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## STATUTORY INSTRUMENTS

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# 1983 No. 136

## The Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983

### PART I

#### GENERAL

#### **Citation, commencement and interpretation**

1.—(1) This scheme may be cited as the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983, and shall come into operation on 16th March 1983.

(2) In this scheme, unless the context otherwise requires—

“the Act” means the Industrial Injuries and Diseases (Old Cases) Act 1975;

[<sup>F1</sup>“the 1998 Act” means the Social Security Act 1998;]

“the Social Security Act” means the Social Security Act 1975;

“the Industrial Diseases (Benefit) Acts” means the Pneumoconiosis and Byssinosis Benefit Act 1951 and the Industrial Diseases (Benefit) Act 1954;

“the Workmen's Compensation Acts” means the Workmen's Compensation Acts 1925 to 1945, and any enactments repealed by the Workmen's Compensation Act 1925;

“the Administrative Board” has the meaning assigned to it by article 11 of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 immediately before the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit (Amendment) (No.2) Scheme 1977 came into operation;

“allowance” means an allowance payable by virtue of Part II of this scheme and includes any increase thereof;

[<sup>F1</sup>“the appropriate determining authority” means the Secretary of State or, as the case may be, [<sup>F2</sup>the First-tier Tribunal or the Upper Tribunal;]]

[<sup>F3</sup>“asbestosis” means fibrosis of the parenchyma of the lungs due to the inhalation of asbestos dust;]

“beneficiary” means a person entitled to an allowance under this scheme;

“child benefit” means benefit under Part I of the Child Benefit Act 1975;

[<sup>F1</sup>“claimant” means a person claiming an allowance or death benefit under this scheme and includes, in relation to the revision or supersession of a decision, a person affected by that decision;]

“corresponding disablement pension rate” means the weekly rate for the time being of a pension payable under section 57(6) of the Social Security Act in respect of an assessment of 100 per cent;

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“death benefit” means the benefit payable under this scheme in respect of the death of any person;

[<sup>F4</sup>“foundry” means those parts of industrial premises where the production of metal articles (other than pig iron or steel ingots) is carried on by casting (not being diecasting or other casting in metal moulds), together with any part of the same premises where any of the following processes are carried on incidentally to such production, namely the drying and subsequent preparation of moulds and cores, knock-out operations and dressing or fettling operations;]

[<sup>F1</sup>“medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;]

“medical board” means the medical board appointed under paragraph 3 of the Silicosis and Asbestosis (Medical Arrangements) Scheme 1931;

“a specially qualified medical practitioner” means a member of a medical board;

“pneumoconiosis” means fibrosis of the lungs due to silica dust, asbestos dust or other dust and includes the condition of the lungs known as dust reticulation; and in the case of a person who suffers or has suffered from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis may be treated as if they were the effects of the pneumoconiosis and in the case of a person who suffers or has suffered from pneumoconiosis or pneumoconiosis accompanied by tuberculosis, to an extent which would, if his physical condition were otherwise normal, be of a gravity comparable to an assessment of not less than 50 per cent under the Social Security Act, the effects of any accompanying emphysema or chronic bronchitis may be treated as if they were the effects of the pneumoconiosis;

“relevant injury or disease” in relation to any person means an injury or disease in respect of which he is or has at any time after 4th July 1956 been entitled to weekly payments by way of workmen's compensation or of an allowance payable by virtue of any scheme made under the Act, the Industrial Diseases (Benefit) Acts or the Workmen's Compensation (Supplementation) Act 1951, including this scheme;

“workmen's compensation” means compensation under the Workmen's Compensation Acts 1925 to 1945, the enactments repealed by the Workmen's Compensation Act 1925 and the enactments repealed by the Workmen's Compensation Act 1906 or under any contracting out scheme duly certified under any of those Acts or any payments under the Workmen's Compensation (War Addition) Acts 1917 and 1919 or under the Workmen's Compensation (Supplementary Allowances) Act 1940 as amended by the Workmen's Compensation (Temporary Increases) Act 1943

(3) For the purposes of this scheme—

- (a) a claim for an allowance in respect of total disablement or total incapacity for work for a considerable period made by a person who has previously been awarded an allowance in respect of partial disablement shall be treated, for the purposes of the provisions relating to the making of claims, as a separate claim;
- (b) a period shall be treated as considerable if it lasts or can be expected to last for not less than 13 weeks;
- (c) a person may be treated as being, as the result of pneumoconiosis, byssinosis or any of the diseases set out in Schedule 1 hereto, or as the joint result of such a disease and one or more other relevant injuries or diseases, totally incapable of work and likely to remain so incapable for a considerable period notwithstanding that the disability resulting from the disease or, as the case may be, diseases or injuries taken together, is not such as to prevent him from being capable of work, if it is likely to prevent his earnings (including any remuneration or profit derived from a gainful occupation) exceeding in a year such

amount as is for the time being prescribed in pursuance of section 58(3) of the Social Security Act (unemployability supplement).

(4) For the purposes of this scheme, 2 persons shall not be treated as having ceased to reside together if they would not have been so treated under regulation 2 of the Local Security Benefit (Persons Residing Together) Regulations 1977 (circumstances in which persons are not to be treated as having ceased to reside together).

(5) Except insofar as the context otherwise requires—

- (a) any reference in this scheme to a numbered Part, article or Schedule is a reference to the Part, article or Schedule of or to this scheme bearing that number;
- (b) any reference in an article to a numbered paragraph is to the paragraph of that article bearing that number; and
- (c) any reference in a paragraph to a lettered sub-paragraph is to the sub-paragraph of that paragraph bearing that letter.

#### Textual Amendments

- F1** Words in art. 1(2) inserted (5.7.1999) by The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1958), art. 1, **Sch. 7 para. 1**
- F2** Words in art. 1(2) substituted (3.11.2008) by The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 31**
- F3** Art. 1(2) entry inserted (1.4.1985) by The Pneumoconiosis, Byssinosis, and Miscellaneous Diseases Benefit (Amendment) Scheme 1985 (S.I. 1985/491), arts. 1, **2**
- F4** Words in art. 1(2) inserted (24.6.1993) by The Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit (Amendment) Scheme 1993 (S.I. 1993/1363), arts. 1(1), **2**

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