1993 No. 168

SOCIAL SECURITY

The Social Security (Industrial Injuries and Adjudication) (Amendment) Regulations (Northern Ireland) 1993

Made	*1st April 1993*
Coming into operation . .	*19th April 1993*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 110(1) and (2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and sections 43(2), 44(2), 45(3) and (9), 56(1), 57 and 60(1) of, and paragraph 2 of Schedule 3 to, the Social Security Administration (Northern Ireland) Act 1992(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

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

(2) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations

2.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986(**d**) shall be amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (interpretation) after the definition of "the old regulations" there shall be inserted the following definition—

" "adjudicating medical authority" means, as the case may be, an adjudicating medical practitioner or a medical board;".

(3) In regulation 20(2) (pneumoconiosis — effects of emphysema and chronic bronchitis)—

(*a*) in sub-paragraph (*a*) for "a medical board" there shall be substituted "an adjudicating medical authority"; and

(*b*) in sub-paragraph (*b*) for "medical board" there shall be substituted "adjudicating medical authority".

(**a**) 1992 c. 7
(**b**) 1992 c. 8
(**c**) 1954 c. 33 (N.I.)
(**d**) S.R. 1986 No. 179; relevant amending regulations are S.R. 1986 No. 340

(4) In regulation 21 (reduced earnings allowance — special provision for pneumoconiosis cases) for ''a medical board'' there shall be substituted ''an adjudicating medical authority''.

(5) In regulation 25 (further claims in respect of occupational deafness) for ''a medical board'' in each place where it occurs there shall be substituted ''an adjudicating medical authority''.

(6) In regulation 29 (review of assessment for unforeseen aggravation in respect of occupational deafness) for ''a medical board'' there shall be substituted ''an adjudicating medical authority''.

Amendment of the Social Security (Adjudication) Regulations

3.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1987(**a**) shall be amended in accordance with paragraphs (2) to (13).

(2) In regulation 1(2) (interpretation) after the definition of ''the 1986 Order'' there shall be inserted the following definition—

'' ''the Administration Act'' means the Social Security Administration (Northern Ireland) Act 1992;''.

(3) In regulation 29(1) (determination of medical questions)—

(*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 45(1) of the Administration Act (decision given in ignorance of, or based on a mistake as to, a material fact), or

(ii) section 45(2) of that Act (error of law); and''; and

(*b*) sub-paragraph (*b*) shall be omitted.

(4) In regulation 33 (disqualification from acting as an adjudicating medical authority or as a member thereof or as a member of a medical appeal tribunal)—

(*a*) in paragraph (1) at the beginning there shall be inserted ''Subject to paragraphs (1A) and (2),'';

(*b*) 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) shall not be precluded from acting as an 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.''; and

(**a**) S.R. 1987 No. 82; relevant amending regulations are S.R. 1987 No. 116, S.R. 1989 No. 397 and S.R. 1992 No. 36

(*c*) in paragraph (2)—

(i) the words ''Notwithstanding the provisions of paragraph (1),'' shall be omitted, and

(ii) for '', D9 or D10'' there shall be substituted '', D9, D10 or D11''.

(5) In regulation 41(2)(*b*) (application of Part III of the 1975 Act and of these regulations) for '', D9 and D10'' there shall be substituted '', D9, D10 and D11''.

(6) In regulation 42 (reference of diagnosis and recrudescence questions for medical report)—

(*a*) in paragraph (1) for '', D9 and D10'' there shall be substituted '', D9, D10 and D11''; and

(*b*) in paragraphs (3), (5) and (6) for ''a medical board'' there shall be substituted ''an adjudicating medical authority''.

(7) In regulation 43(2) (procedure on receipt of medical report) for ''a medical board for their decision'' there shall be substituted ''an adjudicating medical authority for decision''.

(8) In regulation 44 (restriction of adjudication officer's power to determine diagnosis and recrudescence questions)—

(*a*) for ''a medical board'' in both places where it occurs there shall be substituted ''an adjudicating medical authority''; and

(*b*) in paragraph (2) for ''the medical board'' there shall be substituted ''the adjudicating medical authority''.

(9) In regulation 45 (appeal against decision of adjudication officer) for ''a medical board'' in both places where it occurs there shall be substituted ''an adjudicating medical authority'' and for ''the medical board'' in each place where it occurs there shall be substituted ''the adjudicating medical authority''.

(10) In regulations 46 (appeal or reference to a medical appeal tribunal) and 47 (powers of medical appeal tribunal upon determining the question referred) for ''a medical board'' in each place where it occurs there shall be substituted ''an adjudicating medical authority''.

(11) In regulation 48 (review of previous assessment following recrudescence decision) for ''medical board'' there shall be substituted ''adjudicating medical authority''.

(12) In regulation 50(1) (review of decision on diagnosis or recrudescence question) for ''medical board'' where it first occurs there shall be substituted ''adjudicating medical authority''.

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

''*Additional provisions relating to the powers and decisions of adjudicating medical authorities*

51.—(1) Adjudicating medical authorities shall, when determining any question in respect of each of the diseases numbered B6, C15, C17,

C18, C22(*b*), D1, D2, D3, D7, D8, D9, D10 and D11 in Part I of Schedule 1 to the Prescribed Diseases Regulations, 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) an adjudicating medical authority 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 authority or tribunal may, on the evidence before them at the time of their decision, determine also the date from which the claimant has or had suffered from that disease;

(*b*) notwithstanding the provisions of section 58(1) of the Administration Act (finality of decisions), in making that determination, the authority or tribunal shall not be bound by any previous decision of an adjudication officer or an adjudicating medical authority 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.''.

Transitional provision

4. Nothing in these regulations shall be taken to affect the validity of any reference to, or any proceedings or any decision of, a medical board, if the reference was made, or the proceedings began, before 19th April 1993.

Revocations

5. Regulations 4 and 5 of the Social Security (Industrial Injuries) (Prescribed Diseases) (Amendment) Regulations (Northern Ireland) 1987(**a**) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 1st April 1993.

(L.S.) *A. Devlin*
Assistant Secretary

(**a**) S.R. 1987 No. 116

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Social Security (Adjudication) Regulations (Northern Ireland) 1987—

(*a*) to allow adjudicating medical practitioners to deal with matters in respect of industrial injuries and prescribed diseases which until now have been reserved for medical boards;

(*b*) 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;

(*c*) to make changes consequential upon the matters referred to above; and

(*d*) to make changes consequential upon the introduction of a new prescribed disease D11.

They also make a number of consequential changes to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986.

Regulation 4 contains a transitional provision and regulation 5 makes consequential revocations.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.