7. DETERMINATION OF CLAIMS AND QUESTIONS

The National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations, 1948

1948 No. 1299

Made - - - -	18*th June*, 1948
Laid before Parliament	21*st June*, 1948
Coming into Operation	24*th June*, 1948

M.N.I. 1.1.101.

The Minister of National Insurance, in exercise of the powers conferred by sections 36 (1), 38 (3), 39, 41, 42 (2), 43, 46 (1), 47, 48, 51, 52 (2) and 86 of the National Insurance (Industrial Injuries) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:— 9 & 10 Geo. 6. c. 62.

PART I

General

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations, 1948, and shall come into operation on the 24th June, 1948.

(2) In these regulations, unless the context otherwise requires—

" the Act " means the National Insurance (Industrial Injuries) Act, 1946;

" the Minister " means the Minister of National Insurance;

" applicant " in Section A of Part II of these regulations means any person who has made an application to the Minister for the determination of a question to which that Section relates;

" the Commissioner " includes a deputy Commissioner and any tribunal constituted in accordance with regulation 22;

" hearing " means an oral hearing;

" inquiry " means an oral inquiry;

" an interested person " in Parts III and IV of these regulations means, in relation to any appeal, any person whose right to benefit is or may be, under the Fourth Schedule to the Act, affected by the decision appealed against;

" a local office " means any office appointed by the Minister as a local office for the purposes of the Act or of these regulations;

references to a case being referred to a local appeal tribunal shall be construed as including references to a claim or question being so referred;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(4) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last-known address.

52 & 53 Vict. c. 63.

(5) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

PART II

Determination of special questions

Section A—Certain questions required to be determined by the Minister under section 36 (1) (a) of the Act

Application for Minister's decision and procedure thereon.

2.—(1) Any person desiring to obtain the decision of the Minister on any of the questions mentioned in sub-paragraphs (i) to (iv) of paragraph (*a*) of subsection (1) of section 36 of the Act shall deliver or send to the Minister an application for the purpose in writing in a form approved by him and shall furnish such particulars as the Minister may require for the purpose of the consideration and determination of any such question.

(2) The Minister shall take steps to bring any such application and any such particulars to the notice of any person appearing to him to be interested therein and to obtain from such person such particulars within such time and in such form as he considers reasonably necessary for the purpose of the determination of the question.

(3) The Minister may, if he thinks fit, before determining the question, appoint a person to hold an inquiry into the question or any matters arising in connection therewith and to report to him thereon, and any person so appointed may by summons require persons to attend at any such inquiry to give evidence or to produce documents reasonably required for the purpose of the inquiry and may take evidence on oath and for that purpose administer oaths.

(4) Reasonable notice of the date and place of the holding of such inquiry shall be given to the applicant and any persons notified of the application in accordance with paragraph (2) of this regulation and the procedure at an inquiry shall, subject to this regulation, be such as the person appointed to hold the inquiry shall determine.

(5) The Minister shall give notice in writing of his decision to the applicant and to any persons appearing to him to be interested therein and may publish his decision in such manner as he thinks fit, and the applicant and any such person as aforesaid shall, on request, be furnished with such a statement of the grounds of the decision as will enable him to determine whether any question of law (not being a question which has been referred to the High Court or to the Court of Session in accordance with subsection (1) of section 37 of the Act) has arisen upon which he may wish to appeal.

Procedure on application for review or on reference by a court or by the insurance officer.

3. The provisions of these regulations shall apply with the necessary modifications to any case in which—

(*a*) a question has been raised with a view to the review of any decision of the Minister given in accordance with this Section of this Part of these regulations; or

(*b*) a question such as is mentioned in paragraph (1) of regulation 2 is referred to the Minister—

(i) under subsection (3) of section 72 of the Act (which subsection provides for the reference of such questions for decision by the Minister where the decision thereof is necessary for the determination of any proceedings by a court); or

(ii) under section 48 of the Act (which provides for the reference by an insurance officer of any such question for determination where such question arises on the consideration of any claim or question).

Notice of reference of a question of law.

4. In the event of the Minister determining in accordance with subsection (1) of section 37 of the Act to refer any question of law to the High Court, or in Scotland to the Court of Session, he shall send notice in writing of his intention so to do to the applicant and to any other person appearing to him to be interested therein.

Section B. Questions required to be determined in accordance with section 36 (1) (b) of the Act

Modification of the Family Allowances Act, 1945. 8 & 9 Geo. 6. c. 41.

5. The provisions of section 5 of the Family Allowances Act, 1945, and of the regulations made thereunder shall apply to the determination of any such question as is mentioned in paragraph (*b*) of subsection (1) of section 36 of the Act, subject to the qualification that, for that purpose and for that purpose only—

(*a*) regulation 3 of the Family Allowances (References) Regulations, 1946(a), shall be modified to the extent that an application for a reference shall be sent in the first instance to a local office, and shall be forwarded from such local office to the Registrar of Appeals under the said Act as soon as may be practicable; and

(*b*) regulation 9 of the last-mentioned regulations shall be modified to the extent that the copy of the decision of the referee which under the said regulation 9 is to be sent by the Registrar of Appeals to the applicant shall be sent in the first instance to a local office and shall be forwarded from such local office to the applicant as soon as may be practicable.

Section C. Disablement questions

Constitution of medical boards.

6.—(1) The disablement questions(b) arising in any case shall be referred for determination to a medical board constituted in accordance with section 38 of the Act, and, except as hereafter provided in this regulation, such medical board shall consist of two members:

Provided that a person shall not act as a member of a medical board if—

(*a*) he is or may be directly affected by the case in which such questions arise;

(*b*) he has taken any part in such case as a medical assessor or as a medical practitioner who has regularly attended the claimant or beneficiary or to whom any question has been referred for examination and report or as an employer or as a witness.

(a) S.R. & O. 1946 (No. 139) I, p. 513.
(b) *See* s. 36 (1) (c), National Insurance (Industrial Injuries) Act, 1946.

(2) A medical board shall not determine any questions so referred to them if—

(*a*) any member thereof is unable to be present at the consideration of any such question; or

(*b*) the medical board, being a board consisting of two members, are unable to reach a unanimous decision on any such question.

(3) In any case in which, by reason of the foregoing provisions of this regulation, a medical board are unable to determine any question which has been referred to them, the reference to that board shall be revoked and the questions arising in that case shall forthwith be referred to another medical board:

Provided that, in a case to which sub-paragraph (*b*) of the preceding paragraph relates, the reference shall be to a medical board consisting of three members, whose decision, if not unanimous, shall be that of the majority of such members.

Reference to a single medical practitioner in lieu of to a medical board.

7.—(1) For the purposes of the provisions of section 41 of the Act (which relates to the reference of disablement questions to a single medical practitioner) and notwithstanding anything in the foregoing provisions of these regulations, the disablement questions arising in any case may, with the consent of the claimant or beneficiary(**a**), be referred to a single medical practitioner appointed by the Minister instead of to a medical board.

(2) The provisions of the next two following regulations shall apply to the proceedings on a reference to a single medical practitioner in accordance with the preceding paragraph, as if such practitioner were a medical board constituted in accordance with the Act or the chairman of such a board, as the case may be.

(3) If a medical practitioner to whom any questions have been referred in accordance with paragraph (1) of this regulation is of the opinion that a final assessment can be made but that the period which should be taken into account by such assessment would exceed three months, he shall, in lieu of himself determining such questions, make a report in writing stating his opinion and the grounds therefor, and thereupon the reference to the single medical practitioner shall be revoked and the disablement questions arising in the case shall be referred to a medical board constituted under the Act, to whom a copy of such report shall be made available.

Notice of sitting and procedure of medical boards.

8.—(1) Reasonable notice of the time and place at which a medical board will sit for the consideration of any case shall be given to the claimant or beneficiary and if, after such notice has been given, the claimant or beneficiary should fail to appear at the sitting of the board, the board shall not proceed to determine the questions referred to them without his consent.

(2) No person shall be entitled to be present during the consideration of any question by a medical board other than the claimant or beneficiary and any other person whom the medical board may, with the consent of the claimant or beneficiary, allow to be present as being a person who, in their opinion, is likely to assist them in the determination of that question.

(**a**) *See* **s.** 88 (1), National Insurance (Industrial Injuries) Act, 1946.

Notice of decision of medical board.

9.—(1) A medical board shall in each case record their decision in writing in such form as may from time to time be approved by the Minister and shall include in such record (which shall be signed by all the members of the board)—

(*a*) a statement of their findings on all questions of fact material to such decision; and

(*b*) in a case in which the decision of a medical board consisting of three persons was not unanimous, a statement that one of the members dissented and of the reasons given by him for so dissenting.

(2) As soon as may be practicable, the claimant or beneficiary shall be sent written notice of the decision of a medical board, and such notice shall be in such form as may from time to time be approved by the Minister and shall contain a summary of the said findings of the board, including, where the decision was not unanimous, a statement that one of the members dissented and of the reasons given by him for so dissenting.

Constitution of medical appeal tribunals.

10.—(1) A person shall not act as a member of a medical appeal tribunal constituted under section 38 of the Act (hereafter in this Part of these regulations referred to as "a tribunal") for the purpose of the consideration of any case referred to such tribunal if he—

(*a*) is or may be directly affected by that case; or

(*b*) has taken any part in such case as a medical assessor or as a medical practitioner who has regularly attended the claimant or beneficiary or who has acted as a member of a medical board or to whom any question has been referred for examination and report or as an employer or as a witness.

(2) A tribunal constituted as aforesaid shall not proceed to determine any case so referred to them if any member thereof is unable to be present at the consideration of that case and where, by reason of this paragraph, a tribunal are unable to determine any case referred to them, the reference to that tribunal shall be revoked and the case shall forthwith be referred to another tribunal constituted as aforesaid.

Notice of appeal and notification by the Minister.

11.—(1) An appeal by a claimant or beneficiary against a decision of a medical board shall be brought by giving notice of appeal at a local office within three months after notice of that decision has been given in accordance with regulation 9 or within such further period as the chairman of the tribunal may for good reason allow.

(2) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(3) For the purpose of securing the reference of a case to a tribunal in accordance with subsection (3) of section 39 of the Act where the Minister is of the opinion that a decision of a medical board ought to be considered by a tribunal, the Minister may notify the insurance officer(a) of his opinion in that respect within three months or such longer period as the chairman of the tribunal may for good reason allow after the date of that decision.

Hearing of appeals by, and procedure of, medical appeal tribunals.

12.—(1) For the purpose of determining any case referred to them, a tribunal shall hold a hearing which shall be in public, except in so far as the chairman of the tribunal may for special reasons otherwise direct.

(a) *See* s. 44, National Insurance (Industrial Injuries) Act, 1946.

(2) Reasonable notice of the time and place at which a tribunal will hear a case shall be given to the claimant or beneficiary and to the Minister, and, except with the consent of the claimant or beneficiary, the tribunal shall not proceed with the hearing unless such notice has been given.

(3) If a claimant or beneficiary to whom notice of hearing has been duly given in accordance with this paragraph should fail to appear at such hearing, and has not given a reasonable explanation for his absence, the tribunal may proceed to determine the case referred to them or may give such directions with a view to the determination of the case as they may think proper.

(4) Where the tribunal are unable to reach a unanimous decision on any case referred to them, the decision of the majority of the members thereof shall be the decision of the tribunal.

Record and notice of decision of a medical appeal tribunal.

13.—(1) A tribunal shall in each case record their decision in writing in such form as may from time to time be approved by the Minister, and shall include in such record, which shall be signed by all the members of the tribunal, a statement of the reasons for their decision, including their findings on all questions of fact material to the decision.

(2) As soon as may be practicable the claimant or beneficiary shall be sent written notice of the decision of a tribunal, and such notice shall be in such form as may from time to time be approved by the Minister and shall contain a summary of the record of that decision made in accordance with the foregoing paragraph.

PART III

Determination of claims and questions other than special questions

Notice of insurance officer's decision.

14. If an insurance officer has determined that an award cannot be made or a question has been determined by him in whole or in part adversely to the claimant or beneficiary, as the case may be, the claimant or beneficiary shall be notified in writing of the decision and the reasons therefor and of his right of appeal therefrom.

Constitution of local appeal tribunals.

15.—(1) For the purpose of the determination of any case referred to a local appeal tribunal(a) (hereafter in this Part of these regulations referred to as " a local tribunal "), a local tribunal shall consist of—

(*a*) one person drawn from a panel constituted by the Minister of persons representing employers; and

(*b*) one person drawn from a panel constituted by the Minister of persons representing insured persons; and

(*c*) a chairman appointed by the Minister.

(2) Before appointing members to either of the panels referred to in the foregoing paragraph of this regulation, the Minister may, where appropriate, take into consideration any recommendation from local committees constituted under the National Insurance Act, 1946, or from organisations concerned with the interests of employers or insured persons.

9 & 10 Geo. 6. c. 67.

(3) The members of the panels will hold office for such period as the Minister may direct:

Provided that at any time the Minister may terminate the appointment of any member of a panel.

(a) *See* s. 43, National Insurance (Industrial Injuries) Act, 1946.

(4) So far as practicable, each member of a panel shall be summoned to serve in turn upon a local tribunal:

Provided that—

(*a*) no member of a panel shall serve as a member of a local tribunal during the consideration of a case—

(i) in which he appears as the representative of a claimant or beneficiary; or

(ii) by which he is or may be directly affected; or

(iii) in which he has taken any part as an official of an association of employed persons or as an employer or as a witness or as a person to whom any question arising thereon has been referred for examination and report or otherwise;

(*b*) in any case in which the claimant or beneficiary is a woman, at least one of the members of the local tribunal, if practicable, shall be a woman.

(5) A person appointed to act as chairman of a local tribunal shall hold and vacate office in accordance with the terms of his appointment.

(6) Where several persons are appointed to act as chairmen for a particular area they shall, as far as practicable, be invited to preside over a tribunal in turn:

Provided that this paragraph shall not apply to a person expressly appointed to serve as a substitute when some other person may be unwilling or unable to act.

Medical assessors.

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

(2) 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.

Notice of appeal and reference to a local appeal tribunal.

17.—(1) An appeal against a decision of an insurance officer shall be brought by giving notice of appeal at a local office within twenty-one days after the date of that decision or within such further time as the chairman of a local tribunal may for good cause allow.

(2) A notice of appeal shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

(3) Where an insurance officer refers a case to a local tribunal in accordance with the provisions of paragraph (*b*) of subsection (3) of section 45 of the Act, notice in writing of such reference shall be given to the claimant or beneficiary.

Hearings by local appeal tribunal and procedure at such hearings.

18.—(1) The hearing of any case referred to a local tribunal shall be in public except in so far as that tribunal for special reasons may otherwise direct.

(2) Reasonable notice of the time and place of the hearing shall be given to the claimant or beneficiary and to any other person who may appear to the chairman of the local tribunal to be an interested person and, except with the consent of the claimant or beneficiary, the tribunal shall not proceed with the hearing of any case unless such notice has been given.

(3) If a claimant or beneficiary or other person to whom notice of hearing has been duly given in accordance with these regulations should fail to appear at such hearing, and has not given a reasonable explana-

tion for his absence, the local tribunal may proceed to determine the case notwithstanding the absence of the claimant or beneficiary or that other person, or may give such directions with a view to the determination of the case as they may think proper.

(4) Any case may, with the consent of the claimant or beneficiary but not otherwise, be proceeded with in the absence of any member of the local tribunal to which it has been referred, other than the chairman.

Decisions of local appeal tribunals.

19.—(1) The decision of the majority of the local tribunal shall be the decision of that tribunal and, if the number of members present is an even number, the chairman shall have a second or casting vote.

(2) There shall be added to the record of every decision of a local tribunal—

(*a*) a statement of the grounds of the decision; and

(*b*) if the decision was not unanimous, a statement that one of the members dissented and of the reasons given by him for so dissenting.

(3) As soon as may be practicable after a case has been decided by a local tribunal, a copy of the record of their decision made in accordance with subsection (2) of section 46 of the Act and this regulation shall be sent to the claimant or beneficiary and to the insurance officer and to any other person who appears to the local tribunal to be an interested person, and if the decision of the tribunal is in whole or in part adverse to the claimant or beneficiary he shall be informed of the conditions governing appeals to the Commissioner.

Application for leave to appeal and for extension of time for appealing.

20.—(1) Subject to the following provisions of this regulation, in a case in which leave to appeal against a decision of a local tribunal was not granted when the decision was given, application to such tribunal for such leave shall be made within three months of the decision:

Provided that any application to a local tribunal for such leave which at the end of the said period of three months has not been determined shall for the purpose of the next following paragraph be treated as having been refused by that tribunal.

(2) Where leave to appeal has been refused by a local tribunal, the person who applied for such leave may, within twenty-one days of the date of such refusal or such further time as the Commissioner may for special reason allow, make an application for such leave to the Commissioner.

(3) Where a person has not made an application to a local tribunal for leave to appeal against a decision of such local tribunal before the expiry of three months from the date of that decision, an application to the Commissioner by that person for such leave may only be made if it is combined with an application to the Commissioner for the extension of the time for appealing against that decision.

(4) Every application for leave to appeal against a decision of a local tribunal to which the foregoing provisions of this regulation apply and every application for the extension of the time for so appealing shall be in writing and in such form as the Minister may from time to time approve and shall set out the grounds upon which such application is made.

Notice of appeal to the Commissioner.

21. An appeal against the decision of a local tribunal shall be brought by giving notice thereof in writing in a form approved by the Minister stating the grounds of the appeal—

(*a*) in the case of an appeal by an insurance officer, to the claimant or beneficiary and to any person appearing to the insurance officer to be an interested person; or

(*b*) in the case of an appeal by—

(i) a claimant or beneficiary; or

(ii) an interested person; or

(iii) an association of employed persons;

at a local office.

Procedure before the Commissioner.

22.—(1) If any person to or by whom notice of appeal is given makes a request to the Commissioner for a hearing of the appeal, the Commissioner shall grant such request, unless, after considering the record of the case and the reasons put forward in the request for the hearing, he is satisfied that the appeal can properly be determined without a hearing, in which event he shall inform the claimant or beneficiary in writing and may proceed to determine the case without a hearing.

(2) If, in accordance with the provisions of the last foregoing paragraph, a request for a hearing has been granted, or if notwithstanding that no request has been made the Commissioner is otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to every person to or by whom notice of appeal was given and, if he thinks fit, to any other person appearing to the Commissioner to be an interested person.

(3) Every such hearing shall be in public, except in so far as the Commissioner for special reasons may otherwise direct.

(4) If any person to whom notice of hearing has been duly given should fail to appear either in person or by representative at the hearing, the Commissioner may proceed to determine the appeal notwithstanding the absence of such person or may give such directions with a view to the determination of the appeal as he thinks proper.

(5) If it appears to the Commissioner that any appeal which is made to him involves a question of law of special difficulty, he may direct that the appeal shall be dealt with, not by the Commissioner or any deputy Commissioner alone, but by a tribunal consisting of any three of them, and if the decision of any such tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal.

(6) If it appears to the Commissioner that any appeal which is made to him involves a question of fact of special difficulty, the Commissioner may direct that in dealing with the appeal or any part thereof he shall have the assistance of an assessor or assessors specially qualified and selected from a panel appointed for that purpose.

(7) The decision of the Commissioner shall be in writing and signed by him, and a copy thereof shall be sent as soon as may be practicable to the claimant or beneficiary and to any person appearing to the Commissioner to be an interested person.

Reference of special questions.

23.—(1) If, on consideration of a claim or question, the insurance officer is of opinion that a special question arises, he may—

(*a*) postpone the reference of or dealing with any question until after other questions have been determined; and

(*b*) in cases where the determination of any question disposes of a claim or any part thereof, make an award or a decision that an award cannot be made as to the claim or that part thereof without referring or dealing with, or before the determination of, any other question.

(2) The foregoing provisions of this regulation shall apply to a local tribunal and the Commissioner as they apply to the insurance officer, except that a local tribunal or the Commissioner, instead of themselves or himself referring a special question for determination, shall direct it to be so referred by the insurance officer.

Review of decisions of insurance officer, local appeal tribunal or Commissioner.

24.—(1) A question may be raised with a view to the review of any decision of an insurance officer, a local tribunal or the Commissioner by means of an application in writing to an insurance officer and stating the grounds of the application.

(2) On receipt of any such application, the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with the Act and these regulations:

Provided that where, in the opinion of the insurance officer, such application raises a question as to the review of an assessment of a medical board or a medical appeal tribunal and, by virtue of subsection (3) of section 40 of the Act, such assessment 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 assessment unless that medical appeal tribunal grant such leave.

Local referees.

25.—(1) Any question of fact arising upon the consideration of any question by an insurance officer or a local tribunal may be referred by the insurance officer or the chairman of the local tribunal, as the case may be, for previous examination and report to two persons who are persons resident in the neighbourhood in which the claimant or beneficiary resides (hereafter in this regulation referred to as " the local referees ") and of whom one shall be drawn from the panel mentioned in sub-paragraph (*a*) of paragraph (1) of regulation 15 and one shall be drawn from the panel mentioned in sub-paragraph (*b*) of the said paragraph:

Provided that, if a question of fact has been so referred, the insurance officer or the local tribunal, as the case may be, may determine the question before him or them notwithstanding that the report of the local referees has not been received, if there has elapsed reasonable time within which the referees could have submitted their report.

(2) If any question of fact shall be so referred, the local referees shall interview the claimant or beneficiary and shall report to the insurance officer or the local tribunal, as the case may be, stating their findings of fact upon the question so referred.

(3) If the local referees do not agree upon their report each referee shall make a separate report.

(4) Any question of fact so referred may, with the consent of the claimant or beneficiary but not otherwise, be proceeded with in the absence of one of the two local referees by the other referee, who shall interview the claimant or beneficiary and report upon the question of fact referred.

(5) No member of one of the panels referred to in paragraph (1) of the said regulation 15 shall act as a local referee if he is a person who would be prevented, by the provisions of the proviso to paragraph (3) of the said regulation 15, from serving upon a local tribunal during the consideration of the case of the claimant or beneficiary.

PART IV

Miscellaneous provisions

Miscellaneous powers of Minister, insurance officer and insurance tribunal.

26.—(1) For the purpose of the determination of any question by the Minister, an insurance officer or an insurance tribunal(a)—

(*a*) the Minister, the insurance officer or the insurance tribunal, as the case may be, may refer to a medical practitioner for examination and report any question arising for his or their decision;

(*b*) subject to the provisions of the Act and these regulations, the procedure on the determination of any question by the Minister or the insurance tribunal shall be such as the Minister or such insurance tribunal, as the case may be, shall determine.

(2) For the purpose of arriving at their decision or discussing any question of procedure at any sitting or hearing, a medical board, a medical appeal tribunal or a local appeal tribunal, as the case may be, shall, notwithstanding anything in these regulations, order all persons, not being members of or the person acting as clerk to the board or such tribunal, to withdraw from such sittings or hearing.

(3) Any power given by these regulations to extend the period during which anything is required to be done under these regulations or to dispense with any of the requirements thereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

Right of audience and representation.

27.—(1) Subject to paragraph (2) of this regulation, the following shall have the right to be heard:—

(*a*) at a hearing by the Commissioner—

(i) the claimant or beneficiary;

(ii) an association by whom the appeal is brought;

(iii) any interested person;

(iv) an insurance officer;

(v) any person nominated by the Minister;

(*b*) at a hearing by a local appeal tribunal—

(i) the claimant or beneficiary;

(ii) any interested person;

(iii) an insurance officer;

(iv) any person nominated by the Minister;

(a) *See* s. 51 (5), National Insurance (Industrial Injuries) Act, 1946.

(*c*) at the proceedings of a medical board or a single medical practitioner acting in place of a medical board—

(i) the claimant or beneficiary;

(ii) any person admitted to such proceedings as being likely to assist the board;

(*d*) at a hearing by a medical appeal tribunal—

(i) the claimant or beneficiary;

(ii) any person nominated by the Minister;

(*e*) at an inquiry held by the Minister or any person appointed by him—

(i) the person making the application for the decision of the Minister;

(ii) any person appearing to the Minister or the person holding the inquiry to be interested in the question which has arisen.

(2) Any person who by virtue of the preceding paragraph of this regulation has the right to be heard at any inquiry by a person appointed by the Minister, or at any hearing by a local appeal tribunal, a medical appeal tribunal or the Commissioner may, and in the case of a body of persons corporate or unincorporated shall, be represented by some person duly authorised, and for the purposes of the proceedings at any such inquiry or hearing any such representative shall have all the rights and powers to which the person whom he represents is entitled under these regulations:

Provided that at a hearing of a case by a local appeal tribunal—

(*a*) no person may be represented by a barrister, advocate or solicitor; and

(*b*) an insurance officer or a person nominated by the Minister who is in either case a barrister, advocate or solicitor shall not have the right to be heard;

unless the chairman of the tribunal in any such case for special reasons consents.

Set-off of payment on account of one benefit against other benefit awarded on review or appeal.

28. Subsection (2) of section 52 of the Act (which provides for treating payments made on account of benefit of one kind originally awarded as having been made on account of benefit of another kind awarded by a decision on review or appeal) shall have effect subject to and in accordance with the following provisions:—

(1) Where a gratuity is awarded by a decision on review or appeal in lieu of a pension or allowance previously awarded, such decision shall direct that any payments made on account of such pension or allowance shall, in so far as they do not exceed the amount of that gratuity, be treated as being made on account thereof.

(2) Where a pension or allowance is awarded by a decision on review or appeal in lieu of another kind of benefit previously awarded, that decision shall as respects any payments made on account of the benefit previously awarded—

(*a*) direct that in so far as the amount thereof does not exceed the amount of any arrears payable by way of the pension or allowance so awarded, such payments shall be treated as having been made on account of such arrears; and

(*b*) to the extent by which the amount thereof exceeds the amount of the said arrears, direct that such payments shall (except in so far as they are required to be repaid under subsection (4) of the said section 52) be treated as having been made on account of sums becoming payable after the date of the decision on review or appeal by way of the pension or allowance awarded thereby:

Provided that—

(i) where the benefit originally awarded was a gratuity, a direction under this paragraph shall only relate to so much of the amount paid on account thereof as remains after deducting therefrom in respect of each week between the date as on which it was awarded and the date as from which the pension or allowance awarded in lieu of that gratuity became payable, a sum equal to the weekly rate of such pension or allowance; and

(ii) if the person or tribunal making the decision on review or appeal is satisfied that in obtaining and receiving payment of the benefit originally awarded the beneficiary acted in all respects in good faith, payments made on account of any benefit originally awarded shall not, by virtue of a direction under sub-paragraph (*b*) of this paragraph, be treated as having been made on account of any pension or allowance awarded on review or appeal, at a rate exceeding one half of the weekly rate of such pension or allowance, unless for special reasons the decision on review or appeal otherwise directs.

Dated this 18th day of June, 1948.

James Griffiths,

Minister of National Insurance.

EXPLANATORY NOTE

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

These Regulations prescribe the procedure to be followed on the consideration and determination of claims and of questions arising under the National Insurance (Industrial Injuries) Act, 1946, and provide for time and manner of appealing from decisions of an insurance officer, a local appeal tribunal or a medical board.

Regulation 28 relates to the extent to which payments of one kind of benefit previously awarded may be treated as made on account of another kind of benefit awarded in lieu thereof by a decision on review or appeal.