



# Social Security Administration (Northern Ireland) Act 1992

## 1992 CHAPTER 8

### PART II

#### ADJUDICATION

##### *Appeals from adjudication officers - general*

#### **20 Appeal to social security appeal tribunal**

- (1) Subject to subsection (3) below, where the adjudication officer has decided a claim or question other than a claim or question relating to an attendance allowance, a disability living allowance or a disability working allowance—
  - (a) if it relates to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to a social security appeal tribunal; and
  - (b) in any other case the claimant shall have a right to do so.
- (2) A person with a right of appeal under this section shall be given such notice of a decision falling within subsection (1) above and of that right as may be prescribed.
- (3) No appeal lies under this section where—
  - (a) in connection with the decision of the adjudication officer there has arisen any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer; and
  - (b) the question has been determined; and
  - (c) the adjudication officer certifies that the decision on that question is the sole ground of his decision.
- (4) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (5) Where an adjudication officer has determined that any amount, other than an amount—

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- (a) of an attendance allowance;
- (b) of a disability living allowance;
- (c) of a disability working allowance;
- (d) of statutory sick pay; or
- (e) of statutory maternity pay,

is recoverable under or by virtue of section 69 or 72 below, any person from whom he has determined that it is recoverable shall have the same right of appeal to a social security appeal tribunal as a claimant.

- (6) In any case where—
- (a) an adjudication officer has decided any claim or question under Part V of the Contributions and Benefits Act; and
  - (b) the right to benefit under that Part of that Act of any person other than the claimant is or may be, under Part VI of Schedule 7 to that Act, affected by that decision,
- that other person shall have the like right of appeal to a social security appeal tribunal as the claimant.
- (7) Subsection (2) above shall apply to a person with a right of appeal under subsection (5) or (6) above as it applies to a claimant.

## **21 Appeal from social security appeal tribunal to Commissioner**

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal under section 20 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) In the case of statutory sick pay or statutory maternity pay an appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the employee concerned;
  - (c) the employer concerned;
  - (d) a trade union, where—
    - (i) the employee is a member of the union at the time of the appeal and was so immediately before the question at issue arose; or
    - (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at the time of his death a member of the union;
  - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.
- (3) In any other case an appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the claimant;
  - (c) in any of the cases mentioned in subsection (5) below, a trade union; and
  - (d) a person from whom it is determined that any amount is recoverable under section 69 or 72 below.
- (4) In a case relating to industrial injuries benefit an appeal lies under this section at the instance of a person whose right to benefit is, or may be, under Part VI of Schedule 7 to

the Contributions and Benefits Act, affected by the decision appealed against, as well as at the instance of any person or body such as is mentioned in subsection (3) above.

- (5) The following are the cases in which an appeal lies at the instance of a trade union—
  - (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
  - (b) where that question in any way relates to a deceased person who was a member of the union at the time of his death;
  - (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased, was a member of the union at the time of the relevant accident.
- (6) Subsections (2), (3) and (5) above, as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.
- (7) Where the Commissioner holds that the decision was erroneous in point of law, he shall set it aside and—
  - (a) he shall have power—
    - (i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or
    - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and
  - (b) in any other case he shall refer the case to a tribunal with directions for its determination.
- (8) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (7)(b) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.
- (9) No appeal lies under this section without the leave—
  - (a) of the person who was the chairman of the tribunal when the decision was given or, in a prescribed case, the leave of some other chairman; or
  - (b) subject to and in accordance with regulations, of a Commissioner.
- (10) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.

## **22 Appeal from Commissioners on point of law**

- (1) Subject to subsections (2) and (3) below, an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this section shall lie from a decision except—
  - (a) with the leave of the Commissioner who gave the decision or, in a prescribed case, with the leave of a Commissioner selected in accordance with regulations; or
  - (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this section in respect of a Commissioner's decision may only be made by—
  - (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner's decision relates;

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- (b) any other person who was a party to the proceedings in which the first decision mentioned in paragraph (a) above was given;
  - (c) the Department, in a case where it is not entitled to apply for leave by virtue of paragraph (a) or (b) above;
  - (d) any other person who is authorised by regulations to apply for leave;
- and regulations may make provision with respect to the manner in which and the time within which applications must be made to a Commissioner for leave under this section and with respect to the procedure for dealing with such applications.
- (4) On an application to a Commissioner for leave under this section it shall be the duty of the Commissioner to specify as the appropriate court—
- (a) the Court of Appeal in Northern Ireland if it appears to him that the relevant place is in Northern Ireland;
  - (b) the Court of Appeal if it appears to him that the relevant place is in England or Wales; and
  - (c) the Court of Session if it appears to him that the relevant place is in Scotland, except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) to (c) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.
- (5) In this section—
- “the appropriate court”, except in subsection (4) above, means the court specified in pursuance of that subsection;
  - “the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the authority whose decision was the subject of the Commissioner’s decision usually exercises its functions.
- (6) The powers to make regulations conferred by this section shall be exercisable by the Lord Chancellor.