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## STATUTORY INSTRUMENTS

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# 1985 No. 967

## The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985

### PART IV

#### APPLICATION OF CHAPTERS IV AND VI 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 onset 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**

**11.** The provisions of Chapters IV and VI of Part II of the Act which relate to industrial injuries benefit and sickness benefit made by virtue of section 50A of the Act 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 or of regulation 25 or 36, 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 onset of the relevant disease, and in regulation 17 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.

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## 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 [<sup>F1</sup>revised or superseded so as to terminate entitlement]) has at any time been made in respect of any attack of the disease suffered by him, or in respect of his death.

**F1** Words in reg. 13 substituted (4.7.1999) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), art. 4, [Sch. 8 para. 5](#)

## 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.

## [<sup>F2</sup>Modification of paragraph 11(1) of Schedule 7 to the Social Security Contributions and Benefits Act 1992

14A. The provisions of paragraph 11(1) of Schedule 7 to the Social Security Contributions and Benefits Act 1992 shall be modified by adding after the words “(the day on which section 3 of the Social Security Act 1990 came into force)” the words

“and a person shall not be entitled to reduced earnings allowance—

- (i) in relation to a disease prescribed on or after 10th October 1994 under section 108(2) above; or
- (ii) in relation to a disease prescribed before 10th October 1994 whose prescription is extended on or after that date under section 108(2) above but only in so far as the prescription has been so extended”]

**F2** Reg. 14A inserted (10.10.1994) by [The Social Security \(Industrial Injuries\) \(Prescribed Diseases\) Amendment Regulations 1994 \(S.I. 1994/2343\)](#), regs. 1, 3

## 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 11 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 onset, and as having been received or contracted after the relevant disease if it was received or contracted after that date.

### [<sup>F3</sup>Aggregation of Percentages of Disablement

**15A.**—(1) After the extent of an employed earner's disablement resulting from the relevant disease has been determined, the [<sup>F4</sup>Secretary of State] shall add to the percentage of that disablement the assessed percentage of any present disablement of his resulting from

- (a) any accident after 4th July 1948 arising out of and in the course of his employment, being employed earner's employment, or
- (b) any other relevant disease due to the nature of that employment and developed after 4th July 1948,

and in respect of which a disablement gratuity was not paid to him under the Act after a final assessment of disablement.

(2) In determining the extent of an employed earner's disablement for the purposes of section 57 of the Act there shall be added to the percentage of disablement resulting from any relevant accident the assessed percentage of any present disablement of his resulting from any disease or injury prescribed for the purposes of Chapter V of Part II of the Act, which was both due to the nature of the employment and developed after 4th July 1948, and in respect of which a disablement gratuity was not paid to him under the Act after a final assessment of his disablement.

(3) This regulation is subject to the provisions of regulation 15B(3).]

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| <b>F3</b> | Regs. 15A-15B inserted (1.10.1986) by <a href="#">The Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986 (S.I. 1986/1561)</a> , regs. 1(1), <b>3(2)</b>                                    |
| <b>F4</b> | Words in reg. 15A substituted (4.7.1999) by <a href="#">The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958)</a> , art. 4, <b>Sch. 8 para. 6</b> |

### [<sup>F3</sup>Rounding

**15B.**—(1) Subject to the provisions of this regulation, where the assessment of disablement is a percentage between 20 and 100 which is not a multiple of 10, it shall be treated—

- (a) if it is a multiple of 5, as being the next higher percentage which is a multiple of 10; and
- (b) if it is not a multiple of 5 as being the nearest percentage which is a multiple of 10,

and where it is 14 per cent. or more but less than 20 per cent. it shall be treated as 20 per cent.

(2) In a case to which regulation 15A (aggregation of percentages of disablement) applies, paragraph (1) shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.

(3) [<sup>F5</sup>Where an assessment or a reassessment] states the degree of disablement due to occupational deafness as less than 20 per cent. that percentage shall be disregarded for the purposes of regulation 15A and this regulation.]

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| <b>F3</b> | Regs. 15A-15B inserted (1.10.1986) by <a href="#">The Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986 (S.I. 1986/1561)</a> , regs. 1(1), <b>3(2)</b>  |
| <b>F5</b> | Words in reg. 15B(3) substituted (13.12.1990) by <a href="#">The Social Security (Industrial Injuries)(Prescribed Diseases) Amendment Regulations 1990 (S.I. 1990/2269)</a> , regs. 1, <b>2(3)</b> |

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### **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) 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 onset of the relevant disease, or the first day of the period of 26 weeks ending with the date of death, whichever is the later.

### **[<sup>F6</sup>Special provisions as to determination of regular occupation in relation to persons claiming reduced earnings allowance**

17. Where a person who has been assessed as at least one per cent. disabled 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 first day in respect of which he was so assessed, then for the purpose of determining his right to, or the rate of, reduced earnings allowance under Section 59A, any occupation he has so abandoned may be treated as his regular occupation for the purposes of that section.]

**F6** Reg. 17 substituted (1.10.1986) by [The Social Security \(Industrial Injuries and Diseases\) Miscellaneous Provisions Regulations 1986 \(S.I. 1986/1561\)](#), regs. 1(1), **6(2)**

### **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.

### **Provisions as to medical examination**

19. 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 26 of the Claims and Payments Regulations shall be construed accordingly.

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