

1964—No. 43

**The Social Insurance
(Determination of Claims and Questions)
(Guernsey) Regulations, 1964**

Made 1st December, 1964
Coming into Operation 4th January, 1965

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by sections forty-nine, fifty-two, fifty-six and seventy-two of the Social Insurance (Guernsey) Law, 1964, and of all other powers enabling them in that behalf, hereby orders:—

PART I

Interpretation

Interpretation

1. (1) In these Regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Determination of Claims and Questions Ordinance” means the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964;

“the Law” means the Social Insurance (Guernsey) Law, 1964;

“ the medical board ” means the medical board constituted in accordance with the provisions of section forty-nine of the Law;

“ the repealed Laws ” means the Contributory Pensions (Guernsey) Laws, 1935 to 1962; and any other expressions have the same meanings as in the Law.

(2) Except where the context otherwise requires, any reference in these regulations to any enactment or regulations shall be treated as including a reference to that enactment or those regulations, as the case may be, as amended, extended, repealed, replaced or revoked by or under any other enactment or by any other regulations.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these regulations as it applies to the interpretation of a Guernsey enactment.

PART II

Review of decisions and adjustment of benefit

Review of decisions involving payment or increase of benefit

2. (1) Where on review under the provisions of the Determination of Claims and Questions Ordinance a decision is revised so as to make benefit payable, or to increase the rate of benefit, the decision given on the review shall have effect as follows:—

- (a) in the case of unemployment benefit, as from the date of the application for the review;
- (b) in the case of sickness benefit, as from the date ten days before the date of the application for the review; or

- (c) in the case of widow's benefit, a guardian's allowance, and a retirement pension, as from the date three months before the date of the application for the review:

Provided that, subject to the provisions of the next succeeding paragraph, if in any case the claimant proves—

- (i) that on a date earlier than the date on which the application for the review was made, he was (apart from satisfying the condition of making a claim therefor) entitled to benefit; and
- (ii) that throughout the period between the earlier date and the date on which the application for review was made, there was good cause for delay in making the application;

he shall not be disqualified by virtue of the foregoing provisions of this paragraph for receiving any benefit to which he would have been entitled in respect of the said period.

(2) Notwithstanding anything contained in this regulation, the following provisions shall have effect:—

- (a) the decision on review shall not in any event have effect for any period before the date on which the original decision took effect or would have taken effect if an award had been made;
- (b) if the said decision on review was based on a material change of circumstances subsequent to the date from which the original decision took effect, it shall not have effect for any period before the date declared by the Administrator or the tribunal, as the

case may be, to be the date on which such material change of circumstances took place.

(3) For the purposes of this regulation, where a decision is reviewed at the instance of the Administrator under subsection (1) of section fourteen of the Determination of Claims and Questions Ordinance, the date on which it was first decided by the Administrator that the decision should be reviewed shall be deemed to be the date of the application for the review.

Adjustment of benefit by the Administrator or the tribunal

3. Where by a decision on review or appeal a person entitled to benefit is awarded some other benefit in lieu thereof, the decision on the review or appeal shall direct that any payments already made on account of the benefit originally awarded in respect of any period covered by the decision on review or appeal shall be treated as having been made on account of the benefit awarded by that decision.

PART III

Determination of disablement questions

Constitution of the medical board

4. (1) The disablement questions arising in any case shall be referred for determination to the medical board and, except as hereafter provided in this regulation, the medical board shall consist of two members:

Provided that a person shall not act as a member of the medical board if—

- (a) he is or may be directly affected by the case in which such questions arise;

(b) he has taken any part in such case as a medical practitioner who has regularly attended the claimant or beneficiary or to whom any question has been referred for examination and report or as an employer or as a witness.

(2) The medical board shall not determine any questions so referred to it if—

(a) any member thereof is unable to be present at the consideration of any such question:
or

(b) the medical board, being a board consisting of two members, is unable to reach a unanimous decision on any such question.

(3) In any case in which, by reason of the foregoing provisions of this regulation, the medical board is unable to determine any disablement question which has been referred to it, the reference to that board shall be revoked and the Authority shall appoint two other members to constitute the board for the determination of that disablement question and the disablement question shall forthwith be referred to the medical board as so constituted:

Provided that, in a case to which sub-paragraph (b) of the last foregoing paragraph relates, the reference shall be to the medical board consisting for that purpose of three members appointed by the Authority, whose decision, if not unanimous, shall be that of the majority of such members.

Reference to a single medical practitioner in lieu of the medical board

5. (1) For the purposes of the provisions of section fifty-two of the Law (which relates to the reference of disablement questions to a single medical practitioner) and notwithstanding anything in the foregoing provisions of these regulations, the disablement

questions arising in any case may, with the consent of the claimant or beneficiary, be referred to a single medical practitioner appointed by the Authority instead of to the medical board.

(2) The provisions of the next two following regulations shall apply to the proceedings on a reference to a single medical practitioner in accordance with the last preceding paragraph, as if such practitioner were the medical board or the chairman of the medical board, as the case may be.

(3) If a medical practitioner to whom any questions have been referred in accordance with paragraph (1) of this regulation is of the opinion that a final assessment can be made but that the period which should be taken into account by such assessment would exceed three months, he shall, in lieu of himself determining such questions, make a report in writing stating his opinion and the grounds therefor, and thereupon the reference to the single medical practitioner shall be revoked and the disablement questions arising in the case shall be referred to the medical board, to whom a copy of such report shall be made available.

Notice of sitting and procedure of the medical board

6. (1) Reasonable notice of the time and place at which the medical board will sit for the consideration of any case shall be given to the claimant or beneficiary and, if after such notice has been given, the claimant or beneficiary should fail to appear at the sitting of the board, the board shall not proceed to determine the questions referred to them without his consent.

(2) No person shall be entitled to be present during the consideration of any question by the medical board other than the claimant or beneficiary

and any other person whom the medical board may, with the consent of the claimant or beneficiary, allow to be present as being a person who, in its opinion, is likely to assist them in the determination of that question.

Notice of decision of the medical board

7. (1) The medical board shall in each case record its decision in writing in such form as may from time to time be approved by the Authority and shall include in such record (which shall be signed by all members of the board)—

(a) a statement of its findings on all questions of fact material to such decision; and

(b) in a case in which the decision of the medical board consisting of three persons was not unanimous, a statement that one of the members dissented and of the reasons given by him for so dissenting.

(2) As soon as may be practicable, the claimant or beneficiary shall be sent written notice of the decision of the medical board, and such notice shall be in such form as may from time to time be approved by the Authority and shall contain a summary of the said findings of the board, including, where the decision was not unanimous, a statement that one of the members dissented and of the reasons given by him for so dissenting.

PART IV

Transitional provisions

Determination of questions arising under the repealed Laws

8. Where a question arising under or in connection with the repealed Laws—

- (a) arises on or in connection with a claim to any benefit under those Laws; or
- (b) affects or may affect any person's right or prospective right to any benefit under the Law or to any benefit the right to which is preserved by or under the Law; or
- (c) affects or may affect any person's liability or entitlement to pay or to be credited with a contribution under the Law;

that question shall, subject to the modifications prescribed in this Part of these regulations, be determined as if it were a question arising under or in connection with the Law and the provisions of the Determination of Claims and Questions Ordinance shall apply and shall, for the purpose of such application, be construed accordingly.

Special provisions as to determination of questions by the Authority

9. Where, by virtue of this Part of these regulations or otherwise, any question which arises under or in connection with the repealed Laws or which is dependent upon or affected by the provisions of those Laws falls to be determined under the provisions of the Determination of Claims and Questions Ordinance, subsection (1) of section two of that Ordinance shall have effect as if there were expressly, included after the questions specified in paragraphs (a), (b) and (c) thereof the following additional questions, that is to say, any question—

- (d) whether a person is or was an existing contributor under the repealed Laws;
- (e) whether any person was—
 - (i) a worker, or
 - (ii) an exempt person,
 within the meaning of the repealed Laws.

Review of existing decisions

10. The provisions of the Determination of Claims and Questions Ordinance as to review of decisions given thereunder and the provisions of Part II of these regulations shall apply to decisions given under the repealed Laws as if any such decision were a decision given under that Ordinance.

PART V

*Citation and commencement**Citation and commencement*

11. These regulations may be cited as the Social Insurance (Determination of Claims and Questions) (Guernsey) Regulations, 1964, and shall come into force on the fourth day of January, nineteen hundred and sixty-five.

Dated this first day of December, nineteen hundred and sixty-four.

A. QUEVATRE,

President of the States Insurance Authority,
for and on behalf of the Authority.

EXPLANATORY NOTE

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

Part II of these regulations relates to the review of decisions under the Social Insurance (Determination of Claims and Questions) (Guernsey) Ordinance, 1964, which involves the payment or increase of benefit (regulation 2) and to the adjustment of benefit by the Administrator or the tribunal, as the case may be, where by a decision on review or appeal a person entitled to benefit is awarded some other benefit in lieu thereof (regulation 3). Part III of these regulations relates to the constitution of the medical board (regulation 4), references to a single medical practitioner in lieu of to the medical board (regulation 5), notices of sittings and procedure of the medical board (regulation 6) and notices of decisions of the medical board (regulation 7). Part IV of these regulations relates to the determination of questions arising under the Contributory Pensions Laws, 1935 to 1962 (regulation 8), the determination of such questions by the Insurance Authority (regulation 9) and the review of decisions under those Laws (regulation 10).