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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 310**

**The Social Security (1998 Order) (Commencement  
No. 7 and Savings, Consequential and Transitional  
Provisions) Order (Northern Ireland) 1999**

Consequential Amendments

**Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations**

9.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986<sup>(1)</sup> shall be amended in accordance with paragraphs (2) to (16).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Contributions and Benefits Act”<sup>(2)</sup> there shall be inserted the following definition—

““the Order” means the Social Security (Northern Ireland) Order 1998;”;

(b) the definition of “adjudicating medical authority”<sup>(3)</sup> shall be omitted;

(c) after the definition of “the Claims and Payments Regulations” there shall be inserted the following definition—

““the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;”;

(d) for the definition of “determining authority” there shall be substituted the following definition—

““determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Order or a Commissioner to whom an appeal lies under Article 15 of the Order;”;

(e) after the definition of “medical board” there shall be inserted the following definition—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Decisions and Appeals Regulations;”.

(3) In regulation 6(1)(a) (date of onset) “subject to the provisions of section 117(4), as modified by paragraph 1 of Schedule 3 to the Adjudication Regulations,” shall be omitted.

(4) In regulation 8(3) (workmen’s compensation cases)—

(a) for “question”, in both places where it occurs, there shall be substituted “issue”;

(b) for “reviewed” there shall be substituted “revised under Article 10 of the Order or superseded under Article 11 of the Order”; and

(c) for “review” there shall be substituted “revision or supersession”.

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<sup>(1)</sup> S.R. 1986 No. 179; relevant amending regulations are S.R. 1986 No. 340, S.R. 1989 No. 319 and S.R. 1993 No. 168

<sup>(2)</sup> The definition of “the Contributions and Benefits Act” was inserted by regulation 2(2) of S.R. 1997 No. 158

<sup>(3)</sup> The definition of “adjudicating medical authority” was inserted by regulation 2(2) of S.R. 1993 No. 168

(5) In regulation 13A(1)(4) (aggregation of percentages of disablement) for “adjudication officer” there shall be substituted “Department”.

(6) In regulation 18(1B)(a)(5) (special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma) for “on a re-assessment or review of the extent of disablement” there shall be substituted “on a re-assessment of the extent of disablement or in consequence of an application for a revision under Article 10 of the Order or a supersession under Article 11 of the Order”.

- (7) In regulation 20(2)(6) (pneumoconiosis – effects of emphysema and chronic bronchitis)—
- (a) for “question” there shall be substituted “issue”;
  - (b) in sub-paragraph (a) for the words from “that question” to the end there shall be substituted “that issue shall be determined by the Department”; and
  - (c) in sub-paragraph (b)—
    - (i) for “question” there shall be substituted “issue”, and
    - (ii) for “the adjudicating medical authority or medical appeal tribunal, as the case may be” there shall be substituted “the Department or, as the case may be, an appeal tribunal”.

(8) In regulation 21(7) (reduced earnings allowance – special provision for pneumoconiosis cases) for “an adjudicating medical authority” there shall be substituted “the Department”.

(9) For regulation 22 (special requirement for pneumoconiosis claimants in unscheduled occupation cases) there shall be substituted the following regulation—

“**22.**—(1) A claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(b)(ii) shall be referred by the Department to a medical practitioner for a report, unless the Department is satisfied on reasonable grounds that the claimant is not suffering or has not suffered from pneumoconiosis, in which case it may decide the claim without such a report.

(2) The provisions of paragraph (1) shall apply to an appeal tribunal and a Commissioner as they apply to the Department.”.

(10) In regulation 23(2)(d)(ii) (time for claiming benefit in respect of occupational deafness) after “tribunal” there shall be inserted “or, as the case may be, the Department or an appeal tribunal”.

- (11) In regulation 25(8) (further claims in respect of occupational deafness)—
- (a) in paragraph (1)(b) and (c) for “an adjudicating medical authority” there shall be substituted “the Department, an appeal tribunal”; and
  - (b) for paragraph (2) there shall be substituted the following paragraph—
 

“(2) A claim to be paid benefit by virtue of paragraph (1)(c) may be disallowed by the determining authority without reference to a medical practitioner where the determining authority is satisfied by medical evidence that the claimant is not suffering from occupational deafness.”.

(12) For regulation 28 (review of assessment for unforeseen aggravation in respect of occupational deafness) there shall be substituted the following regulation—

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(4) Regulation 13A was inserted by regulation 3(2) of S.R. 1986 No. 340

(5) Paragraph (1B) was inserted by regulation 3(3) of S.R. 1986 No. 340

(6) Paragraph (2) was amended by regulation 2(3) of S.R. 1993 No. 168

(7) Regulation 21 was amended by regulation 6(3) of S.R. 1986 No. 340 and regulation 2(4) of S.R. 1993 No. 168

(8) Regulation 25 was amended by regulation 2(5) of S.R. 1993 No. 168

**“Supersession of a decision in respect of occupational deafness**

**28.**—(1) The provisions of regulation 6 of the Decisions and Appeals Regulations shall not apply to—

- (a) a decision of the Department in respect of occupational deafness until after the expiry of 5 years from the commencement of the period taken into account by that decision; or
- (b) an assessment of the extent of disablement in respect of occupational deafness which is less than 20 per cent.”.

(13) For regulation 29(9) there shall be substituted the following regulation—

**“Requirement for leave of appeal tribunal**

**29.** Subject to the provisions of regulation 28 and notwithstanding the provisions of regulation 6 of the Decisions and Appeals Regulations, a decision of a medical board or a medical appeal tribunal or, as the case may be, the Department or an appeal tribunal that a person is entitled to a life assessment in respect of occupational deafness shall not be revised under Article 10 of the Order or superseded under Article 11 of the Order without leave of an appeal tribunal; but in the case of a provisional assessment in respect of occupational deafness no such leave shall be required.”.

(14) In regulation 30 (no appeal against initial provisional assessment of disablement in respect of occupational deafness) the words from the beginning to “section 109(3),” shall be omitted.

(15) In regulation 32(7) (assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness)—

- (a) in sub-paragraphs (a) and (b) for “reviewed or varied” there shall be substituted “revised under Article 10 of the Order or superseded under Article 11 of the Order”; and
- (b) in sub-paragraph (b)(ii) for “review or variation” there shall be substituted “revision or supersession”.

(16) In regulation 33 (commencement date of period of assessment in respect of occupational deafness) “the provisions of section 108 and” shall be omitted.