1983 No. 19

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1983

Made . . . . . *16th February 1983*

Coming into operation . . . *21st March 1983*

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 76, 77, 78, 113, 115 and 146 of, and Schedules 12 and 13 to, the Social Security (Northern Ireland) Act 1975(a) and of all other powers enabling it in that behalf, and for the purpose only of consolidating regulations hereby revoked, 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 (Northern Ireland) 1983 and shall come into operation on 21st March 1983.

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

"the Act" means the Social Security (Northern Ireland) Act 1975;

"the Workmen's Compensation Acts" means the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943(b), or the enactments repealed by the Workmen's Compensation Act (Northern Ireland) 1927(c), or the enactments repealed by the Workmen's Compensation Act 1906(d);

"the Benefit Regulations" means the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976(e);

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(f);

"the Determination of Claims and Questions Regulations" means the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(g);

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

(a) 1975 c. 15
(b) 1927 c. 16 (N.I.); 1931 c. 16 (N.I.); 1940 c. 18 (N.I.); 1941 c. 16 (N.I.); 1943 c. 6 (N.I.); 1943 c. 13 (N.I.)
(c) 1927 c. 16 (N.I.)
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(e) S.R. 1976 No. 42; amended by S.R. 1976 No. 259; S.R. 1977 Nos. 51, 73, 74 and 258; S.R. 1978 No. 262; S.R. 1979 No. 371; S.R. 1980 Nos. 357 and 384; S.R. 1981 No. 345; S.R. 1982 No. 344
(f) S.R. 1977 No. 351; amended by S.R. 1978 No. 90; S.R. 1979 No. 259; S.R. 1980 Nos. 267, 385 and 452; S.R. 1981 No. 281; S.R. 1982 Nos. 153, 284, 302 and 318
(g) S.R. 1975 No. 100; amended by S.R. 1975 No. 202; S.R. 1976 No. 99; S.R. 1979 No. 354; S.R. 1980 Nos. 362 and 383; S.R. 1982 Nos. 29 and 59

"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 is 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;

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

"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;

"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;

"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 including a reference to any provision which it re-enacts or replaces, with or without modification.

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*) and to regulation 50(2) and (4) each disease or injury set out in the first column of Part I of Schedule 1 to these regulations 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 Schedule 1 to these regulations; and

(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—

(*aa*) 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;

(*bb*) 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*) subject to regulation 50(3) byssinosis is prescribed in relation to all persons who have been employed in employed earner's employment at any time on or after 5th July 1948 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 20 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 to these regulations, other than the diseases numbered 38, 41, 42 and 48 in that Schedule, 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.

(2) Where a person in relation to whom tuberculosis is prescribed in paragraph 38 of Part I of Schedule 1 to these regulations develops tuberculosis, 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 6 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 2 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 Schedule 1 to these regulations for a period or periods amounting in the aggregate to not less than 2 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 (hereinafter referred to as "the date of development") determined in accordance with the provisions of regulations 6 and 7.

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, so however that—

(*a*) subject to the provisions of section 117(4), as modified by Schedule 2 to these regulations, any date of development determined for the purposes 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—

(i) 3rd September 1979 in the case of a claim made before that date which results in the payment of benefit commencing on that date, and

(ii) in any other case, 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 paragraph (2), 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 14 of, and Schedules 1 and 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 3 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, occupational deafness or occupational asthma 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 sub-paragraph (*b*) of this 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 perscribed 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 29.

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 paragraph (1) 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, 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.

(4) 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.

PART IV

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

Definition of "relevant disease"

9. 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 Chapters IV and VI of Part II of the Act

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

Application of Claims and Payments Regulations and Benefit Regulations

11.—(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 or of regulation 38 or 47, 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.

Diseases contracted outside Northern Ireland

12. For section 50(5) (accidents happening outside Northern Ireland) there shall be substituted the provision that, subject to the provisions of sections 124 and 126, 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 Northern Ireland, 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 Northern Ireland.

Injury benefit

13. Save as provided in regulation 14, the injury benefit period shall begin with the date of development.

Disablement benefit not preceded by injury benefit

14. 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) there were substituted references to the date of development.

Assessment of extent of disablement

15. 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

16.—(1) Section 73 (the entitlement to death benefit of a woman having the care of a child or children in respect of whom the deceased was entitled to child benefit under Part II of the Child Benefit (Northern Ireland) Order 1975(a)) 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 paragraph (1), the relevant date means the date of development of the relevant disease, or the first day of the period of 26 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

17. 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, then for the purpose of determining his right to, or the rate of, an increase of that benefit under section 60 (increase of disablement pension for 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

18. Regulation 24 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.

(a) S.I. 1975/1504 (N.I. 16)

Provisions as to medical examination

19. Those provisions of section 89 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 26 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

20. 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, 44 and 53 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

21.—(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 paragraph (1), 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 to these regulations and to the following provisions of this Part of these regulations.

Application of Determination of Claims and Questions Regulations

22.—(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

23.—(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 regulation 24, if a diagnosis or recrudescence question arises in any case, the insurance officer shall forthwith refer that question for report to one or more medical practitioners who, in the case of pneumoconiosis, byssinosis or each of the diseases numbered 17, 36, 37(*b*), 40, 43, 44 and 53 in Part I of Schedule 1 to these regulations, shall have power, if he or they consider it to be necessary, to do any or all of the following, namely—

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

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

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

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

Power to dispense with reference for medical report

24.—(1) The insurance officer may determine a diagnosis or recrudescence question without referring it as provided in regulation 23(2) 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),

so however, 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 23(2) may be dispensed with on any of the grounds specified in paragraph (1), refer for the decision of a 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 in Part I of Schedule 1 to these regulations without having referred such a question for report as aforesaid.

(3) If the insurance officer is of 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 23(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 23, shall direct the insurance officer to refer it to a medical board in accordance with regulation 25.

Procedure on receipt of medical report

25.—(1) If a diagnosis or recrudescence question has been referred as provided in regulation 23(2), the insurance officer shall, subject to the provisions of paragraph (6), 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), 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), 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 27, 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

26.—(1) Where, under the provisions of regulation 24 or 25, 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 paragraph (1) shall do so by giving to the Department notice of appeal within 10 days after having been notified of the insurance officer's decision, so however that a notice of appeal given after the expiry of the said period of 10 days may be accepted if the Department is of opinion that there was good cause for the delay.

Appeal or reference to medical board

27.—(1) As soon as practicable after receiving notice of appeal given under the provisions of regulation 26, 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

28.—(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) If the Department notifies the insurance officer that it 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 diagnosis or recrudescence 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

29. 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 in 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 in this regulation at any time without the leave of a medical appeal tribunal.

Review of decision on diagnosis or recrudescence question

30.—(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, so however 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, so however 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 orginal reference to them, and regulation 28 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

31.—(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 28(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 2 members) a medical board to which there is referred any question to which this Part of these regulations applies may consist of 3 members and the decision of such a board, if not unanimous, shall be that of the majority of such members.

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

PART VI

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

Injury benefit not payable

32. Injury benefit shall not be payable in respect of pneumoconiosis, byssinosis, diffuse mesothelioma, occupational deafness or occupational asthma and the provisions of regulation 14 shall apply to every claim for disablement benefit in respect of any of those diseases.

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

33.—(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 20 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 10 per cent., at the weekly rate specified in Schedule 4 to the Benefit Regulations (rate of disablement pension payable in lieu of disablement gratuity) for a degree of disablement of less than 11 per cent. but not less than 6 per cent., and in any other case at the weekly rate so specified for a degree of disablement of less than 20 per cent. but not less than 16 per cent.

(2) 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

34. 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

35.—(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, on 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

36. Where a beneficiary in receipt of a disablement pension in respect of pneumoconiosis receives advice from a 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) (increase of disablement pension for 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

37.—(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 23(2), determine that an award cannot be made.

(2) The provisions of paragraph (1) shall apply to a local tribunal and a Commissioner as they apply to the insurance officer.

Occupational deafness — time limit for claiming benefit

38.—(1) Regulation 14 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 pursuance of a claim in respect of 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.

Occupational deafness — further claim

39.—(1) In the event of disallowance of a claim for disablement benefit in respect of occupational deafness because the claimant has failed to satisfy the minimum hearing loss requirement prescribed in the first column of paragraph 48 of Part I of Schedule 1 to these regulations, disablement benefit shall not be paid in pursuance of a further claim in respect of occupational deafness made by or on behalf of that claimant unless—

(*a*) it is a claim made after the expiration of 3 years from the date of the disallowed claim; or

(*b*) it is the first claim made within 12 months of the claimant permanently ceasing to be employed in any occupation specified in the second column of the said paragraph 48; or

(*c*) it is the first claim made by him or on his behalf on or after 3rd September 1979, and no claim so made before that date has been determined on or after it.

(2) A claim to be paid benefit by virtue of paragraph (1)(*c*) may be disallowed by the insurance officer, local tribunal or Commissioner, as the case may be (hereinafter referred to as "the determining authority"), without referring the disablement question to a medical board or medical appeal tribunal where the determining authority is satisfied from the medical evidence given on the disallowed claim that the claimant was not, at the time of that claim, suffering from occupational deafness as now defined in paragraph 48 of Part I of Schedule 1 to these regulations.

Occupational deafness — effect of presbyacusis on assessment

40.—(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 re-assessment 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.

Occupational deafness — period to be covered by assessment of disablement

41. 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 5 years.

Occupational deafness —review of assessment for unforeseen aggravation

42. The provisions of section 110(2) (review of assessment on the ground of unforeseen aggravation) shall not apply to an assessment of the extent of disablement in respect of occupational deafness until after the expiration of 5 years from the date of commencement of the period taken into account by that assessment.

43. Subject to the provisions of regulation 42 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 on the ground of unforeseen aggravation) without the 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.

Occupational deafness — no appeal against initial provisional assessment of disablement

44. 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.

Occupational deafness — lower and upper limits of assessment

45.—(1) 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 110dB measured in each case in accordance with the provisions of the first column of paragraph 48 of Part I of Schedule 1 to these regulations.

(2) In its application to the first assessment made in pursuance of a claim made before 3rd September 1979 by a person to whom disablement benefit by reason of occupational deafness is payable in respect of a period before 3rd September 1979, paragraph (1) shall have effect as if "90dB" were substituted for "110dB".

(3) In the case of a person to whom disablement benefit by reason of occupational deafness was payable in respect of a period before 3rd September 1979—

(*a*) if no assessment of his disability has been made (other than an assessment to which paragraph (2) applies), reviewed or varied since that date, the rate of any disablement benefit payable to him shall be the rate which would be payable if in paragraph (1) "90dB" were substituted for "110dB"; but

(*b*) if an assessment or assessments of his disability has or have been made (other than an assessment to which paragraph (2) applies), reviewed or varied since that date, the rate of any disablement benefit payable to him shall be either—

(i) the rate which was payable to him immediately before the first occasion on which such a making, review or variation of an assessment took place, or

(ii) the rate which would have been payable apart from the provisions of this paragraph,

whichever is the more favourable to him.

Occupational deafness — commencement date of period of assessment

46. 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.

Time for claiming benefit in respect of occupational asthma

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

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

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

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

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

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

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

Special power of medical boards in cases of pneumoconiosis, byssinosis and certain other diseases

48. Medical boards shall, when determining any question in respect of pneumoconiosis, byssinosis or each of the diseases numbered 17, 36, 37(*b*), 40, 43, 44 and 53 in Part I of Schedule 1 to these regulations, have power to make or cause to be made a radiological 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.

Finality of decisions

49.—(1) Where in respect of a claim for disablement benefit by reason of pneumoconiosis or byssinosis a medical board or, as the case may be, a medical appeal tribunal give a decision under the foregoing provisions of these regulations that the claimant is or, as the case may be, was suffering from one or other of those diseases—

(*a*) that board or, as the case may be, that tribunal may, on the evidence before them at the time of their decision, determine also the date from which the claimant has or, as the case may be, had suffered from that disease; and

(*b*) notwithstanding the provisions of section 117(1) (finality of decisions), in making that determination, the board or, as the case may be, the tribunal shall not be bound by any previous decision of an insurance officer or a medical board that the claimant was not suffering from that disease; and

(*c*) any such previous decision, in so far as inconsistent with the said determination, shall cease to have effect.

(2) In relation to a decision (hereinafter in this pararaph referred to as "the current decision") of a medical board on a diagnosis question in respect of pneumoconiosis or byssinosis raised by a claimant for disablement benefit by reason of either disease, regulation 28(1) (appeal to medical appeal tribunal) shall not apply if—

(*a*) the claimant has previously made an appeal, or an insurance officer has previously made a reference affecting the claimant under regulation 28(2), to a medical appeal tribunal in respect of a decision on a diagnosis question relating to pneumoconiosis or, as the case may be, byssinosis, unless by the date of the current decision at least 2 years have elapsed since the last occasion on which, having heard such an appeal or reference, the medical appeal tribunal rejected the appeal or, as the case may be, determined the question referred to them; or

(*b*) the current decision was given before 19th May 1982, unless at least once before the date on which the claim which gave rise to that decision was made—

(i) the claimant has claimed disablement benefit on account of pneumoconiosis or, as the case may be, byssinosis;

(ii) a medical board have, at least one year before the date of the current decision, given a decision (other than one given only on review under regulation 30) that no such disease was diagnosed; and

(iii) accordingly the claim was or, as the case may be, remained rejected.

PART VII

TRANSITIONAL PROVISIONS AND REVOCATIONS

Transitional provisions

50.—(1) The "relevant date", in relation to each disease set out in the first column of Schedule 3 to these regulations, is the date set against that disease in the second column of that Schedule, in relation to byssinosis is 13th April 1979, and in relation to infection by leptospira is 7th January 1980.

(2) A disease set out in the first column of Schedule 3 to these regulations is not prescribed in relation to any person if he was neither incapable of work nor suffering from a loss of faculty as a result of that disease on or after the relevant date.

(3) Byssinosis is not prescribed in relation to any person if neither of the following conditions is satisfied, namely—

(*a*) that he was suffering from a loss of faculty as a result of byssinosis on or after the relevant date;

(*b*) that he has been employed in employed earner's employment in any occupation mentioned in regulation 2(*c*) for a period or periods (whether before or after 5th July 1948) amounting in the aggregate to 5 years.

(4) Infection by leptospira is not prescribed in relation to any person if neither of the following conditions is satisfied, namely—

(*a*) that he was either incapable of work or suffering from a loss of faculty as a result of infection by leptospira on or after the relevant date;

(*b*) that he is or has been either incapable of work or suffering from a loss of faculty as a result of leptospira icterohaemorrhagiae in the case of a person employed in employed earner's employment in any occupation involving work in places which are, or are liable to be, infested by rats, or leptospira canicola in the case of a person so employed in any occupation involving work at dog kennels or the care or handling of dogs.

(5) Paragraph (6) applies to a person who—

(*a*) is or has been suffering from a disease set out in the first column of Schedule 3 to these regulations, or from byssinosis or from infection by leptospira;

(*b*) has been employed on or at any time after 5th July 1948 in employed earner's employment in any occupation set against that disease in the second column of Schedule 1 to these regulations, or, in the case of byssinosis, in any occupation referred to in regulation 2(*c*);

(*c*) was as a result of that disease either incapable of work or suffering from a loss of faculty on the relevant date;

(*d*) if he is or has been suffering from byssinosis, does not satisfy the condition set out in paragraph (3)(*b*); and

(*e*) if he is or has been suffering from infection by leptospira, does not satisfy the condition set out in paragraph (4)(*b*),

where the disease is or was due to the nature of the employment.

(6) The provisions of regulation 6 shall be applied subject to the modification that the relevant date shall be treated as the first day on which the person was incapable of work, or, as the case may be, as the day on which he first suffered from the relevant loss of faculty, and the date of development shall be determined accordingly.

Revocations

51. The regulations specified in Schedule 4 to these regulations are hereby revoked to the extent mentioned in the third column of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 16th February 1983.

(L.S.) *A. N. Burns*

Assistant Secretary

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 anticholinesterase action of organic phosphorous compounds.	The use or handling of, or exposure to the fumes, dust or vapour of, phosphorous or a compound of phosphorous, or a substance containing phosphorous.
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.

Description of disease or injury	*Nature of occupation*
Poisoning by:	Any occupation involving:
11. Tricresyl phosphate.	The use or handling of, or exposure to the fumes of, or vapour containing, tricresyl phosphate.
12. Triphenyl phosphate.	The use or handling of, or exposure to the fumes of, or vapour containing, triphenyl phosphate.
13. Diethylene dioxide (dioxan).	The use or handling of, or exposure to the fumes of, or vapour containing, diethylene 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. Infection by leptospira.	(*a*) Work in places which are, or are liable to be, infested by rats, field mice or voles; (*b*) work at dog kennels or the care or handling of dogs; (*c*) contact with bovine animals or their meat products or pigs or their meat products.
22. Ankylostomiasis.	Work in or about a mine.

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.
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.

Description of disease or injury	*Nature of occupation*
	Any occupation involving:
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.
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) of this paragraph 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) of this paragraph; (v) auramine or magenta;

Description of disease or injury	*Nature of occupation*
	Any occupation involving: (*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 electro-magnetic radiations other than radiant heat).
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 bronchopulmonary 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.

Description of disease or injury	*Nature of occupation*
	Any occupation involving:
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 amounting to at least 50dB in each ear, being due in the case of at least one ear to occupational noise, and being the average of pure tone losses measured by audiometry over the 1, 2 and 3 kHz frequencies (Occupational deafness).	(*a*) The use, or supervision of or assistance in the use, of pneumatic percussive tools, or the use of high-speed grinding tools, in the cleaning, dressing or finishing of cast metal or of ingots, billets or blooms; or (*b*) the use, or supervision of or assistance in the use, of pneumatic percussive tools on metal in the shipbuilding or ship repairing industries; or (*c*) the use, or supervision of or assistance in the use, of pneumatic percussive tools on metal, or for drilling rock in quarries or underground, or in coal-mining, for at least an average of one hour per working day; or (*d*) work wholly or mainly in the immediate vicinity of drop-forging plant (including plant for drop-stamping or drop-hammering) or forging press plant engaged in the shaping of hot metal; or (*e*) work wholly or mainly in rooms or sheds where there are machines engaged in weaving man-made or natural (including mineral) fibres, or in the bulking up of fibres in textile manufacture; or (*f*) the use of machines which cut, shape or clean metal nails; or (*g*) the use of plasma spray guns for the deposition of metal.
49. Viral hepatitis.	(*a*) Close and frequent contact with human blood or human blood products; or (*b*) close and frequent contact with a source of viral hepatitis infection by reason of employment in the medical treatment or nursing of a person or persons suffering from viral hepatitis, or in a service ancillary to such treatment or nursing.

Description of disease or injury	*Nature of occupation*
	Any occupation involving:
50. (*a*) Angiosarcoma of the liver; and (*b*) osteolysis of the terminal phalanges of the fingers.	Work in or about machinery or apparatus used for the polymerization of vinyl chloride monomer, a process which, for the purposes of this provision, comprises all operations up to and including the drying of the slurry produced by the polymerization and the packaging of the dried product; or work in a building or structure in which any part of the aforementioned process takes place.
51. Carcinoma of the nasal cavity or associated air sinuses (Nasal carcinoma).	(*a*) Attendance for work in a building used for the manufacture of footwear or components of footwear made wholly or partly of leather or fibre board; or (*b*) attendance for work at a place used wholly or mainly for the repair of footwear made wholly or partly of leather or fibre board.
52. Occupational vitiligo.	The use or handling of, or exposure to, para-tertiary-butylphenol, para-tertiary-butylcatechol, para-amylphenol, hydroquinone or the monobenzyl or monobutyl ether of hydroquinone.
53. Asthma which is due to exposure to any of the following agents: (*a*) isocyanates; (*b*) platinum salts; (*c*) fumes or dusts arising from the manufacture, transport or use of hardening agents (including epoxy resin curing agents) based on phthalic anhydride, tetrachlorophthalic anhydride, trimellitic anhydride or triethylenetetramine; (*d*) fumes arising from the use of rosin as a soldering flux; (*e*) proteolytic enzymes; (*f*) animals or insects used for the purposes of research or education or in laboratories; (*g*) dusts arising from the sowing, cultivation, harvesting, drying, handling, milling, transport or storage of barley, oats, rye, wheat or maize, or the handling, milling, transport or storage of meal or flour made therefrom (Occupational asthma).	Exposure to any of the agents set out in the first column of this paragraph.

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, 10 and 21(2)

Modifications of Chapters IV and VI of Part II, and Part III of the Act in their application to benefit and claims and questions to which these regulations apply

1. In Chapters IV and VI of Part II and in Part III of the Act 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 "an accident" there were substituted "a prescribed disease"; as if for "an injury resulted in whole or in part from the accident" there were substituted "a person suffered from a prescribed disease"; as if for "that accident" there were substituted "that disease"; and as if for "the injury did so result" there were substituted "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 (Northern Ireland) 1946(**a**), under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**b**) or under the Act, or who is or has been in receipt of compensation under the Workmen's Compensation Acts (Northern Ireland) 1927 to 1943 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, so however 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. 21 (N.I.)
(**b**) 1966 c. 9 (N.I.)

SCHEDULE 3 Regulation 50

Prescribed diseases (other than byssinosis and infection by leptospira) and relevant dates for the purposes of regulation 50

Description of disease or injury	*Relevant date*
51. Carcinoma of the nasal cavity or associated air sinuses (Nasal carcinoma).	8th August 1979
52. Occupational vitiligo.	15th December 1980
53. Occupational asthma.	29th March 1982

SCHEDULE 4 Regulation 51

Revocations

Citation	*Statutory Rule*	*Extent of Revocation*
The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1977	S.R. 1977 No. 272	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1979	S.R. 1979 No. 77	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 2) Regulations (Northern Ireland) 1979	S.R.1979 No. 78	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 3) Regulations (Northern Ireland) 1979	S.R.1979 No. 208	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 4) Regulations (Northern Ireland) 1979	S.R. 1979 No. 275	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 5) Regulations (Northern Ireland) 1979	S.R.1979 No.429	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1980	S.R.1980 No. 355	The whole of the regulations
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1982	S.R. 1982 No. 59	Regulations 1(2), 2 and 3
The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment No. 2) Regulations (Northern Ireland) 1982	S.R. 1982 No. 128	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 Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1977 and subsequent amending regulations which are accordingly revoked.

The regulations prescribe, for the purposes of entitlement to industrial injuries benefit under the Social Security (Northern Ireland) 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 (Northern Ireland) Act 1975 and regulations made thereunder in their application to prescribed diseases and injuries.

No amendments other than those of a drafting or consequential nature have been made.