



Social Security (Northern Ireland) Act 1975

1975 CHAPTER 15

PART III

DETERMINATION OF CLAIMS AND QUESTIONS

Adjudication by Department

93 Principal questions for Department

- (1) Subject to this Part of this Act, any of the following questions arising under this Act shall be determined by the Department—
- (a) a question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
 - (b) subject to subsection (2) below, a question whether the contribution conditions for any benefit are satisfied, or otherwise relating to a person's contributions or his earnings factor;
 - (c) a question which of two or more persons satisfying the conditions for an increase of benefit (whether benefit of the same or a different description) is entitled to the increase where by virtue of some provision of Part II not more than one of those persons is so entitled;
 - (d) a question whether a person is or was employed in employed earner's employment for the purposes of Part II, Chapters IV and V.
- (2) Subsection (1)(b) above includes any question arising—
- (a) under section 9(4) of this Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
 - (b) under regulations made by virtue of section 9(6) or 10 ;
- but not any other question relating to Class 4 contributions, nor any question within section 98(1)(c) (disqualification for unemployment benefit, etc.).

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- (3) The Department may, if it thinks fit, before determining any question within subsection (1) above, appoint a person to hold an inquiry into the question, or any matters arising in connection therewith, and to report on the question, or on those matters, to the Department.

94 Appeal on question of law

- (1) A question of law arising in connection with the determination by the Department of any question within section 93(1) above may, if the Department thinks fit, be referred for decision to the Court of Appeal in Northern Ireland.
- (2) If the Department determines in accordance with subsection (1) above to refer any question of law to the court, it shall give notice in writing of its intention to do so—
- (a) in a case where the question arises on an application made to the Department, to the applicant; and
 - (b) in any case, to such persons as appear to it to be concerned with the question.
- (3) Any person aggrieved by the decision of the Department on any question of law within subsection (1) above which is not referred in accordance with that subsection may appeal from that decision to the court.
- (4) The Department shall be entitled to appear and be heard on any such reference or appeal.
- (5) Rules made under section 7 of the Northern Ireland Act 1962 may include provision for regulating references and appeals to the court under this section.
- (6) Notwithstanding anything in any Act, the decision of the court on a reference or appeal under this section shall be final.

95 Other questions for Department

- (1) It shall be for the Department to determine—
- (a) a question whether—
 - (i) an increase of disablement pension under section 61 (constant attendance), or
 - (ii) a further increase under section 63 (exceptionally severe disablement),
 is to be granted or renewed and, if so, for what period and of what amount;
 - (b) a question which of two or more persons would be entitled for the same day to an invalid care allowance where there has been no joint election by those persons under section 37(7).
 - (c) a question how the limitations under Schedule 9 on the benefit payable in respect of any death are to be applied in the circumstances of any case ;
 - (d) a question as to the person to be treated as maintaining a child, or as to the family in which a child is to be treated as included (in a case where, by virtue of the Schedule to the Family Allowances Act, that question falls to be decided by the Department in its discretion);
 - (e) a question arising under section 80 (claims in the alternative).
- (2) A decision of the Department on a question within subsection (1)(b) or (d) above may be given so as to have effect with respect to a period before the date of the decision ;

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and the Department may at any time and from time to time reconsider the exercise of its discretion with respect to such a question and decide it again with such other effect as may seem to the Department to be proper in the circumstances of the case.

96 Review of decisions under ss. 93, 95

- (1) Subject to subsection (2) below, the Department may, on new facts being brought to its notice, or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact, review any decision given by it on any question within section 93(1) or 95(1)(a) or (b) above.
- (2) Such a decision shall not be reviewed while an appeal under section 94 is pending against the decision of the Department on a question of law arising in connection therewith, or before the time for so appealing has expired; and section 94 applies with any necessary modifications to any case in which a question has been raised with a view to the review under this section of any such decision.

Adjudication by insurance officers, local tribunals and Commissioners

97 Adjudicating officials and bodies

- (1) Insurance officers shall be appointed by the Department, subject to the consent of the Department of Finance as to number, to act for such areas or otherwise as the Department directs.
- (2) A local tribunal shall consist of—
 - (a) one member drawn from a panel composed of persons representing employers and persons representing earners other than employed earners ;
 - (b) one member drawn from a panel of persons representing employed earners; and
 - (c) a person appointed by the Department to act as chairman.
- (3) Her Majesty may from time to time appoint for Northern Ireland, from' among persons who are barristers of not less than 10 years' standing, a Chief National Insurance Commissioner and such number of other National Insurance Commissioners as Her Majesty may think fit.
- (4) Schedule 10 to this Act has effect with respect to local tribunals, Commissioners and others officiating or attending for the purposes of this Part of this Act.

98 Claims and questions to be submitted to insurance officer

- (1) There shall be submitted forthwith to an insurance officer for determination in accordance with section 99 to 104 below—
 - (a) any claim for benefit;
 - (b) subject to subsection (2) below, any question arising in connection with a claim for, or award of, benefit; and
 - (c) any question whether a person would by reason of the provisions of, or of any regulations under, section 20(1) or (2) of this Act have been disqualified for receiving unemployment benefit, sickness benefit or invalidity benefit if he had otherwise had a right thereto.

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- (2) Subsection (1) above does not apply—
 - (a) to a question for determination by the Department under section 93 or 95 of this Act, or by the Attendance Allowance Board under section 105(3); or
 - (b) to the disablement questions (section 108) in relation to industrial injuries benefit.
- (3) Different aspects of the same claim or question may be submitted to different insurance officers under the foregoing provisions of this section; and for that purpose those provisions and the other provisions of this Part of this Act with respect to the determination of claims and questions shall apply with any necessary modifications.

99 Decision of insurance officer

- (1) An insurance officer to whom a claim or question is submitted under section 98 shall take it into consideration and, so far as practicable, dispose of it in accordance with this section, and with procedure regulations under section 115, within 14 days of its submission to him.
- (2) Subject to section 103 below (reference of special questions), the insurance officer may in the case of any claim or question so submitted to him—
 - (a) decide it in favour of the claimant; or
 - (b) decide it adversely to the claimant; or
 - (c) refer it to a local tribunal.
- (3) Where an insurance officer refers a case to a local tribunal, notice in writing of the reference shall be given to the claimant.

100 Appeal to local tribunal

- (1) Subject to subsection (3) below, where the insurance officer has decided a claim or question adversely to the claimant, the claimant may appeal to a local tribunal.
- (2) The claimant shall be notified in writing of the insurance officer's decision and the reasons for it, and of his right of appeal under this section.
- (3) Where in connection with the decision of the insurance officer there has arisen—
 - (a) a question for determination by the Department under section 93 or 95 above, or by the Attendance Allowance Board under section 105(3); or
 - (b) either of the disablement questions (section 108) in relation to industrial injuries benefit,
 and the question has been determined and the insurance officer certifies that the decision on that question is the sole ground of his decision, no appeal lies under this section without leave of the chairman of the local tribunal.
- (4) An appeal under this section shall be brought by giving notice of appeal to the Department within 21 days after the date of the decision or within such further time as the chairman of the local tribunal may for good cause allow.
- (5) A notice of appeal under this section shall be in writing and shall contain a statement of the grounds upon which the appeal is made.
- (6) Where the insurance officer has decided any claim or question under Chapter IV or V of Part II of this Act in favour of the claimant and any other person's right to benefit

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under those Chapters is or may be, under Schedule 9 to this Act (limits on benefit payable in respect of death), affected by that decision, that other person shall have the like right of appeal to a local tribunal as the claimant would have had if the claim or question had been decided adversely to him.

101 Appeal from local tribunal to Commissioner

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a local tribunal.
- (2) The persons at whose instance an appeal lies under this section are—
 - (a) an insurance officer ;
 - (b) the claimant;
 - (c) in any of the cases mentioned in subsection (3) below, a trade union ; and
 - (d) in a case relating to industrial injuries benefit, a person whose right to benefit is or may be, under Schedule 9 to this Act, affected by the decision appealed against.
- (3) The following are the cases in which an appeal lies at the instance of a trade union—
 - (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose ;
 - (b) where that question in any way relates to a deceased person who was a member of the union at the time of his death;
 - (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased was a member of the union at the time of the relevant accident.
- (4) Subsections (2) and (3) above, as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.
- (5) An appeal to a Commissioner must be brought within 3 months from the date of the decision of the local tribunal, or such further period as a Commissioner may in any case for special reasons allow; and such an appeal shall be 'brought by giving notice in writing in a form approved by the Department stating the grounds of the appeal—
 - (a) in the case of an appeal by an insurance officer, to the claimant; and
 - (b) in the case of an appeal by the claimant, or a trade union or other association mentioned above, to an insurance officer.
- (6) If it appears to a Commissioner that an appeal under this section involves a question of fact of special difficulty, the Commissioner may direct that in dealing with the appeal or any part of it he shall have the assistance of an assessor or assessors.
- (7) A Commissioner may, if he thinks fit, refer any question arising for his decision to a medical practitioner for examination and report.

102 Questions first arising on appeal

- (1) Where a question under this Act first arises in the course of an appeal to a local tribunal or a Commissioner, the tribunal or Commissioner may, if they think fit, proceed to determine the question notwithstanding that it has not been considered by an insurance officer.

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- (2) This section does not apply to a question for determination by the Department under section 93 or 95 of this Act, or by the Attendance Allowance Board under section 105(3), or to the disablement questions (section 108) in relation to industrial injuries benefit.

103 Reference of special questions

- (1) The following subsections apply if on consideration of any claim or question an insurance officer is of opinion that there arises—
- (a) a question for determination by the Department under section 93 or 95 of this Act, or by the Attendance Allowance Board under section 105(3); or
 - (b) either of the disablement questions (section 108) in relation to industrial injuries benefit.
- (2) Subject to subsection (3) below, the insurance officer shall—
- (a) refer the question so arising for determination by the Department or by the Attendance Allowance Board, or in accordance with section 108 below, as the case may require; and
 - (b) deal with any other questions as if the question so referred had not arisen.
- (3) The insurance officer may—
- (a) postpone the reference of, or dealing with, any question until other questions have been determined;
 - (b) in cases where the determination of any question disposes of a claim or any part of it, make an award, or decide that an award cannot be made, as to the claim or that part of it without referring or dealing with, or before the determination of, any other question.
- (4) Subsections (2) and (3) above apply to a local tribunal and a Commissioner as they apply to an insurance officer, except that a tribunal or Commissioner shall, instead of referring a question in accordance with subsection (2)(a), direct it to be so referred by an insurance officer.

104 Review of decisions

- (1) Any decision under this Act of an insurance officer, a local tribunal or a Commissioner may be reviewed at any time by an insurance officer or, on a reference from an insurance officer, by a local tribunal, if—
- (a) the officer or tribunal is satisfied and, in the case of a decision of a Commissioner, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
 - (b) there has been any relevant change of circumstances since the decision was given; or
 - (c) the decision was based on the decision of—
 - (i) a question for determination by the Department under section 93 or 95, or by the Attendance Allowance Board under section 105(3), or
 - (ii) either of the disablement questions (section 108) in relation to industrial injuries benefit,
 and the decision of that question is revised under section 95(2) or 96 (Department) or section 106 (Attendance Allowance Board) or section 110 (medical board).

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- (2) A question may be raised with a view to a review under this section by means of an application in writing to an insurance officer, stating the grounds of the application.
- (3) On receipt of any such application, the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with sections 99 to 101.
- (4) A decision given on a review under this section, and a refusal to review a decision thereunder, shall be subject to appeal in like manner as an original decision, and sections 99 to 101 shall, with the necessary modifications, apply in relation to a decision given on such a review as they apply to the original decision of a question.

Adjudication in relation to attendance allowance

105 Attendance Allowance Board for Northern Ireland

- (1) The Attendance Allowance Board for Northern Ireland constituted under section 5 of the National Insurance Act (Northern Ireland) 1970 shall continue in being by that name.
- (2) Schedule 11 to this Act has effect with respect to the Board and their affairs ; and—
 - (a) Part I of the Schedule relates to the Board's membership and the method by which their functions are to be performed; and
 - (b) Part II relates to the Board's personnel, administration and expenses;but regulations may make further provision as to the constitution and procedure of the Board.
- (3) Subject to section 106 below, any question whether a person satisfies or has satisfied, or is likely to satisfy, for any period the conditions set out in paragraph (a) or (b) of section 35(1) of this Act shall be determined by the Board.

106 Review of, and appeal from, Board's decision

- (1) The Attendance Allowance Board may—
 - (a) at any time review a determination of theirs under section 105(3) above or under this paragraph or paragraph (b) below, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or was based on a mistake as to a material fact;
 - (b) within the prescribed period review such a determination on any ground;
 - (c) issue a certificate under section 35(2), or revoke or alter a certificate so issued, if they consider it appropriate to do so in consequence of a review in pursuance of this subsection.
- (2) Provision shall be made by regulations for enabling appeals to be brought to a Commissioner, with his leave or that of another Commissioner, against a determination by the Board of any question of law arising on a review under subsection (1) above or arising in connection with a refusal by the Board to review a determination made by them under section 105(3) or this section.

In this subsection references to the Board include a delegate appointed in pursuance of paragraph 5 of Schedule 11 to this Act.

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- (3) Regulations under subsection (2) above may provide for the application, to an appeal brought in pursuance of the regulations, of section 116 of this Act (Tribunal of 2 or 3 Commissioners to sit, when so directed by the Chief National Insurance Commissioner or his deputy).
- (4) Provision may be made by regulations with respect to applications for reviews of determinations under section 105(3) and this section and with respect to the disposal of such applications ; but nothing in this subsection prevents such a review from being undertaken in a case where no application is made.

Adjudication in relation to industrial injuries, etc.

107 Declaration that accident is an industrial accident

- (1) Where, in connection with any claim for industrial injuries benefit, it is determined that the relevant accident was or was not an industrial accident, an express declaration of that fact shall be made and recorded; and (subject to subsection (3) below) a claimant shall be entitled to have the question whether the relevant accident was an industrial accident determined notwithstanding that his claim is disallowed on other grounds.
- (2) Subject to subsection (3) below, and to section 117 (finality of decisions), any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident, to have that question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit has been made in connection with which the question arises, and this Part of this Act applies for that purpose as if the question had arisen in connection with a claim for benefit.
- (3) The insurance officer, local tribunal or Commissioner (as the case may be) may refuse to determine the question whether an accident was an industrial accident if satisfied that it is unlikely that it will be necessary to determine the question for the purposes of any claim for benefit; but any such refusal of an insurance officer or local tribunal shall be subject to appeal to the local tribunal or Commissioner, as the case may be.
- (4) Subject to the provisions of this Part of this Act as to appeal and review, any declaration under this section that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident, whether or not the claimant is the person at whose instance the declaration was made.
- (5) For the purposes of this section (but subject to section 117(3) below), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—
 - (a) it arises out of and in the course of his employment;
 - (b) that employment is employed earner's employment for the purposes of Part II, Chapter IV;
 - (c) payment of benefit is not under section 50(5) precluded because the accident happened while he was outside Northern Ireland.
- (6) A decision under this section shall be final except that section 104 above—
 - (a) applies to a decision under this section that an accident was an industrial accident as it applies to a decision under sections 99 to 101 if, but only if, the insurance officer or local tribunal (as the case may be) is satisfied by fresh

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evidence that the decision under this section was given in consequence of any wilful non-disclosure or misrepresentation of a material fact; but

- (b) does not apply to a decision under this section that an accident was not an industrial accident.

108 Disablement questions

- (1) In relation to industrial injuries benefit, the " disablement questions " are the questions—
- (a) whether the relevant accident has resulted in a loss of faculty;
- (b) at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment.
- (2) The disablement questions shall be referred to and determined by a medical board or a medical appeal tribunal.
- (3) Schedule 12 to this Act has effect with respect to medical boards and medical appeal tribunals, and their proceedings.
- (4) Where the case of a claimant for disablement benefit has been referred by the insurance officer to a medical board for determination of the disablement questions and, on that or any other subsequent reference, the extent of the disablement is provisionally assessed, the case shall again be so referred not later than the end of the period taken into account by the provisional assessment.

109 Medical appeals and references

- (1) This section has effect where the case of a claimant for disablement benefit has been referred by the insurance officer to a medical board for determination of the disablement questions.
- (2) If the claimant is dissatisfied with the decision of the medical board, he may appeal in the prescribed manner and within the prescribed time and the case shall be referred to a medical appeal tribunal:

Provided that an appeal shall not lie against a provisional assessment of the extent of disablement before the expiration of 2 years from the date of the first reference of the case to a medical board, nor where the period taken into account by the assessment falls wholly within those 2 years.

- (3) If the Department notifies the insurance officer within the prescribed time that it is of opinion that any decision of the medical board ought to be considered by a medical appeal tribunal, the insurance officer shall refer the case to a medical appeal tribunal for their consideration, and the tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

110 Review of medical decisions

- (1) Any decision under this Part of this Act of a medical board or a medical appeal tribunal may be reviewed at any time by a medical board if satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

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- (2) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by a medical board if the board are satisfied that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant injury.
- (3) Where, in connection with a claim for disablement benefit made after 20th October 1953, it is decided that the relevant accident has not resulted in a loss of faculty, the decision—
 - (a) may be reviewed under subsection (2) above as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty ; but
 - (b) subject to any further decision on appeal or review, shall be treated as deciding the question whether the relevant accident has so resulted both for the time about which the decision was given and for any subsequent time.
- (4) For the purposes of subsection (3) above, a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as deciding that at that date the relevant accident has not resulted in a loss of faculty.
- (5) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under subsection (2) above without the leave of a medical appeal tribunal, and (notwithstanding the provisions of Chapter IV of Part II of this Act) on a review under that subsection the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and in so far as regulations so provide.
- (6) Subject to the foregoing provisions of this section, a medical board may deal with a case on a review in any manner in which they could deal with it on an original reference to them, and in particular may make a provisional assessment notwithstanding that the assessment under review was final.
- (7) Section 109 of this Act applies to an application for a review under this section and to a decision of a medical board in connection with such an application as it applies to an original claim for disablement benefit and to a decision of a medical board in connection with such a claim.

111 Reference to single doctor

- (1) Notwithstanding sections 108 to 110 above, regulations may provide that the disablement questions may, with the consent of the claimant, be referred to a single medical practitioner appointed by the Department instead of to a medical board.
- (2) The period to be taken into account by any assessment made by virtue of this section shall not exceed 6 months.
- (3) Regulations may make provision as to the procedure to be adopted where, on a reference under this section, the medical practitioner is of opinion that a final assessment can be made but that the period to be taken into account exceeds 6 months.

112 Effect of doctor's decision

A decision on a reference under section 111 above shall have effect as if it were a decision of a medical board, and accordingly shall be subject to appeal and review, and may be referred for consideration to a medical appeal tribunal.

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113 Adjudication as to industrial diseases

- (1) Regulations shall provide for applying, in relation—
- (a) to claims for benefit under Chapter V of Part II of this Act, and
 - (b) to questions arising in connection with such claims or with awards of such benefit,
- the provisions of this Part of this Act subject to any prescribed additions or modifications.
- (2) Regulations for those purposes may in particular provide—
- (a) for the establishment of special medical boards and the appointment of medical officers for the purposes of the regulations (including, in the case of any such board, the purposes for which medical boards and medical appeal tribunals are established under the foregoing provisions of this Part of this Act);
 - (b) for the payment by the prescribed persons of fees of the prescribed amount in connection with any medical examination by any such board or officer and their return in any prescribed cases, and (so far as not required to be returned) their payment into the National Insurance Fund and recovery as sums due to that Fund ;
 - (c) for such matters as appear to the Department to be incidental to or consequential upon provisions included in the regulations by virtue of subsection (1) above and paragraphs (a) and (b) of this subsection.
- (3) The Department may pay such remuneration to any member of a medical board established by virtue of this section and to any medical officer appointed by virtue thereof, and such travelling and other allowances (including compensation for loss of remunerative time) to any such member or officer, and such other expenses in connection with any such board or with the work of any such officer as the Department, with the consent of the Department of Finance, may determine.

Provided that compensation for loss of time shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this subsection.

Adjudication generally

114 Regulations as to determination of questions

- (1) Subject to the provisions of this Part of this Act, provision may be made by regulations for the determination—
- (a) by the Department; or
 - (b) by a person or tribunal appointed or constituted in accordance with the regulations,
- of any question arising under or in connection with this Act or the former legislation, including a claim for benefit. " The former legislation " means the National Insurance Measures (Northern Ireland) 1966 to 1974 and the National Insurance (Industrial Injuries) Measures (Northern Ireland) 1966 to 1974.
- (2) Regulations under subsection (1) above may modify, add to or exclude any provisions of this Part of this Act, so far as relating to any questions to which the regulations relate.

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- (3) As respects any question as to the right to benefit (other than a question for determination by the Department under section 93 or 95 of this Act) regulations under subsection (1) above shall not provide for the determination of that question by the Department but, subject to subsection (4) below, shall provide—
- (a) for the submission of the question in the first instance to an officer appointed by the Department;
 - (b) for authorising the officer either himself to determine the question or to refer it to a local tribunal, and for enabling an appeal to be brought from the officer's decision to such a tribunal;
 - (c) for enabling an appeal to be brought from such a tribunal to, or to a tribunal presided over by, a Commissioner.
- (4) Regulations under subsection (3) above may provide for the submission of different aspects of the same question to different officers; and for that purpose paragraphs (a) and (b) of that subsection shall have effect subject to the necessary modifications.
- (5) Regulations under subsection (1) above may provide—
- (a) for the reference to the Court of Appeal in Northern Ireland for decision of any question of law arising in connection with the determination of a question by the Department; and
 - (b) for appeals to that court from the decision of the Department on any such question of law;
- and subsections (5) and (6) of section 94 of this Act shall apply to a reference or appeal under this subsection as they apply to a reference or appeal under subsections (1) to (3) of that section.

115 Procedure

- (1) Regulations may, for any purpose of this Part of this Act, make any such provision as is specified in Schedule 13 (procedure, evidence, hearings, forms of documents and other matters relating to adjudication).
- (2) Regulations made by virtue of subsection (1) above are referred to in this Act as " procedure regulations"; and in Schedule 13 " competent tribunal" means a Commissioner, a local tribunal, a medical appeal tribunal, a medical board or a single medical practitioner acting in place of a medical board.
- (3) Procedure regulations may deal differently with claims and questions relating to benefit under Part II, Chapters I to III and those relating to industrial injuries benefit.
- (4) At any inquiry held by virtue of procedure regulations the witnesses shall, if the person holding the inquiry thinks fit, be examined on oath; and the person holding the inquiry shall have power to administer oaths for that purpose.
- (5) It is hereby declared that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not.
- (6) Except so far as it may be applied by procedure regulations, the Arbitration Act (Northern Ireland) 1937 shall not apply to any proceedings under this Part of this Act.

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116 Tribunal of 2 or 3 Commissioners

- (1) If it appears to the Chief National Insurance Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that an appeal falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with, not by that Commissioner alone, but by a Tribunal consisting of any 2 or 3 of the Commissioners.
- (2) If the decision of the Tribunal is not unanimous, the decision of the majority, or, in the case of a Tribunal consisting of 2 Commissioners, the decision of the presiding member, shall be the decision of the Tribunal.

117 Finality of decisions

- (1) Subject to the provisions of this Part of this Act, the decision of any claim or question in accordance with those provisions shall be final; and subject to the provisions of any regulations under section 114, the decision of any claim or question in accordance with those regulations shall be final.
- (2) Subsection (1) above shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.
- (3) A decision (given under section 107(2) of this Act or otherwise) that an accident was an industrial accident is to be taken as determining only that paragraphs (a), (b) and (c) of section 107(5) are satisfied in relation to the accident, and neither any such decision nor the reference to a medical board or medical appeal tribunal under section 108 of the disablement questions in connection with any claim to or award of disablement benefit is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received; but—
 - (a) a decision that on a particular occasion when there was no such event a person had an industrial accident by reason of an injury shall be treated as a decision that if the injury was suffered by accident on that occasion, the accident was an industrial accident; and
 - (b) a decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with section 107, without its having been found that personal injury resulted from the accident (saving always the discretion under section 107(3) to refuse to determine the question if it is unlikely to be necessary for the purposes of a claim for benefit).
- (4) Notwithstanding anything in subsection (2) or (3) above (but subject to the provisions of this Part of this Act as to appeal and review), where for purposes of disablement benefit in respect of an accident it has been found by a medical board or medical appeal tribunal, on the determination or last determination of the disablement questions, that an injury resulted in whole or in part from the accident, then for purposes of industrial death benefit in respect of that accident (including benefit on a death occurring before the passing of this Act) the finding shall be conclusive that the injury did so result.

The reference in this subsection to a medical board includes a medical practitioner determining disablement questions on a reference under section 111.

- (5) Subsections (2) to (4) above shall apply as regards the effect to be given in any proceedings to any decision, or to a reference under section 108 of this Act, whether

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the decision was given or reference made or the proceedings were commenced before or after the passing of the National Insurance Act 1972 (section 5 of which is replaced by this section), and accordingly—

- (a) any decision given before the passing of that Act that a claimant was not entitled to industrial death benefit may be reviewed in accordance with this Part of this Act to give effect to subsection (4) above; and
- (b) the references in subsections (2) and (3) above to provisions of this Act, and the reference in this section to section 108, shall (so far as necessary) include the corresponding provisions of previous Acts.

118 Questions as to child or family

- (1) Subject to subsection (2) below, this section applies to any question—
 - (a) whether a person is or was a child, or is or was under school-leaving age;
 - (b) whether a person has or had a family including a child or children, or is or was a child of some other person's family;
 - (c) whether a person could have been treated under paragraph 3 of the Schedule to the Family Allowances Act as, or but for certain facts would have been, or could have been so treated as, a child of any other person's family;
 - (d) whether, for the purposes of the payment to a beneficiary of any benefit in respect of a child, the child in question is living with the beneficiary.
- (2) This section does not apply—
 - (a) to any question within section 95(1)(c) of this Act; or
 - (b) to the question whether a person is to be treated for any purpose as having a family including a child or children, or as being a child of some other person's family.
- (3) Where a question to which this section applies arises with respect to benefit, the question shall be determined in accordance with the foregoing provisions of this Part of this Act, subject to any prescribed modifications and adaptations.
- (4) Any decision of a question to which this section applies by virtue of subsection (1)(a) to (c) above, if given under this Part of this Act, shall have effect also for the purposes of the Family Allowances Act, whether given for the purposes of this Act or of that Act.

119 Effect of adjudication on payment and recovery

- (1) Where benefit is or has been paid in pursuance of a decision which is reversed or varied on appeal, or is revised on a review, then, subject to subsection (2) below, the decision given on the appeal or review shall require repayment to the Department of any benefit which was paid in pursuance of the original decision to the extent to which it—
 - (a) would not have been payable if the decision on the appeal or review had been given in the first instance; and
 - (b) is not directed to be treated as paid on account of the benefit awarded by the decision on appeal or review, or as having been properly paid.
- (2) A decision given on appeal or review shall not require repayment of benefit paid in pursuance of the original decision in any case where it is shown to the satisfaction of the person or tribunal determining the appeal or review that in the obtaining and

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receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

- (3) Regulations may make provision as respects matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review) of any claim for benefit or of any question affecting any person's right to benefit or its receipt, or any person's liability for contributions under Part I of this Act; or
 - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (4) Without prejudice to the generality of subsection (3) above, regulations thereunder may include provision—
- (a) as to the date from which any decision on a review is to have effect or to be deemed to have had effect;
 - (b) for treating any benefit paid to any person under an award, or by virtue of any provision of the regulations, which it is subsequently decided was not payable, as properly paid or as paid on account of any other benefit which it is decided was payable to him, or for the repayment of any such benefit and the recovery thereof by deduction from other benefit, or from any payment under the Old Cases Act, or otherwise ;
 - (c) modifying subsections (1) and (2) above in relation to sums paid by way of benefit in respect of a child of the family of a man and his wife living together where those sums would have been receivable, if properly paid, by either the man or the wife;
 - (d) making any such provision for the recovery of sums paid by way of benefit and required to be repaid by virtue of subsection (1) as is authorised to be made in a case where repayment is required by the regulations.