

(10) Silicosis and Asbestosis (Medical Arrangements) Scheme

THE SILICOSIS AND ASBESTOSIS (MEDICAL ARRANGEMENTS) SCHEME, 1931, DATED APRIL 30, 1931, MADE BY THE SECRETARY OF STATE UNDER THE WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 GEO. 5. c. 84) AND THE WORKMEN'S COMPENSATION (SILICOSIS AND ASBESTOSIS) ACT, 1930 (20 & 21 GEO. 5. c. 29).

1931 No. 341

[*This Scheme (S.R. & O. 1931, p. 680) is printed as amended by Schemes dated August 4, 1934 (S.R. & O. 1934 (No. 889) II, p. 731); June 28, 1939 (S.R. & O. 1939 No. 705, p.655 below) and June 22, 1943 (S.R. & O. 1943 No. 887, p. 656 below).*]

In pursuance of the powers conferred on me by Section 47 of the Workmen's Compensation Act, 1925, as extended by the Workmen's Compensation (Silicosis and Asbestosis) Act, 1930, I hereby make the scheme annexed hereto and direct that it shall come into force on the 1st June, 1931.

J. R. Clynes,
One of His Majesty's Principal
Secretaries of State.

Home Office,
Whitehall.
30th April, 1931.

THE SILICOSIS AND ASBESTOSIS (MEDICAL ARRANGEMENTS) SCHEME,
1931

1. *Title of Scheme.*—This Scheme may be cited as “The Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931.”

2. *Definitions.*—In this Scheme, unless the context otherwise requires :—

“The Act” means the Workmen’s Compensation Act, 1925, as extended by the Workmen’s Compensation (Silicosis and Asbestosis) Act, 1930.

“Compensation Scheme” means a Scheme made under section 47 of the Act providing for the payment of compensation by the employers of workmen in the industry or process or group of industries or processes specified therein.

The expressions “Employer,” “Workman” and “Dependants” have the same meanings as in the Act.

“The Fund” means the Medical Expenses Fund established under this Scheme.

“Medical Board” means the Medical Board appointed by the Secretary of State under this Scheme.

“Prescribed” means prescribed by the Secretary of State.

“Regulations” means the Regulations made by the Secretary of State with the approval of the Treasury, prescribing the fees to be paid in respect of any examinations made or certificates given under this Scheme.

“The disease” means silicosis or asbestosis or either of those diseases accompanied by tuberculosis.

“Tuberculosis” means tuberculosis of the lungs.

Medical Board

3. A Medical Board consisting of specially qualified medical practitioners shall be appointed by the Secretary of State for the purpose of making the medical examinations and reports and giving the medical certificates required to be made or given by the Medical Board in pursuance of this Scheme or any Compensation Scheme. The Medical Board may act for such areas as the Secretary of State may approve by means of panels each of which shall consist of not less than two members of the Board.

One member of the Medical Board shall be appointed by the Secretary of State to be the Chief Medical Officer. It shall be the duty of such officer to supervise the working of the medical arrangements under this Scheme with a view to securing a uniform standard of efficiency.

The Head Office of the Medical Board shall be at Sheffield.

The members of the Medical Board shall hold office on such terms as to remuneration and otherwise as the Secretary of State may approve, and shall be responsible to the Secretary of State for carrying out their duties in accordance with the procedure laid down in this Scheme and in compliance with any instructions issued by him.

4. Where, in pursuance of this Scheme or any Compensation Scheme, a report is required to be made or a certificate given by the Medical Board, such report or certificate shall not be made or given except with the authority of not less than two members of the Board.

5. Any certificate given by the Medical Board in pursuance of the provisions of this Scheme shall be conclusive evidence of the matters therein certified, and a report or certificate purporting to be signed on behalf of the Board shall be accepted in any proceedings under the Act as *prima facie* evidence of such report or certificate.

6. Where in pursuance of any Compensation Scheme Joint Committees have been appointed for the settlement of claims, the Medical Board shall forward all certificates given in pursuance of such Scheme to the Secretary of the Joint Committee. In other cases where the application is made by or on behalf of a workman or his dependants they shall deliver or forward the certificate to the workman or his dependants as the case may be.

A copy of any certificate given by the Medical Board under this Scheme shall, on payment of the fee fixed in the Regulations, be supplied by the Board to the employer or to the workman or his dependants.

Medical Examinations and Certificates.

7. Where in pursuance of any Compensation Scheme application is made by or on behalf of the dependants of a deceased workman to the Medical Board for a certificate that the death of a workman has been due to the disease, the Board shall, after a post-mortem examination, certify in the appropriate form set out in the Second Schedule to this Scheme whether or not the death of the workman has been so caused.

Form A.

Provided that where, at the time of his decease, weekly payments under the Compensation Scheme were payable to the workman, but only in such cases, the Medical Board may, if satisfied that a post-mortem examination is unnecessary, give a certificate without such examination.

The post-mortem examination shall, if possible, be made by or in the presence of a member of the Medical Board.

8.—(1) Where in pursuance of any Compensation Scheme a workman applies to the Medical Board for a certificate that he is either :—

- (a) totally disabled from the disease ; or
- (b) though not totally disabled, is suffering from the disease to such a degree as to make it dangerous for him to continue work in the industry or process or in any particular operation or work in the industry and is for that reason suspended from employment;(a)

the Medical Board shall examine the workman and if satisfied that he is totally disabled or suffering from the disease as aforesaid shall give a certificate in the appropriate form set out in the Second Schedule to this Scheme.

Forms B
and C.

(a) Sub-para. (1) (b) as amended by S.R. & O. 1943 No. 887, p. 656 below.

(2) In every such certificate (other than a certificate of total disablement) the Medical Board shall certify to what degree, if any, the general physical capacity of the workman for employment is impaired by the disease.

9. Where in pursuance of any Compensation Scheme application is made to the Medical Board by or on behalf of an employer or a workman, or where a general Compensation Fund has been established under the Scheme, by or on behalf of the Compensation Fund, for a re-examination of a workman who has been certified under this Scheme or any Compensation Scheme, the Board shall re-examine the workman and give a fresh certificate in the appropriate form set out in the Second Schedule to this Scheme confirming or amending the previous certificate.

Form D.

Provided that the Medical Board shall not be required under this paragraph to re-examine a workman more frequently than once in every three months, or if he has been certified to be totally disabled, more frequently than once in every six months.

10. Before deciding on any application made to them for a Certificate under paragraph 7, 8 or 9 of this Scheme, the Medical Board shall send notice thereof to the employer from whom it appears to the Board that compensation will be recoverable, or if the compensation appears to be recoverable from a Compensation Fund established under a Compensation Scheme, to the Compensation Fund, and shall consider any statement made or submitted in writing by or on behalf of the employer or the Compensation Fund, as the case may be, or the workman within ten days from the date of such notice.

11. Where, in pursuance of any Compensation Scheme, the Medical Board are required to make a report or give a certificate in lieu of one of the Medical Referees appointed under the Act, the Medical Board shall make such report or give such certificate in accordance with the regulations made under the Act governing the duties of Medical Referees.

12. When a workman is engaged by an employer for employment in any industry or process included in the First Schedule to this Scheme, or is transferred by his employer to employment in any such industry or process, then unless—

- (i) being a workman of 21 years of age or over he has been employed in that industry or process or other process included in the said Schedule in the same industry at any time within the three years previous to such engagement or transfer or is being transferred from work in any industry or process which though not included in the said Schedule is included in a Compensation Scheme ; or
- (ii) being a workman under 21 years of age he has previously submitted himself for examination under this Scheme and has been found on such examination to satisfy the requirements with respect to physique set out below,

WORKMEN'S COMPENSATION

he shall submit himself for examination by a member of the Medical Board or other duly qualified medical practitioner specially appointed by the Secretary of State for the purpose, before the end of the second month of such new employment, or in exceptional circumstances within such extended period as the Medical Board may authorise; and

- (a) if on such examination the workman is found to be suffering from the disease or from tuberculosis, or
- (b) if, not having been previously employed in any industry or process included in the said Schedule or not having been medically examined under this Scheme or any Compensation Scheme, he is found on such examination to be unsuitable for work in the industry or process by reason of his failure to satisfy the requirements with respect to physique set out below,

the case shall be referred to the Medical Board, who if satisfied, after further examination if necessary, shall suspend the workman from further employment in the industry or process and shall certify accordingly in the appropriate form set out in the Second Schedule to the Scheme.

Forms C, E
and F.

For the purposes of this paragraph the requirements with respect to physique shall be as follows:—

- (i) The chest must be at least of average development and the respiratory passages must be free from obstruction;
- (ii) There must be no signs of disease of the lungs or heart; and
- (iii) There must be no tuberculosis of any region.(a)

13.—(1) All workmen employed in an industry or process specified in the First Schedule to this Scheme shall be examined by one or more members of the Medical Board at the prescribed intervals, and if on such examination it appears to the Board that the workman is suffering from the disease or from tuberculosis to such a degree as to make it dangerous for him to continue work in the industry or process, the Board shall suspend the workman from further employment in the said industry or process and shall give a certificate in the appropriate form set out in the Second Schedule to this Scheme.

Forms C
and E.

Provided that except in so far as the Compensation Scheme may otherwise provide, the foregoing provision as to compulsory suspension shall not, except on the written application of the workman, apply to a workman found at such examination to be suffering from silicosis unaccompanied by tuberculosis if the workman is 45 years of age or over and has been employed for not less than 20 years in the industry or process.

(2) In every case of suspension due to the disease the Medical Board shall certify to what degree, if any, the general physical capacity of the workman for employment is impaired by the disease.

(3) Every such examination shall, except where the Medical Board otherwise decide, be made at the works where the workman is employed.

14. The Medical Board shall have power, in any case where they consider necessary, to make or cause to be made a radiographic examination of the lungs of the workman and to obtain the report of a radiologist on the case.

(a) Para. 12 as substituted by S.R. & O. 1934 No. 889.

15. Where on application made in pursuance of any Compensation Scheme the Medical Board issue a certificate of death, total disablement, or suspension, in respect of the disease, the Board, if satisfied that the disease could not have been contracted in the industry or process owing to the shortness of the time during which the workman had been employed therein, shall certify accordingly.

16. Where a fee is prescribed by the Regulations as payable on application for an examination or certificate, the Medical Board or the medical practitioner as the case may be, shall not be bound to make any such examination or issue any such certificate except on payment of such fee.

Medical Expenses Fund

17.—(1) There shall be established for the purposes of this Scheme a Medical Expenses Fund into which shall be paid by or on behalf of employers and workmen or their dependants such fees in respect of examinations made and certificates given under this Scheme as may be prescribed by the Regulations.

(2) There shall also be paid into the Fund such fees and expenses as may be received by members of the Medical Board in respect of any duties performed by them under the provisions of the Coroners Acts.

18. The Fund shall be administered by Trustees appointed by the Secretary of State. The Trustees shall be assisted by an executive officer appointed by the Secretary of State, who shall act as Secretary of the Fund and hold office on such terms as to remuneration or otherwise as the Secretary of State may approve.

19. It shall be the duty of the said officer, subject to the directions of the Trustees, to collect and recover any fees due to the Fund and to take any steps necessary for the purpose, and also to make the payments authorised under paragraph 20 of this Scheme. The said officer also shall keep full and true accounts showing (a) the sums received by or due to the Fund from any source, and (b) all amounts paid out of the Fund and shall when required by the Secretary of State prepare in the prescribed form a balance sheet or other statement in respect of any prescribed period.

The accounts of the Fund shall be audited once at least in every year by an auditor appointed by the Secretary of State.

20. There shall be paid out of the Fund :—

- (1) The remuneration of the members of the Medical Board and any expenses necessarily incurred by them for the purposes of their duties under this Scheme including the cost of any radiological or post-mortem examinations.
- (2) Such remuneration of any duly qualified medical practitioner specially appointed for the purposes of this Scheme as the Secretary of State may approve and any expenses necessarily incurred by such medical practitioner for the purposes of his duties under this Scheme.

- (3) Any travelling or other expenses reasonably incurred by a workman (subject to any scale approved by the Secretary of State) in submitting himself for examination when so required by the Medical Board.
- (4) Such other expenses incurred in the administration of the Fund or otherwise for the purposes of this Scheme as the Secretary of State may approve.

Fees

21.—(1) All such fees as may be prescribed by the Regulations in respect of any examination made or certificate given under this Scheme, shall be paid over to the Fund by or on behalf of the employer or workman or his dependants as the case may be, either on demand from the Secretary to the Fund, or in accordance with such arrangements as may be specified in the Regulations.

(2) Where a fee is prescribed by the Regulations as payable by or on behalf of an employer, and no provision is made in the Compensation Scheme for the payment of such fees from a Compensation Fund, the employer liable to pay the said fee shall, except as otherwise provided by the Regulations, be the employer from whom the compensation due to the workman is recoverable.

(3) Any sum due to the Fund under this Scheme may be recovered summarily or otherwise, as a civil debt.

Duties of Employers

22. It shall be the duty of every employer :—

- (a) to give notice to the Medical Board of his commencing to carry on any industry or process included in the First Schedule to this Scheme ;
- (b) to arrange for the initial examination required under paragraph 12 of any workman newly engaged in any industry or process included in the First Schedule to this Scheme ;
- (c) to furnish facilities as set out in the Third Schedule to this Scheme for the periodic examinations made under the provisions of paragraph 13, and to observe the obligations imposed on employers in connection with the registers to be supplied under paragraph 23 to workmen required to submit to such examinations ;
- (d) not to engage or continue to employ in any industry or process included in any Compensation Scheme any workman who has refused or wilfully neglected to submit himself to any examination required under this Scheme, or, except so far as may be allowed by certificate of the Medical Board, a workman who has been suspended or certified to be totally disabled under this Scheme or any Compensation Scheme.

Provided that where a workman has been suspended from employment in certain operations or work only in any industry nothing in this paragraph shall operate to prevent an employer from engaging or continuing to employ the workman in any other process or operation in the industry.

(a)

(a) Proviso added by S.R. & O. 1943 No. 887, p. 656 below.

If an employer contravenes or fails to comply with any of the provisions of this paragraph, he shall be liable on summary conviction to a fine not exceeding £5 for every day on which such contravention or failure occurs or continues.

Provided that the employer shall not be liable under this paragraph to be convicted in respect of failure to comply with the provisions of (d), if he satisfies the Court that he has taken all reasonable steps to ensure compliance.

Provided further that an employer who is required to subscribe to a general Compensation Fund established under any Compensation Scheme and is made liable under such Scheme to pay an additional subscription to the Compensation Fund for contravention of the requirements of this paragraph, shall not be liable also to a fine under this paragraph.

23. Every workman required to submit to periodic medical examination under paragraph 13 of this Scheme (other than a workman casually employed) shall be furnished with a register in the prescribed form, which shall be supplied and renewed when necessary by the employer, and in which shall be entered :—

- (a) the date of commencement of his employment with that employer, and the name of the employer and address of the works (to be entered by the employer) ;
- (b) particulars as supplied by the workman of any previous employment and information as to whether he is in receipt of compensation under any Compensation Scheme or other enactment providing compensation for the disease, whether in Great Britain or elsewhere (to be entered by the employer and signed by the workman) ;
- (c) the date on which the workman enters any new employment in the industry or process and the name of the new employer and address of the works (to be entered by the new employer) ;
- (d) the date of any examination by the Medical Board or other duly qualified medical practitioner in pursuance of this Scheme and result of the examination (to be entered by the person making the examination).

This register shall be kept by the workman and produced when required by the employer or by the Medical Board or other duly qualified medical practitioner for the purpose of carrying out any of their duties under this Scheme, and a duplicate of it shall be kept by the employer and forwarded by him when the workman leaves the employment to the Medical Board.

FIRST SCHEDULE(a)

Industries and processes referred to in paragraphs 12, 13 and 22 (a) and (b) of the Scheme

The Refractories Industries as defined in the Refractories Industries (Silicosis) Scheme, 1931.(b)

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- (a) Schedule as amended by S.R. & O. 1939 No. 705, p. 655 below.
 - (b) S.R. & O. 1931 No. 345, p. 608 above.

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The Sandstone Industry as defined in the Sandstone Industry (Silicosis) Scheme, 1931.(a)

The processes carried on in the following occupations in or in connection with the Pottery Industry (that is, the manufacture of china or earthenware, including sanitary earthenware, electrical earthenware and earthenware tiles) :—

- (i) Millmen engaged in flint milling and all workers engaged in the preparatory processes of handling the calcined flints from the kilns and the crushing of calcined flints, or the crushing or grinding of silica rock or dried quartzose sand ;
- (ii) In the manufacture of china, if powdered flint or powdered silica is used in the placing of ware for the biscuit firing :—biscuit placers and biscuit oddmen, including male assistants and apprentices, and biscuit warehouse workers ;
- (iii) In the manufacture of general earthenware :—Male dish makers, male plate makers, male casters, male hollowware pressers and all other males including assistants and apprentices employed in processes carried on in potters' shops ;
- (iv) In the manufacture of sanitary earthenware :—casters and pressers, including male assistants and apprentices ;
- (v) In the manufacture of electrical earthenware :—slip house workers (other than workers employed exclusively in such occupation in a room in which no other occupation included in the Schedule is carried on) ; and dust grinders and dust carriers and any persons working in the same room in which such occupations are carried on ;
- (vi) In the manufacture of earthenware tiles :—slip house workers (other than workers employed exclusively in such occupation in a room in which no other occupation included in the Schedule is carried on) ; and dust grinders and dust carriers and any persons working in the same room in which such occupations are carried on, pressers including assistants and apprentices and fettlers ;
- (vii) Polishers and grinders, if powdered flint or powdered silica is used.

(a) S.R. & O. 1931 No. 346, p. 620 above.

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Form B

The Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931

Certificate of Total Disablement on account of Silicosis or Asbestosis or either of those diseases accompanied by Tuberculosis.

- 1. Full name and address of workman ...
2. Name and address of works of employer stated to have last employed workman in the industry or process ...
3. Date on which workman is stated to have left that employment
4. Compensation Scheme in pursuance of which application is made ...

THE MEDICAL BOARD appointed under the above-mentioned Scheme having examined the above-named workman on the day of 19, hereby certify that the said workman is totally disabled from

(a) Strike out which ever are inapplicable.

- (a) silicosis
asbestosis
silicosis (or asbestosis) accompanied by tuberculosis

(b) Strike out if unable to certify a date previous to date of certificate.

(b) And they hereby certify that the total disablement commenced on the day of 19

*But

Dated this day of 19

(Signed)

Members of Medical Board.

(Address)

Form C(a)

The Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931

Certificate of Suspension on account of Silicosis or Asbestosis or either of those diseases accompanied by Tuberculosis.

- 1. Full name and address of workman ...

* If the Medical Board are satisfied that the silicosis (or asbestosis) cannot have been contracted in the industry or process owing to the shortness of the time during which the workman has been employed therein, they should certify accordingly here.

(a) Form C as amended by S.R. & O. 1943 No. 887, p. 656 below.

Silicosis and Asbestosis (Medical Arrangements) Scheme

2. Name and address of works of employer)
3. Industry or process (as specified in the Compensation Scheme) or the particular operation or work in the said Industry from employment in which workman is suspended ...)

THE MEDICAL BOARD appointed under the above-mentioned Scheme, having examined the above-named workman on the _____ day of _____ hereby certify that, though not totally disabled, the said workman is suffering from (a) _____ to such a degree as to make it dangerous for (b) _____ to continue to work in the said industry or process, and that they have for that reason suspended (b) _____ from employment in such industry or process as from the _____ day of _____ 19 _____ .

*But

And they further certify that the general physical capacity of the said workman for employment (c) _____ { is not impaired by reason of the disease. is impaired by reason of the disease to the degree indicated as follows :—(d) _____

Dated this _____ day of _____ 19 _____ .
(Signed)

(Address)

Members of Medical Board.

(a) Insert here either "silicosis" or "asbestosis" or "silicosis or asbestosis accompanied by tuberculosis," whichever is appropriate.
(b) "him" or "her."
(c) Strike out whichever is inapplicable.
(d) Indicate stage disease has reached and class or character of work outside the industry or process for which the workman is fit.

Form D

The Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931

Certificate of Re-examination.

1. Full name and address of workman)
2. Compensation Scheme applicable to the case)
3. Name and address of works of employer stated to have last employed workman in the industry or process)
4. Date of last examination of workman)

In pursuance of an application made to them under paragraph 9 of the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931, by or on behalf of the employer (or the workman) (a) THE MEDICAL BOARD appointed under the said Scheme, having on the _____ day of _____

(a) Strike out whichever is inapplicable.

* If the Medical Board are satisfied that the silicosis (or asbestosis) cannot have been contracted in the industry or process owing to the shortness of the time during which the workman has been employed therein, they should certify accordingly here ; in that case the remaining part of this Certificate need not be filled in.

Silicosis and Asbestosis (Medical Arrangements) Scheme

THE MEDICAL BOARD appointed under the above-mentioned Scheme, having examined the above-named workman on the _____ day of _____ 19____, hereby certify that (a) _____ has failed to satisfy the requirements with respect to physique prescribed in the Scheme, and that they have for that reason suspended (b) _____ from further employment in the above-mentioned industry or process as from the _____ day of _____ 19____.

(a) "he"
or "she."
(b) "him"
or "her."

Dated this _____ day of _____ 19____.

(Signed)

Members of Medical Board.

(Address)

THIRD SCHEDULE

Facilities for periodic medical examinations (to be furnished by the employer in accordance with paragraph 22(c))

The employer shall provide on the premises or at such other place approved by the Medical Board as convenient for the examination (for the *exclusive* use of the Medical Board and the persons examined during the examination) a room or office which shall be properly cleaned, warmed and lighted, and furnished with a screen, looking glass, washing facilities and any utensils required by the Medical Board, a table (with writing materials) and chairs, and, unless other arrangements can be made to the satisfaction of the Medical Board for taking the weight of the workers elsewhere, with a suitable weighing machine.

The employer shall supply the Medical Board at the time of the examination with a list of the workers to be examined, giving age and sex of each worker, and process on which he or she is employed, and shall make the necessary arrangements for the attendance of the workers as required by the Medical Board.
