
STATUTORY INSTRUMENTS

1979 No. 925 (N.I. 9)

NORTHERN IRELAND

**The Pneumoconiosis, etc., (Workers' Compensation)
(Northern Ireland) Order 1979**

Laid before Parliament in draft

Made

26th July 1979

Coming into operation on days to be appointed under Article 1

ARRANGEMENT OF ORDER

Article

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At the Court of Saint James, the 26th day of July 1979

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 16th day of July 1979, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her Majesty in that behalf, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Title and commencement

1. This Order may be cited as the Pneumoconiosis, etc., (Workers' Compensation) (Northern Ireland) Order 1979 and it shall come into operation on such day or days as the Head of the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“death benefit” means industrial death benefit under section 76 of the Social Security (Northern Ireland) Act 1975 (b);

“Department” means the Department of Manpower Services;

“disablement benefit” means disablement benefit under section 76 of the Social Security (Northern Ireland) Act 1975 or under any corresponding provision of the former Industrial Injuries Acts;

“former Industrial Injuries Acts” means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 (c) and the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (d);

“prescribed” means prescribed by regulations under this Order.

(3) Except where the context otherwise requires, any expression to which a meaning is assigned by the Social Security (Northern Ireland) Act 1975, or by any regulations made under that Act, has that meaning also for the purposes of this Order.

Payments to persons disabled by pneumoconiosis, etc.

3.—(1) A person who is disabled by any of the following diseases, that is to say,—

(a) pneumoconiosis,

(b) byssinosis, or

(c) diffuse mesothelioma,

may make a claim in accordance with paragraph (2) for a payment under paragraph (3) in respect of the disease.

(2) A claim under paragraph (1) shall be made in the prescribed manner—

(a) within the period of twelve months beginning on—

(i) the date on which disablement benefit first became payable in respect of the disease to the person so disabled, or

(ii) the date of the commencement of this Article, whichever is the later; or

(b) within such further period as the Department may allow.

(3) If, on such a claim, the Department is satisfied—

(a) that disablement benefit is payable in respect of the disease to the person so disabled;

(b) that every person who employed the person so disabled at any time during the period during which he was developing the disease and

(a) 1954 c. 33 (N.I.). (b) 1975 c. 15.
(c) 1946 c. 21 (N.I.). (d) 1966 c. 9 (N.I.).

against whom he might have or might have had a claim for damages in respect of the disablement, has ceased to carry on business; and

(c) that the person so disabled has not brought any action, or compromised any claim, for damages in respect of the disablement,

the Department shall pay the person so disabled the prescribed sum.

(4) For the purposes of this Article any action which has been dismissed otherwise than on the merits (as for example for want of prosecution or under any enactment relating to the limitation of actions) shall be disregarded.

Payments to dependants of persons disabled by pneumoconiosis, etc.

4.—(1) The dependant of a person who, immediately before he died, was disabled by any of the following diseases, that is to say,

(a) pneumoconiosis,

(b) byssinosis, or

(c) diffuse mesothelioma,

may make a claim in accordance with paragraph (2) for a payment under paragraph (3) in respect of the disease.

(2) A claim under paragraph (1) shall be made in the prescribed manner—

(a) within twelve months of—

(i) the date of the death of the deceased, or

(ii) the date of the commencement of this Article,
whichever is the later; or

(b) within such further period as the Department may allow.

(3) If, on such a claim, the Department is satisfied—

(a) that no payment under Article 3 in respect of the disease has been made to the deceased;

(b) that death benefit is payable to or in respect of the dependant by reason of the deceased's death as a result of the disease, or that disablement benefit was payable to the deceased in respect of the disease immediately before he died;

(c) that every person who employed the deceased at any time during the period during which he was developing the disease and against whom the deceased might have had a claim for damages in respect of the disablement, has ceased to carry on business; and

(d) that neither the deceased, his personal representatives, nor any relative of his, has brought any action, or compromised any claim, for damages in respect of the disablement or death,

the Department shall pay the dependant the prescribed sum.

(4) Where any payment under paragraph (3) falls to be made to two or more persons, the payment shall be made to one of them or divided between some or all of them as the Department thinks fit.

(5) For the purposes of this Article any action which has been dismissed otherwise than on the merits (as for example for want of prosecution or under any enactment relating to the limitation of actions) shall be disregarded.

Meaning of "dependant"

5.—(1) In Article 4 "dependant" means—

- (a) if the deceased left a spouse who was residing with him or who was receiving or was entitled to receive from him periodical payments for the maintenance of that spouse, that spouse;
- (b) if sub-paragraph (a) does not apply but the deceased left a child or children falling within paragraph (2), that child or those children;
- (c) if neither sub-paragraph (a) nor sub-paragraph (b) applies but the deceased left a reputed spouse who was residing with him, that reputed spouse;
- (d) if none of the preceding sub-paragraphs applies, any relative or relatives of the deceased who fall within paragraph (2) and who were, in the opinion of the Department, wholly or mainly dependent on the deceased at the date of his death.

(2) A person falls within this paragraph if, at the date of the deceased's death or at the date of the commencement of Article 4, whichever is the later, he was—

- (a) under the age of 16;
- (b) under the age of 21 and not gainfully employed full-time; or
- (c) permanently incapable of self-support.

(3) In this Article—

"adopted" means adopted in pursuance of an adoption order made in any part of the United Kingdom, the Isle of Man or any of the Channel Islands or, subject to sections 5 and 6 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 (a), a foreign adoption as defined by section 4 (3) of that Act;

"child" includes posthumous child;

"relative" means brother, sister, lineal ancestor or lineal descendant;

and for the purposes of this Article a relationship shall be established as if any adopted, illegitimate or step child of a person had been a child born to him in wedlock.

Reconsideration of determinations

6.—(1) Subject to paragraph (2), the Department may reconsider a determination that a payment should not be made under Article 3 or Article 4 on the ground—

- (a) that there has been a material change of circumstances since the determination was made; or
- (b) that the determination was made in ignorance of, or was based on a mistake as to, some material fact;

and the Department may, on the ground set out in sub-paragraph (b), reconsider a determination that such a payment should be made.

(2) Regulations shall prescribe the manner in which and the period within which—

- (a) an application may be made to the Department for reconsideration of a determination; and
- (b) the Department may of its own motion institute such a reconsideration.

(3) If—

(a) whether fraudulently or otherwise, any person misrepresents or fails to disclose any material fact; and

(b) in consequence of the misrepresentation or failure a payment is made under Article 3 or Article 4,

the person to whom the payment was made shall be liable to repay the amount of that payment to the Department unless he can show that the misrepresentation or failure occurred without his connivance or consent.

(4) Except as provided by paragraph (3), no payment under Article 3 or Article 4 shall be recoverable by virtue of a reconsideration of a determination under paragraph (1).

Power of inquiry

7. The Department may, if it thinks fit, before determining any claim under Article 3 or Article 4 or before reconsidering such a determination under Article 6, appoint a person to hold an inquiry into any question arising on the claim, or any matters arising in connection with the claim, and to report on the question, or on those matters, to the Department.

Appeal on question of law

8. Section 94 of the Social Security (Northern Ireland) Act 1975 (appeal on question of law to Court of Appeal) shall apply in relation to any question of law arising in connection with—

(a) the determination by the Department of any claim under Article 3 or Article 4, or

(b) the reconsideration of a determination under Article 6,

as it applies in relation to any question of law arising in connection with the determination by the Department of Health and Social Services of any question within section 93 (1) of that Act: and “Department” in section 94 as applied by this Article shall have the same meaning as in this Order.

Payment for the benefit of minors, etc.

9. Where a payment under Article 3 or Article 4 falls to be made to a person who is under the age of 18 or incapable of managing his own affairs, then, subject to Article 4 (4), the payment shall be made for his benefit by paying it to such trustees as the Department may appoint to be held by them upon such trusts as may be declared by the Department.

Fraudulent statements, etc.

10. Without prejudice to section 5 of the Perjury Act (Northern Ireland) 1946 (a), any person who, for the purpose of obtaining a payment under Article 3 or Article 4 whether for himself or some other person,—

(a) knowingly makes any false statement or representation; or

(b) produces or furnishes or causes or knowingly allows to be produced or furnished any document or information which he knows to be false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(a) 1946 c. 13 (N.I.).

Regulations

11.—(1) The Department may make regulations prescribing anything which, under this Order, is required or authorised to be prescribed.

(2) Regulations prescribing the sum payable under Article 3 or Article 4, shall be subject to affirmative resolution.

(3) Regulations prescribing any other thing which, under any provision of this Order, is required or authorised to be prescribed, shall be subject to negative resolution.

(4) Regulations under this Order may include such incidental, supplementary or transitional provision as the Department thinks fit.

N. E. Leigh,

Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for the payment of lump sums to or in respect of certain persons who are, or were immediately before they died, disabled by pneumoconiosis, byssinosis or diffuse mesothelioma, if a claim is made in accordance with the Order and the Department of Manpower Services is satisfied as to certain conditions specified in the Order.