
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 593

The Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006

Extension of time for appealing

7.—(1) The time prescribed by regulations 4 and 5 for the making of an appeal may be extended, even though the time so prescribed may already have expired, on application by the compensator. Any application for an extension of time shall be sent to the Scottish Ministers and shall be determined by a legally qualified panel member, except that where the Scottish Ministers are satisfied that the condition in paragraph (2)(b) is satisfied they may also grant the application.

(2) An applicant must satisfy the person determining the application that—

- (a) if the application is granted there are reasonable prospects that such an appeal will be successful; or
- (b) it is in the interests of justice that the application be granted.

(3) For the purposes of paragraph (2) it shall not be considered to be in the interests of justice to grant an application unless the person determining the application is satisfied that—

- (a) special reasons exist which are wholly exceptional and which relate to the history or facts of the case;
- (b) such special reasons have existed throughout the period beginning with the day following the expiry of the time prescribed, as the case may be, by regulations 4 or 5 for the making of an appeal and ending with the day on which the application for extension of time is made; and
- (c) such special reasons manifestly constitute a reasonable excuse of compelling weight for the applicant's failure to make an appeal within the time prescribed.

(4) In determining whether there are special reasons for granting an application for an extension of time for making an appeal under paragraph (1) the person determining the application shall have regard to the principle that the greater the amount of time that has elapsed between the expiry of the time specified for the making of the appeal and the making of the application for an extension of time, the more cogent should be the special reasons on which the application is based.

(5) In determining whether facts constitute special reasons for granting an application for an extension of time for making an appeal under paragraph (1), no account shall be taken of the following—

- (a) that the applicant or anyone acting for, or advising the applicant, was unaware of or misunderstood the law applicable to the applicant's case (including ignorance or misunderstanding of any time limits imposed by regulations 4 or 5); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied.

(6) The person who determines an application for an extension of time for making an appeal shall record a summary of the decision in such written form as has been approved by the President of appeal tribunals appointed under section 5 of the Social Security Act 1998(1).

(7) Where a decision is made under this regulation by a legally qualified panel member that member shall notify the applicant and the Scottish Ministers.

(8) Where a decision is made under this regulation by the Scottish Ministers they shall notify the applicant.

(9) Any application under paragraph (1) for an extension of time for making an appeal shall contain the following particulars—

- (a) particulars of the special reasons on which the application is based if applicable; or
- (b) the particulars required under regulation 5(4) in relation to the appeal against the certificate which it is proposed to bring; and
- (c) in the case of an application for an extension of time for making an appeal against a waiver decision, the particulars required under regulation 4(5).

(10) An application under paragraph (1) which has been refused may not be renewed.

(11) No appeal may be brought later than 1 year after the beginning of the period prescribed in regulations 4(2) or 5(1), as the case may be, or, if more than one such period is relevant, the one beginning later or latest.