

# DMG Chapter 67: Prescribed Diseases

## Subpages

- Introduction 67001 - 67015
- Adaptation of legislation 67016 - 67040
- Questions arising on a prescribed disease claim 67041 - 67050
- Prescription 67051 - 67070
- Diagnosis 67071 - 67090
- Due to the nature of the employed earner's employment 67091 - 67140
- Date of onset, recrudescence and fresh contraction 67141 - 67180
- Notes on individual diseases - general 67181 - 67190
- Prescribed diseases A1, A2, A3, A4 and A7 67191 - 67240
- Prescribed disease A10 (occupational deafness) 67241 - 67370
- Prescribed disease A11 67371 - 67405
- Prescribed diseases A12 and A13 67406 - 67430
- Prescribed disease A14 67431 - 67440
- Prescribed disease A15 67441 - 67470
- Prescribed diseases B1, B3 and B4 67471 - 67480
- Prescribed disease B5 (tuberculosis) 67481 - 67500
- Prescribed diseases B6, B7, B8A, B8B and B9 67501 - 67520
- Prescribed diseases B10(a), B10(b), B11, B12, B13, B14 and B15 67521 - 67560
- Prescribed diseases due to chemical agents 67561 - 67710
- Asbestos - related diseases 67711 - 67720
- Prescribed disease D1 (pneumoconiosis) 67721 - 67815
- Prescribed disease D2 (byssinosis) 67816 - 67830
- Prescribed disease D3 67831 - 67845
- Prescribed diseases D4 to D10 67846 - 67920
- Prescribed disease D11 67921 - 67930
- Prescribed disease D12 67931 - 67950
- Prescribed disease D13 67951 - 67999
- Appendix 1 - Prescribed diseases added and changes made to the Schedule of Diseases since 5 July 1948 (see DMG 67181)
- Appendix 2 - Changes since 5 July 1948 amending the regulations affecting claims for Prescribed disease Nos D1, D2 and D3

- Appendix 3 - List of occupations for PD D3 mesothelioma
- Appendix 4 - Diagnosis for PD D1
- Appendix 5 - Spare
- Appendix 6 - Presumption before 6.3.15
- Appendix 7 - Disease where presumption should normally be automatic and those where automatic presumption is not appropriate

# Introduction 67001 - 67015

[General](#) 67001 - 67013

[Provision of NINO](#) 67011 - 67015

## General

67001 IIDB is payable for

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

caused by the work a person does<sup>1</sup>. A disease or injury is prescribed when the Secretary of State is satisfied that it is a risk arising from a person's occupation and not a risk common to everybody<sup>2</sup>.

1 SS CB Act 92, s 108(1); 2 s 108(2)

67002 The diseases and injuries for which benefit is payable and the occupations for which they are prescribed are laid down in legislation<sup>1</sup>. In this Chapter the term prescribed disease also includes prescribed injuries<sup>2</sup>.

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

67003 The provisions only apply to

1. employed earner's employment<sup>1</sup>**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<sup>2</sup> (see DMG 67101 et seq).

**Note:** If a PD is contracted while a person is S/E there is no entitlement to benefit.

1 SS CB Act 92, s 108(1)(a) & (b); 2 s 109(3); SS (II) (PD) Regs, 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 IA provisions if it is as a result of an accident.

67005 For claims made before 5.12.12, the date of onset or development of a PD, which may have resulted in incapacity, loss of faculty or death, must be on or after 5.7.48<sup>1</sup>. But, benefit can be paid from the NI fund for certain diseases resulting from employment before 5.7.48<sup>2</sup> (see DMG Chapter 64).

1 SS CB Act 92, s 108(1); 2 s 111 & Sch 8; WC(S) Scheme; PB & MDB Scheme

67006 For claims made from 5.12.12 the date 5.7.48 is no longer of relevance to eligibility to IIDB<sup>1</sup>. Therefore, DMs can consider entitlement to IIDB where the date of onset or development of a PD is before 5.7.48<sup>2</sup>.

1 WR Act 12, s 64(1); 2 SS CB Act 92, s 108(1)

67007 The DM will need to obtain medical advice to establish whether a

1. person is suffering or has suffered from a PD (the 'diagnosis' question) **or**
2. second or subsequent attack of a PD is a fresh attack or recrudescence (the 'recrudescence' question).

67008 Diseases and occupations are added to the Schedule<sup>1</sup> from time to time by amending legislation. These may be retrospective.

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

1 SS CB Act 92, s 108(3)

67009 PDs are grouped according to their causes. There are four groups. These are

1. Group A – diseases due to physical agents.
2. Group B – diseases due to biological agents.
3. Group C – diseases due to chemical agents.
4. Group D – miscellaneous diseases.

PDs 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.

67010 The grouping of PDs was introduced in 1983<sup>1</sup>. Previously there had been only numbering. A conversion table for PDs prescribed before 3.10.83 is at Appendix 1 to this Chapter.

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

## **Provision of NINO**

67011 For a claim for a PD there is a specific requirement<sup>1</sup> for a claimant to provide sufficient information or evidence to establish their NINO. See DMG 02172 et seq for full guidance.

1 SS A Act 92, s 1(1A) & (1B)

67012 - 67015

# Adaptation of legislation 67016 - 67040

[General](#) 67016

[Burden of proof](#) 67017 - 67020

[Benefits](#) 67021 - 67025

[Relevant disease](#) 67026 - 67040

## General

67016 Many of the statutory provisions governing accident claims apply without change to PD claims. Some apply with modifications, and others do not apply at all. Guidance on the adaptations and modifications is at DMG 67017 - 67038.

## Burden of proof

67017 The onus of proving that a person is or was suffering from a PD and that the remaining conditions for award of benefit under the PD 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 an REA award in pneumoconiosis cases (see DMG Chapter 71)
2. the satisfaction of the condition that the PD is due to the nature of the employment (see DMG 67101 et seq)
3. determining the date of onset (see DMG 67249)
4. recrudescence (see DMG 67141 et seq).

67018 - 67020

## Benefits

67021 The benefits payable for a PD and the general conditions for such benefits are the same as those for injury by IA<sup>1</sup>. So the guidance in DMG Chapter 66 regarding benefits in respect of accidents applies also to PD claims, subject to modifications in DMG 67022 et seq.

<sup>1</sup> SS CB Act 92, s 109(1)(a) & (b)

67022 In the case of PD A10, the 90 day waiting period does not apply and IIDB may be awarded from the date of claim<sup>1</sup>. In the case of PD D3, the 90 day waiting period was removed with effect from 9.4.97.

IIDB may be awarded from the day on which a person first suffers from a loss of faculty due to PD D3.

1 SS (II) (PD) Regs, reg 28

67023 Benefit is not payable for any PD, if there is an award under the provisions of a Scheme made under specific legislation<sup>1</sup>.

1 II & D Old Cases Act 75

67024 - 67025

## Relevant disease

67026 The expression relevant disease means the PD 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 (see DMG 67141 - 67150) or
2. a recrudescence of a disease for which compensation has been paid or awarded under specified legislation<sup>1</sup> (see DMG 67161 - 67167).

1 SS (II) (PD) Regs, reg 10; Workmen's Compensation Acts

67027 The DM should note that

1. references to accident are to be taken as references to PD unless they are modified by, or are inconsistent with, the PD provisions<sup>1</sup>
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 injury<sup>2</sup> (which relates to REA - see DMG Chapter 71) is to be taken as a reference to the effects of the relevant disease<sup>3</sup>.

1 SS CB Act 92, s 109; SS (II) (PD) Regs, reg 11; 2 SS (Gen) Regs, reg 17; 3 SS (II) (PD) Regs, reg 12

## Disease contracted outside Great Britain

67028 Special provisions apply where a disease has been contracted in connection with employment outside GB. Guidance on these provisions, and their effects, is at DMG 67131 - 67134.

## Claims and payments

67029 The provisions relating to claims and payments are generally the same for PDs as for accidents<sup>1</sup>.

However, there are differences which are

1. claimants are required to undergo medical examinations to enable the DM to determine whether they are suffering, or have suffered from, a PD<sup>2</sup> **and**

2. employees do not have to notify their employers that they have contracted a PD<sup>3</sup>.

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

1 SS (II) (PD) Regs, reg 12; 2 reg 19; 3 reg 18

67030

### **Prescribed disease contracted by industrial accident**

67031 The DM should decide claims for diseases caused by an IA 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 PD, and not the accident provisions<sup>1</sup>.

1 SS CB Act 92, 108(6)

67032 The DM should decide claims where the disease stems from a personal injury sustained by the claimant in an IA rather than from the accident itself under the accident provisions (see DMG Chapter 66

for full guidance).

67033 - 67035

### **Conditions resulting from Prescribed diseases (sequelae)**

67036 "Sequelae" is the term applied to conditions which result from PDs. 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 PD itself<sup>1</sup>.

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

67037 As far as the diagnosis question is concerned this means that if any people have suffered from a PD 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 PD for the purposes of determining the diagnosis question in a claim for benefit for the sequela.

67038 There is no presumption that a particular condition results from a particular PD. This question must be determined in the light of the medical evidence of the case.

67039 - 67040





## Questions arising on a prescribed disease claim 67041 - 67050

67041 DMG 67043 lists the questions arising on a claim for benefit for a PD. DMs 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.

67042 DMs should bear in mind, however, that if a FtT reverse an adverse decision on diagnosis following an appeal, they must resume enquiries on prescription and reach a decision on that question before considering the further questions at DMG 67043 **4.**

67043 The primary questions are

1. whether the disease for which benefit is claimed is a PD
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 PD.

67044 DMG 67043 **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 67043 **5.**) where a presumption exists that the disease claimed is due to the nature of the employed earner's employment.

67045 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 legislation and in relation to the employed earner.

67046 DMs should note that

- 1.** before disallowing a claim on any of the grounds in DMG 67072 they should consider if benefit could be paid under the IA provisions
- 2.** where **1.** applies they 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.**, they should disallow under the relevant ground in DMG 67043.

67047 - 67050

## Prescription 67051 - 67070

[Disease not prescribed](#) 67051 - 67062

[Prescription of diseases involving poisoning etc.](#) 67063 - 67070

### Disease not prescribed

67051 Benefit cannot be paid under the PD provisions for a disease which is not prescribed unless it has itself resulted from a PD (see DMG 67036). But as difficulties can arise in this type of situation, the DM should be entirely sure that disallowance is appropriate<sup>1</sup>.

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

67052 DMs should note that

1. if a claimant cannot identify a relevant disease they should ensure full enquiries have been made to check if the condition could have resulted from a PD
2. if they consider that the claimant may be suffering from a particular PD or from a sequela (even though the claimant has not identified it) they should not disallow as in DMG 67051 but should seek medical advice on the appropriate diagnosis question.

67053 Where DMG 67052 2. applies, further action in these cases depends upon the medical advice provided on the diagnosis question.

67054 - 67055

### Prescribed occupations

67056 Each PD is prescribed only for employed earners who have been employed in employed earner's employment in one or more occupations prescribed for that disease<sup>1</sup>.

**Note:** For claims before 5.12.12, a person had to be employed in employed earner's employment on or after 5.7.48.

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

67057 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.

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

67058 The PDs and their prescribed occupations are listed at Appendix 1 to this Chapter. Guidance on matters of particular interest concerning some of the PDs is at DMG 67181 et seq<sup>1</sup>.

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

67059 Whether the claimant has been employed in a prescribed occupation is a question of fact to be determined by the DM. 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 working<sup>1</sup>. However, when calculating periods of actual work, the DM should include normal breaks<sup>2</sup>. 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

67060 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 work<sup>1</sup>. 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 account<sup>2</sup>.

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

67061 Any doubt about whether the employment in the prescribed occupation was employed earner's should be referred to HMRC (see DMG Chapter 66).

67062 If it is clear that the claimant has not been employed in a prescribed occupation, the DM can disallow the claim without determining whether the claimant is suffering from the disease for which benefit is claimed<sup>1</sup>. 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.

## Prescription of diseases involving poisoning etc.

67063 The DM may have difficulty deciding prescription on claims for PDs involving poisoning or exposure to chemical or other agents (for example those in Group C and also PD D7). This is because employers (as well as claimants) cannot give sufficient details of the precise nature of the substances or agents involved. The DM may need to consult DMA Leeds in these cases about the need for expert opinion, for example from the Laboratory of the Government Chemist.

67064 Before a reference to DMA Leeds 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 DMA Leeds be

consulted.

67065 - 67070

## Diagnosis 67071 - 67090

[General](#) 67071 - 67072

[Determination of diagnosis question](#) 67073 - 67075

[References for medical advice](#) 67076 - 67090

### General

67071 The question whether a person is suffering or has suffered from a PD is referred to as a diagnosis question<sup>1</sup> and should be decided after obtaining medical advice from medical services.

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

67072 No action is needed on the diagnosis question if the claim fails completely on other grounds, for example prescription.

## Determination of diagnosis question

67073 For procedural purposes the PDs are divided into two categories, respiratory diseases and others, as distinct from the four groups into which they fall for prescription purposes<sup>1</sup>. The following table lists the PDs in these two categories

### Respiratory Other

	A1 - A14
	B1 - B5
B6	B7 - B15
	C1 - C16
C17 - C18	C19 - C22(a)
C22(b) C31	C23 - C30 C32
D1 - D3	D4 - D6
D7 - D12	D13

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

67074 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 67076 et seq.

67075

## References for medical advice

### Non-respiratory diseases

67076 When a diagnosis/disablement question arises on a claim for a non-respiratory disease the DM can refer the question for medical advice<sup>1</sup>. There are circumstances where this will not be necessary (see DMG 67080).

1 SS Act 98, s 11; SS CS (D&A) Regs, reg 12(1)(b)

67077 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 DM considers that the prescription question is satisfied (but see DMG 67832).

## Respiratory diseases

67078 In claims for respiratory diseases action is taken as in DMG 67076 - 67077 except that medical services will arrange for advice to be obtained from a medical adviser experienced in respiratory diseases<sup>1</sup>.

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

67079 Any variation from the usual procedure which may be required in the case of a particular PD is covered in DMG 67181 et seq.

## Power to dispense with reference for medical advice

67080 In exceptional circumstances the DM 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 decision<sup>1</sup>

**2.** a similar diagnosis or recrudescence question has been decided on any previous claim or question arising on the same PD suffered by the same person (see DMG 67081)

**3.** the DM considers that the whole or any part of a claim can be disposed of without deciding the diagnosis or recrudescence question (see DMG 67062).

**Note:** If the reports do not support a decision as in **1.** the DM should take action as in DMG 67076.

1 SS CB Act 92, s 108

67081 Where DMG 67080 **2.** applies the DM may take into account, in deciding the diagnosis question, any medical evidence on which the earlier decision was based<sup>1</sup>. The DM 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, reg 12(2) & (3)

67082 - 67085



## Raising the diagnosis question afresh

67086 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 given<sup>1</sup>.

**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)

67087 If a diagnosis question arises on a subsequent claim, the DM should follow the guidance in DMG 67071 - 67080. The diagnosis question cannot be raised afresh once an assessment of disablement has been made for that particular attack of the PD.

67088 - 67090

## Due to the nature of the employed earner's employment 67091 - 67140

[Presumption](#) 67101 - 67130

[Employment outside Great Britain](#) 67131 - 67134

[Evidence](#) 67135 - 67140

67091 To satisfy the conditions for benefit a PD must be due to the nature of a person's employment<sup>1</sup>.

This question is for the DM, FtT or UT to decide.

1 SS CB Act 92, s 108(1)(a) & (b)

67092 "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 considered<sup>1</sup>.

1 R(I) 38/52

67093 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 onset<sup>1</sup>

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 legislation<sup>2</sup>.

1 R(I) 10/53; 2 SS CB Act 92

67094 Such past employment must have had features exposing the claimant to the risk of contracting the PD, though not necessarily the same features<sup>1</sup>. If both employments satisfy the prescription laid down in legislation<sup>2</sup> it can be accepted that they are of the same nature.

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

67095 No account can be taken of employment which would not have been insurable or employed earner's employment, for example service in HMF<sup>1</sup>.

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

67096 - 67100

## Presumption

67101 There were changes to resumption from 16.3.15<sup>1</sup>. DMG 67102 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)

67102 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 presumption<sup>1</sup>,

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 occupation<sup>2</sup> **and**

2. was so employed on, or at any time within one month immediately preceding, the date of onset of the disease<sup>3</sup>.

**Note 1:** There is a different presumption for PD A3(b) (see DMG 67103).

**Note 2:** There is a different presumption for PDs B1(b) and B4(b) (see DMG 67105).

67103 Where a person has contracted PDs PDs A1, A2, A3(b), A10, A13, A14, A15, B2, B6, B8B, B13, C17, C18, C22(a), C24, C31, C32, C34, D2, D3, D6, D8, D8A, D9, D10, D11, D12 and D13 there is a presumption<sup>1</sup>, 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 occupation<sup>2</sup>.

**Note 1:** There is a different presumption for PD A3(a) (see DMG 67102).

**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**

67104 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 employment<sup>1</sup>.

**Note 1:** See DMG 67481 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**

67105 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 employment<sup>1</sup>. It will apply where a person who has contracted the PD

1. was employed in a prescribed occupation<sup>2</sup> **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 disease<sup>3</sup>.

**Note 1:** See DMG 67471 for guidance on PD B1, DMG 67475 for guidance on PD B4, DMG 67511 for guidance on PD B7 and DMG 67514 for guidance on PD B8A.

**Note 2:** There is a different presumption for PDs B1(a) and B4(a) (see DMG 67102).

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**

67106 There is a presumption that PD A12 occupation (b) will, unless the contrary is proved, be due to employed earner's employment<sup>1</sup>. It will apply where a person who has contracted the PD

**1.** was employed in a prescribed occupation<sup>2</sup> **and**

**2.** was so employed on, or at any time within one month immediately preceding, the date of onset of the disease<sup>3</sup>.

**Note 1:** See DMG 67406 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**

67107 There is a presumption that PD C23 occupations (a), (b) and (e) will, unless the contrary is proved, be due to employed earner's employment<sup>1</sup>. It will apply where a person who has contracted the PD was employed in a prescribed occupation<sup>2</sup>.

**Note 1:** See DMG 67616 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**

67108 Unless the contrary is proved, PD D1 is presumed to be due to the nature of employed earner's employment<sup>1</sup> if

**1.** the disease is prescribed in relation to a person in a scheduled occupation<sup>2</sup> **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**

67109 There is no presumption for PDs not included in DMG 67102 – 67108.

### **When presumption continues to apply**

67110 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 was<sup>1</sup>.

1 R(I) 38/52

### **When presumption does not apply**

67111 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.

67112 - 67130

### **Employment outside Great Britain**

67131 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 GB<sup>1</sup>. This provision does not apply to

1. mariners and aircrew<sup>2</sup> (see DMG Chapter 07)

2. people in employment in any designated area of the continental shelf<sup>3</sup> (see DMG Chapter 07)

3. people in a prescribed area<sup>4</sup> (see DMG Chapter 07)

4. people who pay certain Class 1 contributions<sup>5</sup> 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**

67132 The effects of European legislation must be considered if a person contracts a PD while working in an EEA country<sup>1</sup>. Generally the disease will be treated as having been contracted in the UK if the person has remained subject to the UK insurance scheme<sup>2</sup>. 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 disease<sup>2</sup>  
**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 country<sup>3</sup>.

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

67133 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.

67134 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 67101 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.

### **Evidence**

67135 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. 67136 -

67140

## Date of onset, recrudescence and fresh contraction 67141 - 67180

[Determination of recrudescence question](#) 67156 - 67160

[Date of onset where Workmen's Compensation received for the same disease](#) 67161 - 67180

67141 In PD cases the date corresponding to the date of accident is known as the date of onset. This is the date on which the PD is treated as having developed<sup>1</sup>.

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

67142 The DM does not have to determine a date of onset in every claim for a PD. For example if there has been a previous award of benefit for the same disease a recrudescence question arises. The DM then 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 fresh decision on date of onset is not needed. The date of onset is the date already accepted for the earlier award of benefit.

67143 Consideration of the date of onset is not affected by the renumbering of diseases. The DM 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.

67144 Apart from PD A10 (see DMG 67241 et seq) the date of onset in IIDB claims is the date the claimant first suffered from the relevant loss of faculty.

**Note:** For claims made before 5.12.12, the relevant loss of faculty had to be on or after 5.7.48.

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

67145 If the claim is made from a date during a period covered by an assessment of disablement relating to a previous award of IIDB 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 afresh<sup>1</sup>.

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

67146 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 disease<sup>1</sup>.

67147 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 disease<sup>1</sup>.

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

67148 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 disease<sup>1</sup>.

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

67149 Where a further attack of a disease is treated as a recrudescence of an earlier attack as in DMG 67145, the assessment must be referred for medical advice before the DM can supersede the earlier assessment<sup>1</sup> (see DMG 67156).

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

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

67150 If IIDB for a PD (other than D1 or D2) is claimed by a person who has been awarded or paid WC for the same disease, a recrudescence question may arise<sup>1</sup>. Guidance on the special provisions covering such cases is at DMG 67161.

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

67151- 67155

## Determination of recrudescence question

67156 Where a recrudescence question arises the DM must refer such a question for advice to a medical adviser together with any disablement question which arises<sup>1</sup>.

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

67157 DMs should determine the recrudescence question in the same way as a diagnosis question (see DMG 67071 - 67087). 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 favour<sup>1</sup>
2. if they rely on a previous decision (see DMG 67080 2.) and the recrudescence question cannot be determined without medical advice they should refer the case for medical advice<sup>2</sup>.



67158 When considering medical advice on the recrudescence DMs 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 contacted afresh **or**
  - 2.2 is a recrudescence of the earlier attack **or**
  - 2.3 did not develop on or after 5.4.78

they should give a decision accordingly.

67159 Also, when a claimant notifies that their condition has deteriorated, the DM should seek medical advice on whether there has been a change and, if so, the date it occurred. In relevant PD cases<sup>1</sup>, the DM 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, reg 7

67160

### **Date of onset where Workmen's Compensation received for the same disease**

67161 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 WC<sup>1</sup>. This liability is redeemed if compensation under specified legislation<sup>2</sup> 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 specified legislation<sup>3</sup>.

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, reg 8; 2 Workmen's Compensation Acts; 3 Workmen's Compensation Acts

67162 In a claim for a PD (apart from pneumoconiosis or byssinosis) by a person who had been awarded or paid WC for the same disease, a recrudescence question arises and is determined as in DMG 67156 - 67158. Where it is determined that the attack is a fresh contraction of the disease, the date of onset should be determined as if WC 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 specified legislation<sup>1</sup> was awarded or paid.

1 Workmen's Compensation Acts

67163 If the compensation awarded falls outside DMG 67161 the date of onset is to be determined in the ordinary way<sup>1</sup>. In such a case a recrudescence question does not arise<sup>2</sup>.

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

67164 For the purposes of DMG 67161 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 specified legislation<sup>1</sup>.

1 SS (II) (PD) Regs, reg 8(5); Workmen's Compensation Acts

67165 Compensation received under a contracting-out scheme under specified legislation is treated for these purposes as WC<sup>1</sup>.

1 SS (II) (PD) Regs, reg 8(6); Workmen's Compensation Acts

67166 If after claiming benefit for a PD the claimant obtains weekly payments under specified legislation (or if existing payments are increased), the DM may

1. reconsider any decision on the PD 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 if the change in the compensation award had been made at the date of the claim for benefit<sup>1</sup>.

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

67167 DMG 67166 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.

67168 - 67180

## Notes on individual diseases - general 67181 - 67190

- 67181 DMG 67182 et seq and Appendix 1 to this Chapter give guidance about differences in law relating to particular diseases, Commissioner's and UT Decisions, and other points of guidance and interest.
- 67182 Appendix 1 to this Chapter lists all changes in the terms of prescription, in the description and in the numbering of PDs (with effective dates) since 5.7.48.
- 67183 The two categories into which the PDs fall for procedural purposes in connection with diagnosis are set out in DMG 67073.
- 67184 The only PDs 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.

67185 DMG 67101 et seq gives guidance on presumption<sup>1</sup>. Further details are in the guidance on the particular disease.

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

67186 - 67190

## Prescribed diseases A1, A2, A3, A4 and A7 67191 - 67240

[Prescribed disease A1 before 30.3.17](#) 67191 - 67192

[Prescribed disease A1 from 30.3.17](#) 67193 - 67200

[Prescribed disease A2](#) 67201 - 67210

[Prescribed disease A3](#) 67211 - 67215

[Prescribed disease A4](#) 67216 - 67225

[Prescribed disease A7](#) 67226 - 67240

### Prescribed disease A1 before 30.3.17

67191 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

67192 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 A1 from 30.3.17

67193 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, ovary, stomach, testis or thyroid where the dose of ionising radiation is sufficient to double the risk of the occurrence of the condition<sup>1</sup>.

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

**Note 2:** See DMG 67191 for guidance on the phrase “Sufficient to double the risk of the occurrence of the condition”.

## Reduced earnings allowance

67194 The changes to PD A1 from 30.3.17 are an extension to the list of prescribed diseases or occupations.

Therefore, there is no entitlement to REA in respect of those changes as the extensions were after 10.10.94<sup>1</sup>.

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

67195 - 67200

## Prescribed disease A2

67201 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 redhot metal was covered.

67202 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”.

67203 From 10.7.00, unless transitional provisions apply (see DMG 67192), 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.

67204 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 hour<sup>1</sup>.

1 CI 388/50(KL)

67205 - 67210

## Prescribed disease A3

67211 Before 16.3.15 PD A3 was dysbarism, including decompression sickness, barotrauma and osteonecrosis. From 16.3.15<sup>1</sup> it was divided into PD A3(a) and PD A3(b)<sup>2</sup>. This was to allow for different presumption rules to apply<sup>3</sup> (see DMG 67102 – 67103). 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)<sup>4</sup>.

**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

67212 Entitlement to REA may still arise in respect of the change to PD A3 where a date of onset is before 1.10.90<sup>1</sup> 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)

67213 - 67215

### Prescribed disease A4

67216 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.

67217 Where a person suffered from an attack of one of the diseases numbered 28, 29 or 30 in the pre7.7.58 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.

67218 With effect from 6.4.07<sup>1</sup> 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 30.3.12<sup>2</sup> 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;

### Effect on REA

67219 As neither

**1.** the change in prescription for PD 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 REA can still be established (see DMG Chapter 71).

67220 - 67225

## Prescribed disease A7

67226 The DM should note that

1. manual labour, in the description of the prescribed occupation, merely means physical or bodily work and 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 67227).

67227 Examples for the purpose DMG 67226 **3.** are a traffic controller's duties operating a telephone switchboard were held to involve severe or prolonged friction or pressure<sup>1</sup> but a clerk's duties as a telephone operator were held not to involve severe or prolonged pressure<sup>2</sup>.

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

67228 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 source<sup>1</sup>. The external source can, however, be another part of the body.

1 R(I) 78/54

67229 The condition of beat elbow should be distinguished from that of tennis elbow which is a separate condition capable of exact diagnosis **and** is not a PD.

67230 However, with effect from 6.4.07, PD 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 REA

67231 As the change in prescription for PD A7 with effect from 6.4.07 was not an extension, entitlement to REA can still be established (see DMG Chapter 71).

67232- 67240

## Prescribed disease A10 (occupational deafness) 67241 - 67370

[Time limits for claiming](#) 67243 - 67255

[Prescription](#) 67256 - 67257

[Effect of current legislation](#) 67258 - 67259

[Obtaining and considering evidence](#) 67260 - 67262

[Application of legislation](#) 673263 - 67270

[Degree of usage](#) 67271

[Pneumatic](#) 67272

[Percussive](#) 67273 - 67275

["Wholly or mainly"](#) 67276 - 67280

["Of the use of"](#) 67281

["Whilst they are being so used"](#) 67282 - 67295

[Prescribed occupation \(a\)](#) 67296 - 67325

[Prescribed occupation \(b\)](#) 67326 - 67330 [Prescribed](#)

[occupation \(c\)](#) 67331

[Prescribed occupation \(d\)](#) 67332 - 67340

[Prescribed occupation \(e\)](#) 67341 - 67342

[Prescribed occupation \(f\)](#) 67343 - 64344

[Prescribed occupation \(g\)](#) 67345 - 67346

[Prescribed occupations \(h\), \(i\) and \(j\)](#) 67347

[Prescribed occupation \(k\)](#) 67348 [Prescribed](#)

[occupation \(l\)](#) 67349 - 67350

[diagnosis](#) 67351 - 67352

[Assessment](#) 67353- 67360

[Re-assessment at less than 50 decibels](#) 67361

[Change of circumstances](#) 67362 - 67364

[Due to the nature of employed earner's employment](#) 67365 - 67370

67241 This disease was prescribed as PD 48 from 28.10.74 although benefit was not payable until 3.2.75<sup>1</sup>. Changes were made to the description of the disease from 3.9.79 and 3.10.83<sup>2</sup> and again from 16.10.89<sup>3</sup>. 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 National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1974, reg 2 & Sch;

2 SS (II) (PD) Amdt (No. 4) Regs 79, reg 2 & Sch; SS (II) (PD) Amdt (No. 2) Regs 83, reg 3(2) & Sch 1;3 SS (II) (PD) Amdt Regs 89, reg 4; SS (II) (PD) Amdt (No. 2) Regs 03, reg 2(1)(2) & (3)

67242 Claims to benefit for occupational deafness are subject to numerous special provisions and restrictions.

Guidance is arranged as follows

Time limits for claiming (see DMG 67243)

Date of onset (see DMG 67249)

Prescription (see DMG 67256)

Diagnosis (see DMG 67351)

Assessment (see DMG 67353)

Due to the nature (see DMG 67365).

### **Time limits for claiming**

67243 The normal time limits for claiming benefit<sup>1</sup> 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 earner's employment in a prescribed occupation<sup>2</sup>. IIDB cannot be paid for any day before the date of claim.

67244 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)<sup>1</sup>.

1 R(I) 2/79

67245 If a claim has been disallowed on the five year rule (see DMG 67243) 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.

67246 If a claim has been disallowed on diagnosis a further claim to benefit can only be allowed if the claim<sup>1</sup> 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 DM or a FtT.

1 SS (II) (PD) Regs, reg 27(1)(a) & (b)

67247 A claimant may find that by delaying a claim until after the dates in DMG 67246 **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 occupation<sup>1</sup>. When a claim is made under this provision the normal conditions for satisfying PD A10 still apply, for example the deafness must be occupationally caused.

**Note:** See DMG 67243 for guidance on the five year time limit.

1 SS (II) (PD) Regs, reg 27(1)(c)

## **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

16.6.95 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.

67248 The DM, the FtT or the UT may disallow a claim made under DMG 67247 without referring for a medical where the medical evidence satisfies the DM, FtT or UT that the claimant does not have occupational deafness<sup>1</sup>.

## Date of onset

67249 In a claim for occupational deafness the date of onset<sup>1</sup> 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, reg 6(2)(c); SS Act 90, Sch 6, para 4(3)

67250 - 67255

## Prescription

### General

67256 Since the introduction of this PD 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 them<sup>1</sup>
2. 3.10.83 - which amended supervision and assistance to work in the immediate vicinity and added further occupations to those prescribed<sup>2</sup>
3. 4.1.88 - which amended the definitions of the first five prescribed occupations to clarify legislation in areas of doubt and ambiguity<sup>3</sup>
4. 10.10.94 - which added further occupations to the prescribed list and amended two prescribed occupations<sup>4</sup>
5. 22.9.03 - which added two new occupations to the list, amended two others and regrouped the entire list<sup>5</sup>.

**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 79; 2 SS II (PD) Amdt (No. 2) Regs 83;  
3 SS II (PD) Amdt (No. 2) Regs 87; 4 SS II (PD) Amdt Regs 94; 5 SS II (PD) Amdt (No. 2) Regs 03

67257 The guidance in DMG 67258 - 67365 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 DM will need this guidance in deciding claims which were made and questions which arose before that date.

## **Effect of current legislation**

67258 The conditions of entitlement are that the claimant must have been employed in employed earner's employment for a period (or periods totalling) not less than ten years in a prescribed occupation<sup>1</sup>.

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

67259 Employment means work actually done, not the contractual obligation to do it<sup>1</sup>. 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. If an employment is not prescribed there is no entitlement to benefit even if the claimant has been in a noisier occupation<sup>2</sup>.

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

## **Obtaining and considering evidence**

67260 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 DM 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 DM should disallow the claim without further enquiry.

67261 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.

67262 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

67263 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 meaning<sup>1</sup>.

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

67264 DMG 67271 et seq give 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 and UT.

## Degree of usage

67271 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 machine<sup>1</sup>.

1 R(I) 1/78

## Pneumatic

67272 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 DM 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 DM should not accept it as a pneumatic tool<sup>1</sup>.

1 R(I) 6/83

## Percussive

67273 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 basis<sup>1</sup>, for example the pneumatic tools used to tighten car wheel nuts in garages.

1 R(I) 5/76

## Tools and machines

67274 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 tools<sup>1</sup>.

There is no clear-cut distinction between a machine and a machine tool. In PD 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

67275

### “Wholly or mainly”

67276 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.

67277 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.

67278 In order to give a result most favourable to the claimant, the DM should include or exclude from the calculation blocks of work which because of, for example

1. changes of shift **or**

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.

67279 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 DM 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.

6780 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”**

67281 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”**

67282 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 67281 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 time<sup>1</sup> 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

67283 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.

67284 - 67285

### **Immediate vicinity of**

67286 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 case<sup>1</sup>. 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.

67287 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)<sup>1</sup>
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 work<sup>2</sup>)
3. the presence of walls or screening substantially dividing or enclosing the location of the tools or plant from the area of work<sup>3</sup>
4. the noise emitted by a particular tool or piece of plant (but see DMG 67288).

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

67288 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 legislation does not provide for 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.

67289 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 DM should bear in mind the dictionary definition of immediate, "next to, with nothing in between" rather than to the level of noise (although as indicated in DMG 67288 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 DM should consider all the factors set out in DMG 67287 and reach a decision on the balance of probability.

### **Immediate vicinity - equipment/claimant subject to movement**

67290 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.

67291 Where DMG 67278 applies the DM 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.

67292 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
- and
2. the numbers involved
- and
3. the purposes for which they were used
- and
4. the amount and duration of use.

Confirmation should then be sought from the employer.

67293 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 DM 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 FtT.

67294 - 67295

## **Prescribed occupation (a)**

### **Foundry, metalwork and associated industries**

67296 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.

67297 Powered should be taken to mean that the grinding tool is operated by mechanical or electrical power produced by a machine.

67298 Grinding is primarily a metal removing operation for cleaning, dressing or finishing of metal. It is different from polishing or sanding. Thus the DM should not accept polishing and sanding as grinding operations.

### **Cleaning, dressing and finishing**

67299 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

**3.** in the case of castings, to repair after use.

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

### **On metal**

67300 The term **metal** does not include stone, concrete or other substances used in road or rail construction<sup>1</sup>.

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

67301 For the purposes of this prescribed occupation a spot welding machine is classed as a pneumatic percussive tool<sup>1</sup>.

1 Appleby v. CAO

### **Air arc gouging**

67302 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**

67303 This is the area of a steel mill where the steel product is moved from the area of its formation to the finishing area<sup>1</sup>.

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

### **Knock out and shake out grids**

67304 These are grids used for mechanically separating moulding sand from moulds and castings<sup>1</sup>.

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

67305 - 67310

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

67311 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 67317 - 67318).

### **Forging**

67312 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**

67313 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.

67314 The DM 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**

67315 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.

67316 The DM 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**

67317 It is important to distinguish forging press equipment from power press 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 legislation<sup>1</sup>. 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

67318 The DM 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 industry<sup>1</sup>.

1 R(I) 1/87

### **Machine to cut, shape or clean metal nails**

67319 For the purpose of this prescribed occupation the term nail should not be given too restrictive a meaning<sup>1</sup>. 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**

67320 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.

67321 - 67325

### **Prescribed occupation (b)**

#### **Mining, Quarrying and Tunnelling**

67326 To satisfy the term "quarryworks" the work must be carried out in quarries.

#### **Underground**

67327 "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 DM should reject<sup>1</sup> any contention that the word can be applied to work in places below ground level but open to the air, for example a trench.

## **Mining coal**

67328 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.

67329 DMs should establish the precise use to which pneumatic percussive tools were put in the mining process, before deciding prescription.

67330 Pneumatic percussive tools used in civil engineering are also known as “jack hammers”.

## **Prescribed occupation (c)**

### **Concrete products**

67331 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**

67332 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**

67333 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 DM should interpret weaving in a strict sense; it does not, for example, cover knitting<sup>1</sup>.

### **High speed false twisting**

67334 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.



67335 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.

67336 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.

67337 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**

67338 Mechanical bobbin cleaning entails the removal of fibres from bobbins by means of a machine consisting of a line of driven parallel rollers and is used in the textile industry.

67339 - 67340

### **Prescribed occupation (e)**

#### **Woodworking and associated industries**

67341 This category covers a 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.

67342 As from 22.9.03 the use of chainsaws 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**

67343 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).

67344 The process of jet channelling involves the burning of natural stone in quarries.

## **Prescribed occupation (g)**

### **Engines in ships and aircraft**

67345 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.

67346 The acceptance testing of civil aeroplanes is not covered by the prescription.

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

### **The glassmaking and associated industries**

67347 Hollow ware includes vases, glasses and ornaments but not flat glass.

## **Prescribed occupation (k)**

### **Police firearms training officers**

67348 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 IA provisions.

## **Prescribed occupation (l)**

### **Shot blasting**

67349 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.

67350

## **Diagnosis**

67351 Diagnosis questions are determined in basically the same manner as other PDs 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 IIDB claim is for disallowance by the DM 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 advice on the diagnosis<sup>1</sup>.

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

67352 With PD A10 occupational deafness (as with PDs, 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 contraction<sup>1</sup>.

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

## Assessment

67353 Assessment of the level of disablement due to the relevant loss of faculty is by means of a formula laid down in legislation<sup>1</sup>. The formula measures the dB hearing loss in each ear and also the binaural disablement.

1 SS (II) (PD) Regs, reg 34 & Sch 3

67354 The first table is for use in claims made before 3.9.79 which result in payment of benefit for a period before that date<sup>1</sup>. The 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 table<sup>2</sup>. A degree of disablement of 100% only arises where hearing loss is 106 dB or more.

1 SS (II) (PD) Regs, reg 34(1) & Sch 3, Part I; 2 reg 34(2) & Sch 3, Part II

67355 An effect of amending legislation<sup>1</sup> 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 condition<sup>2</sup>.

1 SS (II) (PD) Amdt (No. 4) Regs 79, reg 6; 2 (II) (PD) Amdt (No. 2) Regs 83, reg 14

67356 There are provisions<sup>1</sup> which apply to claimants who were assessed under the pre 3.9.79 provisions which in some cases enable IIDB 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 67357 - 67359.

1 SS (II) (PD) Regs, reg 34(7)-(9)

67357 If the renewal is before 3.10.83 the DM can award the

1. normal rate taking into account the medical advice on the renewal assessment<sup>1</sup> **or**

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

1 SS (II) (PD) Regs, reg 34(7)(b)(i); 2 reg 34(7)(b)(ii)

67358 If the renewal is **on or after** 3.10.83 the DM 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 renewal<sup>1</sup> **or** 2. this is the

first re-assessment since 3.9.79<sup>2</sup>.

1 SS (II) (PD) Regs, reg 34(8)(a); 2 reg 34(8)(b)

67359 If either DMG 6758 1. or 2. applies the DM 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 effect<sup>1</sup>. Otherwise the DM should consider awarding the rate

1. payable if disablement had been renewal according to the pre 3.9.79 scales of assessment<sup>2</sup> (the renewal board will provide the notional degree) **or**

2. in payment immediately before renewals takes effect<sup>3</sup>

whichever is lower, on a mark-time basis.

1 SS (II) (PD) Regs, reg 34(9)(a); 2 reg 34(9)(b)(i); 3 reg 34(9)(b)(ii)

67360

## **Re-assessment at less than 50 decibels**

67361 The word permanent was removed from the description of the disease in 1983<sup>1</sup>. The legislation now provides that if on reassessment 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 payable<sup>2</sup>. Any assessment of less than 20% is final. However the claimant may ask for his claim to be reconsidered or may appeal to a FtT or make a fresh claim. But see DMG 67246 - 67247 for restrictions on further claims.

1 SS II (PD) Amdt (No. 2) Regs 83; 2 SS (II) (PD) Regs, reg 34(5) & (6)

## Change of circumstances

67362 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 PD 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.

67363 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.

67364 If the DM 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 appropriate<sup>1</sup>. The effective date of the new decision will be the date the decision is given<sup>2</sup>. 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, reg 6(2) (b) & (3); 2 SS Act 98, s 10(5)

### Example

Bill was diagnosed as suffering from PD A10 and was awarded IIDB 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 PD A10 and this was accompanied by a full explanation why the original audiometric test was incorrect. On 15.10.09 the DM 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

67365 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 presumed<sup>1</sup>, unless the contrary is proved, that PD A10 is due to the employed earner's employment if the person who contracted it was employed in a prescribed occupation<sup>2</sup>. 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, reg 4(2); 2 Sch 1, Part 1

# Prescribed disease A11 67371 - 67405

[Prescription](#) 67372 - 67385

[Diagnosis before 1.10.07](#) 67386 - 67387

[Diagnosis from 1.10.07](#) 67388 - 67400

[Effect of REA entitlement](#) 67401

[Transitional provisions](#) 67402

[Injury by accident](#) 67403 - 67405

67371 PD A11 was added to the list of PDs on 1.4.85. Benefit cannot be paid for this PD for any day before 1.4.85<sup>1</sup>.

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

1 SS (II) (PD) Regs, reg 43(1) & Sch 4

## Prescription

67372 From 1.10.07 the prescription<sup>1</sup> of PD 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 PD A11.

**Note 2:** See DMG 67402 for guidance on when transitional provisions apply.

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

67373 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.

67374 In addition, the changes recognise that some people exposed to vibration develop sensorineural symptoms with minimal or no vascular symptoms.

67375 Each of the activities described in the list of prescribed occupations is restricted to work in a particular industry or industries for (d) and (e) or processes for (a), (b) and (c).

67376 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 wood<sup>1</sup>. This is in line with the change in relation to PD A10 from 22.9.03 (see DMG 67342). Before 1.10.07 DMs 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 employment<sup>2</sup>.

1 SS (II) (PD) Regs, 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.

67377 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 metal<sup>1</sup>.

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

## 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 PD A11. The DM decides that the prescription is not satisfied because Trevor does not use a metal-working tool.

67378 In deciding whether the activities of an occupation fail to be described as “demolition” within the context of (d) the DM 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.

67379 The DM 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.

67380 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 DM 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.

67381 - 67385

## Diagnosis before 1.10.07

67386 Before 1.10.07 PD A11 was defined as episodic blanching of the phalanges. These are vascular symptoms. Once a person has been diagnosed as suffering from PD 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 symptoms<sup>1</sup>.

**Note:** See DMG 67402 for guidance on when transitional provisions apply.



67387 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**

67388 The revised prescription for PD 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 PD A11 was diagnosed on the basis of the extent of the vascular symptoms.

67389 As is the case with PD 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.

67390 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 symptoms<sup>1</sup>.

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

67391 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 PD 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. 67392 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 DM should be satisfied that the medical adviser has given careful consideration to probable other causes of the symptoms.

67393 The DM 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 67402 et seq for guidance on transitional provisions.

67394 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 DM would base their opinion and decision on all available evidence and apply the test of balance of probabilities.

67395 - 67400

## Effect on REA entitlement

67401 There is no entitlement to REA where entitlement arises from PD A11 diagnosed and assessed solely on the basis of the sensorineural symptoms because this is an extension of PD A11 after 10.10.94<sup>1</sup>. However, entitlement to REA may still arise where the date of onset of PD A11 due to vascular symptoms is before 1.10.90<sup>2</sup>. This is because the new vascular symptoms are **not** an extension of PD A11. Cases of doubt should be referred to DMA Leeds for advice.

1 SS CB Act 92, Sch 7, para 11(1); SS (II) (PD) Regs, reg 14A; 2 SS CB Act 92, Sch 7, para 11(1)

## Transitional provisions

67402 The prescription conditions in force before 1.10.07 continue to apply to

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

**1.1** before 1.10.07<sup>1</sup> **or**

**1.2** no later than 31.12.07 where the date of onset is before 1.10.07<sup>2</sup> **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 1.10.07<sup>3</sup> **or**

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

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

**3.2** provisional award

where there is no break<sup>4</sup>.

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

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regs 2007, 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**

67403 Claims for vibration white finger should always be actioned under the PD 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 DMA Leeds, with full details of the circumstances before any action is taken.

67404 - 67405

## **Prescribed diseases A12 and A13 67406 - 67430**

[Prescribed disease A12](#) 67406

[Prescription](#) 67407 - 67422

[Transitional provisions](#) 67423 - 67425

[Presumption and recrudescence](#) 67426

[Prescribed disease A13](#) 67427 - 67430

## **Prescribed disease A12**

67406 PD A12 carpal tunnel syndrome, was added to the list of PDs on 19.4.93. There is no entitlement to benefit for this PD before this date<sup>1</sup>.

<sup>1</sup> SS (II) (PD) Amdt Regs 93; II (PD) Regs, Sch 1, part 1

## **Prescription**

67407 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 hand<sup>1</sup>. The revised prescription does not apply to tools that have no internal vibrating parts.

1 SS (II & D) (Misc Amdt) Regs, reg 5(5)

67408 With effect from 6.4.07 the prescription was changed again. The revised prescription<sup>1</sup> 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 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.

**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 condition<sup>2</sup>.

**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 07, reg 2(7); 2 R(I) 1/09

67409 Prescription conditions in force prior to 24.3.96<sup>1</sup> continue to apply in the types of cases set out in DMG 67423 - 67424. Also, prescription conditions in force prior to 6.4.07<sup>2</sup> continue to apply in the types of cases set out in DMG 67425.

1 SS (II & D) (Misc Amdt) Regs, reg 7; 2 SS (II) (PD) Amdt Regs 07, reg 3

67410 A12 is a disease which affects the wrists and is caused by vibration transmitted to the wrists and hands. Prior to 6.4.07 there is 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 DMs should note the time conditions in DMG 67408 **2.**

## Hand-held

67411 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 control<sup>1</sup>.

**Vibrating**

67412 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.

67413 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.

67414 Tools which should not be accepted as hand-held vibrating tools include

1. sewing machines including 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 because they do not contain within them a source of vibration; they merely transmit vibration from something else.

67415 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 DMA Leeds, with full details.

67416 - 67420

**Effect on REA entitlement**

67421 As the change in prescription for PD A12 from 24.3.96 was not an extension, entitlement to REA can still be established (see DMG Chapter 71).

67422 However, there was an extension in the change in prescription for PD A12 with effect from 6.4.07.

Therefore, there is no entitlement to REA for people who satisfy this extended prescription<sup>1</sup>. Cases of doubt should be referred to DMA Leeds for advice.

<sup>1</sup> SS CB Act 92, Sch 7, para 11(1)

**Transitional provisions**

67423 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 continuous<sup>1</sup> **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<sup>2</sup> on any claim) takes place on or after 24.3.96 **and**
  - 2.3 the review results in an assessment which includes 24.3.96<sup>3</sup> **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 24.3.96<sup>4</sup> **or**
4. who had an assessment of disablement which ended before 24.3.96 **and**
  - 4.1 who suffer a recrudescence<sup>5</sup> of the same disease (DMG 67145) beginning before 24.3.96 **and** 4.2 who make a claim in respect of that disease after 24.3.96<sup>6</sup>.

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)

67424 For the purpose of 67423 **1.**, **2.** or **3.** two or more assessments which are consecutive are treated as one continuous assessment<sup>1</sup>.

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

67425 The prescription conditions in force prior to 6.4.07<sup>1</sup> 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**

67426 There are special rules for presumption for PD A12 occupation (b) (see DMG 67106). There is no presumption for PD A12 occupation (a). The recrudescence provisions **do** apply<sup>1</sup>.

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

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

## **Prescribed disease A13**

67427 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.

67428 - 67430

# Prescribed disease A14 67431 - 67440

[Introduction](#) 67431

[Prescription - work underground in a coal mine](#) 67432 - 67434

[Prescription - work fitting or laying carpets or floors](#) 67435 - 67436

[Causation](#) 67437

[Effect on REA entitlement](#) 67438 - 67440

## Introduction

67431 PD A14, osteoarthritis of the knee, was added to the list of PDs on 13.7.09<sup>1</sup>. There is no entitlement to benefit for this PD before this date. It was extended with effect from 30.3.12<sup>2</sup> (see DMG 67435 - 67436). There is no entitlement to benefit under the extension before that date.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2009, reg 1; 2 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2012, reg 1

## Prescription - work underground in a coal mine

67432 To satisfy this 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

2.1 face worker working on a non-mechanised coal face **or**

2.2 development worker **or**

2.3 face-salvage worker **or**

2.4 conveyor belt cleaner **or**

2.5 conveyor belt attendant<sup>1</sup>.



## 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 PD A14. Malcolm satisfies the occupation test.

67433 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 67432 **2**. have been prescribed. Therefore, for periods from 1.1.86 it is necessary for DMs 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 DM has to consider is what did the claimant actually do.

**Note 2:** Osteoarthritis of the knee includes patella-femoral osteoarthritis<sup>1</sup>.

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 PD A14. He satisfies the occupation test.

## Non-mechanised coal face

67434 For the purposes of DMG 67432 **2.1**, a non-mechanised coal face is a coal face without

**1.** either

**1.1** powered roof supports **or**

**1.2** a power loader machine which simultaneously cuts and loads the coal **or 2.** both **1.1** and

**1.2**<sup>1</sup>.

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

## Prescription - work fitting or laying carpets or floors

67435 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 more<sup>1</sup>.

**Note:** People who fit or lay carpets or floors may be S/E. To satisfy the prescription test people must be in employed earner's employment<sup>2</sup>.

1 SS (II) (PD) Regs, Sch 1, Part 1; 2 SS CB Act 92, s 108(1)

### **Wholly or mainly**

67436 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 DMs should take account of variations in the pattern of work and it may require averaging over an appropriate period.

### **Causation**

67437 Before 16.3.15 causation required careful consideration because presumption that PD 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 employment. However, from 16.3.15 there is a presumption, unless the contrary is 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 occupation<sup>2</sup> (see DMG 67103).

**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**

67438 There is no entitlement to REA for PD A14 because it is a new disease prescribed after 10.10.94<sup>1</sup>. The extension to the disease from 30.3.12 does not affect the position.

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

67439 - 67440

## **Prescribed disease A15 67441 - 67470**

[Introduction](#) 67441

[Prescription](#) 67442

[Change to prescription from 28.3.22](#) 67443 - 67446

## Introduction

67441 PD A15, Dupuytren's contracture, was added to the list of PDs on 9.12.19<sup>1</sup>. There is no entitlement to benefit for this PD before this date. Dupuytren's contracture is a condition in which one or more fingers become permanently bent in a flexed position. It usually begins as small hard nodules just under the skin of the palm, then worsens over time until the fingers can no longer be straightened. Cases where only the thumb is affected should be referred to DMA for advice.

*1 SS (II) (PD) Amdt Regs 19, reg 1*

## Prescription

67442 To satisfy this prescription test, claimants must have worked in any occupation involving the use of hand-held powered tools whose internal parts vibrate so as to transmit that vibration to the hand, but excluding those tools which are solely powered by hand, where

1. the use of those tools amounts to a period or periods in aggregate of at least 10 years
2. within that period or those periods, the use of those tools amounts to at least 2 hours per day for 3 or more days per week **and**
3. the onset of the disease fell within the period or periods of use specified<sup>1</sup>.

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

## Change to prescription from 28.3.22

67443 The new prescription<sup>1</sup> for A15 from 28.3.22 will be satisfied where the existing occupational requirements are met (see 67442) and there is fixed flexion deformity of one or more of the

1. metacarpophalangeal joints (MCPJ) greater than 45 degrees that developed either
  - 1.1 during the course of the claimant's occupation or
  - 1.2 after the period of occupation where there is evidence of MCPJ involvement or palmar changes (nodules or thickening) during the period of occupation or
2. interphalangeal joints (IPJ) that developed either

2.1 during the course of the claimant's occupation or

2.2 after the period of occupation where there is evidence of MCPJ involvement or palmar changes (nodules or thickening) during the period of occupation.

**Note 1:** The legislation<sup>1</sup> for England and Wales and for Scotland are worded the same with regards to the changes of the prescription of A15.

**Note 2:** Decision makers and appeal writers should, where appropriate, refer to the correct legislation according to whether the claimant is in Scotland or in England and Wales.

*1 [SS \(II\)\(PD\) Amdt Regs 2022](#), [SS \(II\) \(PD\) Amdt \(Scotland\) Regs 2022](#); SS (II) (PD)*

*Regs 1985*

### **Backdating of claims**

67444 Where claims are backdated the claimant must be eligible for IIDB during the backdated period in order to receive payment.

67445 All undecided claims made

1. prior to and

2. within three months

of 28.3.22 should be assessed and determined for IIDB entitlement using the prescriptions for A15 in both sets of regulations<sup>1</sup>.

**Note:** For guidance on the prescriptions see 67442 and 67443.

*1 [SS \(II\)\(PD\) Amdt Regs 2022](#), [SS \(II\) \(PD\) Amdt \(Scotland\) Regs 2022](#); 2 SS (II) (PD)*

*Regs 1985*

67446 For claims made before 28.3.22 but assessed and determined after that date where the claimant

1. does not satisfy the prescription in relevant legislation<sup>1</sup> and 2.

satisfies the new prescription<sup>2</sup>

any part of the claim which falls before 28.3.22 should be disallowed for that period.

## Presumption

67447 Where a person has contracted PD A15 there is a presumption<sup>1</sup>, 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 occupation<sup>2</sup>.

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

## Reduced earnings allowance

67448 There is no entitlement to REA in respect of PD A15 because the disease was prescribed after 10.10.94<sup>1</sup>.

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

67449 - 67470

## Prescribed diseases B1, B3 and B4 67471 - 67480

[Prescribed disease B1](#) 67471 - 67472

[Prescribed disease B3](#) 67473 - 67474

[Prescribed disease B4](#) 67475 - 6780

### Prescribed disease B1

67471 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 16.3.15<sup>1</sup> PD B1 was divided into PD B1(a) and PD B1(b)<sup>2</sup>. This was to allow for different presumption rules to apply<sup>3</sup> (see DMG 67102 and 67105). 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)<sup>4</sup>.

**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**

67472 Entitlement to REA may still arise in respect of the change to PD B1 where a date of onset is before 1.10.90<sup>1</sup> 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**

67473 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.

67474 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 employment<sup>1</sup>.

1 R(I) 20/52

### **Prescribed disease B4**

67475 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 16.3.15<sup>1</sup> PD B4 was divided into PD B4(a) and PD B4(b)<sup>2</sup>. This was to allow for different presumption rules to apply<sup>3</sup> (see DMG 67102 – 67105). 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)<sup>4</sup>.

**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

67476 Entitlement to REA may still arise in respect of the change to PD A3 where a date of onset is before 1.10.90<sup>1</sup>

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)

67477 - 67480

## Prescribed disease B5 (tuberculosis) 67481 - 67500

[Prescription before 16.3.15](#) 67481 - 67482

[Prescription from 16.3.15](#) 67483

[Reduced earnings allowance](#) 67484

[Definition of tuberculosis](#) 67485 - 67486

[Sources of tuberculous infection](#) 67487 - 67488

[Due to the nature of the employed earner's employment](#) 67489

[Presumption](#) 67490 - 67493

[Previous history of tuberculosis](#) 67494 - 67500

## Prescription before 16.3.15

67481 This occupation was widened in 1983<sup>1</sup> 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

67482 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

67483 With effect from 16.3.15<sup>1</sup> the prescription was changed. The revised prescription<sup>2</sup> 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 67104 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

67484 Entitlement to REA may still arise in respect of the change to PD B5 where a date of onset is before 1.10.90<sup>1</sup> 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

67485 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 pneumoconiosis<sup>1</sup>.

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



67486 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 (Bezoin'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**

67487 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 bacillus<sup>1</sup>

2. the risk of infection from washing crockery handled by persons suffering from tuberculosis is negligible<sup>2</sup>
3. mattresses and bed linen might possibly be sources of infection<sup>3</sup>
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 infection<sup>4</sup>
6. tuberculous meningitis in a child is not an "open" case of tuberculosis and is not considered to be a source of tuberculous infection<sup>5</sup>
7. tubercle bacilli can live for months if the conditions for their survival are favourable<sup>6</sup>.

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

67488 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 employment<sup>1</sup>.

1 R(I) 57/52

### **Due to the nature of the employed earner's employment**

67489 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 avail<sup>1</sup>. 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

67490 There are special rules for presumption for PD B5 occupation (a) (see DMG 67104). There is no presumption for PD B5 occupation (b).

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

67491 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 outside<sup>1</sup>.

1 R(I) 38/52

67492 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 favour<sup>1</sup>.

1 R(I) 16/52

67493 If the presumption in DMG 67104 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 probability<sup>1</sup>.

1 R(I) 30/55

## Previous history of tuberculosis

67494 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.

67495 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 law<sup>1</sup>.

**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

67496 - 67500

## Prescribed diseases B6, B7, B8A, B8B and B9 67501 - 67520

[Prescribed disease B6](#) 67501 - 67510

[Prescribed disease B7](#) 67511 - 67512

[Prescribed diseases B8A and B8B](#) 67513 - 67515

[Prescribed disease B9](#) 67516 - 67520

### Prescribed disease B6

67501 Extrinsic allergic alveolitis is an inflammatory disease caused by reaction to inhaled organic dust. The disease may be referred to as hypersensitivity pneumonitis. Extrinsic allergic alveolitis and hypersensitivity pneumonitis are synonymous. Other forms of the disease can also be occupationally related. Occupational cover was expanded<sup>1</sup> 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.

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

67502 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.

67503 With effect from 6.4.07<sup>1</sup> the prescribed occupations were extended to include people whose work involves exposure to metalworking fluid mists (see DMG 67506 for the effect on REA).

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

67504 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 67506 for the effect on REA).

### Prescription test not satisfied

67505 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.

**Note:** From 30.3.17, if PD B6 is not satisfied, DMs should consider PD C34 (see DMG 67674 et seq).

### **Effect on REA**

67506 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 10.10.94<sup>1</sup>.

Similarly, the changes to PD B6 from 30.3.17 are an extension to the list of prescribed diseases or occupations. Therefore, there is no entitlement to REA in respect of those changes as the extension was after 10.10.94. Cases of doubt should be referred to DMA Leeds for advice.

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

67507 - 67510

### **Prescribed disease B7**

67511 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 67105 and Appendix 7 to this Chapter for guidance on presumption for PD B7.

67512 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.

### **Prescribed diseases B8A and B8B**

67513 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.

67514 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.

67515 In any case where the prescription test is not satisfied, the DM should consider alternative entitlement under the accident provisions.

### **Prescribed disease B9**

67516 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.

67517 - 67520

### **Prescribed diseases B10(a), B10(b), B11, B12, B13, B14 and B15 67521 - 67560**

[Prescribed diseases B10\(a\) and B10\(b\)](#) 67521 - 67523

[Prescribed disease B11](#) 67524 - 67525

[Prescribed disease B12](#) 67526

[Prescribed disease B13](#) 67527 67530

[Prescribed disease B14](#) 67531

[Prescribed disease B15](#) 67532 - 67560

## **Prescribed diseases B10(a) and B10(b)**

67521 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.

67522 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.

67523 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.

## **Prescribed disease B11**

67524 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.

67525 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**

67526 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**

67527 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.

67528 - 67530

## **Prescribed disease B14**

67531 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

67532 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.

67533 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 DMA Leeds for advice.

### Change from 28.9.18

67534 From 28.9.18 the prescription for PD 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 latex<sup>1</sup>. 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, Sch 1

67535 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

67536 DMs should note that where a person has contracted PD B15 there is a presumption<sup>1</sup>, 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 occupation<sup>2</sup> **and**

2. was so employed on, or at any time within one month immediately preceding, the date of onset of the disease<sup>3</sup>.

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

### **Reduced earnings allowance**

67537 The change to PD B15 is an extension to the list of prescribed diseases or occupations.

Therefore, there is no entitlement to REA in respect of that change as the extension was after 10.10.94<sup>1</sup>.

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

67538 - 67560

### **Prescribed diseases due to chemical agents 67561 - 67710**

[General guidance on C diseases](#) 67561- 67575

[Most commonly claimed disease](#) 67576

[Prescribed disease C3](#) 67577 - 67580

[Prescribed disease C4](#) 67581 - 67590

[Prescribed disease C7](#) 67591 - 67600

[Prescribed disease C18](#) 67601 - 67603

[Prescribed disease C19](#) 67604 - 67607

[Prescribed disease C22](#) 67608 - 67615

[Prescribed disease C23](#) 67616 - 67625

[Prescribed disease C24 and C24A](#) 67626 - 67634

[Prescribed disease C25](#) 67635 - 67640

[Prescribed disease C26 - C27](#) 67641 - 67642

[Prescribed disease C29](#) 67643 - 67644

[Prescribed disease C30](#) 67645 - 67655

[Prescribed disease C31](#) 67656 - 67659

[Prescribed disease C32](#) 67660 - 67670

[Prescribed disease C33](#) 67671 - 67673

[Prescribed disease C34](#) 67674 - 67676

[Transitional provisions](#) 67677 - 67679

[Effect of REA entitlement](#) 67680 - 67710

## General guidance on C diseases

### Prescription

67561 When looking at the chemicals used by the claimant the DM 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. benzene 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 PD C7.

67562 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 DMA Leeds for advice.

67563 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 DMA Leeds who will seek advice from the Government Chemist. Before reference to DMA Leeds, the DM should gather as much information as possible including safety data sheets if available (see DMG 67063 and 67064).

67564 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 were 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

67565 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.

67566 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 ways<sup>1</sup> (see DMG 67101 et seq).

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

67567 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.

67568 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**

67569 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 PDs, the DM should consider the claim under the IA provisions (see DMG Chapter 66).

67570 - 67575

### **Most commonly claimed diseases**

67576 DMG 67577 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 DMA Leeds for individual advice.

### **Prescribed disease C3**

67577 With effect from 30.3.12<sup>1</sup> PD C3 was

1. divided into PD C3(a) and PD C3(b)<sup>2</sup> **and**
2. updated to reflect current medical and scientific opinion on the disease.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2012, reg 1;

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

### **Prescribed disease C3(a)**

67578 The definition of PD C3(a) is phossy jaw. The prescription is work involving the use or handling of, or exposure to, white phosphorus<sup>1</sup>.

### **Prescribed disease C3(b)**

67579 The definition of PD 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 phosphorus<sup>1</sup>.

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

### **Effect on REA**

67580 Entitlement to REA may still arise in respect of the change to PD C3 where the date of onset is before 1.10.90<sup>1</sup> 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 C4**

#### **Background**

67581 There is evidence of a clear link between lung cancer and exposure to arsenic.

#### **Relevant occupations**

67582 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.

67583 The PD 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.

67584 Claims for lung cancer resulting from arsenic exposure should be actioned under PD C4 rather than PD D10. Skin cancer due to arsenic exposure should be actioned under PD C21.

### **Causation**

67585 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**

67586 From 16.3.15<sup>1</sup> the qualifying period for PD C4 does not apply. The DM should regard the disablement as 100%<sup>2</sup>. This PD should be treated as 'fast track'.

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

67587 - 67590

### **Prescribed disease C7**

#### **Background**

67591 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.

67592 **Benzene** must be distinguished from **benzine**, which is a totally different substance. Conditions caused by exposure to benzine are not PDs but may be covered by the accident provisions, depending on the circumstances of exposure.

#### **Relevant occupations**

67593 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 the rubber tyre and shoe industries and in the synthesis of plastics and explosives.

67594 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**

67595 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.

67596 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.

67597 - 67600

## **Prescribed disease C18**

67601 Evidence shows that long term inhalation of cadmium fumes can cause emphysema. To satisfy prescription exposure must be for at least 20 years.

67602 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 increase as the temperature rises above the melting point of cadmium. Cadmium melts at 321°C and boils at 767°C.

67603 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 are likely to be infrequent.

## **Prescribed disease C19**

### **Background**

67604 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 PD D5. The disease is described as peripheral neuropathy or central nervous system toxicity.

### **Relevant occupations**

67605 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.

67606 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**

67607 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**

67608 PD C22(a) is primary carcinoma of the mucous membrane of the nose or paranasal sinuses. PD C22(b) is primary carcinoma of the bronchus 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 nickel<sup>1</sup>.**

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

### **Qualifying period**

67609 From 16.3.15<sup>1</sup> the qualifying period for PD C22(b) does not apply. The DM should regard the disablement as 100%<sup>2</sup>. PD C22(b) should be treated as 'fast track'.



## Prescribed disease C23

### Background

67616 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.

67617 It should be noted that “durindone magenta” is **not** magenta within the meaning of the legislation<sup>1</sup>. 4-aminobiphenyl is also called biphenyl-4-ylamine and is sometimes referred to as 4aminodiphenyl. Methylene-bis-orthochloroaniline (MbOCA) is also called 2, 2'-dichloro-4, 4'-methylenedianiline. Orthotoluidine is synonymous with ortho-toluidine and o-toluidine. 4-chloro-2methylaniline is synonymous with 4-chloro-o-toluidine.

1 R(1) 16/59

### Relevant occupations

67618 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.

67619 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.

67620 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.

67621 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

67622 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**

67623 There are special rules for presumption for C23 occupations (a), (b) and (e) see DMG 67107). There is no presumption for PD C23 occupations (c) and (d).

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

67624 - 67625

## **Prescribed diseases C24 and C24A**

### **Background**

67626 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.

67627 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.

67628 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**

67629 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.

67630 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.

67631 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**

67632 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**

67633 People who made a claim for PD C24 before 6.4.06 have transitional protection<sup>1</sup>. 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 06, reg 4

### **Qualifying period**

67634 From 16.3.15<sup>1</sup> the qualifying period for PD C24(a) does not apply. The DM should regard the disablement as 100%<sup>2</sup>. PD C24(a) should be treated as 'fast track'.

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

### **Prescribed disease C25**

67635 This disease, known as occupational vitiligo, is characterized 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.

67636 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.

67637 - 67640

### **Prescribed disease C26 - C27**

67641 Carbon tetrachloride and trichloromethane (chloroform) are known as halogenated aliphatic hydrocarbons. They tend to exhibit similar chemical and toxicological properties. At room temperature they 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 anaesthetic.

67642 Exposure to carbon tetrachloride and trichloromethane can cause damage to the liver and, in some cases, to the kidneys.

## **Prescribed disease C29**

67643 N-hexane and n-butylmethyl ketone [also known as methyl n-butyl ketone (MBK)] are nonhalogenated 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.

67644 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**

67645 The compounds of chromium that are prescribed in relation to PD C30 are chromates, dichromates and chromic acid. Elemental chromium along with chromous and chromic compounds do not cause the PD and such exposure does not satisfy prescription.

67646 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 sensitization.

67647 As the disease was added to the schedule on 24.3.96 there is no entitlement to REA.

### **Relevant occupations**

67648 The main source of chromate exposure is from cement and in the manufacture and use of chromic acid.

67649 The major use of chromic acid is in the electroplating of metals. It is also 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**

67650 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.

## Prescribed disease C31

67656 PD 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 added<sup>1</sup>.

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

67657 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.

67658 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 DMA Leeds for advice.

## Reduced earnings allowance

67659 There is no entitlement to REA for PD C31 because it is a new disease prescribed after 10.10.94<sup>1</sup>.

1 SS II (PD) Regs, reg 14A

## Prescribed disease C32

67660 PD 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 plating<sup>1</sup>.

**Note:** PD D6 is the same disease related to a different occupational exposure (wood dust). The two PDs should not be confused

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

67661 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 PD C32 the most common type is squamous cell carcinoma. Squamous cells are the flat, skin like cells that cover the lining of the nose.

67662 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 DMs to distinguish the different forms of chromium because only hexavalent chromium is within the prescription of PD C32.

67663 A major use of hexavalent chromium is in 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**

67664 There is no entitlement to REA for PD C32 because it is a new disease prescribed after 10.10.94<sup>1</sup>.

1 SS II (PD) Regs, reg 14A

67665 - 67670

### **Prescribed disease C33**

67671 PD 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 PDs on 16.3.15<sup>1</sup>.

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

67672 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**

67673 There is no entitlement to REA for PD C33 because it is a new disease prescribed after 10.10.94<sup>1</sup>.

1 SS II (PD) Regs, reg 14A

### **Prescribed disease C34**

67674 PD C34 is defined as “Extrinsic allergic alveolitis”. The disease may be referred to as hypersensitivity pneumonitis. Extrinsic allergic alveolitis and hypersensitivity pneumonitis are synonymous. 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 PDs on 30.3.17<sup>1</sup>.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2017, reg 1(1)

67675 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. This new PD recognises the chemical causes of extrinsic allergic alveolitis.

**Note 1:** The biological causes of extrinsic allergic alveolitis should be considered in accordance with PD B6 (see DMG 67501 et seq).

**Note 2:** See DMG 67103 for guidance on presumption.

### **Reduced earnings allowance**

67676 There is no entitlement to REA for PD C34 because it is a new disease prescribed after 10.10.94<sup>1</sup>.

1 SS II (PD) Regs, reg 14A

### **Transitional provisions**

67677 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 PD, which has been changed or removed, will lose benefit directly as a result of that change<sup>1</sup>.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regs 2003, reg 6

67678 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.

67679 New legislation applies to any claim made on or after 17.3.03 when the provisions of DMG 67678 do not apply.

### **Effect on REA entitlement**

67680 There is no entitlement to REA 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 diseases<sup>1</sup>. Cases of difficulty should be referred to DMA Leeds, for advice.

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

67681 For PD C30 there is no entitlement to REA because the disease was added to the schedule after 10.10.94<sup>1</sup>.

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

67682 - 67710

### **Asbestos - related diseases 67711 - 67720**

[Asbestos - its nature and its uses](#) 67712 - 67720

67711 The PDs which are asbestos-related respiratory diseases contracted by the inhalation of asbestos dust are

1. PD D1 pneumoconiosis (asbestosis) **and**



2. PD D3 diffuse mesothelioma (primary neoplasm of the mesothelium of the pleura or of the pericardium or of the peritoneum) **and**
3. PD D8 primary carcinoma of the lung where there is accompanying evidence of asbestosis **and**
4. PD D8A primary carcinoma of the lung **and**
5. PD D9 unilateral or bilateral diffuse pleural thickening.

In general, the greater the concentration of asbestos dust in the air, the greater the risk of contracting one of these diseases. PDs D3, D8 and D8A take a long time to develop, but once claimed should be treated as 'fast track!'.

**Note:** There are certain Prescribed Diseases which are subject to generous entitlement rules, whereby:

- Successful claimants are awarded at the 100% disablement rate, and
- the 90-day 'waiting period' does not apply.

These 'fast track' diseases are D3, D8, D8A, C4, C22(b), C24(a), D10, and D11.

## **Asbestos - its nature and its uses**

67712 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**

**1.1** makes up about 97% of all asbestos processed **and**

**1.2** resists heat but not acid **and**

**1.3** is used in asbestos cloth

### **2. amosite (brown) which**

**2.1** is heat and acid resistant **and**

**2.2** 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.

67713 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.

67714 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.

67715 - 67720

## Prescribed disease D1 (pneumoconiosis) 67721 - 67815

[Prescription](#) 67726 - 67727

[Notes on scheduled occupations](#) 67728 - 67735

[Scheduled occupation 1 - Silica rock, dry quartzose sand, dry deposit or residue of silica and dry admixture containing such material](#) 67736 - 67760

[Scheduled occupation 2 - Breaking, crushing or grinding of flint](#) 67761

[Scheduled occupation 4 - Foundry workers](#) 67762 - 67764

[Scheduled occupation 5 - China or earthenware](#) 67765 - 67766

[Scheduled occupation 6 - Mineral graphite](#) 67767

[Scheduled occupation 8 - Grindstones](#) 67768 - 67769

[Scheduled occupation 9 - Asbestos](#) 67770 - 67775

[Scheduled occupation 10 - Mining and slate](#) 67776 - 67790

[Scheduled occupation 11 - Carbon electrodes](#) 67791 - 67792

[Scheduled occupation 12 - Boiler scalers](#) 67793

[Unscheduled occupations involving exposure to dust](#) 67794 - 67801

[Presumption](#) 67802

[Recrudescence and fresh contraction](#) 67803 - 67805

[Re-employment of pneumoconiotics](#) 67806 - 67815

67721 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-reticulation<sup>1</sup>. More severe or advanced forms of Pneumoconiosis may be referred to as Progressive Massive Fibrosis (PMF) or 'Complicated' Pneumoconiosis). There is no minimum level of pneumoconiosis required to satisfy the diagnosis, a person either has the disease or they do not<sup>2</sup>. Guidance on the effects of the decision can be found in Appendix 4 to this Chapter.

Pneumoconiosis includes any of

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. kaolinosi - (Progressive Massive Fibrosis (PMF) or Complicated Pneumoconiosis / kaolinosi is known to develop following a diagnosis of kaolinosi)
14. schistosis
15. siderosis
16. silicosis - (Progressive Massive Fibrosis (PMF) or Complicated Pneumoconiosis / silicosis is known to develop following a diagnosis of silicosis)
17. stannosis
18. talcosi – (Progressive Massive Fibrosis (PMF) or Complicated Pneumoconiosis / talcosi is known to develop following a diagnosis of talcosi)
19. thesaurosis
20. welders' lung
21. Caplan's syndrome

Note: Progressive Massive Fibrosis (PMF) is a name given to a more severe or advanced form of certain types of Pneumoconiosis, usually in those specified above. If any claim is made in respect of Progressive Massive Fibrosis, it should be treated as if the claim were made in respect of Prescribed Disease D1 (Pneumoconiosis).

1 SS CB Act 92, s 122; 2 R(1) 1/96

67722 The Industrial Injuries Advisory Committee 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<sup>1</sup>, with the result that, at that time, they would have been entitled to Dis P at the 10% rate.

1 SS CB Act 92, s 110(3)

67723 When pneumoconiosis is accompanied by tuberculosis, the effects of the tuberculosis are treated as if they were effects of the pneumoconiosis<sup>1</sup>. In this connection only tuberculosis of the respiratory system can be taken into account, since the definition is narrower than that for PD B5.

1 SS (II) (PD) Regs, reg 21

67724 In certain cases apart from those in DMG 67943 the effects of chronic obstructive pulmonary disease can also be treated as if they were effects of the pneumoconiosis<sup>1</sup>. 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, reg 22(1)

67725 IIDB for pneumoconiosis always takes the form of Dis P; no Dis G is, or ever has been, payable<sup>1</sup>.

For an assessment of disablement for pneumoconiosis of 20% or more the Dis P is at the normal rate.

For assessments of less than 20% two pension rates are available<sup>2</sup>. Guidance on deciding the rate appropriate for any case is in DMG Chapter 69.

1 SS (II) (PD) Regs, reg 20(1); 2 reg 20(1A)

## Prescription

67826 Pneumoconiosis is prescribed in two ways<sup>1</sup>. These are in relation to all

1. persons who have been employed on or after 5.7.48 in employed earner's employment in any of the scheduled occupations<sup>2</sup> **and**
2. 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, reg 2(b), Sch 1; 2 Part II, Sch 1

67727 The DM should note that

1. both tests in DMG 67726 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 67726 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 67726 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 67729 - 67793 and notes on unscheduled occupations involving exposure to dust are given in DMG 67794 - 67798.

## Notes on scheduled occupations

67728 DMG 67729 et seq gives guidance about certain scheduled occupations<sup>1</sup>. They contain such matters as the interpretation of various phrases, Commissioner's and UT decisions, guidance regarding certain trades and other points of importance.

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

67729 The phrase "any occupation involving..." occurs often in the Schedule<sup>1</sup>. 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 principle<sup>1</sup>.

67730 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 dust<sup>1</sup>.

1 SS (II) (PD) Regs, Sch 1, Part 11, 1(b)

67731 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 principle<sup>1</sup>.

1 R(I) 4/53

67732 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 DM 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.

67733 - 67735

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

67736 An occupation not covered by any of the narrower descriptions prescribed in the legislation<sup>1</sup> can often be shown to be covered by this scheduled occupation<sup>2</sup> after investigation of the materials handled or worked by the claimant. But the DM should note, that

1. there is **no cover**<sup>3</sup> for occupations **incidental to handling**

2. for 1. to apply

2.1 it is not sufficient just to handle the materials specified<sup>4</sup>

2.2 the handling must be shown to have been in or incidental to one of the processes mentioned<sup>5</sup>

3. incidental to and handling should be interpreted in accordance with ordinary popular usage<sup>6</sup>

4. incidental to denotes some subordinate activity closely connected with the process mentioned<sup>7</sup>.

1 SS (II) (PD) Regs, 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; 7 R(I) 14/52

67737 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 67784 - 67785 because a “mine” is open-cast, but succeed under this scheduled occupation<sup>1</sup>.

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

67738 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 67743 for further guidance on quartzose sand for the purpose of 2. and 5..

### **Silica rock**

67739 Silica rock means quartz, quartzite, ganister, sandstone, gritstone and chert, but not natural sand or rotten rock<sup>1</sup>.

Dolomite is **not** silica rock<sup>2</sup>, nor is ironstone<sup>3</sup>.



## Free and combined silica

67740 The DM 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 DM 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 scheduled occupation 4<sup>1</sup>, should not be applied to questions arising for scheduled occupation 1<sup>2</sup>
4. where necessary, samples of materials clearly identified and securely packaged to prevent leakage and mixing can be sent to DMA Leeds, for analysis by the Government Chemist.

**Note:** When 4. applies, full details of the occupation and the use of the materials should be given and care should be taken to ensure that the samples are representative and authentic.

1 R(I) 21/52; 2 R(I) 26/55

67741 When the material is found to contain free silica not in the form of natural sand or rotten rock the DM can assume that this silica will be in the form of silica rock or will be a deposit or residue.

## Dried quartzose sand

67742 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.

67743 For the purpose of DMG 67738 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 oven<sup>1</sup> **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 thus 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.

## Deposit, residue and admixture

67744 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 beds<sup>1</sup>. 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 powders<sup>2</sup>. The DM should note that

### 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 identity<sup>3</sup>

**2.** the mixture must be artificial<sup>4</sup> but the fact that its constituent parts are compacted does not exclude it from the definition<sup>5</sup>

**3.** a mixture is still a “mixture for industrial purposes” even though it is created only as a by-product of the main industrial process<sup>6</sup>

**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 process<sup>7</sup>

**5.** a “dry mixture containing silica rock, etc” has been held to include basic slag<sup>8</sup> and ultramarine in the dry state<sup>9</sup>.

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

67745 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 67738 **1.** - **4.**, and not merely in the form described in DMG 67742.

67746 - 67750

## Working

67751 The DM 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 used<sup>1</sup>
2. operations covered by this term include
  - 2.1 the riddling and crumbling of dried quartzose sand<sup>2</sup>
  - 2.2 the use of welding rods containing free silica<sup>3</sup> **and**
  - 2.3 the grinding of ganister (hard siliceous stone) from the insides of steel tubes<sup>4</sup>.
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”<sup>5</sup>.

**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 worked<sup>6</sup>. 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**

67752 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 67738 5.<sup>1</sup>.

1 R(I) 27/51

67753 As small an amount as 0.2 per cent 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 per cent free silica, arc welding may be accepted as a scheduled occupation<sup>1</sup>.

1 R(I) 2/58

67754 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 silica<sup>1</sup>.

1 R(I) 35/52

## **Building workers using sand and cement**

67755 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 DM 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 per cent silica, but all in a combined form
4. the total silica content of cement is about 25 per cent, 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 occupation<sup>1</sup>.

1 R(I) 46/51

## **Bricklayers engaged in building, demolishing or repairing furnaces, retorts etc**

67756 Apart from scheduled occupation 4 (see DMG 67762 – 67764), 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 PD 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 67751.

67757 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 of 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

67758 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 prescription<sup>1</sup>. 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 67740). In considering the working with question the DMs 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 silica<sup>2</sup>
2. they must decide if the occupation involves the working (see DMG 67751) 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 prescription<sup>3</sup>
4. guidance on the manufacture of china and earthenware is to be found in DMG 67765 - 67766.

1 SS (II) (PD) Regs, Sch 1, Part II, para 1; 2 R(I) 7/54; 3 SS (II) (PD) Regs, Sch 1, Part II, para 1

67759 - 67760

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

67761 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 flint<sup>1</sup>.

1 R(I) 67/52

## Scheduled occupation 4 - Foundry workers

67762 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 operations<sup>1</sup>.

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

67763 The DM should take siliceous substance to include any substance containing silica in sufficient quantity to be accepted in the industry as a siliceous substance<sup>1</sup>. It was accepted by a Commissioner that the trade did not regard a substance as “siliceous” if it contained less than 3% free silica<sup>2</sup>.

1 R(I) 21/52; 2 CI 354/50(KL)

67764 To satisfy the legislation<sup>1</sup>, 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 result<sup>2</sup>. 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 legislation<sup>3</sup> does not necessarily include every tool which is power-driven<sup>4</sup>.

1 SS (II) (PD) Regs, Sch 1, Part II, para 4; 2 R(I) 30/59; 3 SS (II) (PD) Regs, Sch 1, Part II, par 4(b)(ii), 4 R(I) 30/59

## **Scheduled occupation 5 - China or earthenware**

67765 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 67761).

67766 To be included in this scheduled occupation an occupation must be “in or incidental to the manufacture of...”<sup>1</sup>.

1 R(I) 11/52

## **Scheduled occupation 6 - Mineral graphite**

67767 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 given<sup>1</sup>.

1 CI 110/49(KL)

## **Scheduled occupation 8 - Grindstones**

67768 “Grindstone” means a grindstone composed of natural or manufactured sandstone and includes a metal wheel or cylinder into which blocks of natural or manufactured sandstone are fitted<sup>1</sup>. The DM should note that

1. carborundum and emery wheels and handgrinders not made of sandstone but containing a small percentage of silica<sup>2</sup> **and**

2. “Aloxite”, “Bauxolite” and “vitrified or resinoid bonded” wheels

are not grindstones.

1 SS (II) (PD) Regs, reg 1(2); 2 R(I) 21/52

67769 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 dry<sup>1</sup>.

1 R(I) 14/55

## **Scheduled occupation 9 - Asbestos**

67770 Asbestos textiles means yarn or cloth composed of asbestos or of asbestos mixed with any other materials<sup>1</sup>.

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

67771 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 per cent contained asbestos in the covering. Such an occupation would be scheduled<sup>1</sup>. But exposure to dust arising from any of the scheduled occupations must be substantial<sup>2</sup>. Further guidance on exposure to asbestos is at DMG 67835 et seq.

1 CSI 68/49(KL); 2 SS (II) PD Regs, Sch 1, Part II, para 9

67772 - 67775

## **Scheduled occupation 10 - Mining and slate**

67776 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.

67777 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)<sup>1</sup>.

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

### **Underground work in a mine**

67778 The phrase underground in a mine has been discussed at length in case law<sup>1</sup>.

I R(I) 37/59

### **Surface work at a coal or tin mine**

67779 Coal mine does not include either open-cast workings<sup>1</sup> or old colliery sites where mining operations have ceased<sup>2</sup>. Employment at an opencast site may, however, be prescribed under the terms of DMG 67737.

1 CWI 4/50(KL); 2 R(I) 70/54

67780 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 served<sup>1</sup>
2. a screening plant on colliery premises which sorted coal from other collieries as well as from the parent one<sup>2</sup> **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 boilers<sup>3</sup>.

1 CWI 17/50(KL); 2 R(I) 52/56; 3 R(I) 15/62

67781 However the DM should note that

1. coke ovens on or adjacent to colliery premises<sup>1</sup>
2. power stations owned by the mine owner and serving collieries though not situated on colliery premises<sup>2</sup> **and**



### 3. screening plants on the sites of disused collieries<sup>3</sup>

are not mines.

1 R(I) 15/62; CI 274/49(KL); 2 CWI 14/50(KL); 3 R(I) 70/54

67782 For the purpose of this scheduled occupation<sup>1</sup>, 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 carrying<sup>2</sup> **and**
3. the handling of articles, such as timber-props or lamps, covered with coal dust extracted from the mine<sup>3</sup>.

1 SS (II) (PD) Regs, Sch 1, Part II, para 10(b); 2 CSI 69/49 (KL); CWI 26/49 (KL); 3 CI 114/50 (KL); CWI 13/50

(KL)

67783 When considering the scope of the phrase “or any operation incidental thereto...” in the legislation<sup>1</sup> the DM 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 activity<sup>2</sup>
3. “incidental thereto” must refer to the operation of working or handling above ground at a coal or tin mine and nowhere else<sup>3</sup>.

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

67784 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 coal<sup>1</sup>.

1 R(I) 4/53

67785 “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 quay<sup>1</sup>.

**Slate**

67786 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 slate<sup>1</sup>.

1 R(I) 13/52

67787 Questions involving operations incidental to the sawing, splitting or dressing of slate should be considered as in DMG 67783. Examples are contained in case law<sup>1</sup>.

1 CI 265/49(KL); R(I) 14/52; R(I) 15/52

67788 - 67790

**Scheduled occupation 11 - Carbon electrodes**

67791 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.

67792 The definition at DMG 67791 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 12 - Boiler scalers**

67793 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 arising<sup>1</sup>.

1 R(I) 8/57

## Unscheduled occupations involving exposure to dust

67794 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 life<sup>1</sup> and in excess of what might be regarded as an acceptable level<sup>2</sup>.

1 R(I) 40/57; 2 R(I) 1/85

67795 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 scheduled<sup>1</sup> **and**
2. on or after 5.7.48 in a scheduled occupation but not in employed earner's employment.

1 R(I) 70/54

67796 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.

67797 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.

67498 Where a claim under SS legislation<sup>1</sup> fails on prescription, there may be entitlement under the PB and MDB scheme (see DMG 67181 et seq).

67799 – 67800

## Diagnosis

67801 In claims for pneumoconiosis where the disease is prescribed in relation to a non-Scheduled occupation<sup>1</sup>, 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 UT<sup>2</sup>. 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

## Presumption

67802 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 67108 **2. or**
2. the disease is prescribed in relation to a non-scheduled occupation<sup>1</sup> 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

67803 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 afresh<sup>1</sup>.

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

67804 One effect of this is to prevent IIDB being awarded to, or in respect of, a person who has been awarded or paid WC for pneumoconiosis<sup>1</sup> unless that person is one who has been re-employed in the coal mining industry<sup>2</sup>.

1 SS (II) (PD) Regs, reg 8(3); 2 reg 9(2)(b)

67805 The provision for revision and supersession of a decision if the claimant receives weekly payments of WC after the date of claim also applies to claims for pneumoconiosis<sup>1</sup> (see DMG 67166).

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

1 SS (II) (PD) Regs, reg 8(4)

## Re-employment of pneumoconiotics

67806 Where pneumoconiotics certified and suspended for WC<sup>1</sup> take up employed earner's employment in certain coal mining occupations, IIDB can be paid for any worsening of the disease and death benefit can be paid if they die as a result of the disease<sup>2</sup>.

1 Workmen's Compensation Acts; 2 SS (II) (PD) Regs, reg 9

67807 These provisions apply to a person who

1. is suffering from silicosis or pneumoconiosis (not accompanied in either case by tuberculosis) **and**
2. has been awarded or paid compensation under the provisions of specified legislation<sup>1</sup> **and**
3. has been suspended because of their condition from various employments<sup>2</sup>.

Most applications are from coal-miners suspended under specific legislation<sup>3</sup>.

1 Workmen's Compensation Acts; 2 SS (II) (PD) Regs, reg 9(1)(a); 3 Coal-mining Industry (Pneumoconiosis) Compensation Scheme, 1943; Various Industries (Silicosis) Scheme, 1931.

67808 To be covered, such persons must

1. take up employed earner's employment in an occupation involving
  - 1.1 work underground in a coal mine or
  - 1.2 the working or handling above ground at a coal mine of any minerals extracted from it, or any operation incidental to it
2. be permitted by their certificate to work in such an occupation<sup>1</sup>.

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

67809 Before starting work as in DMG 67808 the person should be examined by a medical advisor<sup>1</sup>. Where the examination took place after such work had already started, the person was treated as having started work only from immediately after the examination<sup>2</sup>. The DM should note that

1. their assessed degree of disablement due to pneumoconiosis is as at the date of the examination<sup>3</sup>
2. their assessment is subject to reconsideration and appeal
3. after their assessment when the person started work in a specified occupation, the provisions treating the disease as not having developed on or after 5.7.48<sup>4</sup> cease to apply from the date of starting work<sup>5</sup>
4. the effect of 3. is to allow a subsequent claim for IIDB.

1 SS (II) (PD) Regs, reg 9(1); 2 reg 9(3); 3 reg 9(2)(a); 4 reg 8(3); 5 reg 9(2)(b)

67810 If IIDB for pneumoconiosis is claimed the increase in disablement **since** the examination in DMG 67809 is assessed and the person becomes entitled to a pension at the ordinary rate appropriate to that assessment<sup>1</sup>. As it has already been accepted that the claimant is suffering from the disease no diagnosis question arises. The notification explains the reconsideration and appeal rights to the claimant if the decision is disputed.

1 SS (II) (PD) Regs, reg 9(2)(c)

67811 The DM should

1. determine the date of onset as if the claimant had not previously suffered from the disease, ensuring it is not earlier than the date of starting work in a specified occupation after examination as in DMG 67809
2. establish that the claimant's occupation since examination under DMG 67809 was a specified and prescribed occupation as in DMG 67808.

67812 A pension awarded under these provisions is treated in the same way as an ordinary pension. Increases of pension are payable subject to the normal conditions. This means that

1. for REA the regular occupation is ascertained as at the date of onset
2. the rate of pension for the purposes of REA is that awarded
3. for CAA purposes the **total** disablement (that is the assessment of the increase in disablement plus the initial assessment) can be taken into account<sup>1</sup>.

1 SS (II) (PD) Regs, reg 9(1); reg 9(2)(d)

67813 - 67815



## Prescribed disease D2 (byssinosis) 67816 - 67830

[Rate of pension](#) 67816

[Prescription](#) 67817 - 67820

[Presumption](#) 67821

[Recrudescence and fresh contraction](#) 67822 - 67830

### Rate of pension

67816 IIDB for byssinosis always takes the form of a pension; no gratuity is, or ever has been, payable<sup>1</sup>.

The DM should note that

1. for an assessment of disablement for byssinosis of 20% or more the pension is at the normal rate<sup>2</sup>
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 life<sup>3</sup>.

1 SS (II) (PD) Regs, reg 20(1) & (2); 2 reg 20(1A); 3 reg 20(3)

### Prescription

67817 The guidance at DMG 67818 - 67820 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.

67818 In the trade there is a tendency to use the term spun yarn rather than raw cotton once it has passed the spinning stage.

67819 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.



67820 "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 out<sup>1</sup>.

1 R(I) 26/58

## Presumption

67821 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 occupation<sup>2</sup>.

**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

67822 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 afresh<sup>1</sup>.

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

67823 DMG 6722 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 5.7.48<sup>1</sup>.

1 SS (II) (PD) Regs, reg 8(3)

67824 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, supersede<sup>1</sup> the decision awarding IIDB<sup>2</sup>.

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

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

67825 - 67830

## Prescribed disease D3 67831 - 67845

[Prescription](#) 67832 - 67837

[Effect on REA entitlement](#) 67838

[Special action](#) 67839 - 97840

[Benefit](#) 67841 - 67845

67831 PD D3 (diffuse mesothelioma) is an asbestos-related disease. DMG 67712 - 67714 gives guidance on the nature of asbestos and its hazards.

## **Prescription**

67832 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 large<sup>1</sup>.

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

67833 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.

67834 A list of occupations where exposure to asbestos may have occurred and where mesothelioma could reasonably be attributed to work is at Appendix 3 to this Chapter.

67835 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. Cases of difficulty should be sent to DMA Leeds for advice. However, where disallowance is appropriate, the claimant should be advised of the 2008 diffuse mesothelioma scheme which provides compensation where the disease is nonindustrially caused. Details of the 2008 diffuse mesothelioma scheme can be found in procedural guidance.

67836 The 90 day waiting period does not apply to claims for PD D3<sup>1</sup>.

1 SS (II) (PD) Regs, reg 20(4)

67837 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 DM should not overlook the prescription question.

## **Effect on REA entitlement**

67838 There is no entitlement to REA 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 REA in respect of PD D3 where the claim is made under the new extended test. Entitlement to REA may still arise where the old prescription test is satisfied provided the normal entitlement conditions are satisfied<sup>1</sup>.

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

## Special action

67839 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.

67840 Because the prescription for PD D3 is very similar to that for asbestos-induced pneumoconiosis, a claim for IIDB 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 PD D3 is diagnosed it may occasionally be referred to as pneumoconiosis or as pleural asbestosis.

## Benefit

67841 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%<sup>1</sup>. See DMG 67711 about this PD being 'fast track'.

1 SS (II) (PD) Regs, reg 20A

67842 - 67845

## Prescribed diseases D4 to D10 67846 - 67920

[Prescribed disease D4](#) 67846 - 67855

[Prescribed disease D5 \(dermatitis\)](#) 67856 - 67865

[Prescribed disease D6](#) 67866 - 67875

[Prescribed disease D7 \(occupational asthma\)](#) 67876 - 67885

[Prescribed disease D8, D8A and D9](#) 67886 - 67900

## Prescribed disease D4

67846 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 level<sup>1</sup>.

1 R(I) 1/85

67847 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 PD D4.

67848 From 24.3.96 the disease was redefined<sup>1</sup> as allergic rhinitis due to exposure to the same sensitizing agents listed for PD D7 (see DMG 67877) **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 67433 - 67434<sup>2</sup>. From 14.3.05 the agent at DMG 67877 **24.** was added to the list. That agent will therefore come within the description of PD D4 from 14.3.05<sup>3</sup>.

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

## Presumption

67849 Since 24.3.96 the presumption that a disease is due to the nature of an employment (see DMG 67102) has applied to D4<sup>1</sup>. 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

67850 As the amendment on 24.3.96 was not an extension of the disease, entitlement to REA can still be established<sup>1</sup>.

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

## Prescribed disease D5 (dermatitis)

### Prescription

67856 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).

67857 The prescription conditions in force prior to 24.3.96 continue to apply in the type of cases set out at DMG 67433 - 67434.

67858 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.

### Diagnosis - sensitization

67859 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).

### Presumption

67860 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 claimant<sup>1</sup>, 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

67861 As the prescription for PD D5 was not extended on 24.3.96, entitlement to REA can still be established<sup>1</sup>.

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

67862 - 67865

## Prescribed disease D6

### Prescription

67866 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.

### Changes from 28.9.18

67867 From 28.9.18 the prescription for PD 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)<sup>1</sup>.

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

67868 For the purposes of DMG 67867 **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.

67869 For the purposes of DMG 67867 **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

67870 From 16.3.15, there is a presumption<sup>1</sup>, 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 occupation<sup>2</sup> (see DMG 67103). 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*

### Reduced earnings allowance

67871 The changes to PD D6 are an extension to the list of prescribed diseases or occupations. Therefore, there is no entitlement to REA in respect of those changes as the extension was after 10.10.94<sup>1</sup>.

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

## Similarities with PD D13

67872 Although there are similarities between them, DMs should not confuse PD D6 with PD D13 which is defined as “Primary carcinoma of the nasopharynx”<sup>1</sup>. PD D13 also has a different test and provides for a minimum exposure time.

**Note:** See DMG 67951 et seq for guidance on PD D13.

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

67873 If a claim is made for both PD D6 and PD D13 the DM should consider the prescription test for both diseases.

67874 - 67875

## Prescribed disease D7 (occupational asthma)

### Prescription

67876 This disease was added to the list of PDs from 29.3.82<sup>1</sup>. The list of prescribed causative agents was initially limited to the agents numbered **1.** to **7.** at DMG 67877. With effect from 1.9.86<sup>2</sup> the list of causative agents was extended by the addition of those agents numbered **8.** to **14.** at DMG 67877. The list of causative agents was further extended by the addition of those agents numbered **15.** to **23.** and **25.** at DMG 67877 from 26.9.91<sup>3</sup>. The list of causative agents was again extended by the addition of the agent numbered **24.** at DMG 67877 from 14.3.05<sup>4</sup>.

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

67877 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 of 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 its processing of this substance of 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 sensitizing agent** not otherwise listed which a claimant specifies.



The above is not an exhaustive list and DMs 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 DM should follow the guidance in DMG 67063 to DMG 67064. In “open category” cases, advice on whether the substance specified by the claimant is a sensitizing 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**

67878 There is no entitlement to IIDB for a person who stopped working in employed earner's employment in a prescribed occupation more than ten years before the date of claim<sup>1</sup>. But this condition does not apply if the person already has an award of IIDB for asthma under the accident provisions and that award is for

**1. life or**

**2. a period which includes the date of the PD claim<sup>2</sup>.**

1 SS (II) (PD) Regs, reg 36(1); SS Act 90, Sch 6, para 4(3); 2 SS (II) (PD) Regs, reg 36(4)

67879 The date a person last worked in a prescribed occupation is the date when actual work, as opposed to the contract of employment, ended (see DMG 67244 and 67259)<sup>1</sup>.

1 R(I) 2/79

### **Date of onset and recrudescence**

67880 The normal provisions for determining the date of onset apply (see DMG 67141) but the recrudescence provisions do not apply<sup>1</sup>.

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

### **Relevant date**

67881 There is no entitlement to IIDB for the substances shown in DMG 67877 before the following

dates

**1. 29.3.67 - for agents 1-7 (except for the amendment to agent 6 on 1.9.86)<sup>1</sup>**

**2. 1.9.86 - for agents 8-14<sup>2</sup>**

**3. 26.9.91 - for agents 15-23 and 25<sup>3</sup> 4. 14.3.05 - for agent 24<sup>4</sup>.**

1 SS (II) (PD) Regs, Sch 4; 2 SS II (PD & Adj) Misc Amdt Regs; 3 SS II (PD) Amdt Regs 91; 4 SS II (PD)

Amdt Regs 05, reg 1

67882 However, the agent at DMG 67877 **24.** is a sensitising agent for the purpose of DMG 67977 **25.** before 14.3.05.

67883 - 67885

## **Prescribed diseases D8, D8A and D9**

67886 PDs 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 DM should arrange for immediate enquiries to be made of the claimant to find out

- 1.** precisely what their work involved **and**
- 2.** how it caused exposure to asbestos.

**Note 1:** D8 and D8A take a long time to develop, but once claimed should be treated as 'fast track!'

67887 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 DM 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.

67888 The DM 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.

67889 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 PD D8, D8A or D9 does not prove that the person has been exposed to asbestos since these diseases may be caused by other means.

67890 To satisfy the prescription test for PD D8 or D9 the occupation must have been employed earner's employment<sup>1</sup>. However, to satisfy the prescription test for PD 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 PD D9<sup>2</sup>. This was to reflect the use of computerised tomography for diagnosing this disease.

67891 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 DM should not overlook the prescription question.

67892 Asbestosis is defined as fibrosis of the parenchyma of the lungs due to the inhalation of asbestos dust<sup>1</sup>.

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

### **Date of onset and recrudescence**

67893 The date of onset of either disease for IIDB claims<sup>1</sup> is the day on which the claimant first suffered a loss of faculty from the disease. Benefit cannot, however, be paid for either disease for

1. any of the diseases, unless 2. applies, for any day before 1.4.85<sup>2</sup> or

2. PD D9 for any day before 30.3.17 where the claim is in respect of the definition from that date<sup>3</sup>.

1 SS (II) (PD) Regs, reg 6(2)(b); 2 reg 43(1) & Sch 4 ; 3 Sch 1

67894 The recrudescence rules do not apply to PD D8, D8A and D9 because a person cannot recover from either disease and then suffer a fresh contraction<sup>1</sup>.

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

### **Qualifying period**

67895 From 6.4.06 the qualifying period for PD D8 and D8A does not apply. The DM should regard the disablement as 100%<sup>1</sup>.

1 SS (II) (PD) Regs, reg 20B(2) & (3)

### **Transitional provisions**

67896 People who made a claim for PD D9 before 6.4.06 have transitional protection<sup>1</sup>. 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 06, reg 4

### **Effect on REA entitlement**

67897 Where the claim is made under the new extended test (see DMG 67838). However, entitlement to REA may still arise in respect of the change to PD D9 (see DMG 67890) where a date of onset is before 1.10.90<sup>1</sup> 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)

67898 - 67900

## **Prescribed disease D10**

### **Prescription**

67901 This disease was added to the list of PDs from 1.4.87<sup>1</sup>. A new prescription test was added from 1.8.12<sup>2</sup> (see DMG 67906 - 67910).

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1987;

2 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 2012

67902 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.

67903 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.

67904 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.

67905 Lung cancer resulting from exposure to arsenic comes within the scope of PD C4 and the DM should thus not consider claims made on that basis under PD D10.

### **Coke oven workers**

67906 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 work<sup>1</sup>.

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

### **Example**

Philip makes a claim for PD D10. He worked in top oven work for 3 years and other coke oven work for 6 years. The DM determines that Philip satisfies the prescription test.

67907 There is no entitlement to IIDB under this change before 1.8.12.

### **Wholly or mainly**

67908 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, DMs should take account of variations in the pattern of work and it may require averaging over an appropriate period.

### **Coke ovens**

67909 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 DMs identify what is

1. top oven work **and**
2. other coke oven work.

67910 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 DMs to ascertain the nature, and frequency of, the duties the individual claimant has carried out. Cases of doubt should be sent to DMA Leeds for advice.

### **Diagnosis**

67911 PD D10 is a respiratory disease to be determined as in DMG 67078 et seq.

### **Recrudescence**

679912 The recrudescence provisions do not apply to PD D10.

### **Reduced earnings allowance**

67913 There is no entitlement to REA where entitlement arises to PD D10 under the change from 1.8.12.

This is because the change is an extension of PD D10 after 10.10.94<sup>1</sup>.

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

### **Qualifying period**

67914 From 16.3.15<sup>1</sup> the qualifying period for PD D10 does not apply. The DM should regard the disablement as 100%<sup>2</sup>.

This PD should be treated as 'fast track'.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment

Regulations 2015, reg 1(1); 2. SS (II) (PD) Regs, reg 20B(2) & (3) 67815 - 67920

# Prescribed disease D11 67921 - 67930

[Prescription](#) 67921 - 67922

[Diagnosis and recrudescence](#) 67923

[Relevant date](#) 67924 - 67930

## Prescription

67921 This disease was added to the list of PDs<sup>1</sup> from 19.4.93<sup>2</sup>.

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

67922 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

67923 The recrudescence provisions do not apply to this disease<sup>1</sup>. From 16.3.15, there is a presumption<sup>2</sup>, 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 occupation<sup>3</sup> (see DMG 67103).

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**

67924 IIDB is not payable for PD D11 for any day earlier than 19.4.93.

### **Qualifying period**

67925 From 16.3.15<sup>1</sup> the qualifying period for PD D11 does not apply. The DM should regard the disablement as 100%<sup>2</sup>.

This PD should be treated as 'fast track'.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment

Regulations 2015, reg 1(1); 2. SS (II) (PD) Regs, reg 20B(2) & (3) 67926 - 67930



## Prescribed disease D12 67931 - 67950

[Prescription](#) 67931 - 67936

[Medical tests](#) 67937 - 67939

[Change of circumstances](#) 67940 - 67942

[Previous compensation for prescribed disease](#) D1 67943

[Recrudescence and presumption](#) 67944

[Relevant date](#) 67945

[Effect of REA entitlement](#) 67946 - 67950

### Prescription

67931 This disease was added to the list of PDs<sup>1</sup> from 13.9.93<sup>2</sup>. From 16.3.15<sup>3</sup> it is known as chronic obstructive pulmonary disease<sup>4</sup> which is sometimes referred to as COPD.

1 SS (II) (PD) Regs, Sch 1, Part 1; 2 II (PD) Amdt (No 2) Regs 93; 3 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2015, reg 1(1); 4 SS (II) (PD) Regs, Sch 1, Part 1

67932 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 9.4.97<sup>1</sup> 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 DM for disallowance on prescription.

1 Social Security (Industrial Injuries) (Miscellaneous Amendments) Regulations 1997

67933 The prescription test was amended from 10.7.00 but transitional provisions apply. For further guidance see DMG 67192.

67934 From 21.7.08<sup>1</sup>, in addition to the people in DMG 67932, 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 1.1.83<sup>2</sup>.

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

67935 For the purposes of DMG 67934 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 worker<sup>1</sup>.

**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, Sch 1, Part 1

## Definitions

67936 For the definition of

**1.** underground<sup>1</sup> see DMG 67313 and 67779

**2.** coal mine<sup>2</sup> see DMG 67778 and 67780.

**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 total<sup>3</sup>.

1 R(I) 37/59; R(I) 4/84; 2 SS (II) (PD) Regs, 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

67937 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 16.3.15<sup>1</sup> no adjustments will be made to reflect the effects of treatment<sup>2</sup>, for example the use of bronchodilating inhalers.

1 Social Security (Industrial Injuries) (Prescribed Diseases) Amendment

Regulations 2015, reg 1(1), 2 SS (II) (PD) Regs, Sch 1, Part 1

67938 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, the medical adviser 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 the medical adviser to advise whether or not the spirometric criterion has been met.

67939 The DM should note that

1. when the DM has accepted “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 DM 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

67940 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 PD D12 cases a further FEV1 test will be required. When advising on the results of the FEV1 test the medical adviser 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. The medical adviser should also take into account whether or not the claimant’s lung function might have been enhanced by medication.

67941 If the spirometric criterion 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 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 Services.

67942 If the DM 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 appropriate<sup>1</sup>. The effective date of the new decision will be the date the decision is given<sup>2</sup>. 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, reg 6(2) (b) & (3); 2 SS Act 98, s 10(5)

## Example

The claimant was assessed as suffering from PD D12 and was awarded IIDB 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 PD D12 and this was accompanied by a full explanation why the original FEV1 test was incorrect. On 12.9.02 the DM 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

67943 A claimant who had a pneumoconiosis (D1) assessment of at least 50 per cent and who was also suffering from bronchitis and emphysema will have had the effects of the bronchitis and emphysema added to the D1 assessment (see DMG 67724)<sup>1</sup>. PD D12 is **not** prescribed for such people<sup>2</sup>. If the D1 assessment was less than 50 per cent any interaction of chronic obstructive pulmonary disease will have been taken into account. If D12 is prescribed in these cases the DM should revise or supersede the D1 assessment to exclude the effects of interaction<sup>3</sup>.

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

1 SS (II) (PD) Regs, reg 22; 2 reg 2(d); 3 SS (Gen Ben) Regs, reg 11

## Recrudescence and presumption

67944 From 16.3.15<sup>1</sup>, there is a presumption<sup>2</sup>, unless the contrary is proved, that PD D12 is due to the employed earner's employment if the person who has contracted the disease was employed in a prescribed occupation<sup>3</sup>.  
The recrudescence provisions do not apply.

**Note:** 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, reg 4(2); 3 Sch 1, Part 1

## Relevant date

67945 There is no entitlement to IIDB for PD D12 for any day earlier than 13.9.93.

## Effect on REA entitlement

67946 Where the claim is made under the new extended test see DMG 67838. There is also no entitlement to REA where entitlement arises to PD D12 under the changes from 21.7.08. This is because the changes are an extension of PD D12 after 10.10.94<sup>1</sup>.

1 SS CB Act 92, Sch 7, para 11(1); SS (II) (PD) Regs, reg 14A

67947 However, entitlement to REA may still arise in respect of the change to PD D12 from 16.3.15 where a date of onset is before 1.10.90<sup>1</sup> 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)

67948 - 67950

## Prescribed disease D13 67951 - 67999

[Prescription](#) 67951 - 67952

[Similarities with PD D6](#) 67953 - 67954

[Effect on REA entitlement](#) 67955 - 67999

### Prescription

67951 This disease was added to the list of PDs<sup>1</sup> on 7.4.08<sup>2</sup>.

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

2 Social Security Industrial Injuries (Prescribed Diseases) Amendment Regulations 2008, reg 1

67952 PD 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 years<sup>1</sup>.

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

### Similarities with PD D6

67953 Although there are similarities between them, DMs should not confuse PD D13 with PD D6 which is defined as “Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma)”<sup>1</sup>. PD D6 also has a different test and does not provide for a minimum exposure time.

**Note:** See DMG 67866 et seq for guidance on PD D6.

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

67954 If a claim is made for both PD D6 and PD D13 the DM should consider the prescription test for both diseases.

## Effect on REA entitlement

67955 There is no entitlement to REA for PD D13 because it is a new disease prescribed after 10.10.94<sup>1</sup>.

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

67956 - 67999

## Appendix 1 - Prescribed diseases added and changes made to the Schedule of Diseases since 5 July 1948 (see DMG 67181)

### PART I

#### GROUP A - Conditions due to physical agents

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the diseases or Injury	Amendment to nature of occupation	Authority and effective Date
A1	25	“blood dyscrasia or cataract due to electro magnetic radiations (other than radiant heat), or to ionising particles” substituted for “leukaemia, or anaemia of the aplastic type, due to X rays, ionising particles, radium or other radioactive substance; or inflammation of the skin due to other forms of radiant energy”	“exposure to electro magnetic radiations other than radiant heat, or to ionising particles” substituted for “exposure to X rays ionising particles, radium or other radioactive substance or other forms of radiant energy”	SI 1958 No. 1068 7.7.58
A1		“Leukaemia (other than chronic lymphatic leukaemia) or cancer of the bone, female breast, testis or thyroid”	“Exposure to electromagnetic radiations (other than radiant heat) or to ionising particles where the dose is sufficient to double the risk of the occurrence of the condition”	SI 2000 No. 1588 10.7.00
A1		“Leukaemia (other than chronic lymphatic leukaemia) or primary cancer of the bone, bladder, breast, colon, liver, lung, ovary, stomach, testis or thyroid”	“Exposure to ironising radiation where the dose is sufficient to double the risk of the occurrence of the condition”	SI 2017 No. 232 30.3.17
Disease No. from	Corresponding No. on old	Amendment to Description of the diseases or Injury	Amendment to nature of occupation	Authority and



3.10.83	Schedule			effective Date
A2	26	"heat cataract" substituted for "cataract produced by exposure to the glare of, or rays from, molten glass or molten red hot metal"	"frequent or prolonged exposure to rays from molten or red hot material" substituted for "frequent or prolonged exposure to the glare of, or rays from, molten glass or molten red hot metal"	SI 1958 No 1068 7.7.58
		"Cataract"	"Frequent or prolonged exposure to radiation from red-hot or white-hot material"	SI 2000 No. 1588 10.7.00
A3	27	"decompression sickness" substituted for "compressed air illness"	"subjection to compressed or rarefied air" substituted for "subjection to compressed air"	SI 1983 No. 1068 7.7.58
		Expanded to: "Dysbarism, including decompression sickness, barotrauma and osteonecrosis"	"or other respirable gases or gaseous mixtures" added	SI 1983 No. 1094 3.10.83
		Divided into:-  "(a) Dysbarism, including decompression sickness, and barotrauma;  (b) Osteonecrosis."		SI 2015 No. 87 16.3.15

<b>A4</b>	<b>28</b>	“cramp of the hand or forearm due to repetitive movements “substituted for “telegraphist's cramp”	“prolonged periods of handwriting, typing or other repetitive movements of the fingers, hand and arm” substituted for “the use of morse key telegraphic instruments for prolonged periods”	SI 1958 No. 1068 7.7.58
			periods”	

<b>Disease No. from</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>2.10.83</b>		Description changed to: “Task-specific focal dystonia”		SI 2007 No. 811 6.4.07
		Description changed to “Task-specific focal dystonia of the hand or forearm”		SI 2012 No. 647 30.3.12
<b>A5</b>	<b>29 and 30</b>	Diseases removed from schedule and grouped under disease No 28		SI 1958 No. 1068 7.7.58
	<b>31</b>	“(beat hand)” omitted		SI 2007 No. 811 6.4.07
<b>A6</b>	<b>32</b>		“External” added before “friction”	SI 1958 No. 1068 7.7.58
		“(beat knee)” omitted		SI 2007 No. 811 6.4.07

<b>A7</b>	<b>33</b>	“acute” omitted before “ bursitis” due to severe or pressure at or about the elbow” added	“external” added before “friction”	SI 1958 No. 1068 7.7.58
		“(beat elbow)” omitted		SI 2007 No. 811 6.4.07
<b>A8</b>	<b>34</b>	“Traumatic inflammation of the tendons of	-	SI 1958
		the hand or forearm or of the associated tendon sheaths” substituted for “Inflammation of the synovial lining of the wrist joint and tendon sheaths”		No. 1068 7.7.58

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>A9</b>	<b>35</b>	Disease removed	-	SI 2007 No. 811 6.4.07
		New disease added.		
<b>A10</b>	<b>48</b>			SI 1974 No. 1414 28.10.74
		Description changed to: “Substantial permanent sensorineural hearing loss amounting to at least 50 dB in each ear, being due in case of at least one ear to occupational noise, and being the average of pure tone losses measured by audiometry over the 1, 2 and 3 KHz frequencies (occupational deafness)”.	Prescription extended to:  (a) the use, or supervision of or assistance in the use of pneumatic percussive tools, or the use of high speed grinding tools, in the cleaning, dressing or finishing of cast metal or of ingots, billets or blooms; or	SI 1979 No 992 3.9.79

			(b) the use, or supervision 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 coalmining, 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	

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>A10 cont</b>			(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) extended as follows:	SI 1983 No.1094 3.10.83
			(a) the use of, or work wholly or mainly in the immediate vicinity of, or highspeed 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	
			(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	

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Diseases or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>A10 cont</b>			(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 engaged in the working of wood or material composed partly of wood, that is to say: multi-cutter moulding machines, planing machines, automatic or semi-automatic lathes, multiple cross-cut 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	

<b>Disease No. from</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Diseases or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>3 .10.83</b>				
<b>A10 cont</b>			is moved towards the material being cut; or	
			(i) the use of chain saws in forestry	
			(a)(b)(c)(d) and (e) amended as follows:	SI 1987 No. 2112 4.1.88

			(a) the use of 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 immediate vicinity of those tools whilst they are being so used; or	
			(b) 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	
			(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	

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Diseases or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>A10 cont</b>			(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; or	

		Description changed to:		SI 1989 No. 2207 16.10.89
		“Sensorineural hearing loss amounting to at least 50 dB in each ear, being the average of hearing losses at 1, 2 and 3 kHz frequencies and being due in the case of at least one ear to occupational noise (occupational deafness).”		
				SI 1994 No. 2343 10.10.94
			3. (ca) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) and (w) added:	

Disease Nature of Occupation	Corresponding Schedule	Amendment to Diseases or Injury	No. on old	Description of the Amendment to	Authority and Effective Date
<b>3.10.83</b>	<b>Schedule</b>	<b>Diseases or Injury</b>		(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	
<b>A10 cont</b>					



metal founding or forging industries, or  
work wholly or mainly in the immediate vicinity  
of those tools whilst they are being so used; or

(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; so

(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

Disease	Corresponding	Amendment to No. from	No. on old	Authority Description of the Amendment to and Effective Date
3.10.83	Schedule	Diseases or Injury		

**A10 cont**

(o) work wholly or mainly in the  
immediate vicinity of knock out and  
shake out grids in foundaries; 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

(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

Disease and Effective	Corresponding	Amendment to	Authority No. from	No. on old	Description of the
-----------------------	---------------	--------------	--------------------	------------	--------------------

3.10.83	Schedule	Diseases or Injury	Amendment to Nature of Occupation		Date
---------	----------	--------------------	-----------------------------------	--	------

**A10 cont**

(u) burning stone in quarries by jet channelling processes, or work

wholly or mainly in the immediate vicinity of such processes; or

connection with-

(v) work on gas turbines in

(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

(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.

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Diseases or Injury	Amendment to Nature of Occupation	Authority and Effective Date
--------------------------	-----------------------------------	--	-----------------------------------	------------------------------

A10 cont

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 plate 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

(b) the use of pneumatic percussive tools for drilling rock in quarries or underground or in sinking shafts or for tunnelling in civil engineering works, or work wholly or mainly in the immediate vicinity of those tools whilst they are being so used.

5. (a) amended as follows:

“In the metal producing industry” deleted

2 new occupations added police firearms training officers and shot blasters

occupations amended water jetting and the use of chainsaws 2 in forestry and all occupations regrouped as follows:

Disease	Corresponding	Amendment to Description of the Diseases or Injury	Amendment to Nature of Occupation	Authority and Effective Date
3.10.83	Schedule			

A10 cont

“Any occupation involving:

the use 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 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, burner or torch to 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;

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Diseases or Injury	Amendment to Nature of Occupation	Authority and Effective Date
--------------------------	-----------------------------------	--	-----------------------------------	------------------------------

**A10 cont**

(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;

(e) multi-cutter moulding machine on wood, planing machine on wood, automatic or semiautomatic 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;

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Diseases or Injury	Amendment to Nature of Occupation	Authority and Effective Date
A10 cont			<p>(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;</p> <p>(h) machine in the manufacture of glass containers or hollow ware for:- automatic moulding, automatic blow moulding, or automatic glass pressing and forming;</p> <p>(i) spinning machine used compressed air to produce glass wool or mineral wool;</p> <p>(j) continuous glass toughening furnace;</p> <p>(k) firearm by a police firearms training officer; or</p> <p>(l) shot-blaster to carry abrasives in air for cleaning".</p>	<p>SI 2003/2190 22.9.03</p>
A11	-	New disease added		<p>SI 1985 No. 159 1.4.85</p>

Changed to	Sub-para (a) changed to the use of hand-held chain saws on wood	SI 2007 No. 1753 1.10.07
(a) Intense blanching of the skin, with a		

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Diseases or Injury	Amendment to Nature of Occupation	Authority and Effective Date
--------------------------	-----------------------------------	--	-----------------------------------	------------------------------

**A11 cont**

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 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

Disease	Corresponding	Amendment to Description of the	Amendment to
---------	---------------	---------------------------------	--------------

No. from 3.10.83	No. on old Schedule	Diseases or Injury	Nature of Occupation	Authority and Effective Date
------------------	---------------------	--------------------	----------------------	------------------------------

A11 cont		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 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		SI 1993 No. 862 19.4.93
-----	--	-------------------	--	-------------------------------

Prescription

amended to:

The use of handheld powered tools whose internal parts vibrate so as to transmit that vibration to the hand, but

SI 1996 No. 425  
24.3.96

Disease No. from	Corresponding No. on old	Amendment to Description of	Amendment to Nature of Occupation	Authority and Effective
------------------	--------------------------	-----------------------------	-----------------------------------	-------------------------



3.10.83	Schedule	the Diseases or Injury	Date
A12 cont		excluding those which are solely powered by hand.	
		Prescription amended to:	
		“(a) 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	SI 2007 No. 811 6.4.07
		“(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	SI 2005 No. 324 14.3.05
A14		New disease added	SI 2009 No. 1396 13.7.09
		Prescription amended to add:	
		“Work wholly or mainly fitting or laying carpets (other than concrete floors) for a period of, or periods which amount in aggregate to, 20 years or more”	SI 2012 No. 647

"Any occupation involving the use of handheld power tools whose internal parts vibrate so as to transmit that vibration to the hand, but excluding those tools which are solely powered by hand, where

SI 2019  
No. 1241  
9.12.19

**A15**

New disease added

(a) the use of those tools amounts to a period or periods in aggregate of at least 10 years

(b) within that period or those periods, the use of those tools amounts to at least 2 hours per day for 3 or more days per week and

(c) the onset of the disease fell within the period or periods of use specified in this paragraph."

**A15**

Changes to

The new prescription for PD A15 will be

SI 2022 No:

prescription of satisfied where the existing 2141 & 422 A15 occupational requirements are met and there

from 28.3.22 is fixed flexion deformity of one or more of the

**1.** metacarpophalangeal joints (MCPJ) greater than 45 degrees that developed either

**1.1** during the course of the claimant's occupation **or**

**1.2** after the period of occupation where there is evidence of MCPJ involvement or palmar changes (nodules or thickening) during the period of occupation **or**

**2.** interphalangeal joints (IPJ) that developed either

**2.1** during the course of the claimant's occupation **or**

**2.2** after the period of occupation where there is evidence of MCPJ



Divided into:-

S.I. 2015

“(a) Cutaneous anthrax;

No. 87

(b) Pulmonary anthrax.”

16.3.15

**B2**

**20**

-

**21(a)**

**21(b)**

**21**

**B3**

Disease removed from schedule and regrouped under new disease No. 21 “field mice or voles; contact Disease with bovine derived from diseases 21(a) and animals or their meat 21(b) New disease added products or pigs or their description changed to meat products” added  
“Infection by leptospira”

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Injury</b>	<b>Amendment to Nature of Occupation Diseases or</b>	<b>Authority and Effective Date</b>
			“or other small mammals” added to (a)	S.I. 1983 No. 1094 3
<b>B4</b>	<b>22</b>	-	<b>B5</b> <b>38</b>	new disease added

Divided into:-

“(a) Cutaneous larva migrans;

(b) Iron deficiency anaemia caused by gastrointestinal infection by hookworm.”

10.83

-

<b>Disease</b>	<b>Corresponding No</b>	<b>Amendment to</b>	<b>Amendment to nature of</b>	<b>Authority</b>

1.3.51

Contact with a source of ankylostomiasis

S.I. 2005  
No. 324  
4.3.05

person taking part in or assisting at post mortem examinations of human remains' substituted for 'post mortem worker' and 'or in an occupation ancillary to such employment' omitted.

S.I. 1983 Simplified to: "Contact with a  
No. 1094

S.I. 2015  
No. 87

source of tuberculous infection".

3.10.83

16.3.15

Changed to:

S.I. 2015

No. 87

"Contact with a source of

16.3.15

tuberculosis while undertaking-

S.I. 1951

<b>No. from 3.10.83</b>	<b>on old Schedule</b>	<b>Description of the diseases or Injury</b>	<b>occupation</b>	<b>and effective Date</b>
<b>B5 cont</b>			(a) work in a hospital, mortuary in which post mortems are conducted or laboratory; or  (b) work in any other workplace."	
<b>B6</b>	<b>43</b>	Changed to: "Extrinsic allergic alveolitis (including farmer's lung)"	1. "Exposure to the dust of mouldy hay or other 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. Caring for or handling birds inserted as (c).	
			5. (c) re lettered as (d).	
			"(e) work involving exposure to metalworking fluid mists" added	SI 2007 No. 811 6.4.07

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the diseases or Injury</b>	<b>Amendment to nature of occupation</b>	<b>Authority and effective Date</b>
		"(including farmer's lung)" omitted	"or any other biological substance that causes extrinsic allergic alveolitis" added after "heterologous proteins" and "or (f) any other workplace" added after	SI 2017 No. 232 30.3.17

			“(e)”	
	<b>46</b>	New disease added		S.I. 1972 No. 910 31.7.72
<b>B7</b>		Changed to “infection by organisms of the genus brucella”	Changed to contact with-	
			(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	
<b>B8</b>	<b>49</b>	New disease added		S.I. 1975 No. 24 12.2.76
			Changed to “Contact with-	S.I. 1984 No. 1659
			(a) human blood or human blood products; or	
			(b) a source of viral hepatitis	
		B8A Infection by hepatitis A virus	Contact with raw sewage	S.I. 2005 No. 324 14.3.05

**Disease No.      Amendment to from  
Description of the  
Corresponding No.**

on old Schedule 3.10.83 Diseases or Injury Amendment to Nature of Authority and		Occupation	Effective Date
<b>B8 cont</b>	B8B Infection by Contact with - hepatitis B or C	(a) human blood or human blood products; or  (b) any other source of hepatitis B or C virus	S.I. 1983 No. 1094 3.12.84
<b>B9</b>	New disease added		S.I. 1983 No. 1094 3.10.93
<b>B10(a)</b>	New disease added		S.I. 1989 No. 1207 9.8.89
<b>B10(b)</b>	New disease added		S.I. 1989 No. 1227 9.8.89
<b>B11</b>	New disease added		S.I. 1989 No. 1207 9.8.89
<b>B12</b>	New disease added		S.I. 1991 No. 1938 6.9.91
<b>B13</b>	New disease added		
<b>B14</b>	New disease added		S.I. 2005 No. 324 14.3.05



B15

New disease added

S.I. 2005

No. 324

14.3.05

Change to "Contact with products made with S.I. 2018 natural rubber latex"

No. 769

28.9.18

**PART III**

**GROUP C - Conditions due to chemical agents**

Disease No. from	Corresponding No. on old	Amendment to Description of Nature of Occupation	Amendment to Diseases or Injury	Authority and Effective Date
3.10.83	Schedule			
C1	1	"or a compound of lead"		SI 1958
		added		No. 1068
		7.7.58		
		changed to		
		"(a) Anaemia with a haemoglobin		S.I. 2003
		concentration of 9g/dL or less		No. 270
		and a blood film showing		17.3.03
		punctate basophilia;		
		(b) peripheral neuropath;		
		(c) central nervous system		
C2	2	toxicity		
		S.I. 1958		
		"or a compound of		
		manganese" added	-	No. 1068

7.7.58

**C3 divided into**

S.I. 2003

changed to

No. 270

17.3.03

“Central nervous system toxicity

characterised by parkinsonism

<b>C3(a)</b>	<b>C3(a) and C3(b)</b>	“or phosphine or poisoning due Phossy Jaw to the anticholinesterase action of organic phosphorus compounds” added	-	S.I. 1957 No. 1068 7.7.58
		Former PDs 3, 11 and 12 combined; “phosphine” <b>Amendment to Description</b> omitted; or an organic com- <b>of Diseases or Injury</b> pound of phosphorus” added	-	S.I. 1958 No. 1094 3.10.83
<b>C3(b)</b>	<b>C3 divided into C3(a) and C3(b)</b>	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.		bronchus or lung.” Work involving the S.I. 2012 use or handling of, or No. 647 exposure 30.3.12 phosphorus
<b>C4</b>	<b>4</b>	'or a compound of arsenic' added	to, white	
		changed to		
		“Primary carcinoma of the		

		<b>A</b>	30.3.12		
<b>Authority</b>	<b>Amendment to</b>		phosphorus.		
<b>Nature</b>	<b>and of Occupation</b>		S.I. 1958		
<b>Effective Date</b>			-	No. 1068	
			7.7.58		
			changed to		
Work involving the use or			“Exposure to the fumes,	S.I. 2003	
S.I. 2012			dust or vapour of arsenic, No. 270		
handling of, or exposure			a compound of arsenic,	17.3.03	
No. 647			or a substance containing		
to, organic compounds of					
'amino-derivative'					
				'amino derivative'	S.I 1951
<b>C8</b>	<b>8</b>		substituted for 'amido	substituted for 'amido	No. 306
				derivative'	1.3.51
derivative'					
<b>C8 cont</b>			'or chloro-derivative' and 'or chloro-derivative' and		S.I. 1958

			arsenic.”	
C5	5	'or a compound of mercury'	-	S.I. 1958 No. 1068
		added		7.7.58
changed to		Central nervous system toxicity characterised by tremor and neuropsychiatric disease	Exposure to mercury or inorganic compounds of mercury for a period of, or periods which amount in aggregate to, 10 years or more.	S.I. 2003 No. 270 17.3.03
C5A				
C5B		Central nervous system toxicity characterised by combined cerebellar and cortical degeneration.	Exposure to methylmercury	
			changed to	
C6	6	changed to “Peripheral neuropathy.”	“The use or handling of, or exposure to, carbon disulphide (also called carbon disulfide).”	S.I. 2003 No. 270 17.3.03
	7		changed to	
C7		changed to: “Acute non-lymphatic leukaemia.”	“Exposure to benzene.”	

Disease No. Diseases on old Schedule 3.10.83	Corresponding No.	Amendment to Amendment to Nature of Occupation or Injury	Description of	Authority and Effective Date
		'poisoning by nitrochlorbenzene' added	'or nitrochlorbenzene' added	No. 1068 7.7.58
		disease removed from	No. 270 schedule	S.I. 2003 17.3.03

			'a homologue or 'or by substituted substituted dinitrophenols dinitrophenols or by the		S.I. 1958
<b>C9</b>	<b>9</b>		or the salts of such salts of such substances' substances' substituted added for		No. 1068 7.7.58
				'any of its homologues'	
			disease removed from		S.I. 2003
			schedule	-	No. 270 17.3.03
<b>C10</b>	<b>10</b>		disease removed from Schedule	-	S.I. 2003 No. 270 17.3.03
<b>C11</b>	<b>13</b>		disease removed from schedule	-	S.I. 2003 No. 270 17.3.03
<b>C12</b>	<b>14</b>		“(Excluding the condition known as chlor-acne)” omitted		S.I. 1658 No. 1068 7.7.58
			changed to“ (a) Peripheral neuropathy; (b) central nervous	changed to“ Exposure to methyl bromide (also called bromomethane)” system toxicity.”	S.I. 2003 No. 270 17.3.03
<b>C13</b>	<b>15</b>		changed to	changed to “Exposure to chlorinated	S.I. 2003 No. 270 17.3.03
			“Cirrhosis of the liver.” naphthalenes.” disease removed from S.I. 2003		



S.I. 1949

**C17**

**36**

new disease added“

No. 230

21.2.49

or a compound of  
beryllium”

S.I. 1958

No. 1068

7.7.58

added

(disease transferred  
to the category of

No. 415 “SpMB”.”

S.I. 1974

27.11.74

diseases)changed to changed to

S.I. 2003

No. 270

“Chronic beryllium  
disease

“Inhalation of beryllium or a  
beryllium compound.”

17.3.03

**C18**

**40**

new disease added

S.I. 1956

No. 118

8.2.56

[disease transferred  
to the category of

S.I. 1974

No. 1415

“SpMB”

“dust” added

27.11.74

S.I. 1983

No. 1094

diseases]

3.10.83

changed to

changed to “Inhalation of cadmium fumes

S.I. 2003

No. 270

“Emphysema.””

for a period of, or periods which

17.3.03

amount in aggregate to, 20 years or  
more.”

No. from	No. on old	Amendment to Description of the Diseases or Injury of Occupation	Authority Disease Amendment to Nature and Effective 3.10.83Schedule	Corresponding Date
C19	47	new disease added:	-	S.I. 1972 No. 1511 13.11.72
		changed to“ Peripheral neuropathy;“Exposure to (b) central nervous system toxicity.” S.I. 1958 General description 'arsenic'	changed to  acrylamide”.	S.I. 2003 No. 270 (a)  17.3.03
C20	23	added 7.7.58 S.I. 1961	'arsenic' added	No. 1068
		“(including quinone or hydroquinone)” added	“(including quinone or hydroquinone)” added	No. 691
		28.4.61 changed to “Dystrophy of S.I. 1961 the cornea (including 23a		No. 691 28.4.61
		of the eye” separated into (a) and (b)“(including quinone omitted tar, pitch, bitumen, mineral “except quinone or	“due in any case to arsenic or hydroquinone)”	



S.I. 1983

oil (including paraffin), soot

hydroquinone" added at

No. 1094

(a);

or any compound, product,

3.10.83

(including quinone or

"(b) exposure to

hydroquinone) or, residue of any

quinone or

of these substances" omitted

hydroquinone during

their manufacture"

added

changed to

changed to

"Dystrophy of the cornea

S.I. 2003

No. 270

"Exposure to quinone or

(including ulceration of

17.3.03

hydroquinone."

the corneal surface of the eye)."

**C21(a)**

**23b**

"due in any case to arsenic

"(including quinone or

S.I. 1983

hydroquinone)"

No. 1094

omitted; "except

tar, pitch, bitumen, mineral oil

(including paraffin) soot or any

quinone or

compound, product (including

hydroquinone" added

3.10.83

quinone or hydroquinone) or,

residue of any of these

after "substances"

substances" omitted.

**Disease**

**Corresponding**

**Amendment to**

**Authority**

**Amendment to Nature of**

**No. from**

**No. on old**

**Description of the**

**and Effective**

**Occupation**

**3.10.83**

**Schedule**

**Diseases or Injury**

**Date**

changed to

S.I. 1958

<b>C21(b)</b>	<b>23c</b>	"Squamouscelled carcinoma of the skin"		No. 1068 7.7.58
S.I. 1983				
		As for PD C21(a) above	As for PD C21(a) above	No. 1094
3.10.83				
changed to				
"Exposure to arsenic or				
		"Primary carcinoma of the	arsenic compounds, tar,	S.I. 2003
<b>C21</b>				
		skin."	pitch, bitumen, mineral oil	No. 270
(including paraffin) or soot."				
S.I. 1949				
<b>C22(a)</b>	<b>37(a)</b>	new disease added	-	No. 2316
19.12.49				
'involving work' added after				
'any occupation'				
S.I. 1958				
and 'necessitates				
<b>(b)</b>	<b>(b)</b>			No. 1068
7.7.58				
working' substituted for'				
involves work'				
		(disease 37(b) transferred		S.I. 1974
		to category of "SpMB"		No. 1415
		diseases)		27.11.74
changed to				
changed to				
"(a) Primary carcinoma of				
		the mucous membrane of	"Work before 1950 in the	S.I. 2003
the nose				
			refining of nickel involving	No. 270
exposure to oxides, sulphides 17.3.03				
or paranasal sinuses;				
or water-soluble compounds				
		(b) Primary carcinoma of	of nickel."	

the bronchus or lung.”

S.I.1953

**C23**            **39**                            new disease added“

No. 1740

7.12.53

or of the epithelium lining of 'or benzidine or any of their

S.I. 1958

the renal pelvis or of the            salts' omitted from(a)(i);(a)(ii);

No. 1950

epithelial lining of ureter”            (iii) and (iv) added; original (a)

24.12.73

added    (ii) renumbered as (a)(v)

**Authority**

**Disease**            **Corresponding**

**Amendment to Description**            **Amendment to Nature of**            **and**

**No. from**            **No. on old**

**of the Disease or Injury**            **Occupation**                            **Effective**

**3.10.83**            **Schedule**

**Date**

S.I. 1973

“or of the epithelium lining of

**C23 cont**

-

No. 1950

the urethra” added

24.12.73

description changed to:

“Primary neoplasm, of the  
epithelium lining of the urinary

S.I. 1975

bladder (Papilloma of the

-

No. 1537

bladder) or of the renal pelvis

22.10.75

or of the ureter or of the

urethra”.

Changed to: “Primary

1. “or Methylene-

neoplasm (including

papilloma carcinoma-in-situ      bisorthochloroaniline” added to  
 and invasive carcinoma) of      (a)(i)

the epithelial lining of the

urinary tract(renal pelvis,      (d) added:

ureter, bladder and urethra)”

(d) exposure to coal tar pitch  
 volatiles produced in aluminium  
 smelting involving the  
 Soderberg process (that is to  
 S.I. 1993

say the method of producing

No 862

aluminium by electrolysis in  
 19.4.94

which the anode consists of a  
 paste of petroleum coke and  
 mineral oil which is baked in  
 situ).

S.I. 1983

2. “(including benzidine)” added

No 1094

to (a)(ii)

3.10.83

S.I. 2003

changed to

changed to

No. 270

17.3.03

“Primary neoplasm of the

epithelial lining of the urinary “(a) The manufacture of

tract.”

<b>Disease</b>	<b>Corresponding</b>	<b>Amendment to</b>	<b>Authority</b>
<b>No. from</b>	<b>No. on old</b>	<b>Description of</b>	<b>and</b>
<b>3.10.83</b>	<b>Schedule</b>	<b>the Disease or</b>	<b>Effective</b>
		<b>Amendment to Nature of Occupation</b>	

C23 cont

- 1-naphthylamine, .....-2-naphthylamine, benzidine, auramine, magenta or 4-aminobiphenyl (also called biphenyl-4-ylamine);
- (b) work in the process of manufacturing methylene-bisorthochloroaniline (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, to coal tar pitch volatiles produced in aluminium smelting involving the Soderberg process (that is to say, the method of

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Disease or Injury	Amendment to Nature of Occupation	Authority and Effective Date
C23 cont			producing aluminium by electrolysis in which the anode consists of a paste of petroleum coke and mineral of which is baked in situ)."	

C24(a)	50(a)	new disease added:		S.I. 1977 No. 250 21.3.77
(b)	(b)			
(c)	-	new disease added:		S.I. 1983 No. 1094 3.10.83
		changed to	changed to	S.I. 2003 No. 270 17.3.03
		“(a) Angiosarcoma of the liver; (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(iii) sclerodermatous thickening of the skin; (c) Liver fibrosis.”	“Exposure to vinyl chloride monomer in the manufacture of polyvinyl chloride.”	
		changed to  (a) Angiosarcoma of the liver; or (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.		S.I. 2006 No. 586 6.4.06

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Disease or Injury	Amendment to Nature of Occupation	Authority and Effective Date
--------------------------	-----------------------------------	---	-----------------------------------	------------------------------

<b>C24A</b>	-	new disease added	occupation added	S.I. 2006 No. 586 6.4.06
		Raynaud's phenomenon due to exposure to vinyl chloride monomer.	Exposure to vinyl chloride monomer in the manufacture of polyvinyl chloride before 1.1.84.	
<b>C25</b>	<b>52</b>	new disease added:		S.I. 1980 No. 1493 15.12.80
		changed to  Vitiligo.	changed to  The use or handling of, or exposure to, paratertiary-butylphenol (also called 4-tertbutylphenol), paratertiary-butylcatechol (also called 4-tert-butylcatechol), para- amyphenol (also called p-pentyl phenol isomers), hydroquinone, monobenzyl ether of hydroquinone (also called 4-benzyloxphenol) or mono- butyl ether of hydroquinone(also called 4-butoxyphenol).	S.I. 2003 No. 270 17.3.03
<b>C26</b>	-	new disease added:		S.I. 1987 No. 2112 4.1.88
		changed to	changed to	S.I. 2003 No. 270 17.3.03
		“(a) Liver toxicity;	“The use or handling of, or exposure to, carbon tetrachloride (also called tetrachloromethane).”	

Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Disease or Injury	Amendment to Nature of Occupation	Authority and Effective Date
		(b) kidney toxicity.”		
<b>C27</b>		changed to	changed to	S.I. 2003

				No. 270 17.3.03
		“Liver toxicity;	“The use or handling of, or exposure to, trichloromethane (also called chloroform).”	
<b>C28</b>	-	new disease added:		S.I. 1987 No. 2112 4.1.88
		disease removed from schedule		S.I. 2003 No. 270 17.3.03
<b>C29</b>	-	new disease added:		S.I. 1987 No. 2112 4.1.88
		changed to  “Peripheral neuropathy.”	changed to  “The use or handling of, or exposure to, n-hexane or nbutyl methyl ketone.”	S.I. 2003 No. 270 17.3.03
<b>C30</b>	-	new disease added:		S.I. 1996 No. 425 24.3.96



		changed to“  (a) Dermatitis;  (b) ulceration of the mucous membrane or the epidermis.”	changed to  “The use or handling of, or exposure to, chromic acid, chromates or dichromates	S.I. 2003 No. 270 17.3.03
<b>C31</b>	-	new disease added		S.I. 2011 No. 1497 18.7.11
<b>C32</b>		new disease added		S.I. 2011 No. 1497 18.7.11
<b>C33</b>		New disease added		S.I. 2015 No. 87 16.3.15
<b>C34</b>		New disease added		S.I. 2017 No. 232 30.3.17

## PART IV

### GROUP D – Miscellaneous conditions

Disease	Corresponding No.	Amendment to Description	Amendment to Nature of Occupation	Authority and Effective Date
Pneumoconiosis				
<b>D1</b> (unscheduled)		see Appendix 2		
Byssinosis				

**D2**

(unscheduled)

Exposure to Asbestos,

Diffuse mesothelioma

**44**

asbestos dust or any

(primary neoplasm of the

S.I. 1997

admixture of asbestos at a

**D3**

mesothelium of the pleura

No.810

Diffuse

level above that commonly

or of the pericardium or of

9.4.97

Mesothelioma

found in the environment at

the peritoneum)

large

disease derived from

disease No 24(a) and 24(b),

S.I. 1958

Diseases removed from

**D4**

**41**

No. 1068

schedule and regrouped

7.7.58

under new diseases Nos. 41

and 42

Redefined as allergic rhinitis

S.I. 1996

due to exposure to any of

Exposure to any of the

No. 4252

the agents listed for PD D7

agents set out in Col 1

4.3.96

(except the open category)

S.I. 2005

No.324

14.3.05

disease derived from

S.I. 1958

**D5**

**42**

disease No 24(a) and 24(b) -

No. 1068

see D4 above

7.7.58

“except chromic acid,

	"including chrome	S.I. 1996
chromates or bi-		
	ulceration of the skin but"	No. 425
chromates" added after		
	removed	24.3.96

"external agent"

Combined Under the  
description formerly

**D6**

applicable to

P51

**Authority**

<b>Disease</b>	<b>Corresponding</b>		
----------------	----------------------	--	--

**Amendment to Description of the**

**Amendment to Nature of and**

**No. from No. on old**

**Disease or Injury**

**Occupation**

**Effective**

**3.10.83**      **Schedule**

**Date**

**D6 cont**

“(a) Attendance for work in S.I. 1983  
or about a building where No. 1094  
wooden goods are      3.10.83  
manufactured or repaired”  
added; (a) and  
(b) renumbered as (b) and  
(c).

S.I. 2018

(a) changed to

No. 769

"attendance for work at a workplace  
where wooden<sup>28.9.18</sup> goods or  
products made wholly or partially of  
wood are manufactured or

repaired"

"exposure to wood dust in the  
course of the machine process  
of wood" added as (d)

New disease added S.I. 1982  
No. 249  
29.3.82

(f) amended to "animals including insects and other anthropods used for the purposes of research or education or in laboratories"  
S.I. 1986  
No. 1374  
1.9.86

(g)to (n) added asthmas due to exposure to any of the following agents: anti-biotics, cimetidine wood dust, ispaghula, castor dust, ipecacuanha azodicarbonamide  
S.I. 1986  
No. 1374  
1.9.86 bean

(o) to (x) added asthmas due to exposure to any of the following agents added: animals including insects and other anthropods or their larval forms, glutaraldehyde, persulphate salts or henna, 26.9.91 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 products made with natural rubber latex, any other sensitizing agent.  
S.I. 1991  
No. 1938  
S.I. 2005  
No. 324  
14.3.05

Disease	Corresponding	Amendment to Description of the	Amendment to	Authority
No. from 3.10.83	No. on old Schedule	Disease or Injury	Nature of Occupation	and Effective Date

D8		New disease added		S.I. 1985 No. 159 1.4.85
		(b) "unilateral or bilateral diffuse pleural thickening extending to a thickness of 5 mm or more at any point within the area affected 9.4.97 as measured by a plain chest radiograph (not being a computerized 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 bilateral diffuse pleural thickening, covers 25 per cent or more of the combined area of the chest wall of both lungs" added		S.I. 1997 No. 810 5.4.97
		changed to  Primary carcinoma of the lung where there is accompanying evidence of asbestosis.	changed to  (a) The working or handling of asbestos or 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	S.I. 2006 No. 586 6.4.06

			appliances for the collection of asbestos dust; or	
			(d) substantial exposure to the dust arising from	

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>D8 cont</b>			any of the foregoing operations.	
<b>D8A</b>	-	new disease added	occupation added	S.I. 2006 No. 586 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.	
<b>D9</b>		New disease added		S.I. 1985 No. 159 1.4.85
		changed to  Unilateral or bilateral diffuse pleural thickening extending to a thickness of 5mm or more at any point within the area affected as measured by a plain chest (not being a computerized tomography scan or other form of imaging) which		S.I. 1997 No. 810 9.4.97
		(i) in the case of unilateral diffuse pleural thickening,		

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>
<b>D9 cont</b>		(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 Unilateral or bilateral diffuse pleural thickening with obliteration of the costophrenic angle		S.I. 2006 No. 586 6.4.06

		“with obliteration of the costophrenic angle” omitted		S.I. 2017 No. 232  30.3.17
<b>D10</b>		New disease added		S.I. 1987 No. 335 1.4.87
		Changed to: “primary carcinoma of the lung”		S.I. 1993 No. 862 19.4.93
			New occupation added (see DMG 67906)	S.I. 2012 No. 1634 1.8.12
<b>D11</b>		New disease added		S.I. 1993 No. 1985 13.9.93
		changed to  Primary carcinoma of the lung where there is accompanying evidence of silicosis	Exposure to silica dust in the course of (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) using siliceous materials as abrasives	S.I. 1993 No. 862 19.4.93



Disease No. from 3.10.83	Corresponding No. on old Schedule	Amendment to Description of the Disease or Injury	Amendment to Nature of Occupation	Authority and Effective
				Date
			(g) cutting stone (h) stonemasonry (i) work in a foundry.	
<b>D12</b>		New disease added Except in the circumstances specified in regulation 2(d), (a) chronic bronchitis <b>or</b> (b) (b) emphysema <b>or</b> (c) both where there is accompanying evidence of	“Exposure to coal dust by reason of working underground in a coal mine for a period of, or periods amounting in the aggregate to, at least 20 years (whether before or after 5th July 1948).	S.I. 1993 No. 1985 13.9.93
		(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 Pneumo conioses” Revised Edition 1980 8th Impression 1992 published at Geneva <b>and</b>		

		(ii) a forced expiratory volume in one second at least one litre below the mean value predicted in accordance with "Lung Function: Assessment and Application in Medicine" by J E Cotes, 4th Edition 1979 published at Oxford 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		
		changed to		

<b>Disease No. from 3.10.83</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to Nature of Occupation</b>	<b>Authority and Effective Date</b>

D12 cont		<p>Except in the specified in regulation 2(d)</p> <p>(a) chronic bronchitis <b>or</b></p> <p>(b) emphysema <b>or</b></p> <p>(c) both</p> <p>where there is accompanying evidence of forced expiratory volume in one second (measured from the position of maximum inspiration with the claimant making maximum effort) which is</p> <p>(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 (ISBN0-6323296-9) for a person of the claimants age, height and sex <b>or</b> (ii) less than one litre</p>	<p>Any occupation involving: exposure to coal dust by reason of working underground in a coal mine for a period of, or periods amounting in the aggregate to, at least 20 years (whether before or after 5th July 1948) and any such period or periods shall include a period or periods of incapacity whilst engaged in such an occupation.</p>	<p>S.I. 1997 No. 810 7.4.97</p>
		<p>changed to</p> <p>“Except in the circumstances specified in regulation 2(d),</p> <p>(a) chronic bronchitis <b>or</b></p> <p>(b) emphysema</p> <p>(c) or both</p> <p>where there is accompanying evidence of forced expiratory volume in one second (measured from the position of maximum inspiration with the</p>	<p>“Exposure to coal dust by reason of working underground in a coal mine for a period of, or periods amounting in the aggregate to, at least 20 years (whether before or after 5<sup>th</sup> July 1948) and any such period or periods shall include a period engaged in such an occupation”</p>	<p>S.I. 2000 No. 1588 10.7.00</p>

		claimant making maximum effort) which is (i) at least one litre below the appropriate mean value predicted, obtained from the following prediction formulae which give the mean values predicted in litres-		
--	--	---	--	--

<b>Disease No. from</b>	<b>Corresponding No. on old Schedule</b>	<b>Amendment to Description of the Disease or Injury</b>	<b>Amendment to Nature and of Occupation</b>	<b>Authority Effective Date</b>
<b>3.10.83</b>	<b>Schedule</b>			

For a man where the measurement is made without back-extrapolation,  $(3.62 \times \text{Height in metres}) - (0.031 \times \text{Age in years}) - 1.41$  or where the measurement is made with backextrapolation,  $(3.71 \times \text{Height in metres}) - (0.032 \times \text{Age in years}) - 1.44.$

**D12 cont**

For a woman, where the measurement is made without backextrapolation,  $(3.29 \times \text{Height in metres}) - (0.029 \times \text{Age in years}) - 1.42$

or where the measurement is made with backextrapolation,  $(3.37 \times \text{Height in metres}) - (0.030 \times \text{Age in years}) - 1.46$  or  
(ii) less than one litre

Changed to

“accompanying” removed from (c)

Exposure to coal dust (whether before or after 5th July 1948) by reason of working-

S.I. 2008  
No. 1552  
21.7.08

(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

(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.

**D12  
cont**

“(a) chronic bronchitis or  
(b) emphysema  
(c) or both” replaced with:-

“chronic obstructive pulmonary disease”

S.I.  
2015  
No. 87  
16.3.15

“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”

New disease added

Exposure to wood dust in the course of the processing of wood or the manufacture or repair of 2008 wood products, for a period or periods which amount in aggregate to at least 10 years 7.4.08

S.I.

**D13** Primary carcinoma of the nasopharynx



## Appendix 2 - Changes since 5 July 1948 amending the regulations affecting claims for Prescribed disease Nos D1, D2 and D3

Effective Date	Amendment	Authority
28 December 1948	<p>1. Added present reg 23, DMG Chapter 71.</p> <p>2. Reduced qualifying disablement due to byssinosis from total incapacity to resulting disablement of not less than 50 per cent.</p> <p>3. Byssinosis assessments, unless limited by a person's life, to be for a period of not less than one year.</p> <p>4. References to total incapacity by work omitted from determination of diagnosis question for byssinosis.</p>	S.I. 1948 No. 2723
15 September 1949	<p>1. Amended procedure for reference and determination of diagnosis and recrudescence questions as present SS Act 98 s 19 and SS CS (D&amp;A) Regs, reg 12 DMG 67078.</p> <p>2. References to living person omitted from diagnosis and recrudescence questions.</p>	S.I. 1949 No. 1697
27 September 1950	<p>Para 4(b) of Part II of first schedule to regulations amended to its present form. See DMG 67762.</p>	S.I. 1959 No. 1565
March 1951	<p>“Any room where any process up to and including the carding process”, and factories “in which the spinning or manipulation of raw or waste cotton carried on”, added to the prescription for byssinosis.</p>	S.I. 1951 No. 1 306 is
4 June 1951	<p>Introduced benefit for re employed pneumoconiotics; present reg 9 after slight modification later; DMG 67806.</p>	S.I. 1951 No. 918
27 August 1951	<p>Added present para 11 to Part II of first schedule to regulations, DMG 67791.</p>	S.I. 1951 No. 1542

22 April 1953 1. Definition of "foundry" added to present reg 1(2) DMG 67762. S.I. 1953 No. 669

1. Non scheduled dusty occupations added to prescription for pneumoconiosis; reg 2(b); DMG 67794.

2. Para 4 of Part II of first schedule to regulations amended to its present form, DMG 67762.

11 January  
1954

S.I. 1954 No.

5

3. Para 10(a) of Part II of first schedule to regulations amended to its present form, DMG 67778.

4. Pension payable for pneumoconiosis where assessments 1% to 4%, DMG 67723.

1. Added present reg 24, DMG 67801.

8 November  
1956

S.I. 1954 No.

1442

Benefit to be awarded for pneumoconiosis certified under the Workmen's Compensation Acts only provided that no compensation had been awarded or paid, DMG 67804.

**Effective Date**

**Amendment**

**Authority**

1. Qualifying period for byssinosis reduced to 10 years.

2. No gratuity payable in respect of byssinosis added to reg 20(1);

8 February 1956

DMG 67816.

S.I. 1956 No. 118

3. Benefit payable for byssinosis for assessments of less than 50 per cent.

12 June 1957

Added present reg 17; DMG Chapter 71.

S.I. 1957 No. 964

31 March 1959

Consolidating regulations

S.I. 1959 No. 467

1 November 1965 Flax workers added to prescription for byssinosis; reg 2(c)

S.I. 1965 No.

1828

22 August 1966

Diffuse mesothelioma (PD No. 44) added to the schedule of diseases.

S.I. 1966 No. 987



Added present reg 37

16 August 1967 1. Spinning, winding and beaming processes added to prescription for byssinosis. S.I. 1967 No. 1187

27 November 1974 2. Qualifying period for byssinosis reduced to 5 years. S.I. 1974 No. 1415

3. Permanent disablement condition in respect of byssinosis abolished.

**Effective**

**Date**

**Amendment**

**Authority**

4. Provisions relating to diffuse mesothelioma assimilated to those relating to pneumoconiosis and byssinosis; presently reg 20(1) of the PD Regs and Social Security (Adjudication) Regulations 1995. Reg 54 of the

31 January 1977 Limited right of appeal on diagnosis to MAT introduced for pneumoconiosis and byssinosis and re-introduced for diffuse mesothelioma. S.I. 1976 No. 1628

6 April 1979 Right of appeal to MAT on diagnosis of pneumoconiosis and byssinosis relaxed in relation to previous rejections. S.I. 1979 No. 264

S.I. 1979 No. 6 April 1979 Qualifying period for byssinosis abolished. 265

Limitations on right of appeal to MAT on diagnosis of pneumoconiosis and byssinosis removed except where less than 2 years has elapsed since a previous appeal. S.I. 1982 No. 566

19 May 1982

1. Pneumoconiosis and byssinosis numbered and included in Part I of Schedule I.

2. Occupational cover by 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 October 1983 S.I. 1983 No. 1094

3. "Malignant" removed from the description of PD No D3 and "pericardium" added to the areas of the body covered by prescription.

Effective Date	Amendment	Authority
31 July 1985	Consolidating Regulations	S.I. 1985 No. 967
1 September 1986	Remaining restrictions on right of appeal to MAT on diagnosis of pneumoconiosis and byssinosis removed.	S.I. 1986 No. 1374
9 April 1997	Part 1 Schd 1 amended for S.I. 1997 No. 1810 PDD3,PDD8,PDD9, PDD12	S.I. 1997 No. 1810
9 July 1997	90 day rule removed for PDD3	S.I. 1997 No. 1810
29 July 2002	Where PDD3 is diagnosed assessment is 100%	S.I. 2002 No. 1717

## Appendix 3 - List of occupations for PD D3 mesothelioma

### List of occupations for PD 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 plant, fork lift and mechanical truck drivers, crane drivers and operators.

Storekeepers, stevedores, warehouse market and other goods porters.

Boiler operators.

## Appendix 4 - Diagnosis for PD 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
MAT decisions	19
REA	20
Other industries	21

Annotations

Contact

## INTRODUCTION

1 On 25 August 1994 the Commissioner<sup>1</sup> highlighted a divergence between the law governing entitlement to IIDB for PD D1 and the decisions of some AMAs and MATs. The Commissioner held that there was no minimum level of pneumoconiosis<sup>2</sup> 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 CB Act s110(3)

## BACKGROUND

2 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 MAT 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 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**

3 The effect of the decision means that claims for PD 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 DM'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 Court<sup>1</sup>. 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

1. on or before 25.8.94 it should be superseded<sup>2</sup>

2. after 25.8.94 it should be revised<sup>3</sup>.

Where either supersession or revision is appropriate the effective date will be the same, 25.8.94<sup>4</sup> and no arrears are payable before then.

1 SS CS (D&A) Regs, reg 1(3), 2 reg 6(2)(b)(i), 3 reg 3(5)(a), 4 SS Act 98 s 27(3), SS CS (D&A) Regs, reg 5 &

7(6)

## **X-RAY CATEGORY**

4 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 PD D1. Where the claim had been disallowed for any other reason, the DM should supersede at the same rate. In the majority of cases the DM will simply consider the medical reports, the category of x-ray and any other available evidence.

### **X-ray category 0**

5 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 04027 - 04028.

### **X-ray category 0/1 - No evidence of pneumoconiosis**

6 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 or 1 - Evidence of pneumoconiosis**

7 Where the examining doctor

determined the x-ray to be category 0/1 or 1 and

noted that there was some degree of pneumoconiosis and

decided that D1 was not diagnosed

the disallowance is likely, on the balance of probabilities, to be incorrect. 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**

8 Where the doctor decided that the x-ray appearances were due, partly or entirely, to a condition other than pneumoconiosis the DM will need to consider if the pneumoconiosis plays any part. These cases should be referred to MS 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 referring to Medical Services all BI8s 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**

9 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**

10 If the medical report does not record the x-ray category the case should be referred to MS 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**

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. DMs 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 DM 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.

12 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**

13 On the cases not referred to Medical Services the DM 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**

14 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 91<sup>st</sup> day

whichever is the later.

## **DATE OF ONSET**

15 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 cases, to decide whether or not there is entitlement to REA. 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 91<sup>st</sup> 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 improbable<sup>1</sup>. In some cases this will be the only evidence available.

1 R(I) 2/51

### **Example 1**

PD D1 claimed on 22.1.92. The claimant states he has been suffering with breathing problems since March 1988. He has been attending his GP 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 DM 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 91<sup>st</sup> day for life and awards benefit from 25.8.94.

On 18.3.02 a claim for REA is made. All other conditions for an award are satisfied and REA is awarded from 18.12.01, three months before the date of claim.

### **Example 2**

PD 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 DM accepts that the degree of disablement is 1% for life from the 91<sup>st</sup> day and awards benefit from 25.8.94.

### **Example 3**

PD 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 on 12.2.02.

There was an official error in light of the Commissioner's decision. The DM 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 91<sup>st</sup> day.



## Good cause

16 If the claim is made after 25.8.94 but 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 claim<sup>1</sup>. In any event no arrears can be paid for any period before 25.8.94.

1 R(I) 25/56

## AGGREGATION

17 Care should be taken when aggregation is appropriate because three different dates of relevant determination may be involved.

1. PD D1 can be awarded from 25.8.94<sup>1</sup> or the 91<sup>st</sup> day following the date of onset, para 15.
2. Aggregation with expired gratuities should be considered from 24.7.95<sup>2</sup>.
3. On 28.1.97<sup>3</sup> a Commissioner held that for PD 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 PD 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 PD 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 DM accepts the date of onset as 12.4.89 based on the available evidence and assesses disablement at 1% for life from the 91<sup>st</sup> 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 PD 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 PD D1 made on 15.4.92. The claim was disallowed because the x-ray category was 1. No previous claim for PD 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 DM accepts the date of onset as 11.12.91 based on the available evidence and assesses disablement at 1% from the 91<sup>st</sup> 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 PD D1.

Arrears are due for PD D1 from 28.1.97.

18 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 a 1% increase of an **existing** assessment then aggregation would be appropriate. The guidance in that memo is not appropriate for claims to PD D1 made before 1.10.86 because supersession is being considered as a result of a disallowance and not on a change of circumstances.

## **MAT DECISIONS**

19 There will be cases where an MAT confirmed disallowance. An MAT or AT decision cannot be superseded or revised by a DM on the grounds of error of law<sup>1</sup>. Because of the time limits for appealing it will be rare for an appeal to the Commissioner to be admitted or considered.

1 SS Act 98 s 9 & 10, SS CS (D&A) Regs, reg 6(2)

## **REA**

20 A claim for REA can only succeed where the date of onset is before 1.10.90. A medical opinion will normally be required to decide entitlement. Where REA 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**

21 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 - Spare**

## Appendix 6 - Presumption before 6.3.15

### 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 - Disease where presumption should normally be automatic and those where automatic presumption is not appropriate

### 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>B. Conditions due to biological agents</b>		
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 Streptococcus suis	Contact with pigs infected by Streptococcus suis, or with the carcasses, products or residues of pigs so infected.	Yes
B10a) Avian chlamydiosis	Contact with birds infected with Chlamydia psittaci, or with the remains or untreated products of such birds	No

B10b) Ovine chlamydiosis	Contact with sheep infected with Chlamydia psittaci, 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 Borrelia bacteria	No
B15. Anaphylaxis	Contact with products made with natural rubber latex	No
<b>C. Conditions due to chemical agents</b>		
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 <sup>st</sup> 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
<b>D. Miscellaneous conditions</b>		
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; 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

**The content of the examples in this document (including use of imagery) is for illustrative purposes only**