

Social Security (Employment Injuries Insurance)

1952-10

OCCUPATIONAL DISEASES REGULATIONS

This version is out of date

**Subsidiary
1952.06.26-4**

Regulations made under s.31

OCCUPATIONAL DISEASES REGULATIONS

(1952.06.26-4)

7.7.1952

Amending enactments	Relevant current provisions	Commencement date
Regs of 14.10.1954 LN. 1980/079	rr. 6(3), 7(3), and 15(1) rr. 2(1), 3 and 3A and Sch.1	

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SCHEDULE 2.

Notice of occupational diseases and first medical certificate.

**PART I.
GENERAL.**

Title.

1. These Regulations may be cited as the Occupational Diseases Regulations.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires,—

“Benefits Regulations” means the Employment Injuries (Benefits) Regulations;

“Claims Regulations” means the Employment Injuries (Claims) Regulations;

“date of development” has the meaning assigned to that expression by regulation 6;

“disease question” has the meaning assigned to that expression by regulation 15(2);

“occupational disease” means a disease or injury prescribed under regulation 3, and references to an occupational disease being contracted shall be deemed to include references to such an injury being received ;

“pneumoconiosis” means fibrosis of the lungs due to silica dust, asbestos dust or other dust ;

“prescribed medical officer or practitioner” has the meaning assigned to that expression by regulation 6 of the Claims Regulations;

“Questions Regulations” means the Employment Injuries (Questions and Appeals) Regulations;

“relevant disease” means the occupational disease in respect of which benefit is claimed.

(2) Except where the context otherwise indicates, references in section 2 of the Act to accidents shall be deemed to include references to occupational diseases; references to the relevant accident or relevant injury shall be deemed to include references to the relevant disease, and any reference to

the time, date or occurrence of the relevant accident shall be construed as a reference to the date of development of the relevant disease.

PART II.

**PRESCRIPTION OF DISEASES AND PRESUMPTION
AS TO THEIR ORIGIN.**

Occupational diseases and injuries.

3. For the purposes of section 31 of the Act—

- (a) each disease or injury set out in the first column of Part I of Schedule 1, is prescribed in relation to all insured persons who have been employed on or after the appointed day in any occupation set against such disease or injury in the second column of that Schedule ; and
- (b) pneumoconiosis, whether accompanied or not by pulmonary tuberculosis, is prescribed in relation to all insured persons who have been employed on or after the appointed day in insurable employment in any occupation set out in Part II of that Schedule.

Pneumoconiosis.

3A. Where any person is found to be suffering from pneumoconiosis accompanied by tuberculosis, the effects of the tuberculosis shall be treated for the purposes of the Act and of these regulations as if they were effects of the pneumoconiosis. '

Resulting conditions.

4. Where a person—

- (a) is insured under the Act and these regulations against an occupational disease ; and
- (b) is suffering from a condition which in his case has resulted from that disease,

the provisions of section 31 of the Act and of these regulations shall apply to him as if he were suffering from that disease, whether or not the condition from which he is suffering is itself an occupational disease.

Presumption.

5. (1) Where an insured person has developed a disease which is prescribed in relation to him in Part I of Schedule 1 that disease shall, unless the contrary is proved, be presumed to be due to the nature of his insurable employment if he was employed in that employment on, or at any time within one month immediately preceding, the date of development of the disease :

Provided that this paragraph shall not apply to the disease numbered 7 (b) in Part I.

(2) Where an insured person in relation to whom pneumoconiosis is prescribed in Part II of Schedule 1 has developed pneumoconiosis, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his insurable employment if he has been employed in one or other of the occupations set out in Part II for a period or periods amounting in the aggregate to not less than two years in employment which either-

- (a) was insurable employment; or
- (b) would have been insurable employment if it had taken place on or after the appointed day.

PART III.

DATE OF DEVELOPMENT AND RECRUDESCENCE.

Date of development.

6. (1) If on a claim to benefit in respect of an occupational disease a person is found to be or have been suffering from the disease, or to have died as the result thereof, the disease shall for the purposes of such claim be treated as having developed on a date (in these regulations referred to as “the date of development”) determined in accordance with the following provisions of this regulation and of regulation 7.

(2) Subject to the provisions of regulation 7, the date of development determined for the purposes of the first claim in respect of an occupational disease suffered by an insured person shall be treated as the date of development for the purposes of any subsequent claim in respect of the same disease, suffered by the same person.

(3) Subject to the provisions of regulation 7, the date of development for the purposes of the first claim in respect of an occupational disease suffered by an insured person shall be the date fixed by the Director as the date on which the disease in fact developed.

Recrudescence.

7. (1) If a person who has suffered from an occupational disease other than pneumoconiosis recovers wholly or partially from the attack of the disease, and thereafter suffers from another attack of the same disease, then-

- (a) if the further attack commences during an injury benefit period or a period taken into account by an assessment of disablement, relating in either case to the previous attack of the same disease, the disease shall be presumed, in the absence of evidence to the contrary, to be a recrudescence of the previous attack ; and
- (b) if the further attack commences otherwise than during an injury benefit period or a period taken into account by an assessment of disablement, relating in either case to the previous attack of the same disease, the disease shall be presumed, in the absence of evidence to the contrary, to have been contracted afresh.

(2) Where, under the foregoing provisions of this regulation, a disease is treated as a recrudescence of a previous attack of the same disease, the date of development shall be the date of development of the previous attack.

(3) Where, under the provisions aforesaid, a disease is treated as having been contracted afresh, the date of development shall be the date fixed by the Director as the date on which the fresh attack in fact developed.

**PART IV.
BENEFIT.**

Application of Part IV of the Act.

8. (1) The provisions of Part IV of the Act (which relates to benefit) shall, in relation to occupational diseases, be subject to the following provisions of this Part.

(2) References in Part IV or any regulations made thereunder to accidents against which a person is insured under the Act shall be deemed to include references to occupational diseases against which he is so insured, and references to the relevant accident or relevant injury shall be deemed to include references to the relevant disease.

(3) Any reference in Part IV or any regulations made thereunder to the time, date or occurrence of the relevant accident shall be construed as a reference to the date of development of the relevant disease.

Diseases contracted outside Gibraltar.

9. For section 10(3) of the Act (which subsection deals with accidents happening outside Gibraltar) there shall be substituted the provision that, subject to the provisions of section 3(3) of the Act relating to persons on ships, vessels and aircraft, benefit shall not be payable in respect of an occupational disease which is due to the nature of employment in an occupation in which the insured person has only been engaged outside Gibraltar.

Injury benefit.

10. Section 14(2) of the Act (which provides that in determining whether the insured person is incapable of work on the day of the accident, any part of that day before the happening of the accident shall be disregarded) shall not apply.

(2) The injury benefit period shall commence with the date of development.

Disablement benefit.

11. For the purposes of section 15(2)(b) of the Act and of regulation 2(5) of the Benefits Regulations (which paragraphs relate to the assessment of disablement), an injury or disease other than the relevant disease shall be treated as having been received or contracted before the relevant disease if it was received or contracted on or before the date of development, and as having been received or contracted after the relevant disease if it was received or contracted after that date.

Claims to benefit.

12. (1) Every insured person who contracts an occupational disease in respect of which benefit may be payable shall give notice of that fact either in writing or orally to a prescribed medical officer or practitioner.

(2) Any notice required to be given by an insured person may be given by some other person acting on his behalf, and, where the occupational disease results in the death of the insured person, may be given by or on behalf of any claimant to benefit.

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(3) Any prescribed medical officer or practitioner to whom notice of an occupational disease is given shall, within three days of the date of such notice, send to the Director written notice of the disease in the form and accompanied by the particulars set out in Schedule 2.

(4) Every employer who is required to do so shall furnish to the Director, within such reasonable period as may be required, information concerning the nature and other relevant circumstances of any occupation in relation to which any occupational disease is prescribed, in which any insured person was, or is alleged to have been, employed by him.

(5) Regulations 3, 4 and 5 of the Claims Regulations (which regulations relate to the giving of notice of accidents) shall not apply.

(6) For regulation 7(2) of the Claims Regulations shall be substituted the provision that, for the purpose of section 26(1) of the Act the date on which notice of the occupational disease was first given in accordance with the provisions of this regulation shall be regarded as the date on which the claim to benefit was first made.

Application of regulations.

13. Save in so far as they are expressly varied or excluded by, or are inconsistent with, the foregoing provisions of this Part, the Benefits Regulations and the Claims Regulations shall apply in relation to occupational diseases as they apply in relation to accidents.

PART V.

DETERMINATION OF CLAIMS AND QUESTIONS.

Application of Part V of the Act.

14. The provisions of Part V of the Act (which relates to the determination of claims and questions) shall, in relation to occupational diseases, be subject to the following provisions of this Part.

Power of Director to obtain medical opinion.

15. (1) If on consideration of any claim or question the Director is of opinion that a question has arisen—

- (a) whether any person is suffering or has suffered from an occupational disease ; or

- (b) whether an attack of an occupational disease suffered by any person is a recrudescence of a previous attack of the same disease; or
- (c) as to the date of development of an occupational disease,

he may require a medical opinion on such question from any one or more medical practitioners chosen by him from the panel of medical practitioners appointed under the provisions of regulation 4 of the Questions Regulations.

(2) Any such question as is mentioned in sub-regulation (1) is referred to in these regulations as a “disease question”.

Application of regulations.

16. Save in so far as they are expressly varied or excluded by, or are inconsistent with, the foregoing provisions of this Part, the Questions Regulations shall apply in relation to occupational diseases as they apply to accidents and, save where the context otherwise requires—

- (a) any reference to the relevant accident shall be deemed to include a reference to the relevant disease ; and
- (b) any reference to a disablement question shall be deemed to include a reference to a disease question.

SCHEDULE 1.

Regulation 3.

PART I.
SCHEDULE OF PRESCRIBED DISEASES.

<i>Description of Disease or injury</i>	<i>Nature of occupation</i>
1. Poisoning by:	Any occupation involving:-
(a) Lead	The use or handling of, or exposure to the fumes, dust or vapour of lead, or a compound of lead or a substance containing lead.
(b) Manganese	The use or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese or a substance containing manganese.
(c) Phosphorus	The use or handling of, or exposure to the fumes, dust or vapour of, phosphorus, or a compound of phosphorus, or a substance containing phosphorus.
(d) Arsenic	The use or handling of, or exposure to the fumes, dust or vapour of, arsenic or a compound of arsenic, or a substance containing arsenic.
(e) Mercury	The use or handling of, or exposure to the fumes, dust or vapour of, mercury or a compound of mercury, or a substance containing mercury.
(f) Carbon bisulphide	The use or handling of, or exposure to the fumes of, or vapour of, carbon bisulphide or a compound of carbon bisulphide, or a substance containing carbon bisulphide.
(g) Benzene or a homologue	The use or handling of, or exposure to the fumes of, or vapour containing, benzene or any of its homologues.
(h) A nitro-or-amino-derivative of benzene or of a homologue of benzene	The use or handling of, or exposure to the fumes of, or vapour containing, a nitro-or amino-derivative of benzene or of a homologue of benzene.
(i) Dinitrophenol or a homologue	The use or handling of, or exposure to the fumes, of, or vapour containing, dinitrophenol

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	or any of its homologues.
(j) Tetrachlorethane	The use or handling of, or exposure to the fumes of, or vapour containing, tetrachlorethane.
(k) Tri-cresyl phosphate	The use or handling of, or exposure to the fumes of, or vapour containing, tri-cresyl phosphate.
(l) Tri-phenyl phosphate	The use or handling of, or exposure to the fumes of, or vapour containing, tri-phenyl phosphate.
(m) Diethylene Dioxide (dioxan)	The use or handling of, or exposure to the fumes of, or vapour containing, diethylene dioxide (dioxan).
(n) Methyl-bromide	The use or handling of, or exposure to the fumes of, or vapour containing, methyl bromide.
(o) Chlorinated naphthalene (excluding the condition known as chlor-acne)	The use or handling of, or exposure to the fumes of, or dust or vapour containing, chlorinated naphthalene.
(p) Nickel carbonyl	Exposure to nickel carbonyl gas.
(q) Nitrous fumes	The use or handling of nitric acid or exposure to nitrous fumes.
(r) Beryllium	The use or handling of, or exposure to the fumes, dust or vapour of, beryllium, or a compound of beryllium, or a substance containing beryllium.
2. Anthrax	The handling of wool, hair, bristles, hides or skins or other animal products or residues or contact with animals infected with anthrax.
3. Glanders	Contact with equine animals or their carcasses.
	Any occupation involving:-
4. Infection by leptospira icterohaemorrhagiae	Work in rat-infested places.
4. Ankylostomiasis	Work in or about a quarry or underground working.
6.(a) Ulceration of the corneal surface of the eye;	The use or handling of, or exposure to tar, pitch, bitumen, mineral oil (including paraffin), soot or any compound, product, or residue of any of these substances.
(b) localised new growth of the skin papillomatous or keratotic;	
(c) epitheliomatous cancer	

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or ulceration of the skin, due in any case to tar, pitch, bitumen, mineral oil (including paraffin), soot or any compound, product, or residue of any of these substances.	
7.(a) Chrome ulceration	The use or handling of chromic acid, chromate or bichromate of ammonium, potassium, sodium, or zinc, or any preparation or solution containing any of these substances.
(b) Inflammation or ulceration of the skin or of the mucous membrane of the upper respiratory passages or mouth produced by dust, liquid or vapour (including the condition known as chlor-acne but excluding chrome ulceration)	Exposure to dust, liquid or vapour.
8. Inflammation, ulceration or malignant disease of the skin or subcutaneous tissues of the bones, or leukaemia, or anaemia of the aplastic type, due to X-rays, ionizing particles, radium or other radio-active substances or inflammation of the skin due to other forms of radiant energy.	Exposure to X-rays, ionising particles, radium or other radio-active substance or other forms of radiant energy.
9. Cataract produced by exposure to the glare of, or rays from, molten glass or molten red-hot metal.	Frequent or prolonged exposure to the glare of, or rays from, molten glass or molten red-hot metal.
10. Compressed air illness	Subjection to compressed air.
11. Telegraphist's cramp	The use of Morse-key telegraphic instruments for prolonged periods.
12. Writer's cramp	Handwriting for prolonged periods.
13. Subcutaneous cellulitis of the hand (Beat hand)	Manual labour causing severe or prolonged friction or pressure on the hand.
14. Subcutaneous cellulitis or acute bursitis arising at or	Manual labour causing severe or prolonged friction or pressure at or about the knee.

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about the knee (Beat knee).	
15. Subcutaneous cellulitis or acute bursitis arising at or about the elbow (Beat elbow).	Manual labour causing severe or prolonged friction or pressure at or about the elbow.
16. Inflammation of the synovial lining of the wrist joint and tendon sheaths.	Manual labour, or frequent or repeated movements of the hand or wrist.
17. Miner's nystagmus.	Work in or about a mine or underground working.
18. Viral hepatitis.	(a) Close and frequent contact with human blood or human blood products; or (b) Close and frequent contact with a source of viral hepatitis infection by reason of employment in the medical treatment or nursing of a person or persons suffering from viral hepatitis, or in a service auxiliary to such treatment or nursing.
19. Tuberculosis.	Close and frequent contact with a source or sources of tuberculous infection by reason of employment— (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, or in a service ancillary to such treatment or nursing; (b) in attendance upon a person or persons suffering from tuberculosis, where the need for such attendance arises by reason of physical or mental infirmity; (c) as a research worker engaged in research in connection with tuberculosis; (d) as a laboratory worker, pathologist or person taking part in or assisting at post-mortem examinations of human remains where the occupation involves working with material which is a source or tuberculous infection.

PART II.

**OCCUPATION IN RESPECT OF WHICH PNEUMOCONIOSIS IS
PRESCRIBED.**

1. Any occupation involving—
 - (a) the mining, quarrying or working of silica rock or the working of dried quadzose sand or any dry deposit or dry residue of silica or any dry admixture containing such materials (including any occupation in which any of the aforesaid operations are carried out incidentally to the mining or quarrying of other minerals or to the manufacture of articles containing crushed or ground silica rock);
 - (b) the handling of any of the materials specified in sub-paragraph (a) in or incidental to any of the operations mentioned therein, or substantial exposure to the dust arising from such operations.
2. Any occupation involving sand blasting by means of compressed air with the use of quartzose sand or crushed silica rock or flint, or substantial exposure to the dust arising from such sand blasting.
3. Any occupation involving—
 - (a) the freeing of steel castings from adherent siliceous substance;
 - (b) the freeing of metal castings from adherent siliceous substance;
 - (i) by blasting with an abrasive propelled by compressed air, by steam or by a wheel, or
 - (ii) by the use of power driven tools;
 - (c) the moulding of iron castings with the use of siliceous materials as a facing powder or parting powder; or
 - (d) substantial exposure to the dust arising from any of the foregoing operations.
4. Any occupation involving the dressing of granite or any igneous rock by masons or the crushing of such materials, or substantial exposure to the dust arising from such operations.

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5. Any occupation involving the use, or preparation for use, of a grindstone*, or substantial exposure to the dust arising therefrom.
6. Any occupation involving—
 - (a) the working or handling of asbestos or any admixture of asbestos;
 - (b) the manufacture or repair of asbestos textiles or other articles containing or composed of asbestos ;
 - (c) the cleaning of any machinery or plant used in any of the foregoing operations and of any chambers, fixtures and appliances for the collection of asbestos dust ;
 - (d) substantial exposure to the dust arising from any of the foregoing operations.
7. Any occupation involving—
 - (a) the trimming of coal in any ship, or lighter, or in any dock or harbour or at any wharf or quay;
 - (b) the sawing, splitting or dressing of slate, or any operation incidental thereto.

* “Grindstone” means a grindstone composed of natural or manufactured sandstone and includes a metal wheel or cylinder into which blocks of natural or manufactured sandstone are fitted.

SCHEDULE 2.

Regulation 12(3).

**NOTICE OF OCCUPATIONAL DISEASE AND FIRST
MEDICAL CERTIFICATE.**

I certify that (name) of (address),
Identity card No employed by
of (address) has notified me that he is
suffering from an occupational disease.

I have examined him this day and consider that he is incapable of working
in consequence of.....(occupational disease) and that this
disease could be due to the nature of his employment.

He will be unfit for work untilinclusive, on which date he
should report for re-examination.

Date.....

.....
Medical officer or practitioner.