

1966 No. 1248

SOCIAL SECURITY

**The National Insurance (Industrial Injuries) (Prescribed Diseases)
Amendment (No. 2) Regulations 1966**

<i>Made</i> - - - -	29th September 1966
<i>Laid before Parliament</i>	5th October 1966
<i>Coming into Operation</i>	6th October 1966

The Minister of Social Security, in exercise of powers conferred by sections 50 and 85 of the National Insurance (Industrial Injuries) Act 1965(a), section 57 of that Act, as modified by section 8 of the National Insurance Act 1966(b), section 10(5) of the said Act of 1966 and of all other powers enabling her in that behalf, after consultation with the Council on Tribunals, and after reference to the Industrial Injuries Advisory Council, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations 1966, shall be read as one with the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959(c), as amended (d), (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 (interpretation) for the definition of “the Determination of Claims and Questions Regulations” there shall be substituted the following:—

“ ‘the Determination of Claims and Questions Regulations’ means in relation to the determination of any claim or question by an insurance officer, a local tribunal, or the Commissioner on an appeal from a local tribunal, the National Insurance (Determination of Claims and Questions) Regulations 1948(e), and in relation to any other matters arising in connection with any provision of these regulations means the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations 1948(f);”.

Amendment of regulation 6 of the principal regulations

3. In regulation 6(3) of the principal regulations (date of development) for all the words after the words “but for” there shall be substituted the words “the provisions of section 5(2)(b) of the National Insurance Act 1966 (restriction on injury benefit for first three days of a period of interruption of employment).”.

(a) 1965 c. 52.

(b) 1966 c. 6.

(c) S.I. 1959/467 (1959 II, p. 1943).

(d) The amending Regulations are not relevant to the subject matter of these Regulations.

(e) S.I. 1948/1144 (Rev. XVI, p. 331; 1948 I, p. 2720).

(f) S.I. 1948/1299 (Rev. XVI, p. 524; 1948 I, p. 2971).

Amendment of regulation 15 of the principal regulations

4. Paragraph (1) of regulation 15 of the principal regulations is hereby revoked.

Regulation substituted for regulation 23 of the principal regulations

5. For regulation 23 of the principal regulations there shall be substituted the following regulation:—

“Application of Part III of the National Insurance (Industrial Injuries) Act 1965 and Part IV of the National Insurance Act 1965

23.—(1) The provisions of section 40(3) of the National Insurance (Industrial Injuries) Act 1965 (effect of decisions as to loss of faculty) and of section 48 of the said Act (declaration that an accident is an industrial accident) shall not apply in relation to prescribed diseases.

(2) Save as provided in the foregoing paragraph, the provisions of Part III of the National Insurance (Industrial Injuries) Act 1965 and of Part IV of the National Insurance Act 1965 as modified by the National Insurance Act 1966 shall apply, as appropriate, to the determination of such claims and questions as aforesaid, subject to the additions and modifications set out in the Second Schedule hereto and to the following provisions of this Part of these regulations.”.

Amendment of regulation 26 of the principal regulations

6. Regulation 26(4) of the principal regulations (power to dispense with reference of diagnosis and recrudescence questions to a medical practitioner for report) shall be amended by the deletion of the word “appeal” in both places where it appears in the expression “local appeal tribunal”.

Amendment of regulation 27 of the principal regulations

7. For regulation 27(6) of the principal regulations there shall be substituted the following paragraph:—

“(6) Subject to the provisions of these regulations, the provisions of sections 69, 71 and 72 of the National Insurance Act 1965, as modified by the National Insurance Act 1966, shall apply as if a diagnosis or recrudescence question were a special question and as if references in those sections to the determination of, or to the review of the decision of, a special question within the meaning of Part III of the National Insurance (Industrial Injuries) Act 1965 included references to the determination of, or to the review of the decision of, a diagnosis or recrudescence question under these regulations.”.

Amendment of regulation 30 of the principal regulations

8. For regulation 30(3) of the principal regulations (power of medical appeal tribunals to determine questions arising in connection with questions referred) there shall be substituted the following paragraph:—

“(3) where a diagnosis or recrudescence question is referred to a medical appeal tribunal under the foregoing provisions of this regulation the tribunal, upon determining the question referred,—

(a) may proceed to determine any recrudescence or diagnosis question which arises in connection therewith and any disablement question which arises in consequence thereof and where a decision on any such question has been given by a medical board, may confirm, reverse or vary that decision; and

- (b) if it is determined that the disease is a recrudescence of an attack to which an earlier decision of a medical board or a medical appeal tribunal relates, may proceed to review that earlier decision under the provisions of section 40(2) of the National Insurance (Industrial Injuries) Act 1965.”

Amendment of regulation 33 of the principal regulations

9. After regulation 33(1)(b) of the principal regulations shall be added the following sub-paragraph:—

“(bb) Regulation 12(5) of the Determination of Claims and Questions Regulations (power of medical appeal tribunals to take into account medical evidence not disclosed to the claimant) shall apply to a medical board to which there is referred any question to which this Part of these regulations applies.”.

Schedule substituted for Schedule 2 to the principal regulations

10. The Schedule set out in the Schedule to these regulations shall be substituted for Schedule 2 to the principal regulations.

Margaret Herbison,
Minister of Social Security.

29th September 1966

SCHEDULE

Regulation 10

SHOWING THE SCHEDULE SUBSTITUTED BY THESE REGULATIONS FOR SCHEDULE 2 TO THE PRINCIPAL REGULATIONS

“SECOND SCHEDULE

Regulations 11 and 23 (2)

MODIFICATIONS OF PARTS II AND III OF THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT 1965 AND OF PART IV OF THE NATIONAL INSURANCE ACT 1965 AS MODIFIED BY THE NATIONAL INSURANCE ACT 1966, IN THEIR APPLICATION TO BENEFIT AND CLAIMS AND QUESTIONS TO WHICH THESE REGULATIONS APPLY

1. In Part II of the National Insurance (Industrial Injuries) Act 1965 (hereinafter in this schedule referred to as “the Act of 1965”) references to accidents against which a person is insured under the Act of 1965 shall be construed as references to prescribed diseases against which he is so insured and, in Part II and Part III of the Act of 1965, references to the relevant accident shall be construed as references to the relevant disease and references to the date of the relevant accident shall be construed as references to the date of development of the relevant disease.

2. There shall be included in the questions to be determined under the Act of 1965 or, where appropriate, the National Insurance Act 1965 (hereinafter in this schedule referred to as “the Insurance Act”) as modified by the National Insurance Act 1966, any question:—

- (a) whether a person is suffering or has suffered from a prescribed disease or injury;
- (b) whether a prescribed disease or injury, suffered by a person who has previously been awarded benefit under the Act or under the Act of 1965 or who is or has been in receipt of compensation under the Workmen’s Compensation Acts 1925 to 1945 or under any contracting out scheme duly certified thereunder in respect of the same disease or injury, has been contracted or received afresh (if and in so far as regulations made under Part IV of the Act of 1965 necessitate the determination of that question);

(c) where a claim is made in respect of byssinosis, whether a loss of faculty is likely to be permanent;

which shall, where the question arises in connection with a claim for or award of injury benefit or disablement benefit, be determined as provided by regulations, by an insurance officer in the light of medical advice in the case of a question such as is mentioned in sub-paragraph (a) or (b), or by a medical board or a medical appeal tribunal:

Provided that no appeal shall lie under the provisions of section 69 or 70 of the Insurance Act from a decision of an insurance officer on any such question."

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959 so as to permit medical appeal tribunals which decide diagnosis or recrudescence questions in a claimant's favour to proceed to make an assessment of the disablement arising in consequence of the prescribed disease. Power is also given to medical boards, in the interests of claimants, not to disclose to them certain medical evidence taken into account in their deliberations.

The regulations also make a number of formal amendments in consequence of the passing of the National Insurance (Industrial Injuries) Act 1965 and the National Insurance Act 1966.