1959 No. 1596

The National Insurance (Industrial Injuries) (Determination of Claims and Questions) Amendment (No. 2) Regulations, 1959

Made - - - -	11*th September*, 1959
Laid before Parliament	17*th September*, 1959
Coming into Operation	28*th September*, 1959

The Minister of Pensions and National Insurance, in exercise of powers conferred by sections 42 (2) and 51 of the National Insurance (Industrial Injuries) Act, 1946(a), and section 2 of the Family Allowances and National Insurance Act, 1959(b), 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 (Industrial Injuries) (Determination of Claims and Questions) Amendment (No. 2) Regulations, 1959, shall be read as one with the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations, 1948(c), (hereinafter referred to as "the principal regulations") and shall come into operation on the 28th September, 1959.

Addition to the principal regulations

2. After Part II of the principal regulations there shall be added the following Part:—

"PART IIA

Appeal or reference to the Commissioner on a point of law from a medical appeal tribunal

Definitions

13A. In this Part of these regulations the expression "adjudicating authority" means a medical appeal tribunal or the Commissioner, and the expression "the association" means an association of employed persons of which the claimant was a member at the time of the relevant accident, being an association at the instance of which an application for leave to appeal is made or an appeal is brought under this Part of these regulations.

Further provision as to notice of decision of a medical appeal tribunal

13B. A person to whom written notice of a decision of a medical appeal tribunal is sent in accordance with the provisions of paragraph (2) of regulation 13 of these regulations shall be informed in writing of the conditions governing an appeal to the Commissioner, and there shall be

(a) 9 & 10 Geo. 6. c. 62. (b) 7 & 8 Eliz. 2. c. 18.
(c) S.I. 1948/1299 (Rev. XVI, p. 524: 1948 I, p. 2971).

supplied to him, or, where he is represented by another person, to that person, a copy of the record of that decision made in accordance with the provisions of paragraph (1) of the said regulation 13 if, for the purposes of an appeal, he or that other person makes a request therefor in writing at a local office.

Application for leave to appeal to the Commissioner from a decision of a medical appeal tribunal

13c.—(1) Subject to the following provisions of this regulation, an application for leave to appeal to the Commissioner from a decision of a medical appeal tribunal on the ground that the decision is erroneous in point of law shall be made in the first instance to the tribunal—

(*a*) orally at the hearing by the tribunal of the appeal from, or reference of, the decision of the medical board, or

(*b*) in writing within three months from the date on which the decision of the tribunal was given.

(2) Where the tribunal are unable to reach a unanimous decision on an application for leave to appeal, the decision of the majority of the members thereof shall be the decision of the tribunal.

(3) The decision of the tribunal on an application for leave to appeal shall be recorded in writing, and there shall be included in such record, which shall be signed by all the members of the tribunal, a statement of the reasons for such decision, and a copy of the record shall be sent as soon as may be practicable to the Minister and to the claimant or the association.

(4) Where leave to appeal has been refused by the tribunal the applicant may, within twenty-one days from the date on which the decision refusing such leave was given, or within such further time as the Commissioner may for special reasons allow, make an application in writing for such leave to the Commissioner.

(5) A person or association who fails to apply to the tribunal for leave to appeal within the time specified in paragraph (1) (*b*) hereof, may nevertheless make an application in writing for such leave to the Commissioner, who may, if for special reasons he thinks fit, proceed, notwithstanding such failure, to consider and determine the application.

(6) The decision of the Commissioner on an application for leave to appeal shall be recorded in writing and signed by him, and a copy thereof shall be sent as soon as may be practicable to the Chairman of the tribunal and to the Minister and to the claimant or the association.

(7) Every application for leave to appeal required by these regulations to be in writing shall be made by giving the notice thereof at a local office for transmission to the tribunal or the Commissioner as the case may be, and such notice shall include a statement of the point of law in respect of which the applicant alleges that the decision of the tribunal is erroneous and on which he wishes to appeal.

(8) Where an application for leave to appeal is made to the Commissioner, the Minister shall cause to be sent to the Commissioner a copy of the record, made in accordance with paragraph (1) of regulation 13 of these regulations, of the decision of the tribunal and, if leave to appeal has been refused by the tribunal, a copy of the record of the decision refusing such leave.

(9) Where an application in writing for leave to appeal is made by the Minister, a copy of the notice of the application shall be sent to the claimant.

Appeal against decision of medical appeal tribunal

13D.—(1) Subject to the provisions of paragraph (2) of regulation 13G of these regulations, an appeal against the decision of a medical appeal tribunal shall be brought by giving notice thereof in writing at a local office within three months from the date on which the decision giving leave to appeal was given, or within such further time as the Commissioner may for special reasons allow, and such notice shall include a statement of the point of law in respect of which the appellant alleges that the decision is erroneous and on which he wishes to appeal.

(2) A copy of the notice of appeal shall be sent to the Chairman of the tribunal and, in the case of an appeal by the Minister, to the claimant, and the Minister shall, as soon as may be practicable, cause to be sent to the Commissioner—

(*a*) a copy of the record, made in accordance with paragraph (1) of regulation 13 of these regulations, of the decision under appeal; and

(*b*) the notice of appeal; and

(*c*) where the application for leave to appeal was made to the tribunal, a copy of the record of the decision of the tribunal on that application.

Reference by a medical appeal tribunal of a question of law for decision by the Commissioner

13E. Where any question of law arises in a case before a medical appeal tribunal and the tribunal decide to refer that question to the Commissioner for his decision, the tribunal shall cause to be sent—

(*a*) to the Commissioner, a submission in writing signed by the Chairman, which shall include a statement of the said question and the facts on which it arises; and

(*b*) to the Minister and the claimant, a copy of the said submission.

Provisions as to the hearing and determination of applications for leave to appeal, appeals and references

13F.—(1) The following provisions of this regulation shall apply in relation to the determination by a medical appeal tribunal and by the Commissioner of applications for leave to appeal, and to the determination by the Commissioner of appeals and references under this Part of these regulations, and accordingly the provisions of Part III of these regulations (which relate to the determination of claims and questions other than special questions), of paragraph (1) (*a*) of regulation 26 of these regulations (which paragraph relates to the power to refer certain questions to a medical practitioner for examination and report) and regulation 27 of these regulations (which relates to the right of audience and representation in certain proceedings) shall not be taken to apply to proceedings under this Part of these regulations.

(2) If the Minister, the claimant or the association makes a request to an adjudicating authority for a hearing of an application, appeal or reference, such request shall be granted:

Provided that in the case of an application in writing made to the medical appeal tribunal, if, after considering the documents in the case

and the reasons put forward in such request, the tribunal is satisfied that the application can properly be determined without a hearing, the person or association who made the request shall be informed in writing and the application shall be so determined.

(3) If, in accordance with the provision of the last foregoing paragraph, a request for a hearing has been granted or, if notwithstanding that no request has been made, the adjudicating authority is otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to the Minister and the claimant or the association, and every such hearing shall be in public except in so far as the adjudicating authority for special reasons may otherwise direct.

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

(5) The Minister and the claimant or the association shall have the right to be present and to be heard at a hearing by an adjudicating authority, and may be represented by counsel or solicitor or any other person.

Further provisions as to procedure and decisions of the Commissioner

13G.—(1) If it appears to the Commissioner that any appeal from a decision of, or any reference by, a medical appeal tribunal involves a question of law of special difficulty he may direct that the appeal or reference shall be heard and determined, 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.

(2) Where the Commissioner, at the hearing of an application made to him in accordance with the provisions of regulation 13C of these regulations, gives leave to appeal, he may, with the consent of the Minister and the claimant or the association, forthwith hear and decide the question of law arising on the appeal.

(3) The Commissioner may either before, or at any time during, the hearing of an appeal or reference, require the tribunal to submit such further statement of the facts on which the question of law submitted for his decision arises as he considers necessary for the proper determination of that question.

(4) The decision of the Commissioner on the question of law raised by any appeal or reference shall be in writing and signed by him, and as soon as may be practicable a signed copy thereof shall be sent to the Chairman of the medical appeal tribunal and copies thereof shall be sent to the Minister and to the claimant or the association.

Procedure of medical appeal tribunal on receipt of Commissioner's decision

13H.—(1) For the purposes of giving, confirming or revising their decision on the case in accordance with subsection (4) of section 2 of the Family Allowances and National Insurance Act, 1959(a), the medical appeal tribunal shall hold a hearing, and those provisions of Part II and Part IV of these regulations which relate to the hearing of appeals by, the procedure of, and the right of audience and representation before, medical appeal tribunals, shall apply to the hearing as if it were the original hearing of an

(a) 7 & 8 Eliz. 2. c. 18.

appeal subject to the modification that the association shall have the same rights thereunder as the claimant.

(2) For the purposes of confirming or revising their decision on the case, the tribunal, whether or not constituted of the Chairman and members who constituted the tribunal when that decision was given in the first place, shall proceed upon the facts included in the record of the decision so given:

Provided that if, having regard to the decision of the Commissioner on the question of law, the finding of additional facts is necessary for the purposes aforesaid, the tribunal may receive further evidence and find such facts.

(3) When after receipt of the decision of the Commissioner on a point of law the tribunal give, confirm or revise their decision on the case, such decision shall be recorded and notified in accordance with the provisions of regulation 13 of these regulations."

Dated this Eleventh day of September, 1959.

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

EXPLANATORY NOTE

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

These Regulations add to the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations, 1948 provisions governing procedure for appeal or reference to the Industrial Injuries Commissioner on a point of law from a medical appeal tribunal under the National Insurance (Industrial Injuries) Act, 1946. The right of appeal to the Commissioner is provided by the Family Allowances and National Insurance Act, 1959 and is exercisable in relation to decisions of medical appeal tribunals given on or after the 28th September, 1959.

The Regulations prescribe the manner in which, and time within which, applications for leave to appeal are to be made and appeals are to be brought, and the form in which a question of law and the facts upon which it arises are to be submitted to the Commissioner. Provision is also made for such matters as the oral hearing of appeals, references and applications, rights of audience and representation and the giving of reasons for, and notification of, decisions.

1959 No. 292

The Family Allowances, National Insurance and Industrial Injuries (European Interim Agreement) Order, 1959

For the text of this order, *see* Part II, p. 1903, of this vol.

1959 No. 207

The National Insurance and Industrial Injuries (Collection of Contributions) Amendment Regulations, 1959

For the text of this order, *see* Part II, p. 1893, of this vol.