Chapter 67 - Prescribed diseases

Contents

Introduction

General 67001

Provision of National Insurance number 67014

Adaptation of legislation

General 67021

Burden of proof 67022

Benefits 67031

Relevant disease 67041

Disease contracted outside Northern Ireland 67044

Claims and payments 67045

Prescribed disease contracted by industrial accident 67061

Conditions resulting from prescribed diseases (sequelae) 67065

Questions arising on a prescribed disease claim 67071

Prescription

Disease not prescribed in the regulations 67081

Prescribed occupations 67091

Prescription of diseases involving poisoning etc 67098

Diagnosis

General 67101

Determination of diagnosis question 67104

References for medical advice

Non-respiratory diseases 67111

Respiratory diseases 67113

Power to dispense with reference for medical advice 67115

Raising the diagnosis question afresh 67155

Due to the nature of the employed earner’s employment 67181

Presumption 67186

Prescribed disease B5 67189

Prescribed diseases B1(b), B4(b), B7 and B8A 67190

Prescribed disease A12 67191

Prescribed disease C23 67192

Prescribed disease D1 67193

Prescribed diseases for which there is no presumption 67194

When presumption continues to apply 67195

When presumption does not apply 67196

Employment outside Northern Ireland 67201

European Economic Area countries 67202

Evidence 67211

Date of onset, recrudescence and fresh contraction 67215

Determination of recrudescence question 67241

Date of onset where Workmen’s Compensation received for the
same disease 67265

Notes on individual diseases - general 67301

Prescribed diseases A1, A2, A3, A4 and A7

Prescribed disease A1 before 30.3.17 67309

Transitional provisions 67310

Prescribed disease A1 from 30.3.17 67311

Reduced Earnings Allowance 67312

Prescribed disease A2 67313

Prescribed disease A3 67317

Reduced Earnings Allowance 67318

Prescribed disease A4 67319

Effect on Reduced Earnings Allowance 67322

Prescribed disease A7 67323

Effect on Reduced Earnings Allowance 67328

Prescribed disease A10 (occupational deafness) 67331

Time limits for claiming 67334

Date of onset 67340

Prescription

General 67345

Effect of current legislation 67347

Obtaining and considering evidence 67349

Application of legislation 67352

Degree of usage... 67358

Pneumatic 67359

Percussive 67360

Tools and machines 67361

“Wholly or mainly” 67365

“Of the use of” 67370

“Whilst they are being so used” 67371

Immediate vicinity of 67373

Immediate vicinity - equipment/claimant subject to movement 67377

Prescribed occupation (a)

Foundry, metal work and associated industries 67381

Cleaning, dressing and finishing 67384

On metal 67385

Air arc gouging 67388

Skid transfer bank 67389

Knock out and shake out grids 67390

Machine (other than a power press machine) to forge metal 67394

Forging 67395

Close-die forging 67396

Open-die forging 67398

Power press plant 67400

Machine to cut, shape or clean metal nails 67402

Plasma spray gun to spray molten metal 67403

Prescribed occupation (b)

Mining, Quarrying and Tunnelling 67408

Underground 67409

Mining coal 67410

Prescribed occupation (c)

Concrete products 67413

Prescribed occupation (d)

The textile industry 67414

Weaving 67415

High speed false twisting 67416

The mechanical cleaning of bobbins 67420

Prescribed occupation (e)

Woodworking and associated industries 67425

Prescribed occupation (f)

Water jetting and jet channelling 67427

Prescribed occupation (g)

Engines in ships and aircraft 67429

Prescribed occupations (h), (i) and (j)

The glassmaking and associated industries 67431

Prescribed occupation (k)

Police firearms training officers 67432

Prescribed occupation (l)

Shot blasting 67433

Diagnosis 67434

Assessment 67436

Re-assessment at less than 50 decibels 67443

Change of circumstances 67444

Due to the nature of employed earner’s employment 67447

Prescribed disease A11 67448

Prescription 67449

Diagnosis before 1.10.07 67461

Diagnosis from 1.10.07 67463

Effect on Reduced Earnings Allowance entitlement 67496

Transitional provisions 67497

Injury by accident 67498

Prescribed diseases A12 and A13

Prescribed disease A12 67501

Prescription 67502

Hand-held 67511

Vibrating 67512

Effect on Reduced Earnings Allowance entitlement 67521

Transitional provisions 67523

Presumption and recrudescence 67526

Prescribed disease A13 67527

Prescribed disease A14

Introduction 67528

Prescription - work underground in a coal mine 67529

Non-mechanised coal face 67531

Prescription - work fitting or laying carpets or floors 67532

Wholly or mainly 67533

Causation 67534

Effect on Reduced Earnings Allowance entitlement 67535

Prescribed diseases B1, B3 and B4

Prescribed disease B1 67536

Reduced Earnings Allowance 67537

Prescribed disease B3 67538

Prescribed disease B4 67540

Reduced Earnings Allowance 67541

Prescribed disease B5 (tuberculosis)

Prescription before 16.3.15 67542

Prescription from 16.3.15 67544

Reduced Earnings Allowance 67545

Definition of tuberculosis 67546

Sources of tuberculous infection 67548

Due to the nature of the employed earner’s employment 67550

Presumption 67551

Previous history of tuberculosis 67555

Prescribed diseases B6, B7, B8A, B8B and B9

Prescribed disease B6 67557

Prescription test not satisfied 67561

Effect on Reduced Earnings Allowance 67562

Prescribed disease B7 67563

Prescribed disease B8A and B8B 67566

Prescribed disease B9 67571

Prescribed diseases B10(a), B10(b), B11, B12, B13, B14 and B15

Prescribed disease B10(a) and B10(b) 67581

Prescribed disease B11 67586

Prescribed disease B12 67588

Prescribed disease B13 67589

Prescribed disease B14 67590

Prescribed disease B15 67591

Change from 28.9.18 67593

Presumption 67595

Reduced Earnings Allowance 67596

Prescribed diseases due to chemical agents

General guidance on C diseases

Prescription 67631

Causation 67635

Accident provisions 67639

Most commonly claimed diseases 67640

Prescribed disease C3 67641

Prescribed disease C3(a) 67642

Prescribed disease C3(b) 67643

Effect on Reduced Earnings Allowance 67644

Prescribed disease C4

Background 67645

Relevant occupations 67646

Causation 67649

Qualifying period 67650

Prescribed disease C7

Background 67651

Relevant occupations 67653

Causation 67655

Prescribed disease C18 67681

Prescribed disease C19

Background 67685

Relevant occupations 67686

Causation 67688

Prescribed disease C22 67689

Qualifying period 67690

Prescribed disease C23

Background 67706

Relevant occupations 67708

Effects and causation 67712

Presumption 67713

Prescribed disease C24 and C24A

Background 67714

Relevant occupations 67717

Causation 67720

Transitional provisions 67721

Qualifying period 67722

Prescribed disease C25 67723

Prescribed disease C26-C27 67731

Prescribed disease C29 67741

Prescribed disease C30

Background 67743

Relevant occupations 67746

Causation 67748

Prescribed disease C31 67751

Reduced Earnings Allowance 67754

Prescribed disease C32 67755

Reduced Earnings Allowance 67759

Prescribed disease C33 67760

Reduced Earnings Allowance 67762

Prescribed disease C34 67763

Reduced Earnings Allowance 67765

Transitional provisions 67766

Effect on Reduced Earnings Allowance entitlement 67769

Asbestos-related diseases 67791

Asbestos - its nature and its uses 67792

Prescribed disease D1 (pneumoconiosis) 67801

Prescription 67806

Notes on scheduled occupations 67808

Scheduled occupation 1 - Silica rock, dry quartzose sand, dry
deposit or residue of silica and dry admixture containing
such materials 67813

Silica rock 67816

Free and combined silica 67817

Dried quartzose sand 67819

Deposit, residue and admixture 67821

Working 67823

Arc welding 67824

Building workers using sand and cement 67827

Bricklayers engaged in building, demolishing or repairing furnaces,
retorts etc 67828

Clay 67830

Scheduled occupation 2 - Breaking, crushing or grinding of flint 67831

Scheduled occupation 4 - Foundry workers 67832

Scheduled occupation 5 - China or earthenware 67835

Scheduled occupation 6 - Mineral graphite 67837

Scheduled occupation 8 - Grindstones 67838

Scheduled occupation 9 - Asbestos 67840

Scheduled occupation 10 - Mining and slate 67844

Underground work in a mine 67846

Surface work at a coal or tin mine 67847

Coal trimming 67852

Slate 67854

Scheduled occupation 11 - Carbon electrodes 67856

Scheduled occupation 12 - Boiler scalers 67858

Unscheduled occupations involving exposure to dust 67859

Diagnosis 67866

Presumption 67871

Recrudescence and fresh contraction 67872

Prescribed disease D2 (byssinosis)

Rate of pension 67891

Prescription 67892

Due to the nature of the employed earner’s employment

Presumption 67896

Recrudescence and fresh contraction 67897

Asbestos-related diseases

Prescribed disease D3 67901

Prescription 67902

Effect on Reduced Earnings Allowance entitlement 67908

Special action 67909

Benefit 67911

Prescribed diseases D4 to D10

Prescribed disease D4 67916

Presumption 67919

Effect of Reduced Earnings Allowance entitlement 67920

Prescribed disease D5 (dermatitis)

Prescription 67921

Diagnosis - sensitisation 67924

Presumption 67925

Effect of Reduced Earnings Allowance entitlement 67926

Prescribed disease D6

Prescription 67928

Changes from 28.9.18 67929

Due to the nature of the employed earner’s employment 67932

Reduced Earnings Allowance 67933

Similarities with prescribed disease D13 67934

Prescribed disease D7 (occupational asthma)

Prescription 67936

Ten year rule 67938

Date of onset and recrudescence 67940

Relevant date 67941

Prescribed diseases D8, D8A and D9 67943

Date of onset and recrudescence 67950

Qualifying period 67952

Transitional provisions 67953

Effect of Reduced Earnings Allowance entitlement 67954

Prescribed disease D10

Prescription 67955

Coke oven workers 67960

Wholly or mainly 67962

Coke ovens 67963

Diagnosis 67965

Recrudescence 67966

Reduced Earnings Allowance 67967

Qualifying period 67968

Prescribed disease D11

Prescription 67969

Diagnosis and recrudescence 67971

Relevant date 67972

Qualifying period 67973

Prescribed disease D12

Prescription 67974

Definitions 67979

Medical tests 67980

Change of circumstances 67983

Previous compensation for prescribed disease D1 67986

Recrudescence and presumption 67987

Relevant date 67988

Effect on Reduced Earnings Allowance entitlement 67989

Prescribed disease D13

Prescription 67991

Similarities with prescribed disease D6 67993

Effect on Reduced Earnings Allowance entitlement 67995

**Appendix 1** – Prescribed diseases added and changes made to the Schedule of diseases since 5 July 1948 (see DMG 67301)

**Appendix 2** – Changes since 5 July 1948 amending the regulations affecting claims for prescribed diseases Nos D1, D2 and D3

**Appendix 3** – List of occupations for prescribed disease D3 mesothelioma

**Appendix 4** – Diagnosis for prescribed disease D1

**Appendix 5** – Typical coke oven (DMG 67964)

**Appendix 6** – Presumption before 6.3.15

**Appendix 7 –** Diseases where presumption should normally be automatic and those where automatic presumption is not appropriate

Statutory Rules commonly referred to in Chapter 67

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Short description** |  | **Full title** |  | **Abbreviation** |
| Claims and Payments Regulations |  | The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 No 465 |  | SS (C&P) Regs (NI) |
| Decisions and Appeals Regulations |  | The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 No 162 |  | SS & CS (D&A) Regs (NI) |
| General Benefit Regulations |  | The Social Security (General Benefit) Regulations (Northern Ireland) 1984 No 92 |  | SS (Gen Ben) Regs (NI) |
| Persons Abroad Regulations |  | The Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 No 114 |  | SS Ben (Persons Abroad) Regs (NI) |
| Prescribed Diseases Regulations |  | The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986 No 179 |  | SS (II) (PD) Regs (NI) 86 |
| Industrial Injuries Prescribed Diseases Amendment Regulations |  | The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 2006 No 96 |  | SS (II) (PD) (Amdt) Regs (NI) 06 |
| Industrial Injuries Prescribed Diseases Amendment Regulations |  | The Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 2007 No 167 |  | SS (II) (PD) (Amdt) Regs (NI) 07 |
| Student Support Regulations |  | The Education (Student Support) Regulations (Northern Ireland) 2009 No 37 |  | Student Support Regs (NI) 09 |

Chapter 67 - Prescribed diseases

Introduction

General

67001 Industrial Injury Disablement Benefit is payable for

1. prescribed diseases **and**
2. prescribed personal injuries

 caused by the work a person does1. A disease or injury is prescribed when the Department is satisfied that it is a risk arising from a person’s occupation and not a risk common to everybody2.

1 SS C&B (NI) Act 92, sec 108(1); 2 sec 108(2)

67002 The diseases and injuries for which benefits are payable and the occupations for which they are prescribed are laid down in regulations1. In this part the term prescribed disease also includes prescribed injuries2.

1 SS (II) (PD) Regs (NI), Sch 1; 2 reg 1(2)

67003 The provisions only apply to

**1.** employed earner’s employment1 **and**

**2.** diseases due to the nature of a person’s employment which in certain circumstances can be **presumed** to be satisfied without needing to be established by evidence (see DMG 67186 et seq)2.

 **Note:** If a prescribed disease is contracted while a person is self-employed there is no entitlement to benefit.

1 SS C&B (NI) Act 92, sec 108(1)(a) & (b); 2 sec 109(3); SS (II) (PD) Regs (NI), reg 4

67004 If there is no entitlement to benefit because

**1.** a disease is not prescribed **or**

**2.** an occupation is not listed

 there may be entitlement to benefit under the industrial accident provisions if it is as a result of an accident.

67005 The date of onset or development of a prescribed disease, which may have resulted in incapacity, loss of faculty or death, must be on or after **5.7.48**1. However, benefit can be paid from the National Insurance fund for certain diseases resulting from employment before **5.7.48**2 (see DMG Chapter 64).

1 SS C&B (NI) Act 92, sec 108(1); 2 sec 111 & Sch 8; WC (S) Regs (NI)

67006 The decision maker will need to obtain medical advice to establish

**1.** whether a person is suffering or has suffered from a prescribed disease (the “diagnosis” question) **or**

**2.** whether a second or subsequent attack of a prescribed disease is a fresh attack or a recrudescence (the “recrudescence” question).

 67007 – 67010

67011 Diseases and occupations are added to the Schedule1 from time to time by amending regulations. These may be retrospective.

 **Note:** Before 5.12.12 such retrospection could **not** take effect before 5.7.48.

1 SS C&B (NI) Act 92, sec 108(3)

67012 Prescribed disease are grouped according to their causes. There are four groups.

 **1.** Group A - due to physical agents.

 **2.** Group B - due to biological agents.

 **3.** Group C - due to chemical agents.

 **4.** Group D - miscellaneous diseases.

 Prescribed diseases are numbered within each group. To avoid confusion they should always be referred to by their group letter and number, for example A2, B2, C2 and D2.

67013 The grouping of prescribed diseases was introduced in 19831. Previously there had been only numbering. A conversion table for prescribed diseases prescribed before 3.10.83 is at Appendix 1 to this Chapter.

1 SS (II) (PD) (Amdt No 2) Regs (NI) 83, reg 3

Provision of National Insurance number

67014 For a claim for a prescribed disease there is a specific requirement1 for a claimant to provide sufficient information or evidence to establish their National Insurance number. See DMG 02172 et seq for full guidance.

1 SS A (NI) Act 92, sec 1(1A) & (1B)

 67015 – 67020

Adaptation of legislation

General

67021 Many of the statutory provisions governing accident claims apply without change to prescribed disease claims. Some apply with modifications, and others do not apply at all. The adaptations and modifications are set out in DMG 67022 - 67067.

Burden of proof

67022 The onus of proving that a person is or was suffering from a prescribed disease and that the remaining conditions for award of benefit under the prescribed disease provisions are satisfied rests on the claimant. But there are statutory provisions which can operate in the claimant’s favour. These relate to

**1.** the satisfaction of the conditions for a Reduced Earnings Allowance award in pneumoconiosis cases (see DMG Chapter 71)

**2.** the satisfaction of the condition that the prescribed disease is due to the nature of the employment (DMG 67186 et seq)

**3.** determining the date of onset (DMG 67340)

**4.** recrudescence (DMG 67215 et seq).

 67023 – 67030

Benefits

67031 The benefits payable for a prescribed disease and the general conditions for such benefits are the same as those for injury by industrial accident1. So the guidance in DMG Chapter 66 regarding benefits in respect of accidents, applies also to prescribed disease claims, subject to those modifications in DMG 67032 et seq.

1 SS C&B (NI) Act 92, sec 109(1)(a) & (b); SS (II) (PD) Regs (NI), reg 10

67032 In the case of prescribed disease A10 the 90 day waiting period does not apply and disablement pension may be awarded from the date of claim1. In the case of prescribed disease D3 the 90 day waiting period was removed with effect from 9.4.97. A disablement pension may be awarded from the day on which he first suffers from a loss of faculty due to prescribed disease D3.

1 SS (II) (PD) Regs (NI), reg 26

67033 Benefit is not payable for any prescribed disease if benefit has been awarded under the provisions of a Scheme made under specific legislation1.

1 II & D Old Cases Act 1975

 67034 – 67040

Relevant disease

67041 The expression relevant disease means the prescribed disease for which benefit is claimed. But it does not include any previous or subsequent attack of that disease which is (or has been) treated as

**1.** having developed on a date other than the date of onset of the attack for which the claim is made, (DMG 67215 - 67237) **or**

**2.** a recrudescence of a disease for which compensation has been paid or awarded under the specified legislation (DMG 67265 - 67271)1.

1 SS (II) (PD) Regs (NI), reg 9

67042 The decision maker should note that

**1.** references to accident are to be taken as references to prescribed disease unless they are modified by, or are inconsistent with, the prescribed disease provisions1

**2.** references to the relevant accident are to be taken as references to the relevant disease

**3.** the reference to the effects of the relevant injury2 (which relates to Reduced Earnings Allowance - see DMG Chapter 71) is to be taken as a reference to the effects of the relevant disease3.

1 SS C&B (NI) Act 92, sec 109; SS (II) (PD) Regs (NI), reg 10;

2 SS (Gen Ben) Regs (NI), reg 15; 3 SS (II) (PD) Regs (NI), reg 11

 67043

Disease contracted outside Northern Ireland

67044 Special provisions apply where a disease has been contracted in connection with employment outside Northern Ireland. These provisions, and their effects, are dealt with in DMG 67201 - 67204.

Claims and payments

67045 The provisions relating to claims and payments are generally the same for prescribed diseases as for accidents1. The following differences should be noted.

 **1.** Claimants are required to undergo medical examinations to enable the decision maker to determine whether they are suffering, or have suffered from, a prescribed disease2.

 **2.** Employees do not have to notify their employers that they have contracted a prescribed disease3.

 **Note:** Where **1.** applies the decision maker will need to obtain medical advice before making a decision.

1 SS (II) (PD) Regs (NI), reg 11; 2 reg 17; 3 reg 16

 67046 – 67060

Prescribed disease contracted by industrial accident

67061 The decision maker should decide claims for diseases by an industrial accident where the disease would have been prescribed for the employed earner because of the occupation being carried out at the time of the accident under the prescribed disease, and not the accident provisions1.

1 SS C&B (NI) Act 92, sec 108(6)

67062 The decision maker should decide claims where the disease stems from a personal injury sustained by the claimant in an industrial accident rather than from the accident itself under the accident provisions (see DMG Chapter 66 for full guidance).

 67063 – 67064

Conditions resulting from prescribed diseases (sequelae)

67065 "Sequelae" is the term applied to conditions which result from prescribed diseases. Medically they are described as symptoms or morbid conditions due to the disease which remain or supervene after the disease has run its usual course. A person suffering from such a condition is treated as suffering from the prescribed disease itself1.

1 SS (II) (PD) Regs (NI), reg 3

67066 As far as the diagnosis question is concerned this means that if any people have suffered from a prescribed disease but have made no claim for benefit for it, and they subsequently suffer from another condition shown to be a sequela of the disease, they must be treated as if they were suffering from the prescribed disease for the purposes of determining the diagnosis question in a claim for benefit for the sequela.

67067 There is no presumption that a particular condition results from a particular prescribed disease. This question must be determined in the light of the medical evidence of the case.

 67068 – 67070

Questions arising on a prescribed disease claim

67071 DMG 67073 lists the questions arising on a claim for benefit for a prescribed disease. The decision maker should normally consider and decide them in the order in which they are set out. In certain cases it may be appropriate to decide them in a different order, for example where

 **1.** enquiries on prescription are likely to be prolonged but there is sufficient medical evidence available to support disallowance on diagnosis **or**

 **2.** the date of onset has to be determined in order to determine whether prescription is satisfied.

67072 The decision maker should bear in mind, however, that if the tribunal reverse an adverse decision on diagnosis following an appeal, the decision maker must resume enquiries on prescription and reach a decision on that question before considering the further questions at DMG 67073 **4.**.

67073 The primary questions are

**1.** whether the disease for which benefit is claimed is a prescribed disease

**2.** whether the disease is prescribed in relation to the employed earner (the prescription question) which involves considering the

**2.1** nature of that person’s employment **and**

**2.2** question whether the employment is employed earner’s employment

**3.** whether the claimant is suffering from or has suffered from the disease (the diagnosis question)

**4.** whether the disease is due to the nature of the employed earner’s employment

**5.** what was the date of onset of the disease

**6.** whether the claimant has suffered a loss of faculty as a result of the relevant prescribed disease.

67074 DMG 67073 **4.** depends mainly on medical evidence. However, it also involves considering the

**1.** type of employed earner’s employment **and**

**2.** date of onset (see DMG 67073 **5.**) where a presumption exists that the disease claimed is due to the nature of the employed earner’s employment.

67075 Further questions that may also arise are

**1.** Whether the present attack of the disease is a recrudescence of a previous attack or a fresh contraction.

**2.** On what date the disease was first prescribed in the regulations and in relation to the employed earner.

67076 Decision makers should note that

**1.** before disallowing a claim on any of the grounds in DMG 67072, the decision maker should consider if benefit could be paid under the industrial accident provisions

**2.** where **1.** applies the decision maker should make enquiries into the accident question if this has not already been done and defer making a decision in the meantime

**3.** if enquiries indicate the claim could not succeed under **1.**, the decision maker should disallow under the relevant ground in DMG 67073.

 67077 – 67080

Prescription

Disease not prescribed in the regulations

67081 Benefit cannot be paid under the prescribed disease provisions for a disease which is not prescribed in the regulations unless it has itself resulted from a prescribed disease (DMG 67065). But as difficulties can arise in this type of situation, the decision maker should be entirely sure that disallowance is appropriate1.

1 R(I) 3/74; R(I) 4/80

67082 Decision makers should note that

**1.** if a claimant cannot identify a relevant disease, the decision maker should ensure full enquiries have been made to check if the condition could have resulted from a prescribed disease

**2.** if they consider that the claimant may be suffering from a particular prescribed disease or from a sequela (even though the claimant has not identified it) they should not disallow as in DMG 67081 but should seek medical advice on the appropriate diagnosis question.

67083 Where DMG 67082 **2.** applies, further action in these cases depends upon the medical advice provided on the diagnosis question.

 67084 – 67090

Prescribed occupations

67091 Each prescribed disease is prescribed only for employed earners who have been employed on or after 5.7.48 in employed earner’s employment in one or more occupations prescribed for that disease1.

1 SS (II) (PD) Regs (NI), reg 2; R(I) 7/61

67092 The prescription test

**1.** is not restricted to employment in which the person has worked after the date on which the disease was added to the schedule or the terms of prescription were modified **and**

**2.** may be satisfied by any period of employed earner's employment which the person has had in the relevant occupation since 5.7.48.

 **Note:** Benefit cannot be paid for disablement before the date of introduction/ modification of the disease.

67093 The prescribed diseases and their prescribed occupations are listed at Appendix 1 to this Chapter. Matters of particular interest concerning some of the prescribed diseases are discussed in DMG 67301 et seq1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67094 Whether the claimant has been employed in a prescribed occupation is a question of fact to be determined by the decision maker. Employed in an occupation means actually working in an occupation that is exposed to the risk of the disease. It does not mean merely legally bound by a contract of employment to work, though not in fact working1. However, when calculating periods of actual work the decision maker should include normal breaks2. Examples of normal breaks are

 **1.** weekends

 **2.** holidays

 **3.** short term absences for sickness or absenteeism

 **4.** short term interruptions due to industrial troubles.

 A continuous break of 3 months or more should not normally be included when calculating periods of actual work.

1 CI 59/49(KL); CI 60/49(KL); 2 R(I) 2/79

67095 The prescribed occupations are those involving the activities, contacts and exposures listed. "Involve" is not restricted to the duties persons have to perform under their contract of service. If, as well as those duties, they voluntarily perform other work which it is reasonable to accept as part of their duties, their occupation might be held to involve the additional work1. If the work which involves the prescribed activity etc - whether voluntary or a contractual requirement - is performed very infrequently, or for a very short time, it might be disregarded as being too trivial to be taken into account2.

1 R(I) 4/53; 2 R(I) 4/53; R(I) 61/53; R(I) 8/57

67096 Any doubt about whether the employment in the prescribed occupation was employed earner's employment should be referred to Her Majesty’s Revenue and Customs (see DMG Chapter 66).

67097 If it is clear that the claimant has not been employed in a prescribed occupation on or after 5.7.48, the decision maker can disallow the claim without determining whether the claimant is suffering from the disease for which benefit is claimed1. Any decision on the prescription question is subject to appeal and if the decision is reversed on appeal the diagnosis question has then to be raised and determined.

1 SS & CS (D&A) Regs (NI), reg 12(1)(b)(c); SS (NI) Order 98, art 9

Prescription of diseases involving poisoning etc

67098 The decision maker may have difficulty deciding prescription on claims for prescribed diseases involving poisoning or exposure to chemical or other agents (for example those in Group C and also prescribed disease D7) because employers (as well as claimants) cannot give sufficient details of the precise nature of the substances or agents involved. The decision maker may need to consult Decision Making Services in these cases about the need for expert opinion.

67099 Before a reference is made every effort should be made to obtain as much information as possible from persons with relevant knowledge of the claimant’s work. In doubtful cases enquiries should be made about the chemical constituents of a proprietary product and the name and address of the manufacturer obtained. Only where the doubt is not resolved should the Decision Making Services be consulted.

 67100

Diagnosis

General

67101 The question whether a person is suffering or has suffered from a prescribed disease is referred to as a diagnosis question1 and should be decided after obtaining medical evidence from medical services.

1 SS & CS (D&A) Regs (NI), reg 12(1)(b) & (c)

67102 No action is needed on the diagnosis question if the claim fails completely on other grounds, for example prescription.

 67103

Determination of diagnosis question

67104 For procedural purposes the prescribed diseases are divided into two categories, respiratory diseases and other, as distinct from the four groups into which they fall for prescription purposes1. The following table lists the prescribed diseases in these two categories.

 **Respiratory Other**

 A1 - A14

 B1 - B5

 B6 B7 - B15

 C1 - C16

 C17 - C18 C19 - C22(a)

 C22(b) C23 - C30

 C31 C32

 D1 - D3 D4 - D6

 D7 - D12 D13

1 SS (II) (PD) Regs (NI), Sch 1

67105 There are some slight variations in the action required to decide the diagnosis question between the two categories. These are explained in the guidance at DMG 67111 et seq.

 67106 – 67110

References for medical advice

Non-respiratory diseases

67111 When a diagnosis/disablement question arises on a claim for a non-respiratory disease, the decision maker should refer the question for medical advice1. There are circumstances where this will not be necessary (see DMG 67115).

1 SS (NI) Order 98, art 12(2); SS & CS (D&A) Regs (NI), reg 12(1)(b)

67112 Procedural instructions provide for the claim to be referred to a medical adviser who may examine the claimant or provide advice based on documentary evidence. The papers should not be referred for medical advice until the decision maker considers that the prescription question is satisfied (but see DMG 67902).

Respiratory diseases

67113 In claims for respiratory diseases action is taken as in DMG 67111 - 67112 except that medical services will arrange for advice to be obtained from a medical adviser experienced in respiratory diseases1.

1 SS & CS (D&A) Regs (NI), reg 12(3)(b)

67114 Any variation from the usual procedure which may be required in the case of a particular prescribed disease is covered in DMG 67301 et seq.

Power to dispense with reference for medical advice

67115 In exceptional circumstances the decision maker may dispense with reference for medical advice if

**1.** medical reports from

 **1.1** a doctor at a hospital which treated the claimant **or**

 **1.2** a medical officer at the claimant’s workplace

 support a favourable diagnosis decision1

**2.** a similar diagnosis or recrudescence question has been decided on any previous claim or question arising on the same prescribed disease suffered by the same person (see DMG 67116)

**3.** the decision maker considers that the whole or any part of a claim can be disposed of without deciding the diagnosis or recrudescence question (see DMG 67097).

 **Note:** If the reports do not support a decision as in **1.** the decision maker should take action as in DMG 67111.

1 SS & CS (D&A) Regs (NI), reg 12(2) & (3)

67116 Where DMG 67115 **2.** applies the decision maker may take into account, in deciding the diagnosis question, any medical evidence on which the earlier decision was based1. The decision maker should use this power only where the date of the decision on the previous claim is so recent that there is no doubt that the claimant’s condition is the same as it was at the time of the previous claim. As a guide the previous claim should be within four weeks of the current claim. However, in cases of slowly developing diseases, for example pneumoconiosis, a longer period may be appropriate.

1 SS & CS (D&A) Regs (NI), reg 12(2) & (3)

 67117 – 67154

Raising the diagnosis question afresh

67155 A decision on a diagnosis question is final, subject to appeal, revision or supersession. The question can, if necessary, be raised and decided afresh on a subsequent claim. It cannot be raised and decided afresh on a claim for which a valid diagnosis decision has already been given1.

 **Note:** See DMG Chapter 03 for guidance on revision, DMG Chapter 04 for guidance on supersession and DMG Chapter 06 for guidance on appeals.

1 CI 438/50 (KL)(T)

67156 If a diagnosis question arises on a subsequent claim, the decision maker should follow the guidance in DMG 67101 - 67115. The diagnosis question cannot be raised afresh once an assessment of disablement has been made for that particular attack of the prescribed disease.

 67157 – 67180

Due to the nature of the employed earner’s employment

67181 To satisfy the conditions for benefit a prescribed disease must be due to the nature of a person’s employment1. This question is for the decision maker, the tribunal or the Commissioner to decide.

1 SS C&B (NI) Act 92, sec 108(1)(a) & (b)

67182 **Due to the nature of** means due to those features of the employment which exposed the claimant to the risk of contracting the disease. The phrase does not merely mean due to the employment. Features such as long hours, strenuous conditions, not peculiar to the prescribed occupation cannot be considered1.

1 R(I) 38/52

67183 In deciding this question the decision maker can take account of

**1.** past employed earner’s employment as well as the current employed earner’s employment, even if the claimant received benefit for the disease in the earlier employment, and even if the current attack of the disease is treated as having been contracted afresh for the purpose of fixing the date of onset1

**2.** employment before 5.7.48 which would have been insurable, or employed earner’s employment under current and previous legislation

**3.** employment before 6.4.75 which would have been employed earner’s employment under current legislation2.

1 R(I) 10/53; 2 SS C&B (NI) Act 92

67184 Such past employment must have had features exposing the claimant to the risk of contracting the prescribed disease, though not necessarily the same features1. If both employments satisfy the prescription laid down in regulations2 it can be accepted that they are of the same nature.

1 R(I) 17/53; 2 SS (II) (PD) Regs (NI), Sch 1

67185 No account can be taken of employment which would not have been insurable or employed earner’s employment, for example service in Her Majesty’s Forces1.

1 R(I) 9/53; R(I) 17/53

Presumption

67186 There were changes to presumption from 16.3.151. DMG 67187 et seq give guidance on presumption from that date. Appendix 6 to this Chapter gives guidance on presumption before that date. There is further guidance on presumption in the guidance on specific prescribed diseases.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1(1)

67187 Where a person has contracted prescribed diseases A3(a), A4, A5, A6, A7, A8, A11, B1(a), B3, B4(a), B9, B10, B11, B12, B14, B15, C3, C24A, D4 and D7 there is a presumption1 unless the contrary is proved, that the prescribed disease is due to the employed earner’s employment if the person who has contracted the prescribed disease

1. was employed in a prescribed occupation2 **and**
2. was so employed on, or at any time within one month immediately preceding the date of onset of the disease3.

 **Note 1:** There is a different presumption for prescribed disease A3(b) (see DMG 67188).

 **Note 2:** There is a different presumption for prescribed diseases B1(b) and B4(b) (see DMG 67190).

1 SS (II) (PD) Regs (NI) 86, reg 4(1); 2 reg 4(1)(a) & Sch 1, Part 1; 3 reg 4(1)(b)

67188 **[See DMG Memo Vol 11/29]** Where a person has contracted prescribed diseases A1, A2, A3(b), A10, A13, A14, B2, B6, B8B, B13, C17, C18, C22(a), C24, C31, C32, D2, D3, D6, D8, D8A, D9, D10, D11, D12 and D13 there is a presumption1, unless the contrary is proved, that the prescribed disease is due to the employed earner’s employment if the person who has contracted a prescribed disease was employed in a prescribed occupation2.

 **Note 1:** There is a different presumption for prescribed disease A3(a) (see DMG 67187).

 **Note 2:** There is no presumption for prescribed disease C22(b).

1 SS (II) (PD) Regs (NI) 86, reg 4(2); 2 Sch 1, Part 1

Prescribed disease B5

67189 Where a person for whom prescribed disease B5 is prescribed develops the disease it is presumed, unless the contrary is proved, to be due to the nature of their employed earner’s employment if

**1.** occupation (a) applies **and**

**2.** the date on which they are treated as having developed the disease is

**2.1** not less than six weeks after the date on which they were first employed in a prescribed occupation (being employed earners’ employment) **and**

**2.2** not more than two years after the date on which they were last so employed in employed earner’s employment1.

 **Note 1:** See DMG 67542 et seq for guidance on prescribed disease B5.

 **Note 2:** There is no presumption for prescribed disease B5 occupation (b).

1 SS (II) (PD) Regs (NI) 86, reg 4(3)

Prescribed diseases B1(b), B4(b), B7 and B8A

67190 There is a presumption that prescribed diseases B1(b), B4(b), B7 and B8A will, unless the contrary is proved, be due to employed earner’s employment1. It will apply where a person who has contracted the prescribed disease

**1.** was employed in a prescribed occupation2 **and**

**2.** was so employed on, or at any time within

**2.1** for B1(b) and B8A, 2 months **or**

**2.2** for B7, 6 months **or**

**2.3** for B4(b), 12 months

 immediately preceding, the date of onset of the disease3.

 **Note 1:** See DMG 67536 for guidance on prescribed disease B1, DMG 67540 for guidance on prescribed disease B4, DMG 67563 for guidance on prescribed disease B7 and DMG 67566 for guidance on prescribed disease B8A.

 **Note 2:** There is a different presumption for prescribed diseases B1(a) and B4(a) (see DMG 67187).

1 SS (II) (PD) Regs (NI) 86, reg 4(4); 2 reg 4(4)(a) & Sch 1, Part 1; 3 reg 4(4)(b)

Prescribed disease A12

67191 There is a presumption that prescribed disease A12 occupation (b) will, unless the contrary is proved, be due to employed earner’s employment1. It will apply where a person who has contracted the prescribed disease

**1.** was employed in a prescribed occupation2 **and**

**2.** was so employed on, or at any time within one month immediately preceding the date of onset of the disease3.

 **Note 1:** See DMG 67501 et seq for guidance on prescribed disease A12.

 **Note 2:** There is no presumption for prescribed disease A12 occupation (a).

1 SS (II) (PD) Regs (NI) 86, reg 4(5); 2 Sch 1, Part 1; 3 reg 4(5)

Prescribed disease C23

67192 There is presumption that prescribed C23 occupations (a), (b) and (e) will, unless the contrary is proved, be due to employed earner’s employment1. It will apply where a person who has contracted the prescribed disease was employed in a prescribed occupation2.

 **Note 1:** See DMG 67706 et seq for guidance on prescribed disease C23.

 **Note 2:** There is no presumption for prescribed disease C23 occupations (c) and (d).

1 SS (II) (PD) Regs (NI) 86, reg 4(6); 2 Sch 1, Part 1

Prescribed disease D1

67193 Unless the contrary is proved prescribed disease D1 is presumed to be due to the nature of employed earner’s employment1 if

**1.** the disease is prescribed in relation to a person in a scheduled occupation2 **and**

**2.** the person has been employed in one or other of those occupations for an aggregate of at least two years **and**

**3.** such employment either

**3.1** was employed earner’s employment **or**

**3.2** would have been employed earner’s employment if it had taken place on or after 5.7.48.

1 SS (II) (PD) Regs (NI) 86, reg 4(7); 2 reg 2(b)(i), Sch 1, Part II

Prescribed diseases for which there is no presumption

67194 There is no presumption for prescribed diseases not included in DMG 67187 - 67193.

When presumption continues to apply

67195 A presumption in the claimant’s favour continues to apply unless the decision maker is able to rebut it, that is, to show that the disease was not due to the nature of the employment. To do this the decision maker must have proof sufficient to establish the point on the balance of probabilities. That is the decision maker must be satisfied that, taking into account all the relevant evidence, it is more probable that the disease was not due to the nature of the employed earner’s employment than that it was1.

1 R(I) 38/52

When presumption does not apply

67196 If the presumption does not apply, the onus is on the claimant to establish on a balance of probabilities, that the disease was due to the nature of the employed earner’s employment.

 67197 – 67200

Employment outside Northern Ireland

67201 Benefit is not payable for a prescribed disease which is due to the nature of employment in an occupation in which the employed earner has been engaged only outside Northern Ireland1. This provision does not apply to

**1.** mariners and airmen (see DMG Chapter 07)2

**2.** people in employment in any designated area of the continental shelf3 (see DMG Chapter 07)

**3.** people in a prescribed area (see DMG Chapter 07)4

**4.** people who pay certain Class 1 contributions5 or Class 2 contributions as volunteer development workers (see DMG Chapter 07).

1 SS (II) (PD) Regs (NI), reg 12; 2 SS C&B (NI) Act 92, sec 117; 3 SS Ben (Persons Abroad) Regs (NI), reg 9;

4 SS C&B (NI) Act 92, sec 120; 5 SS (Cont) Regs (NI) 1979, reg 112

European Economic Area countries

67202 The effects of European legislation must be considered if a person contracts a prescribed disease while working in a European Economic Area country1. Generally the disease will be treated as having been contracted in the UK if the person has remained subject to the UK insurance scheme2. Other provisions cover

**1.** cases where a person suffering from a prescribed disease has worked in two or more European Economic Area countries in an occupation liable to stimulate that disease3 **and**

**2.** cases where a person is already in receipt of Industrial lnjuries benefit in respect of a prescribed disease under the legislation of one European Economic Area country and aggravation of that disease occurs while the person is working (or after having worked) in an appropriate occupation in another European Economic Area country4.

 Detailed guidance on the application of European legislation to Industrial lnjuries benefits is in DMG Chapter 07.

1 Reg (EEC) 1408/71 & (EEC) 574/72; 2 Reg (EEC) 1408/71 Article 52 & 55; 3 Article 57; 4 Article 60

67203 From 1.7.67 the European Community Regulations cover “employed and self-employed persons” instead of “workers”. But this does not give self-employed persons entitlement to benefits under Northern Ireland legislation which are payable only to those who are, or have been, in employed earner’s employment.

67204 If a person has been in employed earner’s employment in a prescribed occupation partly in Northern Ireland and partly outside Northern Ireland, the decision maker can consider presumption under DMG 67186 et seq in relation to the employment in Northern Ireland. If it is shown that the disease was due entirely to employment abroad and was not aggravated by employment in Northern Ireland, it cannot be accepted as due to the nature of employed earner’s employment.

 67205 – 67210

Evidence

67211 When reaching a decision on the due date to the nature of employment question the decision maker should take account of the medical advice and opinion. Although these opinions are not binding on the decision maker, the decision maker should not normally give a decision which is contrary to that opinion. However if the decision maker thinks other evidence throws doubt on such opinions, the case should be returned for further advice. The most likely source of other evidence would be from the employer, for example where enquiries show that the prescription question is satisfied but further evidence shows that the claimant’s last contact with the substances relevant to the particular disease occurred so long before the attack commenced that it throws doubt on the question as to whether it can be attributed to that contact.

 67212 – 67214

Date of onset, recrudescence and fresh contraction

67215 In prescribed disease cases the date corresponding to the date of accident is known as the date of onset. This is the date on which the prescribed disease is treated as having developed1.

1 SS (II) (PD) Regs (NI), reg 5

67216 The decision maker does not have to determine a date of onset in every claim for a prescribed disease. For example if there has been a previous award of benefit for the same disease a recrudescence question arises and the decision maker has to determine whether the further attack is to be treated as a recrudescence of the earlier attack or as a fresh contraction of the disease. If the further attack is to be treated as a recrudescence, a decision on date of onset is not needed, the date of onset being the date already accepted for the earlier award of benefit.

67217 Consideration of the date of onset is not affected by the renumbering of diseases. The decision maker should treat

**1.** A1, D4 and D5 as covering the same ground as those numbered 25, 24(a) and 24(b) in the 1948 schedule of diseases, and as those numbered 25, 41 and 42 in the 1980 schedule

**2.** A4 in the same way as any of those originally numbered 28, 29 and 30.

 67218 – 67230

67231 Apart from prescribed disease A10 (see DMG 67331 et seq) the date of onset in Disablement Benefit claims is the date the claimant first suffered from the relevant loss of faculty on or after 5.7.481.

1 SS (II) (PD) Regs (NI), reg 6(2)(b)

67232 If the claim is made from a date during a period covered by an assessment of disablement relating to a previous award of Disablement Benefit for the same disease, a recrudescence question arises. The further attack is treated as a recrudescence of the earlier attack unless it is decided that the disease was contracted afresh1.

1 SS (II) (PD) Regs (NI), reg 7(1)(a)

67233 If the further attack begins outside a period covered by an assessment of disablement relating to the previous award, the further attack is treated as a fresh contraction of the disease1.

1 SS (II) (PD) Regs (NI), reg 7(1)(b)

67234 For these purposes, a further attack is deemed to have begun on the date which would be treated as the date of onset if no previous claim had been made for that disease1.

1 SS (II) (PD) Regs (NI), reg 7(2)

67235 Where a disease is treated as having been contracted afresh, the date of onset is determined as though no previous claim had been made for that disease1.

1 SS (II) (PD) Regs (NI), reg 7(3)

67236 Where a further attack of a disease is treated as a recrudescence of an earlier attack as in DMG 67232, the assessment must be referred for medical advice before the decision maker can supersede the earlier assessment (DMG 67241)1.

 **Note:** See DMG Chapter 04 for guidance on supersession.

1 SS (II) (PD) Regs (NI), reg 7(4)

67237 If Disablement Benefit for a prescribed disease (other than D1 or D2) is claimed by a person who has been awarded or paid Workmen’s Compensation for the same disease, a recrudescence question may arise1. The special provisions covering such cases are dealt with in DMG 67265.

1 SS (II) (PD) Regs (NI), reg 8(1)

 67238 – 67240

Determination of recrudescence question

67241 Where a recrudescence question arises the decision maker must refer such a question for advice to a medical adviser together with any disablement question which arises1.

1 SS & CS (D&A) Regs (NI), reg 12(2)

67242 Decision makers should determine the recrudescence question in the same way as a diagnosis question (see DMG 67101 - 67156). However

1. they may only dispense with reference for medical advice where a recrudescence question arises in connection with a diagnosis question which has been decided in the claimant’s favour1
2. if they rely on a previous decision (see DMG 67115 **2.**) and the recrudescence question cannot be determined without medical advice they should refer the case for medical advice2.

1 SS (NI) Order 98, art 19; 2 SS & CS (D&A) Regs (NI), reg 12(2)

67243 When considering medical advice on the recrudescence decision makers should note that

**1.** if a diagnosis question also arises and is being referred to a medical adviser, they should not decide the recrudescence but should refer both questions for medical advice

**2.** if **1.** does not apply they must determine the recrudescence question and having considered the report, if they are satisfied that the disease

 **2.1** ought to be treated as having been in fact contracted afresh **or**

 **2.2** is a recrudescence of the earlier attack **or**

 **2.3**  did not develop on or after 5.7.48

 they should give a decision accordingIy.

67244 Also, when a claimant notifies that their condition has deteriorated, the decision maker should seek medical advice on whether there has been a change and, if so, the date it occurred. In relevant prescribed disease cases1, the decision maker should ask whether a recrudescence question arises. Medical advice may be that the claimant’s condition has

**1.** deteriorated **or**

**2.** stayed the same **or**

**3.** improved.

It may also cast doubt on the original diagnosis or loss of faculty.

 **Note:** See DMG Chapter 04 for guidance on distinguishing medical opinion from fact and supersession to take account of the medical advice.

1 SS (II) (PD) Regs (NI), reg 7

 67245 – 67264

Date of onset where Workmen’s Compensation received for the same disease

67265 Transitional provisions for determining the date of onset prevent payment of benefit if the liability for the current attack of the disease has been, or is being, redeemed by payment of Workmen’s Compensation1. This liability is redeemed if compensation under the specified legislation2 has been awarded or paid in respect of the same disease **and** at the date of claim

**1.** that person is receiving weekly payments in respect of such compensation **or**

**2.** the liability or alleged liability for such compensation has been redeemed by the payment of a lump sum or has been the subject of a composition agreement under the provisions of the specified legislation.

 Where **1.** or **2.** apply the disease is treated as a recrudescence of the attack for which the compensation was paid, unless it is determined that the disease was in fact contracted afresh.

1 SS (II) (PD) Regs (NI), reg 8; 2 Workmen’s Compensation Acts

67266 In a claim for a prescribed disease (apart from pneumoconiosis or byssinosis) by a person who has been awarded or paid Workmen’s Compensation for the same disease, a recrudescence question arises and is determined as in DMG 67241 - 67243. Where it is determined that the attack is a fresh contraction of the disease, the date of onset should be determined as if Workmen’s Compensation had not been awarded.

 Otherwise the claim is for disallowance on the grounds that the disease is to be treated as a recrudescence of the disease for which compensation under the specified legislation1 was awarded or paid, and not as having developed on or after 5.7.48.

1 Workmen’s Compensation Acts

67267 If the compensation awarded falls outside DMG 67265 the date of onset is to be determined in the ordinary way as a date on or after 5.7.481. In such a case a recrudescence question does not arise2.

1 SS (II) (PD) Regs (NI), reg 8(2); 2 R(I) 30/51

67268 For the purposes of DMG 67265 **1.** persons can be deemed to be (or to have been) receiving weekly payments of compensation, even if they have not in fact received them, if they are (or were) entitled to such payments by an award or agreement made under the specified legislation1.

1 SS (II) (PD) Regs (NI), reg 8(4); Workmen’s Compensation Acts

67269 Compensation received under a contracting-out scheme under the specified legislation is treated for these purposes as workmen’s compensation1.

1 WC (S) Regs (NI), regs 4(3) & 5(1); Workmen’s Compensation Acts

67270 If after claiming benefit for a prescribed disease the claimant obtains weekly payments under the specified legislation (or if existing payments are increased), the decision maker may

**1.** reconsider any decision on the prescribed disease claim if it was given before the date of, or in ignorance of, the weekly payments on the grounds that it was given in ignorance of a material fact **and**

**2.** decide that the change in the compensation award had been made at the date of the claim for benefit1.

1 SS (II) (PD) Regs (NI), reg 8(3); Workmen’s Compensation Acts

67271 DMG 67270 does **not** apply when the compensation award obtained later is an **agreed lump sum settlement** as in such a case the liability would not have been redeemed at the date of claim. But it does apply if arrears of **weekly** payments are paid later as a lump sum.

 67272 – 67300

Notes on individual diseases – general
[See DMG Memo Vol 11/29]

67301 DMG 67302 et seq and Appendix 1 give guidance about differences in law relating to particular diseases, Commissioner’s decisions, and other points of guidance and interest.

67302 Appendix 1 to this Chapter lists all changes in the terms of prescription, in the description and in the numbering of prescribed diseases (with effective dates) since 5.7.48.

67303 The two categories into which the prescribed diseases fall for procedural purposes in connection with diagnosis are set out in DMG 67104.

67304 The only prescribed diseases which may involve tumours or growths are

**1.** A1

**2.** C4

**3.** C7

**4.** C21

**5.** C22(a)

**6.** C22(b)

**7.** C23

**8.** C24(a)

**9.** C32

**10.** D3

**11.** D6

**12.** D8

**13.** D8A

**14.** D10 **and**

**15.** D11

 A new growth (whether called papilloma, tumour, neoplasm, carcinoma or cancer) should not be regarded as any other of the C diseases.

67305 DMG 67186 et seq gives guidance on presumption1. Further details are in the guidance on the particular disease.

1 SS (II) (PD) Regs (NI) 86, reg 4

 67306 – 67308

Prescribed diseases A1, A2, A3, A4 and A7

Prescribed disease A1 before 30.3.17

67309 From 10.7.00 the prescription has been restricted to leukaemia or cancer of specified parts of the body where the electro-magnetic radiation is “sufficient to double the risk of the occurrence of the condition”. This phrase has not been defined in legislation therefore prescription should continue to be accepted based on the person’s occupation.

Transitional provisions

67310 The decision maker should note that the revised prescription will not apply where

**1.** there is a continuous assessment for disablement for a period up to 10.10.00 **or**

**2.** a decision was made up to and including 10.10.00 and that decision is revised or superseded after 10.10.00 provided there is a continuous assessment.

 For the purposes of **1.** and **2.** two or more assessments, one of which begins on the day following the end of a preceding assessment, shall be treated as continuous.

67311 From 30.3.17 the prescription changed to leukaemia (other than chronic lymphocytic leukaemia) or primary cancer of the bone, bladder, breast, colon, liver, lung, overy, stomach, testis or thyroid where the dose of ironising radiation is sufficient to double the risk of the occurrence of the condition1.

 **Note 1:** Where appropriate, the cancers, including of the breast, apply to both men and women.

 **Note 2:** See DMG 67309 for guidance on the phrase “Sufficient to double the risk of the occurrence of the condition”.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

Reduced Earnings Allowance

67312 The changes to prescribed disease A1 from 30.3.17 are an extension to the list of prescribed diseases or occupations. Therefore, there is no entitlement to Reduced Earnings Allowance in respect of those changes as the extensions were after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

Prescribed disease A2

67313 From 7.7.58, the description of the disease was amended to “heat cataract” and the occupational cover was extended to “frequent or prolonged exposure to rays from molten or red-hot **material**”. Until 7.7.58, only frequent or prolonged exposure to the glare of, or rays from, molten glass or molten or red-hot metal was covered.

67314 The description of the disease was further amended from 10.7.00 to “cataract” and the occupational cover was changed to include exposure to “radiation from red-hot or white-hot material”.

67315 From 10.7.00, unless transitional provisions apply (see DMG 67310), prescription can only be satisfied where a person worked in employed earner’s employment for a period or periods amounting in the aggregate of five years.

67316 A man who had been employed as a fireman at a colliery for about three months was held to have been employed in a prescribed occupation. His duties included levelling, stoking and poking two furnaces and, as he was a slow worker, his rake and poker soon became red-hot. He was also responsible for cleaning out the furnaces two or three times a shift, during which operation his rake and poker again became red-hot. Thus he was exposed while working to the glare of, or rays from, red-hot metal at intervals of about a quarter of an hour1.

1 CI 388/50(KL)

Prescribed disease A3

67317 Before 16.3.15 prescribed disease A3 was dysbarism, including decompression sickness, barotrauma and osteonecrosis. From 16.3.151 it was divided into prescribed disease A3(a) and prescribed disease A3(b)2. This was to allow for different presumption rules to apply3 (see DMG 67187 - 67188). Prescribed disease A3(a) is dysbarism, including decompression sickness and barotrauma. Prescribed disease A3(b) is osteonecrosis.

 **Note:** The scheduled occupations are the same for prescribed disease A3(a) and prescribed disease A3(b)4.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, Sch 1, Part 1;
3 reg 4(1) & (2); 4 Sch 1, Part 1

Reduced Earnings Allowance

67318 Entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease A3 where a date of onset is before 1.10.901 because the change is

**1.** a redefinition of the disease **and**

**2.** **not** an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease A4

67319 Prescribed disease A4 was introduced with effect from 7.7.58 as prescribed disease 28, cramp of the hand or forearm due to repetitive movements. The 1958 prescription incorporated three existing diseases, telegraphist’s cramp (No 28), writer’s cramp (No 29) and twister’s cramp (No 30) by extending the cover to prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm.

67320 Where a person suffered from an attack of one of the diseases numbered 28, 29 or 30 in the pre-7.7.58 schedule and subsequently suffers an attack of prescribed disease A4 in the new schedule, that person is treated as having suffered another attack of the same disease and a recrudescence question may thus arise.

67321 With effect from 6.4.071 prescribed disease A4 was re-defined as task-specific focal dystonia. This brought it in line with current medical terms. This change does **not** extend prescribed disease A4 to other forms of dystonia other than those affecting the hand or forearm for example cervical dystonia. With effect from 30.3.122 the words “of the hand or forearm” were added to the definition to clarify it.

1 SS (II) (PD) (Amdt) Regs (NI) 07, reg 2; 2 SS (II) (PD) (Amdt) Regs (NI) 12, reg 2

Effect on Reduced Earnings Allowance

67322 As neither

1. the change in prescription for prescribed disease A4 with effect from 6.4.07 **and**
2. the redefinition of the disease with effect from 30.3.12

 was not an extension, entitlement to Reduced Earnings Allowance can still be established (see DMG Chapter 71).

Prescribed disease A7

67323 The decision maker should note the following points

**1.** manual labour, in the description of the prescribed occupation, merely means physical or bodily work. It does not necessarily mean some laborious activity calling for much physical effort or muscular strength

**2.** an occupation which is mainly sedentary or clerical or non-manual may nevertheless incidentally involve some manual labour

**3.** whether the friction or pressure is severe or prolonged is a question of fact (see DMG 67324).

67324 Examples for the purpose of DMG 67323 are a traffic controller’s duties operating a telephone switchboard were held to involve severe or prolonged friction or pressure1 but a clerk’s duties as a telephone operator were held not to involve severe or prolonged pressure2.

1 R(I) 60/51; 2 R(I) 78/54

67325 From 7.7.58 the legislation was amended to reflect what a Commissioner had previously determined, that is, that the friction must arise from an external source1. The external source can, however, be another part of the body.

1 R(I) 78/54

67326 The condition of ‘beat elbow’ should be distinguished from that of tennis elbow which is a separate condition capable of exact diagnosis andis **not** a prescribed disease.

67327 However, with effect from 6.4.07, prescribed disease A7 was re-defined by removing the reference to beat elbow. That was because that term is no longer used in modern clinical practice.

Effect on Reduced Earnings Allowance

67328 As the change in prescription for prescribed disease A7 was not an extension, entitlement to Reduced Earnings Allowance can still be established (see DMG Chapter 71).

 67329 – 67330

Prescribed disease A10 (occupational deafness)

67331 This disease was prescribed as prescribed disease 48 from 28.10.74 although benefit was not payable until 3.2.751. Changes were made to the description of the disease from 3.9.79 and 3.10.832 and again from 16.10.893. From that date the description is

 “Sensorineural hearing loss amounting to at least 50dB in each ear, being the average of hearing losses at 1,2 and 3kHz frequencies and being due in the case of at least one ear to occupational noise (occupational deafness).”

 Details of the legislative changes and their effects are in Appendix 1 to this Chapter.

1 NI (II) (PD) (Amdt) Regs (NI) 74, reg 2 & Sch; 2 SS (II) (PD) (Amdt No 4) Regs (NI) 79, reg 2 & Sch;

SS (II) (PD) (Amdt No 2) Regs (NI) 83, reg 3(d) & Sch 1; 3 SS (II) (PD) (Amdt) Regs (NI) 89, reg 4;

SS (II) (PD) (Amdt No 2) Regs (NI), reg 2(1), (2) & (3)

67332 Claims to benefit for occupational deafness are subject to numerous special provisions and restrictions. Guidance is arranged as follows

 Time limits for claiming (DMG 67334)

 Date of onset (DMG 67340)

 Prescription (DMG 67345)

 Diagnosis (DMG 67434)

 Assessment (DMG 67436)

 Due to the nature (DMG 67447)

 67333

Time limits for claiming

67334 The normal time limits for claiming benefit1 do not apply to occupational deafness. A claim for occupational deafness must be made within five years of the date a person last worked in employed earners employment in a prescribed occupation2. Disablement Benefit cannot be paid for any day before the date of claim.

1 SS (C&P) Regs (NI), reg 6, 19 and Sch 4; SS (II) (PD) Regs (NI), reg 23(1); 2 reg 23(2)

67335 The five year time limit runs from the time a person actually last works in a prescribed occupation and not from the date a contract of employment expires (if later)1.

1 R(I) 2/79

67336 If a claim has been disallowed on the five year rule (DMG 67334) a further claim to benefit may be accepted as soon as a person starts work in a prescribed occupation. But the prescription test and diagnosis test must be satisfied for benefit to be payable.

67337 If a claim has been disallowed on diagnosis a further claim to benefit can only be allowed if the claim1 is made more than three years after the date

**1.** of an earlier claim which was disallowed **or**

**2.** of a re-assessment of less than 20 per cent by a decision maker or tribunal.

1 SS (II) (PD) Regs (NI), reg 25(1)(a) & (b)

67338 A claimant may find that by delaying a claim until after the dates in DMG 67337 **1.** or **2.** the five year time limit is not satisfied. In these cases the three year waiting period can be waived and one further claim allowed provided it is made within five years of working in a prescribed occupation1. When a claim is made under this provision the normal conditions for satisfying prescribed disease A10 still apply, for example the deafness must be occupationally caused.

 **Note:** See DMG 67334 for guidance on the five year time limit.

1 SS (II) (PD) Regs (NI), reg 25(1)

 **Example**

 4.3.90 Last worked in prescribed occupation

 17.6.92 Date of previous claim which was disallowed on diagnosis

 3.3.95 Expiry of five year time limit

 16.9.95 Expiry of three year waiting period.

 By delaying a claim until after 16.6.95 the five year time limit will not be satisfied. A further claim can therefore be accepted provided it is made before 3.3.95.

67339 The decision maker, the tribunal or Commissioner may disallow a claim made under DMG 67338 without referring for a medical opinion where the medical evidence satisfies the decision maker, tribunal or Commissioner that the claimant does not have occupational deafness1.

1 SS (II) (PD) Regs (NI), reg 25(2)

Date of onset

67340 In a claim for occupational deafness the date of onset1 is the day on which the claimant first had the relevant loss of faculty on or after 3.2.75, or, if later

**1.** 3.9.79 in the case of a claim made before that date which results in the payment of benefit commencing on that date **or**

**2.** in any other case, the date on which a successful claim to benefit is made.

 For practical purposes, the date of onset is always the date of the successful claim.

1 SS (II) (PD) Regs (NI), reg 6(2)(c); SS (NI) Order 90, Sch 6, para 2(3)

 67341 – 67344

Prescription

General

67345 Since the introduction of this prescribed disease there have been five major amendments to the list of prescribed occupations from

**1.** 3.9.79 - which added a number of occupations and brought in those assisting in and supervising the use of prescribed tools in addition to persons actually using them1

**2.** 3.10.83 - which amended supervision and assistance to work in the immediate vicinity and added further occupations to those prescribed2

**3.** 4.1.88 - which amended the definitions of the occupations in five prescribed occupations to clarify legislation in areas of doubt and ambiguity3

**4.** 10.10.94 - which added further occupations to the prescribed list and amended two prescribed occupations4

**5.** 22.9.03 - which added two new occupations to the list, amended two others and regrouped the entire list5.

 **Note 1:** Details of the changes are in Appendix 1 to this Chapter.

 **Note 2:** The effect of the changes in **2.** was not only to extend the occupations covered but also to reduce the twenty year qualifying period to ten years and to extend the time within which claims were to be made to five years.

 **Note 3:** The changes from 4.1.88 clarified and consolidated the existing categories of occupation.

 **Note 4:** The changes from 22.9.03 regrouped the list of occupations and revoked provisions dealing with provisional assessments, supersession, revision and appeal of assessments for occupational deafness.

1 SS (II) (PD) (Amdt No 4) Regs (NI) 79; 2 SS (II) (PD) (Amdt No 2) Regs (NI) 83;

3 SS (II) (PD) (Amdt No 2) Regs (NI) 87; 4 SS (II) (PD) (Amdt) Regs (NI) 94;
5 SS (II) (PD) (Amdt No 2) Regs (NI) 03

67346 The guidance in DMG 67347 - 67447 is based on the definitions of the occupations prescribed from 10.10.94. It also refers to the terms of prescription in force before 10.10.94. The decision maker will need this guidance in deciding claims which were made and questions which arose before that date.

Effect of current legislation

67347 The conditions of entitlement are that the claimant must have been employed in employed earner’s employment

**1.** at any time on or after 5.7.48 **and**

**2.** for a period (or periods totalling) not less than ten years (whether before or after 5.7.48) in a prescribed occupation1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67348 Employment means work actually done, not the contractual obligation to do it1. In calculating the ten year period short-term absences from work can be ignored but a person should not normally be accepted as working if an absence exceeds three months. The total of ten years employment does not have to have been continuous and may include periods before and after 5.7.48. If an employment is not prescribed there is no entitlement to benefit even if the claimant has been in a noisier occupation2.

1 R(I) 2/79; 2 R(I) 8/76

Obtaining and considering evidence

67349 The claim form normally shows which prescribed occupation the claim is based on. If it does not, such information should be obtained from the claimant before an enquiry is sent to the employer.

It may also be clear from factors such as

**1.** the nature of the claimant’s occupation

**2.** the type of industry

**3.** local knowledge

**4.** replies from the employer

 that the ten year test is satisfied and in such cases the decision maker may accept prescription without further enquiry.

 If the claim form suggests that the claimant has not been employed in a prescribed occupation and the employer confirms this, the decision maker should disallow the claim without further enquiry.

67350 However, it is often necessary to obtain more detailed information before prescription can be accepted because

**1.** of the technical nature of many of the terms used

**2.** phrases such as wholly or mainly and immediate vicinity must be interpreted in accordance with the case law which employers will not be aware of

**3.** of the considerable period for which evidence must be gathered

**4.** of discrepancies between the account of the employment given by the claimant and the employer on the initial forms.

67351 It is better in the first place to ask the claimant to provide such information. Depending on the circumstances of the claim it may be necessary to establish in greater detail

**1.** what the claimant’s occupations involved

**2.** what tools were used either by the claimant or others

**3.** the processes carried out and on what type of metal

**4.** for how long the tools or machinery were working

**5.** where the claimant worked in relation to the tools or machinery

**6.** the names of workmates, foremen or supervisors etc who could confirm the claimant’s evidence.

 This information, possibly in the form of a signed statement, can be put to the employer for confirmation. If a significant conflict remains, evidence should be obtained from those who worked with the claimant.

Application of legislation

67352 Many technical words are used in the legislation. If a word is used with reference to a particular occupation which everybody in that occupation understands to have a particular meaning, that is the meaning to be given to the word. If, however, a word is used in a general sense, then the word should be given its ordinary and common meaning1.

1 Unwin v Hanson [1891] 2QB115 page 119 (R(I) 13/81, para 12)

67353 DMG 67358 et seq gives guidance on the meaning of various words and phrases used in the legislation taking into account

**1.** reports of the Industrial Injuries Advisory Council

**2.** the normal usage of those words in the industries concerned **and**

**3.** decisions of the Commissioners.

 67354 – 67357

Degree of usage

67358 The degree of usage must be other than negligible. The claimant’s occupation must be one which can reasonably be described as one involving the use of a particular tool or machine1.

1 R(I) 1/78

Pneumatic

67359 The word pneumatic in the context of prescribed tools means driven by air. Some tools or machine tools have more than one essential source of power. Where that is the case the decision maker should only accept that the tool is pneumatic where air is the “predominant” power source. If

**1.** air performs only a minor, though essential, function **or**

**2.** the tool has two equally important forms of power

 the decision maker should not accept it as a pneumatic tool1.

1 R(I) 6/83

Percussive

67360 Percussive means striking or hammering. The percussive tools most commonly met and clearly within the prescription are

**1.** hammers used for riveting (although this is a process rapidly giving way to welding)

**2.** caulking or chipping hammers **and**

**3.** needle guns used for removing excess material after welding.

 With these tools the striking action is between part of the tool and the material worked upon. Less obviously some tools, for example certain types of torque wrenches, have percussive elements within their internal mechanism and can be accepted as percussive on that basis1, for example the pneumatic tools used to tighten car wheel nuts in garages.

1 R(I) 5/76

Tools and machines

67361 Certain types of machine can be regarded as prescribed tools. Within the engineering industry many complex machines are referred to as machine tools, some of which may be accepted as tools1. There is no clear-cut distinction between a machine and a machine tool. In prescribed disease A10, where a machine

**1.** is designed to perform a single process of the sort which is commonly carried out by a hand implement for example filing, hammering, chipping, grinding, polishing or cutting **and**

**2.** uses interchangeable tools or dies dependent on the task to be performed or article to be produced

 it can reasonably be accepted as a tool. It is then a matter of whether it is pneumatic or percussive or a grinding tool.

1 R(I) 3/80; R(I) 13/80; R(I) 6/83

 67362 – 67364

“Wholly or mainly”

67365 The words wholly or mainly require claimants to have spent more than 50% of their working time in the immediate vicinity of prescribed tools or plant. In calculating this time account should be taken of variations in the pattern of work and may require averaging over an appropriate period.

67366 Averaging over the entire period of a claimant’s working life can lead to unjust results. For example

**1.** a claimant works in one occupation for 30 years

**2.** for eleven of those years he works in the immediate vicinity of prescribed tools for eight hours a day

**3.** for nine years he works for two hours a day **and**

**4.** for ten years he only works one hour a day.

 Averaging over the whole 30 years will lead to disallowance under the wholly or mainly test whereas clearly for eleven years he worked wholly in the immediate vicinity.

 Such a result would be unjust because another claimant who worked the same eleven years as the first claimant in the same occupation and for eight hours a day, but then discontinued that employment, would succeed.

67367 In order to give a result most favourable to the claimant, the decision maker should include or exclude from the calculation blocks of work which because of, for example

**1.** changes of shift

**2.** changes in work loads **or**

**3.** change of work location

 meant the claimant working different periods of time in the immediate vicinity of prescribed tools or machinery while remaining in the same occupation.

67368 Equally, of course, where within the same employment, there are distinct blocks of work which satisfy the “mainly” or “averaging of one hour” test the decision maker should not confine the calculation to these if this would prevent the claimant accumulating the necessary ten years. For example twelve years in one employment, nine of which involved six hours a day in the immediate vicinity, three involved only one hour. An average taken over the whole twelve years is needed for the claimant to succeed and this is what should be done in this instance.

67369 Adopting the “whichever way is best for the claimant” approach is not at odds with the wording of the legislation and accords with its spirit. Cases will arise where on the same claim one approach will assist the claimant to satisfy the ten year test whereas the other will be needed to satisfy the five year rule. Depending on the evidence it may be perfectly reasonable to adopt the two different approaches in the same case.

“Of the use of”

67370 To satisfy the requirement of the wholly or mainly test that more than 50% of the claimant’s working time was in the immediate vicinity of the prescribed tools, or plant, the tools or plant must have been operating for that time. If the claimant worked for more than 50% of his working time in the immediate vicinity of prescribed tools but those tools were in use for less than 50% of the time, prescription would not be satisfied.

“Whilst they are being so used”

67371 The words whilst they are being so used were added to the prescription from 4.1.88 to make it clear that the tools had to be in use. The situation between 3.10.83 and 4.1.88 was thought to be as set out in DMG 67370 but it was subsequently decided that claimants who spent more than 50% of their working time in the immediate vicinity of prescribed tools satisfied the wholly or mainly test whether or not the tools were working throughout that time1 provided that the tools were

**1.** where they were in order to be used **and**

**2.** were used to more than a negligible extent.

 For example a claimant working in a store or shop where prescribed tools were kept but not used would not satisfy the necessary test.

1 R(I) 2/85

67372 However, where the words “engaged in” appear in the prescription this should be taken as requiring the tools or machinery to be in operation throughout the period over which the appropriate test should be satisfied.

Immediate vicinity of

67373 The question of whether an occupation involves work in the immediate vicinity of prescribed tools or plant is one of fact to be decided in the light of the particular circumstances of the case1. It is to be answered by finding out

**1.** the location of the prescribed tools or plant **and**

**2.** the area of the claimant’s work.

1 R(I) 7/76; R(I) 8/85

67374 Whether the area of the claimant’s work is within the immediate vicinity of the tools or plant then depends upon the weight to be given to particular factors such as

**1.** the distance between the location of the tool or plant and the area of work (this may in itself be the decisive factor)1

**2.** the physical separation of the location of the tool or plant from the area of work because of intervening buildings (this is a factor not because of their possible effect on the transmission of noise but because their location may prevent the tools or plant from being in the immediate vicinity of the area of work2)

**3.** the presence of walls or screening substantially dividing or enclosing the location of the tools or plant from the area of work3

**4.** the noise emitted by a particular tool or piece of plant (but see DMG 67375).

1 R(I) 7/76; 2 R(I) 7/76; 3 R(I) 7/76; R(I) 8/85

67375 What may be regarded as immediate vicinity in relation to one particular tool or piece of plant may not be so regarded in relation to a different tool or piece of plant. Although the regulations do not justify the immediate vicinity question being decided by reference to the level of noise, the amount of noise emitted by a prescribed tool or piece of plant can be a relevant factor. For example, a claimant working a certain distance from large forging press plant enclosed in a building might be regarded as being in the immediate vicinity while a claimant working the same distance from a small hand held pneumatic percussive tool in the open air might not.

67376 In most cases where a claim is based in whole or in part on work in the immediate vicinity of prescribed tools or machines it is important to obtain a scale plan of the employer’s premises or the relevant part of those premises. Any enquiries need to establish where the claimant worked in relation to the prescribed tools or equipment and for how long. In deciding the immediate vicinity question the decision maker should bear in mind the dictionary definition of immediate, that is “next to, with nothing in between” rather than to the level of noise (although as indicated in DMG 67375 noise can be a relevant factor).

 The fact that a physical structure, for example a wall or screen intervenes between the claimant’s place of work and the prescribed tools or equipment is not necessarily fatal to the claim. The decision maker should consider all the factors set out in DMG 67374 and reach a decision on the balance of probability.

Immediate vicinity - equipment/claimant subject to movement

67377 Difficulty arises where the prescribed equipment is portable and is likely to be used in different locations from minute to minute or day to day and where the claimant is also subject to similar movement. Claimants or an employer cannot be expected to provide evidence of their whereabouts in relation to prescribed equipment over a period of many years. It would thus be unreasonable to disallow because detailed evidence of the movements of claimant and/or equipment is not available.

67378 Where DMG 67377 applies the decision maker should obtain

**1.** a full description of the claimants’ occupation and the duties involved

**2.** names of the sections of the employer’s premises their duties take them to

**3.** the approximate periods of time spent at **2.**

**4.** details of the movements of the prescribed equipment.

 Often different trades work in squads or gangs moving about the shop floor together. If one of the members of the squad or gang uses prescribed equipment it may not be too difficult to obtain the necessary information to allow prescription to be decided.

67379 The greatest difficulty arises in those industries where the nature of the work requires the workforce to be continually moving from place to place without any recognisable pattern. In such cases information should be sought from claimants about

**1.** the types of prescribed equipment which were in operation within the area covered by their duties

**2.** the numbers involved

**3.** the purposes for which they were used **and**

**4.** the amount and duration of use.

 Confirmation should then be sought from the employer.

67380 If, as is the case in the shipbuilding industry, there is free movement of trades throughout the workshop, fabrication shop or ship under construction, and the use of prescribed equipment is erratic and unrestricted, the decision maker must decide whether on the balance of probability claimants are likely to have been within the immediate vicinity of the prescribed equipment for more than 50% of their working time. Any calculation based on such information will of course be theoretical. If it is to be used to justify a disallowance it must be supportable before a tribunal.

Prescribed occupation (a)

Foundry, metalwork and associated industries

67381 Since 24.3.96 prescription has been extended to cover the use of grinding tools on all types of metal (except sheet or plate metal) irrespective of the industry the work is carried out in.

67382 Powered should be taken to mean that the grinding tool is operated by mechanical or electrical power produced by a machine.

67383 Grinding is primarily a metal removing operation for cleaning, dressing or finishing of metal. It is different from polishing or sanding. Thus the decision maker should not accept polishing and sanding as grinding operations.

Cleaning, dressing and finishing

67384 The purpose of using powered grinding tools on prescribed metals is invariably

**1.** to remove surplus metal to rectify defects after the initial casting

**2.** to modify the shape to help fitting into other machinery or equipment

1. in the case of castings, to repair after use.

 These three processes are generally referred to as cleaning, dressing and finishing.

On metal

67385 The term **metal** does not include stone, concrete or other substances used in road or rail construction1.

1 SS (II) (PD) Regs (NI), reg 1(2)

 67386

67387 For the purposes of this sub para a spot welding machine is classed as a pneumatic percussive tool1.

1 Appleby v CAO

Air arc gouging

67388 This process (which may be found outside the metal production, founding and forging industries) involves the gouging out of metal by means of an electric arc enhanced by an air jet. The arc melts the metal which is then blown away by a high velocity air jet.

Skid transfer bank

67389 This is the area of a steel mill where the steel produce is moved from the area of its formation to the finishing area1.

1 SS (II) (PD) Regs (NI), reg 1(2)

Knock out and shake out grids

67390 These are grids used for mechanically separating moulding sand from moulds and castings1.

1 SS (II) (PD) Regs (NI), reg 1(2)

 67391 – 67393

Machine (other than a power press machine) to forge metal

67394 The forging industry is divided into two fairly distinct parts

**1.** closed-die forging **and**

**2.** open-die forging.

 Power press plants do not involve forging processes and are specifically excluded from prescription (see DMG 67400 - 67401).

Forging

67395 Forging involves the shaping of metal to the desired shape by impact or pressure. Forging hammers, as the name implies, perform this function by impact whereas most other types of equipment impart pressure by squeezing. The force applied also has the purpose of changing the properties of the metal.

Closed-die forging

67396 The terms drop-forging, drop-hammering and drop-stamping refer only to the closed-die forging parts of the industry. In that part of the industry presses as well as hammers are used, the term “forging press plant” also applies to closed-die forging.

67397 The decision maker should note that

**1.** closed-die forging involves the shaping of metal by the use of dies, one stationary at the bottom, the other on the descending ram or tup, which come together around the metal thus exerting a three dimensional control over the metal

**2.** the required shape is achieved with one blow

**3.** excess metal, known as “flash”, squeezes out between the dies and is later removed by a clipping press which is not itself prescribed plant

**4.** the metal is almost always hot, of round, square or rectangular section.

 All closed die-forging satisfies prescription.

Open-die forging

67398 This is a direct progression from the blacksmith’s hammer and anvil. Hammers and presses are always used on hot metal which is manipulated by an operator whilst the hammer or press deforms it by repeated blows.

67399 The decision maker should note that the machines which are prescribed are

**1.** hammers used in open-die forging (although technically not the same as the drop-hammers used in closed-die forging) **and**

**2.** presses used for open-die forging.

Power press plant

67400 It is important to distinguish forging press equipment from power equipment. The metal working processes involved in power presses are **not** forging processes. They belong to the section of the metalworking industry described as sheet metal working, deep drawing, cold blanking or cold pressing. Operation of power press equipment is subject to regulations1. It is used extensively for the production of motor vehicle body panels, the production of food processing cans and numerous metal blanking processes.

1 The Power Presses Regs 65

67401 The decision maker should not accept claims that power press machines should be regarded as forging press equipment. Forging and metal pressing are each distinct branches of the industry1.

1 R(I) 1/87

Machine to cut, shape or clean metal nails

67402 For the purpose of this prescribed occupation the term nail should not be given too restrictive a meaning1. A nail is a piece of wire or metal used for holding things together. It therefore includes rivets and screws and even metal staples.

1 R(I) 5/83

Plasma spray gun to spray molten metal

67403 The process involves a hand held plasma gun from which a very hot high-speed jet of gas carrying ionised particles of metal is directed onto the surface of whatever is to be coated. The process has been used only since about 1968.

 67404 – 67407

Prescribed occupation (b)

Mining, Quarrying and Tunnelling

67408 To satisfy the term “quarryworks” the work must be carried out in quarries.

Underground

67409 “Underground” should be given its ordinary meaning “below the surface of the ground”, for example a tunnel covered by earth, not visible from ground level. The decision maker should reject1 any contention that the word can be applied to work in places below ground level but open to the air, for example a trench.

1 R(I) 4/84

Mining coal

67410 Prescription includes the use of pneumatic percussive tools

**1.** in the drilling work actually done on coal either underground or in an open cast mine

**2.** within the location of a coal mine on work which can be regarded as an integral part of the process of extracting coal.

67411 Decision makers should establish the precise use to which pneumatic percussive tools were put in the mining process, before deciding prescription.

67412 Pneumatic percussive tools used in civil engineering are also known as “jack hammers”.

Prescribed occupation (c)

Concrete products

67413 This prescription relates to the use of, or work wholly or mainly in the immediate vicinity of the use of

**1.** a vibrating metal moulding box which involves moulding boxes filled with concrete being shaken on a metal platform and is used in the production of non-reinforced concrete products

**2.** a circular saw to cut concrete masonry blocks.

Prescribed occupation (d)

The textile industry

67414 This prescription can only apply to work in textile manufacturing. This is usually taken to refer to material for clothing and furniture but is capable of a wider definition.

Weaving

67415 To weave has been defined in the textile industry as “to form a fabric by the interlacing of warp and weft”. Warp is defined as lengthwise threads, weft is defined as crosswise threads. The decision maker should interpret weaving in a strict sense; it does not, for example, cover knitting1.

1 R(I) 13/81

High speed false twisting

67416 This term refers to a texturing process in which the yarn is twisted at an extremely high speed, heat set and then untwisted and cooled. The process is used to give to man made filament yarn some of the characteristics of natural fibre. The term is well known in the textile industry.

67417 High speed false twisting should be distinguished from other textile processes known as twisting. The application of heat to the yarn is an essential part of the high speed false twisting process.

67418 High speed false twisting should also be distinguished from “bulking up” or “texturing”. This process is carried out by a number of methods which distort the continuous straight, smooth character of man-made yarn by introducing crimps (zig-zags), loops, tangles or other shapes.

67419 Prescription is therefore restricted to the very noisy high speed false twisting processes and to exclude from the prescription other less noisy texturing processes even though they satisfy the term bulking up. Examples of other such processes are

**1.** air jet or air entanglement twisting

**2.** stuffer box

**3.** jet or hot-air texturing

**4.** edge crimping **and**

**5.** knit-de-knit texturing.

The mechanical cleaning of bobbins

67420 Mechanical bobbin cleaning entails the removal of fibres from bobbins by means of a machine consisting of a line driven parallel rollers and is used in the textile industry.

 67421 – 67424

Prescribed occupation (e)

Woodworking and associated industries

67425 This category covers specific woodworking machinery. The rather detailed nature of this category is necessary, as the various machines in this industry cannot readily be classified under any general heading such as “high-speed” etc.

67426 As from 22.9.03 the use of the chainsaw is no longer restricted to use in forestry. The new prescription requires only the use of a chainsaw on wood.

Prescribed occupation (f)

Water jetting and jet channelling

67427 As from 22.9.03 the prescription for water jetting requires only that a jet of water (or water and an abrasive material) is delivered at a pressure above 680 bar (9862.2 p.s.i). In the event that conversion to or from p.s.i. (pounds per square inch) is required 1 bar = 14.50326 p.s.i. and 1 p.s.i. = 0.06895 bar. Examples where water jetting is used include

**1.** cleaning drains, oil rig legs, ships hulls, boilers and walls of buildings

**2.** cutting through reinforced concrete (for example to study the state of repair of roads).

67428 The process of jet channelling involves the burning of natural stone in quarries.

Prescribed occupation (g)

Engines in ships and aircraft

67429 Work in a ship’s engine room may be carried out on a wide variety of vessels from tugs towing barges on the Thames to luxury ocean-going liners. It will usually be carried out by engineering staff.

67430 The acceptance testing of civil aeroplanes is not covered by the prescription.

Prescribed occupations (h), (i) and (j)

The glassmaking and associated industries

67431 Hollow ware includes vases, glasses and ornaments but not flat glass.

Prescribed occupation (k)

Police firearms training officers

67432 Police firearms training officers means those giving instruction, not those being instructed. Persons working wholly or mainly in the immediate vicinity of the training officers, for example armourers or others working on or close to the firing range are also covered. Those undertaking training who suffer damage to their hearing can claim under the industrial accident provisions.

Prescribed occupation (l)

Shot blasting

67433 Shot blasting involves the use of high pressure air and an abrasive material in a directed jet to remove coating from a surface. This will include the processes known as shot blasting, bead blasting, grit blasting and sand blasting. Common applications are the cleaning of metal in the motor refinishing industry, for example steel or alloy wheels and of metal in the metal fabrication industry, for example large fabricated structures prior to painting and in the building renovation industry, for example old beams, walls and ceilings.

Diagnosis

67434 Diagnosis questions are determined in basically the same manner as other prescribed diseases apart from respiratory diseases. This means that

**1.** an audiometric test is carried out to establish whether the claimant’s hearing loss due to noise at work has reached the minimum 50dB level

**2.** if **1.** is not satisfied the Disablement Benefit claim is for disallowance by the decision maker with the normal right of appeal

**3.** if the test shows that the hearing loss has reached the 50dB level the claimant is referred to a medical adviser for determination of the diagnosis and disablement questions1.

1 SS & CS (D&A) Regs (NI), reg 12(1)(b) & (c)

67435 With prescribed disease A10 occupational deafness, (as with prescribed diseases, D1, D2, D3, D7, D8, D8A, D9 and D12) no question of recrudescence or fresh contraction arises since a person cannot recover and then suffer a fresh contraction1.

1 SS (II) (PD) Regs (NI), reg 7(1)

Assessment

67436 Assessment of the level of disablement due to the relevant loss of faculty is by means of a formula laid down in legislation1. The formula measures the dB hearing loss in each ear and also the binaural disablement.

1 SS (II) (PD) Regs (NI), Sch 3, parts 1-3

67437 The first table is for use in claims made before 3.9.79 which result in payment of benefit for a period before that date1. This table provides for disablement to be assessed as 100% when hearing loss reaches 88dB.

 **In all other cases** the degree of disablement is assessed using the second table2. A degree of disablement of 100% only arises where hearing loss is 106 dB or more.

1 SS (II) (PD) Regs (NI), reg 32(1); 2 reg 32(2)

67438 An effect of amending legislation1 was that claimants could be reassessed at a lower level despite there having been no improvement in their hearing. Also from 3.10.83, a medical board could give a reduced assessment of disablement where there had been an apparent improvement in the claimant’s condition2.

1 SS (II) (PD) (Amdt No 4) Regs (NI), reg 6; 2 SS (II) (PD) (Amdt No 2) Regs (NI), reg 14

67439 There are provisions1 which apply to claimants who were assessed under the pre 3.9.79 provisions which in some cases enable Disablement Benefit to be paid on a mark-time basis and in others “cushion” the claimant against the effect of the legislative changes. Any case in which the claimant was entitled to benefit prior to 3.9.79 must therefore be considered in accordance with DMG 67440 - 67442.

1 SS (II) (PD) Regs (NI), reg 32(7)-(9)

67440 If the renewal is before 3.10.83 the decision maker can award the

**1.** normal rate taking into account the medical advice on the renewal assessment1 **or**

**2.** rate in payment immediately before renewal if that is higher (awarded on a mark-time basis)2.

1 SS (II) (PD) Regs (NI), reg 32(7)(b)(i); 2 reg 32(7)(b)(ii)

67441 If the renewal is **on or after** 3.10.83 the decision maker should award the normal rate taking account of the medical advice on the renewal unless

**1.** the claimant is already in receipt of a mark-time rate as the result of an earlier renewal1 **or**

**2.** this is the first re-assessment since 3.9.792.

1 SS (II) (PD) Regs (NI), reg 32(8)(a); 2 reg 32(8)(b)

67442 If either DMG 67441 **1.** or **2.** applies the decision maker may still award the normal rate taking into account the opinion of the medical advisor on the renewal but only if it is the same as or more than the rate in payment immediately before renewal takes effect1. Otherwise the decision maker should consider awarding the rate

**1.** payable if disablement had been renewal according to the pre 3.9.79 scales of assessment2 (the renewal board will provide the notional degree) **or**

**2.** in payment immediately before renewals takes effect3

whichever is lower, on a mark-time basis.

1 SS (II) (PD) Regs (NI), reg 32(9)(a); 2 reg 32(9)(b)(i); 3 reg 32(9)(b)(ii)

Re-assessment at less than 50 decibels

67443 The word permanent was removed from the description of the disease in 19831. The regulations now provide that if on renewal the hearing loss is

**1.** found not to be 50dB or more in each ear **or**

**2.** found to be 50dB but not due in at least one ear to occupational noise

 the extent of disablement shall be assessed at less than 20% and disablement benefit shall not be payable2. Any assessment of less than 20% is final. However, the claimant may ask for his claim to be reconsidered or may appeal to an appeal tribunal or make a fresh claim. But see DMG 67337 - 67338 for restrictions on further claims.

1 SS (II) (PD) (Amdt No 2) Regs (NI) 83; 2 SS (II) (PD) Regs (NI), reg 32(5) & (6)

Change of circumstances

67444 Where a claimant maintains that there has been a worsening in their condition the case should be referred to Medical Services on the grounds that there has been a change of circumstances. In prescribed disease A10 cases a further audiometric test will be required. When advising on the results of the audiometric test the medical adviser needs to consider both the figures of average hearing loss and whether the behaviour of the claimant suggests adequate co-operation.

67445 If the audiometric test is not satisfied the medical adviser should give an opinion that the disease is not diagnosed. When giving that opinion the medical adviser should also re-consider the original audiometric test and give fully justified advice on why it is considered that the latest test represents the full extent of the claimant’s hearing loss. If this advice is not received the case should be returned to Medical Services.

67446 If the decision maker is satisfied that the current test most accurately reflects the claimant’s present hearing loss then supersession of the decision awarding benefit on the grounds of mistake as to a material fact will be appropriate1. The effective date of the new decision will be the date the decision is given2. For advice on superseding on the grounds of mistake as to a material fact and the effective date, see DMG Chapter 04.

1 SS & CS (D&A) Regs (NI), reg 6(2)(b) & (3); 2 SS (NI) Order 98, art 10(5)

 **Example**

Bill was diagnosed as suffering from prescribed disease A10 and was awarded Industrial Injuries Disablement Benefit at 20% from 8.6.06 for life. On 7.9.09 he notified a worsening of his condition. Medical advice was requested. At an examination on 5.10.09 a further audiometric test was carried out. The test resulted in average hearing loss of less than 50dB in each ear. Subsequently, medical advice was that the claimant did not suffer from prescribed disease A10 and this was accompanied by a full explanation why the original audiometric test was incorrect. On 15.10.09 the decision maker accepts the advice and supersedes the original decision on the grounds of mistake as to a material fact and decides that disablement should be assessed at less than 20%.

Due to the nature of employed earner’s employment

67447 The requirement that the claimant’s hearing loss must be due to occupational noise is included in the description of the disease and is, thus, considered at the same time as the diagnosis question. It is presumed1 unless the contrary is proved, that prescribed disease A10 is due to the employed earner’s employment if the person who contracted it was employed in a prescribed occupation2. It would be rare for a claimant who had satisfied all other relevant tests to fail to satisfy the “due to the nature of” test.

1 SS (II) (PD) Regs (NI) 86, reg 4; 2 Sch 1, Part 1

Prescribed disease A11

67448 Prescribed disease A11 was added to the list of prescribed diseases on 1.4.85. Benefit cannot be paid for this prescribed disease for any day before 1.4.851.

 **Note:** Before 1.10.07 prescribed disease A11 included the term “vibration white finger”.

1 SS (II) (PD) Regs (NI), reg 35(1) & Sch 4

Prescription

67449 From 1.10.07 the prescription1 of prescribed disease A11 was revised to

**1.** amend the description of blanching **and**

**2.** add sensorineural symptoms **and**

**3.** add that

**3.1** blanching **and**

**3.2** sensorineural symptoms

must be caused by vibration **and**

**4.** provide that the prescription does not cover

**4.1** blanching **or**

**4.2** sensorineural symptoms

prior to employment in a listed occupation.

 **Note 1:** See Appendix 1 to this Chapter for the full revised prescription for prescribed disease A11.

 **Note 2:** See DMG 67497 for guidance on when transitional provisions apply.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67450 Blanching is a vascular symptom. The prescription for blanching has been changed to more accurately reflect the effects of vibration on the small blood vessels. The change in the prescription also clarifies that symptoms must develop after occupational exposure to vibration.

67451 In addition, the changes recognise that some people exposed to vibration develop sensorineural symptoms with minimal or no vascular symptoms.

67452 Each of the activities described in the list of prescribed occupations is restricted to work in a particular industry or industries for sub paras (d) and (e) or processes (a), (b) and (c).

67453 From 1.10.07 the occupational prescription in process (a) changed from the use of hand-held chain saws in forestry to their use on wood1. This is in line with the change in relation to prescribed disease A10 from 22.9.03 (see DMG 67426). Before 1.10.07 decision makers should note that “forestry” is not used in an unusual or technical sense but is intended to have its ordinary meaning. The word “forestry” means the management of growing timber and is not restricted to work in the occupation of forestry. Other employees who use a chainsaw to cut down trees, for example, railway labouring gangs, are covered by the prescription provided the use of the tool is more than incidental to the employment2.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1; 2 Secretary of State v Davis

 **Example 1**

 The claimant is employed as a labourer on the railway. Part of the job is to use a chainsaw to clear overhanging branches from the line. This operation is normally carried out between May and October, usually on a weekly basis. Prescription should be accepted because the use of the chainsaw is more than incidental to the employment.

 **Example 2**

 The claimant is employed as a gardener on an estate. The employer needs a small wooded area cleared to extend a field. A chainsaw is used and it takes ten days to clear the area. Several months later he again uses a chainsaw to clear some bushes. As these were the only times he used a chainsaw prescription is not satisfied because the use is incidental to the employment.

67454 In the context of (c) a metal-working tool is a tool that works metal and, generally, the working of metal will involve shaping metal. It is not a sufficient or correct definition to describe it as a tool for working with metal1.

 **Example**

 Trevor works in the bedding industry. The tool he uses is an automatic staple gun used to drive a staple over a metal spring and a metal band into a wooden bed base. Trevor makes a claim for prescribed disease A11. The decision maker decides that the prescription is not satisfied because Trevor does not use a metal-working tool.

1 Secretary of State v Westgate; R(I) 1/06

67455 In deciding whether the activities of an occupation fail to be described as “demolition” within the context of (d) the decision maker should take into account the nature as well as the frequency of the activities. Dictionary definitions should be used with care but generally it should be considered whether the activities of a particular job can fairly be described as “destroying the fabric of”, “knocking down”, “levelling”, “reducing to ruin”, “tearing down or breaking up” etc. If they can then prescription should be allowed. But an activity that is performed only occasionally or only in an incidental way should not be accepted as satisfying the prescription.

 **Example**

 The claimant is employed as a plumber and on occasions had to demolish walls and drill into concrete floors to install pipes. Prescription should not be accepted, as this is not demolition as it does not involve the destruction of the whole, or substantial part of a building, the work is incidental to the occupation of plumber whose main job is to improve, not destroy.

67456 The decision maker should note that

**1.** in the case of a claim based on category (b) where the relevant operation is **grinding** there is no restriction on the type of material being ground, or being held while being ground

**2.** where the relevant operation is **sanding or polishing** the claim succeeds only if the object being sanded or polished, or being held while being sanded or polished, is metal

**3.** it is essential, therefore, that claimants make absolutely clear which of the three operations they were engaged in and, if in sanding or polishing, what material they were working on or holding.

67457 There are no limits as to the length of time that a person must have been employed in any of the prescribed occupations. But the decision maker must be satisfied that the time spent using the relevant tools or holding the relevant material was a regular part of the job and was not so trivial a part as to be regarded as negligible.

 67458 – 67460

Diagnosis before 1.10.07

67461 Before 1.10.07 prescribed disease A11 was defined as episodic blanching of the phalanges. These are vascular symptoms. Once a person has been diagnosed as suffering from prescribed disease A11 the loss of faculty which causes the disablement should be assessed by reference to the medical condition known as vibration white finger which includes vascular and neurological symptoms1.

 **Note:** See DMG 67497 for guidance on when transitional provisions apply.

1 R(I) 3/02; R(I) 2/06

67462 When assessing vibration white finger the medical adviser should advise separately on the vascular and neurological effects. Where a neurological component is identified it should be listed as fully relevant. Where it is not clear that both conditions have been considered the case should be returned.

Diagnosis from 1.10.07

67463 The revised prescription for prescribed disease A11 includes both vascular and sensorineural symptoms. It does not mention vibration white finger. It allows for diagnosis of the disease on either the vascular or the sensorineural elements alone. Before 1.10.07 the disablement arising from the effects of sensorineural symptoms could only be taken into account when prescribed disease A11 was diagnosed on the basis of the extent of the vascular symptoms.

67464 As in the case with prescribed disease A11 before 1.10.07, diagnosis based on the revised prescription of the vascular element is unlikely to give rise to significant assessments of disablement. This may also apply to diagnosis based on the sensorineural criteria.

67465 A claimant who meets the criteria for diagnosis set out in (a) of the revised prescription (i.e. satisfies the vascular symptoms alone) will be given an assessment of disablement based on what they can or cannot do. This will include the effects of any existing sensorineural symptoms1.

 **Note:** Where prescribed disease A11 can be diagnosed on the vascular criteria, there will be no necessity to refer the claimant for thermal aesthesiometry and vibrotactile testing.

1 R(I) 3/02; R(I) 2/06

67466 However, a claimant who does not satisfy the vascular criteria for diagnosis will have the sensorineural criteria considered on their own and will be diagnosed as suffering from prescribed disease A11 if all the criteria set out in (b) of the revised prescription are satisfied.

 **Note:** Thermal aesthesiometry and vibrotactile tests will only be undertaken for those claimants where all the evidence collected by the medical adviser suggests that all the criteria in (b) may be satisfied.

67467 Vascular and sensorineural symptoms are not unique to vibration damage. The symptoms are common in the general population as many medical conditions cause them. Therefore, the decision maker should be satisfied that the medical adviser has given careful consideration to probable other causes of the symptoms.

67468 The decision maker must also be satisfied from

1. the history obtained by the medical adviser **or**
2. other evidence (for example a previous claim or further medical evidence supplied by the claimant)

that there was no blanching or sensorineural symptoms prior to the claimant starting employment in a prescribed occupation. In respect of claims for blanching, this only applies to claims for periods on or after 1.10.07, not those made or backdated to before 1.10.07. However, see DMG 67497 et seq for guidance on transitional provisions.

67469 When sensorineural symptoms are being considered, “demonstrable” means that claimants must show signs of reduced sensory perception and manual dexterity, in practice this will be by demonstrating them at the examination. However, if there is no examination (e.g. because the claimant has died), the medical adviser and the decision maker would base their opinion and decision on all available evidence and apply the test of balance of probabilities.

 67470 – 67495

Effect on Reduced Earnings Allowance entitlement

67496 There is no entitlement to Reduced Earnings Allowance where entitlement arises from prescribed disease A11 diagnosed and assessed solely on the basis of the sensorineural symptoms because this is an extension of prescribed disease A11 after 10.10.941. However, entitlement to Reduced Earnings Allowance may still arise where the date of onset of prescribed disease A11 due to vascular symptoms is before 1.10.902. This is because the new vascular symptoms are **not** an extension of prescribed disease A11. Cases of doubt should be referred to Decision Making Services.

1 SS C&B (NI) Act 92, Sch 7, para 11(1); SS (II) (PD) Regs (NI), reg 12A;

2 SS C&B (NI) Act 92, Sch 7, para 11(1)

Transitional provisions

67497 The prescription conditions in force before 1.10.07 continue to apply to

**1.** claims in respect of vascular symptoms made

**1.1** before 1.10.071 **or**

**1.2** no later than 31.12.07 where the date of onset is before 1.10.072 **or**

**2.** recrudescence of a disease where a claim in respect of vascular symptoms is made

**2.1** before 1.10.07 **or**

**2.2** no later than 31.12.07 where the date of onset is before 1.10.073 **or**

**3.** a period of assessment following a

**3.1** previous period of assessment **or**

**3.2** provisional award

where there is no break4.

 **Note:** Recrudescence is unlikely to arise because once prescribed disease A11 has been diagnosed, it is unusual for the condition to improve or resolve itself. Cases of doubt should be referred to Decision Making Services for advice.

1 SS (II) (PD) (Amdt No 2) Regs (NI), reg 3(1)(a)(i) & 3(2)(a); 2 reg 3(1)(a)(ii) & 3(2)(a);

3 reg 3(1)(b) & 3(2)(a); 4 reg 3(2)(b)

Injury by accident

67498 Claims for vibration white finger should always be actioned under the prescribed disease provisions, as it is virtually impossible for the condition to be contracted by accident. If, exceptionally, a claimant insists on claiming under the accident provisions, the papers should be sent to Decision Making Services with full details of the circumstances before any action is taken.

 67499 – 67500

Prescribed diseases A12 and A13

67501 Prescribed disease A12 carpal tunnel syndrome, was added to the list of prescribed diseases on 19.4.93. There is no entitlement to benefit for this prescribed disease before this date1.

1 SS (II) (PD) (Amdt) Regs (NI) 93; SS (II) (PD) Regs (NI), Sch 1, Part 1

Prescription

67502 Before 24.3.96 this disease was prescribed for people who had been employed in employed earner’s employment on or after 5.7.48 in an occupation involving the use of hand-held vibrating tools. From 24.3.96 prescription was changed to the use of hand-held powered tools whose internal parts vibrate so as to transmit that vibration to the hand, but excluding tools solely powered by hand1. The revised prescription does not apply to tools that have no internal vibrating parts.

1 SS (II & D) (Misc Amdt) Regs (NI), reg 3(3)(b)

67503 With effect from 6.4.07 the prescription was changed again. The revised prescription1 means that, in order to satisfy the prescription test a claimant must have worked in an occupation involving

1. the use, at the time the symptoms first develop, of hand-held powered tools whose internal parts vibrate so as to transmit that vibrations to the hand, but excluding those tools which are solely powered by hand **or**
2. repeated palmar flextion and dorsiflexion of the wrist for at least 20 hours per week for a period or periods amounting in aggregate to at least 12 months in the 24 months prior to the onset of symptoms, where “repeated” means once or more often in every 30 seconds.

**Note 1:** The degree of flexion and dorsiflexion is not relevant when considering the prescription. However, it may be relevant to causation or, as part of the occupational history, to the medical condition2.

**Note 2:** The work at **1.** is known as occupation (a) and the work at **2.** is known as occupation (b).

1 SS (II) (PD) (Amdt) Regs (NI) 07, reg 2(7); 2 R(I) 1/09

67504 Prescription conditions in force prior to 24.3.961 continue to apply in the types of cases set out in DMG 67523 - 67524. Also, prescription conditions in force prior to 6.4.072 continue to apply in the types of cases set out in DMG 67525.

1 SS (II & D) (Misc Amdt) Regs (NI), reg 7; 2 SS (II) (PD) (Amdt) Regs (NI) 07, reg 2(7)

67505 A12 is a disease which affects the wrists and is caused by vibration transmitted to the wrists and hands. There are no requirements about

**1.** the length of time a person must have been employed using the tool **nor**

**2.** about how much time each day or week was spent in using them.

However, from 6.4.07 decision makers should note the time conditions in DMG 67503 **2.**.

67506 – 67510

Hand-held

67511 The phrase hand-held is descriptive of the tool in function and not of the use made of the tool. The words should be given a narrow interpretation so that a hand-held tool is one which is portable and held manually. A tool is not hand-held simply because some part of the operation may involve hand steadying or control1.

1 R(I) 3/95

Vibrating

67512 Similarly a tool is only a vibrating tool if it contains within it a source of vibration. It is not enough that a tool transmits vibration, for example when it is struck.

67513 Examples of hand-held vibrating tools are

**1.** chain saws in forestry

**2.** butchers’ electric carving knives

**3.** floor polishing, scrubbing and buffing machines

**4.** pneumatic road drills.

67514 Tools which should not be accepted as hand-held vibrating tools include

**1.** sewing machines. This includes the templates used with the sewing machine because although a template is hand-held it has no internal vibrating parts and is powered only by hand

**2.** any tool which vibrates only when struck by something else, for example a hammer and punch

**3.** steering wheels. They do not contain within it a source of vibration, they merely transmit vibration from something else.

67515 Most hand-held vibrating tools transmit vibration to the hand but any case where the vibration transmitted is negligible or damped to such an extent that it is negligible should be sent to the Decision Making Services with full details.

 67516 – 67520

Effect on Reduced Earning Allowance entitlement

67521 As the change in prescription for prescribed disease A12 from 24.3.96 was not an extension, entitlement to Reduced Earnings Allowance can still be established (see DMG Chapter 71).

67522 However, there was an extension in the change in prescription for prescribed disease A12 with effect from 6.4.07. Therefore, there is no entitlement to Reduced Earnings Allowance for people who satisfy this extended prescription1. Cases of doubt should be referred to Decision Making Services for advice.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Transitional provisions

67523 The prescription conditions in force prior to 24.3.96 continue to apply to people

**1.** during any period for which an assessment of disablement which includes 24.3.96 remains continuous1 **or**

**2.** during any period for which an assessment of disablement which includes 24.3.96 remains continuous **and**

**2.1** the claim was made before 24.3.96 **and**

**2.2**  a review (reconsideration on any claim)2 takes place on or after 24.3.96 **and**

**2.3** the review results in an assessment which includes 24.3.963 **or**

1. during any period for which there is a continuous assessment of disablement which began no later than 91 days after 24.3.96 (excluding Sundays) **and**

**3.1** the claim was made before 24.3.96 **and**

**3.2** the date of onset is before 24.3.964 **or**

1. who had an assessment of disablement which ended before 24.3.96 **and**

**4.1** who suffer a recrudescence5 of the same disease (DMG 67232) beginning before 24.3.96 **and**

**4.2**  who make a claim in respect of that disease after 24.3.966.

1 SS (II & D) (Misc Amdt) Regs (NI), reg 7(2)(a); 2 SS (NI) Order 98, Art 10;

3 SS (II & D) (Misc Amdt) Regs (NI), reg 7(2)(b); 4 reg 7(3);

5 SS (II) (PD) Regs (NI), reg 7; 6 SS (II & D) (Misc Amdt) Regs (NI), reg 7(4)

67524 For the purpose of DMG 67523 **1.**, **2.** or **3.** two or more assessments which are consecutive are treated as one continuous assessment1.

1 SS (II & D) (Misc Amdt) Regs (NI), reg 7(2) & (3)

67525 The prescription conditions in force prior to 6.4.071 continue to apply to

1. assessments already in place at 6.4.07
2. claims made before 6.4.07 where disablement has not yet been assessed
3. claims made no later than 5.7.07 in respect of a period starting before 6.4.07
4. renewal assessments following a provisional assessment where there is no break
5. further assessments following a final assessment where there is no break
6. assessments spanning 6.4.07 which are superseded after 6.4.07 where there is still an assessment of disablement **or**
7. recrudescence of a disease where the assessment for the earlier attack began before 6.4.07.

1 SS (II) (PD) (Amdt) Regs (NI) 07, reg 3

Presumption and recrudescence

67526 There are special rules for presumption for prescribed disease A12 occupation (b) (see DMG 67191). There is no presumption for prescribed disease A12 occupation (a). The recrudescence provisions **do** apply1.

1 SS (II) (PD) Regs (NI) 86, reg 7(1)

Prescribed disease A13

67527 The Industrial Injuries Advisory Council considered all the evidence and concluded that this disease should be prescribed only in relation to farmers and farm workers and that to qualify the claimant must have worked for a period of, or an aggregated period of, at least ten years as a farmer or farm worker.

Prescribed disease A14

Introduction

67528 Prescribed disease A14, osteoarthritis of the knee, was added to the list of prescribed diseases on 13.7.091. There is no entitlement to benefit for this prescribed disease before this date. It was extended with effect from 30.3.122 (see DMG 67532 - 67533). There is no entitlement to benefit under the extension before that date.

1 SS (II) (PD) (Amdt) Regs (NI) 09, reg 2; 2 SS (II) (PD) (Amdt) Regs (NI) 12, reg 2

Prescription - work underground in a coal mine

67529 To satisfy the prescription test, claimants must have worked underground in a coal mine for a period, or aggregate periods, of at least 10 years

1. before 1.1.86 as a coal miner **or**
2. on or after 1.1.86 as a
	1. face worker working on a non-mechanised coal face **or**
	2. development worker **or**
	3. face-salvage worker **or**
	4. conveyor belt cleaner **or**
	5. conveyor belt attendant1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

**Example**

 Malcolm worked underground in a coal mine as a conveyor belt cleaner from 12.5.80 to 31.8.90. He makes a claim for prescribed disease A14. Malcolm satisfies the occupation test.

67530 Osteoarthritis of the knee is a common disease in the general population. It can be caused by prolonged and frequent heavy lifting, kneeling and squatting. Until the mid 1980s all underground coal miners had jobs involving those activities. However, from the mid 1980s only certain categories of miner undertook those activities. For that reason, for periods from 1.1.86, only those mining jobs at DMG 67529 **2.** have been prescribed. Therefore, for periods from 1.1.86 it is necessary for decision makers to have evidence of the actual mining jobs undertaken by claimants.

 **Note 1:** A claimant’s job title and pay grade are not conclusive when considering actual mining jobs undertaken from 1.1.86. The question the decision maker has to consider is what did the claimant actually do.

 **Note 2:** Osteoarthritis of the knee includes patella-femoral osteoarthritis1.

1 GV v SSWP (II) [2012] UKUT 208 (AAC) [2013] AACR 3

**Example**

 Robert started work as an underground coal miner on 2.7.79. He worked underground in a coal mine until 28.9.90. From 1.1.86 he was employed as a face worker on a non-mechanised coal face. Robert makes a claim for prescribed disease A14. He satisfies the occupation test.

Non-mechanised coal face

67531 For the purposes of DMG 67529 **2.1**, a non-mechanised coal face is a coal face without

1. either
	1. powered roof supports **or**
	2. a power loader machine which simultaneously cuts and loads the coal **or**
2. both **1.1** and **1.2**1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

Prescription - work fitting or laying carpets or floors

67532 To satisfy this prescription test claimants must have worked in any occupation involving work wholly or mainly fitting or laying carpets or floors (other than concrete floors) for

**1.** a period of **or**

**2.** periods amount in aggregate to

 20 years or more1.

 **Note:** People who fit or lay carpets or floors may be self-employed. To satisfy the prescription test people must be in employed earner’s employment2.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1; 2 SS C&B (NI) Act 92, sec 108(1)

Wholly or mainly

67533 The words “wholly or mainly” require claimants to have spent more than 50% of their working time in the prescribed occupation. In calculating this time decision makers should take account of variations in the pattern of work and it may require averaging over an appropriate period.

Causation

67534 Before 16.3.15 causation required careful consideration because presumption that prescribed disease A14 was due to the nature of the employment only applied where the disease developed within one month of the claimant being engaged in the prescribed employment1. However, from 16.3.15 there is a presumption, unless the contrary is proved, that the prescribed disease A14 is due to the employed earners employment if the person who has contracted the prescribed disease was employed in a prescribed occupation2 (see DMG 67188).

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) Regs (NI) 86, reg 4(2); 2 Sch 1, Part 1

Effect on Reduced Earnings Allowance entitlement

67535 There is no entitlement to Reduced Earnings Allowance for prescribed disease A14 because it is a new disease prescribed after 10.10.941. The extension to the disease from 30.3.12 does not affect the position.

1 SS (II) (PD) Regs (NI), reg 12A

Prescribed diseases B1, B3 and B4

Prescribed disease B1

67536 Generally humans contract anthrax by exposure to infected herbivorous animals or their products. The source of infection is reflected in the current prescription, but does not acknowledge the potential for infection in other circumstances. The prescription has therefore been extended to include any work involving anthrax spores. From 16.3.151 prescribed disease B1 was divided into prescribed disease B1(a) and prescribed disease B1(b)2. This was to allow for different presumption rules to apply3, (see DMG 67187 and 67190). Prescribed disease B1(a) is curtaneous anthrax. Prescribed disease B1(b) is pulmonary anthrax.

 **Note 1:** The scheduled occupations are the same for prescribed disease B1(a) and prescribed disease B1(b)4.

 **Note 2:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, Sch 1, Part 1;
3 reg 4(1) & (2); 4 Sch 1, Part 1

Reduced Earnings Allowance

67537 Entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease B1 where a date of onset is before 1.10.901 because the change is

**1.** a redefinition of the disease **and**

**2.** not an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease B3

67538 Even though rats or mice or similar animals are seldom seen on an employer’s premises prescribed disease B3 may be satisfied if an employer contracts with a firm of pest destroyers

**1.** to attend their premises at frequent intervals **and**

**2.** to be available at short notice if vermin are seen.

67539 Evidence of the presence of rats near the claimant’s home is insufficient to rebut the presumption that the disease is due to the nature of the claimant’s employment1.

1 R(I) 20/52

Prescribed disease B4

67540 The current prescription is restricted to work in or about mines. However contact with sources of ankylostomiasis is not restricted to work in mines so the prescription has been extended to include any work involving contact with a source. From 16.3.151 prescribed disease B4 was divided into prescribed disease B4(a) and prescribed disease B4(b)2. This was to allow for different presumption rules to apply3 (see DMG 67187 - 67190). Prescribed disease B4(a) is cutaneous larva migrans. Prescribed disease A3(b) is iron deficiency anaemia caused by gastrointestinal infection by hookworm.

 **Note 1:** The scheduled occupations are the same for prescribed disease B4(a) and prescribed disease B4(b)4.

 **Note 2:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, Sch 1, Part 1;
3 reg 4(1) & (2); 4 Sch 1, Part 1

Reduced Earnings Allowance

67541 Entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease A3 where a date of onset is before 1.10.901 because the change is

**1.** a redefinition of the disease **and**

**2.** not an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease B5 (tuberculosis)

Prescription before 16.3.15

67542 This occupation was widened in 19831 to include any occupation involving contact with a source of tuberculous infection. Until May 1986 claims were referred at the outset for a consultant’s report. The consultant would also give an opinion on the prescription question as well as advising on the diagnosis and “due to the nature of” questions. However, as the disease is not now as widespread amongst the population as it used to be the special procedure was discontinued. Claims are now dealt with like the other non-respiratory prescribed diseases (excluding occupational deafness, prescribed disease A10).

1 SS (II) (PD) (Amdt No 2) Regs (NI) 1983

67543 Where the disease is claimed to have a date of onset on or after 3.10.83, it is usually unnecessary to consider the claim under the accident provisions. This is because of the broadening of the terms of prescription, in particular the removal of the need to show frequent contact.

Prescription from 16.3.15

67544 With effect from 16.3.151 the prescription was changed. The revised prescription2 means that, in order to satisfy the prescription test a claimant must have worked in an occupation involving contact with a source of tuberculosis while undertaking

**1.** work in

**1.1** a hospital **or**

**1.2** a mortuary in which post mortems are conducted **or**

**1.3** a laboratory **or**

**2.** work in any other workplace.

 **Note 1:** The work at **1.** is known as occupation (a) and the work at **2.** is known as occupation (b).

 **Note 2:** See DMG 67189 and Appendix 7 to this Chapter for guidance on presumption.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI), Sch 1, Part 1

Reduced Earnings Allowance

67545 Entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease B5 where a date of onset is before 1.10.901 because the change

**1.** differentiates occupations **and**

**2.** is **not** an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Definition of tuberculosis

67546 Regulations define “tuberculosis” for the purpose of prescribed disease B5 as “disease due to tuberculous infection”, but, as “tuberculosis of the respiratory system only” when the term is used in the regulations in connection with pneumoconiosis1.

1 SS (II) (PD) Regs (NI), reg 1(2)

67547 Tuberculosis should be regarded as including diseases which are given the following descriptions.

**1.** Any description which includes the word tuberculous or TB.

**2.** Acne agminata (miliary lupus).

**3.** Acne scrofulorum.

**4.** Cold abscess.

**5.** Consumption.

**6.** Erythema nodosum.

**7.** Erythema indutarum. (Bezin’s Disease).

**8.** lliopsoas abscess.

**9.** Lichen scrofulorum.

**10.** Lupus.

**11.** Phthisis.

**12.** Pott’s disease.

**13.** Psoas abscess.

**14.** Scrofuloderma.

**15.** Thoracoplasty.

**16.** Tuberculoma.

**17.** Koch’s Infection.

 If there is doubt whether a particular condition is a disease due to tuberculous infection medical advice should be sought.

Sources of tuberculous infection

67548 The commonest sources of tuberculous infection are persons suffering from open tuberculosis. The decision maker should however always carefully consider the possibility of contact with other sources of infection. The decision maker should note that

1. The sputum and the sputum mugs of tuberculous patients are sources of infection. In open-air conditions, however, sputum becomes harmless as sunlight destroys the tuberculosis bacillus1.
2. The risk of infection from washing crockery handled by persons suffering from tuberculosis is negligible2.
3. Mattresses and bed linen might possibly be sources of infection3.
4. Aprons from nurses in tuberculosis wards, and even from nurses in general wards, can be sufficiently contaminated to constitute a source of infection to anyone handling them.
5. A denture or wax mould of the mouth direct from a person suffering from pulmonary tuberculosis might constitute a source of infection4.
6. Tuberculous meningitis in a child is not an “open” case of tuberculosis and is not considered to be a source of tuberculous infection5.
7. Tubercle bacilli can live for months if the conditions for their survival are favourable6.

 It is impossible to compile a complete list of likely sources of infection. In each case the decision maker must consider the sources of infection alleged in the light of the evidence and medical opinions seeking medical advice in cases of doubt.

1 R(I) 57/52; 2 R(I) 56/52; 3 R(I) 87/52; 4 R(I) 18/53; 5 R(I) 31/54; 6 R(I) 12/59

67549 It is immaterial whether the source of infection being considered would be likely to produce the same form of the disease as that from which the claimant is suffering. The definition of the prescribed occupation refers broadly to “a source of tuberculous infection” and does not introduce limitations on the form of the disease. The point may be material, however, in considering the question of whether the disease was due to the nature of the claimant’s employed earner’s employment1.

1 R(I) 57/52

Due to the nature of the employed earner’s employment

67550 Due to the nature of means due to those features of the employment which exposed the claimant to the risk of infection by bacilli from outside the body. For example, if it is established that the disease

**1.** is due to the spread of an earlier infection in the body which originated before the claimant entered the relevant class of employment, whether before or after 5.7.48 **and**

**2.** was unaffected by infection from outside

 a contention that the spreading was due to the physical and mental strain of the claimant’s work undermining the claimant’s strength and so causing a dormant lesion to become active again would be of no avail1.

 Furthermore, the form of the disease contracted by the claimant may show from what source of infection it probably arose.

1 R(I) 38/52

Presumption

67551 There are special rules for presumption for prescribed disease B5 occupation (a) (see DMG 67189). There is no presumption for prescribed disease B5 occupation (b).

67552 If the decision maker considers rebutting the presumption, the onus of proof rests with the decision maker to show that the disease is not due to the nature of the employed earner’s employment. For example, the presumption would clearly be rebutted if the claimant’s tuberculosis were shown to be due to the spread of an earlier infection which had originated before the claimant entered the relevant class of employment and was unaffected by bacilli from outside1.

1 R(I) 38/52

67553 In other cases the evidence might be less conclusive but might still establish that the disease was not contracted as a result of the nature of the employment. In every case consultants are asked to state the facts on which they rely if they express an opinion which is adverse to the claimant on the “due to the nature of” question. In the majority of cases the consultant’s opinion is the only reliable means of enabling the decision maker to rebut a presumption in the claimant’s favour1.

1 R(I) 16/52

67554 If the presumption in DMG 67189 does not apply, the decision maker should carefully consider the “due to the nature of employment question” after consultation with a medical adviser who will take into account all available evidence including the consultant’s opinion. In this situation the onus of proof is on the claimant, the question being determined, on the balance of probability1.

1 R(I) 30/55

Previous history of tuberculosis

67555 Where a person has previously had tuberculosis, present medical opinion is that in almost all cases of recurrence of the disease, the recurrence results from a progression or re-activation of the old primary infection (endogenous re-infection) and that exogenous infection (that is, infection from an outside source) is a rarity.

67556 Where the claimant had tuberculosis before entering

**1.** employed earner’s employment which exposed the claimant to the risk of contracting the disease **or**

**2.** employment of a similar nature prior to 5.7.48 which would have been employed earner’s employment if the Social Security (Northern Ireland) Act had been in operation, the disease is presumed to be due to exogenous infection if the presumption is applicable.

 If the presumption is not applicable, the onus is on the claimant to show that the current attack of the disease is the result of exogenous infection. When considering these questions, the decision maker must consider all the evidence and the medical opinions expressed. Illustrations and discussions of the medical issues involved are in case law1.

 **Note:** Where **2.** applies the onus is on the decision maker to establish that the current attack is the result of endogenous re-infection.

1 R(I) 37/52; R(I) 38/52; R(I) 23/53; R(I) 65/53

Prescribed diseases B6, B7, B8A, B8B and B9

Prescribed disease B6

67557 Extrinsic allergic alveolitis is an inflammatory disease caused by reaction to inhaled organic dust. Other forms of the disease can also be occupationally related. Occupational cover was expanded1 to include employment in the cultivation of edible fungi or maltworking or the handling of such matters and in caring for or handling birds. The disease is often known according to the circumstances in which it occurs, for example, farmer’s lung, mushroom worker’s lung, bird fancier’s lung, malt worker’s lung etc.

1 SS (II) (PD) (Amdt No 2) Regs (NI)

67558 Although the prescribed occupations are mainly carried out in agricultural and ancillary industries, the occupations covered by sub-paras (b) and (c) of the terms of prescription may be carried out in any industry, for example the loading of straw used for making archery targets or the storage of hay for feeding horses used on delivery rounds would be within sub-para (b). In every case, however, it must be shown that the occupation involves exposure to organic dusts.

67559 With effect from 6.4.071 the prescribed occupations were extended to include people whose work involves exposure to metalworking fluid mists (see DMG 67562 for the effect on Reduced Earnings Allowance).

1 SS (II) (PD) (Amdt) Regs (NI) 07, reg 2(8)

67560 From 30.3.17 the prescribed occupations were extended to include employment in any other workplace. Exposure to any other biological substance that causes extrinsic allergic alveolitis in any of the prescribed occupations was also added (see DMG 67562 for the effect on Reduced Earnings Allowance).

Prescription test not satisfied

67561 If the claim does not succeed under the prescribed disease provisions because the disease is not prescribed for the employed earner, the decision maker should consider whether it can succeed under the accident provisions. If, a claim has been made solely on the grounds of industrial accident and the disease is not prescribed for the employed earner, such cases should be referred initially to a medical adviser who will arrange for a report to be obtained by consultants.

 **Note:** From 30.3.17, if prescribed disease B6 is not satisfied, decision makers should consider prescribed disease C34 (see DMG 67763 et seq).

Effect on Reduced Earnings Allowance

67562 There is no entitlement to Reduced Earnings Allowance for prescribed disease B6 for people whose work involves exposure to metalworking fluid mists because the disease was extended after 10.10.941. Similarly, the changes to prescribed disease B6 from 30.3.17 are an extension to the list of prescribed diseases or occupations. Therefore, there is no entitlement to Reduced Earnings Allowance in respect of those changes as the extension was after 10.10.94. Cases of doubt should be referred to Decision Making Services for advice.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease B7

67563 This disease (brucellosis) covers infection by all strains of brucella arising from contact with

1. infected animals of any species
2. their products including meat, milk, cheese and the products of gestation, such as an aborted foetus **or**
3. laboratory specimens or vaccines.

 Prior to 3.10.83 cover was restricted to contact etc with bovine animals.

 **Note:** See DMG 67190 and Appendix 7 to this Chapter for guidance on presumption for prescribed disease B7.

67564 Diagnosis of the disease is difficult and is dependent upon a combination of clinical signs and symptoms and laboratory tests. There are no signs or symptoms which are specific to brucellosis, and thus the disease may often not be diagnosed until the claimant has been incapable of work for some weeks (or has returned to work) and until laboratory tests have been carried out. Claims for the disease may, therefore, be late.

 67565

Prescribed diseases B8A and B8B

67566 The prescription has been extended to two separate prescriptions to reflect the different types of viral hepatitis, the routes of transmission and various workers at risk.

67567 Hepatitis is a general term used to describe inflammation of the liver. Hepatitis can be caused by infection, toxins (eg alcohol), drugs and a variety of other miscellaneous conditions. The sources of occupational risks are

1. B8A - infection by hepatitis A virus, contact with raw sewage
2. B8B - infection by hepatitis B or C, contact with

**2.1** human blood or human blood products **or**

**2.2** any other source of hepatitis B or C.

 Where contact with human blood, blood products, raw sewage or another source of hepatitis B or C is not evident from the facts of the case, the decision maker should consider seeking a medical opinion about the likelihood of hepatitis being related to the claimant’s employment.

67568 In any case where the prescription test is not satisfied, the decision maker should consider alternative entitlement under the accident provisions.

 67569 – 67570

Prescribed disease B9

67571 This is a disease of pigs, which can be transmitted to man in the form of meningitis or septicaemia or both. It is not known in other animals. Thus it is prescribed only in relation to occupations involving contact with pigs infected by streptococcus suis, or with the carcases, products or residues of pigs so infected.

 67572 – 67580

Prescribed diseases B10(a), B10(b), B11, B12, B13, B14 and B15

Prescribed disease B10(a) and B10(b)

67581 Chlamydiosis is a disease of animals which can be transmitted to man mainly by birds and sheep (the avian and ovine varieties). The disease is most likely to cause adult pneumonia although occasionally it can also cause eye infections.

67582 The major sources of infection of the avian variety of chlamydiosis are parrots (and related birds), poultry and pigeons. Humans acquire the infection by exposure to infected birds probably by the inhalation of dried discharges and droppings.

67583 The disease, although generally uncommon, is a special risk to certain occupational groups. The most obvious are people working in the farming industry, vets and people whose work involves the importation and/or breeding of birds in captivity. The ovine variety could also be a special risk to shepherds and abattoir workers.

 67584 – 67585

Prescribed disease B11

67586 Q fever is an infectious disease similar to viral pneumonia but which can develop into hepatitis or endocarditis. It is caused by an organism carried by ticks which infest small mammals, cattle, sheep and goats from which the disease is contracted by humans.

67587 As Q fever can be contracted from a wide range of species the terms of prescription have been drawn very widely. It is likely that any person whose occupation involves contact with animals either living or dead would be able to satisfy prescription.

Prescribed disease B12

67588 Orf is a skin disease. Humans acquire infection by close contact with sheep or goats or their meat. Farm workers, abattoir workers, meat inspectors or veterinary surgeons are most likely to be affected.

Prescribed disease B13

67589 Hydatidosis is a tapeworm infection which can be passed from dogs to humans. Dogs acquire the parasite by feeding on the infected offal of sheep. Occupations such as shepherds, veterinary surgeons, kennel workers and others working with dogs are most at risk.

Prescribed disease B14

67590 This disease is an infection caused by several different strains of Borrelia encountered by contact with ticks carried by deer and rodents. Among those at risk are vets, deer farmers and any other worker who may be exposed to tick carrying mammals.

Prescribed disease B15

67591 Where a healthcare worker has an anaphylactic reaction at work following exposure to natural latex then that reaction will be covered by the accident provisions. However a reaction outside work following sensitising to natural rubber latex at work would not have been covered therefore the Industrial Injuries Advisory Council have recommended that anaphylaxis due to contact with natural rubber latex occurring outside the workplace should be prescribed in relation to healthcare workers.

67592 The term “healthcare worker” has not been defined but should cover anyone involved with human healthcare including home-carers and care workers who work in residential nursing homes. It does not include occupations where there is no level of healthcare involved such as home helps and staff in residential homes. If there is any doubt about whether a claimant is a healthcare worker please refer to Decision Making Services for advice.

Change from 28.9.18

67593 From 28.9.18 the prescription for prescribed disease B15 changed so that it will apply to a person in **any** occupation (not just healthcare workers) involving contact with products made with natural rubber latex1. In addition to healthcare workers, people who might wear latex gloves include

**1.** police officers

**2.** vehicle mechanics

**3.** hairdressers **and**

**4.** workers from the food industry.

 **Note:** This list is not exhaustive.

1 SS (II) (PD) Regs (NI), Sch 1

67594 Apart from latex gloves, there can be natural rubber latex allergy arising from occupational contact with non-glove latex products, such as in the manufacture of

**1.** rubber bands **or**

**2.** toy dolls **or**

**3.** elastic textiles.

Presumption

67595 Decision makers should note that where a person has contracted prescribed disease B15 there is a presumption1, unless the contrary is proved, that the prescribed disease is due to the employed earner’s employment if the person who has contracted the prescribed disease

**1.** was employed in a prescribed occupation2 **and**

**2.** was so employed on, or at any time within one month immediately preceding the date of onset of the disease3.

1 SS (II) (PD) Regs (NI), reg 4(1); 2 reg 4(1)(a) & Sch 1, Part 1; 3 reg 4(1)(b)

Reduced Earnings Allowance

67596 The change to prescribed disease B15 is an extension to the list of prescribed diseases or occupations. Therefore, there is no entitlement to Reduced Earnings Allowance in respect of that change as the extension was after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

 67597 – 67630

Prescribed diseases due to chemical agents

General guidance on C diseases

Prescription

67631 When looking at the chemicals used by the claimant the decision maker must be sure that the chemical used exactly corresponds to the chemical in the schedule. Some chemicals, which sound similar, are in fact different e.g. benzine is not the same as benzene. Also some compounds which are made from a prescribed chemical do not contain the chemical in its original form e.g. benzene sulphonate does not contain benzene and is not prescribed in relation to prescribed disease C7.

67632 Information on the chemicals contained in a substance such as paint or adhesive may be obtained from the employer or from the manufacturer of the substance used. If there is any doubt about prescription the case should be referred to Decision Making Services for advice.

67633 If the claimant has been exposed to a substance but it cannot be established exactly what chemicals it contains the case should be referred to Decision Making Services. Before reference to Decision Making Services the decision maker should gather as much information as possible including safety data sheets if available (see DMG 67098 and 67099.)

67634 Because of the long latent period of some diseases the employer may no longer exist at the time of claim and there may be no available witnesses. It may not be possible to confirm the claimant’s work history or the substances to which they are exposed. Where the claimant’s own evidence is the only evidence available there is no rule of law that corroboration is necessary (see DMG Chapter 01).

Causation

67635 The causation question requires careful consideration because the health effects produced by chemical exposure can also be due to other causes common in the population. When the case is referred for medical advice the doctor will give an opinion on whether the disease is due to the claimant’s occupation. Causation should be decided on the balance of probability and in the light of medical advice.

67636 Presumption that a disease is due to the nature of the employment only applies to C3, C17, C18, C22(a), C23 in respect of occupations (a), (b) and (e), C24, C24A, C31 and C32 but in different ways1 (see DMG 67186 et seq).

1 SS (II) (PD) Regs (NI), reg 4

67637 Where presumption does not apply the causation question should be decided on the balance of probability, taking into account the medical adviser’s opinion and any other available evidence. In particular, many diseases require a long period of exposure to establish industrial causation. If the exposure is for only a short period, causation may be questionable.

67638 If evidence suggests that the claimant’s illness was not caused by their occupation you should inform medical services when the case is referred for advice.

Accident provisions

67639 Some diseases, which would only be caused by excessive acute exposure, are not on the schedule but would be covered by the accident provisions. If a claimant has suffered injury from chemical exposure, which is not covered by the schedule of prescribed diseases, the decision maker should consider the claim under the industrial accident provisions. (See DMG Chapter 66.)

Most commonly claimed diseases

67640 DMG 67641 et seq contains guidance on the most commonly claimed diseases. A complete schedule of prescription is at Appendix 1 to this Chapter. Any questions arising on other C diseases, which are not covered by the general guidance, should be referred to Decision Making Services for individual advice.

Prescribed disease C3

67641 With effect from 30.2.121 prescribed disease C3 was

**1.** divided into prescribed disease C3(a) and prescribed disease C3(b)2 **and**

**2.** updated to reflect current medical and scientific opinion on the disease.

1 SS (II) (PD) Regs (NI) 12, reg 2; 2 SS (II) (PD) Regs (NI), Sch 1, Part 1

Prescribed disease C3(a)

67642 The definition of prescribed disease C3(a) is phossy jaw. The prescription is work involving the use or handling of, or exposure to, white phoshorus1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

Prescribed disease C3(b)

67643 The definition of prescribed disease C3(b) is peripheral polyneuropathy or peripheral polyneuropathy with pyramidal involvement of the central nervous system, caused by organic compounds of phosphorus which inhibit the enzyme neuropathy target esterase. The prescription is work involving the use or handling of, or exposure to organic compounds of phosphorus1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

Effect on Reduced Earnings Allowance

67644 Entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease C3 where the date of onset is before 1.10.901 because the change is

**1.** a redefinition of the disease **and**

**2.** **not** an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease C4

Background

67645 There is evidence of a clear link between lung cancer and exposure to arsenic.

Relevant occupations

67646 Industries in which inhalation of arsenic may occur include

**1.** copper smelting

**2.** tin smelting

**3.** arsenical pesticide manufacture

**4.** miners exposed to arsenic

**5.** glass manufacture

**6.** non ferrous metal manufacture

**7.** processing of preserved timber

**8.** computer chip manufacture.

 This is not an exhaustive list.

67647 The prescribed disease is likely to occur most often in workers in the copper smelting industry. Primary copper smelting is not carried out in GB but there are several secondary smelting plants where exposure to arsenic may occur.

67648 Claims for lung cancer resulting from arsenic exposure should be dealt with under prescribed disease C4 rather than prescribed disease D10. Skin cancer due to arsenic exposure should be dealt with under prescribed disease C21.

Causation

67649 The disease is caused by inhalation of arsenic. In cases of high exposure cancers may develop after as little as ten years occupational exposure but in the majority of cases an exposure period of 15 - 20 years is necessary. If there is a short period of exposure or any other reason for doubting occupational causation you should tell medical services when the case is referred for advice.

Qualifying period

67650 From 16.3.151 the qualifying period for prescribed disease C4 does not apply. The decision maker should regard the disablement as 100%2. This prescribed disease should be treated as ‘fast track’.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, reg 18B(2) & (3)

Prescribed disease C7

Background

67651 Benzene is an aromatic hydrocarbon, a colourless liquid obtained from coal tar oil. It is classified as a human carcinogen and has been shown to cause acute non-lymphatic leukaemia.

67652 Benzene must be distinguished from benzine, which is a totally different substance. Conditions caused by exposure to benzine are not prescribed diseases but may be covered by the accident provisions, depending on the circumstances of exposure.

Relevant occupations

67653 In the past, benzene was used as a solvent in industrial paints, paint removers degreasing agents, denatured alcohol, adhesives, rubber cements and arts and crafts supplies. It was also used in rubber tyre and shoe industries and in the synthesis of plastics and explosives.

67654 Currently, industrial and chemical use of benzene is strictly controlled and significant occupational exposure is uncommon. However, exposure may occur during the refining, distribution and use of petrochemical products especially for those people engaged in maintenance work or in the loading and unloading of such products e.g. tanker drivers and jetty workers. Exposure may also occur at petrol stations, as benzene is present in unleaded petrol although not in diesel. However, at self-service petrol stations workers are unlikely to be exposed to sufficient levels to cause the disease. Benzene also continues to be used in the rubber manufacturing industries.

Causation

67655 Due to strict controls now in place, occupational exposure to benzene would normally be at a very low level and only prolonged exposure (ten years or more) is likely to result in the disease.

67656 If there is a short period of exposure or any other reason for doubting occupational causation you should inform medical services when the case is referred for advice.

 67657 – 67680

Prescribed disease C18

67681 Evidence shows that long term inhalation of cadmium fumes can cause emphysema. To satisfy prescription exposure must be for at least 20 years.

67682 The main source of cadmium in this country is as a by-product in the smelting of zinc ores. Cadmium fumes can arise only from cadmium or cadmium alloy which is molten; the amount of fumes increases as the temperature rises above the melting point of cadmium. Cadmium melts at 321°C and boils at 767°C.

67683 Persons whose occupations may involve exposure to cadmium fumes include those engaged in the extraction of cadmium from crude zinc ores, the production of alloys containing cadmium and the welding or brazing of cadmium-plated articles. In view of the precautions taken cases of cadmium poisoning are likely to be infrequent.

 67684

Prescribed disease C19

Background

67685 Acrylamide monomer is a colourless-to-white, free-flowing crystal that is soluble in water. It can occur in crystalline form and in aqueous solution. Acrylamide is toxic to the peripheral and central nervous systems. It can also cause dermatitis, which is covered by prescribed disease D5. The disease is described as peripheral neuropathy or central nervous system toxicity.

Relevant occupations

67686 Industries in which exposure to acrylamide may occur include

1. paper and pulp
2. construction
3. foundry
4. oil drilling
5. textiles
6. cosmetics
7. food processing
8. plastics
9. mining
10. agriculture.

67687 It is used in the production and synthesis of polyacrylamides. The principle end use of acrylamide is in water-soluble polymers used as additives for water treatment, enhanced oil recovery, flocculants, papermaking aids, thickeners, soil conditioning agents, sewage and waste treatment, ore processing, and permanent-press fabrics. (A flocculant is used to remove suspended particles from a liquid by making them clump together, e.g. for cleaning industrial waste water.) Acrylamide is also used in the synthesis of dyes, in copolymers for contact lenses, and the construction of dam foundations, tunnels, and sewers.

Causation

67688 The effects of acrylamide such as impaired co-ordination and loss of memory are common in the population, and can result from numerous causative factors. Causation should be decided on the balance of probabilities and in the light of medical advice. If there is a short period of exposure or any other reason for doubting occupational causation you should inform medical services when the case is referred for advice.

Prescribed disease C22

67689 Prescribed disease C22(a) is primary carcinoma of the mucous membrane of the nose or paranasal sinuses. Prescribed disease C22(b) is primary carcinoma of the broncus or lung. In order to satisfy the prescription test a claimant must have worked in an occupation involving work before 1950 in the refining of nickel involving exposure to

**1.** oxides **or**

**2.** sulphides **or**

**3.** water soluble compounds of nickel1.

1 SS (II) (PD) Regs (NI) 86, Sch 1, Part 1

Qualifying period

67690 From 16.3.151 the qualifying period for prescribed disease C22(b) does not apply. The decision maker should regard the disablement as 100%2. Prescribed disease C22(b) should be treated as ‘fast track’.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, reg 18B(2) & (3)

 67691 – 67705

Prescribed disease C23

Background

67706 Urinary cancer can be caused by a number of substances listed in the schedule. In some cases a minimum period of exposure is also specified. Most of the prescribed chemicals are no longer made in the UK, but as there is often a long latent interval between exposure and the onset of disease, cases continue to occur as a result of work in the past.

67707 It should be noted that “durindone magenta” is not magenta within the meaning of the regulations1. 4-aminobiphenyl is also called biphenyl-4-ylamine and is sometimes referred to as 4-aminodiphenyl. Methylene-bis-orthochloroaniline (MbOCA) is also called 2,2’-dichloro-4, 4’methylenedianiline. Orthotoluidine is synonymous with orthotoluidine and o-toluidine. 4-Chloro-2-methylaniline is synonymous with 4-Chloro-o-toluidine.

1 R(I) 16/59

Relevant occupations

67708 Occupational categories (a) and (b) are restricted to the manufacture of the listed chemicals whereas for categories (c), (d) and (e) exposure to the chemical is sufficient to satisfy prescription.

67709 The prescribed substances may have been used in the manufacture of dyestuffs and in the rubber and cable making industries. Links and dyes used in the printing industry may contain benzidine and other chemicals prescribed in relation to prescribed disease C23. They also may have been contaminated by 4-aminobiphenyl but it will not usually be possible to confirm such contamination.

67710 There is no minimum percentage of the substance that needs to be present before prescription can be allowed. In some industries, for example the dyestuffs, rubber and cable-making industries, the amounts involved may be almost undetectable. In the rubber industry, harmful substances that were discontinued many years ago may still be present when the rubber is re-processed. Where there is a likelihood of contamination prescription should normally be accepted on the balance or probability. In case of doubt, the decision maker should refer to Decision Making Services, for advice.

67711 The Soderberg process is a method of producing aluminium by electrolysis where the anode consists of a paste of petroleum coke and mineral oil, which is baked in-situ. Exposure to coal tar pitch volatiles produced in this process for five years or more will satisfy prescription for C23. It is understood that the Soderberg process is only used in one Alcan factory in Scotland. If it is thought that other factories may be using this process, the decision maker should refer the case to Decision Making Services, for advice.

Effects and causation

67712 There are no special features of urinary tumours caused by the prescribed exposures, which enable them to be distinguished from those that are not so caused. In the case of occupational categories (a), (b) and (e), occupational causation can reasonably be assumed without further inquiry where the stated occupational criteria are satisfied. This applies even when the disease developed more than a month after the claimant was engaged in the prescribed employment. In the case of occupations (c) and (d) the decision maker should find out as much as possible about the extent of exposure before referring to medical services for advice. Causation should be decided on the balance of probability in the light of medical advice.

Presumption

67713 There are special rules for presumption for C23 occupations (a), (b) and (e) (see DMG 67192). There is no presumption for prescribed disease C23 occupations (c) and (d).

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

Prescribed disease C24 and C24A

Background

67714 Vinyl chloride monomer is a gas at room temperature and is the raw material for producing the widely used plastic, polyvinyl chloride. It can cause three diseases when inhaled: angiosarcoma of the liver, acro-asteolysis and liver fibrosis. Acro-osteolysis consisted of three conditions. If a claimant had evidence of any one of those three conditions C24 could be diagnosed.

67715 However, from 6.4.06 the three medical conditions of acro-osteolysis are prescribed independently. Osteolysis of the terminal phalanges of the fingers and scelerodermatous thickening of the skin of the hand are included in C24 together with angiosarcoma of the liver and liver fibrosis. The term acro-osteolysis is no longer used.

67716 Also from 6.4.06, Reynaud’s Phenomenon, which used to be one of the three medical conditions covered by acro-osteolysis, became separate disease C24A.

Relevant occupations

67717 The prescribed occupation is work involving exposure to vinyl chloride monomer in the manufacture of polyvinyl chloride. However, for the purposes of C24A a claimant must have been in the prescribed occupation before 1.1.84. Exposure to vinyl chloride monomer other than in the manufacture of polyvinyl chloride and exposure to polyvinyl chloride itself does not satisfy prescription. After the early 1980s the process was enclosed and exposure to vinyl chloride monomer no longer occurs.

67718 Polyvinyl chloride is formed by the polymerization of liquid vinyl chloride monomer under pressure in reactor vessels. Workers involved in the manufacture of polyvinyl chloride may have been exposed to vinyl chloride monomer gas emitted during the manufacturing process. The workers most heavily exposed to vinyl chloride monomer have been engaged in cleaning the reactor vessels between production runs, at one time being lowered into the vessels, which they cleaned manually. However, the polymerization process is now completely enclosed and cleaning the reactors manually no longer occurs.

67719 The process for producing vinyl chloride monomer itself is completely enclosed and therefore does not involve exposure. The production of vinyl chloride monomer does not satisfy prescription for C24 and C24A.

Causation

67720 The disease can occur even after only a short period of exposure and can take up to 30 years to develop. Causation should be decided on the balance of probabilities and in the light of medical advice. All the conditions that can be caused by exposure to vinyl chloride monomer can also occur in the general public. However, this is not very common.

Transitional provisions

67721 People who made a claim for PD C24 before 6.4.06 have transitional protection1. This means that where a provisional assessment expires after 6.4.06 the prescription test in force on the date of the original claim will continue to be appropriate.

1 SS (II) (PD) (Amdt) Regs (NI) 06, reg 3

Qualifying period

67722 From 16.3.151 the qualifying period for prescribed disease C24(a) does not apply. The decision maker should regard the disablement as 100%2. Prescribed disease C24(a) should be treated as ‘fast track’.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, reg 18B(2) & (3)

Prescribed disease C25

67723 This disease, known as occupational vitiligo, is characterised by depigmentation of the skin and exposure of the affected areas to sunshine can lead to soreness and irritation. Also there could be some psychological distress resulting from the cosmetic effects of the disease.

67724 The chemical para-tertiary butylphenol is contained in adhesives widely used in, for example, the car industry to fix plastic linings and in the leather goods industry.

 67725 – 67730

Prescribed diseases C26-C27

67731 Carbon tetrachloride, trichloromethane (chloroform) are known as halogenated aliphatic hydrocarbons. They tend to exhibit similar chemical and toxicological properties. At room temperature most of them form volatile liquids which are extremely good fat solvents. Their major commercial uses are as degreasing solvents and dry cleaning agents. Chloroform is also used as an anaesthetic.

67732 Exposure to carbon tetrachloride and trichloromethane can cause damage to the liver and, in some cases, to the kidneys.

 67733 – 67740

Prescribed disease C29

67741 N-hexane and n-butylmethyl ketone [also known as methylin-butyl ketone (MBK)] are non-halogenated aliphatic hydrocarbons. Exposure to the substances can cause peripheral neuropathy. The symptoms and signs include tingling, numbness and muscular weakness and paralysis. Peripheral neuropathy is a symptom of many diseases and is not necessarily due to exposure to these chemicals.

67742 N-hexane is rarely found in industry in its pure form although it is frequently mixed with other compounds or toluene for industrial use. Commercial hexane, which contains about 50% pure n-hexane, is widely used as a solvent or in manufacturing products such as adhesives, varnishes and inks. It is also used in food processing. Both n-hexane and n-butylmethyl ketone are found in motor and aviation fuels.

Prescribed disease C30

Background

67743 The compounds of chromium that are prescribed in relation to prescribed disease C30 are chromates, dichromates and chromic acid. Elemental chromium along with chromous and chromic compounds do not cause the prescribed disease and such exposure does not satisfy prescription.

67744 Chrome ulceration, caused by the corrosive action of chromate salts commonly occurs on the hands, forearms and feet and will leave a scar. Ulceration of the nasal septum can be caused by mist or dust containing chromates. Chromate compounds can cause dermatitis in the form of both primary skin irritation and sensitisation.

67745 As the disease was added to the schedule on 24.3.96 there is no entitlement to Reduced Earnings Allowance.

Relevant occupations

67746 The main source of chromate exposure is from cement and in the manufacture and use of chromic acid.

67747 The major use of chromic acid is in the electroplating of metals. It is used in leather tanning; manufacture of dyes for textiles and leather; wood preservative manufacture; in saccharin manufacture; in pharmaceuticals (e.g. ibuprofen production); manufacture of corrosion inhibitors and manufacture of light sensitive dichromates for use in lithography and photography.

Causation

67748 The clinical appearance of chromate dermatitis is similar to types of constitutional eczema. Causation should be decided on the balance of probability in the light of medical advice. A feature of chromate dermatitis is that recovery may be slow and relapse may occur.

 67749 – 67750

Prescribed disease C31

67751 Prescribed disease C31 is defined as “Bronchiolitis obliterans”. To satisfy the prescription test claimants must have worked in any occupation involving the use or handling of, or exposure to, diacetyl (also called butanedione or 2.3-butanedione) in the manufacture of

1. diacetyl **or**
2. food flavouring containing diacetyl **or**
3. food to which food flavouring containing diacetyl is added1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67752 Bronchiolitis obliterans is a rare and sometimes severe respiratory disease where inflammation and fibrosis lead to airflow limitation in the small airways of the lung. It is characterised by fixed airways obstruction, whereby bronchioles in the lung become blocked or narrowed by fibrous tissue associated with wound healing. Bronchioles are small airways which extend from the larger conducting airways of the bronchi to the alveoli (the gas exchanging parts of the lung). People with bronchiolitis obliterans have reduced lung function and typically have

1. dry cough **and**
2. undue shortness of breath upon exertion **and**
3. occasionally, wheezing.

67753 Diacetyl is a food flavouring agent with a buttery flavour. It is used in the manufacture of popcorn and potato crisps and other products, for example, margarine where a buttery flavour is required. Cases of doubt should be sent to Decision Making Services for advice.

Reduced Earnings Allowance

67754 There is no entitlement to Reduced Earnings Allowance for prescribed disease C31 because it is a new disease prescribed after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

Prescribed disease C32

67755 Prescribed disease C32 is defined as “Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma)”. To satisfy the prescription test claimants must have worked in any occupation involving

1. the manufacture of inorganic chromates **or**
2. work in hexavalent chrome plating1.

 **Note:** Prescribed disease D6 is the same disease related to a different occupational exposure (wood dust). The two prescribed diseases should not be confused.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67756 A carcinoma is a type of cancer developing from cells found in the surface layer of an organ in the body. For the purpose of prescribed disease C32 the most common type is squamous cell carcinoma. Squamous cells are the flat, skin like cells that cover the lining of the nose.

67757 Chromium is a silver white metal derived from the mineral chromite. Following processing, chromium exists in several forms, also known as oxidation states. The principal forms are

1. metallic chromium (chromium 0) **and**
2. trivalent chromium (chromium III) **and**
3. hexavalent chromium (chromium VI).

 **Note:** It is important for decision makers to distinguish the different forms of chromium because only hexavalent chromium is within the prescription of prescribed disease C32.

67758 A major use of hexavalent chromium is the chrome plating. This is a technique of electroplating a thin layer of chromium on to a metal object, particularly applied in the car and aircraft industries.

Reduced Earnings Allowance

67759 There is no entitlement to Reduced Earnings Allowance for prescribed disease C31 because it is a new disease prescribed after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

Prescribed disease C33

67760 Prescribed disease C33 is defined as “Chloracne”. To satisfy the prescription test claimants must have worked in any occupation involving exposure to a substance causing chloracne. It was added to the list of prescribed diseases on 16.3.151.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1

67761 Chloracne is a systemic disease. It is caused by systemic exposure to certain halogenated aromatic hydrocarbons called “chloracnegens”. Cases of chloracne result from occupational and environmental exposures. Chloracne was once common among workers occupationally exposed to naphthalene and chlorinated biphenyls, including workers from the chemical industry exposed to pesticides. Since the 1960s synthetic resins have replaced these compounds and the incidence of chloracne has fallen dramatically. However, some workers are still being exposed occupationally to relevant chemicals and are at risk of developing chloracne.

Reduced Earnings Allowance

67762 There is no entitlement to Reduced Earnings Allowance for prescribed disease C32 because it is a new disease prescribed after 10.10.941.

1 SS (II) (PD) Regs (NI) 86, reg 14A

Prescribed disease C34

67763 Prescribed disease C34 is defined as “Extrinsic allergic alveolitis”. To satisfy the prescription test claimants must have worked in any occupation involving exposure to airborne isocyanates; or to any other substance that causes extrinsic allergic alveolitis. It was added to the list of prescribed diseases on 30.3.171.

1 SS (II) (PD) (Amdt) Regs (NI) 17, reg 2(1)

67764 Extrinsic allergic alveolitis is an inflammatory disease caused by reaction to inhaled organic dust. The Industrial Injuries Advisory Council concluded that high levels of exposure to chemicals, called isocyanates, or any other chemical substance, could cause extrinsic allergic alveolitis. The new prescribed disease recognises the chemical causes of extrinsic allergic alveolitis.

 **Note 1:** The biological causes of extrinsic allergic alveolitis should be considered in accordance with prescribed disease B6 (see DMG 67557 et seq).

 **Note 2:** See DMG 67188 for guidance on presumption.

Reduced Earnings Allowance

67765 There is no entitlement to Reduced Earnings Allowance for prescribed disease C34 because it is a new disease prescribed after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

Transitional provisions

67766 The schedule of C diseases changed from 17.3.03 when some diseases were removed from the schedule and some prescriptions were changed. No one already getting benefit for a prescribed disease, which has been changed or removed, will lose benefit directly as a result of that change1.

1 SS (II) (PD) (Amdt) Regs (NI) 03, reg 3

67767 Old legislation applies to

1. assessments already in place at 17.3.03
2. claims made before 17.3.03 where disablement has not yet been assessed
3. claims made no later than 17.6.03 in respect of a period commencing before 17.3.03
4. renewal assessments following a provisional assessment under the old rules where there is no break
5. further assessments following a final assessment under the old rules where there is no break
6. assessments spanning 17.3.03, which are superseded after 17.3.03 where there is still an assessment of disablement
7. recrudescence of a disease where the assessment for the earlier attack began before 17.3.03.

67768 New legislation applies to any claim made on or after 17.3.03 when the provisions of DMG 67767 do not apply.

Effect on Reduced Earnings Allowance entitlement

67769 There is no entitlement to Reduced Earnings Allowance where the date of onset is after 30.9.90. Where the date of onset is before 1.10.90 it will be necessary to consider whether the changes to the schedule from 17.3.03 constitute new diseases, an extension of prescription or just a redefinition of the same diseases1. Cases of difficulty should be referred to Decision Making Services for advice.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

67770 For prescribed disease C30 there is no entitlement to Reduced Earnings Allowance because the disease was added to the schedule after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

 67771 – 67790

Asbestos-related diseases

67791 The prescribed diseases which are asbestos-related respiratory diseases contracted by the inhalation of asbestos dust are

**1.** prescribed disease D1 pneumoconiosis (asbestosis) **and**

**2.** prescribed disease D3 diffuse mesothelioma (primary neoplasm of the mesothelium of the pleura or of the pericardium or of the peritoneum) **and**

**3.** prescribed disease D8 primary carcinoma of the lung where there is accompanying evidence of asbestosis **and**

**4.** prescribed disease D8A primary carcinoma of the lung **and**

**5.** prescribed disease D9 unilateral or bilateral diffuse pleural thickening with obliteration of the costophrenic angle.

 In general, the greater the concentration of asbestos dust in the air, the greater the risk of contracting one of these diseases. Prescribed diseases D1, D3, D8 and D8A take a long time to develop, but once claimed should be treated as ‘fast track!’. Prescribed disease D9 also takes a long time to develop but should only be treated as ‘fast track’ if there is any evidence that a claimant is terminally ill due to their pleural thickening or any other co-existing illness.

Asbestos - its nature and its uses

67792 Asbestos is a mineral found in many rock formations. When separated from the rock it becomes a fluffy, fibrous material. The three most common types of asbestos, all widely used in industry and all known to be hazardous, are

1. chrysotile (white) which
	1. makes up about 97% of all asbestos processed **and**
	2. resists heat but not acid **and**
	3. is used in asbestos cloth
2. amosite (brown) which
	1. is heat and acid resistant and
	2. can be

**2.2.a** moulded into pipe insulation and board **or**

**2.2.b** used in bulk form for heat insulation

**3.** crocidolite (blue) which

 **3.1** is highly resistant to acid **and**

 **3.2** is used

 **3.2.a** to make acid resistant cement pipe **and**

 **3.2.b** in electric battery cases **and**

 **3.3** has also been widely used for insulation on trains and ships.

67793 Crocidolite presents the greatest risk of causing mesothelioma followed by amosite and chrysotile. Whilst less exposure to asbestos is found in mesothelioma than in the other diseases a fairly substantial exposure is still required and this will normally have taken place 20-40 years before the symptoms appear. All types of asbestos can cause asbestosis.

67794 Since there are about 3,000 asbestos products it is not possible to draw up an exhaustive list of occupations or industries where asbestos is likely to be met. Most claims will probably come from persons who have been employed by the following major users of asbestos in

**1.** the construction industry including the renovation, repair or demolition of buildings - where it is used in cement production roofing, plastics, insulation, floor and ceiling tiles and fire resistant board for doors and partitions

**2.** the motor manufacturing industry including the vehicle repair business - where it was widely used as a friction material in brake and clutch linings and as undersealing to protect against corrosion

**3.** the textile industry - where it is used in the manufacture of fire-proof clothing and safety equipment, such as fire-resistant curtains for theatres.

 67795 – 67800

Prescribed disease D1 (pneumoconiosis)

67801 Pneumoconiosis is a comprehensive term covering a number of dust diseases of the lung. It is defined as fibrosis of the lungs due to silica dust, asbestos dust or other dust and includes the condition of the lungs known as dust-reticulation1. There is no minimum level of pneumoconiosis required to satisfy the diagnosis, a person either has the disease or they do not2. Guidance on the effects of the decision can be found in Appendix 4 to this Chapter. Pneumoconiosis also includes any of the diseases listed below.

1. Any description which includes the word pneumoconiosis for example coal workers’ pneumoconiosis.
2. Aluminium lung.
3. Aluminosis.
4. Anthracosis.
5. Asbestosis.
6. Barytosis.
7. Chalicosis.
8. Dust in the lungs.
9. Dust reticulation.
10. Focal or peri-focal emphysema.
11. Hard metal disease.
12. Iron oxide lung.
13. Schistosis.
14. Siderosis.
15. Silicosis.
16. Stannosis.
17. Talcosis.
18. Thesaurosis.
19. Welders’ lung.

 **Note:** See DMG 67791 about this prescribed disease being ‘fast track’.

1 SS C&B (NI) Act 92, sec 122; 2 R(I) 1/96

67802 The Industrial Injuries Advisory Council advised in 1973 that it is possible to have a permanent alteration of lung structure (pneumoconiosis) without measurable disablement. If a person is found to be suffering from pneumoconiosis they will be deemed to be suffering from a loss of faculty with a resulting disablement of not less than one per cent, with the result that they will be entitled to a pension at the 10% rate1.

1 SS C&B (NI) Act 92, sec 110(3)

67803 When pneumoconiosis is accompanied by tuberculosis, the effects of the tuberculosis are treated as if they were effects of the pneumoconiosis1. In this connection only tuberculosis of the respiratory system can be taken into account, since the definition is narrower than that for prescribed disease B5.

1 SS (II) (PD) Regs (NI), reg 21

67804 In certain cases apart from those in DMG 67986 the effects of chronic obstructive pulmonary disease can also be treated as if they were effects of the pneumoconiosis1.

 This provision applies where

**1.** a person suffers from pneumoconiosis or pneumoconiosis accompanied by tuberculosis **and**

**2.** the disablement due to the conditions at **1.** would be assessed at not less than 50% if the person’s physical condition were otherwise normal.

 The reference to a person’s physical condition being otherwise normal means that “connected conditions” are excluded when determining whether disablement on account of pneumoconiosis (including any tuberculosis) is assessed at not less than 50%.

 The excluded “connected conditions” are conditions which do not result from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis, but which make the pneumoconiosis or tuberculosis more disabling than it would otherwise be.

1 SS (II) (PD) Regs (NI), reg 22(1)

67805 Disablement Benefit for pneumoconiosis always takes the form of a pension; no gratuity is, or ever has been, payable1. For an assessment of disablement for pneumoconiosis of 20% or more the pension is at the normal rate. For assessments of less than 20% two pension rates are available2. Guidance on deciding the rate appropriate for any case is in DMG Chapter 69.

1 SS (II) (PD) Regs (NI), reg 18(1); 2 reg 18(1A)

Prescription

67806 Pneumoconiosis is prescribed in two ways1

**1.** in relation to all persons who have been employed on or after 5.7.48 in employed earner’s employment in any of the scheduled occupations2 **and**

**2.** in relation to all other persons who

**2.1** have been employed in employed earner’s employment on or after 5.7.48 in any occupation involving exposure to dust **and**

**2.2** have not worked **at any time**, whether in employed earner’s employment or not, in any occupation for which at the date of claim pneumoconiosis is a “scheduled” disease.

1 SS (II) (PD) Regs (NI), reg 2(b) & Sch 1; 2 Part II, Sch 1

67807 The decision maker should note that

**1.** both tests in DMG 67806 have to be considered before it can be held that the disease is not prescribed in relation to a claimant

**2.** both tests involve the scheduled occupations

**3.** for DMG 67806 **1.** it is necessary to establish that claimants have been employed in employed earner’s employment in a scheduled occupation on or after 5.7.48

**4.** for DMG 67806 **2.** it is necessary to ensure that they have **never** worked in an occupation which at the date of claim is a scheduled occupation at any time in their working life, whether in employed earner’s employment or not.

 Notes on the scheduled occupations are given in DMG 67809 - 67858 and notes on unscheduled occupations involving exposure to dust are given in DMG 67859 - 67863.

Notes on scheduled occupations

67808 The following paragraphs give guidance about certain scheduled occupations1. They contain such matters as the interpretation of various phrases, Commissioner’s decisions, guidance regarding certain trades and other points of importance.

1 SS (II) (PD) Regs (NI), Part II, Sch 1

67809 The phrase “any occupation involving.....” occurs often in the Schedule1. A person’s occupation may involve only a small amount of time in the operation or process detailed. This can be sufficient to satisfy the condition provided that the time spent is not so little as to be negligible and thereby disregarded under the de minimis principle2.

1 SS (II) (PD) Regs (NI), Part II, Sch 1; 2 CWI 26/49 (KL); CI 265/49 (KL)

67810 If, however, claimants seek to show that, although they were not personally engaged in the operation or process detailed, they were affected by the dust arising from it, they must show that they were substantially exposed to the dust1.

1 SS (II) (PD) Regs (NI), Sch 1, Part II, 1(b)

67811 Sometimes claimants who are not specifically employed in scheduled work will, in the course of their employment, voluntarily assist in such work. For example a general labourer had for many years helped in the trimming of coal at a quay. This was very similar to his own work and was done with his employer’s knowledge. He did this work for about half an hour at a time on two to six occasions a month. It was held that it was reasonable to accept that this work had become part of the claimant’s duties and that such work was not negligible and could not be disregarded under the de minimis principle1.

1 R(I) 4/53

67812 Where the information supplied by the employer and the claimant is insufficient to determine the prescription question, or where there is a discrepancy between the information received from the employer and that received from the claimant, the decision maker should arrange for detailed enquiries to be made (preferably by interview) to obtain

**1.** full details of the claimant’s day-to-day work with particular reference to

**1.1** the process involved

**1.2** the materials used or handled

**1.3** the nature and extent of the exposure to dust **and**

**1.4** if not apparent, the source of the dust

**2.** a statement from a representative of the firm who is likely to have the required knowledge where the information required from the employer is of a scientific character.

Scheduled occupation 1 - Silica rock, dry quartzose sand, dry deposit or residue of silica and dry admixture containing such materials

67813 An occupation not covered by any of the narrower descriptions prescribed in the legislation1 can often be shown to be covered by this scheduled occupation2 after investigation of the materials handled or worked by the claimant. But the decision maker should note that

**1.** there is **no** cover3 for occupations **incidental to handling**

**2.** for **1.** to apply

**2.1** it is not sufficient just to handle the materials specified4

**2.2** the handling must be shown to have been in or incidental to one of the processes mentioned5

**3.** incidental to and handling should be interpreted in accordance with ordinary popular usage6

**4.** incidental to denotes some subordinate activity closely connected with the process mentioned7.

1 SS (II) (PD) Regs (NI), Sch 1, Part II; 2 Sch 1, Part II, para 1; 3 Sch 1, Part II, para 1(b);
4 Sch 1, Part II, para 1(a); 5 Sch 1, Part II, para 1(a); 6 CWI 26/49(KL); R(I) 39/51; 2 R(I) 14/52

67814 The legislation does not define “quarrying” or “quarry”. However, for the purposes of this scheduled occupation, the excavation of silica rock (sandstone) before coal can be extracted from an open-cast site may be correctly termed “quarrying”. Therefore, a case may not come within DMG 67852 - 67853 because a “mine” is open-cast, but succeed under this scheduled occupation1.

1 SS (II) (PD) Regs (NI), Sch 1, Part II, para 1

67815 The reference to “...the mining, quarrying or working of silica rock or the working of dried quartzose sand or any dry deposit or dry residue of silica or any dry admixture containing such materials ...” covers occupations involving the

**1.** mining, quarrying or working of silica rock

**2.** working of dried quartzose sand

**3.** working of any dry deposit of silica

**4.** working of any dry residue of silica **or**

**5.** working of any dry admixture containing such materials, that is, containing silica rock, or dried quartzose sand, or any dry deposit of silica, or any dry residue of silica.

 **Note:** See DMG 67820 for further guidance on quartzose sand for the purpose of **2.** and **5.**.

Silica rock

67816 Silica rock means quartz, quartzite, ganister, sandstone, gritstone and chert, but not natural sand or rotten rock1. Dolomite is **not** silica rock2, nor is ironstone3.

1 SS (II) (PD) Regs (NI), reg 1(2); 2 R(I) 36/52; 3 R(I) 32/52

Free and combined silica

67817 The decision maker should note that

**1.** the term silica means silica (that is, silicon dioxide) in its free state, not in chemical combination (as in a silicate)

**2.** statements by claimants, employers, etc, as to whether materials contain free silica are not always reliable and, in particular, when analyses are quoted, the decision maker must be sure that the percentage of free silica is given, and not merely that of combined silica, or total silica free and combined

**3.** “siliceous substance” as defined in relation to para 4 of Part II of the schedule1, should not be applied to questions arising under para 12.

1 R(I) 21/52; 2 R(I) 26/55

67818 When the material is found to contain free silica not in the form of natural sand or rotten rock the decision maker can assume that this silica will be in the form of silica rock or will be a deposit or residue.

Dried quartzose sand

67819 Quartzose sand, sand rich in quartz, is produced by the breaking down of sedimentary rock. It can be accepted in practice that, except where there are definite reasons for thinking otherwise, sand used in industry in this country, including natural sand and sea-shore sand, is quartzose sand.

67820 To be covered by DMG 67815 **2.** or **5.**, quartzose sand must be dried. This is not the same as merely being dry and sand in its natural state is excluded. Dried quartzose sand is sand which has been dried by subjection to great heat for example

**1.** by baking in a kiln or oven1 **or**

**2.** by use in a furnace **or**

**3.** by contact with molten metal.

 The reason for this requirement is that particles of sand in its natural state are normally too large to enter into the vital parts of the lung and such sand is therefore not dangerous. If, however it is so thoroughly dried that almost every trace of moisture is removed, it becomes so brittle that it fractures very easily and particles of a dangerous size may result.

1 R(I) 46/51; R(I) 47/53

Deposit, residue and admixture

67821 Deposit means “something deposited, laid or thrown down, especially matter precipitated from a fluid medium or collected in one place”. For example, deposits of quartzose material in natural beds1.

Residue means “that which is left, that which remains after a process of combustion, evaporation, etc”, for example, siliceous residues from processes in the manufacture of abrasives, such as scouring powders2.

 The decision maker should note the following about “admixture”.

**1.** Admixture means

**1.1** an artificial mixture made for industrial or commercial purposes **or**

**1.2** not a chemical combination transferring the constituent parts of the new combination into something quite other than those of which the constituent parts are composed, but a physical or mechanical mixture in which each mixing part retains its own identity3.

**2.** The mixture must be artificial4 but the fact that its constituent parts are compacted does not exclude it from the definition5.

**3.** A mixture is still a “mixture for industrial purposes” even though it is created only as a by-product of the main industrial process6.

**4.** The phrase “retains its own identity” refers to the retention of identity when the process is complete, not to the retention of identity throughout the process7.

**5.** A “dry mixture containing silica rock, etc” has been held to include basic slag8 and ultramarine in the dry state9.

1 CWI 53/50(KL); R(I) 46/51; 2 CWI 53/50(KL); R(I) 46/51; 3 CWI 53/50(KL); R(I) 46/51

4 R(I) 32/52; 5 R(I) 15/51; 6 R(I) 26/55; 7 R(I) 26/55; 8 R(I) 26/55; 9 R(I) 13/59

67822 A deposit or residue must contain silica in the free state, not merely in the combined state. An admixture must include silica in one of the forms mentioned in DMG 67815 **1.** - **5.**, and not merely in the form described in DMG 67819.

Working

67823 The decision maker should note that

**1.** the term “working” means performing an operation on the silica (or the admixture, etc.) to bring it into a certain condition in order that it may be used1

**2.** operations covered by this term include

**2.1** the riddling and crumbling of dried quartzose sand2

**2.2** the use of welding rods containing free silica3 **and**

**2.3** the grinding of ganister (hard siliceous stone) from the insides of steel tubes4

**3.** the brushing of a residue of silica or an admixture off a container so that the container is fit for re-use does not constitute “working”5.

 **Note:** In a substance where free silica is present in only small quantities, the main substance may be “worked” without the silica particles being broken or otherwise worked6. Unless the silica particles are affected, the operation cannot be regarded as the working of silica rock.

1 CI 110/49(KL); 2 R(I) 28/52; R(I) 47/53; 3 R(I) 27/51;

4 R(I) 15/51; 5 CI 110/49(KL); R(I) 14/55; 6 R(I) 7/54

Arc welding

67824 Free silica is often present in an appreciable quantity in the coating of electrode rods and is usually in the form of ground calcined flint or quartz (that is silica rock) inserted in the mixture during manufacture. Such a coating, containing up to 6.7% free silica, has been held to be dried admixture containing silica within the meaning of DMG 67815 **5.**1.

1 R(I) 27/51

67825 As small an amount as 0.2% of free silica present in an electrode rod cannot be disregarded. Various electrode rods have been submitted for analysis and, as none has shown less than 0.2% free silica, arc welding may be accepted as a scheduled occupation1.

1 R(I) 2/58

67826 Where surplus metal is ground from welded articles any free silica in the welding rods combines with the metal in the process of welding. The result is not an admixture of silica1.

1 R(I) 35/52

Building workers using sand and cement

67827 The sand used in building is normally natural sand but, although quartzose, it is not dried in its natural state. The cement used in building is Portland cement, and the decision maker should note that

**1.** the cement is manufactured by burning at a high temperature a mixture of limestone and clay and then grinding the residue to a fine powder

**2.** limestone normally contains practically no silica

**3.** the clays used contain about 60% silica, but all in a combined form

**4.** the total silica content of cement is about 25%, all in a combined state

**5.** cement **cannot** in any sense be described as a dry deposit or dry residue of silica, or as a dry admixture containing such materials

**6.** such work therefore is not a scheduled occupation1.

1 R(I) 46/51

Bricklayers engaged in building, demolishing or repairing furnaces, retorts etc

67828 Apart from scheduled occupation 4 (see DMG 67832 - 67834), scheduled occupation 1 is the only one which could cover bricklayers engaged in the building, demolition or repair of furnaces, retorts etc, although they might, exceptionally, have other duties which could bring their occupation within some other scheduled occupation for prescribed disease D1 purposes. A brick containing free silica can be described as a dry admixture containing silica, and the building, demolition or repair of brickwork should be accepted as being within the definition of working in DMG 67823.

67829 Refractory bricks which have a high resistance to melting or fusion are used in this work. There are usually one of two types which are

**1.** a fireclay brick which is the usual refractory brick for low temperature work and which

**1.1** is manufactured from natural fireclay **and**

**1.2** has a widely variable silica content, free and combined. In the process or manufacture, free silica or a grog (pulverized burnt clay or pottery) containing free silica may be added to the fireclay **or**

**2.** a silica brick which is

**2.1** used to line furnaces and vessels for high temperature work **and**

**2.2** most commonly used in steel foundries and gas retorts **and**

**2.3** a synthetic product and contains 80% or more free silica.

 Both these bricks should be accepted as an admixture containing silica.

Clay

67830 Certain clays, notably ball clays, contain a significant amount of free silica in the form of small particles of silica rock. The mining or quarrying of such clay should be regarded as within the terms of prescription1. If the clay concerned is ball clay or fireclay the free silica content can be accepted without further enquiry.

 With other clays, for example china clay, analysis is necessary to see if a significant proportion of free silica is present (see DMG 67817). In considering the working with question the decision makers should note that

**1.** such clay is a natural substance, not an artificial mixture, and its working is not the working of an admixture containing silica2

**2.** they must decide if the occupation involves the working (see DMG 67823) of the actual particles of silica rock contained in the clay (for example, if the clay is being ground to a very fine powder and the particles of silica in it are also thereby ground, the silica rock in it has been “worked”)

**3.** experience in the china clay and china-stone industries in Cornwall has shown that the operations of crushing and milling of china clay and china-stone and the pressing, drying, filling, loading and stacking of china clay come within the terms of prescription3

**4.** guidance on the manufacture of china and earthenware is to be found in DMG 67835 - 67836.

1 SS (II) (PD) Regs (NI), Sch 1, Part II, para 1; 2 R(I) 7/54; 3 SS (II) (PD) Regs (NI), Sch 1, Part II, para 1

Scheduled occupation 2 - Breaking, crushing or grinding of flint

67831 Breaking, crushing or grinding refers to an industrial process designed to reduce the size of the flint, or to reduce it to powder. The quarrying of flint, although it may break up the flint, cannot be regarded as such a process, and flint which has merely been broken while being quarried is not broken, crushed or ground flint1.

1 R(I) 67/52

Scheduled occupation 4 - Foundry workers

67832 Foundry means

**1.** those parts of industrial premises where the production of metal articles (apart from pig iron or steel ingots) is carried on by casting (apart from die-casting or other casting in metal moulds) **and**

**2.** any part of the same premises where any of the following incidental processes are carried on

**2.1** the drying and subsequent preparation of sand for moulding (including the reclamation of used moulding sand)

**2.2** the preparation of moulds and cores

**2.3**  knock-out operations **and**

**2.4** dressing or fettling operations1.

1 SS (II) (PD) Regs (NI), reg 1(2)

67833 The decision maker should take siliceous substance to include any substance containing silica in sufficient quantity to be accepted in the industry as a siliceous substance1. It was accepted by a Commissioner that the trade did not regard a substance as “siliceous” if it contained less than 3% free silica2.

1 R(I) 21/52; 2 CI 354/50(KL)

67834 To satisfy the legislation1, the freeing of castings from the adherent siliceous substance must be at least one of the objects of the operation and not merely a result even though an invariable result2. If the siliceous substance is removed during an operation which is not designed to free it from the castings, the freeing is merely incidental to that operation. The phrase power-driven tools in the legislation3 does not necessarily include every tool which is power-driven4.

1 SS (II) (PD) Regs (NI), Sch 1, Part II, para 4; 2 R(I) 30/59;
3 SS (II) (PD) Regs (NI), Sch 1, Part II, para 4(b)(ii); 4 R(I) 30/59

Scheduled occupation 5 - China or earthenware

67835 The scope of this scheduled occupation is restricted to the manufacture of china and earthenware in the pottery industry. It does not extend to other articles not classed as china or earthenware even though made from clay, for example condensers and retorts used in smelting works. Articles made from fireclay or local marls (mixtures of clay and calcium carbonate) are not china or earthenware. See DMG 67831.

67836 To be included in this scheduled occupation an occupation must be “in or incidental to the manufacture of...”1.

1 R(I) 11/52

Scheduled occupation 6 - Mineral graphite

67837 A claimant’s work consisted of cleaning out drums used in the manufacture of printer’s ink and preparing them for further use. The residue in the drums, which the claimant removed by scrubbing with a wire brush and other methods, contained a substantial proportion of graphite. It was decided that

**1.** the graphite was not a mineral graphite **and**

**2.** the process of scrubbing with a wire brush was not “grinding” although no final opinion was given1.

1 CI 110/49(KL)

Scheduled occupation 8 - Grindstones

67838 “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 fitted1. The following are not grindstones

**1.** Carborundum and emery wheels and handgrinders not made of sandstone but containing a small percentage of silica2

**2.** “Aloxite”, “Bauxolite” and “vitrified or resinoid bonded” wheels.

1 SS (II) (PD) Regs (NI), reg 1(2); 2 R(I) 21/52

67839 The use of a grindstone may only be a small incidental part of an occupation, but the occupation can still be regarded as involving the use of a grindstone. Also, the grindstone need not be used dry1.

1 R(I) 14/55

Scheduled occupation 9 - Asbestos

67840 Asbestos textiles means yarn or cloth composed of asbestos or of asbestos mixed with any other materials1.

1 SS (II) (PD) Regs (NI), reg 1(2)

67841 It is not necessary for a claimant to work or handle asbestos or an admixture to a substantial extent to be within the scheduled occupation. For example a claimant’s work consisted of sorting out copper wire from old electric cables of which about 1% contained asbestos in the covering. Such an occupation would be scheduled1. But exposure to dust arising from any of the scheduled occupations must be substantial2. Further guidance on exposure to asbestos is at DMG 67901 et seq.

1 CSI 68/49(KL); 2 SS (II) (PD) Regs (NI), Sch 1, Part II, para 9

 67842 – 67843

Scheduled occupation 10 - Mining and slate

67844 Mine includes

**1.** every shaft in the course of being sunk

**2.** every level and inclined plane in the course of being driven **and**

**3.** all the shafts, levels, planes, works, tramways and sidings, below ground and above ground, in and adjacent to and belonging to the mine.

 It does not include any such premises on which any manufacturing process is carried on not connected with the getting or dressing of minerals or the preparation of minerals for sale.

67845 Coal mine means any mine where one of the objects of the mining operations is the getting of coal (including bituminous coal, cannel coal, anthracite, lignite, and brown coal)1.

1 SS (II) (PD) Regs (NI), reg 1(2)

Underground work in a mine

67846 The phrase underground in a mine has been discussed at length in case law1.

I R(I) 37/59

Surface work at a coal or tin mine

67847 Coal mine does not include either open-cast workings1 or old colliery sites where mining operations have ceased2. Employment at an opencast site may, however, be prescribed under the terms of DMG 67814.

1 CWI 4/50(KL); 2 R(I) 70/54

67848 The definition of mine is not exhaustive and other places might reasonably be regarded as being part of a mine. These include

**1.** a stretch of railway line, owned by the mine owner, which ran alongside a colliery which it served1

**2.** a screening plant on colliery premises which sorted coal from other collieries as well as from the parent one2 **and**

**3.** the boilers of a coal by-product plant owned by the mine owner on a site immediately adjacent to a colliery which was supplied with steam from the boilers3.

1 CW 17/50(KL); 2 R(I) 52/56; 3 R(I) 15/62

67849 However the decision maker should note that

**1.** coke ovens on or adjacent to colliery premises1

**2.** power stations owned by the mine owner and serving collieries though not situated on colliery premises2 **and**

**3.** screening plants on the sites of disused coIIieries3

 are not mines.

1 R(I) 15/62; CI 274/49(KL); 2 CWI 14/50(KL); 3 R(I) 70/54

67850 For the purpose of this scheduled occupation1, handling is not a technical term and must be given its ordinary meaning. It includes

**1.** the use of tools as well as the hands

**2.** the operations of brushing, sweeping, shovelling and carrying2 **and**

**3.** the handling of articles, such as timber-props or lamps, covered with coal dust extracted from the mine3.

1 SS (II) (PD) Regs (NI), Sch 1, Part III, para 10(b); 2 CSI 69/49 (KL); CWI 26/49 (KL);
3 CI 114/50 (KL); CWI 13/50 (KL)

67851 When considering the scope of the phrase “or any operation incidental thereto…” in the legislation1 the decision maker should note that

**1.** the phrase must be interpreted in accordance with ordinary popular usage and that its application is a matter of degree

**2.** the connection between the “operation” and the activity of working or handling coal must be so close that in ordinary speech the operation would be described as incidental to that activity2

**3.** “incidental thereto” must refer to the operation of working or handling above ground at a coal or tin mine and nowhere else3.

1 SS (II) (PD) Regs (NI), Sch 1, Part II, para 10(b); 2 R(I) 39/51;
3 CI 274/49(KL); CWI 14/50; CWI 17/50(KL); R(I) 2/54

Coal trimming

67852 Trimming means putting in order or tidying, and includes stowing or arranging or shifting, for example, on a wharf or in a ship. A boiler house labourer who voluntarily assisted in shovelling back fallen coal onto a conveyer-belt on a coal unloading jetty was held to be trimming coal1.

1 R(I) 4/53

67853 “At” a wharf or quay means within the area of the wharf or quay or, within the premises associated with the wharf or quay, and does not include separate premises, however close they happen to be. In a case where the yard of a boiler house was about twenty feet from a coal unloading jetty the yard was held not to be “at” a wharf or quay1.

1 R(I) 4/53

Slate

67854 The expression “the .... splitting .... of slate” is not confined to the splitting of slate in processes for preparing the slate for commercial use. For example, a labourer was employed storing explosives in a disused slate mine. His duties included keeping the roof safe, clearing up falls and removing unsafe rock. He had sometimes to split fallen slate into smaller pieces for removal. His occupation was held to involve the splitting of slate1.

1 R(I) 13/52

67855 Questions involving operations incidental to the sawing, splitting or dressing of slate should be dealt with as in DMG 67851. Examples are contained in case law1.

1 CI 265/49(KL); R(I) 14/52; R(I) 15/52

Scheduled occupation 11 - Carbon electrodes

67856 This applies to

**1.** any occupation in or incidental to the manufacture of carbon electrodes for use in the electrolytic extraction of aluminium oxide **and**

**2.** any occupation involving substantial exposure to the dust arising therefrom.

67857 The definition at DMG 67856 applies to the processes carried out

**1.** in the British Aluminium Company’s carbon factories at Kinlocheven, Fort William (Lochaber) and Invergordon

**2.** at the Lynemouth, Northumberland, works of Alcan Aluminium Metal (UK) Ltd **and**

**3.** at the Penrhos works of Anglesey Aluminium Metal Ltd.

Scheduled occupation - Boiler scalers

67858 Boiler scaling means the removal of scale or fur from boilers by scraping or chipping or by the use of chemicals. Cleaning to remove soot, dust and ashes is not boiler scaling.

 The occupation includes

**1.** workers engaged full-time in boiler scaling

**2.** workers who scale boilers as a regular part of their duties (for example, a boiler scaler who also cleans flues)

**3.** workers who are not themselves engaged in boiler scaling but are substantially exposed to the dust arising from such scaling. Such cases should be rare as boiler scaling is normally done inside the boiler and it is unlikely that workers not themselves scaling would be substantially exposed to the dust arising1.

1 R(I) 8/57

Unscheduled occupations involving exposure to dust

67859 If information about dust exposure obtained from the person’s employers shows that the occupation involved exposure to dust the decision maker can accept the condition as satisfied without further enquiry unless there is strong evidence to the contrary. This is because almost all occupations, particularly in a factory or workshop, involve exposure to some dust. The dust referred to means dust in excess of that met with in the ordinary course of Iife1 and in excess of what might be regarded as an acceptable level2.

1 R(I) 40/57; 2 R(I) 1/85

67860 The main test to be satisfied is that it must be established that the claimant has not at any time worked (whether or not in employed earner’s employment) in an occupation which, at the date of claim is a scheduled occupation.

 This test excludes from the main scheme a person who has worked

**1.** only before 5.7.48 in an occupation which is scheduled1 **and**

**2.** on or after 5.7.48 in a scheduled occupation but not in employed earner’s employment.

1 R(I) 70/54

67861 This test is applied to the list of scheduled occupations as it stands at the date of claim. It does not assist the claim to show that an occupation scheduled at the date of claim was not scheduled at the time the claimant worked in it. Nor does it affect a claim or an award if an occupation in which the claimant worked becomes scheduled after the date of claim.

67862 In applying this test the decision maker should arrange to

**1.** obtain full descriptions of all jobs undertaken by the claimant together with employers’ names

**2.** confirm, where practicable, details as in **1.** from employers, old employment records held by British Coal, Trade Union officials and workmates.

 The onus of showing that the test is satisfied is with the claimant. The decision maker must decide the prescription question on the balance of probabilities bearing in mind the employed earner’s known industrial history.

67863 Where a claim under the Social Security legislation1 fails on prescription, there may be entitlement under the pneumoconiosis byssinosis and miscellaneous diseases benefit scheme.

1 SS C&B (NI) Act 92

 67864 – 67865

Diagnosis

67866 In claims for pneumoconiosis where the disease is prescribed in relation to a non-Scheduled occupation1 claimants must show that there is reasonable cause for suspecting that they are suffering or have suffered from pneumoconiosis. If claimants fail to show this, the decision maker will disallow the claim without referring the diagnosis question for medical advice. Such a decision by the decision maker is subject to appeal to the appeal tribunal and the Commissioner2. The decision maker should accept the test as satisfied where

**1.** a certificate or other evidence is held showing that claimants are suffering, or are thought to be suffering, from pneumoconiosis

**2.** claimants are suffering from a respiratory condition and pneumoconiosis is prescribed for them.

1 SS (II) (PD) Regs (NI), reg 2(b)(ii); 2 reg 22

 67867 – 67870

Presumption

67871 There are special rules for presumption for prescribed disease D1. Only rarely, if ever, can the presumption be rebutted. If

**1.** the presumption does not apply under DMG 67193 **2. or**

**2.** the disease is prescribed in relation to a non-scheduled occupation1 the decision maker should normally determine the question favourably.

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) Regs (NI) 86, reg 2(b)(ii)

Recrudescence and fresh contraction

67872 No question of recrudescence or fresh contraction arises with prescribed disease D1. This is because the disease is at present incurable; a person cannot recover from it and then contract it afresh1.

1 SS (II) (PD) Regs (NI), reg 7

67873 One effect of this is to prevent industrial injuries disablement benefit being awarded to, or in respect of, a person who has been awarded or paid workmen’s compensation for pneumoconiosis1.

1 SS (II) (PD) Regs (NI), reg 8(3)

67874 The provision for revision and supersession of a decision if the claimant receives weekly payments of workmen’s compensation after the date of claim also applies to claims for pneumoconiosis1 (see DMG 67270).

 **Note:** See DMG Chapter 03 for guidance on revision and DMG Chapter 04 for guidance on supersession.

1 SS (II) (PD) Regs (NI), reg 8(3)

 67875 – 67890

Prescribed disease D2 (byssinosis)

Rate of pension

67891 Industrial injuries disablement benefit for byssinosis always takes the form of a pension; no gratuity is, or ever has been, payable1. The decision maker should note the following

**1.** for an assessment of disablement for byssinosis of 20% or more the pension is at the normal rate2

**2.** for assessments of less than 20% the rate of pension depends on whether

**2.1** the assessment is in the range 1% to 10% **or**

**2.2** is above 10% but less than 20%

**3.** guidance on deciding the appropriate rate is in DMG Chapter 69.

 The period of an assessment of disablement for byssinosis must be not less than one year, if not limited by reference to the claimant’s life3.

1 SS (II) (PD) Regs (NI), reg 18(1A) & (2); 2 reg 18(1A); 3 reg 18(2)

Prescription

67892 The guidance at DMG 67893 - 67895 is based on information from a trade research association and Her Majesty’s Factory Inspectorate and explains how the term “raw cotton” is applied for the purposes of the regulations.

67893 In the trade there is a tendency to use the term spun yarn rather than raw cotton once it has passed the spinning stage.

67894 For the purposes of the legislation it is still to be regarded as raw cotton until it has been scoured, bleached or otherwise chemically treated. Some of these processes might even be delayed beyond the weaving stage.

67895 “Room” is defined in case law as “an interior portion of a building divided off by walls or partitions”. The decision maker should not regard a room where no relevant process is carried out as a separate room if it is separated imperfectly from a room where a relevant process is carried out1.

1 R(I) 26/58

Due to the nature of the employed earner’s employment

Presumption

67896 If byssinosis is prescribed in relation to the employed earner, it is presumed unless the contrary is proved1, that the prescribed disease is due to the employed earner’s employment if the person who has contracted a prescribed disease was employed in a prescribed occupation.

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) Regs (NI) 86, reg 4(4)

Recrudescence and fresh contraction

67897 There can be no question of recrudescence or fresh contraction with byssinosis, because the disease is at present incurable. A person cannot, therefore, recover from it and then contract it afresh1.

1 SS (II) (PD) Regs (NI), reg 7

67898 DMG 67897 prevents industrial injuries benefits being awarded to, or in respect of, a person who has been awarded or paid compensation for the same disease, as in this event the disease is treated as not having developed after 5.7.481.

1 SS (II) (PD) Regs (NI), reg 8(3)

67899 Where claimants receive weekly payments of Workmen’s Compensation after the date of claim for benefit and which they were not receiving at the date of such claim, the decision maker should reconsider and if appropriate, supersede1 the decision awarding industrial injuries disablement benefit2.

 **Note:** See DMG Chapter 04 for guidance on supersession.

1 SS (II) (PD) Regs (NI), reg 8(3); 2 SS (NI) Order 98, art 11

 67900

Asbestos-related diseases

Prescribed disease D3

67901 Prescribed disease D3 (diffuse mesothelioma) is an asbestos-related disease. DMG 67792 - 67794 contains guidance on the nature of asbestos and its hazards. These paragraphs are relevant to all the asbestos-related prescribed diseases.

Prescription

67902 From 9.4.97 the occupational prescription is amended to exposure to asbestos, asbestos dust or any admixture of asbestos at a level above that commonly found in the environment at large1.

1 SS (II) (PD) Regs (NI), Sch 1

67903 The effect of the change is to extend the cover to any occupation where there has been exposure to asbestos at a level above that commonly found in the air in buildings and the general outdoor environment.

67904 A list of occupations where exposure to asbestos may have occurred where mesothelioma could reasonably be attributed to work is at Appendix 3 to this Chapter.

67905 The list is not exhaustive and there could be other occupations in which exposure to asbestos may have occurred. Because of the wide range of occupations where exposure to asbestos may arise there should be few cases which do not satisfy the prescription test. Any case where the decision maker is considering disallowance must be sent to Decision Making Services with full details. However, where disallowance is appropriate, the claimant should be advised of the 2008 diffuse mesothelioma scheme which provides compensation where the disease is non-industrially caused. Details of the 2008 diffuse mesothelioma scheme can be found in procedural guidance.

67906 The 90 day waiting period does not apply to claims for prescribed disease D31.

1 SS (II) (PD) Regs (NI), reg 18(3)

67907 Because prescription enquiries may take a long time, action on prescription and diagnosis should take place simultaneously. If the diagnosis question is decided first, the decision maker should not overlook the prescription question.

Effect on Reduced Earnings Allowance entitlement

67908 There is no entitlement to Reduced Earnings Allowance for

**1.** a disease prescribed on or after 10.10.94 **or**

**2.** an extension to an existing disease on or after that date **1.**.

 This means that there is no entitlement to Reduced Earnings Allowance in respect of prescribed disease D3 where the claim is made under the new extended test. Entitlement to Reduced Earnings Allowance may still arise where the old prescription test is satisfied provided the normal entitlement conditions are satisfied1.

1 SS (II) (PD) Regs (NI), reg 12A

Special action

67909 Claims for diffuse mesothelioma are not normally invited under that name, because sufferers’ medical advisers may not wish them to know the true nature of the disease.

67910 Because the prescription for prescribed disease D3 is very similar to that for asbestos-induced pneumoconiosis, a claim for Disablement Benefit is normally obtained on the same form as for pneumoconiosis (asbestosis) to avoid disclosing the true nature of the disease to claimants. The claim is then considered as if it were in all respects a pneumoconiosis case. If prescribed disease D3 is diagnosed it may occasionally be referred to as pneumoconiosis or as pleural asbestosis.

Benefit

67911 The loss of faculty is defined as impaired function of the pleura, pericardium or peritoneum caused by diffuse mesothelioma and where a person suffers from that loss of faculty the resulting disability is to be taken as 100%1. See DMG 67791 about this prescribed disease being ‘fast track’.

1 SS (II) (PD) Regs (NI), reg 18A

 67912 – 67915

Prescribed diseases D4 to D10

Prescribed disease D4

67916 Before 24.3.96 D4 was defined as inflammation or ulceration of the mucous membrane of the upper respiratory passages or mouth and occupational cover was by exposure to dust, liquid or vapour. In this context "dust" meant simply dust in excess of what might be regarded as an acceptable level1.

1 R(I) 1/85

67917 The upper respiratory passages include the nose, pharynx and larynx but not the trachea, bronchi or sub-divisions of the bronchi. Bronchitis did not therefore come within the description of prescribed disease D4.

67918 From 24.3.96 the disease was redefined1 as allergic rhinitis due to exposure to the same sensitising agents listed for prescribed disease D7 (DMG 67937) **excluding** the "open category" (category (x)). Occupational cover is by exposure to the same agents. The prescription conditions in force before 24.3.96 continue to apply in the type of cases set out at DMG 67530 - 675312. From 14.3.05 the agent at DMG 67937 **24.** was added to the list. That agent will therefore come within the description of prescribed disease D4 from 14.3.053.

1 SS (II & D) (Misc Amdt) Regs (NI) 96, reg 3(3)(d); 2 reg 7; 3 SS (II) (PD) (Amdt) Regs (NI) 05, reg 2(7)

Presumption

67919 Since 24.3.96 the presumption that a disease is due to the nature of an employment (DMG 67187) has applied to D41. It did not apply before this date.

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) Regs (NI), reg 4(1)

 **Example**

 Prescribed disease D4 is claimed on 20.9.96. Date of onset is 14.7.92. Presumption is satisfied if the claimant worked in a prescribed occupation, that is one involving exposure to a named agent, at any time between 14.6.92 and 14.7.92.

Effect on Reduced Earnings Allowance entitlement

67920 As the amendment on 24.3.96 was not an extension of the disease, entitlement to Reduced Earnings Allowance can still be established1.

1 SS (II) (PD) Regs (NI), reg 12A

Prescribed disease D5 (dermatitis)

Prescription

67921 From 24.3.96 the disease was amended to exclude chrome ulceration of the skin (which was provided for in the newly prescribed prescribed disease C30). At the same time occupational coverage was amended to exclude dermatitis arising from exposure to chromic acid, chromates or bi-chromates (again covered by prescribed disease C30).

67922 The prescription conditions in force prior to 24.3.96 continue to apply in the type of cases set out at DMG 67530 - 67531.

67923 The terms of prescription for dermatitis are drawn so widely that in most cases the decision maker will probably find that the disease is prescribed for the claimant. Bearing this in mind the decision maker should ensure that there are very good grounds before disallowing on prescription.

Diagnosis - sensitisation

67924 The claimant will usually have become sensitised to some irritating substance before showing any symptoms of prescribed disease D5. In most cases this will present no difficulty, because a favourable diagnosis decision will have been given. Where this is not so, that is where the medical evidence shows the claimant not to be suffering from prescribed disease D5 but to have developed a skin sensitisation to some external skin irritant encountered at work, the decision maker should consider whether the claim could succeed under the accident provisions (see DMG Chapter 66).

Presumption

67925 In deciding whether the disease is due to the nature of the claimant’s employed earner’s employment there is no presumption in favour of the claimant1, the onus of proof rests upon the claimant. Although the nature of the claimant’s employment may involve a risk of contracting the disease, the claimant may engage in activities outside the employment which involve a similar risk, or the evidence may suggest that the disease is due to other causes unconnected with the employment.

 The decision maker should ask for medical advice on this question. The decision maker should not normally give a decision contrary to the medical adviser's opinion.

1 SS (II) (PD) Regs (NI), reg 4

Effect on Reduced Earnings Allowance entitlement

67926 As the prescription for prescribed disease D5 was not extended on 24.3.96, entitlement to Reduced Earnings Allowance can still be established1.

1 SS (II) (PD) Regs (NI), reg 12A

 67297

Prescribed disease D6

Prescription

67928 In most cases the period between first exposure and clinical symptoms can be as long as 40 years or more. There may, therefore, be cases where the claimant has not worked in a prescribed occupation on or after 5.7.48. For claims before 5.12.12 such cases will fall for consideration under the pneumoconiosis, byssinosis and Miscellaneous Diseases Benefit Scheme. However claims from 5.12.12 are considered for Industrial Injuries Disablement Benefit.

Changes from 28.9.18

67929 From 28.9.18 the prescription for prescribed disease D6 is changed so that

**1.** occupation (a) is attendance for work at a workplace where wooden goods or products made wholly or partially of wood are manufactured or repaired **and**

**2.** exposure to wood dust in the course of the machine processing of wood is added as occupation (d)1.

1 SS (II) (PD) Regs (NI), Sch 1

67930 For the purposes of DMG 67929 **1.**, a workplace is not restricted to within a building because, for example, highly mechanised operations can generate high local exposures to wood dust in outdoor environments. The prescription therefore includes outdoor work, such as on a building site.

67931 For the purposes of DMG 67929 **2.**, “in the course of” means simply and only whilst performing the occupation, i.e. performing the machine processing of wood.

Due to the nature of the employed earner’s employment

67932 From 16.3.15, there is a presumption1, unless the contrary is proved, that prescribed disease D6 is due to the employed earner’s employment if the person who has contracted a prescribed disease was employed in a prescribed occupation2 (see DMG 67188). Before 16.3.15, medical advice that the disease was due to the nature of the employed earner’s employment should normally be accepted.

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) Regs (NI) 86, reg 4(2); 2 Sch 1, Part 1

Reduced Earnings Allowance

67933 The changes to prescribed disease D6 are an extension to the list of prescribed diseases or occupations. Therefore, there is no entitlement to Reduced Earnings Allowance in respect of those changes as the extension was after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

Similarities with prescribed disease D13

67934 Although there are similarities between them, decision makers should not confuse prescribed disease D6 with prescribed disease D13 which is defined as “Primary carcinoma of the nasopharynx”1. Prescribed disease D13 also has a different test and provides for a minimum exposure time.

 **Note:** See DMG 67991 et seq for guidance on prescribed disease D13.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67935 If a claim is made for both prescribed disease D6 and prescribed disease D13 the decision maker should consider the prescription test for both diseases.

Prescribed disease D7 (occupational asthma)

Prescription

67936 This disease was added to the list of prescribed diseases from 29.3.821. The list of prescribed causative agents was initially limited to the agents numbered **1.** to **7.** in DMG 67937. With effect from 1.9.86 the list of causative agents was extended by the addition of those agents numbered **8.** to **14.** of DMG 679372. The list of causative agents was further extended by the addition of those agents numbered **15.** to **23.** and **25.** at DMG 67937 from 26.9.913. The list of causative agents was again extended by the addition of the agent numbered **24.** at DMG 67937 from 14.3.054.

1 SS (II) (PD) (Amdt) Regs (NI) 86; 2 SS (II & Adj) (Misc Amdt) Regs (NI) 86, reg 2;

3 SS (II) (PD) (Amdt) Regs (NI) 91; 4 SS (II) (PD) (Amdt) Regs (NI) 05, reg 3

67937 As a broad guide the employments or circumstances in which the causative agents are most likely to be encountered are those set out below.

**1. Isocyanates** most likely to be encountered in occupations involving the manufacture of polyurethane foam, synthetic inks, paint and adhesives.

**2. Platinum salts** most likely to be encountered in platinum refining workshops or in photographic laboratories.

**3. Hardening agents** the manufacture or use of adhesives, plastics, moulding resins (such as fibreglass), surface coatings (for example of transistors, etc for the electronics industry).

**4. Rosin flux** soldering in the electronics industry.

**5. Proteolytic enzymes** the manufacture or use of “biological” washing powders; also used in the baking, brewing, silk and leather industries; or encountered in the processing of meat or fish products.

**6. Animals or insects** schools (all ages) universities and colleges, as well as research establishments and testing and research departments of manufacturing companies.

**7. Grain and flour dusts** farming, flour milling, animal feed processing, baking, brewing and distilling.

**8. Antibiotics** any stage in the manufacture and packaging of antibiotics.

**9. Cimetidine** the manufacture and packaging of cimetidine tablets which are used for treating peptic ulcers.

**10. Wood dust** carpenters, joiners, papermill and sawmill workers.

**11. Ispaghula** this is a component of bulk laxatives and will most likely be encountered in the manufacture or administration of bulk laxatives.

**12. Castor bean dust** most likely encountered by merchant seamen, laboratory workers, felt workers.

**13. Ipecacuanha** the manufacture including packaging of ipecacuanha tablets which are used for treating coughs.

**14. Azodicarbonamide** this is used as a blowing agent in the manufacture of expanded foam plastics used for wall and floor coverings, insulation and packaging materials. Most likely exposure will be encountered in the manufacture of these products.

**15. Animals including insects and other arthropods or their larval forms** used for the purpose of pest control or fruit cultivation, or the larval forms of animals used for the purposes or research, education or in laboratories.

**16. Glutaraldehyde** this is widely used in hospitals for disinfection, in histological processing, electron microscopy, as an agent in tanning leather and also as a biocide in cooling towers.

**17. Persulphate salts and henna** the manufacture including packaging of these substances or their use in the hairdressing industry.

**18. Crustaceans, fish and fish products** in the food processing industry.

**19. Reactive dyes** most likely encountered in the dyeing, printing, and textile industry.

**20. Soya bean** most likely to be encountered in the processing of this substance or handling sacking.

**21. Tea dust** most likely to be encountered in the processing of this substance or the food industry.

**22. Green coffee bean dust** most likely to be encountered in the processing of this substance or handling sacking.

**23. Fumes from stainless steel welding** encountered by welders inhaling nickel or chromium fumes in the welding process.

**24. Products made with natural rubber latex** any occupation involving exposure to products made with natural rubber latex.

**25. Any other sensitising agent** not otherwise listed which a claimant specifies.

 The above is not an exhaustive list, and decision makers should expect to find other cases in which prescription is satisfied. Where there is doubt about the precise nature of the substances or agents involved the decision maker should follow the guidance in DMG 67098 - 67099. In “open category” cases, advice on whether the substance specified by the claimant is a sensitising agent will normally be needed from medical advisers before a decision on prescription is given. The medical advisers have access to information about such agents. Any approach for such advice should make it clear that it is a prescription query, not a reference for advice on diagnosis or disablement at this stage.

Ten year rule

67938 There is no entitlement to Disablement Benefit for a person who stopped working in a prescribed occupation more than ten years before the date of claim1. But this condition does not apply if the person already has an award of Disablement Benefit for asthma under the accident provisions and that award is for

**1.** life **or**

**2.** a period which includes the date of the prescribed disease claim2.

1 SS (II) (PD) Regs (NI), reg 34(1); SS (NI) Order 90, Sch 6, para 2(3); 2 SS (II) (PD) Regs (NI), reg 34(3)

67939 The date a person last worked in a prescribed occupation is the date when actual work, as opposed to the contract of employment, ended (DMG 67335 and 67348)1.

1 R(I) 2/79

Date of onset and recrudescence

67940 The normal provisions for determining the date of onset apply (DMG 67215) but the recrudescence provisions do not apply1.

1 SS (II) (PD) Regs (NI), reg 7(1)

Relevant date

67941 There is no entitlement to Disablement Benefit for the substances shown in DMG 67937 before the following dates

**1.** 29.3.67 - for agents **1-7** (except for the amendment to agent 6 on 1.9.86)1

**2.** 1.9.86 - for agents **8-14**2

**3.** 26.9.91 - for agents **15-23** and **25**3

**4.** 14.3.05 - for agent **24**4.

1 SS (II) (PD) Regs (NI), Sch 4; 2 SS (II) (PD & Adj) (Misc Amdt) Regs (NI) 86;

3 SS (II) (PD) (Amdt) Regs (NI) 91; 4 SS (II) (PD) (Amdt) Regs (NI) 2005, reg 2

67942 However, the agent at DMG 67937 **24.** is a sensitising agent for the purposes of DMG 67937 **25.** before 14.3.05.

Prescribed diseases D8, D8A and D9

67943 Prescribed diseases D8, D8A and D9 may not develop until many years after exposure to asbestos. Where corroboration is not possible because, for example, the employer has gone out of business or destroyed records, or ex-workmates have died, the decision maker should arrange for immediate enquiries to be made of the claimant to find out

**1.** precisely what the claimant’s work involved **and**

**2.** how it caused exposure to asbestos.

 **Note:** See DMG 67791 for guidance on when these prescribed diseases are treated as ‘fast track’.

67944 The claimant’s employer may deny having used asbestos themselves. This may arise, for example, in the construction industry where many persons apart from those working with the asbestos may have been exposed to its dust. In such cases the decision maker should establish

**1.** as much as possible about the claimant’s work **and**

**2.** the environment in which it was done, for example, were other firms involved, for whom was the work done, what did other people in the vicinity do.

67945 The decision maker should carefully weigh all the evidence including clinical findings and the claimant’s testimony. It may be possible for the claim to succeed on the claimant’s testimony alone.

67946 Circumstances which by themselves do not amount to “proof” can still establish a case taken together. For example a claimant who is diagnosed as suffering from prescribed disease D8, D8A or D9 does not prove that the person has been exposed to asbestos since these diseases may be caused by other means.

67947 To satisfy the prescription test for prescribed disease D8 or D9 the occupation must have been employed earner’s employment after 5.7.481. However, to satisfy the prescription test for prescribed disease D8A a claimant must have worked in a prescribed employment for a period of, or periods which amount in aggregate to

**1.** five years or more where all or any of the exposure occurred before 1.1.75 **or**

**2.** ten years or more where the exposure occurs on or after 1.1.75.

 **Note:** From 30.3.17 the words “with obliteration of the costophrenic angle” were removed from the definition of prescribed disease D92. This was to reflect the use of computerised tomography for diagnosing this disease.

1 SS (II) (PD) Regs (NI), reg 2(a) & (b); 2 Sch 1, Part 1

67948 Because prescription enquiries may take a long time, action on prescription and diagnosis should take place simultaneously. If the diagnosis question is decided first, the decision maker should not overlook the prescription question.

67949 Asbestosis is defined as fibrosis of the parenchyma of the lungs due to the inhalation of asbestos dust1.

1 SS (II) (PD) Regs (NI), reg 1(2)

Date of onset and recrudescence

67950 The date of onset of either disease for Disablement Benefit claims1 is the day on which the claimant first suffered a loss of faculty from the disease. Benefit cannot be paid for

**1.** any of the diseases, unless **2.** applies, for any day before 1.4.852 **or**

**2.** prescribed disease D9 for any day before 30.3.17 where the claim is in respect of the definition from that date3.

1 SS (II) (PD) Regs (NI), reg 6(2)(b); 2 reg 35(1) & Sch 4; 3 Sch 1

67951 The recrudescence rules do not apply to prescribed disease D8, D8A and D9 because a person cannot recover from either disease and then suffer a fresh contraction1.

1 SS (II) (PD) Regs (NI), reg 7(1)

Qualifying period

67952 From 6.4.06 the qualifying period for prescribed disease D8 and D8A does not apply. The decision maker should regard the disablement as 100%1.

1 SS (II) (PD) Regs (NI), reg 18B(2) & (3)

Transitional provisions

67953 People who make a claim for prescribed disease D9 before 6.4.06 have transitional protection1. This means that where a provisional assessment expires after 6.4.06 the prescription test in force on the date of the original claim will continue to be appropriate.

1 SS (II) (PD) (Amdt) Regs (NI) 06, reg 3

Effect on Reduced Earnings Allowance entitlement

67954 Where the claim is made under the new extended test (see DMG 67908). However, entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease D9 (see DMG 67947) where a date of onset is before 1.10.901 because the change is

**1.** a redefinition of the disease **and**

**2.** not an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease D10

Prescription

67955 This disease was added to the list of prescribed diseases from 1.4.871. A new prescription test was added from 1.8.122 (see DMG 67960 - 67964).

1 SS (II) (PD) (Amdt) Regs (NI) 1987; 2 SS (II) (PD) (Amdt No 2) Regs (NI) 2012

67956 Only

**1.** tin miners working underground **and**

**2.** from 1.8.12, coke oven workers

 qualify since they have a greater risk of contracting the disease as a result of their work.

67957 The only plants to have produced chloromethyl methyl ether (CMME) are Purolite International Ltd at Cowbridge Road, Pontyclun, Mid Glamorgan and Rohm and Haas (UK) Ltd who, until the early 1980s, operated on Tyneside. Any communication to Rohm and Haas should be sent to Lennig House, 2 Mason’s Avenue, Croydon, Surrey.

67958 Prescription in relation to

**1.** zinc chromate

**2.** calcium chromate **or**

**3.** strontium chromate

 is restricted to exposure to the substances in their pure form, for example the dust of the chromates. Workers who use or work on products containing these chromates do not satisfy the terms of prescription.

67959 Lung cancer resulting from exposure to arsenic comes within the scope of prescribed disease C4 and the decision maker should thus not consider claims made on that basis under prescribed disease D10.

Coke oven workers

67960 A new prescription test was added from 1.8.12. To satisfy this new prescription test, claimants must have worked in any occupation involving employment wholly or mainly as a coke oven worker

**1.** for a period of, or periods which amount in aggregate to, 15 years or more **or**

**2.** in top oven work, for a period of, or periods which amount in aggregate to, 5 years or more **or**

**3.** in a combination of

**3.1** top oven work **and**

**3.2** other coke oven work

 for a total aggregate period of 15 years or more, where one year working in top oven work is treated as equivalent to 3 years in other coke oven work1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

 **Example**

 Philip makes a claim for prescribed disease D10. He worked in top oven work for 3 years and other coke oven work for 6 years. The decision maker determines that Philip satisfies the prescription test.

67961 There is no entitlement to Industrial Injuries Disablement Benefit under this change before 1.8.12.

Wholly or mainly

67962 The words wholly or mainly require claimants to have spent more than 50% of their working time in the prescribed occupation. In calculating this time, decision makers should take account of variations in the pattern of work and it may require averaging over an appropriate period.

Coke ovens

67963 A coke oven has many different components. Also, there are many job titles associated with work on the various parts of the coke oven that can differ on a regional basis. It is important that decision makers identify what is

**1.** top oven work **and**

**2.** other coke oven work.

67964 Some job titles which relate to top oven work are

**1.** lidsman

**2.** car man (chargerman)

**3.** valveman or tarman **and**

**4.** top oven maintenance worker.

 This list is not exhaustive. Therefore, it is important for decision makers to ascertain the nature and frequency of, the duties the individual claimant has carried out. Also in Appendix 5 to this Chapter there is a diagram of a typical coke oven with labelled parts and examples of job titles used for work on those parts of the oven. Cases of doubt should be sent to Decision Making Services for advice.

Diagnosis

67965 Prescribed disease D10 is a respiratory disease to be determined as in DMG 67113 et seq.

Recrudescence

67966 The recrudescence provisions do not apply to prescribed disease D10.

Reduced Earnings Allowance

67967 There is no entitlement to Reduced Earnings Allowance where entitlement arises to prescribed disease D10 under the change from 1.8.12. This is because the change is an extension of prescribed disease D10 after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

Qualifying period

67968 From 16.3.151 the qualifying period for prescribed disease D10 does not apply. The decision maker should regard the disablement as 100%2. This prescribed disease should be treated as ‘fast track’.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, reg 18B(2) & (3)

Prescribed disease D11

Prescription

67969 This disease was added to the list of prescribed diseases1 from 19.4.932.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1; 2 SS (II) (PD) (Amdt) Regs (NI) 93

67970 The disease is prescribed for people who have been in employed earner’s employment on or after 5.7.48 in any of the following occupations involving exposure to silica dust

**1.** the manufacture of glass or pottery

**2.** tunnelling in or quarrying sandstone or granite

**3.** mining metal ores

**4.** slate quarrying or the manufacture of artefacts from slate

**5.** mining clay

**6.** the use of siliceous materials as abrasives

**7.** cutting stone

**8.** stonemasonry

**9.** work in a foundry.

Diagnosis and recrudescence

67971 The recrudescence provisions do not apply to this disease1. From 16.3.15, there is a presumption2, unless the contrary is proved, that prescribed disease D11 is due to the employed earner’s employment if the person who has contracted a prescribed disease was employed in a prescribed occupation3 (see DMG 67188). Before 16.3.15 the one month presumption period applied.

 **Note**: See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) Regs (NI) 86, reg 7(1); 2 reg 4(2); 3 Sch 1, Part 1

Relevant date

67972 Disablement Benefit is not payable for prescribed disease D11 for any day earlier than 19.4.93.

Qualifying period

67973 From 16.3.151 the qualifying period for prescribed disease D11 does not apply. The decision maker should regard the disablement as 100%2. This prescribed disease should be treated as ‘fast track’.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1(1); 2 SS (II) (PD) Regs (NI) 86, reg 20B(2) & (3)

Prescribed disease D12

Prescription

67974 This disease was added to the list of prescribed diseases1 from 13.9.932. From 16.3.153 it is known as chronic obstructive pulmonary disease4 which is sometimes referred to as COPD.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1; 2 SS (II) (PD) (Amdt No 2) Regs (NI) 93;
3 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 4 SS (II) (PD) Regs (NI), Sch 1, Part 1

67975 Before 21.7.08 the disease is prescribed for people who have been

**1.** in employed earner’s employment on or after 5.7.48 **and**

**2.** exposed to coal dust by working underground in a coal mine for a period of (or periods totalling) at least 20 years.

Periods of such work before 5.7.48 can count towards the 20 years total. Also, from 9.4.971 periods of incapacity whilst engaged in such employment can also be included. Claims from claimants who do not satisfy this test are referred to the decision maker for disallowance on prescription.

1 SS (II) (Misc Amdts) Regs (NI) 1997

67976 The prescription test was amended from 10 July 2000 but transitional provisions apply. For further guidance see DMG 67310.

67977 From 21.7.081, in addition to the people in DMG 67975, the disease is prescribed for people who have been exposed to coal dust during screen work at the surface of a mine where

1. the period of exposure is at least 40 years in aggregate **and**
2. all the exposure took place before 1.1.832.

1 & 2 SS (II) (PD) Regs (NI), Sch 1, Part 1

67978 For the purposes of DMG 67977 time spent as a surface screen worker can be aggregated with underground work. Where this applies

1. 2 years as a surface screen worker is the equivalent of 1 year underground **and**
2. the period of work must be at least the equivalent of 20 years as an underground worker1.

 **Note:** For this to apply all the aggregated exposure as a surface screen worker has to be before 1.1.83.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

Definitions

67979 For the definition of

**1.** underground1 - DMG 67396 and 67847

**2.** coal mine2 - DMG 67846 and 67848.

 **Note:** With the exception of periods of incapacity, continuous gaps in actual work over three months should normally be excluded when calculating the 20 year total3.

1 R(I) 37/59; R(I) 4/84; 2 SS (II) (PD) Regs (NI), reg 1(2); CI 274/49; CWI 4/50; R(I) 70/54;

R(I) 52/56; R(I) 37/59; 3 R(I) 2/79

Medical tests

67980 The Forced Expiratory Volume in One Second (FEV1) medical test must be satisfied. This must show a

**1.** drop in lung function of one litre below the expected level, taking into account age, height and sex **or**

**2.** lung function of less than one litre.

 From 16.3.151 no adjustments will be made to reflect the effects of treatment2, for example the use of bronchodilating inhalers.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI), Sch 1, Part 1

67981 An accurate FEV1 test result will only be obtained if a claimant co-operates during the test by inhaling fully and then exhaling as hard and as fast as possible. It is sometimes (but not always) possible to recognise poor co-operation from the curves generated by the test equipment. When advising on the results of a FEV1 test, Medical Support Services needs to consider both the FEV1 figure achieved, and whether the behaviour of the claimant during the test and the curves suggest adequate co-operation. This allows Medical Support Services to advise whether or not the spirometric criterion has been met.

67982 The decision maker should note the following:

**1.** When the decision maker has accepted the “20 years underground” prescription test, the claimant is referred for medical tests and medical advice.

**2.** Those who satisfy both tests are then examined by the medical adviser.

**3.** Claimants who fail either test should have their claim disallowed for failure to meet the **diagnosis**.

**4.** If a full examination has taken place, the decision maker must ensure that the prescription question has been decided before making a decision.

**5.** Any appeal is processed in the normal way.

Change of circumstances

67983 Where a claimant maintains that there has been a worsening in their condition the case should be referred to Medical Support Services on the grounds that there has been a change of circumstances. In prescribed disease D12 cases a further FEV1 test will be required. When advising on the results of the FEV1 test Medical Support Services needs to consider both the FEV1 figure achieved and whether the behaviour of the claimant and the shape of the tracings suggest adequate co-operation. Medical Support Services should also take into account whether or not the claimant’s lung function might have been enhanced by medication.

67984 If the spirometric criterion is not satisfied Medical Support Services should give an opinion that the disease is not diagnosed. When giving that opinion Medical Support Services should also re-consider the original FEV1 and give fully justified advice on why it is considered that the latest test represents the full extent of the claimant’s breathing capacity. If this advice is not received the case should be returned to Medical Support Services.

67985 If the decision maker is satisfied that the current reading most accurately reflects the claimant’s breathing capacity then supersession of the decision awarding benefit on the grounds of mistake as to a material fact will be appropriate1. The effect date of the new decision will be the date the decision is given2. For advice on superseding on the grounds of mistake as to a material fact and the effective date, see DMG Chapter 4.

1 SS & CS (D&A) Regs (NI), reg 6(2)(b) & (3); 2 SS (NI) Order 98, sec 10(5)

 **Example**

 The claimant was assessed as suffering from prescribed disease D12 and was awarded Disablement Benefit at 20% from 16.4.98 for life. On 6.8.02 he notified a worsening of his condition.

 Medical advice was requested. At examination on 4.9.02 a further FEV1 test was carried out. The test resulted in a drop of less than 1 litre. Subsequently, the advice was that the claimant did not suffer from prescribed disease D12 and this was accompanied by a full explanation why the original FEV1 test was incorrect.

 On 12.9.02 the decision maker accepts the advice and supersedes the original decision on the grounds of mistake as to a material fact and disallows on diagnosis from and including 12.9.02.

Previous compensation for prescribed disease D1

67986 A claimant who had a pneumoconiosis (D1) assessment of at least 50% and who was also suffering from bronchitis and emphysema will have had the effects of the bronchitis and emphysema added to the D1 assessment (DMG 67804)1. Prescribed disease D12 is **not** prescribed for such people2. If the D1 assessment was less than 50% any interaction of chronic obstructive pulmonary disease will have been taken into account. If D12 is prescribed in these cases the decision maker should revise or supersede the D1 assessment to exclude the effects of interaction3.

 **Note:** See DMG Chapter 03 for guidance on revision and DMG Chapter 04 for guidance on supersession.

1 SS (II) (PD) Regs (NI), reg 20; 2 reg 2(d); 3 SS (Gen Ben) Regs (NI), reg 11

Recrudescence and presumption

67987 From 16.3.151 there is a presumption2, unless the contrary is proved, that prescribed disease D12 is due to the employed earner’s employment if the person who has contracted the disease was employed in a prescribed occupation3. The recrudescence provisions do not apply.

 **Note:** See Appendix 7 to this Chapter for further guidance on presumption.

1 SS (II) (PD) (Amdt) Regs (NI) 15, reg 1; 2 SS (II) (PD) Regs (NI) 86, reg 4(2); 3 Sch 1, Part 1

Relevant date

67988 There is no entitlement to Disablement Benefit for prescribed disease D12 for any day earlier than 13.9.93.

Effect on Reduced Earnings Allowance entitlement

67989 Where the claim is made under the new extended test see DMG 67908. There is also no entitlement to Reduced Earnings Allowance where entitlement arises to prescribed disease D12 under the changes from 21.7.08. This is because the changes are an extension of prescribed disease D12 after 10.10.941.

1 SS C&B (NI) Act 92, Sch 7, para 11(1); SS (II) (PD) Regs (NI), reg 12A

67990 However, entitlement to Reduced Earnings Allowance may still arise in respect of the change to prescribed disease D12 from 16.3.15 where a date of onset is before 1.10.901 because the change is

**1.** a redefinition of the disease **and**

**2.** **not** an extension of the disease.

1 SS C&B (NI) Act 92, Sch 7, para 11(1)

Prescribed disease D13

Prescription

67991 This disease was added to the list of prescribed diseases1 on 7.4.082.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1; 2 SS (II) (PD) (Amdt) Regs (NI) 2008, reg 1

67992 Prescribed disease D13 is defined as “Primary carcinoma of the nasopharynx”. The nasopharynx is an air space lying at the back of the nose above the soft palate. It connects the back of the nose to the back of the mouth. To satisfy the prescription test there must have been exposure to wood dust in the course of

1. the processing of wood **or**
2. the manufacture or repair of wood products

for a period or periods which amount in aggregate to at least 10 years1.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

Similarities with prescribed disease D6

67993 Although there are similarities between them, decisions makers should not confuse prescribed disease D13 with prescribed disease D6 which is defined as “Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma)”1. Prescribed disease D6 also has a different test and does not provide for a minimum exposure time.

 **Note:** See DMG 67928 et seq for guidance on prescribed disease D6.

1 SS (II) (PD) Regs (NI), Sch 1, Part 1

67994 If a claim is made for both prescribed disease D6 and prescribed disease D13 the decision maker should consider the prescription test for both diseases.

Effect on Reduced Earnings Allowance entitlement

67995 There is no entitlement to Reduced Earnings Allowance for prescribed disease D13 because it is a new disease prescribed after 10.10.941.

1 SS (II) (PD) Regs (NI), reg 12A

 67996 – 67999

Appendix 1

Prescribed Diseases added and changes made to the Schedule of Diseases since 5 July 1948 (see DMG 67301)

[See DMG Memo Vol 11/29]

Part 1

 **Group A - Conditions due to physical agents**

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A1 25** “blood dyscrasia or cataract “exposure to electro SR&O 1958
 due to electro magnetic magnetic radiations No 120 7.7.58
 radiations (other than radiant other than radiant heat,
 heat), or to ionising particles” or to ionising particles”
 substituted for “leukaemia, or substituted for
 anaemia of the aplastic type, “exposure to X rays
 due to X-rays, ionising ionising particles,
 particles, radium or other radium or other
 radioactive substance; or radioactive substance or
 inflammation of the skin due other forms of radiant
 to other forms of radiant energy”
 energy

 Leukaemia (other than “Exposure to SR 2000
 chronic lymphatic leukaemia) electromagnetic No 214 10.7.00
 or cancer of the bone, radiations (other than
 female breast, testis or thyroid” radiant heat) or to
 ionising particles where
 the dose is sufficient to
 double the risk of the
 occurrence of the
 situation”

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A1 cont** Leukaemia (other than “Exposure to ironising SR 2017
 chronic lymphatic leukaemia) radiation where the No 45 30.3.17
 or primary cancer of the dose is sufficient to
 bone, bladder, breast, colon, double the risk of the
 liver, lung, ovary, stomach, occurrence of the
 testis or thyroid” condition”

**A2** **26** “heat cataract” substituted “frequent or prolonged SR&O 1958
 for “cataract produced by exposure to rays from No 120 7.7.58
 exposure to the glare of, molten or red hot material”
 or rays from, molten glass substituted for “frequent
 or molten red hot metal” or prolonged exposure to
 the glare of, or rays from,
 molten glass or molten red
 hot metal”

**A3 27** “decompression sickness” “subjection to compressed SR&O 1958
 substituted for or rarified air” substituted No 120 7.7.58
 “compressed air illness” for “subjection to
 compressed air”

 Expanded to: “Dysbarism, “or other respirable gases SR 1983
 including decompression or gaseous mixtures” No 260 3.10.83
 sickness, barotauma and added
 osteonecrosis”

 Divided into:- SR 2015
 “(a) Dysbarism, including No 52 16.3.15
 decompression sickness,
 and barotauma

 (b) Osteonecrosis.”

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A4 28** “cramp of the hand or forearm “prolonged periods of SR&O 1958
 due to repetitive movements” handwriting, typing or other No 120 7.7.58
 substituted for “telegraphist’s repetitive movements of
 cramp” the fingers, hand and arm”
 substituted for the “the use
 of morse key telegraphic
 instruments for prolonged
 periods”

 “cramp of the hand or forearm “prolonged periods of SR&O 1958
 due to repetitive movements” handwriting, typing or other No 120 7.7.58
 substituted for “telegraphist’s repetitive movements of
 cramp” the fingers, hand and arm”
 substituted for the “the use
 of morse key telegraphic
 instruments for prolonged
 periods”

 Description changed to SR 2000
 “Task-specific focal No 167 6.4.07
 dystonia”

 Description changed to SR 2012
 “Task-specific focal No 100 30.3.12
 dystonia of the hand
 or forearm”

**A5 29 and 30** Diseases removed from ––– SR&O 1958
 schedule and grouped under No 120 7.7.58
 disease No 28

 “(beat hand)” omitted SR 2007
 No 167 6.4.07

 **31** ––– –––

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A6 32** “acute” omitted before “External” added before SR&O 1958
 “bursitis” “due to severe or “friction” No 120 7.7.58
 prolonged external friction or
 pressure at or about the knee”
 added

“(beat knee)” omitted SR 2007
 No 167 6.4.07

**A7 33** “acute” omitted before “external” added before SR&O 1958
 “bursitis” “due to severe or “friction” No 120 7.7.58
 prolonged external friction or
 pressure at or about the
 elbow” added

“(beat knee)” omitted SR 2007
 No 167 6.4.02

**A8 34** “Traumatic inflammation of ––– SR&O 1958
 the tendons of the hand or No 120 7.7.58
 forearm or of the associated

 tendon sheaths” substituted for
 “Inflammation of the synovial
 lining of the wrist joint and
 tendon sheaths”

**A9 35** ––– –––

**A10 48** New disease added. SR&O 1974
 No 218 28.10.74

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** Description changed to: Prescription extended to: SR 1979
 No 275 3.9.79

 “Substantial permanent (a) the use, or supervision
 sensorineural hearing loss of or assistance in the use
 amounting to at least 50 dB of pneumatic percussive
 in each ear, being due in tools, or the use of high
 case of at least one ear to speed grinding tools, in the
 occupational noise, and cleaning, dressing or
 being the average of pure finishing of cast metal or of
 tone losses measured by ingots, billets or blooms; or
 audiometry over the 1, 2 and
 3 kHz frequencies (b) the use, or supervision
 (occupational deafness)”. of or assistance in the use
 of, pneumatic percussive
 tools on metal in the
 shipbuilding or ship
 repairing industries; or

 (c) the use, or supervision
 of or assistance in the use
 of, pneumatic percussive
 tools on metal, or for
 drilling rock in quarries or
 underground, or in coal
 mining, for at least an
 average of one hour per
 working day; or

 (d) work wholly or mainly in
 the immediate vicinity of
 drop forging plant (including
 plant for drop stamping or
 drop hammering) or forging
 press plant engaged in the
 shaping of hot metal; or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** (e) work wholly or mainly in
 rooms or sheds where
 there are machines
 engaged in weaving man-
 made or natural (including
 mineral) fibres, or in the
 bulking up of fibres in
 textile manufacturing; or

 (f) the use of machines
 which cut, shape or clean
 metal nails; or

 (g) the use of plasma spray
 guns for the deposition of
 metal.

 “Permanent” omitted 1. (a)(b)(c)(d)(f) and (g) SR 1983
 extended as follows: No 260 3.10.83

 (a) the use of, or work
 wholly or mainly in the
 immediate vicinity of,
 pneumatic percussive tools
 or high speed grinding
 tools, in the cleaning,
 dressing or finishing of cast
 metal or of ingots, billets or
 blooms; or

 (b) the use of, or work
 wholly or mainly in the
 immediate vicinity of,
 pneumatic percussive tools
 on metal in the shipbuilding
 or ship repairing industries;
 or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** (c) the use of, or work in
 the immediate vicinity of,
 pneumatic percussive tools
 on metal, or for drilling rock
 in quarries or underground,
 or in mining coal, for at
 least an average of one hour
 per working day; or

 (d) work wholly or mainly in
 the immediate vicinity of
 drop-forging plant
 (including plant for drop
 stamping or drop
 hammering) or forging press
 plant engaged in the
 shaping of metal; or

 (f) the use of, or work
 wholly or mainly in the
 immediate vicinity of,
 machines engaged in
 cutting, shaping or cleaning
 metal nails; or

 (g) the use of, or work
 wholly or mainly in the
 immediate vicinity of,
 plasma spray guns
 engaged in the deposition
 of metal; or

 2. (h) and (i) added:

 (h) the use of, or work
 wholly or mainly in the
 immediate vicinity of, any
 of the following machines

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** engaged in the working of
 wood or material
 composed partly of wood,
 that is to say: multi cutter
 moulding machines,
 planning machines,
 automatic or semi
 automatic lathes, multiple
 crosscut machines,
 automatic shaping
 machines, double end
 tenoning machines, vertical
 spindle moulding machines
 (including high-speed
 routing machines),
 edge banding machines,
 band sawing machines with
 a blade width of not less
 than 75 millimetres and
 circular sawing machines
 in the operation of which the
 blade is moved towards the
 material being cut; or

 (i) the use of chain saws in
 forestry

 (a)(b)(c)(d) and (e) SR 1987
 amended as follows: No 454 4.1.88

 (a) the use of powered (but
 not hand powered) grinding
 tools on cast metal (other
 than weld metal or on
 billets or blooms in the
 metal producing industry, or
 work wholly or mainly in the

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** immediate vicinity of those
 tools whilst they are being
 so used; or

 (b) the use of pneumatic
 percussive tools on metal,
 or work wholly or mainly in
 the immediate vicinity of
 those tools whilst they are
 being so used; or

 (c) the use of pneumatic
 percussive tools for drilling
 rock in quarries or
 underground or in mining
 coal, or work wholly or
 mainly in the immediate
 vicinity of those tools whilst
 they are being so used; or

 (d) work wholly or mainly in
 the immediate vicinity of
 plant (excluding power
 press plant) engaged in the
 forging (including drop
 stamping) of metal by
 means of closed or open
 dies or drop hammers; or

 (e) work in textile
 manufacturing where the
 work is undertaken wholly
 or mainly in rooms or
 sheds in which there are
 machines engaged in
 weaving man-made or
 natural (including mineral)
 fibres or in the high speed
 false twisting of fibres.

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** Description changed to: SR 1989
 No 319 16.10.89

 “Sensorineural hearing loss
 amounting to at least 50 dB
 in each ear, being the average
 of hearing loses at 1, 2 and 3
 kHz frequencies, and being due
 in the case of at least one ear
 to occupational noise
 (occupational deafness).” 3. (ca) (j) (k) (l) (m) SR 1994
 (n) (o) (p) (q) (r) (s) No 347 10.10.94
 (t) (u) (v) and (w)
 added:

 (ca) the use of
 pneumatic percussive
 tools on stone in quarry
 works, or work wholly
 or mainly in the immediate
 vicinity of those tools
 whilst they are being
 so used; or

 (j) air arc gouging or
 work wholly or mainly
 in the immediate vicinity
 of air arc gouging; or

 (k) the use of band saws,
 circular saws or cutting
 discs for cutting metal in
 the metal founding or
 forging industries, or work
 wholly or mainly in the
 immediate vicinity of those
 tools whilst they are being
 so used; or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont**  (l) the use of circular saws
 for cutting products in the
 manufacture of steel, or
 work wholly or mainly in
 the immediate vicinity of
 those tools whilst they are
 being so used; or

 (m) the use of burners or
 torches for cutting or
 dressing steel based
 products, or work wholly
 or mainly in the immediate
 vicinity of those tools whilst
 they are being so used; or

 (n) work wholly or mainly
 in the immediate vicinity
 of skid transfer banks; or

 (o) work wholly or
 mainly in the immediate
 vicinity of knock out
 and shake out grids in
 foundries; or

 (p) mechanical bobbin
 cleaning or work wholly
 or mainly in the
 immediate vicinity of
 mechanical bobbin
 cleaning; or

 (q) the use of, or work
 wholly or mainly in the
 immediate vicinity of,
 vibrating metal moulding
 boxes in the concrete
 products industry; or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** (r) the use of, or work
 wholly or mainly in the
 immediate vicinity of,
 high pressure jets of
 water or a mixture of
 water and abrasive
 material in the water
 jetting industry (including
 work under water); or

 (s) work in ship’s engine
 rooms; or

 (t) the use of circular saws
 for cutting concrete
 masonry blocks during
 manufacture, or work wholly
 or mainly in the immediate
 vicinity of those tools whilst
 they are being so used; or

 (u) burning stone in quarries
 by jet channelling processes,
 or work wholly or mainly in
 the immediate vicinity of such
 processes; or

 (v) work on gas turbines in
 connection with –

 (i) performance testing on
 test bed;

 (ii) installation testing of
 replacement engines in
 aircraft;

 (iii) acceptance testing of
 Armed Service fixed wing
 combat planes; or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** (w) the use of, or work
 wholly or mainly in the
 immediate vicinity of –

 (i) machines for automatic
 moulding, automatic blow
 moulding or automatic
 glass pressing and forming
 machines used in the
 manufacture of glass
 containers or hollow ware

 (ii) spinning machines
 using compressed air to
 produce glass wool or
 mineral wool;

 (iii) continuous glass
 toughening furnaces.

 4. (a) and (c) amended as follows:

 (a) the use of powered
 (but not hand powered)
 grinding tools on metal
 (other than sheet metal
 or place metal) in the
 metal producing industry,
 or work wholly or mainly
 in the immediate vicinity
 of those tools whilst they
 are being so used; or

 (c) the use of pneumatic
 percussive tools for
 drilling rock in quarries or
 underground or in mining
 coal or in sinking shafts
 or for tunnelling in civil
 engineering works, or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** work wholly or mainly in
 the immediate vicinity of
 those tools whilst they
 are being so used.

 4(a) amended as follows: SR 1996 No 57 24.3.96
 In the “metal producing
 industry” deleted

 2 new occupations added,
 police firearms training
 officers and shot blasters

 2 occupations amended,
 water jetting and the use
 of chainsaws in forestry
 and all occupations
 regrouped as follows:

 Any occupation of. or work
 wholly or mainly in the
 immediate vicinity of the
 use of, a –

 (a) band saw, circular saw or
 cutting disc to cut metal in the
 metal founding or forging
 industries, circular saw or
 cutting disc to cut metal in the
 metal founding or forging
 industries, circular saw to cut
 products in the manufacture
 of steel, powered (other than
 hand powered) grinding tool
 on metal (other than sheet
 metal or plate metal), pneumatic
 percussive tool on metal,
 pressurised air arc tool to
 gouge metal, burner or torch to

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** cut or dress steel based
 products, skid transfer
 bank, knock out and shake
 out grid in a foundry,
 machine (other than a
 power press machine)
 to forge metal including
 a machine used to drop
 stamp metal by means
 of closed or open dies or
 drop hammers, machine
 to cut or shape or clean
 metal nails, or plasma
 spray gun to spray molten
 metal;

 (b) pneumatic percussive
 tool:- to drill rock in a quarry,
 on stone in a quarry works,
 underground, for mining coal,
 for sinking a shaft, or for
 tunnelling in civil engineering
 works;

 (c) vibrating metal moulding
 box in the concrete products
 industry, or circular saw to cut
 concrete masonry blocks;

 (d) machine in the manufacture
 of textiles for:- weaving
 man-made or natural fibres
 (including mineral fibres), high
 speed false twisting of fibres,
 or the mechanical cleaning
 of bobbins;

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** (e) multi-cutter moulding
 machine on wood, planing
 machine on wood,
 automatic or semi-automatic
 lathe on wood, multiple
 cross-cut machine on wood,
 automatic shaping machine
 on wood, double-end tenoning
 machine on wood, vertical
 spindle moulding machine
 (including a high speed routing
 machine) on wood, edge
 banding machine on wood,
 bandsawing machine (with a
 blade width of not less than 75
 millimetres) on wood, circular
 sawing machine on wood
 including one operated by
 moving the blade towards the
 material being cut, or chain
 saw on wood;

 (f) jet of water (or a mixture
 of water and abrasive material)
 at a pressure above 680 bar,
 or jet channelling process to
 burn stone in a quarry;

 (g) machine in a ship’s engine
 room, or gas turbine for:-
 performance testing on a test
 bed, installation testing of a
 replacement engine in an
 aircraft, or acceptance testing
 of an Armed Service fixed
 wing combat aircraft;

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A10 cont** (h) machine in the
 manufacture of glass
 containers or hollow ware
 for:- automatic moulding,
 automatic blow moulding,
 or automatic glass pressing
 and forming;

 (i) spinning machine using
 compressed air to produce
 glass wool or mineral wool;

 (j) continuous glass
 toughening furnace;

 (k) firearm by a police firearms
 training officer; or

 (l) shot-blaster to carry
 abrasives in air for cleaning”.

 SR 2003
 No 388 22.9.03

**A11** ––– New disease added SR 1985
 No 41 1.4.85

 Changed to Sub-para (a) changed to SR 2007
 the use of hand-held No 341
 (a) Intense blanching chain saws on wood 1.10.07
 of the skin, with a sharp
 demarcation line between
 affected and non-affected
 skin, where the blanching
 is cold-induced, episodic,
 occurs throughout the
 year and affects the skin
 of the distal with the middle

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A11 cont** and proximal phalanges,
 or distal with the middle
 phalanx (or in the case of
 a thumb the distal with the
 proximal phalanx of –

 (i) in the case of a person
 with 5 fingers (including
 thumb) on one hand, any
 3 of those fingers) or

 (ii) in the case of a person
 with only 4 such fingers,
 any 2 of those fingers or

 (iii) in the case of a person
 with less than 4 such fingers,
 any one of them or, as the
 case may be, the one
 remaining finger, where
 none of the person’s fingers
 was subject to any degree
 of cold-induced, episodic
 blanching of the skin prior
 to the person’s employment
 in an occupation described
 in the second column in
 relation to this paragraph, or

 (b) significant, demonstrable
 reduction in both sensory
 perception and manipulative
 dexterity with continuous
 numbness or continuous
 tingling all present at the
 same time in the distal
 phalanx of any finger
 (including thumb) where
 none of the person’s fingers

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

 was subject to any degree of
 reduction in sensory
 perception, manipulative
 dexterity, numbness or
 tingling prior to the person’s
 employment in an
 occupation described in
 the second column in
 relation to this paragraph,
 where the symptoms in
 paragraph (a) or paragraph
 (b) were caused by vibration.

**A12** ––– New disease added SR 1993
 No 148 19.4.93

 Prescription amended to:

 The use of hand-held SR 1996
 powered tools whose No 57 24.3.96
 internal parts vibrate so
 as to transit that vibration
 to the hand, but excluding
 those which are solely
 powered by hand.

 Prescription amended to:

 “(a) the use, at the time SR 2007
 the symptoms first develop, No 167 6.4.07
 of hand-held powered
 tools whose internal
 parts vibrate so as to
 transmit that vibrations
 to the hand, but excluding
 those tools which are solely
 powered by hand or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**A12 cont** (b) repeated palmar flexion
 and dorsiflexion of the wrist
 for at least 20 hours per
 week for a period or periods
 amounting in aggregate to
 at least 12 months in the 24
 months prior to the onset of
 symptoms, where “repeated”
 means once or more often
 in every 30 seconds.”

**A13** New disease added SR 2005
 No 37 14.3.05

**A14** New disease added SR 2009
 No 228 13.7.09

 Prescription amended SR 2012
 to add: No 100 30.3.12

 “Work wholly or mainly fitting
 or laying carpets or floors
 (other than concrete floors)
 for a period of, or periods
 which amount in aggregate
 to, 20 years or more”

Part II

 **Group B - Conditions due to chemical agents**

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**B1 19** ––– Change to: SR 1983
 No 260 3.10.83

 “Contact with animals
 infected with anthrax or
 the handling (including
 the loading or unloading
 or transport) of animal
 products or residues”.

 (a) Contact with anthrax SR 2005
 spores, including contact No 37 14.3.05
 with animals infected by
 anthrax; or

 (b) handling, loading,
 unloading or transport of
 animals of a type
 susceptible to infection
 with anthrax or of the
 products or residues of
 such animals.

 Divided into:- SR 2015
 “(a) Cutaneous anthrax; No 52 16.3.15
 (b) Pulmonary anthrax.”

**B2 20** ––– –––

**B3 21(a)** Disease removed from
**21(b)** schedule and regrouped
 under new disease No 21

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

 **21** Disease derived from “field mice or voles;… SR 1979
 diseases 21(a) and 21(b) contact with bovine No 429 7.1.80
 New disease added, animals or their meat
 description changed to products or pigs or their
 “Infection by leptospira” meat products” added

 “or other small SR 1983
 mammals” added to (a) No 260 3.10.83

**B4 22** ––– Contact with a source SR 2005
 of ankylostomaisis No 37 14.3.05

 Divided into:- SR 2015
 “(a) Cutaneous larva No 52 16.3.15
 migrans;

 (b) Iron deficiency anaemia
 caused by gastrointestinal
 infection by hookworm.”

**B5 38** new disease added ––– SR&O 1951
 No 31 1.3.51

 “person taking part in or SR&O 1958
 assisting at post mortem No 120 7.7.58
 examinations of human
 remains” substituted for
 “post mortem worker”
 and “or in an occupation
 ancillary to such
 employment” omitted.

 Simplified to: “Contact SR 1983
 with a source of No 260 3.10.83
 tuberculous infection”.

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**B5 cont** Changed to: SR 2015
 “Contact with a source No 52 16.3.15
 of tuberculosis while
 undertaking-

 (a) work in a hospital mortuary
 in which post mortems are
 conducted or laboratory; or

 (b) work in any other workplace.”

**B6 43** Changed to: “Extrinsic allergic 1. “Exposure to the dust SR 1983
 alveolitis (including farmer’s of mouldy hay or other No 260 3.10.83
 lung)” mouldy vegetable
 produce” replaced by

 “Exposure to moulds or
 fungal spores or
 heterologous proteins”

 2. “cultivation of edible
 fungi or maltworking”
 added to (a)

 3. In (b) “such hay or
 other vegetable
 produce” replaced by
 “mouldy vegetable
 matter or edible fungi”

 4. New paragraph (c)
 inserted “Caring for or
 handling birds”:

 5. (c) re lettered as (d)

 (e) work involving SR 2007
 exposure to metalworking No 167 6.4.07
 “fluid mists” added

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**B6 cont** “(including farmer’s lung)” “or any other biological SR 2017
 omitted substance that causes No 45 30.3.17
 extrinsic allergic alveolitis”
 added after “heterologous
 proteins” and “or (f) any
 other workplace”
 added after “(e)”

**B7 46** New disease added ––– SR&O 1972
 No 155 31.7.72

 Changed to “Infection by Changed to contact SR 1983
 organisms of the genus with - No 260 3.10.83
 brucella”

 (a) animals infected by
 brucella, or their carcasses
 or parts thereof, or their
 untreated products; or

 (b) laboratory
 specimens or vaccines
 of, or containing,
 brucella

**B8 49** New disease added SR 1976
 No 234 2.2.76

 Changed to: “Contact SR 1984
 with – No 371 3.12.84

 (a) human blood or
 human blood products;
 or

 (b) a source of viral
 hepatitis”

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**B8 cont** B8A Infection by hepatitis Contact with raw sewage SR 2005
 A virus No 37 14.3.05

 B8B Infection by hepatitis Contact with –
 B or C

 (a) human blood or
 human blood products; or

 (b) any other source of
 hepatitis B or C virus

**B9** ––– New disease added SR 1983
 No 260 3.10.83

**B10(a)** ––– New disease added SR 1989
 No 319 9.8.89

**B10(b)** ––– New disease added SR 1989
 No 319 9.8.89

**B11** ––– New disease added SR 1989
 No 319 9.8.89

**B12** ––– New disease added SR 1991
 No 414 26.9.91

**B13** ––– New disease added SR 1991
 No 414 26.9.91

**B14** –––New disease added SR 2005
 No 37 14.3.05

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**B15** –––New disease added SR 2005
 No 37 14.3.05

 Change to “Contact SR 2018
 with products made No 151 28.9.18
 with natural rubber
 latex”

Part III

 **Group C - Conditions due to chemical agents**

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C1 1** “or a compound of lead” ––– SR&O 1958
 added No 120 7.7.58

 changed to “(a) Anaemia SR 2003
 with a haemoglobin No 63 17.3.03
 concentration of 9g/dL
 or less, and a blood film
 showing punctuate
 basophilia;

 (b) peripheral neuropathy;

 (c) central nervous system
 toxicity.”

**C2 2** “or a compound of ––– SR&O 1958
 manganese” added No 120 7.7.58

 changed to SR 2003
 No 63 17.3.03
 “Central nervous system
 toxicity characterised by
 parkinsonism”

**C3 3, 11 and 12** “or phospine or ––– SR&O 1958
 poisoning due to the No 120 7.7.58
 anticholinesterase action
 or organic phosphorus
 compounds” added

 Former prescribed diseases ––– SR&O 1983
 3, 11 and 12 combined; No 260 3.10.83
 “phosphine” omitted; “or an

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

 organic compound of
 phosphorus” added

**C3(a)** **C3 divided into** Phossy Jaw Work involving the use or SR 2012
 **C3(a) and C3(b)** handling of, or exposure No 100 30.3.12
 to, white phosphorus

**C3(b)** **C3 divided into** Peripheral polyneuropathy or Work, involving the use of SR 2012
 **C3(a) and C3(b)** peripheral polyneuropathy handling of, or exposure No 100 30.3.12
 with pyramidal involvement of to, organic compounds
 the central nervous system, of phosphorus
 caused by organic compounds
 of phosphorus which inhibit the
 enzyme neuropathy target
 esterase

**C4 4** “or a compound of ––– SR&O 1958
 arsenic” added No 120 7.7.58

 changed to “Primary changed to “Exposure to the SR 2003
 carcinoma of the fumes, dust or vapour of No 63 17.3.03
 bronchus or lung.” arsenic, a compound of
 arsenic, or a substance
 containing arsenic.”

**C5 5** “or a compound of ––– SR&O 1958
 mercury” added No 120 7.7.58

**changed** Central nervous system Exposure to mercury or SR 2003
**to** toxicity characterised by inorganic compounds of No 63 17.3.03
**C5A** tremor and neuropsychiatric mercury for a period of, or
 disease periods which amount in
 aggregate to, 10 years or more.

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C5B** Central nervous system Exposure to
 toxicity characterised by methylmercury.
 combined cerebellar and
 cortical degeneration.

**C6 6** changed to “Peripheral changed to “The use or SR 2003
 neuropathy.” handling of, or exposure No 63 17.3.03
 to, carbon disulphide (also
 called carbon disulfide).”

**C7 7** changed to “Acute changed to “Exposure to SR 2003
 non-lymphatic benzene.” No 63 17.3.03
 leukaemia.”

**C8 8** “amino-derivative” “amino derivative” SR&O 1953
 substituted for “amido substituted for “amindo No 74 24.5.53
 derivative” derivative”

 “or chloro-derivative” and “or chloro-derivative” and SR&O 1958
 “poisoning by “or nitrochlorbenzene” No 120 7.7.58
 nitrochlorbenzene” added added

 disease removed from SR 2003
 schedule No 63 17.3.03

**C9 9** “or by substituted “a homologue or sub- SR&O 1958
 dinitrophenols or by the stituted dinitrophenols No 120 7.7.58
 salts of such substances” or the salts of such
 added substances” substituted
 for “any of its homologues”

 disease removed from SR 2003
 schedule No 63 17.3.03

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C10 10** disease removed from SR 2003
 schedule No 63 17.3.03

**C11 13** disease removed from SR 2003
 schedule No 63 17.3.03

**C12 14** changed to “(a) changed to “Exposure to SR 2003
 Peripheral neuropathy methyl bromide (also No 63 17.3.03
 called bromomethane)”

 (b) central nervous
 system toxicity.”

**C13 15** changed to “Cirrhosis of changed to “Exposure to SR 2003
 the liver chlorinated naphthalenes.” No 63 17.3.03

**C14 16** disease removed from SR 2003
 schedule and combined No 63 17.3.03
 with C22

**C15 17** (Disease transferred to the SR 1974
 category of “MB” diseases) No 222 27.11.74

 “oxides of nitrogen” substituted “Exposure to oxides of SR 1983
 for “nitrous fumes” nitrogen” substituted No 260 3.10.83
 for “the use or handling
 of nitric acid or exposure
 to nitrous fumes”

 Disease removed from
 schedule

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C16 18** changed to “(a) changed to “Exposure to SR 2003
 Neurotoxicity; the dust of gonioma No 63 17.3.03
 kamassi.”

 (b) cardiotoxicity.”

**C17 36** new disease added SR 1949
 No 230 21.2.49

 “or a compound of SR 1958
 beryllium” added No 1068 7.7.58

 (disease transferred to the SR 1974
 category of “SpMB” diseases) No 415 27.11.74

 changed to “Chronic changed to “Inhalation of SR 2003
 beryllium disease.” beryllium or a beryllium No 63 17.3.03
 compound.”

**C18 40** new disease added SR&O 1956
 No 13 8.2.56

 [disease transferred to the SR&O 1974
 category of “MB” diseases] No 222 27.11.74

 “dust” added SR 1983
 No 260 3.10.83

 changed to changed to “Inhalation of SR 2003
 “Emphysema” cadmium fumes for a No 63 17.3.03
 period or, or periods
 which amount in
 aggregate to, 20 years
 or more.”

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C19 47** new diseased added ––– SR&O 1972
 No 286 13.11.72

 changed to “(a) changed to “Exposure to SR 2003
 Peripheral acrylamide.” No 63 17.3.03
 neuropathy;

 (b) central nervous system
 toxicity.”

**C20 23** General description “arsenic “arsenic” added SR&O 1958
 added No 120 7.7.58

 “(including quinone or “(including quinone or SR&O 1961
 hydroquinone)” added hydroquinone)” added No 101 28.4.61

 **23a** changed to “Dystrophy of SR&O 1961
 the cornea (including No 101 28.4.61
 ulceration of the corneal
 surface) of the eye”

 “due in any case to arsenic separated into (a) and (b) SR 1983
 tar, pitch, bitumen, mineral “(including quinone or No 260 3.10.83
 oil (including paraffin), soot hydroquinone)” omitted
 or any compound, product, “except quinone or
 (including quinone or hydroquinone” added at
 hydroquinone) or, residue of (a); “(b) exposure to
 any of these substances” quinone or hydroquinone
 omitted during their manufacture”
 added

 changed to Changed to “Exposure to SR 2003
 quinone or hydroquinone” No 63 17.3.03

**C21(a) 23(b)** “due in any case to arsenic “(including quinone or SR 1983
 tar, pitch, bitumen, mineral hydroquinone)” omitted; No 260 3.10.83
 oil (including paraffin) soot “except quinone or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C21(a) cont** or any compound, product hydroquinone” added
 (including quinone or after “substances”
 hydroquinone) or, residue
 of any of these substances”
 omitted.

**C21(b) 23c** changed to “Squamous-celled ––– SR&O 1958
 carcinoma of the skin” No 120 7.7.58

 As for prescribed disease As for prescribed disease SR 1983
 C21(a) above C21(a) above No 260 3.10.83

changed “Primary carcinoma of “Exposure to arsenic SR 2003
to the skin” or arsenic compounds, No 63 17.3.03
**C21** tar, pitch, bitumen,
 mineral oil (including
 paraffin) or soot.”

**C22(a) 37(a)** new disease added ––– SR 1951
 No 21 22.1.51

 “involving work” added SR&O 1958
 after “any occupation” No 120 7.7.58
 and “necessitates
 working” substituted for
 “involves work”

 (disease 37(b) transferred SR 1974
 to category of “MB” diseases) No 222 27.11.74

 changed to “(a) Primary changed to “Work before
 carcinoma of the mucous 1950 in the refining of
 membrane of the nose or nickel involving exposure
 paranasal sinuses; to oxides, sulphides or
 water-soluble compounds
 of nickel.”

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C22(a) cont** (b) Primary carcinoma of the
 bronchus or lung.”

**C23 39** new disease added ––– SR&O 1954
 No 21 1.3.54

 “or of the epithelian lining of “or benzidine or any of SR&O 1958
 the renal pelvis or of the their salts” omitted No 120 7.7.58
 epithelial lining of ureter” from (a)(i); (a)(ii); (iii)
 added and (iv) added; original
 (a)(ii) renumbered as (a)(v)

 “or of the epithelian lining ––– SR&O 1973
 of the urethra” added No 496 24.12.73

 description changed to:

 “Primary neoplasm, of the ––– SR 1977
 epithelian lining of the urinary No 272 31.10.77
 bladder (Papilloma of the
 bladder) or of the renal
 pelvis or of the ureter or of
 the urethra”.

 Changed to: “Primary 1. “or Methylene- SR 1985
 neoplasm (including bisorthochloroaniline” No 260 3.10.83
 papilloma carcinoma-in- added to (a)(i)
 situ and invasive 2. “(including benzidine)”
 carcinoma) of the epithelian added to (a)(ii)
 lining of the urinary tract
 (renal pelvis, ureter, bladder (d) added: SR 1993
 and urethra)” (d) exposure to coal tar No 148 19.4.93
 pitch volatiles produced in
 aluminium smelting involving
 the Soderberg process (that
 is to say the method of
 producing aluminium by
 electrolysis in which the

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C23 cont** anode consists of a paste
 of petroleum coke and
 mineral oil which is baked
 in *situ*).

 changed to “Primary changed to “(a) The SR 2003
 neoplasm of the manufacture of No 63 17.3.03
 epithelial lining of the 1-naphthylamine, 2-
 urinary tract.” naphthylamine, benzidine,
 auramine, magenta or 4-
 aminobiphenyl (also called
 biphenyl-4-ylamine);

 (b) work in the process or
 manufacturing methylene-bis-
 orthochloroaniline (also called
 MbOCA) for a period of, or
 periods which amount in
 aggregate to, 12 months
 or more;

 (c) exposure to 2-
 naphthylamine, benzidine,
 4-aminobiphenyl (also called
 biphenyl-4-ylamine) or salts
 of those compounds
 otherwise than in the
 manufacture of those
 compounds;

 (d) exposure to
 orthotoluidine, 4-chloro-2-
 methylaniline or salts of
 those compounds; or

 (e) exposure for a period of,
 or periods which amount in
 aggregate to, 5 years or more,

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C23 cont** to coal tar pitch volatiles
 produced in aluminium
 smelting involving the
 Soderberg process (that is to
 say the method of producing
 aluminium by electrolysis in
 which the anode consists of
 a paste of petroleum coke
 and mineral oil which is baked
 in situ).”

**C24(a) 50(a)** new disease added: SR 1977
 No 46 21.3.87

**(b) (b)**

**(c)** new disease added: SR 1983
 No 260 3.10.83

 changed to “(a) changed to “Exposure to SR 2003
 angiosarcoma of the vinyl chloride monomer No 63 17.3.03
 liver in the manufacture of
 polyvinyl chloride.”

 (b) acro-osteolysis
 characterised by –

 (i) lytic destruction of the
 terminal phalanges,

 (ii) in Raynaud’s
 phenomenon, the exaggerated
 vasomotor response to cold
 causing intense blanching of
 the digits, and

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**(c) cont** (iii) sclerodermatous thickening
 of the skin;

 (c) liver fibrosis.”

changed to SR 2006
 (a) angiosarcoma of the liver; or No 96 6.4.06
 (b) osteolysis of the terminal
 phalanges of the fingers; or
 (c) sclerodermatous thickening
 of the skin of the hand; or
 (d) liver fibrosis,
 due to exposure to vinyl
 chloride monomer.

**C24A** new disease added occupation added SR 2006
 No 96 6.4.06

 Raynaud’s phenomenon due to Exposure to vinyl chloride
 exposure to vinyl chloride monomer in the
 monomer. manufacture of polyvinyl
 chloride before 1.1.84

**C25 52** new disease added SR 2003
 No 63 17.3.03

 changed to “vitiligo”. changed to “the use or
 handling of, or exposure
 to, paratertiary-butylphenol
 (also called 4-tert-
 butylphenol), paratertiary-
 butylcatechol (also called
 4-tert-butylcatechol), para-
 amylphenol (also called
 p-pentyl phenol (also called
 phenol isomers), hydroquinone,

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C25 cont** monobenzyl ether of
 hydroquinone (also called
 4-benzyloxyphenol) or
 mono-butyl ether of
 hydroquinone (also called
 4-butoxyphenol).”

**C26** new disease added SR 2003
 No 63 17.3.03

 “(a) Liver “The use or handling
 toxicity; of, or exposure to,
 carbon tetrachloride
 (b) kidney toxicity.” (also called
 tetrachloromethane).”

**C27** changed to “liver changed to “The use or SR 2003
 toxicity.” handling of, or exposure No 63 17.3.03
 to, trichloromethane (also
 called chloroform).”

**C28** new disease added SR 2003
 No 63 17.3.03

 disease removed from
 schedule

**C29** new disease added SR 2003
 No 63 17.3.03
 changed to “peripheral changed to “The use or
 neuropathy.” handling of, or exposure to,
 n-hexane or n-butyl
 methyl ketone.”

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**C30** new disease added SR 2003
 No 63 17.3.03
 changed to “(a) dermatitis; changed to “The use or
 handling of, or exposure to,
 (b) ulceration of the mucous chromic acid, chromates
 membrane or the epidermis.” or dichromates.”

**C31** - new disease added SR 2011
 No 1497 18.7.11

**C32** new disease added SR 2011
 No 1497 18.7.11

**C33** new disease added SR 2015
 No 52 16.3.15

**C34** new disease added SR 2017
 No 45 30.3.17

Part IV

 **Group D - Miscellaneous conditions**

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D1** Pneumoconiosis
(unscheduled)

 See Appendix 2

**D2** Byssinosis
(unscheduled)

**D3** **44** Diffuse mesothelioma Exposure to asbestos, SR 1997
Diffuse (primary neoplasm of the asbestos dust or any No 158 9.4.97
Mesothelioma mesothelium of the pleura admixture of asbestos
 or of the pericardium or of at a level above that
 the peritoneum) commonly found in the
 environment at large

**D4** **41** disease derived from disease SR&O 1958
 No 24(b) No 120 7.7.58

 Disease 24(a) and 24(b)
 removed from schedule and
 regrouped under new
 diseases Nos 41 and 42

 Redefined as allergic rhinitis Exposure to any of the SR 1996
 due to exposure to any of agents set out in Col 1 No 57 24.3.96
 the agents currently listed for
 prescribed disease D7 SR 2005
 except the open category No 37 14.3.05

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D5** **42** disease derived from disease SR&O 1958
 Nos 24(a) and 24(b) see No 120 7.7.58
 D4 above

 “including chrome ulceration “except chromic acid, SR 1996
 of the skin but” removed chromates or bi- No 57 24.3.96
 chromates” added
 after “external agent”

**D6** combined
under the
description
formerly
applicable
to PD51

 “(a) Attendance for work SR 1983
 in or about a building No 260 3.10.83
 where wooden goods
 are manufactured or
 repaired” added; (a) and
 (b) renumbered as (b)
 and (c).

 (a) changed to “attendance SR 2018
 for work at a workplace No 151 28.9.18
 where wooden goods or
 products made wholly or
 partially of wood are
 manufactured or repaired”

 “exposure to wood dust in
 the course of the machine
 processing of wood” added
 as (d)

**D7 53** new disease added SR 1982
 No 59 29.3.82

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D7 cont** (f) amended to “animals SR 1986
 including insects and other No 270 1.9.86
 arthopods used for the
 purposes of research or
 education or in laboratories

 (g) to (n) added asthmas due
 to exposure to any of the
 following agents: antibiotics,
 cimetidine, wood dust,
 ispaghula, castor bean dust,
 ipecacuanha
 azodicarbonamide

 (o) to (x) added asthmas due to SR 1991
 exposure to any of the following No 414 26.9.91
 agents: animals including
 insects and other arthropods
 or their larval forms,
 glutaraldehyde, persulphate
 salts or henna, crustaceans or
 fish or products arising from
 these in the food processing
 industry, reactive dyes, soya
 bean, tea dust, green coffee
 bean dust, fumes from
 stainless steel welding, any
 other sensitising agent SR 2005
 No 37 14.3.05

**D8** new disease added SR 1985
 No 41 1.4.85

 (b) “unilateral or bilateral diffuse SR 1997
 pleural thickening extending No 158 9.4.97
 to a thickness of 5mm or more
 at any point within the area
 affected 9.4.97 as measured by a

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D8 cont** plain chest radiograph (not
 being a computerised
 tomography scan or other
 form of imaging) which

 (i) in the case of unilateral
 diffuse pleural thickening,
 covers 50% or more of the
 area of the chest wall of the
 lung affected; or

 (ii) in the case of the bilateral
 diffuse pleural thickening,
 covers 25% or more of the
 combined area of the chest
 wall of both lungs” added

 changed to changed to SR 2006
 primary carcinoma of the lung (a) the working or No 96 6.4.06
 where there is accompanying handling of asbestos or
 evidence of asbestosis any admixture of asbestos;
 or
 (b) the manufacture or
 repair of asbestos textiles
 or other articles containing
 or composed of asbestos;
 or
 (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;
 or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D8 cont** (d) substantial exposure to
 the dust arising from any
 of the foregoing
 operations.

**D8A** - new disease added occupation added SR 2006
 No 96 6.4.06

 Primary carcinoma of the lung Exposure to asbestos in
 the course of -
 (a) the manufacture of
 asbestos textiles; or
 (b) spraying asbestos; or
 (c) asbestos insulation
 work; or
 (d) applying or removing
 materials containing
 asbestos in the course of
 shipbuilding,
 where all or any of the
 exposure occurs before
 1.1.75, for a period of, or
 periods which amount in
 aggregate to, five years or
 more, or otherwise,
 for a period of, or periods
 which amount in aggregate
 to, ten years or more.

**D9** new disease added SR 1985
 No 41 1.4.85

 changed to SR 1997
 Unilateral or bilateral diffuse No 158 9.4.97
 pleural thickening extending
 to a thickness of 5mm or
**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D9 cont** more at any point within the
 area affected as measured
 by a plain chest radiograph
 (not being a computerised
 tomography scan or other
 form of imaging) which
 (i) in the case of unilateral
 diffuse pleural thickening,
 covers 50 per cent
 or more of the area of the
 chest wall of the lung affected;

 **or**

(ii) in the case of the bilateral
 diffuse pleural thickening,
 covers 25% or more of the
 combined area of the chest wall
 of both lungs

 changed to SR 2006
 unilateral or bilateral diffuse No 96 6.4.06
 pleural thickening with
 obliteration of the costophrenic
 angle

 “with obliteration of the SR 2017
 costophrenic angle” omitted No 45 30.3.17

**D10 -** new disease added SR 1987
 No 116 1.4.87

 changed to: “primary carcinoma SR 1993
 of the lung” No 148 19.4.93

 New occupation added SR 2012
 (see DMG 67960) No 264 1.8.12

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D11 -** new disease added

 Primary carcinoma of the lung Exposure to silica dust in SR 1993
 where there is accompanying the course of : No 148 19.4.93
 evidence of silicosis (a) the manufacture of
 glass or pottery;

 (b) tunnelling in or
 quarrying sandstone or
 granite;

 (c) mining metal ores

 (d) slate quarrying or the
 manufacture of artefacts
 from slate;

 (e) mining clay

 (f) use siliceous materials
 as abrasives

 (g) cutting stone

 (h) stonemasonary

 (i) work in a foundry

**D12** New diseases added “Exposure to coal dust by SR 1993
 Except in the circumstances reason of working under- No 350 13.9.93
 specified in regulation 2(d) ground in a coal mine for
 (a) chronic bronchitis **or** a period of, or periods
 (b) emphysema **or** amounting in the aggregate
 (c) both to, at least 20 years
 where there is (whether before or after
 accompanying evidence 5th July 1948).
 of

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D12 cont** (i) coal dust retention
 demonstrated by a chest
 radiograph 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
 by Geneva **and**
 (ii) a forced expiratory
 volume in one second at
 least one litre below the
 mean value predited in
 accordance with “Lung
 Function: Assessment and
 Application in Medicine”
 by J E Cotes, 4th Edition
 1979 published at Oxford
 by Blackwell Scientific
 Publications Limited
 (ISBN 0-632-00033-3) for a
 person’s age height and sex,
 measured from the position
 of maximum inspiration with
 the claimant making maximum
 effort

 Except in the circumstances Any occupation involving: SR 1997
 specified in regulation 2(d) exposure to coal dust by No 158 7.4.97
 (a) chronic bronchitis **or** reason of working
 (b) emphysema **or** underground in a coal mine
 (c) both for a period of, or periods
 where there is amounting to, at least 20

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D12 cont** accompanying evidence of years (whether before or
 forced expiratory volume after 5th July 1948) and
 in one second (measured any such period or periods
 from the position of incapacity whilst engaged
 maximum inspiration with in such an occupation.
 the claimant making
 maximum effort) which is
 (i) at least one litre below
 the mean value predicted in
 accordance with ‘Lung function’:
 Assessment and Application in
 Medicine: by J.E. Cotes, 5th
 Edition 1994 published at
 Oxford by Blackwell Scientific
 Publications Ltd
 (ISBNO-632-3296-9) for a
 person of the claimant’s age,
 height and sex **or**
 (ii) less than one litre

 Except in the circumstances “Exposure to coal dust by SR 2000
 specified in regulation 2(d), reason of working under- No 214 10.7.00
 (a) chronic bronchitis or ground in a coal mine for
 (b) emphysema or a period of, or periods
 (c) both amounting in the aggregate
 where there is accompanying to, at least 20 years (whether
 evidence of forced expiratory before or after 5th July 1948)
 volume in one second and any such period or
 (measured from the periods shall include a
 position of maximum period or periods of
 inspiration with the incapacity whilst engaged
 claimant making maximum in such occupation”
 effort) which is
 (i) at least one litre below the
 appropriate mean value
 predicted, obtained from the

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D12 cont** following prediction formulae
 which give the mean values
 predicted in litres – For a man
 where the measurement is
 made without back-extrapolation,
 (3.62 x Height in metres) –
 (0.031 x Age in years) – 1.41 **or**
 where the measurement is made
 with back-extrapolation, (3.71 x
 Height in metres) – (0.032 x Age
 in years) – 1.44. For a woman,
 where the measurement is made
 without back-extrapolation, (3.29 x
 Height in metres) – (0.029 x Age in
 years) – 1.42 **or** where the
 measurement is made with back-
 extrapolation, (3.37 x Height in
 metres) – (0.030 x Age in years)
 – 1.46 **or**
 (ii) less than one litre Changed to SR 2008
 “accompanying” removed Exposure to coal dust No 258 21.7.08
 from (c) (whether before or after
 5th July 1948) by reason
 of working-
 (a) underground in a coal
 mine for a period or
 periods amounting in
 aggregate to at least
 20 years;
 (b) on the surface of a
 coal mine as a screen
 worker for a period or
 periods amounting in
 aggregate to at least 40
 years before 1st January
 1983; or

**Disease Corresponding Amendments to Description Amendment to Nature Authority and
No from No on old of the Diseases or Injury of Occupation Effective Date
3.10.83 Schedule**

**D12 cont** (c) both underground in
 a coal mine, and on the
 surface as a screen
 worker before 1st January
 1983, where 2 years
 working as a surface screen
 worker is equivalent to 1
 year working underground,
 amounting in aggregate to
 at least the equivalent of
 20 years underground. Any
 such period or periods shall
 include a period or periods
 of incapacity while engaged
 in such an occupation.

 “(a) chronic bronchitis or SR 2015
 (b) emphysema No 52 16.3.15
 (c) or both” replace with:-

 “chronic obstructive
 pulmonary disease”

 The value of one litre in (i)
 and (ii) above shall be
 construed as fixed and shall
 not vary by virtue of any
 treatment or treatments”
 added after “less than one
 litre”

**D13** New disease added Exposure to wood dust in SR 2008
 Primary carcinoma of the in the course of the No 45 7.4.08
 nasopharynx processing of wood or
 the manufacture or repair
 of wood products, for a
 period or periods which
 amount in aggregate to at
 least 10 years.

Appendix 2

Changes since 5 July 1948 amending the regulations affecting claims for prescribed diseases Nos D1, D2 and D3

**Effective Date** **Amendment Authority**

21 September 1949 1. Added present regulation 21. SR&O 1949 No 173

 2. Amended procedure for reference and
 determination of diagnosis and recrudescence
 questions as present SS (NI) Order 1998,
 art 12(2) and SS & CS (D&A) Regs (NI)
 reg 12(1)(b). DMG 67111.

 3. Reference to living person omitted from
 diagnosis and recrudescence questions.

22 January 1951 Para 4(b) of Part II of first schedule to regulations SR&O 1951 No 21
 amended to its present form. DMG 67832

22 April 1953 Added present para 11 to Part II of first schedule SR&O 1953 No 74
 to regulations, DMG 67856.

 Added present para 12 to Part II of first schedule
 to regulations. DMG 67857.

11 March 1954 1. Definition of “foundry” added to present SR&O 1954 No 21
 regulation 1(2). DMG 67832.

 2. Non scheduled dusty occupations added to
 prescription for pneumoconiosis; reg 2(b).
 DMG 67859.

 3. Para 4 of Part II of first schedule to regulations
 amended to its present form. DMG 67832.

**Effective Date** **Amendment Authority**

1 September 1956 1. Byssinosis prescribed in relation to the cotton SR&O 1956 No 126
 industry.

 2. No disablement gratuity payable in respect
 of pneumoconiosis by byssinosis (less than 20
 per cent assessment payable as pension).

 3. Disablement benefit not payable for byssinosis
 unless incapacity likely to be permanent.

 4. One year minimum assessment for byssinosis
 unless limited to claimant’s life.

12 June 1957 Added present regulation 15; DMG Chapter 71. SR&O 1957 No 108

31 December 1960 Consolidating regulations. SR&O 1960 No 209

21 June 1965 Regulation 37 amended. SR&O 1965 No 126

1 November 1965 Flax workers added to prescription for byssinosis; SR&O 1965 NO 215
 regulation 2(c)

22 August 1966 Diffuse mesothelioma (prescribed disease No 44) SR&O 1966 No 193
 added to the schedule of diseases.

16 August 1967 Emphysema and chronic bronchitis shall be SR&O 1967 No 223
 treated as effects of pneumoconiosis when
 condition (if otherwise normal) is assessed
 at not less than 50%.

27 November 1974 1. Spinning, winding and beaming processes SR 1974 No 222
 added to prescription for byssinosis.

 2. Qualifying period for byssinosis reduced to
 five years.

 3. Permanent disablement condition in respect
 of byssinosis abolished.

 4. Provisions relating to diffuse mesothelioma
 assimilated to those relating to pneumoconiosis.

 5. Regulation 37A – finality of decisions added.

**Effective Date** **Amendment Authority**

31 January 1977 Limited right of appeal on diagnosis to medical SR 1976 No 334
 appeal tribunal introduced for pneumoconiosis
 and byssinosis and re-introduced an unlimited
 right of appeal for diffuse mesothelioma.

13 April 1979 Right of appeal to medical appeal tribunal on SR 1979 No 77
 diagnosis of pneumoconiosis and byssinosis
 relaxed in relation to previous rejections.

13 April 1979 Qualifying period for byssinosis abolished. SR 1979 No 78

19 May 1982 Limitations on right of appeal to medical appeal SR 1982 No 128
 tribunal on diagnosis of pneumoconiosis and
 byssinosis removed except where less than
 two years has elapsed since a previous appeal.

21 March 1983 Consolidating Regulations. SR 1983 No 19

3 October 1983 1. Pneumoconiosis and byssinosis numbered SR 1983 No 260
 and included in Part 1 of Schedule I.

 2. Occupational cover for byssinosis extended
 to include working in any room where any
 process up to and including the weaving of cotton
 or flax is carried on.

 3. “Malignant” removed from the description of
 prescribed disease D3 and “pericardium” added
 to the areas of the body covered by prescription.

29 July 1986 Consolidating Regulations. SR 1986 No 179

1 September 1986 Remaining restrictions on right of appeal to SR 1986 No 270
 medical appeal tribunal on diagnosis of
 pneumoconiosis and byssinosis removed.

9 April 1997 1. Part 1, Schedule 1 amended for prescribed SR 1997 No 158
 disease D3, prescribed disease D8, prescribed
 disease D9, prescribed disease D12.

 2. 90 day rule removed for prescribed disease D3.

29 July 2002 Where prescribed disease D3 is diagnosed SR 2002 No 237
 assessment is 100%.

Appendix 3

List of occupations for prescribed disease D3 mesothelioma

 Environment health officers, building inspectors and other statutory inspectors.

 Professional and technical occupations in science, engineering, technology and construction.

 Production, works and maintenance managers, and works foremen.

 Managers in building and contracting and clerks of works.

 Fishermen, deck and engine room hands, bargemen, lightermen and boatmen.

 Textile workers and labourers.

 Chemical, gas and petroleum process plant foremen, operators and labourers.

 Tailors, tailoresses, dress makers, clothing cutters, sewers, coach trimmers, upholsterers and mattress makers.

 Woodworkers and woodworking machinists.

 Manual occupations in the processing, making and repairing of metals and metal and electrical goods.

 Painters and decorators.

 Assemblers of metal and electrical goods.

 Inspectors, viewers and examiners of metal and electrical goods and textiles.

 Laboratory assistants

 Manual occupations in building and civil engineering.

 Mechanical plan, fork lift and mechanical truck drivers, crane drivers and operators.

 Storekeepers, stevedores, warehouse market and other goods porters.

 Boiler operators.

Appendix 4

Diagnosis for prescribed disease D1

 **Contents Paragraphs**

 Introduction 1

 Background 2

 Action 3

 X-ray category 4 – 10

 More than one previous claim 11 – 12

 Assessment of disablement 13

 Effective date 14

 Date of onset 15 – 16

 Aggregation 17 – 18

 Medial appeal tribunal decisions 19

 Reduced Earnings Allowance 20

 Other industries 21

Introduction

1. On 25 August 1994 the Commissioner1 highlighted a divergence between the law governing entitlement to Industrial Injuries Disablement Benefit for prescribed disease D1 and the decisions of some adjudicating medical authorities and medical appeal tribunals. The Commissioner held that there was no minimum level of pneumoconiosis2 that a person needs to have before diagnosis is satisfied. They either have the disease or they do not.

1 R(I) 1/96; 2 SS C&B (NI) Act 92, sec 110(3)

Background

1. The claimant was employed as a coal miner. He claimed Disablement Benefit for pneumoconiosis. A special medical board decided that he was not suffering from the disease. A medical appeal tribunal confirmed the decision stating that there was only early pneumoconiosis, X-ray Category 0/1. The claimant appealed to the Commissioner who held that the tribunal erred in law because the question before them was not whether the claimant had certifiable coalworkers’ pneumoconiosis but simply whether he had pneumoconiosis but simply whether he had pneumoconiosis to whatever degree. The Commissioner also held that diagnosis was not determined solely by a radiological category but by the exercise of clinical judgement taking into account all the evidence.

Action

1. The effect of the decision means that claims for prescribed disease D1, where the X-ray category was 0/1 or 1, may have been incorrectly disallowed on diagnosis. Where there is a request for either supersession or revision of a decision disallowing diagnosis care should be taken to identify whether the decision should be superseded or revised. This is because a decision maker’s decision cannot be revised for official error where it is found to be erroneous in law only because of a later determination of the Commissioner or Court1. It is important to note the date on which the decision was made as this will determine what action is appropriate. If the decision was made

**3.1** on or before 25.8.94 it should be superseded2

**3.2** after 25.8.94 it should be revised3.

 Where either supersession or revision is appropriate the effective date will be the same, 25.8.944 and no arrears are payable before then.

1 SS &CS (D&A) Regs (NI), reg 1(2); 2 reg 6(2)(b)(i); 3 reg 3(5)(a); 4 SS (NI) Order 98, sec 27(3),
SS & CS (D&A) Regs (NI), reg 5 & 7(6)

X-ray category

1. The only cases that may benefit from this Commissioner’s decision are those where an earlier claim has been disallowed on the grounds that the claimant was not suffering from prescribed disease D1. Where the claim had been disallowed for any other reason, the decision maker should supersede at the same rate. In the majority of cases the decision maker will simply consider the medical reports, the category of X-ray and any other available evidence.

X-ray category 0

1. A category 0 X-ray is normal and means that there is no evidence of D1. The claim will therefore have been disallowed correctly. Claims within this category will not benefit from the Commissioner’s decision unless there is some other evidence indicating, however slight, the presence of pneumoconiosis in which case supersession or revision will be appropriate. If the X-ray is the only evidence the decision should be superseded at the same rate, DMG 4027 – 4028.

X-ray category 0/1 – No evidence of pneumoconiosis

1. Where the X-ray category is 0/1 this indicates that the doctor was unable to determine whether the category was 0 or 1. If there is no other evidence of pneumoconiosis the case should be referred to Medical Services for advice.

X-ray category 0/1 – Evidence of pneumoconiosis

1. Where the examining doctor

**1.** determined the X-ray to be category 0/1 or 1 **and**

**2.** noted that there was some degree of pneumoconiosis **and**

**3.** decided that D1 was not diagnosed

 the disallowance is likely, on the balance of probabilities, to be correct. In these cases the decision should be superseded or revised and benefit awarded in accordance with the guidance at para 13.

X-ray category 0/1 or 1 – Reference to some other lung condition without pneumoconiosis

1. Where the doctor decided that the X-ray appearances were due, partly or entirely, to a condition other than pneumoconiosis the decision maker will need to consider if the pneumoconiosis plays any part. These cases should be referred to Medical Services for interpretation of the clinical and X-ray findings. It is not possible to give an exhaustive list of the terms that may have been used but examples include

**1.** reference to “dust retention”

**2.** fibrosis not due to dust

**3.** intrinsic fibrosis or fibrosing alveolitis

**4.** tuberculosis

**5.** cor pulmonale or heart failure.

 When returning to Medical Services all B18s relating to previous claims for D1 and D12 should be included.

X-ray category 0/1 or 1 – Reference to some other lung condition with pneumoconiosis

1. If there is reference to some other lung condition and pneumoconiosis the decision should be superseded or revised as appropriate.

No X-ray category recorded

1. If the medical report does not record the X-ray category the case should be referred to Medical Services for advice unless there is some other evidence of pneumoconiosis in which case treat as if category 1. The disallowance should be superseded or revised and benefit awarded in accordance with the guidance at para 13.

More than one previous claim

1. It is likely that many cases will involve more than one previous claim. There will therefore be a series of medical reports and X-ray categories to consider. Decision makers should identify the earliest claim where the X-ray category is 0/1, where there is evidence of pneumoconiosis, or 1 and accept that the conditions for entitlement have been satisfied continuously from that claim onwards. It is important to note that where there has been a succession of claims either before or after the relevant claim these decisions also need to be superseded or revised as appropriate.

 **Example**

 Claim made on 20.9.88. X-ray category 0.

 Claim made on 24.5.89. X-ray category 0.

 Claim made on 21.4.92. X-ray category 1.

 Claim made on 15.11.94. X-ray category 0.

 Request for supersession 12.2.02.

 The decision on the claim made on 21.4.92 is erroneous in light of the Commissioner’s decision. The decision maker considers all the evidence and decides that all the conditions for an award are satisfied and assesses disablement at 1% for life with a date of onset of 21.4.92.

 The decisions for the claims made on 20.9.88 and 24.5.89 should be superseded at the same rate because there is still no entitlement to benefit. The decisions for the claim made on 21.4.92 should be superseded and the claim made on 15.11.94 should be revised and benefit should be awarded from 25.8.94.

1. Where the X-ray category is 0 on all claims made before or after 26.8.94 each decision should be superseded at the same rate.

Assessment of disablement

1. On the cases not referred to Medical Services the decision maker should decide the level of disablement taking into account all available evidence. If the only evidence is an X-ray the level of disablement is likely to be slight and an assessment of 1% for life is likely to be appropriate. If other evidence is available, for example a consultant’s report, suggesting the disease is more extensive then it may be necessary to refer to Medical Services for an assessment of disablement.

Effective date

1. Where

**1.** supersession is appropriate the effective date is 25.8.94

**2.** revision is appropriate the effective date is

 **2.1** 25.8.94 **or**

 **2.2** the date of onset **or**

 **2.3** the 91st day

 whichever is the later.

Date of onset

1. In every case it will be necessary to determine a date of onset as this will be needed to establish the date benefit is payable from and, in some case, to decide whether or not there is entitlement to Reduced Earnings Allowance. Where the date of onset is at least 90 days, excluding Sundays, before 25.8.94 benefit will be payable from 25.8.94. Where the date of onset is any later then there is no entitlement before the 91st day. The date should be decided on the best available evidence. A claimant’s statement as to the date from which he has suffered from pneumoconiosis is primary evidence and, in the absence of evidence to the contrary, should be accepted unless it is self-contradictory or improbable1. In some cases this will be the only evidence available.

1 R(I) 2/51

 **Example 1**

 Prescribed disease D1 claimed on 22.1.92. The clamant states he has been suffering with breathing problems since March 1988. He has been attending his General Practitioner and hospital since then. The claimant was medically examined on 19.2.92, the X-ray category was 1 and the claim was disallowed. The date of the X-ray was not recorded.

 Request for supersession on 12.2.02.

 The decision was erroneous in light of the Commissioner’s decision. The decision maker considers all the evidence and decides that the claimant’s evidence is the best evidence and accepts the date of onset as 1.3.88 and assesses disablement at 1% from the 91st day for life and awards benefit from 25.8.94.

 On 18.3.02 a claim for Reduced Earnings Allowance is made. All other conditions for an award are satisfied and Reduced Earnings Allowance is awarded from 18.12.01, three months before the date of claim.

 **Example 2**

 Prescribed disease D1 claimed on 21.7.93. Category 1 X-ray dated 10.8.93, claim disallowed on diagnosis.

 Request for supersession on 12.2.02.

 The decision was erroneous in light of the Commissioner’s decision. In the absence of any other evidence the date of X-ray is accepted as the date of onset. The decision maker accepts that the degree of disablement is 1% for life from the 91st day an awards benefit from 25.8.94.

 **Example 3**

 Prescribed disease D1 claimed on 12.3.96. A consultant’s report showed that the claimant is suffering from the disease and has been since January 1996. On 17.4.96 the claim is disallowed because the X-ray category is 0/1.

 Request for revision 12.2.02.

 There was an official error in light of the Commissioner’s decision. The decision maker accepts the consultant’s report as evidence of diagnosis and accepts the date of onset as 1.1.96 and awards benefit at 1% for life from 15.4.96, the 91st day.

Good cause

1. If the claim is made after 25.8.94 before 9.4.97 good cause for delay in claiming should be considered. Good cause should normally be accepted unless the evidence shows that the claimant’s symptoms were such that it would have been reasonable for him to suspect that he had pneumoconiosis but had deliberately refrained from making a claim1. In any event no arrears can be paid for any period before 25.8.94.

1 R(I) 25/56

Aggregation

1. Care should be taken when aggregation is appropriate because three dates of relevant determination may be involved.

**1.** Prescribed disease D1 can be awarded from 25.8.941 or 91st day following the date of onset, para 15.

**2.** Aggregation with expired gratuities should be considered from 24.7.952.

**3.** On 28.1.973 a Commissioner held that for prescribed disease D1 where an assessment is less than 20% aggregation should only be applied where it is to the claimant’s advantage DMG 69251, AOG Memo 12/2 and 12/3.

 It is important to note that within the same decision it may be necessary to award prescribed disease D1, aggregate with expired gratuities and from 28.1.97 “de-aggregate” because it is not to the claimant’s advantage to do so.

1 R(I) 1/96; 2 CI/522/93; CI/1698/97; 3 CI/12311/96

 **Example 1**

 Claim for prescribed disease D1 made on 16.9.89. The claim was disallowed because the X-ray category was 1. No previous claim has been made.

 On 5.2.02 the claimant asks for his claim to be looked at again. Supersession is appropriate because the decision was made before the date of the relevant determination, 25.8.94. The decision maker accepts the date of onset as 12.4.89 based on the available evidence and assesses disablement at 1% for life from the 91st day and awards benefit from 25.8.94.

 The claimant has three expired life gratuities totalling 13% for accidents in 1962, 1971 and 1974.

 From 24.7.95 the 1% for prescribed disease D1 is available for aggregation with the expired gratuities. The 14% is rounded to 20% and arrears are due from that date.

 **Example 2**

 Claim for prescribed disease D1 made on 15.4.92. The claim was disallowed because the X-ray category was 1. No previous claim for prescribed disease D1 has been made but there is a 20% life award in payment for an accident in 1967.

 On 5.2.02 the claimant asks for his claim to be looked at again. Supersession is appropriate. The decision maker accepts the date of onset as 11.12.91 based on the available evidence and assesses disablement at 1% from the 91st day.

 The 20% award for the accident is superseded for the period 25.8.94 to 27.1.97 and aggregation is appropriate. No arrears are due for that period as the aggregated assessment is 21%, rounded to 20%.

 From 28.1.97 aggregation is not to the claimant’s advantage. The claimant is entitled to an award of 20% for the accident and a 1%, rounded to 10%, award for prescribed disease D1.

 Arrears are due for prescribed disease D1 from 28.1.97.

1. DMG Memo Vol 11 02/01 gave guidance on what constitutes a post-1.10.86 claim for aggregation. It advised that aggregation can only be applied where the claim was made after 1.10.86. It also advised that where notification of a worsening of the condition was made after 1.10.86 that resulted in at least 1% increase of an existing assessment then aggregation would be appropriate. The guidance in that memo is not appropriate for claims to prescribed disease D1 made before 1.10.86 because supersession is being considered as a result of a disallowance and not on a change of circumstances.

Medical appeal tribunal decisions

1. There will be cases where a medical appeal tribunal confirmed disallowance. A medical appeal tribunal or appeal tribunal decision cannot be superseded or revised by a decision maker on the grounds of error of law1. Because of the time limits for appealing it will be rare for an appeal to the Commissioner to be admitted or considered.

1 SS (NI) Order 98, art 9 & 10; SS & CS (D&A) Regs (NI), reg 6(2)

Reduced Earnings Allowance

1. A claim for Reduced Earnings Allowance can only succeed where the date of onset is before 1.10.90. A medical opinion will normally be required to decide entitlement. Where Reduced Earnings Allowance is claimed the normal time limits for claiming will apply and the arrears will be limited to three months before the date of claim.

Other industries

1. The Commissioner’s case was about a coal miner suffering from pneumoconiosis. Although the same principles apply to silicosis and asbestosis due to the nature of these diseases it is highly unlikely that claims based on them will have been decided incorrectly. If an application for supersession is received from a claimant working in an industry other than coal mining supersession at the same rate is appropriate unless there is other evidence to suggest pneumoconiosis. If there is other evidence then refer to Medical Services for advice. If the application is for revision take action in accordance with para 12.

Appendix 5

Typical coke oven (DMG 67964)

Appendix 6

Presumption before 6.3.15

1. Before 6.3.15 most prescribed diseases were presumed to be due to the nature of a person’s employment. The presumption did not apply to prescribed diseases A12, C1, C2, C4, C5A, C5B, C6, C7, C12, C13, C16, C19, C20, C21, C22, C25, C26, C27, C29, C30 and D5. The presumption applied in different ways to prescribed diseases A10, B5, C23, D1, D2 and D12 (see paragraph x).

2. The presumption applied when a person who has contracted a prescribed disease

**1.** was employed in a prescribed occupation **and**

**2.** was so employed on, or at any time within one month immediately preceding the date of onset of the disease.

3. A presumption in the claimant’s favour continued to apply unless the decision maker was able to rebut it, that is, to show that the disease was not due to the nature of the employment. To do this the decision maker must have had proof sufficient to establish the point on the balance of probabilities. That is, the decision maker must have been satisfied that, taking into account all the relevant evidence, it was more probable that the disease was not due to the nature of the employed earner’s employment than that it was.

4. If the presumption did not apply, the onus was on the claimant to establish on a balance of probabilities, that the disease was due to the nature of the employed earner’s employment. This would have been the case, for example, where the claim was for prescribed disease A12 and the employed earner was not in employed earner’s employment in the prescribed occupation on, or within one month immediately preceding, the date of onset.

Appendix 7

Diseases where presumption should normally be automatic and those where automatic presumption is not appropriate

|  |  |  |
| --- | --- | --- |
| **Prescribed disease** | **Any occupation involving:** | **Automatic presumption recommended** |
| **A. Conditions due to physical agents** |  |  |
| A1. Leukaemia (other than chronic lymphatic leukaemia) or cancer of the bone, female breast, testis or thyroid | Exposure to electro-magnetic radiation or to ionising particles | Yes |
| A2. Cataract | Exposure to red hot or white hot radiation | No |
| A3. a) Dysbarism | Subjection to compressed or rarefied air or other gases | Yes |
| A4. Task-specific focal dystonia | Prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand or arm | No |
| A5. Subcutaneous cellulitis of the hand | Manual labour causing severe friction or pressure on the hand | No |
| A6. Knee bursitis or cellulitis | Manual labour causing severe friction or pressure at the knee | No |
| A7. Elbow bursitis or cellulitis | Manual labour causing severe friction or pressure at the elbow | No |
| A8. Tenosynovitis | Manual labour, or frequent or repeated movements of the hand or wrist | No |
| A10. Noise induced hearing loss | The use of, or work wholly or mainly in the immediate vicinity of [*various specified machines and tools*] | Yes |
| A11. Hand Arm Vibration Syndrome | Exposure to [*variously defined sources of hand-transmitted vibration*] | Yes |
| A12. Carpal tunnel syndrome | (b) repeated palmar flexion and dorsiflexion of the wrist | Yes |
| A13. Osteoarthritis of the hip | Work as a farmer | Yes |
| A14. Osteoarthritis of the knee | Work as an underground coal miner, or work as a carpet fitter or as a carpet layer or floor layer | Yes |
| **B. Conditions due to biological agents** |  |  |
| B1. Anthrax | Contact with anthrax spores, or animals infected with anthrax | Yes |
| B2. Glanders | Contact with horses | No |
| B3. Leptospirosis | Work in i) places infested with rats, field mice or voles; ii) dog kennels or the care or handling of dogs, or iii) contact with bovine animals or pigs and their meat products | No |
| B4. Ankylostomiasis | Contact with a source of ankylostomiasis | No |
| B5. Tuberculosis | Contact with a source of tuberculosis infection | No |
| B6. Extrinsic allergic alveolitis (including farmer’s lung) | Exposure to moulds or fungal spores or heterologous proteins in a variety of occupational settings | No |
| B7. Brucellosis | Contact with animals infected by or laboratory specimens containing brucella | Yes |
| B8A. Infection by hepatitis A virus | Contact with raw sewage | No |
| B8B. Infection by hepatitis B or C virus | Contact with human blood or human blood products or any other source of hepatitis B or C virus | Yes |
| B9. Infection by *Streptococcus suis* | Contact with pigs infected by *Streptococcis suis*, or with the carcasses, products or residues of pigs so infected | Yes |
| B10. a) Avian chlamydiosis | Contact with birds infected with *Chlamydia psittaci*, or with the remains of untreated products of such birds | No |
| B10. b) Ovine chlamydiosis | Contact with sheep infected with *Chlamydia psittaci*, or with the remains of untreated products of such sheep | No |
| B11. Q fever | Contact with animals, their remains or their untreated products | No |
| B12. Orf | Contact with sheep, goats or with the carcasses of sheep or goats | No |
| B13. Hydatidosis | Contact with dogs | No |
| B14. Lyme disease | Exposure to deer or other mammals of a type liable to harbour ticks harbouring *Borrelia* bacteria | No |
| B15. Anaphylaxis | Contact with products made with natural rubber latex | No |
| **C. Conditions due to chemical agents** |  |  |
| C3. a) Phossy jaw | 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 | Yes |
| C3. b) Peripheral neuropathy or peripheral polyneuropathy with pyramidal involvement of the central nervous system, caused by organic compounds of phosphorus which inhibit the enzyme neuropathy target esterase |  | No |
| C17. Chronic beryllium disease | Inhalation of beryllium or a beryllium compound | Yes |
| C18. Emphysema | Inhalation of cadmium fumes | Yes |
| C22a. Primary carcinoma of the mucous membrane of the nose or paranasal sinuses | Work before 1950 in the refining of nickel | Yes |
| C23. Bladder cancer | Exposure during manufacture of a variety of chemicals | Yes |
| C24. a) angiosarcoma of the liver, b) osteolysis of the fingers, c) scleroderma, d) liver fibrosis | Exposure to vinyl chloride monomer in the manufacture of polyvinyl chloride | Yes |
| C24A. Raymaud’s phenomenon due to exposure to vinyl chloride monomer | Exposure to vinyl chloride monomer in the manufacture of polyvinyl chloride before 1st January 1984 | Yes |
| C31. Bronchiolitis | Exposure to diacetyl and food or food flavouring containing diacetyl | Yes |
| C32. Nasal carcinoma | Work in manufacturing inorganic chromates or in hexavalent chrome plating | Yes |
| **D. Miscellaneous conditions** |  |  |
| D1. Pneumoconiosis | Various defined exposures during the course of mining, quarrying, sand blasting, breaking, crushing/grinding of flint, certain foundry operations, grinding of mineral graphite, manufacture of china or earthenware, use of a grindstone, manufacture or repair of asbestos textiles, the sawing, splitting or dressing of slate, boiler scaling, etc | Yes |
| D2. Byssinosis | Work in any room where any process up to and including the weaving process is performed in a factory in which the spinning or manipulation of raw or waste cotton or of flax, or the weaving of cotton or flax, is carried on | Yes |
| D3. Diffuse mesothelioma | Exposure to asbestos at a level above that commonly found in the environment at large | Yes |
| D4. Allergic rhinitis due to [*a specified list of sensitizing agents*] | Exposure to any of the agents set out in column 1 of this paragraph | Yes |
| D6. Nasal carcinoma | Work involving the manufacture or repair of wooden goods, or footwear made of leather or fibre board or exposure to wood dust in the course of the machine processing of wood | Yes |
| D7. Occupational asthma due to [*a specified list of sensitizing agents*] | Exposure to any of the agents set out in column 1 of this paragraph | Yes |
| D8. Lung cancer where there is accompanying asbestosis | Exposure to asbestos in a variety of occupational settings | Yes |
| D8A. Lung cancer | Exposure to asbestos in a variety of occupational settings | Yes |
| D9. Diffuse pleural thickening | Exposure to asbestos in a variety of occupational settings | Yes |
| D10. Lung cancer | a) work underground in a tin mine; orb) exposure to bis (chloromethyl) ether produced during the manufacture of chloromethyl methyl ether; orc) exposure to zinc chromate calcium chromate or strontium chromate; ord) work as a coke oven worker | Yes |
| D11. Lung cancer where there is accompanying silicosis | Exposure to silica dust in a variety of occupational settings | Yes |
| D12. Chronic obstructive pulmonary disease | Exposure to coal dust a) as an underground coal miner for 20 years; b) on the surface of a coal mine for 40 years or c) both underground in a coal mine and on the surface as a screen worker for 20 years in aggregate | Yes |
| D13. Nasopharyngeal cancer | Exposure to wood dust | Yes |

 **The content of the examples in this document (including use of imagery) is for illustrative purposes only.**