



Pneumoconiosis etc. (Workers' Compensation) Act 1979

1979 CHAPTER 41

2 Conditions of entitlement. **E+W+S**

- (1) In the case of a person who is disabled by a disease to which this Act applies, the conditions of entitlement are—
- (a) that disablement benefit is payable to him in respect of the disease [^{F1}or, subject to subsection (3A) below, would be payable to him in respect of it but for his disablement amounting to less than the appropriate percentage];
 - (b) that every relevant employer of his has ceased to carry on business;
 - [^{F2}(ba) that no application has been made for a payment under the Diffuse Mesothelioma Payment Scheme in respect of the disease (for the scheme, see the Mesothelioma Act 2014);] and
 - (c) that he has not brought any action, or compromised any claim, for damages in respect of the disablement.
- (2) In the case of the dependant of a person who, immediately before he died, was disabled by a disease to which this Act applies, the conditions of entitlement are—
- (a) that no payment under this Act has been made to the deceased in respect of the disease;
 - (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 [^{F3}or, subject to subsection (3A) below, would have been so payable to him—
 - (i) but for his disablement amounting to less than the appropriate percentage; or
 - (ii) but for his not having claimed the benefit; or
 - (iii) but for his having died before he had suffered from the disease for the appropriate period];
 - (c) that every relevant employer of the deceased has ceased to carry on business;

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- [^{F4}(ca) that no application has been made by the deceased, or any dependant, for a payment under the Diffuse Mesothelioma Payment Scheme in respect of the disease (for the scheme, see the Mesothelioma Act 2014);] and
- (d) that neither the deceased nor 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.

(3) In this section—

[^{F5} “the appropriate percentage” means, in the case of any disease, the percentage specified in subsection (1) of section 57 of the Social Security Act ^{M1} 1975 or, if regulations have been made under section 77 of that Act specifying a different percentage in relation to that disease, the percentage specified in the regulations;

“ the appropriate period ” means, in the case of any disease, the period specified in subsection (4) of the said section 57 or, if regulations have been made under the said section 77 specifying a different period in relation to that disease, the period specified in the regulations;]

“death benefit” means [^{F6}industrial death benefit under [^{F7}section 108 of the Social Security Contributions and Benefits Act 1992], or] death benefit under a scheme made, or having effect as if made, under [^{F7}paragraph 4 of Schedule 8 to the Social Security Contributions and Benefits Act 1992];

“disablement benefit” means disablement benefit under section 76 of the Social Security Act 1975 [^{F8}or section 108 of the Social Security Contributions and Benefits Act 1992] or under any corresponding provision of the former Industrial Injuries Acts, or an allowance under a scheme made, or having effect as if made, under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 [^{F8}or paragraph 4 of Schedule 8 to the Social Security Contributions and Benefits Act 1992] or under any corresponding provision of the former Old Cases Acts;

“the former Industrial Injuries Acts” means the ^{M2}National Insurance (Industrial Injuries) Act 1946 and the ^{M3}National Insurance (Industrial Injuries) Act 1965;

“the former Old Cases Acts” means the ^{M4}Pneumoconiosis and Byssinosis Benefit Act 1951 and the ^{M5}Industrial Injuries and Diseases (Old Cases) Act 1967;

[^{F9}“relevant employer” has the meaning given in the Schedule to this Act.]

[^{F10}(3A) No amount is payable under this Act in respect of disablement amounting to less than 1 per cent.]

- (4) For the purposes of this section 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.

Textual Amendments

F1 Words added by Social Security Act 1986 (c. 50, SIF 113:1), s. 39, **Sch. 3 para. 17(2)**

F2 S. 2(1)(ba) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), **Sch. 2 para. 1(a)**; S.I. 2014/459, art. 3(d)

F3 Words and sub-paragraphs (i)–(iii) added by Social Security Act 1986 (c. 50, SIF 113:1), s. 39, **Sch. 3 para. 17(3)**

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- F4** S. 2(2)(ca) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), **Sch. 2 para. 1(b)**; S.I. 2014/459, art. 3(d)
- F5** Definitions inserted by Social Security Act 1986 (c. 50, SIF 113:1), s. 39, **Sch. 3 para. 17(4)**
- F6** Words repealed (*prosp.*) by Social Security Act 1986 (c. 50, SIF 113:1), ss. 86(2), 88(1), **Sch. 11**
- F7** Words in s. 2(3) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2, para. 55(1)(a)(b)**
- F8** Words in s. 2(3) inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2, para. 55(2)(a)(b)**
- F9** Words in s. 2(3) substituted (12.7.2007 for specified purposes, 10.8.2007 in so far as not already in force) by Welfare Reform Act 2007 (c. 5), **ss. 58(2), 70(2)**; S.I. 2007/1991, art. 2(1)(2)
- F10** S. 2(3A) inserted by Social Security Act 1986 (c. 50, SIF 113:1), s. 39, **Sch. 3 para. 17(5)**

Marginal Citations

- M1** 1975 c. 14.
M2 1946 c. 62.
M3 1965 c. 52.
M4 1951 c. 4.
M5 1967 c. 34.

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Changes and effects yet to be applied to :

- s. 2(2)(b) words repealed by [2012 c. 5 Sch. 14 Pt. 7](#)
- s. 2(3) words repealed by [2012 c. 5 Sch. 14 Pt. 7](#)