

**SCHEDULE 7**

Article 4(7)

**AMENDMENT OF THE PNEUMOCONIOSIS, BYSSINOSIS  
AND MISCELLANEOUS DISEASES BENEFIT SCHEME 1983**

1. In article 1(2) (citation, commencement and interpretation)—
  - (a) after the definition of “the Act” the following definition shall be inserted—

““the 1998 Act” means the Social Security Act 1998;”;
  - (b) for the definition of “the appropriate determining authority” there shall be substituted the following definition—

““the appropriate determining authority” means the Secretary of State or, as the case may be, an appeal tribunal or Commissioner within the meaning of section 39 of the 1998 Act;”;
  - (c) for the definition of “claimant” there shall be substituted the following definition—

““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;”;
  - (d) after the definition of “foundry” the following definition shall be inserted—

““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;”.
2. In article 2(2)(c) (benefit payable under this scheme), for the words “certified as provided in article 14” there shall be substituted the words “decided by the Secretary of State”.
3. In article 4(1) (allowances payable under this scheme) for the words “to the date certified by a medical board” there shall be substituted the words “to the date decided by the Secretary of State”.
4. For article 12 there shall be substituted the following article—

**“Questions arising under the scheme**

12. Subject to the provisions of Part IV, any question relating to any allowance or benefit under this scheme shall be determined as if it had arisen under Part V of the Social Security Contributions and Benefits Act 1992 and, except where the scheme otherwise provides, the provisions of the 1998 Act and of the Social Security (General Benefit) Regulations 1982, the Social Security (Claims and Payments) Regulations 1987, the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988, the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and the Social Security Commissioners (Procedure) Regulations 1999 which are specified in Schedule 3 shall, with the necessary modifications, apply for the purposes of this scheme.”.
5. For article 13 (reference of questions in respect of pneumoconiosis or byssinosis to medical authorities) there shall be substituted the following article—

**“MEDICAL REPORT**

**Report of a medical practitioner**

- 13.—(1) Subject to the provisions of paragraph (3), the Secretary of State, on consideration of a claim for an allowance in respect of pneumoconiosis or byssinosis, shall refer the case to a medical practitioner for advice.

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(2) The Secretary of State need not refer the case as provided in paragraph (1), but may determine that an award cannot be made on the claim if the claimant fails to satisfy him—

- (a) that he fulfils the conditions relating to the allowance;
- (b) that there is reasonable cause for suspecting that he is totally or partially disabled within the meaning of this scheme as a result of pneumoconiosis or byssinosis or, where he has previously been awarded an allowance in respect of partial disablement and claims that he has become totally disabled, that he is totally disabled.

(3) For the purposes of determining whether there is reasonable cause for suspecting that the claimant is totally or partially disabled by pneumoconiosis, the Secretary of State shall have power, in any case where he considers necessary, to obtain a radiological report on the case.”.

6. In article 14 (issue of certificate by medical board)—

(a) for the heading “**Issue of certificate by medical board**” there shall be substituted the following heading: “**Provision of a report by a medical practitioner**”;

(b) in paragraph (1) for the words—

(i) “the medical board” in the first place where they occur, there shall be substituted the words “a medical practitioner”;

(ii) “the medical board” in the second place where they occur, there shall be substituted the words “the medical practitioner”;

(iii) “give a certificate” there shall be substituted the words “provide a report”;

(c) for paragraph (2) there shall be substituted the following paragraph—

“(2) For the purposes of the last foregoing paragraph of this article, in the case of a claimant disabled as a result of byssinosis, the medical practitioner shall not make a report as provided in this paragraph unless satisfied that the disablement is likely to be permanent, in which event he shall include in his report a statement to that effect, together with his opinion as to the degree of disablement;”

(d) for paragraph (3) substitute the following paragraph—

“(3) The medical practitioner may provide a report in accordance with the provisions of paragraph (1) without examining the claimant, if satisfied that such examination can be dispensed with, having regard to any medical reports available as a result of any previous medical examination of the claimant carried out by a medical board or a specially qualified medical practitioner or a medical practitioner, whether in accordance with this scheme or otherwise, or if the claimant has died after having claimed the allowance but before having been examined by a medical board or a medical practitioner on the reference under article 13(1).”;

(e) in paragraph (4)—

(i) for the word “certificate” there shall be substituted the word “report”; and

(ii) for the words “the medical board”, in both places where they appear, there shall be substituted the words “the medical practitioner”;

(f) in paragraph (5) for the words—

(i) “adjudication officer” there shall be substituted the words “Secretary of State”; and

(ii) “the medical board, who shall determine the question and shall give a certificate accordingly” there shall be substituted the words “a medical practitioner who shall provide a report to the Secretary of State”;

(g) paragraph (6) shall be omitted;

(h) for paragraph (7) there shall be substituted the following paragraph—

“(7) A decision of the Secretary of State following the provision of a report provided under paragraph (5) stating that the deceased did not suffer from pneumoconiosis, or from pneumoconiosis accompanied by tuberculosis, may, to the extent mentioned in that paragraph, be revised by the Secretary of State.”.

7. In article 16 (obligation to undergo medical examination)—

(a) in paragraph (1) for the words “medical authority (as defined in paragraph (4))” there shall be substituted the words “medical practitioner”;

(b) in paragraph (2) for the words “medical board” there shall be substituted the words “medical practitioner”;

(c) paragraph (4) shall be omitted.

8. For article 26 there shall be substituted the following article—

**“Review of decisions of the Administrative Board**

**26.—**(1) The Secretary of State may at any time and from time to time revise or supersede any decision given by the Administrative Board under provisions of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 in force immediately before 1st July 1977, if—

(a) the decision was erroneous in view of new facts which have been brought to his notice since the date on which the decision was given or by reason of some mistake being made with respect to the facts or the law; or

(b) there has been any relevant change of circumstances since the decision was given.

(2) A decision of the Administrative Board may be revised or superseded by the Secretary of State on his own initiative or by application in writing to him for the purpose.

(3) Where it appears to the Secretary of State that an issue has arisen whether the decision as to an award of an allowance to which this article relates ought to be revised or superseded in accordance with the provisions of paragraph (1), he may decide that payment of the allowance shall be suspended in whole or in part until that issue has been determined.

(4) Repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this article in any case where it is shown to the satisfaction of the Secretary of State that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(5) For the purposes of this article a decision given under any scheme made under the Industrial Diseases (Benefit) Acts shall be treated as if it had been a decision given under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 as in force immediately before 1st July 1977.

(6) On a revision or supersession of a decision given by the Administrative Board under any scheme made under the Industrial Diseases (Benefit) Acts in force before 1st March 1966 the Secretary of State may determine any issue referred to him arising under the scheme”.

9. For Schedule 3 there shall be substituted the following Schedule—

**“SCHEDULE 3**

Articles 11 and 12

**PROVISIONS OF THE 1998 ACT OR REGULATIONS APPLICABLE  
(WITH THE NECESSARY MODIFICATIONS) TO THIS SCHEME**

<i>Provisions of the 1998 Act or of Regulations</i>	<i>Subject matter</i>
Social Security Act 1998—	
Section 8	Decisions by Secretary of State
Sections 9 and 10	Revisions, and supersession of decisions
Section 11	Regulations with respect to decisions.
Section 12	Appeal to an appeal tribunal
Section 14	Appeal from an appeal tribunal to Commissioner
The Social Security (General Benefit) Regulations 1982—	
Regulation 3	Suspension of payment of benefit during imprisonment etc.
The Social Security (Claims and Payments) Regulations 1987—	
Regulation 4	Making a claim for benefit
Regulation 5	Amendment and withdrawal of claim
Regulation 6	Date of claim
Regulation 16	Date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate
Regulation 17	Duration of awards
Regulation 20	Time and manner of payment: general provision
Regulation 20A	Payment on presentation of an instrument for benefit payment
Regulation 21	Direct credit transfer
Regulation 22	Long term benefits
Regulation 25	Payment of attendance allowance and constant attendance allowance at a daily rate
Regulation 28	Fractional amounts of benefit
Regulation 30	Payments on death
Regulation 33	Persons unable to act
Regulation 38	Extinguishment of right to payment where not obtained within prescribed period
Regulation 47	Instruments of payment

<i>Provisions of the 1998 Act or of Regulations</i>	<i>Subject matter</i>
Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988—	
Regulation 5	Offsetting prior payment against subsequent award
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 3	Revision of decisions
Regulation 4	Late application for a revision
Regulation 5	Date from which a decision revised under section 9 takes effect
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 6	Supersession of decisions
Regulation 7	Date from which a decision superseded under section 10 takes effect
Regulation 8	Effective date for late notification of change of circumstances
Regulation 12	Decisions of the Secretary of State relating to industrial injuries benefit
Regulation 16	Suspension in prescribed cases
Regulation 17	Provision of information or evidence
Regulation 18	Termination in cases of failure to furnish information or evidence
Regulation 19	Suspension and termination for failure to submit to medical examination
Regulation 20	Making of payments which have been suspended
Regulation 25	Other persons with a right of appeal
Regulation 26	Decisions against which an appeal lies
Regulation 27	Decisions against which no appeal lies
Regulation 28	Notice of decision against which appeal lies
Regulation 30	Appeal against a decision which has been revised
Regulation 31	Time within which an appeal is to be brought
Regulation 32	Late appeals
Regulation 33	Making of appeals and applications
Regulation 34	Death of a party to an appeal
Regulation 35	Persons appointed to the panel

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<i>Provisions of the 1998 Act or of Regulations</i>	<i>Subject matter</i>
Regulation 36	Composition of appeal tribunals
Regulation 37	Assignment of clerks to appeal tribunals: function of clerks
Regulation 38	Consideration and determination of appeals and referrals
Regulation 39	Directions concerning oral hearings
Regulation 40	Withdrawal of appeal or referral
Regulation 41	Medical examination required by appeal tribunal
Regulation 42	Non-disclosure of medical advice or evidence
Regulation 43	Summoning of witnesses and administration of oaths
Regulation 46	Appeals which may be struck out
Regulation 47	Reinstatement of struck out appeals
Regulation 48	Misconceived appeals
Regulation 49	Procedure at oral hearings
Regulation 50	Manner of providing expert assistance
Regulation 51	Postponement and adjournment
Regulation 52	Physical examination at oral hearings
Regulation 53	Decisions of appeal tribunals
Regulation 54	Late applications for a statement of reasons of tribunal decision
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 55	Record of tribunal proceedings
Regulation 56	Correction of accidental errors
Regulation 57	Setting aside decisions on certain grounds
Regulation 58	Application for leave to appeal to a Commissioner from an appeal tribunal
The Social Security Commissioners (Procedure) Regulations 1999—	
Regulation 5	General powers of a Commissioner
Regulation 7	Delegation of functions to authorised officers
Regulation 8	Manner of and time for service of notices, etc.
Regulation 9	Application to a Commissioner for leave to appeal
Regulation 10	Notice of application to a Commissioner for leave to appeal

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<i>Provisions of the 1998 Act or of Regulations</i>	<i>Subject matter</i>
Regulation 12	Notice of appeal
Regulation 13	Time limit for appealing after leave obtained
Regulation 16	Acknowledgement of a notice of appeal or a reference and notification to each respondent
Regulation 18	Respondent's written observations
Regulation 19	Written observations in reply
Regulation 20	Directions
Regulation 22	Non-disclosure of medical evidence
Regulation 23	Requests for oral hearings
Regulation 24	Hearings
Regulation 25	Summoning of witnesses
Regulation 26	Withdrawal of applications for leave to appeal, appeals and references
Regulation 27	Irregularities
Regulation 28	Determinations and decisions of a Commissioner
Regulation 30	Correction of accidental errors in decisions
Regulation 31	Setting aside of decisions on certain grounds
Regulation 32	Provisions common to Regulations 30 and 31
Regulation 33	Application to a Commissioner for leave to appeal to the Appellate Court"

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