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STATUTORY INSTRUMENTS

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**1997 No. 1183**

**The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997**

*Reviews and appeals*

**Review of certificates of recoverable benefits**

- 12.**—(1) The Department may review any certificate of recoverable benefits if it is satisfied—
- (a) that the certificate was issued in ignorance of, or was based on a mistake as to, a material fact, or
  - (b) that a mistake (whether in computation or otherwise) has occurred in the preparation of the certificate.
- (2) On a review under this Article the Department may either—
- (a) confirm the certificate, or
  - (b) (subject to paragraph (3)) issue a fresh certificate containing such variations as it considers appropriate.
- (3) The Department may not vary the certificate so as to increase the total amount of the recoverable benefits unless it appears to the Department that the variation is required as a result of the person who applied for the certificate supplying the Department with incorrect or insufficient information.

**Appeals against certificates of recoverable benefits**

- 13.**—(1) An appeal against a certificate of recoverable benefits may be made on the ground—
- (a) that any amount, rate or period specified in the certificate is incorrect, or
  - (b) that listed benefits which have been, or are likely to be, paid otherwise than in respect of the accident, injury or disease in question have been brought into account.
- (2) An appeal under this Article may be made by—
- (a) the person who applied for the certificate of recoverable benefits, or
  - (b) (in a case where the amount of the compensation payment has been calculated under Article 10) the injured person or other person to whom the payment is made.
- (3) No appeal may be made under this Article until—
- (a) the claim giving rise to the compensation payment has been finally disposed of, and
  - (b) the liability under Article 8 has been discharged.
- (4) For the purposes of paragraph (3)(a), if an award of damages in respect of a claim has been made under or by virtue of paragraph 10(2)(a) of Schedule 6 to the Administration of Justice Act 1982, (orders for provisional damages in personal injury cases), the claim is to be treated as having been finally disposed of.
- (5) Regulations may make provision—

- (a) as to the manner in which, and the time within which, appeals under this Article may be made,
  - (b) as to the procedure to be followed where such an appeal is made, and
  - (c) for the purpose of enabling any such appeal to be treated as an application for review under Article 12.
- (6) Regulations under paragraph (5)(c) may (among other things) provide that the circumstances in which a review may be carried out are not to be restricted to those specified in Article 12(1).

### **Reference of questions to medical appeal tribunal**

**14.**—(1) The Department shall refer to a medical appeal tribunal any question mentioned in paragraph (2) arising for determination on an appeal under Article 13.

(2) The questions are any concerning—

- (a) any amount, rate or period specified in the certificate of recoverable benefits, or
- (b) whether listed benefits which have been, or are likely to be, paid otherwise than in respect of the accident, injury or disease in question have been brought into account.

(3) In determining any question referred to it under paragraph (1), the tribunal shall take into account any decision of a court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.

(4) On a reference under paragraph (1) a medical appeal tribunal may either—

- (a) confirm the amounts, rates and periods specified in the certificate of recoverable benefits, or
- (b) specify any variations which are to be made on the issue of a fresh certificate under paragraph (5).

(5) When the Department has received the decision of the tribunal on the questions referred to the tribunal under paragraph (1), the Department shall in accordance with that decision either—

- (a) confirm the certificate against which the appeal was brought, or
- (b) issue a fresh certificate.

(6) Regulations may make provision—

- (a) as to the manner in which, and the time within which, a reference under paragraph (1) is to be made, and
- (b) as to the procedure to be followed where such a reference is made.

(7) Regulations under paragraph (6)(b) may (among other things) provide for the non-disclosure of medical advice or medical evidence given or submitted following a reference under paragraph (1).

(8) In this Article “medical appeal tribunal” means a medical appeal tribunal constituted under section 48 of the Administration Act.

### **Appeal to Social Security Commissioner**

**15.**—(1) An appeal may be made to a Commissioner against any decision of a medical appeal tribunal under Article 14 on the ground that the decision was erroneous in point of law.

(2) An appeal under this Article may be made by—

- (a) the Department,
- (b) the person who applied for the certificate of recoverable benefits, or

(c) (in a case where the amount of the compensation payment has been calculated in accordance with Article 10) the injured person or other person to whom the payment is made.

(3) Subsections (7) to (10) of section 21 of the Administration Act apply to appeals under this Article as they apply to appeals under that section.

(4) In this Article “Commissioner” has the same meaning as in section 167(1) of the Administration Act.

### **Reviews and appeals: supplementary**

**16.—**(1) This Article applies in cases where a fresh certificate of recoverable benefits is issued as a result of a review under Article 12 or an appeal under Article 13.

(2) If—

- (a) a person has made one or more payments to the Department under Article 8, and
- (b) in consequence of the review or appeal, it appears that the total amount paid is more than the amount that ought to have been paid,

regulations may provide for the Department to pay the difference to that person, or to the person to whom the compensation payment is made, or partly to one and partly to the other.

(3) If—

- (a) a person has made one or more payments to the Department under Article 8, and
- (b) in consequence of the review or appeal, it appears that the total amount paid is less than the amount that ought to have been paid,

regulations may provide for that person to pay the difference to the Department.

(4) Regulations under this Article may provide—

- (a) for the recalculation in accordance with Article 10 of the amount of any compensation payment,
- (b) for giving credit for amounts already paid, and
- (c) for the payment by any person of any balance or the recovery from any person of any excess,

and may provide for any matter by modifying this Order.