1968. No. 172 **[C]**

NATIONAL INSURANCE

Determination of Claims and Questions

REGULATIONS, DATED 25TH JULY 1968, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 34, 72, 74(2), 80(3) and (4) and 89(2) of, and paragraph 17 of Schedule 9 to, the National Insurance Act (Northern Ireland) 1966(**a**), as amended by sections 8 and 9 of the National Insurance (No. 2) Act (Northern Ireland) 1966(**b**), and by section 14(6) of the last-mentioned Act, and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968 and shall come into operation on 2nd September 1968.

(2) In these regulations—

"the Act" means the National Insurance Act (Northern Ireland) 1966;

"the Industrial Injuries Act" means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(**c**);

"local tribunal" means a tribunal constituted under section 76 of the Act;

"insurance officer" means an officer appointed in accordance with section 67 of the Act;

"contributions" includes graduated contributions and payments in lieu of contributions under the Act;

"applicant" means, for the purposes of Part II, a person who has made an application under the Act for the determination of a question;

"claimant" means, for the purposes of Parts III and IV, a person who has claimed benefit under the Act or whose right to be excepted from liability to pay or to be credited with a contribution is in question;

"question" includes, except for the purposes of Part II, a claim under the Act;

the expressions "medical examination" and "medical practitioner" have the same meanings as in the Industrial Injuries Act and references to being medically examined shall be construed accordingly.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to

(**a**) 1966. c. 6 (N.I.).
(**b**) 1966. c. 16 (N.I.).
(**c**) 1966. c. 9 (N.I.).

have been given or sent if it was sent by post to that person at his ordinary or last known address.

(4) Any power given in these regulations to extend the period during which anything is required to be done under these regulations or to dispense with any of the requirements thereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

PART II

DETERMINATION OF QUESTIONS BY MINISTRY

Application for, and procedure on, determination of question by the Ministry

2.—(1) Any person desiring to obtain the decision of the Ministry on any question mentioned in section 63(1)(*a*) to (*c*) of the Act shall deliver or send to the Ministry an application for the purpose in writing in a form approved by it, and shall furnish such particulars as the Ministry may require for the purpose of the consideration and determination of any such question.

(2) The Ministry shall take steps to bring any such application and any such particulars to the notice of any person appearing to it to be interested therein and to obtain from such person such particulars within such time and in such form as it considers reasonably necessary for the proper determination of the question.

(3) Any person appointed by the Ministry under section 63(3) of the Act to hold an inquiry into the question or any matters arising in connection therewith and to report to it thereon, may by summons require persons to attend at any such inquiry to give evidence or to produce documents reasonably required for the purpose of the inquiry and may take evidence on oath and for that purpose administer oaths.

(4) If any person fails to comply with any requirement of a summons issued under paragraph (3) he shall, for each offence, be liable on summary conviction to a penalty not exceeding ten pounds.

(5) Reasonable notice of the date and place of the holding of such inquiry shall be given to the applicant and any persons notified of the application in accordance with paragraph (2).

(6) The applicant and any person appearing to the Ministry or to the person appointed to hold the inquiry to be interested in the application shall be entitled to attend and be heard at the inquiry, and to be represented by any other person, and the procedure thereat shall, subject to this regulation, be such as the person appointed to hold the inquiry shall determine.

(7) The Ministry shall give notice in writing of its decision to the applicant and to any persons appearing to it to be interested therein and may publish its decision in such manner as it thinks fit.

Appeals to the Supreme Court

3. The applicant and any other person appearing to the Ministry to be interested shall, on request, be furnished with such a statement of the grounds of the Ministry's decision as will enable him to determine whether any question of law has arisen upon which he may wish to appeal to the Supreme Court under section 64(3) of the Act.

PART III

VARIATION OF STATUTORY PROVISIONS

Variation of certain provisions of Part IV of the Act

4. Any question to which section 66(1) of the Act (questions to be determined by insurance officers, local tribunals or Commissioner) applies shall be determined in accordance with the provisions of sections 67 to 71 of the Act and of these regulations, subject to the variations of the provisions of the said sections made by this Part.

Appeals from insurance officers' decisions

5.—(1) Where an insurance officer has decided any claim or question on an assumption of facts as to which there appeared to him to be no dispute, but concerning which, had a question arisen, that question would have fallen for determination by the Ministry, it shall be deemed to be a sufficient compliance with the requirements of section 68(1) of the Act (appeals to local tribunals) as to notification to the claimant to give him notice in writing informing him of the decision and of the reasons therefor and that, if he is dissatisfied with the decision, he should reply to that effect, giving the reasons for his dissatisfaction.

(2) Where such a notice as is referred to in paragraph (1) is given, the decision of the insurance officer shall, for the purposes of the said section 68(1) be treated as adverse to the extent only that the provisions of paragraphs (3) to (5) so provide.

(3) If the claimant replies to the notice referred to in paragraph (1) and, after any appropriate investigations and explanations have been made, he remains dissatisfied, the decision of the insurance officer (if not reviewed) shall then, subject to the provisions of paragraph (4), be treated as adverse for the purposes of section 68(1) and the claimant shall be notified of his right of appeal to a local tribunal, the time limit for such appeal being measured from the date of that notification.

(4) If, where the provisions of paragraph (3) would otherwise apply, an insurance officer certifies that the sole ground of the claimant's dissatisfaction appears to him to be the assumption referred to in paragraph (1), those provisions shall not apply, but the claimant shall be notified in writing of his right to apply for the determination by the Ministry of the question arising on the assumption.

(5) If the question so arising is determined by the Ministry, then

(*a*) the insurance officer's decision shall thereafter, if not reviewed, be treated as an adverse decision for the purposes of section 68(1) and the claimant shall be notified of his right of appeal to a local tribunal, the time limit for such appeal being measured from the date of the Ministry's decision;

(*b*) where the Ministry's decision upholds the assumption, section 68(2) shall apply as if the insurance officer had given the certificate therein referred to;

(*c*) where the Ministry's decision does not uphold the assumption, it may, at the discretion of the insurance officer, be treated as an application for the review of the insurance officer's decision, and for the purposes of regulation 15 the date of the claimant's application for the Ministry's decision shall be treated as the date of the application for review.

Medical practitioners

6. For the purposes of section 69(5) of the Act the expression "registered medical practitioner" shall have the same meaning as the expression "medical practitioner" in the Industrial Injuries Act.

Single payments in satisfaction of rights to graduated retirement benefit

7.—(1) The following provisions of this regulation shall apply, in relation to payments (hereafter in this regulation referred to as "single payments") under regulation 2 of the National Insurance (Graduated Retirement Benefit and Consequential Provisions) Regulations (Northern Ireland) 1961(**d**) (single payment in satisfaction of right to graduated retirement benefit).

(2) For the purposes of section 71 of the Act, in the case of a decision awarding a single payment, it shall be deemed not to be a material fact or relevant change of circumstances, as the case may be, that, since the date which was the appropriate date for the purposes of the said regulation 2, graduated retirement benefit would, apart from that regulation, have ceased to be payable, but it shall be deemed to be such a fact or change that, since that date, a person's right to graduated retirement benefit has ceased to be by virtue of section 35(7) of the Act.

(3) Where on review or appeal a decision awarding a single payment falls, or would but for this paragraph fall, to be revised so as to make payable either—

(*a*) a single payment in satisfaction of a right to graduated retirement benefit at a weekly rate higher than the weekly rate (hereinafter called "the original weekly rate") of the graduated retirement benefit in satisfaction of the right to which the original single payment was awarded; or

(*b*) weekly payments of graduated retirement benefit;

then—

(i) the decision on the review or appeal shall direct that the single payment originally awarded shall be treated as duly made in satisfaction for life of any right of the beneficiary (whether by virtue of the said section 35(7) or not) to graduated retirement benefit so far as it does not exceed the original weekly rate; and

(ii) the beneficiary's right to graduated retirement benefit, so far as it exceeds the original weekly rate, shall be treated as a separate right.

(4) Where on review or appeal a decision awarding weekly payments of graduated retirement benefit falls to be revised so as to make a single payment payable, the appropriate date for the purposes of the said regulation 2 shall be deferred until the date of the application for the review or of the notice of appeal, as the case may be, and the decision on review or appeal shall direct that any sums paid on account of the weekly payments originally awarded in respect of any period thereafter shall be treated as having been paid on account of the single payment.

PART IV

DETERMINATION OF CLAIMS AND QUESTIONS BY INSURANCE OFFICERS, LOCAL TRIBUNALS AND THE COMMISSIONER

Hearings before local tribunals

8.—(1) A local tribunal shall hear any case of an appeal from the decision of an insurance officer, brought in accordance with section 68 of the Act or of

(**d**) S.R. & O. (N.I.) 1961, No. 86.

a reference from an insurance officer in accordance with section 67(3)(*c*) of the Act.

(2) Reasonable notice of the time and place of the hearing by a local tribunal shall be given to the claimant, an insurance officer and to any other person who may appear to the chairman of the tribunal to be interested, and, except with the consent of the claimant, the local tribunal shall not proceed with the hearing of any case unless such notice has been given.

(3) If a claimant or other person to whom notice of hearing has been duly given in accordance with these regulations should fail to appear at such hearing and has not given a reasonable explanation for his absence, the tribunal may proceed to determine the case notwithstanding the absence of the claimant or that other person, or may give such directions with a view to the determination of the case as they may think proper.

9.—(1) The hearing by a local tribunal of any appeal or reference shall be in private if the chairman so directs on the grounds that in his opinion intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(2) Except as aforesaid, any hearing by a local tribunal shall be in public.

(3) Any person to whom notice of the hearing has been given in accordance with regulation 8(2) and any other person appearing to the tribunal to be interested shall be entitled to be heard at the hearing of any case by a local tribunal.

(4) Any person having the right to be heard who appears at a hearing by a local tribunal may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing.

(5) Any person having the right to be heard at the hearing of a case by a local tribunal may be represented by some other person whether having professional qualifications or not and, for the purposes of the proceedings at any such hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under the Act and these regulations.

(6) Any person appearing to a local tribunal to be interested in any case being heard by the tribunal shall have the right to be present at the hearing notwithstanding that the hearing of the case is not in public.

(7) For the purpose of arriving at their decision or discussing any question of procedure, a local tribunal shall, notwithstanding anything in this regulation, order all persons not being members of the tribunal, other than the person acting as clerk to the tribunal, to withdraw from the sitting of the tribunal.

(8) In such cases as the chairman of the local tribunal may determine, a medical practitioner may sit with that tribunal as an assessor.

(9) An assessor sitting with a local tribunal as aforesaid shall not take any part in the determination or decision of that tribunal except in an advisory capacity.

Decisions of local tribunals

10.—(1) A local tribunal shall—

(*a*) record in writing all their decisions (whether on an appeal or on a reference from an insurance officer); and