



Social Security Act 1975

1975 CHAPTER 14

PART II

BENEFIT AND ITS ADMINISTRATION

CHAPTER V

INDUSTRIAL DISEASES, AND INJURIES NOT WITHIN CHAPTER IV

76 Benefit in respect of industrial disease, etc.

- (1) Subject to and in accordance with this section and sections 77 and 78 below, there shall be payable, in respect of a person who has been in employed earner's employment for the purposes of Chapter IV above, such benefits as are there provided in respect of any prescribed disease or personal injury (but not an injury caused by accident arising out of and in the course of his employment), being a disease or injury due to the nature of that employment and developed after 4th July 1948.
- (2) A disease or injury may be prescribed in relation to any employed earners if the Secretary of State is satisfied that—
 - (a) it ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common to all persons; and
 - (b) it is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.
- (3) Regulations prescribing any disease or injury for those purposes may provide that a person who developed the disease or injury on or at any time after a date specified in the regulations (being a date before the regulations came into force but not before 5th July 1948) shall be treated, subject to any prescribed modifications of this Chapter, as if the regulations had been in force when he developed the disease or injury.
- (4) Provision may be made by regulations for determining—

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- (a) the time at which a person is to be treated as having developed any prescribed disease or injury; and
 - (b) the circumstances in which such a disease or injury is, where the person in question has previously suffered from it, to be treated as having recrudesced or as having been contracted or received afresh.
- (5) Nothing in this Chapter affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of Chapter IV, except that a person shall not be entitled to benefit in respect of a disease as being an injury by accident arising out of and in the course of any employment if at the time of the accident the disease is in relation to him a prescribed disease by virtue of the occupation in which he is engaged in that employment.

77 **General provisions as to benefit under s.76**

- (1) Subject to the power to make different provision by regulations, and to the following provisions of this Chapter, the benefit payable under section 76 above in respect of a prescribed disease or injury, and the conditions for receipt of benefit, shall be the same as in the case of personal injury by accident arising out of and in the course of employment.
- (2) In relation to prescribed diseases and injuries, regulations may provide—
- (a) for modifying provisions of this Act relating to injury benefit and disablement benefit, and the administration of such benefit; and
 - (b) for adapting references in this Act to accidents.
- (3) Without prejudice to the generality of subsection (2) above, regulations thereunder may in particular include provision—
- (a) for presuming any prescribed disease or injury—
 - (i) to be due, unless the contrary is proved, to the nature of a person's employment where he was employed in any prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury,
 - (ii) not to be due to the nature of a person's employment unless he was employed in some prescribed occupation at the time when, or within a prescribed period or for a prescribed length of time (whether continuous or not) before, he developed the disease or injury;
 - (b) for such matters as appear to the Secretary of State to be incidental to or consequential on provisions included in the regulations by virtue of subsection (2) and paragraph (a) above.

78 **Respiratory diseases**

- (1) As respects pneumoconiosis, regulations may further provide that, where a person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of this Chapter as if they were effects of the pneumoconiosis.
- (2) Subsection (1) above shall have effect as if after "tuberculosis " (in both places) there were inserted " emphysema or chronic bronchitis " , but only in relation to a person the extent of whose disablement resulting from pneumoconiosis, or from pneumoconiosis

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accompanied by tuberculosis, would (if his physical condition were otherwise normal) be assessed at not less than 50 per cent.

- (3) A person found to be suffering from pneumoconiosis shall be treated for the purposes of this Act as suffering from a loss of faculty such that the assessed extent of the resulting disablement amounts to not less than 1 per cent.
- (4) In respect of byssinosis, a person shall not (unless regulations otherwise provide)—
 - (a) be entitled to injury benefit; or
 - (b) be entitled to disablement benefit unless he is found to be suffering, as the result of byssinosis, from loss of faculty which is likely to be permanent.