



# Social Security Contributions and Benefits Act 1992

## 1992 CHAPTER 4

### PART V

#### BENEFIT FOR INDUSTRIAL INJURIES

*Prescribed industrial diseases etc.*

#### **108 Benefit in respect of prescribed industrial diseases, etc.**

- (1) Industrial injuries benefits shall, in respect of a person who has been in employed earner's employment, be payable in accordance with this section and sections 109 and 110 below in respect of—
  - (a) any prescribed disease, or
  - (b) any prescribed personal injury (other than an injury caused by accident arising out of and in the course of his employment),which is a disease or injury due to the nature of that employment <sup>F1</sup>....
- (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 <sup>F2</sup>...) shall be treated, subject to any prescribed modifications of this section or section 109 or 110 below, as if the regulations had been in force when he developed the disease or injury.

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- (4) Provision may be made by regulations for determining—
- (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) Notwithstanding any other provision of this Act, the power conferred by subsection (4) (a) above includes power to provide that the time at which a person shall be treated as having developed a prescribed disease or injury shall be the date on which he first makes a claim which results in the payment of benefit by virtue of this section or section 110 below in respect of that disease or injury.
- (6) Nothing in this section or in section 109 or 110 below affects the right of any person to benefit in respect of a disease which is a personal injury by accident within the meaning of this Part of this Act, 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.

#### Textual Amendments

- F1** Words in s. 108(1) repealed (30.10.2012 for specified purposes, 5.12.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 64\(1\)\(c\), 150\(3\)](#); [S.I. 2012/2530](#), [art. 2\(5\)\(a\)\(6\)\(a\)](#)
- F2** Words in s. 108(3) repealed (30.10.2012 for specified purposes, 5.12.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 64\(1\)\(d\), 150\(3\)](#); [S.I. 2012/2530](#), [art. 2\(5\)\(a\)\(6\)\(a\)](#)

### 109 General provisions relating to benefit under section 108.

- (1) Subject to the power to make different provision by regulations, and to the following provisions of this section and section 110 below—
- (a) the benefit payable under section 108 above in respect of a prescribed disease or injury, and
  - (b) 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 any provisions contained in this Act<sup>F3</sup>, the Administration Act or Chapter II of Part I of the Social Security Act 1998] which relate to disablement benefit or reduced earnings allowance or their administration; and
  - (b) for adapting references in this Act<sup>F4</sup>, that Act and that Chapter] to accidents, and for the purposes of this subsection the provisions of [<sup>F5</sup>that Act and that Chapter] which relate to the administration of disablement benefit or reduced earnings allowance shall be taken to include section 1 [<sup>F6</sup>of that Act] and any provision which relates to the administration of both the benefit in question and other benefits.
- (3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may in particular include provision—
- (a) for presuming any prescribed disease or injury—

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- (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.
- (4) Regulations under subsection (2) above may also provide—
- (a) that, in the determination of the extent of an employed earner's disablement resulting from a prescribed disease or injury, the appropriate percentage may be added to the percentage of that disablement; and
  - (b) that, in the determination of the extent of an employed earner's disablement for the purposes of section 103 above, the appropriate percentage may be added to the percentage of disablement resulting from the relevant accident.
- (5) In subsection (4)(a) above “the appropriate percentage” means the assessed percentage of any present disablement of the earner which resulted—
- (a) from any accident <sup>F7</sup>... arising out of and in the course of his employment, being employed earner's employment, or
  - (b) from any other prescribed disease or injury due to the nature of that employment <sup>F8</sup> ... ,
- and in respect of which a disablement gratuity was not paid to him after a final assessment of his disablement.
- (6) In subsection (4)(b) above “the appropriate percentage” means the assessed percentage of any present disablement of the earner—
- (a) which resulted from any prescribed disease or injury due to the nature of his employment <sup>F9</sup> ... , and
  - (b) in respect of which a disablement gratuity was not paid to him after a final assessment of his disablement.
- (7) Where regulations under subsection (2) above—
- (a) make provision such as is mentioned in subsection (4) above, and
  - (b) also make provision corresponding to that in section 103(3) above,
- they may also make provision to the effect that those corresponding provisions shall have effect in relation to the aggregate percentage and not in relation to any percentage forming part of the aggregate.

#### Textual Amendments

- F3** Words in s. 109(2)(a) substituted (5.7.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 65\(a\)](#); S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3-5)
- F4** Words in s. 109(2)(b) substituted (5.7.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 65\(b\)](#); S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3-5)
- F5** Words in s. 109(2) substituted (5.7.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 65\(c\)](#); S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3-5)

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- F6** Words in s. 109(2) inserted (5.7.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 65\(d\)](#); S.I. 1999/1958, art. 2(1)(b), Sch. 1 (with arts. 3-5)
- F7** Words in s. 109(5)(a) repealed (30.10.2012 for specified purposes, 5.12.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\), ss. 64\(1\)\(e\), 150\(3\)](#); S.I. 2012/2530, art. 2(5)(a)(6)(a)
- F8** Words in s. 109(5)(b) repealed (30.10.2012 for specified purposes, 5.12.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\), ss. 64\(1\)\(f\), 150\(3\)](#); S.I. 2012/2530, art. 2(5)(a)(6)(a)
- F9** Words in s. 109(6)(a) repealed (30.10.2012 for specified purposes, 5.12.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\), ss. 64\(1\)\(f\), 150\(3\)](#); S.I. 2012/2530, art. 2(5)(a)(6)(a)

## 110 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 section and sections 108 and 109 above 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 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) 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.

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