

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF LEGAL GROUP)

Decision Makers Guide

Volume 11 Amendment 38 – February 2017

1. This letter provides details on Amendment 38; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intranet/1/lg/acileeds/guidance/decision%20makers%20guide/index.asp>

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Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 38 affects chapter 67. The changes
 - incorporate memo DMG 26/16
 - make minor and consequential amendments.
4. The last two amendment packages amending Volume 11 were
Amendment 37 [June 2015]
Amendment 36 [February 2015]
5. **For reference purposes Decision Makers may find it useful to retain deleted pages for a short period after the introduction of this package.**
6. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

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Chapter 67

Conts 67502 – Conts Appendix 6 (4 pages)
67181 – 67214 (3 pages)
67311 – 67321 (1 page)

Insert

Chapter 67

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Due to the nature of the employed earner's employment

67181 To satisfy the conditions for benefit a PD must be due to the nature of a person's employment¹. This question is for the DM, FtT or UT to decide.

1 SS CB Act 92, s 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 and strenuous conditions, not peculiar to the prescribed occupation cannot be considered¹.

1 R(I) 38/52

67183 In deciding this question the DM 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 CB Act 92

67184 Such past employment must have had features exposing the claimant to the risk of contracting the PD, though not necessarily the same features¹. If both employments satisfy the prescription laid down in legislation² it can be accepted that they are of the same nature.

1 R(I) 17/53; 2 SS (II) (PD) Regs, 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 HMF¹.

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

Presumption

67186 There were changes to resumption 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 and Appendix 7 to this Chapter lists the PDs where presumption should normally be automatic and those where automatic presumption is not appropriate. There is further guidance on presumption in the guidance on specific PDs.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1)

67187 Where a person has contracted PDs 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 PD is due to the employed earner's employment if the person who has contracted the PD

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 PD A3(b) (see DMG 67188).

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

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

67188 Where a person has contracted PDs PDs 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 PD is due to the employed earner's employment if the person who has contracted a PD was employed in a prescribed occupation².

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

Note 2: There is no presumption for PD C22(b).

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

Prescribed disease B5

67189 Where a person for whom PD 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 earner's 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 PD B5

Note 2: There is no presumption for PD B5 occupation (b).

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

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

67190 There is a presumption that PDs 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 PD

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 PD B1, DMG 67540 for guidance on PD B4, DMG 67562 for guidance on PD B7 and DMG 67567 for guidance on PD B8A..

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

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

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 PD A12.

Note 2: There is no presumption for PD A12 occupation (a).

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

Prescribed disease C23

67192 There is a presumption that PD 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 PD was employed in a prescribed occupation².

Note 1: See DMG 67706 et seq for guidance on PD C23

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

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

Prescribed disease D1

67193 Unless the contrary is proved, PD 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, 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 PDs not included in DMG 67187 – 67193.

When presumption continues to apply

- 67195 A presumption in the claimant's favour continues to apply unless the DM 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 DM must have proof sufficient to establish the point on the balance of probabilities. That is, the DM 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.

Note: See appendix 7 to the Chapter for a list of diseases where presumption should normally be automatic and those where automatic presumption is not appropriate.

67197 - 67200

Employment outside Great Britain

- 67201 Benefit is not payable for a PD which is due to the nature of employment in an occupation in which the employed earner has been engaged only outside GB¹. This provision does not apply to
1. mariners and aircrew² (see DMG Chapter 07)
 2. people in employment in any designated area of the continental shelf³ (see DMG Chapter 07)
 3. people in a prescribed area⁴ (see DMG Chapter 07)
 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, reg 14; 2 SS CB Act 92, s 27; 3 s 120; SS Ben (PA) Regs, reg 10c; 4 reg 10c; SS CB Act 92, s 120; 5 SS (Cont) Regs 01, reg 14

European Economic Area countries

67202 The effects of European legislation must be considered if a person contracts a PD while working in an EEA 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 cases where a person

1. suffering from a PD has worked in two or more EEA countries in an occupation liable to stimulate that disease² **and**
2. is already in receipt of II benefit in respect of a PD under the legislation of one EEA country and aggravation of that disease occurs while the person is working (or after having worked) in an appropriate occupation in another EEA country³.

Detailed guidance on the application of European legislation to IIDB is in DMG Chapter 07.

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

67203 From 1.7.67 EC legislation refers to "employed and self-employed persons" instead of "workers". But this does not give S/E persons entitlement to benefits under British 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 GB and partly outside GB, the DM can consider presumption under DMG 67186 et seq in relation to the employment in GB. If it is shown that the disease was due entirely to employment abroad and was not aggravated by employment in GB, 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 DM should take account of the medical advice and opinion. Although these opinions are not binding on DMs, they should not normally give a decision which is contrary to that opinion. However if the DM 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

Prescribed diseases A1, A2, A3, A4 and A7

Prescribed disease A1

67311 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

- 67312 The DM 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.

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 67312), prescription can only be satisfied where a person worked in employed earner's employment for a period or periods amounting in the aggregate to 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 PD A3 was dysbarism, including decompression sickness, barotrauma and osteonecrosis. From 16.3.15¹ it was divided into PD A3(a) and PD A3(b)². This was to allow for different presumption rules to apply³ (see DMG 67187 – 67188). PD A3(a) is dysbarism, including decompression sickness and barotrauma. PD A3(b) is osteonecrosis.

Note 1: The scheduled occupations are the same for PD A3(a) and PD A3(b)⁴.

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

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1),

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

Reduced earnings allowance

67318 Entitlement to REA may still arise in respect of the change to PD 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 CB Act 92, Sch 7, para 11(1)

Prescribed disease A4

67319 PD A4 was introduced with effect from 7.7.58 as PD 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 PD 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 PD A4 was re-defined as task-specific focal dystonia. This brought it in line with current medical terms. This change does **not** extend PD 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 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2007, reg 1;

2 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2012, reg 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 (reconsideration² on any claim) takes place on or after 24.3.96 **and**
 - 2.3 the review results in an assessment which includes 24.3.96³ **or**
 3. 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**
 4. 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, reg 7(2)(a); 2 SS A 98 s 10; 3 SS (II & D) (Misc Amdt) Regs, reg 7(2)(b); 4 reg 7(3); 5 SS (II) (PD) Regs, reg 7; 6 SS (II & D) (Misc Amdt) Regs, reg 7(4)

- 67524 For the purpose of 67530 **1.**, **2.** or **3.** two or more assessments which are consecutive are treated as one continuous assessment¹.

1 SS (II & D) (Misc Amdt) Regs, 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 **or**
 2. claims made before 6.4.07 where disablement has not yet been assessed **or**
 3. claims made no later than 5.7.07 in respect of a period starting before 6.4.07 **or**
 4. renewal assessments following a provisional assessment where there is no break **or**
 5. further assessments following a final assessment where there is no break **or**
 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 07, reg 3

Presumption and recrudescence

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

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

1 SS (II) (PD) Regs, 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.

proved, that the PD A14 is due to the employed earner's employment if the person who has contracted the PD 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, reg 4(2); 2 Sch 1, Part 1

Effect on REA entitlement

67535 There is no entitlement to REA for PD 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, reg 14A

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 PD B1 was divided into PD B1(a) and PD B1(b)². This was to allow for different presumption rules to apply³ (see DMG 67187 and 67190). PD B1(a) is cutaneous anthrax. PD B1(b) is pulmonary anthrax.

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

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

*1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1),
2 SS (II) (PD) Regs, Sch 1, Part 1; 3 reg 4(1) & (2); 4 Sch 1, Part 1*

Reduced earnings allowance

67537 Entitlement to REA may still arise in respect of the change to PD 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 CB 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 PD B3 is 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 was 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 PD B4 was divided into PD B4(a) and PD B4(b)². This was to allow for different presumption rules to apply³ (see DMG 67187 – 67190). PD B4(a) is cutaneous larva migrans. PD A3(b) is iron deficiency anaemia caused by gastrointestinal infection by hookworm.

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

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

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1)

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

Reduced earnings allowance

67541 Entitlement to REA may still arise in respect of the change to PD 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 CB 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 April 1986 claims were referred to BAMS (previous name for medical services) 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 actioned like the other non-respiratory PDs (excluding occupational deafness, PD A10).

1 SS (II) (PD) Amdt (No. 2) Regs, 83

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 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1); 2 SS (II) (PD) Regs, Sch 1, Part 1

Reduced earnings allowance

67545 Entitlement to REA may still arise in respect of the change to PD 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 CB Act 92, Sch 7, para 11(1)

Definition of tuberculosis

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

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

67547 Tuberculosis should be regarded as including diseases which are given the 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 induratum (Bezin's Disease)
8. iliopsoas 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 DM should however always carefully consider the possibility of contact with other sources of infection. The DM 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 DM 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 tuberculosis 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 PD B5 occupation (a) (see DMG 67189). There is no presumption for PD B5 occupation (b).

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

67552 If DMs consider rebutting the presumption, the onus of proof rests with them 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 DM 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 DM 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 (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 current legislation 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 DM 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 DM 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; farmer's lung is only one of its many forms. 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. As with farmer's lung the disease is often known according to the circumstances in which it occurs, for example mushroom worker's lung, bird fancier's lung, malt worker's lung.

1 SS (II) (PD) Amdt (No. 2) Regs, 83

67558 Although the prescribed occupations are mainly carried out in agricultural and ancillary industries, the occupations covered by (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 prescribed occupation (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 67561 for the effect on REA).

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

Prescription test not satisfied

67560 If the claim does not succeed under the PD provisions because the disease is not prescribed for the employed earner, the DM should consider whether it can succeed under the accident provisions. If, a claim has been made solely on the grounds of IA 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.

Effect on REA

67561 There is no entitlement to REA for PD B6 for people whose work involves exposure to metalworking fluid mists because the disease was extended after 10.10.94¹. Cases of doubt should be referred to DMA Leeds for advice.

1 SS CB Act 92, Sch 7, para 11(1)

Prescribed disease B7

67562 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.

Before 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 PD B7.

67563 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.

67564 - 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 (e.g. 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 DM 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 DM 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 carcasses, products or residues of pigs so infected.

67572 - 67580

67707 It should be noted that “durindone magenta” is **not** magenta within the meaning of the legislation¹. 4-aminobiphenyl is also called biphenyl-4-ylamine and is sometimes referred to as 4-aminodiphenyl. Methylene-bis-ortho-chloroaniline (MbOCA) is also called 2, 2'-dichloro-4, 4'-methylenedianiline. Orthotoluidine is synonymous with ortho-toluidine and o-toluidine. 4-chloro-2-methylaniline is synonymous with 4-chloro-o-toluidine.

1 R(1) 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. Inks and dyes used in the printing industry may contain benzidine and other chemicals prescribed in relation to PD C23. They may also 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 of probability. In case of doubt, the DM should refer to DMA Leeds, 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 DM should refer the case to DMA Leeds, 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 occupations (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 DM 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 PD C23 occupations (c) and (d).

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

Prescribed diseases 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-osteolysis and liver fibrosis. Acro-osteolysis consisted of three medical 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 sclerodermatous 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.

Scheduled occupation 12 - 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 F/T 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 DM 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 life¹ 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 DM 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 satisfying the test is with the claimant. The DM 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 SS legislation¹ fails on prescription, there may be entitlement under the PB and MDB scheme (see DMG 67301 et seq).

1 SS CB 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 DM will disallow the claim without referring the diagnosis question for medical advice. Such a decision by the DM is subject to appeal to the FtT and the UT². The DM 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, reg 2(b)(ii); 2 reg 24

67867 - 67870

Presumption

- 67871 There are special rules for presumption for PD 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 DM should normally determine the question favourably.

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

1 SS (II) (PD) Regs, reg 2(b)(ii)

Recrudescence and fresh contraction

- 67872 No question of recrudescence or fresh contraction arises with PD 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, reg (7)

Prescribed disease D2 (byssinosis)

Rate of pension

67891 IIDB for byssinosis always takes the form of a pension; no gratuity is, or ever has been, payable¹. The DM should note that

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 the assessment is
 - 2.1 in the range 1% to 10% **or**
 - 2.2 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, reg 20(1) & (2); 2 reg 20(1A); 3 reg 20(3)

Prescription

67892 The guidance at DMG 67893 - 67895 is based on information from a trade research association and HM Factory Inspectorate and explains how the term "raw cotton" is applied for the purposes of the legislation.

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 DM 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 proved, that the PD is due to the employed earner's employment if the person who has contracted a PD was employed in a prescribed occupation².

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

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

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, reg 7

67898 DMG 67897 prevents IIDB being awarded to, or in respect of, a person who has been awarded or paid WC 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, reg 8(3)

67899 Where claimants receive weekly payments of WC after the date of claim for IIDB, and which they were not receiving at the date of such claim, the DM should reconsider and if appropriate, supersede¹ the decision awarding IIDB².

Note: See DMG Chapter 04 for guidance on supersession.

1 SS (II) (PD) Regs, reg 8(4); 2 SS Act 98, s 10

67900

Prescribed diseases D4 to D10

Prescribed disease D4

67920 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

67921 The upper respiratory passages include the nose, pharynx and larynx but not the trachea, bronchi or sub-branches of the bronchi. Bronchitis did not therefore come within the description of PD D4.

67922 From 24.3.96 the disease was redefined¹ as allergic rhinitis due to exposure to the same sensitizing agents listed for PD D7 (see 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 PD D4 from 14.3.05³.

1 SS (II & D) (Misc Amdt) Regs, reg 5(7); 2 reg 7; 3 SS (II) (PD) Amdt Regs 05, reg 2(7)

Due to the nature of the employed earner's employment

Presumption

67923 Since 24.3.96 the presumption that a disease is due to the nature of an employment (see 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) Amdt Regs 05, reg 5(2)

Example

PD 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 REA entitlement

67924 As the amendment on 24.3.96 was not an extension of the disease, entitlement to REA can still be established¹.

1 SS (II) (PD) Regs, reg 14A

Prescribed disease D5 (dermatitis)

Prescription

- 67925 From 24.3.96 the disease was amended to exclude chrome ulceration of the skin (which was provided for in the newly prescribed PD C30). At the same time occupational coverage was amended to exclude dermatitis arising from exposure to chromic acid, chromates or dichromates (again covered by PD C30).
- 67926 The prescription conditions in force prior to 24.3.96 continue to apply in the type of cases set out at DMG 67530 - 67531.
- 67927 The terms of prescription for dermatitis are drawn so widely that in most cases the DM will probably find that the disease is prescribed for the claimant. Bearing this in mind the DM should ensure that there are very good grounds before disallowing on prescription.

67928

Diagnosis - sensitization

- 67929 The claimant will usually have become sensitized to some irritating substance before showing any symptoms of PD 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 PD D5 but to have developed a skin sensitization to some external skin irritant encountered at work, the DM should consider whether the claim could succeed under the accident provisions (see DMG Chapter 66).

Due to the nature of the employed earner's employment Presumption

- 67930 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 DM should ask medical advice on this question. The DM should not normally give a decision contrary to the medical adviser's opinion.

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

Effect on REA entitlement

- 67931 As the prescription for PD D5 was not extended on 24.3.96, entitlement to REA can still be established¹.

1 SS (II) (PD) Regs, reg 14A

Prescribed disease D6

Prescription

- 67932 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 fell for consideration under the PB and MDB Scheme. However, claims from 5.12.12 are considered for IIDB.

Due to the nature of the employed earner's employment

- 67933 From 16.3.15, there is a presumption¹, unless the contrary is proved, that PD D6 is due to the employed earner's employment if the person who has contracted a PD 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, reg 4(2); 2 Sch 1, Part 1

Similarities with PD D13

- 67934 Although there are similarities between them, DMs should not confuse PD D6 with PD D13 which is defined as "Primary carcinoma of the nasopharynx"¹. PD D13 also has a different test and provides for a minimum exposure time.

Note: See DMG 67991 et seq for guidance on PD D13.

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

- 67935 If a claim is made for both PD D6 and PD D13 the DM should consider the prescription test for both diseases.

Prescribed disease D7 (occupational asthma)

Prescription

- 67936 This disease was added to the list of PDs from 29.3.82¹. The list of prescribed causative agents was initially limited to the agents numbered **1.** to **7.** at DMG 67937. With effect from 1.9.86² the list of causative agents was extended by the addition of those agents numbered **8.** to **14.** at DMG 67937. 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 82; 2 SS (II) (PD & Adj) Misc Amdt Regs, reg 2; 3 SS (II) (PD) Amdt Regs 91, reg 2;
4 SS (II) (PD) Amdt Regs 05, reg 3*

67937 As a broad guide the employments or circumstances where the causative agents are most likely to be encountered are

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

Prescribed disease D11

Prescription

67969 This disease was added to the list of PDs¹ from 19.4.93².

1 SS (II) (PD) Regs, Sch 1, Part 1; 2 SS (II) (PD) Amdt Regs 93

67970 The disease is prescribed for people who have been in employed earner's employment in any occupations involving exposure to silica dust. Those occupations are

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 PD D11 is due to the employed earner's employment if the person who has contracted a PD 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, reg 7(1); 2 reg 4(2); 3 Sch 1, Part 1

Relevant date

67972 IIDB is not payable for PD D11 for any day earlier than 19.4.93.

Qualifying period

67973 From 16.3.15¹ the qualifying period for PD D11 does not apply. The DM should regard the disablement as 100%².

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1); 2. SS (II) (PD) Regs, reg 20B(2) & (3)

Appendix 6

Presumption before 6.3.15

- 1 Before 6.3.15 most PDs were presumed to be due to the nature of a person's employment. The presumption did not apply to PDs 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 PDs A10, B5, C23, D1, D2, and D12 (see paragraph x).
- 2 The presumption applied when a person who has contracted a PD
 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 DM 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 DM must have had proof sufficient to establish the point on the balance of probabilities. That is, the DM 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 PD 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 [<i>various specified machines and tools</i>]	Yes
A11. Hand Arm Vibration Syndrome	Exposure to [<i>variously defined sources of hand-transmitted vibration</i>]	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 tuberculous 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 or	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 <i>Streptococcus suis</i>	Contact with pigs infected by <i>Streptococcus suis</i> , or with the carcasses, products or residues of pigs so infected.	Yes
B10a) Avian chlamydiosis	Contact with birds infected with <i>Chlamydia psittaci</i> , or with the remains or untreated products of such birds	No

B10b) Ovine chlamydiosis	Contact with sheep infected with <i>Chlamydia psittaci</i> , or with the remains or 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 <i>Borrelia</i> bacteria	No
B15. Anaphylaxis	Employment as a healthcare worker having 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. Raynaud's phenomenon due to exposure to vinyl chloride monomer	Exposure to vinyl chloride monomer in the manufacture of polyvinyl chloride before 1 st 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	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; or	No
	b) exposure to bis (chloromethyl) ether produced during the manufacture of chloromethyl methyl ether; or c) exposure to zinc chromate calcium chromate or strontium chromate, or d) 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

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