

1974. No. 222

[C]

NATIONAL INSURANCE (INDUSTRIAL INJURIES)**Prescribed Diseases**

REGULATIONS, DATED 30TH AUGUST 1974, MADE BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES UNDER THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACTS (NORTHERN IRELAND) 1966 TO 1972.

The Department of Health and Social Services, in exercise of powers conferred by section 54 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(a) and section 55 of that Act, as modified by section 8 of the National Insurance (No. 2) Act (Northern Ireland) 1966(b) and section 5 of the National Insurance Act 1972(c), and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations (Northern Ireland) 1974, shall be read as one with the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1960(d) (hereinafter referred to as "the principal regulations") and shall come into operation on 27th November 1974.

Amendment of regulation 1 of the principal regulations

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of the term "the Act of 1966" there shall be inserted the following definition:

" "diffuse mesothelioma" means the disease numbered 44 in Part I of the First Schedule;".

Amendments relating to byssinosis

3.—(1) In regulation 2(c) of the principal regulations (insured persons in relation to whom byssinosis is prescribed) there shall be made the following amendments:

- (a) for the words "ten years" there shall be substituted the words "5 years";
- (b) for the words "the carding process" there shall be substituted the words "the winding or beaming process".

(2) Regulation 33(2) of the principal regulations is hereby revoked.

Transitional provisions relating to byssinosis

4.—(1) Where a person, who has been employed on or at any time after 5th July 1948 in insurable employment

- (a) in any of the occupations included in regulation 2(c) of the principal regulations by virtue of the amendment made by regulation 3(1)(b),

(a) 1966. c. 9 (N.I.).
(b) 1966. c. 16 (N.I.).

(c) 1972. c. 57.
(d) S.R. & O. (N.I.) 1960, No. 209.

(b) in relation to whom byssinosis is prescribed by virtue of the extension of the said regulation 2(c) by the amendment made by regulation 3(1)(a), or

(c) in relation to whom disablement benefit in respect of byssinosis becomes payable by virtue of the amendment made by regulation 3(2), is suffering from a loss of faculty as the result of byssinosis (hereinafter in this regulation referred to as "the disease") on the date on which these regulations come into operation, and the disease is due to the nature of that employment, the provisions of regulation 6 of the principal regulations (date of development) shall be applied subject to the modification that the date on which these regulations come into operation shall be treated as the day on which he first suffered from the relevant loss of faculty, and the date of development shall be determined accordingly.

(2) Where a person to whom paragraph (1) applies is awarded disablement benefit in respect of the disease and claims an increase of that benefit under section 14 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (increase of disablement pension in cases of special hardship), then, if at any time after having been employed as aforesaid, but before the date on which these regulations come into operation, that person has abandoned any occupation as a result of the disease, the fact that he has abandoned that occupation shall be disregarded in determining his regular occupation for the purposes of the said section 14.

Amendments relating to claims in respect of diffuse mesothelioma

5.—(1) Regulation 27(3) of the principal regulations (appeal or reference to medical board) is hereby revoked.

(2) In regulation 28(1) of the principal regulations (appeal or reference to medical appeal tribunal) there shall be inserted at the beginning the words "Subject to the provisions of regulation 37A," and the words "in a case of any disease or injury set out in the first column of Part I of the First Schedule" shall be omitted.

(3) In regulation 28(2) of the principal regulations (reference to medical appeal tribunal) there shall be inserted at the beginning the words "Subject as aforesaid," and the words "in the case of any such disease or injury" shall be omitted.

(4) In regulation 32 of the principal regulations (injury benefit not payable in respect of certain diseases) for the words "pneumoconiosis, byssinosis or occupational deafness" there shall be substituted the words "pneumoconiosis, byssinosis, occupational deafness or diffuse mesothelioma".

(5) Notwithstanding the amendment made by paragraph (4), where injury benefit in respect of diffuse mesothelioma is awarded to a claimant for a period commencing before the date on which these regulations come into operation, injury benefit shall continue to be available to him during any part of the relevant injury benefit period which falls after the said date and the provisions of regulation 14 of the principal regulations (disablement benefit not preceded by injury benefit) shall not apply to that case.

(6) In regulation 33(1) of the principal regulations (payment of pension instead of gratuity in certain cases for disablement of less than twenty per cent.) for the words "pneumoconiosis or byssinosis" there shall be substituted the words "pneumoconiosis, byssinosis or diffuse mesothelioma".

(7) After regulation 37 of the principal regulations there shall be inserted the following regulation:

“Finality of decisions

37A. The decision of a medical board on any diagnosis question in respect of pneumoconiosis, byssinosis or diffuse mesothelioma shall be final and accordingly regulation 28, and regulation 30, in so far as it relates to the powers of a medical appeal tribunal, shall not apply to a decision of a medical board on any such question.”

(8) The amendment made by paragraph (7) in so far as it relates to diffuse mesothelioma shall not have effect:

- (a) in relation to any appeal or reference to a medical appeal tribunal brought or in respect of which notification is given, as the case may be, before the date on which these regulations come into operation, and,
- (b) in relation to any appeal or reference to a medical appeal tribunal in respect of a decision given before the date on which these regulations come into operation, during the period in which an appeal may be brought or a notification given in respect of such decision, as the case may be,

and accordingly regulation 28 of the principal regulations (appeal or reference to medical appeal tribunal) shall apply to such appeal or reference made in respect of diffuse mesothelioma.

Amendments extending special provisions relating to determination of medical questions in certain diseases

6.—(1) In regulation 20 of the principal regulations (application of procedure for determination of claims and questions) for the words “diseases numbered 43 and 44” there shall be substituted the words “diseases numbered 17, 36, 37(b), 40, 43 and 44”.

(2) In regulation 23(2) of the principal regulations (reference of diagnosis and recrudescence questions for report) for the words “diseases numbered 43 and 44” there shall be substituted the words “diseases numbered 17, 36, 37(b), 40, 43 and 44”.

(3) In regulation 24(1A) of the principal regulations (power to dispense with reference for report) after the words “farmer’s lung” there shall be inserted the words “or each of the diseases numbered 17, 36, 37(b) and 40”.

(4) For regulation 37 of the principal regulations (special power of medical board) there shall be substituted the following regulation:

“37. Medical boards shall, when determining any question in respect of pneumoconiosis, byssinosis or each of the diseases numbered 17, 36, 37(b), 40, 43 and 44 in Part I of the First Schedule, have power to make or cause to be made a radiographic examination of the lungs of the claimant, and to obtain the report of a radiologist on the case, and to make or cause to be made serological, lung function and such other tests as they consider necessary and to obtain reports upon the results of such tests.”

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland this 30th day of August 1974.

(L.S.)

C. G. Oakes,

Assistant Secretary.

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations amend the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1960.

They reduce from 10 years to 5 years the minimum period of employment in an occupation prescribed in relation to byssinosis and extend the occupations in relation to which byssinosis is prescribed to include those followed in any room where the process of spinning, winding or beaming is performed in factories where the working of cotton or flax is carried on. They also remove the condition for entitlement to benefit that the loss of faculty resulting from byssinosis shall be permanent, and thus extend cover for benefit to people suffering from an earlier stage of the disease. The regulations also contain transitional provisions relating to persons covered by the amendments who are already suffering from the disease on the date when the regulations come into operation.

They provide for the inclusion of the prescribed disease of diffuse mesothelioma with those of pneumoconiosis and byssinosis for the purpose of certain provisions attaching to such diseases.

They also contain new provisions for dealing with medical questions relating to the four rare diseases which mainly affect the lungs and which are prescribed by paragraphs 17 (poisoning by nitrous fumes), 36 (poisoning by beryllium), 37(b) (nickel cancer) and 40 (poisoning by cadmium) of Part I of the First Schedule to the 1960 regulations.