

**(5) Metal Grinding Industries (Silicosis) Scheme**

THE METAL GRINDING INDUSTRIES (SILICOSIS) 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. 343**

[*This Scheme (S.R. & O. 1931 p. 706) is printed as amended by Scheme, dated June 12, 1939 (S.R. & O. 1939 (No. 633) II, p. 3551).*]

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 of Compensation annexed hereto and direct that it shall come into force on 1st June, 1931, in substitution for the Metal Grinding Industries (Silicosis) Scheme, 1927,(a) as amended by the Metal Grinding Industries (Silicosis) Amendment Scheme, 1930.(b)

Provided that the Metal Grinding Industries (Silicosis) Scheme, 1927, as so amended shall continue to apply in cases of workmen who have been employed on or after the 1st July, 1927, in any of the processes specified in paragraph 2 of that Scheme as so amended but are not entitled to claim compensation under this Scheme ; except that the provisions in this Scheme as to examination and certification by the Medical Board shall be substituted for the provisions in the Metal Grinding Industries (Silicosis) Scheme, 1927, as to examination and certification by the Certifying Surgeon and Medical Referee, and the Medical Board shall have the same powers and duties in cases arising under that Scheme as in cases under this Scheme.

*J. R. Clynes,*

One of His Majesty's Principal  
Secretaries of State.

Home Office,  
Whitehall,  
30th April, 1931.

THE METAL GRINDING INDUSTRIES (SILICOSIS) SCHEME, 1931

1. *Title of Scheme.*—This Scheme may be cited as "The Metal Grinding Industries (Silicosis) Scheme, 1931."

2. *Application of Scheme.*—This Scheme shall apply to all workmen employed at any time on or after the commencement of this Scheme in the following processes :—

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(a) S.R. & O. 1927 (No. 380) p. 738.  
(b) S.R. & O. 1930 (No. 118) p. 1009.

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- (i) grinding of metals, that is the abrasion, by aid of mechanical power, of any metal, or article of metal, or part of any article of metal, by means of a grindstone, including any hacking or rodding of the grindstone ;
- (ii) any work incidental to any grinding of metals as aforesaid, and glazing, when such work or glazing is carried on in the same room as such grinding ;
- (iii) racing of any grindstone for the purpose of grinding of metals as aforesaid.

Provided that nothing in this Scheme shall apply to the employment of any workman in the processes mentioned in (i) or (ii) :—

- (a) if such employment was occasional only and for not more than eight hours in any week ; or
- (b) in the manufacture of files where the grinding is done by mechanical means on a machine in which the grindstone is and is kept as completely enclosed as the exigencies of the process will allow, and the metal being ground is immersed in water ; or
- (c) for the purpose of manufacture, repair or sharpening of any tools or implements for use in the factory, unless the workman was wholly or mainly employed in the said processes.

Grinding includes “whittening” or “whitening.”

Grindstone means a grindstone composed of natural or manufactured sandstone, and, in the manufacture of edge tools or other cutting or piercing implements, includes a metal wheel or cylinder into which blocks of natural or manufactured sandstone are fitted.

Hacking means the chipping of the surface of a grindstone by a hack or similar tool.

Rodding, which includes “barring up” or “scaring” means the dressing of the surface of a revolving grindstone by the application of a rod, bar, or strip of metal to such surface.

Racing means the turning up, cutting or dressing of a revolving grindstone at the factory before the grindstone is brought into use for the first time.

Glazing means the abrading, polishing or finishing, by aid of mechanical power, of metal or of any article wholly or partly of metal, by means of any wheel, buff, mop, bob, dolly, or band to which any abrading or polishing substance is attached or applied, except the process known as “sand buffing” in which articles are polished by means of a mixture of oil and sand applied by hand to a rotating buff.

Nothing in this Scheme shall apply to the employment of a workman in any process included in the Refractories Industries (Silicosis) Scheme, 1931,(a) the Various Industries (Silicosis) Scheme, 1931,(b) or the Sandstone Industry (Silicosis) Scheme, 1931.(c)

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(a) S.R. & O. 1931 No. 345, p. 608 below.

(b) S.R. & O. 1931 No. 342, p. 664 below.

(c) S.R. & O. 1931 No. 346, p. 620 below.

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

“Processes” means any of the processes mentioned in paragraph 2.

“The Act” means the Workmen's Compensation Act, 1925.

The expressions “employer”, “workman”, and “dependants” have the same meanings as in the Act.

“Medical Board” means the Medical Board appointed by the Secretary of State under the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931.(a)

“Prescribed” means prescribed by the Secretary of State.

“Tuberculosis” means tuberculosis of the lungs.

PART I.—RIGHT TO COMPENSATION

4. Where the Medical Board certify:—

(1) that the death of a workman has been caused by silicosis or by silicosis accompanied by tuberculosis; or

(2) that a workman is totally disabled from silicosis or from silicosis accompanied by tuberculosis; or

(3) that a workman, though not totally disabled, is suffering from silicosis or from silicosis accompanied by tuberculosis to such a degree as to make it dangerous for him to continue work in the processes, and is for that reason suspended from employment;

and where the disease is due to employment in the processes whether under one or more employers, the workman or his dependants, as the case may be, shall be entitled to claim compensation as if the disease as aforesaid were a personal injury by accident arising out of and in the course of that employment, as provided by the Act, but subject to the modifications hereinafter contained.

Provided that no compensation shall be payable:—

(a) if the Medical Board certify that the silicosis cannot have been contracted in the processes owing to the shortness of the time during which the workman has been employed therein;

(b) in cases where the workman has not been employed in the processes or has not been in receipt of weekly payments under this Scheme or the Metal Grinding Industries (Silicosis) Scheme, 1927, at any time within the five years previous to the date of the injury;(b)

(c) in cases where the workman, or his dependants, as the case may be, are in receipt of compensation under any other scheme or enactment providing compensation for silicosis or asbestosis whether in Great Britain or elsewhere.

5. If the workman has been employed in the processes for a period or periods amounting to not less than five years, the disease shall be deemed to be due to employment in the processes unless the employer proves the contrary.

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(a) S.R. & O. 1931 No. 341, p. 642 below.

(b) Proviso (b) as amended by S.R. & O. 1939 No. 633, and see S.R. & O. 1946 No. 594, p. 595 below.

6. For the purposes of this Scheme the date of the injury shall be deemed to be the date on or from which the workman is certified to be totally disabled or, while not totally disabled, is suspended from employment or, in cases where the workman dies without having been certified to be totally disabled or suspended, the date of death.

7. Where a workman claims to be suffering from silicosis or silicosis accompanied by tuberculosis, the employer may agree with the workman that he is liable to pay compensation without requiring the workman to obtain a certificate from the Medical Board, and thereupon the workman shall be deemed to be suspended from employment in the processes and shall be entitled to compensation as from the date of the agreement or from such other date as may be agreed.

Any such agreement may be recorded in the manner provided by section 23 of the Act as applied by this Scheme, and shall be enforceable against the employer in like manner and subject to the same provisions as an agreement to pay compensation in case of an injury under the Act.

8. The compensation shall be claimed and recoverable from the employer who last employed the workman in the processes; but any other employers who employed the workman in the processes during the five years preceding the date of the injury shall, unless they had at the commencement of this Scheme ceased to carry on the said processes, be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined by arbitration under this Scheme.

Provided that no employer shall be liable to make any such contribution:—

- (i) in any case where the employer from whom compensation is recoverable has admitted liability to pay compensation in pursuance of paragraph 7 of this Scheme without requiring a certificate from the Medical Board; or
- (ii) in respect of any period of employment previous to the 1st July, 1926.(a)

#### PART II.—AMOUNT OF COMPENSATION

9.—(1) In cases of death or total disablement the compensation payable under this Scheme shall be determined in accordance with the provisions contained in the Act for fixing the compensation in cases of death or total incapacity.

In cases of total disablement the compensation shall be payable from the date certified by the Medical Board as the date on which such disablement commenced, or, if the Board are unable to certify such a date, the date on which the certificate is given.

(2) In cases of suspension due to silicosis or silicosis accompanied by tuberculosis where the workman is not totally disabled:—

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(a) See now S.R. & O. 1946 No. 594, p. 595 below.

- (a) if the Medical Board certify that the workman's general physical capacity for employment is impaired by reason of the disease, the workman shall be entitled, while impairment continues, to a weekly payment fixed in accordance with the provisions of the Act for fixing the compensation in cases of partial incapacity ;
- (b) if the Medical Board certify that the workman's general physical capacity for employment is not impaired by reason of the disease, the workman, if unable to obtain suitable employment at a rate of remuneration not less than he was earning in the processes, shall be entitled while he remains out of such employment, to such weekly payment as, in the absence of agreement, the County Court Judge or other arbitrator may direct.

Provided that such compensation shall not be payable for more than thirteen weeks in all, and shall in no case exceed 50 per cent. of the workman's average weekly earnings computed in accordance with the provisions of the Act.

(3) In the application of the aforesaid provisions of the Act the amount of compensation shall be calculated with reference to the earnings of the workman under the employer from whom compensation is recoverable under this Scheme.

#### PART III.—CONDITIONS OF COMPENSATION

10. The provisions as to notice of accident and claim for compensation contained in section 14 of the Act shall apply in cases of death, total disablement or suspension arising under this Scheme subject to the following modifications :—

- (a) the employer to whom the notice is to be given shall be the employer who last employed the workman in the processes ;
- (b) the notice may be given notwithstanding that the workman has voluntarily left his employment.

11.—(1) The provisions of the Act relating to submission to medical examination, and so far as regards examinations made by a medical practitioner provided and paid by the employer, the provisions relating to suspension of the right to compensation, and any regulations (excepting those determining the fees payable to medical referees) and rules of court made thereunder, shall apply in the case of any workman claiming or in receipt of weekly payments of compensation under this Scheme, subject to the condition that no workman in receipt of such weekly payments shall be required to submit himself for examination by a medical practitioner under the said provisions more frequently than once in every three months.

Provided that any reference required to be made to a medical referee under the said provisions shall be made to the Medical Board.

(2) Where a medical examination of the workman by a medical practitioner provided and paid for by the employer is required by the employer, such examination may include a radiological examination made by such practitioner or by a radiologist selected by him.

12. It shall be the duty of every workman—

- (a) to submit himself to any examinations provided for under this Scheme or the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931, and for that purpose (unless certified by a duly qualified medical practitioner to be unfit to travel) to attend at the place and time specified by the Medical Board or the medical practitioner appointed to make the examination ;
- (b) after having been certified to be totally disabled or suspended from employment in the processes not to re-engage in employment therein or in any of the occupations mentioned in the Schedule to this Scheme except so far as may be allowed by certificate of the Medical Board.

If a workman refuses or wilfully neglects to submit himself to any such examination or in any way obstructs the same, or if, contrary to the foregoing provisions, he re-engages in employment in the processes or in any of the occupations mentioned in the said Schedule, he shall forfeit any right to compensation under this Scheme.

Provided that if the County Court Judge or other arbitrator under this Scheme is satisfied that the failure of the workman or his dependants to comply with any of the requirements of this paragraph has been due to a *bona fide* mistake on his or their part or other reasonable cause, it shall be in his discretion to relax this provision on such conditions and to such extent as he may think fit.

13. It shall be the duty of every workman or his dependants claiming compensation under this Scheme to furnish to the employer from whom compensation is claimed, if so required, true information as to his employment with any previous employer who, within the five years preceding the date of the injury, employed him in the processes or in any of the occupations mentioned in the Schedule to this Scheme and as to whether the workman or his dependants are in receipt of compensation under any other scheme or enactment providing compensation for silicosis or asbestosis, whether in Great Britain or elsewhere.

If a workman or his dependants furnish false information or withhold information as aforesaid, he or they, as the case may be, shall forfeit any right to compensation under this Scheme.

Provided that if the County Court Judge or other arbitrator under this Scheme is satisfied that the failure of the workman or his dependants to comply with any of the requirements of this paragraph has been due to a *bona fide* mistake on his or their part or other reasonable cause, it shall be in his discretion to relax this provision on such conditions and to such extent as he may think fit.(a)

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(a) See now S.R. & O. 1946 No. 594, p. 595 below.

## WORKMEN'S COMPENSATION

### PART IV.—PROCEDURE FOR SETTLING QUESTIONS

14.—(1) Any question as to the liability to pay compensation under this Scheme, and, except as otherwise provided in this Scheme, any other question arising under this Scheme shall be determined as though it were a question in proceedings arising under the Act, and the provisions of the Act relating to the procedure for determining compensation and settling questions and any regulations (except those determining the fees payable to medical referees) and rules of court made in pursuance thereof shall apply accordingly.

Provided that (a) the provisions of the Act as to the summoning of a medical referee as assessor shall not apply to cases arising under this Scheme ; and (b) any report required in pursuance of the said provisions to be obtained from a medical referee shall be obtained from the Medical Board.

(2) The power of making rules of Court under the Act shall include a power to make such rules as may be necessary for the purpose of carrying this Scheme into effect.

### PART V.—MISCELLANEOUS PROVISIONS

15. Any fees paid into the County Court (or in Scotland, the Sheriff Court) in respect of examinations made or certificates given by the Medical Board under any of the provisions of the Act as applied to this Scheme, shall be transmitted by the Registrar of the Court (or in Scotland, the Sheriff Clerk) to the Medical Expenses Fund established under the Silicosis and Asbestosis (Medical Arrangements) Scheme, 1931, in accordance with such arrangements as may be made by the Lord Chancellor (or in Scotland, by the King's and Lord Treasurer's Remembrancer).

14 & 15 Geo.  
5. c. 38.  
18 & 19 Geo.  
5. c. 14.

16. The provisions of sub-sections (1), (2), (3) and (4) and, notwithstanding anything in section 40 of the Act, sub-section (5) of section sixteen of the National Health Insurance Act, 1924, as amended by the National Health Insurance Act, 1928, shall apply to compensation under this Scheme in the same way as to compensation under the Act.

Provided that in the application of sub-section (3) of section sixteen as aforesaid a workman who would otherwise be eligible for compensation under this Scheme but refuses or wilfully neglects to take the steps to obtain compensation under this Scheme shall be deemed to have unreasonably refused or neglected to take proceedings within the meaning of the said sub-section.

17. The following provisions of the Act shall so far as applicable apply to any case under this Scheme in like manner as in cases under the Act :—

- (a) Section 6.—Liability in case of workmen employed by contractors.
- (b) Section 7.—Provision as to cases of bankruptcy of employer.
- (c) Section 16.—Conditions as to residence ; except that any certificate required under the section shall be obtained from the Medical Board.

- (d) Section 40.—Prohibition against charging or assigning weekly payments.
- (e) Section 41.—Repayment of Poor Relief.
- (f) Section 48.—Interpretation.
- (g) Section 49.—Application to Scotland.

18. Every employer who employs any person in any of the processes shall in every year send to the Secretary of State, at such time and in such form as may be prescribed, a correct return of the number of cases in respect of which compensation has been paid by him under this Scheme during the previous year and the amount of such compensation, together with such other particulars as the Secretary of State may direct, and an employer failing to send such return shall be deemed to be in default in complying with section 42 (1) of the Act.

#### SCHEDULE

##### OCCUPATIONS REFERRED TO IN PARAGRAPHS 12 (b) and 13 OF SCHEME

Any process to which the Refractories Industries (Silicosis) Scheme, 1931(a) applies, in or in connection with the getting, handling, moving, breaking, crushing, grinding or sieving of material containing not less than 80 per cent. total silica ( $\text{SiO}_2$ ) or in the manipulation of such material in the manufacture of bricks or other articles containing not less than 80 per cent. total silica ( $\text{SiO}_2$ ).

Any process to which the Various Industries (Silicosis) Scheme, 1931(b) applies.

Any process to which the Sandstone Industry (Silicosis) Scheme, 1931(c) applies.

Any process to which the Asbestos Industry (Asbestosis) Scheme, 1931(d) applies.

Any occupation in a mine scheduled under the Miners' Phthisis Acts of the Union of South Africa.

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- (a) S.R. & O. 1931 No. 345, p. 608 below.
  - (b) S.R. & O. 1931 No. 342, p. 664 below.
  - (c) S.R. & O. 1931 No. 346, p. 620 below.
  - (d) S.R. & O. 1931 No. 344, p. 553 above.