EXPLANATORY NOTE

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

These regulations consolidate the existing regulations relating to the payment of travelling allowances, etc., to members of bodies set up under the National Health Service (Scotland) Acts. They also increase the allowances previously payable in respect of meals taken on a train or boat.

SPECIAL CLASSES

1958 No. 924

The National Health Service (Employers of Mariners Contributions) Amendment Regulations, 1958

For the text of these Regulations, *see* Pt. II, p. 1554, of this volume.

NATIONAL INSURANCE

ADMINISTRATION

1958 No. 701

The National Insurance (Determination of Claims and Questions) Amendment Regulations, 1958

Made - - - -	*25th April*, 1958
Laid before Parliament	*1st May*, 1958
Coming into Operation	*5th May*, 1958

The Minister of Pensions and National Insurance, in exercise of powers conferred by section 43 of the National Insurance Act, 1946(a), and of all other powers enabling him in that behalf, 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, 1958, shall be read as one with the National Insurance (Determination of Claims and Questions) Regulations, 1948(b), as amended(c) (hereinafter referred to as "the principal regulations") and shall come into operation on the 5th May, 1958.

(a) 9 & 10 Geo. 6. c. 67.
(b) S.I. 1948/1144 (Rev. XVI, p. 331: 1948 I, p. 2720).
(c) The relevant amending regulations are S.I. 1955/1788, 1957/1340 (1955 I, p. 1583; 1957 I, p. 1520).

Amendment of regulation 13 *of the principal regulations*

2. The following regulation shall be substituted for regulation 13 of the principal regulations:—

"*Hearings before local tribunals*

13.—(1) Every hearing by a local tribunal shall be in public except in so far as the chairman of the tribunal may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(2) The following persons shall be entitled to be heard at the hearing of any case by a local tribunal:—

(*a*) the claimant;

(*b*) the insurance officer;

(*c*) the Minister;

and any person appearing to the tribunal to be interested shall have the right to be present notwithstanding that the hearing of the case is not in public.

(3) Any person having the right to be heard who appears at a hearing by a local tribunal may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing.

(4) Any person who by virtue of the provisions of this regulation has the right to be heard at the hearing of a case by a local tribunal may be represented by some other person whether having professional qualifications or not and, for the purposes of the proceedings at any such hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under these regulations.

(5) For the purpose of arriving at their decision, or discussing any question of procedure, a local tribunal shall, notwithstanding anything in this regulation, order all persons not being members of the tribunal, other than the person acting as clerk to the tribunal, to withdraw from the sitting of the tribunal.".

Amendment of regulation 15 *of the principal regulations*

3.—(1) Regulation 15 of the principal regulations (which relates to appeals to the Commissioner from local tribunals) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the First Schedule to these regulations.

(2) In paragraph (1) of the said regulation 15 the following words shall be omitted:—

"Provided that in the case of the claimant no appeal shall lie without leave of the local tribunal or of the Commissioner, except in a case in which the decision of the local tribunal is not unanimous.":

(3) Paragraphs (3), (4) and (5) of the said regulation 15 (which paragraphs relate to the time and manner in which leave to appeal to the Commissioner may be granted) shall be omitted.

Amendment of regulation 16 *of the principal regulations*

4.—(1) Regulation 16 of the principal regulations (which provides for the procedure before the Commissioner) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Second Schedule to these regulations.

(2) The following paragraph shall be inserted immediately after paragraph (2) of the said regulation 16:—

"(2A) In any case in which an oral hearing of an appeal is held such hearing shall be in public except in so far as the Commissioner may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.".

(3) The following paragraph shall be inserted immediately after paragraph (3) of the said regulation 16:—

"(3A) Any person having the right to be heard who appears at a hearing by the Commissioner may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing.".

(4) In sub-paragraph (*c*) of paragraph (3) of the said regulation 16 the words "(with the consent of the Commissioner in any case)" shall be omitted.

Dated this twenty-fifth day of April, 1958.

John Boyd-Carpenter,
Minister of Pensions and National Insurance.

FIRST SCHEDULE — Regulation 3

CONTAINING REGULATION 15 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS

Appeals to the Commissioner from local tribunals

15.—(1) Subject as hereinafter provided, an appeal shall lie to the Commissioner from any decision of a local tribunal at the instance of—

(*a*) an insurance officer;

(*b*) the claimant;

(*c*) an association of employed persons, or any other association which exists to promote the interests and welfare of its members, where in either case—

(i) the claimant at the time of the appeal is a member of the association and was so immediately before the question at issue arose; or

(ii) the question at issue relates to the right to benefit by virtue of the insurance of a deceased person, and that person was a member of the association at the time of his death.

(2) An appeal to the Commissioner must be brought within three months from the date of the decision of the local tribunal, or such further period as the 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 Minister stating the grounds of the appeal—

(*a*) in the case of an appeal by the insurance officer, to the claimant; and

(*b*) in the case of an appeal by the claimant or the association mentioned in sub-paragraph (*c*) of paragraph (1) of this regulation, at a local office.

SECOND SCHEDULE — Regulation 4

CONTAINING REGULATION 16 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Procedure before Commissioner

16.—(1) If any person to or by whom notice of appeal is given makes a request to the Commissioner for an oral 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 so inform the claimant 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 an oral hearing has been granted, or if, notwithstanding that no request has been made, the Commissioner is otherwise satisfied that an oral

* The words added by these regulations are shown in italics.

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 interested.

(2A) *In any case in which an oral hearing of an appeal is held such hearing shall be in public except in so far as the Commissioner may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.*

(3) Any person to whom notice of the hearing has been given shall be entitled to appear and be heard at the hearing and to be represented thereat by—

(*a*) a barrister, advocate or solicitor ; or

(*b*) a representative of any such association as is mentioned in sub-paragraph (*c*) of paragraph (1) of the last foregoing regulation ; or

(*c*) any other person.

(3A) *Any person having the right to be heard who appears at a hearing by the Commissioner may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing.*

(4) If any person to whom notice of the 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 any such person or representative 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.

(5A) 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.

(5B) The Commissioner may, if he thinks fit, refer any question arising for his decision to a registered medical practitioner for examination and report.

(6) 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 and to any other person appearing to the Commissioner to be interested.

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Determination of Claims and Questions) Regulations, 1948, so as to permit legal representation at hearings of local tribunals, to provide for hearings by local tribunals and the Commissioner to be held in public, to express the right of claimants and others to call and question witnesses at hearings by local tribunals and the Commissioner and to provide for appeal without leave to the Commissioner from decisions of local tribunals.

The preliminary draft of these Regulations was submitted to the National Insurance Advisory Committee in accordance with section 77 of the National Insurance Act, 1946, and their report thereon, dated the 25th April, 1958, is contained in the House of Commons Paper No. 184 (Session 1957-58) published by Her Majesty's Stationery Office.