STATUTORY INSTRUMENTS

1967 No. 1187

SOCIAL SECURITY

The National Insurance (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 1967

Made - - -	*3rd August* 1967
Laid before Parliament	*15th August* 1967
Coming into Operation	*16th August* 1967

The Minister of Social Security, in exercise of powers conferred by section 50 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) and section 58 of the said Act of 1965 as extended by section 1 of the National Insurance (Industrial Injuries) Amendment Act 1967(c) and of all other powers enabling her in that behalf, and in consequence of the said Act of 1967, 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 Regulations 1967, shall be read as one with the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959(d), as amended (e), (hereinafter referred to as "the principal regulations") and shall come into operation on 16th August 1967.

Addition to the principal regulations

2. After regulation 36 of the principal regulations there shall be added the following regulation:—

"*Effects of emphysema and chronic bronchitis*

36A.—(1) Where any person is disabled by pneumoconiosis or pneumoconiosis accompanied by tuberculosis to an extent which would, if his physical condition were otherwise normal, be assessed at not less than 50 per cent. the effects of any emphysema and of any chronic bronchitis from which that person is found to be suffering shall be treated for the purposes of Part IV of the National Insurance (Industrial Injuries) Act 1965 and of these regulations as if they were effects of the pneumoconiosis.

(2) Where, in a claim for death benefit, the question arises whether the extent of a person's disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis would, if his physical condition were otherwise normal, have been assessed at not less than 50 per cent.—

(*a*) if there has been no assessment of disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis made during the person's life, or if there is no such assessment current at the time of death, that question shall be determined by a medical board and

(a) 1965 c. 52. (b) 1966 c. 6. (c) 1967 c. 25. (d) S.I. 1959/467 (1959 II, p. 1943).
(e) The amending instruments are not relevant to the subject matter of these Regulations.

the provisions of the National Insurance (Industrial Injuries) Act 1965 and of the National Insurance Act 1965(a), as modified by the National Insurance Act 1966, shall apply as if such question were a special question and a disablement question;

(*b*) if there is an assessment of disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis current at the time of the person's death, that question shall be treated as having been determined by the decision of the medical board or medical appeal tribunal as the case may be which made such assessment.".

Transitional provisions

3.—(1) Any assessment of disablement made by a medical board or medical appeal tribunal prior to 16th August 1967 in respect of pneumoconiosis or pneumoconiosis accompanied by tuberculosis of an extent of 50 per cent. or more in which the period taken into account by such assessment has not come to an end by or on the said date may for the purposes of this regulation be referred to a medical board for review notwithstanding that no application for a review has been made.

(2) On such reference as aforesaid if, under regulation 36A(1) of the principal regulations, the effects of any emphysema or chronic bronchitis from which the claimant may be suffering fall to be treated as if they were the effects of pneumoconiosis, the medical board may revise the assessment so as to take such effects into account accordingly as from 16th August 1967.

(3) A medical board, to whom a case has been referred under paragraph (1) of this regulation, may determine the case notwithstanding that no notice of the sitting of the medical board has been given, if satisfied that they can make such a determination without a medical examination of the claimant or without a further radiological examination of the lungs being made or without additional evidence being obtained other than such evidence as was before the medical board or medical appeal tribunal as the case may be whose decision is being reviewed.

(4) (*a*) Where a claimant is dissatisfied with the decision of the medical board given under the provisions of the preceding paragraph he may apply in accordance with the provisions of sub-paragraph (*b*) of this paragraph and the case shall be referred for a further review to another medical board who shall not determine the case unless notice of the sitting of the medical board has been given in accordance with regulation 8 of the Determination of Claims and Questions Regulations.

(*b*) An application for a further review under sub-paragraph (*a*) of this paragraph shall be made in writing to a local office within three months of the notification of the medical board's decision.

(5) A claimant, who satisfies the requirements of paragraph (1) of this regulation but whose case has not been referred under the said paragraph, may apply to have his case so referred if he furnishes evidence which shows to the satisfaction of the insurance officer that there is reasonable cause for suspecting that the assessment should be reviewed so as to take into account any possible effects of emphysema or chronic bronchitis.

(a) 1965 c. 51.

(6) On any review of an assessment of disablement under the foregoing paragraphs of this regulation such assessment shall not be revised unless the degree of assessment is thereby increased.

Judith Hart,
Minister of Social Security.

3rd August 1967.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations add to the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations 1959 provisions enabling the effects of emphysema or chronic bronchitis to be treated as if they were the effects of pneumoconiosis when the extent of a person's disablement resulting from pneumoconiosis or from pneumoconiosis accompanied by tuberculosis would, if his physical condition were otherwise normal, be assessed at not less than fifty per cent.

The regulations also contain transitional provisions relating to certain assessments made before the date when these regulations come into operation.

These regulations are made in consequence of the National Insurance (Industrial Injuries) (Amendment) Act 1967 and, in accordance with section 1(4) of that Act, have not been referred to the Industrial Injuries Advisory Council.