
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 310

The Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Citation and interpretation

1.—(1) This Order may be cited as the Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999.

(2) In this Order “the Order” means the Social Security (Northern Ireland) Order 1998.

Appointed day

2.—(1) The day appointed for the coming into operation of—

- (a) paragraph 82 of Schedule 6 to the Order (minor and consequential amendments) and Article 78(1) of the Order in so far as it relates to it; and
 - (b) the provisions of the Order specified in Schedule 1, in so far as they are not already in operation, for the purposes of—
 - (i) guardian’s allowance under Part III of the Contributions and Benefits Act,
 - (ii) benefits for industrial injuries under Part V of that Act,
 - (iii) child benefit under Part IX of that Act, and
 - (iv) any matter to which, by virtue of section 165 of the Pension Schemes (Northern Ireland) Act 1993(1), provisions of Chapter II of Part II of the Order are to apply,
- is 5th July 1999.

(2) Paragraph 45 of Schedule 6 shall come into operation immediately before paragraph 3 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(2) comes into operation.

Commencement

3. This Article and Articles 4 to 15 shall come into operation on 5th July 1999.

Savings

4.—(1) Notwithstanding the coming into operation of Article 39(3) of the Order or regulation 59 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(3)—

(1) 1993 c. 49; section 165 is substituted by paragraph 99 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by Article 15(2) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(2) S.I. 1999/671

(3) S.R. 1999 No. 162

- (a) sections 16 and 17 of the Administration Act;
- (b) sections 57 to 59 of, and Schedule 3 to, that Act as they relate to regulations made in relation to those sections; and
- (c) any regulations made under or in connection with the operation of any of those sections or that Schedule,

shall continue to have effect with respect to any decision made before 1st April 1999 by the Department under section 15(1)(d) of that Act.

(2) Notwithstanding the repeal by Schedule 7 to the Order of section 144(5)(a) of the Administration Act, that section shall continue to have effect in relation to any payment of fees made on or after 5th July 1999 under regulations made by virtue of section 60(2)(b) of that Act in connection with a medical examination conducted before that date.

Consequential Amendments

Amendment of the Social Security (Guardian’s Allowances) Regulations

5. In regulation 1(2) of the Social Security (Guardian’s Allowances) Regulations (Northern Ireland) 1975(4) (interpretation) for the definition of “determining authority” there shall be substituted the following definition—

““determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;”.

Amendment of the Social Security (Claims and Payments) Regulations

6.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(5) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) the definition of “determining authority”(6) shall be omitted.

(3) In regulation 26 (obligations of claimants for, and beneficiaries in receipt of, disablement benefit)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a) for “medical authority (as defined in paragraph (4))” there shall be substituted “medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999”, and
 - (ii) in sub-paragraph (b) the words from “or by any” to the end shall be omitted;
- (b) in paragraph (2) for the words from “to examination” to the end there shall be substituted “to examination before the expiry of the period of 6 days beginning with the date of the notice or such shorter period as may be reasonable in the circumstances”; and
- (c) paragraph (4)(7) shall be omitted.

(4) S.R. 1975 No. 98; relevant amending regulations are S.R. 1984 No. 174

(5) S.R. 1977 No. 351; relevant amending regulations are S.R. 1984 No. 174

(6) The definition of “determining authority” was substituted by regulation 11(a) of S.R. 1984 No. 174

(7) Paragraph (4) was substituted by regulation 11(b) of S.R. 1984 No. 174

Amendment of the Child Benefit (General) Regulations

7.—(1) The Child Benefit (General) Regulations (Northern Ireland) 1979⁽⁸⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) after the definition of “the Order” there shall be inserted the following definition—

““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”.

(3) In regulation 16A⁽⁹⁾ (exception to Article 8(3) of the Order)—

(a) in paragraph (1)(b)(i) and (ii) for “on review” there shall be substituted “under Article 10 or 11 of the 1998 Order”; and

(b) for paragraph (2) there shall be substituted the following paragraph—

“(2) In this regulation “determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the 1998 Order or a Commissioner to whom an appeal lies under Article 15 of that Order.”.

(4) In regulation 16B(g)⁽¹⁰⁾ (prescribed conditions relating to persons subject to immigration control) for the words from “reviewed under” to the end there shall be substituted “revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order”.

Amendment of the Workmen’s Compensation (Supplementation) Regulations

8.—(1) The Workmen’s Compensation (Supplementation) Regulations (Northern Ireland) 1983⁽¹¹⁾ shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Act of 1966” there shall be inserted the following definition—

““the Order” means the Social Security (Northern Ireland) Order 1998;”;

(b) for the definition of “the appropriate determining authority” there shall be substituted the following definition—

““the appropriate determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Order or a Commissioner to whom an appeal lies under Article 15 of that Order;”;

(c) for the definition of “claimant” there shall be substituted the following definition—

““claimant” means a person claiming an allowance and includes, in relation to the revision or supersession of a decision, a beneficiary under the award or affected by the decision;”;

(d) after the definition of “corresponding disablement pension rate” there shall be inserted the following definition—

““the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;”;

(e) after the definition of “the Department” there shall be inserted the following definition—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Decisions and Appeals Regulations;”;

⁽⁸⁾ S.R. 1979 No. 5; relevant amending regulations are S.R. 1988 No. 273 and S.R. 1996 Nos. 422 and 469

⁽⁹⁾ Regulation 16A was inserted by regulation 7 of S.R. 1988 No. 273

⁽¹⁰⁾ Regulation 16B was inserted by regulation 2 of S.R. 1996 No. 422 and paragraph (g) was added by regulation 2(b) of S.R. 1996 No. 469

⁽¹¹⁾ S.R. 1983 No. 101; relevant amending regulations are S.R. 1990 No. 445. See also Article 3 of the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

(f) the definition of “the adjudication officer” shall be omitted.

(3) In regulation 6(5) (amount of workmen’s compensation) for “review” there shall be substituted “revision under Article 10 of the Order or supersession under Article 11 of the Order”.

(4) For regulation 12 (determination of questions arising under the regulations) there shall be substituted the following regulation—

“Determination of claims and applications for revision and supersession arising under the regulations

12. Any issue relating to any allowance under these regulations shall be determined as if it had arisen under Part V of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹²⁾ and except where these regulations otherwise provide, the provisions of the Order and of the Social Security (General Benefit) Regulations (Northern Ireland) 1984⁽¹³⁾, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽¹⁴⁾, the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988⁽¹⁵⁾, the Decisions and Appeals Regulations and the Social Security Commissioners (Procedure) Regulations (Northern Ireland) 1999⁽¹⁶⁾ which are specified in Schedule 2, shall, with the necessary modifications, apply for the purposes of these regulations.”.

(5) For regulation 22 (review of decisions) there shall be substituted the following regulation—

“Revision or supersession of decisions

22.—(1) The Department may at any time revise or supersede any decision made under provisions of the Workmen’s Compensation (Supplementation) Regulations (Northern Ireland) 1966⁽¹⁷⁾ in force immediately before 17th October 1977, where—

- (a) the decision was erroneous in point of law, or was made in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the decision was made.

(2) A decision may be revised or superseded by the Department on its own initiative or on an application in writing to the Department for the purpose.

(3) Where it appears to the Department that an issue has arisen whether the decision as to an award of an allowance to which this regulation relates ought to be revised or superseded in accordance with the provisions of paragraph (1), the Department may direct that payment of the allowance shall be suspended in whole or in part until that issue has been determined.

(4) Repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this regulation in any case where the Department is satisfied that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has not misrepresented nor failed to disclose a material fact.

(5) For the purposes of this regulation a decision made under any scheme made under the Act of 1951 shall be treated as if it had been made under the Workmen’s Compensation (Supplementation) Regulations (Northern Ireland) 1966 as they were immediately before the Workmen’s Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977⁽¹⁸⁾ came into operation.

(12) 1992 c. 7

(13) S.R. 1984 No. 92

(14) S.R. 1987 No. 465

(15) S.R. 1988 No. 142

(16) S.R. 1999 No. 225

(17) S.R. & O. (N.I.) 1966 No. 105

(18) S.R. 1977 No. 273

(6) On a revision or supersession of a decision made under any scheme made under the Act of 1951 in force before 23rd May 1966 a decision made by the Department may determine any issue referred to it arising under any such scheme.”.

(6) In regulation 27 (review)—

- (a) for “a question” there shall be substituted “an issue”;
- (b) for “reviewed by the adjudication officer” there shall be substituted “considered by the Department and it may decide the issue afresh”; and
- (c) for “the question” there shall be substituted “the issue”.

(7) For Schedule 2 (provisions of the Social Security Act or regulations applicable (with the necessary modifications) to these regulations) there shall be substituted the Schedule set out in Schedule 2 to this Order.

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations

9.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986⁽¹⁹⁾ shall be amended in accordance with paragraphs (2) to (16).

(2) In regulation 1(2) (interpretation)—

- (a) after the definition of “the Contributions and Benefits Act”⁽²⁰⁾ there shall be inserted the following definition—

““the Order” means the Social Security (Northern Ireland) Order 1998;”;

- (b) the definition of “adjudicating medical authority”⁽²¹⁾ shall be omitted;
- (c) after the definition of “the Claims and Payments Regulations” there shall be inserted the following definition—

““the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;”;

- (d) for the definition of “determining authority” there shall be substituted the following definition—

““determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Order or a Commissioner to whom an appeal lies under Article 15 of the Order;”;

- (e) after the definition of “medical board” there shall be inserted the following definition—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Decisions and Appeals Regulations;”.

(3) In regulation 6(1)(a) (date of onset) “subject to the provisions of section 117(4), as modified by paragraph 1 of Schedule 3 to the Adjudication Regulations,” shall be omitted.

(4) In regulation 8(3) (workmen’s compensation cases)—

- (a) for “question”, in both places where it occurs, there shall be substituted “issue”;
- (b) for “reviewed” there shall be substituted “revised under Article 10 of the Order or superseded under Article 11 of the Order”; and
- (c) for “review” there shall be substituted “revision or supersession”.

(5) In regulation 13A(1)⁽²²⁾ (aggregation of percentages of disablement) for “adjudication officer” there shall be substituted “Department”.

⁽¹⁹⁾ S.R. 1986 No. 179; relevant amending regulations are S.R. 1986 No. 340, S.R. 1989 No. 319 and S.R. 1993 No. 168

⁽²⁰⁾ The definition of “the Contributions and Benefits Act” was inserted by regulation 2(2) of S.R. 1997 No. 158

⁽²¹⁾ The definition of “adjudicating medical authority” was inserted by regulation 2(2) of S.R. 1993 No. 168

⁽²²⁾ Regulation 13A was inserted by regulation 3(2) of S.R. 1986 No. 340

(6) In regulation 18(1B)(a)(**23**) (special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma) for “on a re-assessment or review of the extent of disablement” there shall be substituted “on a re-assessment of the extent of disablement or in consequence of an application for a revision under Article 10 of the Order or a supersession under Article 11 of the Order”.

(7) In regulation 20(2)(**24**) (pneumoconiosis – effects of emphysema and chronic bronchitis)—

- (a) for “question” there shall be substituted “issue”;
- (b) in sub-paragraph (a) for the words from “that question” to the end there shall be substituted “that issue shall be determined by the Department”; and
- (c) in sub-paragraph (b)—
 - (i) for “question” there shall be substituted “issue”, and
 - (ii) for “the adjudicating medical authority or medical appeal tribunal, as the case may be” there shall be substituted “the Department or, as the case may be, an appeal tribunal”.

(8) In regulation 21(**25**) (reduced earnings allowance – special provision for pneumoconiosis cases) for “an adjudicating medical authority” there shall be substituted “the Department”.

(9) For regulation 22 (special requirement for pneumoconiosis claimants in unscheduled occupation cases) there shall be substituted the following regulation—

“**22.**—(1) A claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(b)(ii) shall be referred by the Department to a medical practitioner for a report, unless the Department is satisfied on reasonable grounds that the claimant is not suffering or has not suffered from pneumoconiosis, in which case it may decide the claim without such a report.

(2) The provisions of paragraph (1) shall apply to an appeal tribunal and a Commissioner as they apply to the Department.”.

(10) In regulation 23(2)(d)(ii) (time for claiming benefit in respect of occupational deafness) after “tribunal” there shall be inserted “or, as the case may be, the Department or an appeal tribunal”.

(11) In regulation 25(**26**) (further claims in respect of occupational deafness)—

- (a) in paragraph (1)(b) and (c) for “an adjudicating medical authority” there shall be substituted “the Department, an appeal tribunal”; and
- (b) for paragraph (2) there shall be substituted the following paragraph—

“(2) A claim to be paid benefit by virtue of paragraph (1)(c) may be disallowed by the determining authority without reference to a medical practitioner where the determining authority is satisfied by medical evidence that the claimant is not suffering from occupational deafness.”.

(12) For regulation 28 (review of assessment for unforeseen aggravation in respect of occupational deafness) there shall be substituted the following regulation—

“Supersession of a decision in respect of occupational deafness

28.—(1) The provisions of regulation 6 of the Decisions and Appeals Regulations shall not apply to—

(23) Paragraph (1B) was inserted by regulation 3(3) of S.R. 1986 No. 340

(24) Paragraph (2) was amended by regulation 2(3) of S.R. 1993 No. 168

(25) Regulation 21 was amended by regulation 6(3) of S.R. 1986 No. 340 and regulation 2(4) of S.R. 1993 No. 168

(26) Regulation 25 was amended by regulation 2(5) of S.R. 1993 No. 168

- (a) a decision of the Department in respect of occupational deafness until after the expiry of 5 years from the commencement of the period taken into account by that decision; or
 - (b) an assessment of the extent of disablement in respect of occupational deafness which is less than 20 per cent.”.
- (13) For regulation 29(27) there shall be substituted the following regulation—

“Requirement for leave of appeal tribunal

29. Subject to the provisions of regulation 28 and notwithstanding the provisions of regulation 6 of the Decisions and Appeals Regulations, a decision of a medical board or a medical appeal tribunal or, as the case may be, the Department or an appeal tribunal that a person is entitled to a life assessment in respect of occupational deafness shall not be revised under Article 10 of the Order or superseded under Article 11 of the Order without leave of an appeal tribunal; but in the case of a provisional assessment in respect of occupational deafness no such leave shall be required.”.

(14) In regulation 30 (no appeal against initial provisional assessment of disablement in respect of occupational deafness) the words from the beginning to “section 109(3),” shall be omitted.

(15) In regulation 32(7) (assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness)—

- (a) in sub-paragraphs (a) and (b) for “reviewed or varied” there shall be substituted “revised under Article 10 of the Order or superseded under Article 11 of the Order”; and
- (b) in sub-paragraph (b)(ii) for “review or variation” there shall be substituted “revision or supersession”.

(16) In regulation 33 (commencement date of period of assessment in respect of occupational deafness) “the provisions of section 108 and” shall be omitted.

Modifications

Modification of the Social Security Benefit (Dependency) Regulations

10. The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(28) shall have effect in relation to any benefit mentioned in Article 2(1)(b)(i) to (iii) as if in regulation 2(1) (interpretation) for the definition of “the determining authority”(29) there were substituted the following definition—

““the determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;”.

Modification of the Social Security (General Benefit) Regulations

11. The Social Security (General Benefit) Regulations (Northern Ireland) 1984(30) shall have effect in relation to any benefit mentioned in Article 2(1)(b)(i) to (iii) as if—

(27) Regulation 29 was amended by regulation 2(6) of S.R. 1993 No. 168

(28) S.R. 1977 No. 74; relevant amending regulations are S.R. 1984 No. 174

(29) The definition of “the determining authority” was substituted by regulation 8 of S.R. 1984 No.174

(30) S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 No. 174 and S.R. 1992 No. 6

- (a) in regulation 1(2) for the definition of “determining authority”(31) there were substituted the following definition—
- ““determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;” and
- (b) in regulation 11 (further definition of the principles of assessment of disablement and prescribed degrees of disablement)—
- (i) in paragraphs (7) and (8)(32) for “the medical appeal tribunal, the adjudicating medical practitioner or 2 or more adjudicating medical practitioners (as the case may be)” there were substituted “the Department or, as the case may be, an appeal tribunal”, and
- (ii) paragraph (9) were omitted.

Modification of the Social Security (Claims and Payments) Regulations

12. The Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(33) shall have effect in relation to any benefit mentioned in Article 2(1)(b)(i) to (iii) as if—

- (a) in regulation 2(1) (interpretation)—
- (i) after the definition of “the Jobseekers Order”(34) there were inserted the following definition—
- ““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”
- (ii) for the definition of “adjudicating authority” there were substituted the following definition—
- ““adjudicating authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the 1998 Order or a Commissioner to whom an appeal lies under Article 15 of that Order;” and
- (iii) in the definition of “claim for benefit” in paragraph (c) for “review”, in both places where it occurs, there were substituted “revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order”;
- (b) in regulation 13(2) (advance claims and awards) for “reviewed” there were substituted “revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order”;
- (c) in regulation 17(7) (duration of awards) for “reviewed” there were substituted “revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order”;
- (d) in regulation 31(4) (time and manner of payments of industrial injuries gratuities) for “varied”, in both places where it occurs, there were substituted “revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order”; and
- (e) in Part V (suspension and extinguishment)—
- (i) in the heading “Suspension and”, and
- (ii) regulations 36 to 36B (suspension and withholding of benefit), were omitted.

(31) The definition of “determining authority” was substituted by regulation 26(a) of [S.R. 1984 No.174](#) and amended by regulation 7(2) of [S.R. 1992 No. 6](#)

(32) Paragraphs (7) and (8) were amended and paragraph (9) was added by regulation 26(c) of [S.R. 1984 No. 174](#)

(33) [S.R. 1987 No. 465](#); relevant amending regulations are [S.R. 1992 Nos. 7](#) and [83](#), [S.R. 1993 No. 375](#), [S.R. 1994 Nos. 345](#) and [484](#), [S.R. 1996 Nos. 85, 354](#) and [432](#) and [S.R. 1998 No. 241](#)

(34) The definition of “the Jobseekers Order” was inserted by regulation 2(2)(a) of [S.R. 1996 No. 354](#)

Modification of the Social Security (Payments on account, Overpayments and Recovery) Regulations

13. The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988⁽³⁵⁾ shall have effect in relation to any benefit mentioned in Article 2(1)(b)(i) to (iii) as if—

- (a) in regulation 1(2) (interpretation)—
 - (i) after the definition of “the Order” there were inserted the following definition—

““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”,
and
 - (ii) for the definition of “adjudicating authority”⁽³⁶⁾ there were substituted the following definition—

““adjudicating authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the 1998 Order or a Commissioner to whom an appeal lies under Article 15 of that Order;”;
- (b) in regulation 2(1)(b) (making of interim payments) for “review” there were substituted “revision, supersession”;
- (c) in regulation 5(2) (offsetting prior payment against subsequent award) in Case 1—
 - (i) in the heading after “revised,” there were inserted “superseded”, and
 - (ii) for “varied on appeal or revised on a review” there were substituted “revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order or is varied on appeal”;
- (d) in regulation 8(2) (duplication and prescribed payments) for “review” there were substituted “revision under Article 10 of the 1998 Order or supersession under Article 11 of that Order”; and
- (e) in regulation 12 (circumstances in which determination need not be revised)—
 - (i) for “variation or revision” there were substituted “variation, revision or supersession”, and
 - (ii) for “reviewing and revising” there were substituted “revising under Article 10 of the 1998 Order or superseding under Article 11 of that Order”.

Transitional Provisions and Revocations

Transitional provisions

14.—(1) Any decision in relation to a relevant benefit which fell to be made, but was not made, by an adjudicating authority before 5th July 1999 shall be made by the Department.

(2) Any application for a review of a decision of an adjudicating authority in relation to a relevant benefit which was not decided before 5th July 1999 shall be treated—

- (a) where the application is made within one month of the date of notification of the decision or such longer period as may be allowed under paragraph (3), as an application to the Department for a revision of that decision under Article 10 of the Order; or
- (b) in any other case, as an application to the Department for a decision under Article 11 of the Order superseding that decision.

⁽³⁵⁾ S.R. 1988 No. 142; relevant amending regulations are S.R. 1992 No. 6

⁽³⁶⁾ The definition of “adjudicating authority” was amended by regulation 14(2)(a) of S.R. 1992 No. 6

(3) Subject to paragraphs (4) and (5), the period of one month specified in paragraph (2)(a) may be extended where the application is made before 5th August 2000 by a claimant or a person acting on his behalf, containing—

- (a) particulars of the grounds on which an extension of time is sought; and
- (b) sufficient details of the decision to enable it to be identified.

(4) An application for an extension of time shall not be granted unless the Department is satisfied that—

- (a) it is reasonable to grant the application;
- (b) the application for review has merit; and
- (c) special circumstances are relevant to the application for an extension of time and, as result of those special circumstances, it was not practicable for the application for review to be made within one month of the date of notification of the decision which it is sought to have reviewed.

(5) In determining whether it is reasonable to grant an application for an extension of time, no account shall be taken of the following—

- (a) that the claimant or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by paragraph (2)(a)); or
- (b) that a Commissioner (including a Commissioner within the meaning of section 39(1) of the Social Security Act 1998⁽³⁷⁾) or a court has taken a different view of the law from that previously understood and applied.

(6) Where, by virtue of paragraph (2)(b)—

- (a) a decision made under Article 11 of the Order is advantageous to the claimant; and
- (b) the adjudicating authority could have made the same decision before 5th July 1999 on an application for review,

that decision shall take effect from the date on which it would have taken effect had the adjudicating authority's decision been so made.

(7) Where, before 5th July 1999, an adjudicating authority has made a decision in relation to a relevant benefit, it shall be treated as a decision of the Department.

(8) Where notice of the decision referred to in paragraph (7) was not given or sent to the claimant before 5th July 1999, the Department shall give or send notice of that decision to the claimant.

(9) Where, in relation to a relevant benefit—

- (a) an adjudicating authority's decision was made before 5th July 1999; and
- (b) the time limit within which an appeal may be made against that decision has not expired before that date,

notwithstanding regulation 59 of the Decisions and Appeals Regulations, regulation 3 of the Adjudication Regulations⁽³⁸⁾ as it relates to the time within which an appeal may be made, or any extension of that period, shall continue to apply in relation to any appeal, subject to the modifications specified in paragraph (10).

(10) Regulation 3 of the Adjudication Regulations shall have effect as if—

- (a) references to a chairman or to a person considering the application were references to a legally qualified panel member;

⁽³⁷⁾ 1998 c. 14

⁽³⁸⁾ Regulation 3 was amended by regulation 2(2) of S.R. 1996 No. 24 and regulation 3(4) of S.R. 1996 No. 457

(b) references to a tribunal were references to an appeal tribunal constituted under Article 8 of the Order; and

(c) in paragraph (3E)(39) for the words from “six years” to the end there were substituted “5th August 2000”.

(11) Any appeal to an appellate authority which was not determined before 5th July 1999 shall, without prejudice to Chapter III of Part V of the Decisions and Appeals Regulations, be treated as an appeal to an appeal tribunal against a decision of the Department.

(12) Paragraphs (13) to (16) shall apply where—

(a) the clerk to the tribunal gave a direction under regulation 22(1) or, as the case may be, 38(1) of the Adjudication Regulations(40); and

(b) notification referred to in paragraph (1A) of regulation 22 or, as the case may be, 38 of those Regulations was not received by him before 5th July 1999.

(13) A notification in response to a direction given under regulation 22(1) or, as the case may be, 38(1) of the Adjudication Regulations shall be in writing and shall be made within 14 days of receipt of the direction or within such other period as the clerk to the appeal tribunal may direct.

(14) An appeal may be struck out by the clerk to the appeal tribunal where a notification referred to in paragraph (13) is not received within the period specified in that paragraph.

(15) An appeal which has been struck out in accordance with paragraph (14) shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Decisions and Appeals Regulations.

(16) An oral hearing of the appeal shall be held where—

(a) a notification is received by the clerk to the appeal tribunal under paragraph (13); or

(b) the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

(17) Where an appeal has been struck out under regulation 7 of the Adjudication Regulations a legally qualified panel member may, on an application made by any party to the proceedings not later than three months from the date of the order under paragraph (1) of that regulation, reinstate the appeal if he is satisfied that—

(a) the applicant did not receive a notice under paragraph (2) of that regulation; and

(b) paragraph (2A)(41) of that regulation does not apply,

and the appeal shall be treated as an appeal to an appeal tribunal against a decision of the Department.

(18) An appeal tribunal shall completely rehear any appeal to an appellate authority which stands adjourned immediately before 5th July 1999.

(19) A copy of a statement of—

(a) the reasons for the appellate authority’s decision; and

(b) its findings of fact material thereto,

shall be supplied by the Department to each party to the proceedings before that authority, if requested by any of them, within 21 days of the date on which notification of that decision was given or sent.

(20) Subject to paragraph (21), any decision of an appellate authority shall, for the purposes of Articles 14 and 15 of the Order, be treated as a decision of an appeal tribunal.

(39) Paragraph (3E) was inserted by regulation 2(2)(b) of S.R. 1996 No. 24

(40) Paragraphs (1) and (1A) of regulation 22 and paragraphs (1) and (1A) of regulation 38 were substituted respectively by regulation 3(10) and (13)(a) of S.R. 1996 No. 457

(41) Paragraph (2A) was inserted by regulation 3(8)(c) of S.R. 1996 No. 457

(21) Where paragraph (20) applies, any application for leave to appeal which is made for the purposes of Article 15(10)(a) of the Order shall be made no later than three months from the date on which a copy of the statement of the decision of the appellate authority was given or sent to the applicant.

(22) Notwithstanding regulation 59 of the Decisions and Appeals Regulations, and subject to paragraph (24), regulation 10 of the Adjudication Regulations, and regulation 3 of those regulations in so far as it relates to that regulation, shall continue to apply in relation to any application to set aside a decision of an appellate authority, subject to the modifications specified in paragraph (23).

(23) The Adjudication Regulations shall have effect as if—

- (a) in regulation 3, and in regulation 10(1) any reference to the adjudicating authority which gave the decision or to an authority of like status were a reference to an appeal tribunal constituted under Article 8 of the Order; and
- (b) in regulation 3, reference to a chairman were a reference to a legally qualified panel member.

(24) Paragraph (22) shall not apply in any case where an application to set aside a decision of an appellate authority is made after 5th August 2000.

(25) Any reference in paragraphs (11) to (24) to—

- (a) “an appeal to an appellate authority” shall be construed as a reference to an appeal against the decision of an adjudicating authority as respects a relevant benefit; and
- (b) “a decision of an appellate authority” shall be construed as a reference to a decision on such an appeal.

(26) Where, before 5th July 1999, payment of a relevant benefit was suspended or withheld by virtue of any provision of Part V of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987, the provisions of Chapter I of Part III of the Decisions and Appeals Regulations shall apply with respect to that suspension or withholding as if it were a suspension imposed by virtue of those provisions.

(27) In this Article—

“adjudicating authority” means an adjudication officer, an adjudicating medical practitioner or a medical board;

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations (Northern Ireland) 1995(42);

“appellate authority” means a social security appeal tribunal or a medical appeal tribunal;

“decision”, in relation to any period before 5th July 1999, includes a determination, and “decided” shall be construed accordingly;

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;

“legally qualified panel member” has the same meaning as in regulation 1(2) of the Decisions and Appeals Regulations;

“relevant benefit” means any benefit mentioned in Article 2(1)(b)(i) to (iii).

Revocations

15. The Regulations specified in column (1) of Schedule 3 are revoked to the extent mentioned in column (3) of that Schedule.

Sealed with the Official Seal of the Department of Health and Social Services on 2nd July 1999.

L.S.

John O'Neill
Assistant Secretary