

## 1966 No. 1004

## SOCIAL SECURITY

**The National Insurance (Determination of Claims and Questions)  
Amendment Regulations 1966**

<i>Made</i> - - - -	8th August 1966
<i>Laid before Parliament</i>	22nd August 1966
<i>Coming into Operation</i>	6th October 1966

The Minister of Social Security in exercise of powers conferred by sections 73 and 75 (2) of the National Insurance Act 1965(a), as amended by sections 8 and 9 of the National Insurance Act 1966(b), and of all other powers enabling her in that behalf, and in consequence of the National Insurance Act 1966, after consultation with the Council on Tribunals, hereby makes the following regulations:—

*Citation, interpretation and commencement*

1. These regulations, which may be cited as the National Insurance (Determination of Claims and Questions) Amendment Regulations 1966 shall be read as one with the National Insurance (Determination of Claims and Questions) Regulations 1948(c), as amended (d), (hereinafter referred to as “the principal regulations”) and shall come into operation on 6th October 1966.

*Amendment of regulation 1 of the principal regulations*

2.—(1) For the definition of “the Commissioner” in regulation 1 (2) of the principal regulations there shall be substituted the following definition:—

“ ‘the Commissioner’ means the Chief National Insurance Commissioner appointed under section 9 of the National Insurance Act 1966(b), and any other National Insurance Commissioner so appointed or any tribunal constituted under subsection (3) of that section”.

(2) In the said regulation 1 (2) after the definition of “local office”, there shall be added the following words:—

“the expressions ‘medical examination’ and ‘medical practitioner’ have the same meanings as in the Industrial Injuries Act, and references to being medically examined shall be construed accordingly.”.

*Amendment of regulation 13 of the principal regulations*

3. Immediately after paragraph (5) of regulation 13 of the principal regulations (hearings before local tribunals) there shall be added the following paragraphs:—

(a) 1965 c. 51. (b) 1966 c. 6. (c) S.I. 1948/1144 (Rev. XVI, p. 331: 1948 I, p. 2720).  
(d) S.I. 1951/1208, 1952/1310, 1955/1788, 1957/1340, 1958/701, 1959/848, 1154 (1951 I, p. 1455; 1952 II, p. 2145; 1955 I, p. 1583; 1957 I, p. 1520; 1958 II, p. 1573; 1959 II, pp. 1847, 1856).

“(6) In such cases as the chairman of the local tribunal may determine, a medical practitioner may sit with that tribunal as an assessor.

(7) An assessor sitting with a local tribunal as aforesaid shall not take any part in the determination or decision of that tribunal except in an advisory capacity.”

*Amendment of regulation 16 of the principal regulations*

4. At the beginning of paragraph (3) of regulation 16 of the principal regulations (procedure before Commissioner) there shall be inserted the words “The insurance officer and”.

*Industrial Injuries questions*

5. Where by virtue of section 8 of, and Schedule 2 to, the National Insurance Act 1966 (a), the provisions of regulations 12 to 17 of the principal regulations fall to be applied to the determination of claims and questions under the Industrial Injuries Act they shall so apply as if in any of those provisions specified in column 1 of the Schedule to these regulations there were made the modifications specified in column 3 of that Schedule.

*Application for review*

6. Where, in the opinion of the insurance officer, an application made under the provisions of section 72 (2) of the National Insurance Act 1965(b) raises a question as to the review of a decision of a medical appeal tribunal and, by virtue of section 40 (4) of the National Insurance (Industrial Injuries) Act 1965(c), such decision may not be reviewed without the leave of a medical appeal tribunal, the insurance officer shall submit the application to a medical appeal tribunal so that such tribunal may consider whether such leave shall be granted and shall not refer the question to a medical board with a view to a review of that decision unless that medical appeal tribunal grant such leave.

*Miscellaneous powers of Minister, insurance officer and local tribunals*

7. For the purpose of the determination of any question by the Minister, an insurance officer or a local tribunal, the Minister, the insurance officer or the local tribunal, as the case may be, may refer to a medical practitioner for examination and report any question arising for his or their decision.

*Amendment of regulation 19 of the principal regulations*

8. In paragraph (2) (a) of regulation 19 of the principal regulations (review of decisions), immediately before the words “the proviso” there shall be inserted the following words:—

“or by reason only of a matter specified in section 2 (9) of the National Insurance Act 1966 (determination of reckonable earnings).”

*Non-disclosure of evidence by local tribunal and Commissioner*

9. Where, in connection with the determination of any claim or question, there is before a local tribunal or the Commissioner medical advice or medical evidence relating to the claimant which has not been disclosed to him and, in the opinion of the chairman of the local tribunal or the Commissioner, as the case may be, the disclosure to the claimant of that advice or evidence would be harmful to the claimant's health, such advice or evidence shall not be required to be disclosed to the claimant, but the local tribunal or the Commissioner shall not by reason of such non-disclosure be precluded from taking it into account for the purpose of the said determination.

*New provisions added to the principal regulations*

10. Immediately after regulation 1 of the principal regulations there shall be inserted the following provisions:—

## "PART IA

## DETERMINATION OF QUESTIONS

*Variation of certain provisions of Part IV of the National Insurance Act 1965*

1A. Any question to which section 67 (1) (questions to be determined by insurance officers, local tribunal or Commissioner) of the National Insurance Act 1965 applies shall be determined in accordance with the provisions of sections 68 to 72 of the said Act and of these regulations, subject to the variations of the provisions of the said sections made by this Part of these regulations.

*Appeals from insurance officers' decisions*

1B.—(1) Where an insurance officer has decided any claim or question on an assumption of facts as to which there appeared to him to be no dispute, but concerning which, had a question arisen, that question would have fallen for determination by the Minister, it shall be deemed to be a sufficient compliance with the requirements of section 69 (1) (appeals to local tribunals) of the National Insurance Act 1965 as to notification to the claimant to give him notice in writing informing him of the decision and of the reasons therefor and that, if he is dissatisfied with the decision, he should reply to that effect, giving the reasons for his dissatisfaction.

(2) Where such a notice as is referred to in the foregoing paragraph is given, the decision of the insurance officer shall, for the purposes of the said section 69 (1) be treated as adverse to the extent only that the following provisions of this regulation so provide.

(3) If the claimant replies to the notice referred to in paragraph (1) of this regulation, and, after any appropriate investigations and explanations have been made, he remains dissatisfied, the decision of the insurance officer (if not reviewed) shall then, subject to the provisions of the next following paragraph, be treated as adverse for the purposes of section 69 (1) and the claimant shall be notified of his right of appeal to a local tribunal, the time limit for such appeal being measured from the date of that notification.

(4) If, where the provisions of the foregoing paragraph would otherwise apply, an insurance officer certifies that the sole ground of the claimant's dissatisfaction appears to him to be the assumption referred to in paragraph (1) of this regulation, those provisions shall not apply, but the claimant shall be notified in writing of his right to apply for the determination by the Minister of the question arising on the assumption.

(5) If the question so arising is determined by the Minister, then

- (a) the insurance officer's decision shall thereafter, if not reviewed, be treated as an adverse decision for the purposes of section 69 (1) and the claimant shall be notified of his right of appeal to a local tribunal, the time limit for such appeal being measured from the date of the Minister's decision;
- (b) where the Minister's decision upholds the assumption, the proviso to section 69 (1) shall apply as if the insurance officer had given the certificate therein referred to;
- (c) where the Minister's decision does not uphold the assumption, it may, at the discretion of the insurance officer, be treated as an application for the review of the insurance officer's decision, and for the purposes of regulation 19 of these regulations the date of the claimant's application for the Minister's decision shall be treated as the date of the application for review.

*Medical practitioners*

1C. For the purposes of section 70 (5) of the National Insurance Act 1965 the expression "registered medical practitioner" shall have the same meaning as the expression "medical practitioner" in the Industrial Injuries Act."

*Margaret Herbison,*  
Minister of Social Security.

8th August 1966.

## SCHEDULE

## Regulation 5

## PROVISIONS OF THE PRINCIPAL REGULATIONS MODIFIED IN APPLICATION TO CLAIMS AND QUESTIONS UNDER INDUSTRIAL INJURIES ACT

Provision of the principal regulations	Subject Matter	Modification
Regulation 12	Time and place of hearings before local tribunals	At the end of the regulation, there shall be inserted the following:— “(3) In this Part of these regulations a person shall be deemed to be interested if he is a person whose right to benefit is or may be under Schedule 5 to the National Insurance (Industrial Injuries) Act 1965(a) affected by the decision appealed against.”
Regulation 13	Hearings before local tribunals	In paragraph (2), after the words “(c) the Minister” there shall be inserted the words “(d) any interested person”.
Regulation 14	Decisions of local tribunals	In paragraph (3), for the words “adverse to the claimant”, there shall be substituted the words “in whole or in part adverse to the claimant or such other person”.
Regulation 16	Procedure before Commissioner	At the beginning of paragraph (3), there shall be inserted the words “The Minister.”.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations make such amendments as are necessary to the National Insurance (Determination of Claims and Questions) Regulations 1948 ("the principal regulations") in consequence of the transfer, pursuant to section 8 of the National Insurance Act 1966, of the determination of claims and questions relating to industrial injuries from the procedure and jurisdiction under the National Insurance (Industrial Injuries) Act 1965 to the procedure and jurisdiction under the National Insurance Act 1965, and of the re-naming of the National Insurance Commissioner and deputy National Insurance Commissioners as Chief National Insurance Commissioner and National Insurance Commissioners respectively and also of the introduction of earnings-related benefit. In particular, regulation 5 of, and the Schedule to, the regulations modify the principal regulations, in their application to Industrial Injuries cases, so as to take account of the rights of the persons specified in Schedule 5 of the National Insurance (Industrial Injuries) Act 1965 and to preserve the rights of the Minister in proceedings before the Commissioner.

Regulation 3 applies a provision relating to medical assessors contained in the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations 1948 and regulation 7 applies another provision of those regulations relating to examinations and reports by medical practitioners.

Regulation 8 removes the limitation on payment of arrears of earnings-related supplement where there has been some difficulty in ascertaining the relevant reckonable earnings.

Regulation 9 gives power to the Commissioner and local tribunals in the interests of claimants not to disclose certain medical advice or evidence to them.

Regulation 10 inserts a new Part in the principal regulations providing variations in the procedure for determination of claims and questions contained in sections 68 to 72 of the National Insurance Act 1965. These variations concern appeals from insurance officers' decisions where a question may arise for determination by the Minister (new regulation 1B), and an enlargement of the category of medical practitioners to whom the National Insurance Commissioner can refer questions for examination and report (new regulation 1C) so as to correspond with the provision in the National Insurance (Industrial Injuries) Act 1965.

These regulations are made in consequence of the passing of the National Insurance Act 1966 and therefore in accordance with section 14 (6) of that Act have not been referred to the National Insurance Advisory Committee.