
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 265

PENSIONS (NORTHERN IRELAND)

**Pensions Appeal Tribunals (Northern
Ireland) (Amendment) Rules 1998**

Made - - - - *11th July 1998*

To be laid before Parliament

Coming into operation *1st September 1998*

I, THE RIGHT HONOURABLE SIR ROBERT DOUGLAS CARSWELL, Lord Chief Justice of Northern Ireland in exercise of the powers conferred on me by section 6 of, and paragraphs 5 and 6 of the Schedule to, the Pensions Appeals Tribunals Act 1943(1) and of all other powers enabling me in this behalf, do hereby make the following Rules:

1.—(1) These Rules may be cited as the Pensions Appeal Tribunals (Northern Ireland) (Amendment) Rules 1998 and shall come into operation on 1st September 1998.

(2) In these Rules a reference to a Rule or Schedule by number is a reference to that Rule or Schedule as numbered in the Pensions Appeal Tribunals (Northern Ireland) Rules 1981(2).

2. The Arrangement of Rules at the beginning of the Pensions Appeal Tribunals (Northern Ireland) Rules 1981 shall be amended as follows:—

- (a) by inserting after the title of Rule 5 the new title to new Rule 5A “Review of Appeal Documents”;
- (b) by substituting for the title of Rule 21 the title “Appeal in absence of parties”; and
- (c) by substituting for the title of Rule 27 the title “Expenses of Appeals to Court of Appeal”.

3. Rule 2 shall be amended as follows—

- (a) in paragraph (1) in the definition of “notice of appeal” for the words “in the manner prescribed by these Rules” there shall be substituted the words “on an appropriate form” and in the definition of “the Secretary of State” for the words “Social Services” there shall be substituted the words “Social Security”; and
- (b) paragraph (3) shall be omitted.

(1) 1943 c. 39; section 6 was amended by the Social Security Act 1980 (c. 3), section 16(4); paragraph 6 of the Schedule was amended, and paragraph 6A inserted, by Section 59 of the Administration of Justice Act 1985 (c. 61)

(2) S.R. 1981 No. 231 as amended by S.R. 1982 No. 201 and S.R. 1983 No. 23

4. Rule 3(2) shall be amended by substituting for the words from “Article 67A(1)(b)” to the end, the words—

“Article 68(1)(b) and (2) of the Naval, Military and Air Forces, etc. (Disablement and Death) Service Pension Order 1983(3) and in Article 77(1)(b) and (2) of the Personal Injuries (Civilians) Scheme 1983(4).”.

5. Rule 4 shall be amended as follows—

- (a) in paragraph (1) for the words “given to the Secretary of State on whichever form of notice of appeal set out in Schedule 1 is appropriate” there shall be substituted the words “on an appropriate form”; and
- (b) for paragraph (3) there shall be substituted the following new paragraph—

“(3) A notice of appeal shall be signed by the appellant, or as the case may be, by a person acting on behalf of the appellant, shall bear the date on which it was signed and shall be sent by post addressed to the Secretary of State for Social Security.”.

6. After Rule 5 there shall be inserted the following new rule—

“Review of appeal documents

5A.—(1) After receipt by the Pensions Appeal Office of the documents mentioned in Rule 5(6), a Chairman may review those documents and may, if he thinks fit, exercise the powers given to the Tribunal—

- (a) under Rule 14 to require further information to be obtained or further evidence to be procured or produced; or
- (b) under Rule 15 to take the opinion of a medical specialist or other technical expert, and

paragraphs (1) to (3) of the Rule 14 and paragraphs (1) to (3) of Rule 15 shall apply with the necessary modifications.

(2) After reviewing the documents mentioned in paragraph (1) above, the Chairman may without prejudice to the application of Rule 30 give such directions as he thinks fit on any matter arising in connection with the appeal.”

7. Rule 8 shall be amended by omitting—

- (a) in paragraph (1) the words “to the effect of Form 7”; and
- (b) in paragraph (2) the words “(unless the appeal is to be heard in his absence under Rule 20)”.

8. Rule 19(4) shall be amended by inserting at the end the words “and shall be available for public inspection”.

9. For Rule 20 there shall be substituted the following new rule—

“Appeal in absence of parties

20.—(1) Subject to any arrangements made by the Chairman under rule 21, to the provisions of rule 23 and to the following provisions of this rule, an appeal may be heard in the absence of the parties or their representatives.

(2) If a party fails to attend or be represented at a hearing of which he has been duly notified, the tribunal may—

(3) S.I.1983/883, as amended by S.I. 1984/1154
(4) S.I. 1983/686, as amended by S.I. 1984/1289

(a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in the party's absence; or

(b) adjourn the hearing.

(3) The Tribunal may, if it thinks that the presence of the appellant is necessary for the due determination of the appeal, give directions that the appeal shall not be heard in his absence.

(4) Subject to paragraph (3), the appeal may be heard in the absence of the appellant where he or his representative has requested it.

(5) Where an appeal has been determined under paragraph (2)(a) and the appellant applies to the Chairman, without undue delay, for the decision to be set aside, the Chairman may, if after affording each party a reasonable opportunity to make representations he considers that the interests of justice so require, grant the application and arrange for the appeal to be re-heard before a differently constituted Tribunal; and he may make such further order as to expenses as he thinks fit."

10. Rule 21 shall stand as paragraph (1) of that rule and the following new paragraph shall be inserted after paragraph (1)—

"(2) Where an appeal has been determined under paragraph (1)(d) and the appellant applies to the Chairman without undue delay, for the decision to be set aside, the Chairman may, if after affording each party a reasonable opportunity to make representations he considers that the interests of justice so require, grant the application and arrange for the appeal to be re-heard before a differently constituted Tribunal; and he may make such further order as he thinks fit".

11.—(1) Rule 23 shall be amended by substituting for paragraph (3) the following new paragraph—

"(3) Where a designated person is proceeding with an entitlement appeal on behalf of an appellant who has died, the appeal shall be heard at the same time and by the same Tribunal as any appeal brought by the designated person in respect of the appellant's death".

(2) Rule 25 shall be amended as follows—

(a) by inserting after paragraph (2) the following new paragraph—

"(2A) Upon receipt by the Pensions Appeal Office of a written notification from the designated person or the Secretary of State, within 12 months after notice under paragraph (2) has been given, that the designated person wishes to proceed with the appeal, the case shall be restored to the list of cases for hearing.";

(b) in paragraph (3) by omitting the words "or, as the case may be, the designated person"; and

(c) in paragraph (5) by inserting after the word "Chairman" the words "or where no written notification has been received within the time prescribed in paragraph (2A)".

12. In Rule 27 the heading shall be amended by substituting for the words "Supreme Court" the words "Court of Appeal".

13. Schedule 1 shall be omitted.

Dated this 11th day of July 1998

R. D. Carswell
Lord Chief Justice of Northern Ireland

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Pensions Appeal Tribunals (Northern Ireland) Rules 1981 so as to:

- (1) remove the provision for prescribed forms for giving notice of appeal and notice of hearing (Rules 3, 5, 7(a) and 13);
- (2) enable a Chairman of the Pensions Appeal Tribunal on reviewing the appeal documents before the hearing, to require further information to be obtained or further evidence to be produced, and to take the opinion of a medical specialist or other technical expert and to give directions (Rule 6);
- (3) make fresh provision for appeals to be heard in the absence of the parties (Rules 7(b) and 9);
- (4) enable a designated person (normally a relative or a personal representative of a deceased appellant) to pursue an appeal which is not yet decided by notifying the Pensions Appeal Office in place of the requirement to make an application to the Chairman (Rule 11); and
- (5) make other minor amendments. (Rules 2, 4, 8, 10 and 12)