(3) Where an insured person in relation to whom byssinosis is prescribed in sub-paragraph (*c*) of regulation 2 develops byssinosis, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his insurable employment.

(4) Where an insured person in relation to whom tuberculosis is prescribed in paragraph 38 of Part I of the said First Schedule has developed that disease, the disease shall, unless the contrary is proved, be presumed to be due to the nature of his insurable employment if the date on which, under the subsequent provisions of these regulations, he is treated as having developed the disease is not less than six weeks after the date on which he was first employed in any occupation set against the disease in the second column of the said Part and not more than two years after the date on which he was last so employed in insurable employment.

EXPLANATORY NOTE

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

These Regulations introduce a new Schedule of prescribed diseases in place of Part I of the First Schedule to the Prescribed Diseases Regulations, 1948, made under the National Insurance (Industrial Injuries) Act, 1946. The new Schedule includes all the diseases which have been added to the original Schedule since it was introduced in 1948, and also makes certain amendments which were recommended by the Industrial Injuries Advisory Council in their report (Cmnd. 416). The principal alterations are in the description of various forms of industrial dermatitis and of diseases due to radiation, and in the occupations in respect of which tuberculosis is prescribed. Diseases are numbered in the new Schedule to correspond as closely as possible with the numbers they bore in the old Schedule, gaps being left in the numbering in the new Schedule where the descriptions of diseases have been amalgamated or substantially altered.

There are transitional provisions which preserve rights acquired under the old Schedule and secure that certain cases shall continue to be treated under the old Schedule where this is more advantageous to the claimant. Where the new Schedule is more advantageous it will be applied, with certain qualifications, from the date of the instrument, to cases where the disease was contracted or the death occurred before that date, under the retrospective power contained in section 55 of the Act.

1958 No. 2112

The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations, 1958

Made - - - -	12*th December*, 1958
Laid before Parliament	17*th December*, 1958
Coming into Operation	5*th January*, 1959

The Minister of Pensions and National Insurance, in exercise of powers conferred by sections 56 and 86 of the National Insurance (Industrial Injuries) Act, 1946(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1.—(1) These regulations, which may be cited as the National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment (No. 2) Regulations, 1958, shall be read as one with the National Insurance (Industrial Injuries)

(a) 9 & 10 Geo. 6. c. 62.

(Prescribed Diseases) Regulations, 1948(a) (hereinafter referred to as "the principal regulations"), and shall come into operation on the 5th January, 1959.

(2) In these regulations unless the context otherwise requires—

"the Act" means the National Insurance (Industrial Injuries) Act, 1946; and other expressions have the same meaning as in the Act.

Revocation of regulation 28 (3) *of the principal regulations*

2. Paragraph (3) of regulation 28 of the principal regulations (which paragraph provides that, subject to the power of review, the decision of a medical board on any diagnosis or recrudescence question shall be final) shall cease to have effect and accordingly is hereby revoked.

Provisions added to the principal regulations

3. The following regulation shall be inserted in the principal regulations after regulation 28 thereof and shall have effect in relation to decisions of medical boards given on or after the date of the coming into operation of these regulations:—

"*Appeal or reference to medical appeal tribunal*

28A.—(1) Subject to the provisions of regulation 36 of these regulations, if a claimant is dissatisfied with the decision of a medical board on a diagnosis or recrudescence question he may appeal and the case shall be referred to a medical appeal tribunal.

(2) Subject as aforesaid, if the Minister notifies the insurance officer that he is of opinion that any decision of a medical board on a diagnosis or recrudescence question 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 as on an appeal.

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

Amendment of regulation 30 *of the principal regulations*

4.—(1) Regulation 30 of the principal regulations as amended(b) (which relates to the power of review of a decision on a diagnosis or recrudescence question) shall be amended in accordance with the following provisions of this regulation and accordingly shall have effect as set out in Part I of the Schedule hereto.

(2) In paragraph (1) of the said regulation 30 after the words "recrudescence question" there shall be inserted the words "of an insurance officer, medical board or medical appeal tribunal", and at the end of the said paragraph there shall be added the following proviso:—

"Provided that a decision of a medical appeal tribunal on a diagnosis or recrudescence question shall not be reviewed by a medical board without the leave of a medical appeal tribunal."

(3) For paragraph (2) of the said regulation 30 (which paragraph relates to the procedure on an application for review) there shall be substituted the following paragraphs:—

(a) S.I. 1948/1371 (Rev. XVI, p. 482: 1948 I, p. 3001). (b) S.I. 1949/1697 (1949 I, p. 2766).

" (2) A question may be raised with a view to the review of any decision on a diagnosis or recrudescence question by means of an application in writing to an insurance officer, stating the grounds of the application, and on receipt of such application the insurance officer shall proceed to refer such question to a medical board:

Provided that where in the opinion of the insurance officer such application raises a question as to the review of a decision of a medical appeal tribunal on a diagnosis or recrudescence question, the insurance officer shall submit the application to a medical appeal tribunal so that such tribunal may consider whether leave shall be granted and shall not refer the question to a medical board unless that medical appeal tribunal grant such leave.

(3) Subject to the foregoing provisions of this regulation, a medical board may deal with a case on a review in any manner in which they would deal with it on an original reference to them, and regulation 28A of these regulations shall apply to a decision of a medical board in connection with such an application to review as it applies to a decision on an original reference to them."

Amendment of regulation 31 *of the principal regulations*

5.—(1) Regulation 31 of the principal regulations (which relates to the constitution and procedure of medical boards when determining a diagnosis or recrudescence question) shall be amended in accordance with the following provisions of this regulation and accordingly shall have effect as set out in Part II of the Schedule hereto.

(2) In paragraph (1) of the said regulation 31 the words " or medical appeal tribunal " shall be inserted immediately after the words " a medical board " where they first occur, and at the end of the said paragraph there shall be added the following sub-paragraph :—

" (*c*) the reference to subsection (3) of section 39 of the Act in paragraph (3) of regulation 11 of the Determination of Claims and Questions Regulations shall be construed as a reference to regulation 28A(2) of these regulations."

Amendment of regulation 36 *of the principal regulations*

6. Immediately after paragraph (3) of regulation 36 of the principal regulations (which relates to the constitution and procedure of pneumoconiosis medical panels and boards) there shall be inserted the following paragraph :—

" (3A) The decision of a pneumoconiosis medical board on any diagnosis question shall be final, and accordingly regulation 28A, and regulation 30 in so far as it relates to the powers of a medical appeal tribunal, of these regulations shall not apply to a decision of a pneumoconiosis medical board."

Amendment of Second Schedule to the principal regulations

7. In paragraph 1 of the Second Schedule to the principal regulations as amended(a) (which paragraph adds a new paragraph immediately after paragraph (*c*) of subsection (1) of section 36 of the Act) after the words " or by a medical board " there shall be inserted the words " or by a medical appeal tribunal ".

Dated this twelfth day of December, 1958.

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

(a) S.I. 1949/1697 (1949 I, p. 2766).

SCHEDULE

PART I — Regulation 4.

CONTAINING REGULATION 30 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS*

Review of decision on diagnosis or recrudescence question

30.—(1) Any decision on a diagnosis or recrudescence question *of an insurance officer, medical board or medical appeal tribunal* may be reviewed at any time by a medical board if they are satisfied by fresh evidence that the decision was given in ignorance of, or was based on a mistake as to, some material fact.

Provided that a decision of a medical appeal tribunal on a diagnosis or recrudescence question shall not be reviewed by a medical board without the leave of a medical appeal tribunal.

(2) *A question may be raised with a view to the review of any decision on a diagnosis or recrudescence question by means of an application in writing to an insurance officer, stating the grounds of the application, and on receipt of such application the insurance officer shall proceed to refer such question to a medical board:*

Provided that where in the opinion of the insurance officer such application raises a question as to the review of a decision of a medical appeal tribunal on a diagnosis or recrudescence question, the insurance officer shall submit the application to a medical appeal tribunal so that such tribunal may consider whether leave shall be granted and shall not refer the question to a medical board unless that medical appeal tribunal grant such leave.

(3) *Subject to the foregoing provisions of this regulation, a medical board may deal wtih a case on a review in any manner in which they would deal with it on an original reference to them, and regulation 28A of these regulations shall apply to a decision of a medical board in connection with such an application to review as it applies to a decision on an original reference to them.*

PART II — Regulation 5.

CONTAINING REGULATION 31 OF THE PRINCIPAL REGULATIONS AS AMENDED BY THESE REGULATIONS†

Constitution and procedure of medical board and medical appeal tribunal.

31.—(1) Save in so far as they are inconsistent with, or are varied by, the foregoing provisions of this Part of these regulations, the Determination of Claims and Questions Regulations shall apply to the reference to or determination by a medical board *or medical appeal tribunal* of a diagnosis or recrudescence question as they apply in the case of a disablement question, so, however, that—

(*a*) if a diagnosis or recrudescence question is referred to a medical board to which there is also referred a disablement question and the decision of the medical board on the diagnosis or recrudescence question enables the case to be decided adversely to the claimant, the medical board shall not determine the disablement question;

(*b*) regulation 7 of the Determination of Claims and Questions Regulations (which provides for disablement questions to be referred with the consent of the claimant or beneficiary to a single medical practitioner instead of to a medical board) shall not apply to a diagnosis or recrudescence question;

(*c*) *the reference to subsection* (3) *of section* 39 *of the Act in paragraph* (3) *of regulation* 11 *of the Determination of Claims and Questions Regulations shall be construed as a reference to regulation* 28A (2) *of these regulations.*

(2) Notwithstanding the provisions of paragraph (1) of regulation 6 of the Determination of Claims and Questions Regulations (which provides that with one exception a medical board shall consist of two members) a medical board to which there is referred any question to which this Part of these regulations applies may consist of three members and the decision of such a board, if not unanimous, shall be that of the majority of such members.

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

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

EXPLANATORY NOTE

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

These Regulations amend the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations, 1948, so as to enable a claimant to appeal from, or the Minister to refer, a decision of a medical board on a diagnosis or recrudescence question relating to any prescribed disease other than pneumoconiosis or byssinosis. Hitherto the decision of a medical board on such a question has been final. The appeal or reference is to a medical appeal tribunal and the right will apply to decisions given on or after the date of the coming into operation of these regulations. The Regulations also make provision for the review of decisions made by medical appeal tribunals on such questions.

RECIPROCAL AGREEMENTS

1958 No. 771

The Family Allowances, National Insurance and Industrial Injuries (Belgium) Order, 1958

For the text of this Order, *see* Pt. II, p. 1599, of this volume.

1958 No. 423

The Family Allowances, National Insurance and Industrial Injuries (Norway) Order, 1958

For the text of this Order, *see* Pt. II, p. 1614, of this volume.

1958 No. 1263

The Family Allowances, National Insurance and Industrial Injuries (Yugoslavia) Order, 1958

For the text of this Order, *see* Pt. II, p. 1628, of this volume.

1958 No. 597

The National Insurance and Industrial Injuries (France) Order, 1958

For the text of this Order, *see* Pt. II, p. 1641, of this volume.

1958 No. 772

The National Insurance and Industrial Injuries (Malta) Order, 1958

For the text of this Order, *see* Pt. II, p. 1657, of this volume.