1966. No. 233 **[C]**

NATIONAL INSURANCE

Determination of Claims and Questions

REGULATIONS, DATED 3RD OCTOBER 1966, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 72 and 74(2) of the National Insurance Act (Northern Ireland) 1966(**a**), as amended by sections 8 and 9 of the National Insurance (No. 2) Act (Northern Ireland) 1966(**b**), and by section 14(6) of the last-mentioned Act, and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations, which may be cited as the National Insurance (Determination of Claims and Questions) Amendment Regulations (Northern Ireland) 1966 shall be read as one with the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1948(**c**) (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. In regulation 1(2) of the principal regulations after the definition of "question", 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 (7) of regulation 13(**d**) of the principal regulations (hearings before local tribunals) there shall be added the following paragraphs:

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

(9) 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."

Industrial Injuries questions

4. Where by virtue of section 8 of, and Schedule 2 to, the National Insurance (No. 2) Act (Northern Ireland) 1966, 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.

(**a**) 1966. c. 6 (N.I.).
(**b**) 1966. c. 16 (N.I.).
(**c**) S.R. & O. (N.I.) 1948, No. 185.
(**d**) See reg. 2 of S.R. & O. (N.I.) 1958, No. 159.

Application for review

5. Where, in the opinion of the insurance officer, an application made under the provisions of section 71(2) of the National Insurance Act (Northern Ireland) 1966 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 (Northern Ireland) 1966(a), 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 Ministry, insurance officer and local tribunals

6. For the purpose of the determination of any question by the Ministry, an insurance officer or a local tribunal, the Ministry, 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 its, his or their decision.

Amendment of regulation 19 *of the principal regulations*

7. In paragraph (2)(*a*) of regulation 19(**b**) 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 (No. 2) Act (Northern Ireland) 1966 (determination of reckonable earnings),".

Non-disclosure of evidence by local tribunal and Commissioner

8. 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

9. 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 (Northern Ireland) 1966

1A. Any question to which section 66(1) (questions to be determined by insurance officers, local tribunals or Commissioner) of the National Insurance Act (Northern Ireland) 1966 applies shall be determined in accordance with the provisions of sections 67 to 71 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.

(a) 1966. c. 9 (N.I.). (b) See Part II of Sch. 3 to S.R. & O. (N.I.) 1961, No. 86.

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 Ministry, it shall be deemed to be a sufficient compliance with the requirements of section 68(1) (appeals to local tribunals) of the National Insurance Act (Northern Ireland) 1966 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 68(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 68(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 Ministry of the question arising on the assumption.

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

(*a*) the insurance officer's decision shall thereafter, if not reviewed, be treated as an adverse decision for the purposes of section 68(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 Ministry's decision;

(*b*) where the Ministry's decision upholds the assumption, section 68(2) shall apply as if the insurance officer had given the certificate therein referred to;

(*c*) where the Ministry'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 Ministry's decision shall be treated as the date of the application for review.

Medical practitioners

1C. For the purposes of section 69(5) of the National Insurance Act (Northern Ireland) 1966 the expression 'registered medical practitioner' shall have the same meaning as the expression 'medical practitioner' in the Industrial Injuries Act."

Transitional provision

10. Any decision given by any Commissioner, deputy Commissioner, umpire or deputy umpire for the purposes of the National Insurance Act (Northern Ireland) 1966 or the enactments re-enacted by that Act shall be treated from the date of coming into operation of these regulations as a decision given by a Commissioner appointed under section 9 of the National Insurance (No. 2) Act (Northern Ireland) 1966.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 3rd day of October 1966.

(L.S.) *H. A. Lowry,*
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 3rd day of October 1966.

(L.S.) *R. R. Butler,*
Assistant Secretary.

SCHEDULE Regulation 4

Provisions of the Principal Regulations modified in application to Claims and Questions under the Industrial Injuries Act

Provision of the principal regulations 1	Subject Matter 2	Modification 3
Regulation 12	Hearings before local tribunals	At the end of the regulation, there shall be inserted the following: "(4) 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 (Northern Ireland) 1966 affected by the decision appealed against."
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 (5), for the words "Any person" there shall be inserted the words "The Ministry and any person".

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations make such amendments as are necessary to the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1948 ("the principal regulations") in consequence of the transfer, pursuant to section 8 of the National Insurance (No. 2) Act (Northern Ireland) 1966, of the determination of claims and questions relating to industrial injuries from the procedure and jurisdiction under the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 to the procedure and jurisdiction under the National Insurance Act (Northern Ireland) 1966 and of the introduction of earnings-related benefit. In particular, regulation 4 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 to the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 and to preserve the rights of the Ministry 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 (Northern Ireland) 1948 and regulation 6 applies another provision of those regulations relating to examinations and reports by medical practitioners.

Regulation 7 removes the limitation on payment of arrears of earnings-related supplement where there has been some difficulty in ascertaining the relevant reckonable earnings.

Regulation 8 gives power to the Commissioner and local tribunals in the interests of claimants not to disclose certain medical advice or evidence to them.

Regulation 9 inserts a new Part in the principal regulations providing variations in the procedure for determination of claims and questions contained in sections 67 to 71 of the National Insurance Act (Northern Ireland) 1966. These variations concern appeals from insurance officers' decisions where a question may arise for determination by the Ministry (new regulation 1B), and an enlargement of the category of medical practitioners to whom the 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 (Northern Ireland) 1966.

Regulation 10 preserves the authority of the decisions of the Commissioner, deputy Commissioner, umpire or deputy umpire given prior to the coming into operation of section 9 of the National Insurance (No. 2) Act (Northern Ireland) 1966.