



Social Security Act 1975

1975 CHAPTER 14

PART III

DETERMINATION OF CLAIMS AND QUESTIONS

Adjudication in relation to industrial injuries, etc.

107 Declaration that accident is an industrial accident

- (1) Where, in connection with any claim for industrial injuries benefit, it is determined that the relevant accident was or was not an industrial accident, an express declaration of that fact shall be made and recorded ; and (subject to subsection (3) below) a claimant shall be entitled to have the question whether the relevant accident was an industrial accident determined notwithstanding that his claim is disallowed on other grounds.
- (2) Subject to subsection (3) below, and to section 117 (finality of decisions), any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident, to have that question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit has been made in connection with which the question arises; and this Part of this Act applies for that purpose as if the question had arisen in connection with a claim for benefit.
- (3) The insurance officer, local tribunal or Commissioner (as the case may be) may refuse to determine the question whether an accident was an industrial accident if satisfied that it is unlikely that it will be necessary to determine the question for the purposes of any claim for benefit; but any such refusal of an insurance officer or local tribunal shall be subject to appeal to the local tribunal or Commissioner, as the case may be.
- (4) Subject to the provisions of this Part of this Act as to appeal and review, any declaration under this section that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident, whether or not the claimant is the person at whose instance the declaration was made.

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- (5) For the purposes of this section (but subject to section 117(3) below), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—
- (a) it arises out of and in the course of his employment;
 - (b) that employment is employed earner's employment for the purpose of Part II, Chapter IV;
 - (c) payment of benefit is not under section 50(5) precluded because the accident happened while he was outside Great Britain.
- (6) A decision under this section shall be final except that section 104 above—
- (a) applies to a decision under this section that an accident was an industrial accident as it applies to a decision under sections 99 to 101 if, but only if, the insurance officer or local tribunal (as the case may be) is satisfied by fresh evidence that the decision under this section was given in consequence of any wilful non-disclosure or misrepresentation of a material fact; but
 - (b) does not apply to a decision under this section that an accident was not an industrial accident.

108 Disablement questions

- (1) In relation to industrial injuries benefit, the " disablement questions " are the questions—
- (a) whether the relevant accident has resulted in a loss of faculty;
 - (b) at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment.
- (2) The disablement questions shall be referred to and determined by a medical board or a medical appeal tribunal.
- (3) Schedule 12 to this Act has effect with respect to medical boards and medical appeal tribunals, and their proceedings.
- (4) Where the case of a claimant for disablement benefit has been referred by the insurance officer to a medical board for determination of the disablement questions and, on that or any other subsequent reference, the extent of the disablement is provisionally assessed, the case shall again be so referred not later than the end of the period taken into account by the provisional assessment.

109 Medical appeals and references

- (1) This section has effect where the case of a claimant for disablement benefit has been referred by the insurance officer to a medical board for determination of the disablement questions.
- (2) If the claimant is dissatisfied with the decision of the medical board, he may appeal in the prescribed manner and within the prescribed time, and the case shall be referred to a medical appeal tribunal:

Provided that an appeal shall not be against a provisional assessment of the extent of disablement before the expiration of 2 years from the date of the first reference of the case to a medical board, nor where the period taken into account by the assessment falls wholly within those 2 years.

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- (3) If the Secretary of State notifies the insurance officer within the prescribed time that he is of opinion that any decision of the medical board ought to be considered by a medical appeal tribunal, the insurance officer shall refer the case to a medical appeal tribunal for their consideration, and the tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

110 Review of medical decisions

- (1) Any decision under this Part of this Act of a medical board or a medical appeal tribunal may be reviewed at any time by a medical board if satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).
- (2) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by a medical board if the board are satisfied that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant injury.
- (3) Where in connection with a claim for disablement benefit made after 25th August 1953 it is decided that the relevant accident has not resulted in a loss of faculty, the decision—
 - (a) may be reviewed under subsection (2) above as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty; but
 - (b) subject to any further decision on appeal or review, shall be treated as deciding the question whether the relevant accident has so resulted both for the time about which the decision was given and for any subsequent time.
- (4) For the purposes of subsection (3) above, a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as deciding that at that date the relevant accident has not resulted in a loss of faculty.
- (5) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under subsection (2) above without the leave of a medical appeal tribunal, and (notwithstanding the provisions of Chapter IV of Part II of this Act) on a review under that subsection the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and in so far as regulations so provide.
- (6) Subject to the foregoing provisions of this section, a medical board may deal with a case on a review in any manner in which they could deal with it on an original reference to them, and in particular may make a provisional assessment notwithstanding that the assessment under review was final.
- (7) Section 109 of this Act applies to an application for a review under this section and to a decision of a medical board in connection with such an application as it applies to an original claim for disablement benefit and to a decision of a medical board in connection with such a claim.

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111 Reference to single doctor

- (1) Notwithstanding sections 108 to 110 above, regulations may provide that the disablement questions may, with the consent of the claimant, be referred to a single medical practitioner appointed by the Secretary of State instead of to a medical board:

Provided that the period to be taken into account by any assessment made by virtue of this section shall not exceed 6 months.

- (2) A decision on a reference under this section shall have effect as if it were a decision of a medical board, and accordingly shall be subject to appeal and review, and may be referred for consideration to a medical appeal tribunal.
- (3) Regulations may make provision as to the procedure to be adopted where, on a reference under this section, the medical practitioner is of opinion that a final assessment can be made but that the period to be taken into account exceeds 6 months.

112 Appeal etc. on question of law to Commissioner

- (1) Subject to this section, an appeal lies to a Commissioner from any decision of a medical appeal tribunal (if given after 27th September 1959) on the ground that the decision is erroneous in point of law, at the instance of—
- (a) the claimant; or
 - (b) a trade union of which the claimant was a member at the time of the relevant accident; or
 - (c) the Secretary of State.
- (2) Subsection (1) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (3) No appeal lies under subsection (1) above without the leave of the medical appeal tribunal or of a Commissioner, and regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.
- (4) Where a question of law arises in a case before a medical appeal tribunal, the tribunal may refer that question to a Commissioner for his decision.
- (5) On any such appeal or reference, the question of law arising for the decision of the Commissioner and the facts on which it arises shall be submitted for his consideration in the prescribed manner; and the medical appeal tribunal on being informed in the prescribed manner of his decision on the question of law shall give, confirm or revise their decision on the case accordingly.

113 Adjudication as to industrial diseases

- (1) Regulations shall provide for applying, in relation—
- (a) to claims for benefit under Chapter V of Part II of this Act; and
 - (b) to questions arising in connection with such claims or with awards of such benefit,
- the provisions of this Part of this Act subject to any prescribed additions or modifications.
- (2) Regulations for those purposes may in particular provide—

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- (a) for the establishment of special medical boards and the appointment of medical officers for the purposes of the regulations (including, in the case of any such board, the purposes for which medical boards and medical appeal tribunals are established under the foregoing provisions of this Part of this Act);
 - (b) for the payment by the prescribed persons of fees of the prescribed amount in connection with any medical examination by any such board or officer and their return in any prescribed cases, and (so far as not required to be returned) their payment into the National Insurance Fund and recovery as sums due to that Fund;
 - (c) for such matters as appear to the Secretary of State to be incidental to or consequential upon provisions included in the regulations by virtue of subsection (1) above and paragraphs (a) and (b) of this subsection.
- (3) The Secretary of State may pay such remuneration to any member of a medical board established by virtue of this section and to any medical officer appointed by virtue thereof, and such travelling and other allowances (including compensation for loss of remunerative time) to any such member or officer, and such other expenses in connection with any such board or with the work of any such officer as the Secretary of State, with the consent of the Minister for the Civil Service, may determine:

Provided that compensation for loss of time shall not be paid to any person in respect of any time during which he is in receipt of remuneration under this subsection.