

SCHEDULE 8

Article 4(8)

AMENDMENT OF THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES) REGULATIONS 1985

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

““the 1998 Act” means the Social Security Act 1998;”;
 - (b) the definitions of “adjudicating medical authority”, “special medical board” and “specially qualified adjudicating medical practitioner” shall be omitted;
 - (c) after the definition of “medical board” there shall be inserted the following definition—

““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 regulation 6(1)(a) (date of onset) the words “subject to the provisions of section 117(4), as modified by paragraph 1 of Schedule 3 to the Adjudication Regulations,” shall be omitted.
3. In regulation 8(4) (workmen’s compensation cases) for the word—
 - (a) “question” (in both places) there shall be substituted the word “issue”;
 - (b) “reviewed” there shall be substituted the words “revised or superseded”;
 - (c) “review” there shall be substituted the words “revision or supersession”.
4. In regulation 9 (re-employment of pneumoconiotics and special provisions for benefit (workmen’s compensation cases))—
 - (a) in paragraph (1) for the words “special medical board or a specially qualified adjudicating medical practitioner” there shall be substituted the words “medical practitioner”;
 - (b) in paragraph (2)—
 - (i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) A medical practitioner shall provide a report to the Secretary of State to enable him to determine at what degree the extent of disablement resulting from pneumoconiosis should be assessed in his case.”;
 - (ii) in sub-paragraph (b) for the words “a specially qualified adjudicating medical practitioner, a special medical board or a medical appeal tribunal” there shall be substituted the words “the Secretary of State or an appeal tribunal”;
 - (iii) in sub-paragraph (c) for the words “to the extent certified in the decision of the specially qualified adjudicating medical practitioner, the special medical board or medical appeal tribunal given under sub-paragraph (a) of this paragraph” there shall be substituted the words “to the extent decided by the Secretary of State or an appeal tribunal”.
5. In regulation 13 (benefit not payable in cases covered by the Industrial Injuries and Diseases (Old Cases) Act 1975) for the words “reversed on review” there shall be substituted the words “revised or superseded so as to terminate entitlement”.
6. In regulation 15A (aggregation of percentages of disablement) for the words “Adjudication Officer” there shall be substituted the words “Secretary of State”.
7. In regulation 20(1B)(a) (special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma) for the words “on a reassessment or review of the extent of disablement” there shall be substituted the words “on a reassessment of the extent of disablement or in consequence of an application for revision or supersession”.

Status: This is the original version (as it was originally made).

8. In regulation 22 (pneumoconiosis—effects of emphysema and chronic bronchitis)—
- (a) in paragraph (2)(a), for the words from “that question” to the end of the sub-paragraph there shall be substituted the words “that issue shall be determined by the Secretary of State”;
 - (b) in paragraph (2)(b) for the words—
 - (i) “adjudicating medical authority or medical appeal tribunal, as the case may be” there shall be substituted the words “Secretary of State or, as the case may be, appeal tribunal”, and
 - (ii) for the word “question” there shall be substituted the word “issue”.
9. In regulation 23 (reduced earnings allowance—special provision for pneumoconiosis cases) for the words “a special medical board or a specially qualified adjudicating medical practitioner” there shall be substituted the words “the Secretary of State”.
10. For regulation 24 (special requirement for pneumoconiosis claimants in unscheduled occupation cases) there shall be substituted the following regulation—

“Special requirement for pneumoconiosis claimants in unscheduled occupation cases

24.—(1) A claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(b)(ii) shall be referred by the Secretary of State to a medical practitioner for a report, unless the Secretary of State is satisfied on reasonable grounds that the claimant is not suffering or has not suffered from pneumoconiosis, in which case he may decide the claim without such a report.

(2) The provisions of paragraph (1) of this regulation shall apply to an appeal tribunal and a Commissioner as they apply to the Secretary of State.”.

11. In regulation 25 (time for claiming benefit in respect of occupational deafness) in paragraph (2)(d)(ii) after the words “a medical board or a medical appeal tribunal” there shall be inserted the words “or as the case may be the Secretary of State or an appeal tribunal.”

12. In regulation 27 (further claims in respect of occupational deafness)—
- (a) in paragraph (1)(b) and (c) for the words “an adjudicating medical authority” there shall be substituted the words “the Secretary of State or an appeal tribunal”;
 - (b) for paragraph (2) there shall be substituted the following paragraph—

“(2) A claim to be paid benefit by virtue of paragraph (1)(c) may be disallowed by the Secretary of State, an appeal tribunal or a Commissioner (“the determining authority”) without reference to a medical practitioner where the determining authority is satisfied by medical evidence that the claimant is not suffering from occupational deafness.”.

13. For regulation 30 (review of assessment for unforeseen aggravation in respect of occupational deafness) there shall be substituted the following regulation—

“Supersession of a decision in respect of occupational deafness

30.—(1) The provisions of regulation 6 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 shall not apply to a decision of the Secretary of State in respect of occupational deafness until after the expiry of 5 years from the date of commencement of the period taken into account by that decision.

(2) The provisions of regulation 6 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 shall not apply to an assessment of the extent of disablement in respect of occupational deafness which is less than 20 per cent.”.

14. For regulation 31 (leave of medical appeal tribunal to review assessment in certain cases), there shall be substituted the following regulation—

“Requirement for leave of appeal tribunal

31. Subject to the provisions of regulation 30 and notwithstanding the provisions of regulation 6 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, a decision of a medical board, medical appeal tribunal, the Secretary of State or an appeal tribunal that a person is entitled to a life assessment in respect of occupational deafness, shall not be revised or superseded without leave of an appeal tribunal; but in the case of a provisional assessment in respect of occupational deafness no such leave shall be required.”.

15. For regulation 32 (no appeal against initial provisional assessment of disablement in respect of occupational deafness) there shall be substituted the following regulation—

“No appeal against a decision of disablement in respect of occupational deafness

32. No appeal shall lie against an initial provisional assessment of the extent of disablement in respect of occupational deafness.”.

16. In regulation 34 (assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness)—

- (a) in paragraph (7)(a) and (b) for the words “reviewed or varied” there shall be substituted the words “revised or superseded”;
- (b) in paragraph (7)(b)(ii) for the words “review or variation” there shall be substituted the words “revision or supersession”.

17. In regulation 35 (commencement date of period of assessment in respect of occupational deafness) the words “the provisions of section 108 and” shall be omitted.

18. In regulation 40(2) (conditions of suspension) for the words “A special medical board or specially qualified adjudicating medical practitioner” there shall be substituted the words “The Secretary of State”.