disease but before the date on which it is treated as having developed under regulation 6 of these regulations, then for the purpose of determining his right to, or the rate of, an increase of that benefit under section 60 (increase of disablement benefit in cases of special hardship), any occupation he has so abandoned may be treated as his regular occupation for the purposes of the said section 60 if it would have been so treated had the date of development as determined under the said regulation 6 fallen immediately before he so abandoned it.

Exception from requirements as to notice

20. Regulation 22 of the Claims and Payments Regulations (giving of notice of accidents in respect of which benefit may be payable) shall not apply in relation to prescribed diseases.

Provisions as to medical examination

21. Those provisions of section 89(1) and (2) which relate to the obligation of claimants to submit themselves to medical examination for the purpose of

determining the effect of the relevant accident shall apply also to medical examinations for the purpose of determining whether a claimant or beneficiary is suffering or has suffered from a prescribed disease, and regulation 24 of the Claims and Payments Regulations shall be construed accordingly.

PART V

PROCEDURE FOR DETERMINATION OF CLAIMS AND QUESTIONS

Application of this Part of these regulations

22. The provisions of this Part of these regulations shall apply to all claims for benefit under Chapter V of Part II of the Act in respect of a prescribed disease and to all questions arising in connection with such claims or with any award of benefit thereon, but in their application in respect of pneumoconiosis, byssinosis, or each of the diseases numbered 17, 36, 37(*b*), 40, 43 and 44 in Part I of Schedule 1 to these regulations shall be subject to the provisions of Part VI of these regulations.

Application of Part III of the Act

23.—(1) The provisions of section 110(3) (effect of decisions as to loss of faculty) and of section 107 (declaration that an accident is an industrial accident) shall not apply in relation to prescribed diseases.

(2) Save as provided in the foregoing paragraph, the provisions of Part III of the Act shall apply, as appropriate, to the determination of such claims and questions as aforesaid, subject to the additions and modifications set out in Schedule 2 hereto and to the following provisions of this Part of these regulations.

Application of Determination of Claims and Questions Regulations

24.—(1) All claims and questions to which this Part of these regulations applies shall be determined in accordance with the provisions of the Determination of Claims and Questions Regulations, save in so far as those provisions are inconsistent with or are varied by these regulations.

(2) Save as provided in this Part of these regulations, any reference in the Determination of Claims and Questions Regulations to the relevant accident shall be construed as a reference to the relevant disease and any reference to the date of the relevant accident shall be construed as a reference to the date of development of the relevant disease.

Reference of diagnosis and recrudescence questions for medical report

25.—(1) In the following provisions of these regulations any question arising in connection with a claim for or award of injury benefit or disablement benefit—

(*a*) whether any person is suffering or has suffered from a prescribed disease, is referred to as a diagnosis question;

(*b*) whether a prescribed disease has, in fact, been contracted afresh, in a case where that question arises under the provisions of regulation 7 or 8, is referred to as a recrudescence question.

(2) Subject to the provisions of the next following regulation, if a diagnosis or recrudescence question arises in any case, the insurance officer shall forthwith refer that question for examination and 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 and 44 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 necessary, to make or cause to be made a radiological examination of the person's lungs.

Power to dispense with reference for medical report

26.—(1) The insurance officer may determine a diagnosis or recrudescence question without referring it as provided in paragraph (2) of the foregoing regulation if he is satisfied that such reference can be dispensed with having regard to—

(*a*) a medical report signed by a medical practitioner on the staff of a hospital at which the claimant is receiving or has received treatment for a condition due to a prescribed disease, or by a medical officer engaged at the place of work where the claimant is or was employed; or

(*b*) the decision on any similar diagnosis or recrudescence question which has been determined on the consideration of any previous claim or question arising in respect of the same disease suffered by the same person (including the date and terms of any medical reports on which such previous decision was based and of any medical certificates submitted by the claimant):

Provided that a reference for report shall not be dispensed with on the grounds specified in sub-paragraph (*a*) of this paragraph except where a diagnosis question is determined in favour of the claimant or where a recrudescence question arises in connection with a diagnosis question which has been so determined under this regulation.

(2) The insurance officer may, if he is satisfied that a reference for report as provided in regulation 25(2) may be dispensed with on any of the grounds specified in the preceding paragraph of this regulation, refer for the decision of a pneumoconiosis medical board any diagnosis or recrudescence question in connection with a claim in respect of each of the diseases numbered 17, 36, 37(*b*), 40 and 43 without having referred such a question for report as aforesaid.

(3) If the insurance officer is of the opinion that the claim or question submitted to him or any part thereof can be disposed of without determining any diagnosis or recrudescence question, he may make an award or determine that an award cannot be made or may determine the question submitted to him accordingly without referring such diagnosis or recrudescence question for report as aforesaid or before so referring it.

(4) If during a period taken into account by an assessment of disablement relating to an award of disablement benefit in respect of a prescribed disease, the beneficiary either—

(*a*) applies for a review of such assessment; or

(*b*) makes a further claim for disablement benefit in respect of a fresh attack of the disease;

any recrudescence question arising on such application or further claim instead of being referred for report as aforesaid shall be referred for decision to the medical board together with any disablement question which arises.

(5) The provisions of regulation 25(2) and of the foregoing paragraphs of this regulation shall apply to a local tribunal and a Commissioner as they apply to an insurance officer with this modification, that a local tribunal or a Commissioner, instead of themselves or himself referring a diagnosis or

recrudescence question to a medical practitioner in accordance with regulation 25, shall direct the insurance officer to refer it to a medical board in accordance with regulation 27.

Procedure on receipt of medical report

27.—(1) If a diagnosis or recrudescence question has been referred as provided by regulation 25(2), the insurance officer shall, subject to the provisions of paragraph (6) of this regulation, proceed with the consideration of that question as soon as possible after he has received the report of the medical practitioner or practitioners to whom it was so referred.

(2) If the question so referred was a diagnosis question, then, subject to paragraph (4) of this regulation, the insurance officer may—

(*a*) himself determine the question in favour of the claimant; or

(*b*) refer the question to a medical board for their decision; or

(*c*) himself determine the question adversely to the claimant.

(3) If the question so referred was a recrudescence question, then, subject to paragraphs (4) and (5) of this regulation, the insurance officer—

(*a*) if he is satisfied having regard to such report as aforesaid that the disease ought to be treated as having been, in fact, contracted afresh, shall so treat it and shall determine the question accordingly;

(*b*) if he is not so satisfied, shall treat the disease as a recrudescence of the previous attack or as not having developed on or after 5th July 1948, as the case may require, and shall determine the question accordingly.

(4) If, on the consideration of a diagnosis or recrudescence question, the insurance officer is of opinion that there arises a disablement question, he shall not determine the diagnosis or recrudescence question but shall refer it to the medical board together with the disablement question.

(5) If a diagnosis question is referred to a medical board under the foregoing provisions of this regulation or under the provisions of regulation 29, the insurance officer shall not himself determine any recrudescence question which arises in connection therewith but shall refer it to the medical board together with the diagnosis question.

(6) Subject to the provisions of these regulations, the provisions of sections 100, 103 and 104 shall apply as if a diagnosis or recrudescence question were a question such as is referred to in section 103(1) and as if references in those sections to the determination of, or to the review of the decision of, such a question included references to the determination of, or to the review of the decision of, a diagnosis or recrudescence question under these regulations.

Notification of diagnosis or recrudescence decision and right of appeal

28.—(1) Where, under the provisions of regulation 26 or 27, an insurance officer has determined a diagnosis question adversely to the claimant or has determined a recrudescence question, the claimant shall be notified in writing of the decision and the reasons therefor, and his right of appeal therefrom.

(2) A claimant who desires to appeal from any decision of an insurance officer such as is mentioned in the last foregoing paragraph shall do so by

giving to a local office notice of appeal within ten days after having been notified of the insurance officer's decision:

Provided that a notice of appeal given after the expiry of the said period of ten days may be accepted if the Secretary of State is of opinion that there was good cause for the delay.

Appeal or reference to medical board

29.—(1) As soon as practicable after receiving notice of appeal given under the provisions of the last foregoing regulation, the insurance officer shall refer the question to a medical board for their decision.

(2) If notice of appeal is given on a recrudescence question, the insurance officer shall also refer the diagnosis question, and the medical board may confirm, reverse or vary the decision on that question as on an appeal.

Appeal or reference to medical appeal tribunal

30.—(1) Subject to the provisions of regulation 49, if a claimant is dissatisfied with the decision of a medical board on a diagnosis or recrudescence question he may appeal and the case shall be referred to a medical appeal tribunal.

(2) Subject as aforesaid, if the Secretary of State notifies the insurance officer that he is of opinion that any decision of a medical board on a diagnosis or recrudescence question ought to be considered by a medical appeal tribunal, the insurance officer shall refer the case to a medical appeal tribunal for their consideration and the tribunal may confirm, reverse or vary the decision as on an appeal.

(3) Where a diagnosis or recrudescence question is referred to a medical appeal tribunal under the foregoing provisions of this regulation the tribunal, upon determining the question referred—

(*a*) may proceed to determine any recrudescence or diagnosis question which arises in connection therewith and any disablement question which arises in consequence thereof and where a decision on any such question has been given by a medical board, may confirm, reverse or vary that decision; and

(*b*) if it is determined that the disease is a recrudescence of an attack to which an earlier decision of a medical board or a medical appeal tribunal relates, may proceed to review that earlier decision under the provisions of section 110(2).

Review of previous assessment following recrudescence decision

31. Where, by reason of the provisions of regulation 7(4) the decision of a recrudescence question necessitates the review of a previous assessment of disablement, the medical board may review such previous assessment accordingly, as provided by section 110, so however that, in any such case, notwithstanding the provisions of subsection (5) of that section, a previous assessment may be reviewed as provided by this regulation at any time without the leave of a medical appeal tribunal.

Review of decision on diagnosis or recrudescence question

32.—(1) Any decision on a diagnosis or recrudescence question of an insurance officer, medical board or medical appeal tribunal may be reviewed at any time by a medical board if they are satisfied by fresh evidence that the

decision was given in ignorance of, or was based on a mistake as to, some material fact:

Provided that a decision of a medical appeal tribunal on a diagnosis or recrudescence question shall not be reviewed by a medical board without the leave of a medical appeal tribunal.

(2) A question may be raised with a view to the review of any decision on a diagnosis or recrudescence question by means of an application in writing to an insurance officer, stating the grounds of the application, and on receipt of such application the insurance officer shall proceed to refer such question to a medical board:

Provided that where in the opinion of the insurance officer such application raises a question as to the review of a decision of a medical appeal tribunal on a diagnosis or recrudescence question, the insurance officer shall submit the application to a medical appeal tribunal so that such tribunal may consider whether leave shall be granted and shall not refer the question to a medical board unless that medical appeal tribunal grant such leave.

(3) Subject to the foregoing provisions of this regulation, a medical board may deal with a case on review in any manner in which they would deal with it on an original reference to them, and regulation 30 shall apply to a decision of a medical board in connection with such an application to review as it applies to a decision on an original reference to them.

Constitution and procedure of a medical board and medical appeal tribunal

33.—(1) Save in so far as they are inconsistent with, or are varied by, the foregoing provisions of this Part of these regulations, the Determination of Claims and Questions Regulations shall apply to the reference to or determination by a medical board or medical appeal tribunal of a diagnosis or recrudescence question as they apply in the case of a disablement question, so however that—

(*a*) if a diagnosis or recrudescence question is referred to a medical board to which there is also referred a disablement question and the decision of the medical board on the diagnosis or recrudescence question enables the case to be decided adversely to the claimant, the medical board shall not determine the disablement question;

(*b*) regulation 17 of the Determination of Claims and Questions Regulations (which provides for disablement questions to be referred with the consent of the claimant to a single medical practitioner instead of to a medical board) shall not apply to a diagnosis or recrudescence question;

(*c*) regulation 4 of the Determination of Claims and Questions Regulations (power of medical appeal tribunals to take into account medical evidence not disclosed to the claimant) shall apply to a medical board to which there is referred any question to which this Part of these regulations applies;

(*d*) the reference to section 109(3) in regulation 21(3) of the Determination of Claims and Questions Regulations shall be construed as a reference to regulation 30(2) of these regulations.

(2) Notwithstanding the provisions of regulation 16(1) of the Determination of Claims and Questions Regulations (which provides that with one exception a medical board shall consist of two members) a medical board to which there is referred any question to which this Part of these regulations applies may consist of three members and the decision of such a board, if not unanimous, shall be that of the majority of such members.

PART VI

SPECIAL PROVISIONS AS TO PNEUMOCONIOSIS, BYSSINOSIS, OCCUPATIONAL DEAFNESS AND CERTAIN OTHER DISEASES

SECTION A—BENEFIT

Injury benefit not payable

34. Injury benefit shall not be payable in respect of pneumoconiosis, diffuse mesothelioma or occupational deafness, and the provisions of regulation 16 shall apply to every claim for disablement benefit in respect of any of those diseases or in respect of byssinosis.

Special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma

35.—(1) No disablement gratuity shall be payable in respect of pneumoconiosis, byssinosis or diffuse mesothelioma, but if in any case the extent of disablement is such that, when assessed in accordance with section 57 (disablement benefit), it amounts to less than twenty per cent, the beneficiary shall, subject to the proviso to section 57(6), be entitled to a disablement pension for the period taken into account by the assessment, payable, if such assessment does not exceed ten per cent, at the weekly rate specified in Schedule 3 to the Benefit Regulations (rate of disablement pension payable in lieu of disablement gratuity) for a degree of disablement of less than eleven per cent but not less than six per cent, and in any other case at the weekly rate so specified for a degree of disablement of less than twenty per cent but not less than sixteen per cent.

(2) Section 78(4)(*b*), in so far as it provides that disablement benefit shall not be payable in respect of byssinosis unless the claimant is found to be suffering from loss of faculty which is likely to be permanent, shall not apply.

(3) Notwithstanding paragraph 4(*a*) of Schedule 8 (period to be taken into account by an assessment of the extent of the claimant's disablement), the period to be taken into account by an assessment of the extent of the claimant's disablement in respect of byssinosis, if not limited by reference to the claimant's life, shall not be less than one year.

Pneumoconiosis—effects of tuberculosis

36. Where any person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of Chapter V of Part II of the Act and of these regulations as if they were effects of the pneumoconiosis.

Pneumoconiosis—effects of emphysema and chronic bronchitis

37.—(1) Where any person is disabled by pneumoconiosis or pneumoconiosis accompanied by tuberculosis to an extent which would, if his physical condition were otherwise normal, be assessed at not less than 50 per cent, the effects of any emphysema and of any chronic bronchitis from which that person is found to be suffering shall be treated for the purposes of Chapter V of Part II of the Act and of these regulations as if they were effects of the pneumoconiosis.

(2) Where, in a claim for death benefit, the question arises whether the extent of a person's disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis would, if his physical condition were otherwise normal, have been assessed at not less than 50 per cent—

(*a*) if there has been no assessment of disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis made

during the person's life, or if there is no such assessment current at the time of death, that question shall be determined by a medical board and the provisions of the Act shall apply as if such question were a disablement question;

(*b*) if there is an assessment of disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis current at the time of the person's death, that question shall be treated as having been determined by the decision of the medical board or medical appeal tribunal, as the case may be, which made such assessment.

Increase of benefit for special hardship—special provision for pneumoconiosis cases

38. Where a beneficiary in receipt of a disablement pension in respect of pneumoconiosis receives advice from a pneumoconiosis medical board that in consequence of the disease he should not follow his regular occupation unless he complies with certain special restrictions as to the place, duration or circumstances of his work, or otherwise, then for the purpose of determining whether he fulfils the conditions laid down in section 60(1) (increases of disablement pension in respect of special hardship), and for that purpose only—

(*a*) the beneficiary shall be deemed, unless the contrary is proved by evidence other than the aforesaid advice—

(i) to be incapable of following his regular occupation and likely to remain permanently so incapable; and

(ii) to be incapable of following employment of an equivalent standard which is suitable in his case;

(*b*) where the beneficiary has ceased to follow any occupation to which the aforesaid special restrictions were applicable, the fact that he had followed such an occupation in the period between the date of development of the disease and the date of the current assessment of his disablement, or for a reasonable period of trial thereafter, shall be disregarded.

Special requirement for pneumoconiosis claimants in unscheduled occupation cases

39.—(1) Part V of these regulations shall apply to any claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(*b*)(ii) subject to the modification that if the claimant fails to show to the satisfaction of the insurance officer that there is reasonable cause for suspecting that the claimant is suffering or has suffered from the disease the insurance officer shall on that ground, and without referring the diagnosis question as provided in regulation 25(2), determine that an award cannot be made.

(2) The provisions of the last foregoing paragraph shall apply to a local tribunal and a Commissioner as they apply to the insurance officer.

Time for claiming benefit in respect of occupational deafness

40.—(1) Regulation 13 of the Claims and Payments Regulations (time for claiming benefit) shall not apply in relation to occupational deafness.

(2) Disablement benefit shall not be paid in respect of a claim for occupational deafness which is made later than 12 months after the claimant has ceased to be employed in an occupation prescribed in relation to occupational deafness.

Further claims in respect of occupational deafness

41. In the event of a claim for disablement benefit in respect of occupational deafness being disallowed because the claimant has failed to satisfy the minimum hearing loss requirement prescribed in column 1 of paragraph 48 of Part I of Schedule 1 hereto, no further claim may be made by or on behalf of that claimant and no disablement benefit shall be paid to him in respect of occupational deafness until after the expiration of three years from the date of the claim so disallowed:

Provided that if a claimant permanently ceases to be employed in any occupation specified in column 2 of paragraph 48 of Part I of Schedule 1 hereto within three years of the date of a claim so disallowed, one further claim may be made by or on behalf of him in respect of occupational deafness within 12 months of his ceasing to be so employed.

Effect of presbyacusis on assessment

42.—(1) In any case where the total assessment of disablement resulting from occupational deafness accompanied by presbyacusis amounts to not less than 20 per cent, account shall be taken of presbyacusis only to the extent that the resulting assessment shall be not less than 20 per cent.

(2) Notwithstanding the provisions of section 110(2) (review of assessment on the ground of unforeseen aggravation) and Schedule 8 (assessment of extent of disablement) on any reassessment or assessment on review of an assessment of disablement in respect of occupational deafness, account shall be taken of presbyacusis only to the extent that the resulting assessment shall be not less than the last preceding assessment.

Periods to be covered by assessment of disablement in respect of occupational deafness

43. Subject to the proviso to section 57(6) (cessation of pension on death of beneficiary), the period to be taken into account by an assessment of the extent of the claimant's disablement in respect of occupational deafness, if not limited by reference to the claimant's life, shall be not less than five years.

Review of assessment for unforeseen aggravation in respect of occupational deafness

44. The provisions of section 110(2) (review of assessment in case of unforeseen aggravation) shall not apply to an assessment of the extent of disablement in respect of occupational deafness until after the expiration of five years from the date of commencement of the period taken into account by that assessment.

45. Subject to the provisions of the last foregoing regulation and notwithstanding the provisions of section 110(5) (leave of medical appeal tribunal required to review assessment in certain cases), a life assessment in respect of occupational deafness made by a medical board or a medical appeal tribunal shall not be reviewed in accordance with section 110(2) (review of assessment in the case of unforeseen aggravation) without leave of a medical appeal tribunal, and in the case of a provisional assessment in respect of occupational deafness no such leave shall be required.

No appeal against initial provisional assessment of disablement in respect of occupational deafness

46. Notwithstanding the proviso to section 109(2), but subject to the provisions of section 109(3), no appeal shall lie against an initial provisional assessment of the extent of disablement in respect of occupational deafness.

Lower and upper limits of assessment in respect of occupational deafness

47. Subject to the provisions of Schedule 8 and regulations made thereunder, the extent of disablement in respect of occupational deafness shall be assessed at a lower limit of 20 per cent where the hearing loss in each ear amounts to 50dB and at an upper limit of 100 per cent where the hearing loss in each ear amounts to 90dB measured in each case in accordance with the provisions of column 1 of paragraph 48 of Part I of Schedule 1 hereto.

Commencement date of period of assessment in respect of occupational deafness

48. Notwithstanding the provisions of section 108 and Schedule 8, the period to be taken into account by an assessment of the extent of disablement in respect of occupational deafness shall not commence before 3rd February 1975.

SECTION B—MEDICAL EXAMINATIONS AND SUSPENSION

Constitution of pneumoconiosis medical panels and boards

49.—(1) Panels of specially qualified medical practitioners (hereinafter referred to as "pneumoconiosis medical panels") shall be constituted by the Secretary of State for such areas as the Secretary of State may think fit.

(2) Pneumoconiosis medical boards shall be appointed by the Secretary of State to carry out, in connection with pneumoconiosis, byssinosis and each of the diseases numbered 17, 36, 37(*b*), 40, 43 and 44 in Part I of Schedule 1 to these regulations, the duties imposed upon medical boards by Part III of the Act and by these regulations, and at least two members of any such board shall be members of a pneumoconiosis medical panel.

(3) Pneumoconiosis medical boards shall have power to make or cause to be made a radiographic examination of the lungs of the claimant, and to obtain the report of a radiologist on the case, and to make or cause to be made serological, lung function and such other tests as they consider necessary and to obtain reports upon the results of such tests.

(4) The decision of a pneumoconiosis medical board on any diagnosis question in respect of pneumoconiosis, byssinosis or diffuse mesothelioma shall be final, and accordingly regulation 30, and regulation 32 in so far as it relates to the powers of a medical appeal tribunal, of these regulations shall not apply to a decision of a pneumoconiosis medical board on any such question.

(5) Subject to the foregoing provisions of this regulation, the constitution and procedure of pneumoconiosis medical boards shall be governed by the provisions applicable to medical boards appointed for the purposes of Part V of these regulations.

Initial examinations

50.—(1) Where any person is, on or after 5th July 1948, engaged for employment in any occupation specified in paragraph (3), or is transferred by his employer to such employment, he shall submit himself, before the end of the second month of such new employment, for medical examination (hereafter in these regulations referred to as an "initial examination") under arrangements made or approved by the Secretary of State:

Provided that a person who—

(*a*) being 21 years of age or over, has been employed, within the 3 years previous to such engagement or transfer, in that occupation or in some other occupation specified in paragraph (3); or

(*b*) being under 21 years of age, has previously submitted himself for medical examination as aforesaid and has been found on such examination to satisfy the requirements with respect to physique set out in paragraph (2);

shall not be required to submit himself to an initial examination under the provisions of this paragraph.

(2) For the purposes of the foregoing paragraph of this regulation, the requirements with respect to physique shall be that the person is not suffering from any of the following conditions, namely:—

(*a*) Tuberculosis of any organ, active or inactive, except a healed pulmonary primary focus.

(*b*) Pneumoconiosis or other marked pulmonary abnormality to an extent discernible by radiological examination.

(*c*) Chronic bronchitis or asthma if causing marked incapacity.

(*d*) Severe thoracic deformity.

(*e*) Rheumatic valvular heart disease.

(*f*) Other heart disease causing disability.

(3) For the purposes of this regulation, the specified occupations shall be any occupation in an industry or process to which the First Schedule to the Silicosis and Asbestosis (Medical Arrangements) Scheme 1931**(a)**, as amended, applied immediately before 5th July 1948, or to which the said Schedule would have applied if such industry or process had been carried on at that time.

Periodical examinations

51. Any person employed on or after 5th July 1948 in employed earner's employment in an occupation in relation to which pneumoconiosis is prescribed under regulation 2 shall submit himself for medical examination (hereafter in these regulations referred to as a "periodical examination"), under arrangements made or approved by the Secretary of State, on the occasions and at the intervals specified in such of the following provisions of this regulation as may be appropriate in his case, that is to say—

(*a*) in the case of any person who makes a claim for benefit in respect of pneumoconiosis—

when required to do so on making such claim, and, if required by a pneumoconiosis medical board, at such intervals thereafter as such a board may in his case from time to time direct;

(*b*) in the case of a person who is employed in an occupation specified in paragraph (3) of the last foregoing regulation—

at intervals of two years whilst so employed, or at such other intervals as a pneumoconiosis medical board may in his case from time to time direct.

Suspension from employment

52. A certificate of suspension issued under the provisions of either regulation 43 or regulation 44 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959**(b)** (regulations revoked with effect from

(a) S. R. & O. 1931/341, 1934/889, 1939/705 (Rev. XXIV, pp. 642, 655: 1931 I, p.680; 1934 II, p. 731; 1939 II, p. 3555).

(b) S.I. 1959/467 (1959 II, p. 1943).

27th November 1974 by regulation 7(1) of the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1974(a)) and in force immediately before 27th November 1974 shall continue in force subject to and in accordance with the provisions of regulation 53 of these regulations.

Conditions of suspension

53.—(1) A certificate of suspension issued under the provisions of either regulation 43 or regulation 44 of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959, and remaining in force by virtue of the last preceding regulation, shall suspend the person to whom it relates from further employment in any occupation in relation to which pneumoconiosis is prescribed, with such exceptions and subject to such conditions (if any) as may be specified in the certificate.

(2) A pneumoconiosis medical board may at any time revoke or vary a certificate of suspension on the application of the person to whom it relates, but unless so revoked or varied such certificate shall remain in force throughout the life of such person.

(3) No person who has been suspended from employment may engage or continue in employment, and no employer may employ or continue to employ any such person, in any occupation in relation to which pneumoconiosis is prescribed, except in accordance with the terms of the certificate of suspension in his case.

Duties of employers

54. Every employer who employs or intends to employ any persons in any occupation specified in regulation 50(3)—

(*a*) shall give notice to the Secretary of State of his commencing to carry on any industry or process which will involve the employment of any persons in any such occupation;

(*b*) shall arrange for the initial examination of any person newly engaged or transferred to his employment in circumstances in which such examination is required by regulation 50;

(*c*) shall provide such facilities as the Secretary of State may reasonably require for the periodical examination of any persons employed by him in circumstances in which such examination is required by regulation 51(*b*).

Fees for initial and periodical examinations

55. When a person undergoes an initial examination or a periodical examination under the provisions of regulation 51(*b*), the employer by whom that person is employed at the time of such examination shall pay to the National Insurance Fund, in respect of an initial examination a fee of 30p, and in respect of a periodical examination a fee of 95p with an additional fee of £1.57 if a radiographic examination is required.

PART VII

Revocation and transitional provisions

56.—(1) The regulations (hereinafter called "the old regulations") specified in Schedule 3 hereto are hereby revoked to the extent mentioned in the third column of that Schedule.

(a) S.I. 1974/1415 (1974 II, p. 5524).

(2) Any application, claim, award, assessment, determination, reference, examination, report, requirement or arrangement made, any certificate issued, any notice, decision or approval given or any other thing done under the old regulations and of effect immediately before the coming into operation of these regulations shall continue to have effect as if made, issued, given or done under the corresponding provisions of these regulations, and any panel constituted or board appointed under and for the purposes of the old regulations shall be deemed to have been constituted or appointed under and for the purposes of these regulations.

(3) Where a person who has been employed in employed earner's employment in one or more of the occupations set out in the second column of paragraph 48 of Part I of Schedule 1 to these regulations (occupations in relation to which occupational deafness is prescribed) ceases to be so employed at any time within the period of 12 months preceding 28th October 1974, a claim for disablement benefit in respect of occupational deafness may, notwithstanding the provisions of regulation 40 of these regulations, be made within 12 months after 28th October 1974.

Barbara Castle,
Secretary of State for Social Services.

18th September 1975.

SCHEDULE 1

Regulations 2 and 4

PART I

LIST OF PRESCRIBED DISEASES AND INJURIES AND THE OCCUPATIONS FOR WHICH THEY ARE PRESCRIBED (EXCEPT PNEUMOCONIOSIS AND BYSSINOSIS)

Description of disease or injury	Nature of occupation
Poisoning by:	Any occupation involving:
1. Lead or a compound of lead.	The use or handling of, or exposure to the fumes, dust or vapour of, lead or a compound of lead, or a substance containing lead.
2. Manganese or a compound of manganese.	The use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese.
3. Phosphorous or phosphine or poisoning due to the anti-cholinesterase action of organic phosphorus compounds.	The use or handling of, or exposure to the fumes, dust or vapour of, phosphorus or a compound of phosphorus, or a substance containing phosphorus.
4. Arsenic or a compound of arsenic.	The use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic.
5. Mercury or a compound of mercury.	The use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury.
6. Carbon bisulphide.	The use or handling of, or exposure to the fumes or vapour of, carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide.
7. Benzene or a homologue.	The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.
8 A nitro- or amino- or chloro-derivative of benzene or of a homologue of benzene, or poisoning by nitrochlorbenzene.	The use or handling of, or exposure to the fumes of, or vapour containing, a nitro- or amino- or chloro-derivative of benzene or of a homologue of benzene or nitrochlorbenzene.
9. Dinitrophenol or a homologue or by substituted dinitrophenols or by the salts of such substances.	The use or handling of, or exposure to the fumes of, or vapour containing, dinitrophenol or a homologue or substituted dinitrophenols or the salts of such substances.
10. Tetrachloroethane.	The use or handling of, or exposure to the fumes of, or vapour containing, tetrachloroethane.

SCHEDULE 1—*continued*

Description of disease or injury	Nature of occupation
Poisoning by:	Any occupation involving:
11. Tri-cresyl phosphate.	The use or handling of, or exposure to the fumes of, or vapour containing, tri-cresyl phosphate.
12. Tri-phenyl phosphate.	The use or handling of, or exposure to the fumes of, or vapour containing, tri-phenyl phosphate.
13. Diethylene dioxide (dioxan).	The use or handling of, or exposure to the fumes of, or vapour containing, di-ethylene dioxide (dioxan).
14. Methyl bromide.	The use or handling of, or exposure to the fumes of, or vapour containing, methyl bromide.
15. Chlorinated naphthalene.	The use or handling of, or exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene.
16. Nickel carbonyl.	Exposure to nickel carbonyl gas.
17. Nitrous fumes.	The use or handling of nitric acid or exposure to nitrous fumes.
18. Gonioma kamassi (African boxwood).	The manipulation of gonioma kamassi or any process in or incidental to the manufacture of articles therefrom.
19. Anthrax.	The handling of wool, hair, bristles, hides or skins or other animal products or residues, or contact with animals infected with anthrax.
20. Glanders.	Contact with equine animals or their carcases.
21. (*a*) Infection by leptospira ictero-haemorrhagiae. (*b*) Infection by leptospira canicola.	Work in places which are, or are liable to be, infested by rats. Work at dog kennels or the care or handling of dogs.
22. Ankylostomiasis.	Work in or about a mine.

SCHEDULE 1—*continued*

Description of disease or injury	Nature of occupation
	Any occupation involving:
23. (*a*) Dystrophy of the cornea (including ulceration of the corneal surface) of the eye, (*b*) Localised new growth of the skin, papillomatous or keratotic, (*c*) Squamous-celled carcinoma of the skin, due in any case to arsenic, tar, pitch, bitumen, mineral oil (including paraffin), soot or any compound, product (including quinone or hydroquinone), or residue of any of these substances.	The use or handling of, or exposure to, arsenic, tar, pitch, bitumen, mineral oil (including paraffin), soot or any compound, product (including quinone or hydroquinone), or residue of any of these substances.
24.	
25. Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues or of the bones, or blood dyscrasia, or cataract, due to electro-magnetic radiations (other than radiant heat), or to ionising particles.	Exposure to electro-magnetic radiations other than radiant heat, or to ionising particles.
26. Heat cataract.	Frequent or prolonged exposure to rays from molten or red-hot material.
27. Decompression sickness.	Subjection to compressed or rarefied air.
28. Cramp of the hand or forearm due to repetitive movements.	Prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm.
29.	
30.	
31. Subcutaneous cellulitis of the hand (Beat hand).	Manual labour causing severe or prolonged friction or pressure on the hand.
32. Bursitis or subcutaneous cellulitis arising at or about the knee due to severe or prolonged external friction or pressure at or about the knee (Beat knee).	Manual labour causing severe or prolonged external friction or pressure at or about the knee.

SCHEDULE 1—*continued*

Description of disease or injury	Nature of occupation
	Any occupation involving:
33. Bursitis or subcutaneous cellulitis arising at or about the elbow due to severe or prolonged external friction or pressure at or about the elbow (Beat elbow).	Manual labour causing severe or prolonged external friction or pressure at or about the elbow.
34. Traumatic inflammation of the tendons of the hand or forearm, or of the associated tendon sheaths.	Manual labour, or frequent or repeated movements of the hand or wrist.
35. Miner's nystagmus.	Work in or about a mine.
36. Poisoning by beryllium or a compound of beryllium.	The use or handling of, or exposure to the fumes, dust or vapour of, beryllium or a compound of beryllium, or a substance containing beryllium.
37. (*a*) Carcinoma of the mucous membrane of the nose or associated air sinuses. (*b*) Primary carcinoma of a bronchus or of a lung.	Work in a factory where nickel is produced by decomposition of a gaseous nickel compound which necessitates working in or about a building or buildings where that process or any other industrial process ancillary or incidental thereto is carried on.
38. Tuberculosis.	Close and frequent contact with a source or sources of tuberculous infection by reason of employment— (*a*) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing; (*b*) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity; (*c*) as a research worker engaged in research in connection with tuberculosis; (*d*) as a laboratory worker, pathologist or person taking part in or assisting at post-mortem examinations of human remains where the occupation involves working with material which is a source of tuberculous infection.

SCHEDULE 1—*continued*

Description of disease or injury	Nature of occupation
	Any occupation involving:
39. Primary neoplasm of the epithelial lining of the urinary bladder (Papilloma of the bladder) or of the renal pelvis or of the ureter or of the urethra.	(*a*) Work in a building in which any of the following substances is produced for commercial purposes:— (i) alpha-naphthylamine or beta-naphthylamine; (ii) diphenyl substituted by at least one nitro or primary amino group or by at least one nitro and primary amino group; (iii) any of the substances mentioned in sub-paragraph (ii) above if further ring substituted by halogeno, methyl or methoxy groups, but not by other groups; (iv) the salts of any of the substances mentioned in sub-paragraphs (i) to (iii) above; (v) auramine or magenta; (*b*) the use or handling of any of the substances mentioned in sub-paragraphs (i) to (iv) of paragraph (*a*), or work in a process in which any such substance is used or handled or is liberated; (*c*) the maintenance or cleaning of any plant or machinery used in any such process as is mentioned in paragraph (*b*), or the cleaning of clothing used in any such building as is mentioned in paragraph (*a*) if such clothing is cleaned within the works of which the building forms a part or in a laundry maintained and used solely in connection with such works.
40. Poisoning by cadmium.	Exposure to cadmium fumes.
41. Inflammation or ulceration of the mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour.	Exposure to dust, liquid or vapour.
42. Non-infective dermatitis of external origin (including chrome ulceration of the skin but excluding dermatitis due to ionising particles or electro-magnetic radiations other than radiant heat).	Exposure to dust, liquid or vapour or any other external agent capable of irritating the skin (including friction or heat but excluding ionising particles or electromagnetic radiations other than radiant heat).

SCHEDULE 1—*continued*

Description of disease or injury	Nature of occupation
	Any occupation involving:
43. Pulmonary disease due to the inhalation of the dust of mouldy hay or of other mouldy vegetable produce, and characterised by symptoms and signs attributable to a reaction in the peripheral part of the broncho-pulmonary system, and giving rise to a defect in gas exchange (Farmer's lung).	Exposure to the dust of mouldy hay or other mouldy vegetable produce by reason of employment:— (*a*) in agriculture, horticulture or forestry; or (*b*) loading or unloading or handling in storage such hay or other vegetable produce; or (*c*) handling bagasse.
44. Primary malignant neoplasm of the mesothelium (diffuse mesothelioma) of the pleura or of the peritoneum.	(*a*) The working or handling of asbestos or any admixture of asbestos; (*b*) the manufacture or repair of asbestos textiles or other articles containing or composed of asbestos; (*c*) the cleaning of any machinery or plant used in any of the foregoing operations and of any chambers, fixtures and appliances for the collection of asbestos dust; (*d*) substantial exposure to the dust arising from any of the foregoing operations.
45. Adeno-carcinoma of the nasal cavity or associated air sinuses.	Attendance for work in or about a building where wooden furniture is manufactured.
46. Infection by brucella abortus.	Contact with bovine animals infected by brucella abortus, their carcases or parts thereof or their untreated products, or with laboratory specimens or vaccines of or containing brucella abortus, by reason of employment— (*a*) as a farm worker; (*b*) as a veterinary worker; (*c*) as a slaughterhouse worker; (*d*) as a laboratory worker; or (*e*) in any other work relating to the care, treatment, examination or handling of such animals, carcases or parts thereof, or products.
47. Poisoning by acrylamide monomer.	The use or handling of, or exposure to, acrylamide monomer.
48. Substantial permanent sensorineural hearing loss due to occupational noise amounting to at least 50dB in the better ear, being the average, after exclusion of hearing losses not due to occupational noise, of pure tone losses measured by audiometry over the 1, 2 and 3 kHz frequencies (occupational deafness).	(*a*) The use of pneumatic percussive tools or high-speed grinding tools in the cleaning, dressing or finishing of cast metal or of ingots, billets or blooms, or (*b*) the use of pneumatic percussive tools on metal in the shipbuilding or ship repairing industries, or (*c*) work wholly or mainly in the immediate vicinity of drop-forging plant or forging press plant engaged in the shaping of hot metal.

Regulations 2, 4, 51 and 53

PART II

OCCUPATIONS FOR WHICH PNEUMOCONIOSIS IS PRESCRIBED

1. Any occupation involving—

(*a*) the mining, quarrying or working of silica rock or the working of dried quartzose sand or any dry deposit or dry residue of silica or any dry admixture containing such materials (including any occupation in which any of the aforesaid operations are carried out incidentally to the mining or quarrying of other minerals or to the manufacture of articles containing crushed or ground silica rock);

(*b*) the handling of any of the materials specified in the foregoing sub-paragraph in or incidental to any of the operations mentioned therein, or substantial exposure to the dust arising from such operations.

2. Any occupation involving the breaking, crushing or grinding of flint or the working or handling of broken, crushed or ground flint or materials containing such flint, or substantial exposure to the dust arising from any of such operations.

3. Any occupation involving sand blasting by means of compressed air with the use of quartzose sand or crushed silica rock or flint, or substantial exposure to the dust arising from such sand blasting.

4. Any occupation involving work in a foundry or the performance of, or substantial exposure to the dust arising from, any of the following operations:—

(*a*) the freeing of steel castings from adherent siliceous substance;

(*b*) the freeing of metal castings from adherent siliceous substance—

(i) by blasting with an abrasive propelled by compressed air, by steam or by a wheel; or

(ii) by the use of power-driven tools.

5. Any occupation in or incidental to the manufacture of china or earthenware (including sanitary earthenware, electrical earthenware and earthenware tiles), and any occupation involving substantial exposure to the dust arising therefrom.

6. Any occupation involving the grinding of mineral graphite, or substantial exposure to the dust arising from such grinding.

7. Any occupation involving the dressing of granite or any igneous rock by masons or the crushing of such materials, or substantial exposure to the dust arising from such operations.

8. Any occupation involving the use, or preparation for use, of a grindstone, or substantial exposure to the dust arising therefrom.

9. Any occupation involving—

(*a*) the working or handling of asbestos or any admixture of asbestos;

(*b*) the manufacture or repair of asbestos textiles or other articles containing or composed of asbestos;

(*c*) the cleaning of any machinery or plant used in any of the foregoing operations and of any chambers, fixtures and appliances for the collection of asbestos dust;

(*d*) substantial exposure to the dust arising from any of the foregoing operations.

10. Any occupation involving—

(*a*) work underground in any mine in which one of the objects of the mining operations is the getting of any mineral;

(*b*) the working or handling above ground at any coal or tin mine of any minerals extracted therefrom, or any operation incidental thereto;

(*c*) the trimming of coal in any ship, barge, or lighter, or in any dock or harbour or at any wharf or quay;

(*d*) the sawing, splitting or dressing of slate, or any operation incidental thereto.

11. Any occupation in or incidental to the manufacture of carbon electrodes by an industrial undertaking for use in the electrolytic extraction of aluminium from aluminium oxide, and any occupation involving substantial exposure to the dust arising therefrom.

12. Any occupation involving boiler scaling or substantial exposure to the dust arising therefrom.

SCHEDULE 2

Regulations 6, 11 and 23(2)

MODIFICATIONS OF CHAPTER IV OF PART II, AND PART III OF THE SOCIAL SECURITY ACT 1975 IN THEIR APPLICATION TO BENEFIT AND CLAIMS AND QUESTIONS TO WHICH THESE REGULATIONS APPLY

1. In Chapter IV of Part II and in Part III references to accidents shall be construed as references to prescribed diseases and references to the relevant accident shall be construed as references to the relevant disease and references to the date of the relevant accident shall be construed as references to the date of development of the relevant disease.

2. Section 117(4) shall have effect as if for the words "an accident" there were substituted the words "a prescribed disease"; as if for the words "an injury resulted in whole or in part from the accident" there were substituted the words "a person suffered from a prescribed disease"; as if for the words "that accident" there were substituted the words "that disease"; and as if for the words "the injury did so result" there were substituted the words "the person did so suffer".

3. There shall be included in the questions to be determined under the Act any question:—

(*a*) whether a person is suffering or has suffered from a prescribed disease or injury;

(*b*) whether a prescribed disease or injury, suffered by a person who has previously been awarded benefit under the National Insurance (Industrial Injuries) Act 1946,**(a)** under the National Insurance (Industrial Injuries) Act 1965**(b)** or under the Act, or who is or has been in receipt of compensation under the Workmen's Compensation Acts 1925 to 1945 or under any contracting out scheme duly certified thereunder in respect of the same disease or injury, has been contracted or received afresh (if and in so far as regulations made under Chapter V of Part II or section 113(1) of the Act necessitate the determination of that question);

which shall, where the question arises in connection with a claim for or award of injury benefit or disablement benefit, be determined as provided by regulations, by an insurance officer in the light of medical advice or by a medical board or a medical appeal tribunal:

Provided that no appeal shall lie under the provisions of section 100 or 101 from a decision of an insurance officer on any such question.

(a) 1946 c. 62.

(b) 1965 c. 52.

SCHEDULE 3

Regulation 56

REGULATIONS REVOKED

Citation	Statutory Instrument	Extent of Revocation
The National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959	S.I. 1959/467 (1959 II, p. 1943)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1961	S.I. 1961/691 (1961 I, p. 1429)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1965	S.I. 1965/1264 (1965 II, p. 3596)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1965	S.I. 1965/1828 (1965 III, p. 5515)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1966	S.I. 1966/987 (1966 II, p. 2366)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1966	S.I. 1966/1248 (1966 III, p. 3376)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1967	S.I. 1967/1187 (1967 II, p. 3482)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1969	S.I. 1969/619 (1969 I, p. 1727)	The whole of the regulations
The Family Allowances, National Insurance, Industrial Injuries and Miscellaneous Provisions (Decimalisation of the Currency) Regulations 1970	S.I. 1970/46 (1970 I, p. 243)	Regulation 27
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1972	S.I. 1972/910 (1972 II, p. 2862)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1972	S.I. 1972/1258 (1972 II, p. 3768)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 3) Regulations 1972	S.I. 1972/1511 (1972 III, p. 4455)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1973	S.I. 1973/1950 (1973 III, p. 6769)	The whole of the regulations

SCHEDULE 3—*continued*

Citation	Statutory Instrument	Extent of Revocation
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1974	S.I. 1974/1414 (1974 II, p. 5518)	The whole of the regulations
The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1974	S.I. 1974/1415 (1974 II, p. 5524)	The whole of the regulations

EXPLANATORY NOTE

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

These Regulations are made for the purpose only of consolidating the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959 and subsequent amending Regulations which are revoked and accordingly, by virtue of section 141(2) of, and paragraph 12 of Part II of Schedule 16 to, the Social Security Act 1975, no reference of them has been made to the Industrial Injuries Advisory Council.

The Regulations prescribe, for the purposes of entitlement to industrial injuries benefit under the Social Security Act 1975, certain diseases and personal injuries (not caused by accident) by reference to the nature of the occupations of employed earners.

The Regulations also modify certain provisions of the Social Security Act 1975 and regulations made thereunder in their application to prescribed diseases and injuries.

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