STATUTORY INSTRUMENTS

1982 No. 38

SOCIAL SECURITY

The Social Security (Determination of Claims and Questions) Amendment Regulations 1982

Made - - - -	15*th January* 1982
Laid before Parliament	25*th January* 1982
Coming into Operation	15*th February* 1982

The Secretary of State for Social Services, in exercise of the powers conferred by sections 106(2), 110(5) and 115 of, and Schedule 13 to, the Social Security Act 1975(**a**) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10(1) of the Tribunals and Inquiries Act 1971(**b**), the Industrial Injuries Advisory Council having agreed that the proposals for regulation 2, (7) and (8), should not be referred to it(**c**), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Determination of Claims and Questions) Amendment Regulations 1982 and shall come into operation on 15th February 1982.

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

"the principal regulations" means the Social Security (Determination of Claims and Questions) Regulations 1975(**d**);

"the Attendance Allowance Regulations" means the Social Security (Attendance Allowance) (No. 2) Regulations 1975(**e**).

Amendment of the principal regulations

2.—(1) In regulation 3(2) of the principal regulations (persons to be ordered to withdraw while local tribunals, medical boards and medical appeal tribunals consider their decisions or discuss procedure) the words "or discussing any question of procedure" are deleted and after the words "case may be, shall" there is inserted "and for the purpose of discussing any question of procedure, may".

(**a**) 1975 c. 14. (**b**) 1971 c. 62.

(**c**) *See* section 141(2)(*b*) of the Social Security Act 1975, as amended by the Social Security Act 1981 (c. 33), section 8 and Schedule 2, paragraph 2.

(**d**) S.I. 1975/558, to which there are amendments not relevant to these regulations.

(**e**) S.I. 1975/598, to which there are amendments not relevant to these regulations.

(2) Regulation 10 of the principal regulations (time and place of hearings before local tribunals) is amended as follows—

(*a*) in paragraph (1), after "reasonable notice" there is inserted—

"(being not less than 10 days beginning with the day on which the notice is given and ending on the day before the hearing of the case is to take place)";

and for the words from "except with the consent of the claimant" to the end there is substituted—

"if such notice has not been given to a person to whom it should have been given under the foregoing provisions of this paragraph the tribunal shall not proceed with the hearing of the case without the consent of that person";

(*b*) in paragraph (2), for "proceed to determine the case" there is substituted "proceed with the case" and the proviso to the paragraph is revoked.

(3) In regulation 11 of those regulations (hearings before local tribunals), after paragraph (3) there is inserted the following paragraph—

"(3A) Where an oral hearing is adjourned and at the hearing after the adjournment the tribunal is differently constituted, otherwise than through the operation on that occasion of paragraph (3), the proceedings at that hearing shall be by way of a complete rehearing of the case."

(4) In regulation 13(4) of those regulations (procedure before Commissioner on appeal from a local tribunal), for "proceed to determine the appeal" there is substituted "proceed with the case".

(5) Regulation 22 of those regulations (procedure of medical appeal tribunals) is amended as follows—

(*a*) in paragraph (2), after "reasonable notice" there is inserted—

"(being not less than 10 days beginning with the day on which the notice is given and ending on the day before the hearing of the case is to take place)";

(*b*) in paragraph (4), for "proceed to determine the case" there is substituted "proceed with the case" and the proviso to the paragraph is revoked.

(6) In regulation 29(4) of those regulations (hearing and determination by a Commissioner of applications for leave to appeal, appeals, and references from medical appeal tribunals), for "proceed to determine the application, appeal or reference" there is substituted "proceed with the case".

(7) Regulation 32 of those regulations (review of decisions involving payment or increase of industrial injuries benefit) is amended as follows—

(*a*) in paragraph (1), after "Where on a review a decision" there is inserted "of an insurance officer, a local tribunal or a Commissioner";

(*b*) after paragraph (2) there is added the following paragraph—

"(3) Where a decision is reviewed at the instance of an insurance officer under section 104(1), the date on which it was first decided by the insurance officer that the decision should be reviewed shall be treated for the purposes of this regulation as the date of application for review."

(8) In regulation 35 of those regulations (period to be taken into account by assessments revised on grounds of unforeseen aggravation), for "before the date of the application for review" there is substituted—

"before—

(*a*) if the review was in consequence of an application by the claimant, or a person acting on his behalf, the date of that application, or

(*b*) if the review was in consequence of a decision on a recrudescence question, within the meaning of regulation 25(1)(*b*) of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1980**(a)**, given under regulation 7(4) of those regulations (recrudescence of a prescribed disease), the date of the claim on which that decision was given".

Insertion of regulation 5A *in the principal regulations*

3. In the principal regulations, after regulation 5 there is inserted the following regulation—

"Withdrawal of appeals to local tribunals and of appeals and references to medical appeal tribunals"

5A.—(1) A person who has appealed to a local tribunal against a decision of an insurance officer may withdraw his appeal—

(*a*) by giving written notice of intention to withdraw to the tribunal before the date fixed for the hearing of the appeal, if the insurance officer gives his written consent to such withdrawal before the hearing begins, or

(*b*) by request made to the chairman of the tribunal for leave to withdraw, if the chairman at a hearing of the tribunal gives leave to withdraw.

(2) A claimant who has given notice of appeal to a medical appeal tribunal against a decision of a medical board may withdraw his appeal—

(*a*) by giving written notice of intention to withdraw to the tribunal before the date fixed for the hearing of the appeal, if the Secretary of State gives written consent to such withdrawal before the hearing begins, or

(*b*) by request made to the chairman of the tribunal for leave to withdraw, if the chairman at a hearing of the tribunal gives leave to withdraw.

(3) Where an insurance officer has referred a case to a medical appeal tribunal under section 109(3) (reference of a decision of a medical board which, in the opinion of the Secretary of State, should be considered by a medical appeal tribunal), that reference may be withdrawn—

(*a*) by written notice of intention to withdraw given on behalf of the Secretary of State to the tribunal before the date fixed for the hearing, if the claimant gives written consent to such withdrawal before the hearing begins, or

(*b*) by request for leave to withdraw made on behalf of the Secretary of State to the chairman of the tribunal, if the chairman at a hearing of the tribunal gives leave to withdraw.

(a) S.I. 1980/377, to which there are amendments not relevant to these regulations.

(4) A notice of intention to withdraw an appeal or a reference, and a declaration made by or on behalf of a person of his desire to withdraw an appeal or reference, may be treated as a request for leave within paragraph (1)(*b*), (2)(*b*) or (3)(*b*)."

Insertion of regulation 29A *in the principal regulations*

4. In the principal regulations, after regulation 29 there is inserted the following regulation—

"*Time limits for making written observations*

29A.—(1) This regulation applies to applications made under regulation 26(2) (application to a Commissioner for leave to appeal against a medical appeal tribunal's decision), appeals under regulation 27 (appeal against a decision of a medical appeal tribunal) and references under section 112(4) (reference by a medical appeal tribunal of a question of law for decision by a Commissioner).

(2) Where this regulation applies, if the claimant or the Secretary of State wishes to submit observations in writing on the application, the notice of appeal or the reference, as the case may be, he shall submit such observations to the Commissioner within 28 days of notice of the said application, appeal or reference having been given to him or within such further time as the Commissioner may for special reasons allow.

(3) Where written observations are submitted pursuant to paragraph (2), the claimant or the Secretary of State (not being the person who submitted those observations) may submit to the Commissioner comments in writing on those observations within 28 days of notice of them having been given to him or within such further time as the Commissioner may for special reasons allow.

(4) Where the Commissioner, in a case to which this regulation applies, invites comments in writing on a direction of his, the claimant or the Secretary of State shall, if he wishes to make such comments, submit them to the Commissioner within 28 days of notice of the said direction having been given to him or within such further time as the Commissioner may for special reasons allow.

(5) For the purpose of this regulation, "reference" means a submission in writing under regulation 28 (reference by a medical appeal tribunal of a question of law for decision by a Commissioner)."

Insertion of regulation 10A *in the Attendance Allowance Regulations*

5. In the Attendance Allowance Regulations, after regulation 10 there is inserted the following regulation—

"*Time limits for making written observations*

10A.—(1) In the case of an appeal under regulation 10(1) (appeal to a Commissioner against a determination by the Board on a question of law), or an application for leave so to appeal, the claimant or the Secretary of State shall, if he wishes to submit observations in writing on the notice of appeal or on the application, as the case may be, submit them to the Commissioner within 28 days of notice of the said appeal, or application, having been given to him or within such further time as the Commissioner may for special reasons allow.

(2) Where such written observations are submitted, the claimant or the Secretary of State (not being the person who submitted those observations) may submit to the Commissioner comments in writing on those observations within 28 days of notice of them having been given to him or within such further time as the Commissioner may for special reasons allow.

(3) In the case of any such appeal or application for leave to appeal, where the Commissioner invites comments in writing on a direction of his, the claimant or the Secretary of State shall, if he wishes to make such comments, submit them to the Commissioner within 28 days of notice of the said direction having been given to him, or within such further time as the Commissioner may for special reasons allow."

Norman Fowler,
Secretary of State for
Social Services.

15th January 1982.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations amend provisions of the Social Security (Determination of Claims and Questions) Regulations 1975 ("the principal regulations") and the Social Security (Attendance Allowance) (No. 2) Regulations 1975 ("the Attendance Allowance Regulations") concerning procedure of tribunals established under the Social Security Act 1975.

Regulation 2 amends the principal regulations. Paragraph (1) converts the requirement under regulation 12(2) of those regulations that local tribunals, medical boards and medical appeal tribunals shall order persons to withdraw while procedure is discussed into a power so to order. Paragraphs (2) and (5) provide that the "reasonable notice" required to be given, under the principal regulations, of the time and place of hearings of local tribunals, and medical appeal tribunals, respectively, is not less than 10 days, and they revoke the provisos to regulations 10(2) and 22(4) of the principal regulations; paragraph (3) requires complete re-hearing by a local tribunal of a case where, following an adjournment, the tribunal is differently constituted; paragraph (7) provides for treating a date as that on which application was made for the review of a determination affecting industrial injuries benefit; paragraph (8) specifies the past period that may be taken into account where an assessment of the extent of disablement is revised on review in consequence of a decision relating to the recrudescence of an industrial disease.

Regulation 3 inserts new regulation 5A in the principal regulations providing for withdrawal of appeals to local tribunals and medical appeal tribunals, and withdrawal of references made to the latter. Regulations 4 and 5 insert new regulations—29A in the principal regulations and 10A in the Attendance Allowance Regulations—imposing time limits for the submission of written observations in proceedings before the Social Security Commissioners by way of appeal (or reference) from medical appeal tribunals, and by way of appeal against decisions of the Attendance Allowance Board.

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