

1993 No. 1985

SOCIAL SECURITY

The Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1993

<i>Made</i> - - - -	<i>5th August 1993</i>
<i>Laid before Parliament</i>	<i>12th August 1993</i>
<i>Coming into force</i> -	<i>13th September 1993</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 108(2) and (4), 109(2) and (3), 110(1) and (2), 122(1) and 175(1) and (3) of and paragraph 2 of Schedule 6 to the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(a) and (b), 58(1)(b) and 189(1) and (4) of the Social Security Administration Act 1992(b), and of all other powers enabling him in that behalf, after reference to the Industrial Injuries Advisory Council(c) hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1993 and shall come into force on 13th September 1993.

(2) In these Regulations “the principal Regulations” means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985(d).

[Regulation 2 amends regulation 2 of S.I. 1985/967.]

[Regulation 3 amends regulation 4 of S.I. 1985/967.]

[Regulation 4 amends regulations 6 and 7 of S.I. 1985/967.]

[Regulation 5 amends regulation 22 of S.I. 1985/967.]

[Regulation 6 amends Part I of Schedule 1 to S.I. 1985/967.]

[Regulation 7 amends regulation 11 of S.I. 1982/1408.]

[Regulation 8, amending S.I. 1986/2218, revoked by Sch. 4 to S.I. 1995/1801 as from 10.8.95.]

(a) 1992 c.4. Section 122 is cited for the definition which it ascribes to the word “prescribe”.

(b) 1992 c.5.

(c) See section 172 of the Social Security Administration Act 1992.

(d) S.I. 1985/967; the relevant amending instruments are S.I. 1987/335 and 1989/1207.

Transitional provision with respect to claims for prescribed disease D12

9.—(1) In this regulation—

“prescribed disease D12” means the disease bearing that number and listed in Part I of Schedule 1 to the principal Regulations^(a) (chronic bronchitis and emphysema);

“relevant claim” means a claim for benefit in respect of prescribed disease D12; and

“relevant date” means 13th September 1993 or the date upon which the claimant in question first satisfies the conditions specified in Schedule 1 to the principal Regulations in respect of prescribed disease D12, whichever is the later.

(2) The provisions of the Social Security (Claims and Payments) Regulations 1987^(b) shall apply in relation to a relevant claim subject to the following provisions of this regulation.

(3) A person who is aged not less than 70 on 13th September 1993 may make a relevant claim at any time in the period beginning with 13th September 1993 and ending with 28th February 1994, and if so made the claim shall be treated as having been made on the relevant date.

(4) A person who is aged less than 70 on 13th September 1993 and who, on the date the claim is made, has an award of attendance allowance at the higher rate under section 65(3) of the Social Security Contributions and Benefits Act 1992^(c) or of the care component of disability living allowance at the highest rate under section 72(4) of that Act, may make a relevant claim at any time in the period beginning with 13th September 1993 and ending with 28th February 1994, and if so made the claim shall be treated as having been made on the relevant date.

(5) A person who does not fall within either of paragraphs (3) and (4) above may not make a relevant claim before 1st March 1994, but if such a person, or a person falling within paragraph (4) above who has not previously made a relevant claim, makes a relevant claim in the period beginning with that day and ending with 31st August 1994 that claim shall be treated as having been made on the relevant date.

Signed by authority of the Secretary of State for Social Security.

5th August 1993

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

(a) S.I. 1985/967.

(b) S.I. 1987/1968.

(c) 1992 c.4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (S.I. 1985/967) (“the principal Regulations”) by providing for the prescription of chronic bronchitis and emphysema as an industrial disease (“PD D12”) where either condition has, or both conditions have, been contracted after working for twenty years underground in a coal mine (regulation 6). In order to qualify for benefit a claimant must show—

- (a) by means of a chest radiograph that he has coal dust retention to at least the level of Category 1 in the International Labour Office’s publication “The Classification of Radiographs of Pneumoconioses” Revised Edition 1980, 8th Impression 1992 published at Geneva; and
- (b) a forced expiratory volume in one second at least one litre below the mean value predicted in accordance with “Lung Function: Assessment and Application in Medicine” by J. E. Cotes, 4th Edition 1979 published at Oxford (ISBN 0–632–00033–3) (“Cotes”) for a person of the claimant’s age, height and sex, measured from the position of maximum inspiration with the claimant making maximum effort.

The International Labour office publication may be obtained from its British office, Vincent House, Vincent Square, London SW1, whilst Cotes is available from booksellers.

Consequential amendments to regulations 2, 4, 6, 7 and 22 of the principal Regulations are also made (regulations 2, 3, 4 and 5).

Regulation 7 amends regulation 11 of the Social Security (General Benefit) Regulations 1982 (S.I. 1982/1408). The regulation is amended to make special provision for the interaction between awards for chronic bronchitis, emphysema and pneumoconiosis.

Regulation 8 makes consequential amendments to the Social Security (Adjudication) Regulations 1986 (S.I. 1986/2218).

Regulation 9 makes transitional provision in respect of claims. The “relevant date” is defined as 13th September 1993 or the date on which the claimant first satisfies the conditions in Schedule 1 to the principal Regulations in respect of PD D12, whichever is the later.

A person who—

is aged at least 70 on 13th September 1993 and who makes a claim on or after that date but before 1st March 1994; or

is aged less than 70 on 13th September 1993 and has an award of attendance allowance at the higher rate or of the care component of disability living allowance at the highest rate at the time he makes his claim and who makes a claim after 13th September 1993 but before 1st September 1994,

will have his claim treated as if it had been made on the relevant date. Any other person may not make a claim before 1st March 1994, but if he makes it on or after that date and before 1st September 1994 he will also have it treated as having been made on the relevant date.

The Regulations will lead indirectly to increased costs for businesses employing coal miners as records and employment histories will be required in order to establish that the prescription criteria are satisfied, although they do not impose a charge upon business. An assessment of the cost to business of applying these Regulations has been placed in the Libraries of both Houses of Parliament. Copies can be obtained by post from: DSS Deregulation Unit, The Adelphi, John Adam Street, London WC2N 6HT.

