
STATUTORY INSTRUMENTS

1993 No. 861

SOCIAL SECURITY

**The Social Security (Industrial Injuries
and Adjudication) Regulations 1993**

<i>Made</i>	- - - -	<i>25th March 1993</i>
<i>Laid before Parliament</i>		<i>29th March 1993</i>
<i>Coming into force</i>	- -	<i>19th April 1993</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 110(1) and (2), and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and sections 45(2), 46(2), 47(3) and (9), 58(1), 59, 62(1), 184 and 189(1), (4), (5) and (6) of, and paragraph 2 of Schedule 3 to, the Social Security Administration Act 1992⁽²⁾ and of all other powers enabling him in that behalf, and after reference to the Industrial Injuries Advisory Council⁽³⁾ and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992⁽⁴⁾, hereby makes the following Regulations:

PART I
INTRODUCTORY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Industrial Injuries and Adjudication) Regulations 1993 and shall come into force on 19th April 1993.

(2) In these Regulations, except where the context otherwise requires—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1986⁽⁵⁾;

“the Prescribed Diseases Regulations” means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985⁽⁶⁾

(1) 1992 c. 4.
(2) 1992 c. 5.
(3) See section 172(2) of the Social Security Administration Act 1992.
(4) 1992 c. 53.
(5) S.I. 1986/2218.
(6) S.I. 1985/967.

PART II

AMENDMENT OF THE ADJUDICATION REGULATIONS

Amendment of the Adjudication Regulations

2. The Adjudication Regulations shall be amended in accordance with this Part of these Regulations and in this Part a reference to a numbered regulation is to the regulation in the Adjudication Regulations which bears that number.

Amendment of regulation 1

3. In regulation 1(2) (interpretation)—

- (a) after the definition of “the 1991 Act” there shall be inserted the following definition—
““the Administration Act” means the Social Security Administration Act 1992;” and
- (b) for the definition of “specially qualified adjudicating medical practitioner” there shall be substituted the following definition—
““specially qualified adjudicating medical practitioner” means a specially qualified adjudicating medical practitioner appointed by virtue of section 62 of the Administration Act;”.

Amendment of regulation 29

4.—(1) Regulation 29 (determination of medical questions)(7) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
“(a) any question arising on an application for the review of a decision under—
 - (i) section 47(1) of the Administration Act (decision given in ignorance of, or based on a mistake as to, a material fact); or
 - (ii) section 47(2) of the Administration Act (error of law);” and
- (b) sub-paragraph (b) shall be omitted.

(3) In paragraph (2)—

- (a) for “,D9 or D10” there shall be substituted “,D9, D10 or D11 (8)”; and
- (b) for the words “a special medical board” there shall be substituted the words “a specially qualified adjudicating medical practitioner except where a question mentioned in paragraph (1) arises, in which case it shall be referred to and determined by a special medical board”.

Amendment of regulation 33

5.—(1) Regulation 33 (disqualification from acting as an adjudicating medical authority or as a member thereof or as a member of a medical appeal tribunal)(9) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) at the beginning there shall be inserted the words—

(7) Regulation 29 has been amended: the relevant amending instrument is S.I. [1987/335](#).

(8) Prescribed disease D11 is added by regulation 6 of S.I. [1993/862](#).

(9) Regulation 33 has been amended by S.I. [1987/335](#).

“Subject to paragraphs (1A) and (2) below,”

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) A medical practitioner to whom a question has been referred under regulation 42(1) (reference of diagnosis and recrudescence questions for medical report)(10) shall not be precluded from acting as an adjudicating medical practitioner or a specially qualified adjudicating medical practitioner solely by reason of his having prepared, under that regulation, a report on the case of the claimant (whether in relation to the question for determination or otherwise) if he proposes to determine the question in favour of the claimant.”

(4) In paragraph (2)—

- (a) the words “Notwithstanding the provisions of paragraph (1),” shall be omitted; and
- (b) for “, D9 or D10” there shall be substituted “, D9, D10 or D11”.

Amendment of regulation 41

6. In regulation 41(2)(b)(11) (application of Part III of the 1975 Act and of the Adjudication Regulations) for “, D9 and D10” there shall be substituted “, D9, D10 and D11”.

Amendment of regulation 42

7.—(1) Regulation 42 (reference of diagnosis and recrudescence questions for medical report)(12) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for “, D9 and D10” there shall be substituted “, D9, D10 and D11”.

(3) In paragraph (3) after the words “a special medical board” there shall be inserted the words “or a specially qualified adjudicating medical practitioner”.

(4) In paragraphs (5) and (6) for the words “a medical board” in each place where they occur there shall be substituted the words “an adjudicating medical authority”.

Amendment of regulation 43

8. In regulation 43(2) (procedure on receipt of a medical report) for the words “a medical board for their decision” there shall be substituted the words “an adjudicating medical authority for decision”.

Amendment of regulation 44

9. In regulation 44 (restriction of adjudication officer’s power to determine diagnosis and recrudescence questions) for the words “a medical board”, in each place where they occur, there shall be substituted the words “an adjudicating medical authority” and for the words “the medical board” in paragraph (2) of that regulation there shall be substituted the words “the adjudicating medical authority”.

Amendment of regulation 45

10. In regulation 45 (appeal against decision of adjudication officer) for the words “a medical board”, in each place where they occur, there shall be substituted “an adjudicating medical authority” and for the words “the medical board”, in each place where they occur, there shall be substituted the words “the adjudicating medical authority”.

(10) Regulation 42 has been amended by S.I. [1989/689](#).

(11) Regulation 41 has been amended by S.I. [1987/335](#).

(12) Regulation 42 has been amended by S.I. [1989/689](#).

Amendment of regulation 46

11. In regulation 46 (appeal or reference to a medical appeal tribunal) for the words “a medical board”, in each place where they occur, there shall be substituted the words “an adjudicating medical authority”.

Amendment of regulation 47

12. In regulation 47 (powers of medical appeal tribunal upon determining the question referred) for the words “a medical board”, in each place where they occur, there shall be substituted the words “an adjudicating medical authority”.

Amendment of regulation 48

13. In regulation 48 (review of previous assessment following recrudescence decision) for the words “the medical board” there shall be substituted the words “the adjudicating medical authority”.

Amendment of regulation 50

14. In regulation 50(1) (review of decision on diagnosis or recrudescence question) for the words “medical board” where they first occur, there shall be substituted the words “adjudicating medical authority”.

Amendment of regulation 51

15. For regulation 51 (additional provisions relating to the powers and decisions of special medical boards) there shall be substituted the following regulation—

“Additional provisions relating to the powers and decisions of specially qualified adjudicating medical practitioners and special medical boards

51.—(1) Specially qualified adjudicating medical practitioners and special medical boards shall have power to make or cause to be made a radiological examination of the lungs of the claimant and to obtain the report of a radiologist on the case, and to make or cause to be made serological, lung function and such other tests as they consider necessary and to obtain reports upon the results of such tests.

(2) Where in respect of a claim for disablement benefit by reason of prescribed disease D1 (pneumoconiosis) or D2 (byssinosis) a specially qualified adjudicating medical practitioner, special medical board or a medical appeal tribunal gives a decision under the foregoing provisions of these Regulations that the claimant is or was suffering from one or other of those diseases—

- (a) that practitioner, board or tribunal may on the evidence before him or it at the time of that decision, determine also the date from which the claimant has or had suffered from that disease; and
- (b) notwithstanding the provisions of section 60(1) of the Administration Act (finality of decisions) in making that determination, the practitioner, board or tribunal shall not be bound by any previous decision of an adjudication officer, specially qualified adjudicating medical practitioner or special medical board that the claimant was not suffering from that disease; and
- (c) any such previous decision, in so far as it is inconsistent with the said determination, shall cease to have effect.”.

PART III

AMENDMENT OF THE PRESCRIBED DISEASES REGULATIONS

Amendment of the Prescribed Diseases Regulations

16. The Prescribed Diseases Regulations shall be amended in accordance with this Part of these Regulations and in this Part a reference to a numbered regulation is to the regulation in the Prescribed Diseases Regulations which bears that number.

Amendment of regulation 1

17.—(1) Regulation 1(2) (interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) After the definition of “the Claims and Payments Regulations” there shall be inserted the following definition—

““adjudicating medical authority” means, as the case may be, an adjudicating medical practitioner, a specially qualified adjudicating medical practitioner, a medical board or a special medical board;”.

(3) After the definition of “special medical board” there shall be inserted the following definition—

““specially qualified adjudicating medical practitioner” means a specially qualified adjudicating medical practitioner appointed by virtue of section 62 of the Social Security Administration Act 1992(13);”.

Amendment of regulation 9

18.—(1) Regulation 9 (re-employment of pneumoconiotics and special provisions for benefit (workmen’s compensation cases)) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) at the end there shall be inserted the words “or a specially qualified adjudicating medical practitioner”.

(3) In sub-paragraph (a) of paragraph (2)—

(a) after the words “special medical board”, in each place where they occur, there shall be inserted “or the specially qualified adjudicating medical practitioner”; and

(b) after the words “to them” there shall be inserted the words “or him”.

(4) In sub-paragraph (b) of paragraph (2) after the words “foregoing sub-paragraph by” there shall be inserted the words “a specially qualified adjudicating medical practitioner;”.

(5) In sub-paragraph (c) of paragraph (2) after the words “the decision of” there shall be inserted the words “the specially qualified adjudicating medical practitioner;”.

Amendment of regulation 22

19.—(1) Paragraph (2) of regulation 22 (pneumoconiosis-effects of emphysema and chronic bronchitis) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (a) for the words “a medical board” there shall be substituted the words “an adjudicating medical authority”.

(3) In sub-paragraph (b) for the words “the medical board” there shall be substituted the words “the adjudicating medical authority”.

Amendment of regulation 23

20. In regulation 23 (reduced earnings allowance-special provision for pneumoconiosis cases)(14) after the words “advice from a special medical board” there shall be inserted the words “or a specially qualified adjudicating medical practitioner”.

Amendment of regulation 27

21. In regulation 27 (further claims in respect of occupational deafness) for the words “a medical board”, in each place where they occur, there shall be substituted the words “an adjudicating medical authority”.

Amendment of regulation 31

22. In regulation 31 (review of assessment for unforeseen aggravation in respect of occupational deafness) for the words “a medical board” there shall be substituted the words “an adjudicating medical authority”.

Amendment of regulation 38

23.—(1) Regulation 38 (periodical examinations) shall be amended in accordance with the following provisions of this regulation.

(2) After the words “special medical board”, in each place where they occur, there shall be inserted the words “or a specially qualified adjudicating medical practitioner”.

(3) After the words “such a board” there shall be inserted the words “or practitioner”.

Amendment of regulation 40

24. In paragraph (2) of regulation 40 (conditions of suspension) after the words “special medical board” there shall be inserted the words “or specially qualified adjudicating medical practitioner”.

PART IV

TRANSITIONAL PROVISION

Transitional provision

25. Nothing in these Regulations shall be taken to affect the validity of any reference to, or any proceedings of or any decision of, a medical board if the reference was made, or the proceedings were begun, before the date upon which these Regulations come into force.

(14) Regulation 23 was amended by regulation 6(3) of S.I. 1986/1561.

Signed by authority of the Secretary of State for Social Security.

25th March 1993

Nicholas Scott
Minister of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Adjudication) Regulations 1986—

- (i) to allow adjudicating medical practitioners and specially qualified adjudicating medical practitioners to deal with matters in respect of industrial injuries and prescribed diseases which until now have been reserved for either medical boards or special medical boards;
- (ii) to permit a medical practitioner to adjudicate upon a claim where he has prepared a report upon a claimant's case, if he proposes to dispose of the issue which arises in favour of the claimant;
- (iii) to make changes consequential upon the matters referred to in (i) and (ii);
- (iv) to make changes consequential upon the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1993 (S.I.1993/862) which make provision for a new prescribed disease D11.

The Regulations also make a number of consequential changes to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985. They also make some minor drafting changes.