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Pension Schemes (Northern Ireland) Act 1993

1993 CHAPTER 49

PART XI

GENERAL AND MISCELLANEOUS PROVISIONS

General provisions as to determinations and appeals

165 Determination of questions by Department.

- (1) The questions to which section 15(1) of the ^{M1}Social Security Administration (Northern Ireland) Act 1992 (questions for determination by the Department) applies include—
- (a) any question as to the amount of a person's guaranteed minimum for the purposes of section 9 or 13;
 - (b) any question—
 - (i) whether a state scheme premium is payable or has been paid in any case or as to the amount of any such premium; or
 - (ii) otherwise arising in connection with any state scheme premium;
 - (c) any question whether for the purposes of this Act a cash sum paid or an alternative arrangement made under the ^{M2}Policyholders Protection Act 1975 provides the whole or any part of the guaranteed minimum pension to which an earner or an earner's widow or widower was entitled under a contracted-out scheme; and
 - (d) any question arising in connection with minimum contributions or payments under Article 9 of the ^{M3}Social Security (Northern Ireland) Order 1986, other than a question such as is mentioned in paragraph (b)(ii) or (d) which is required by virtue of this Act to be determined by the Board.
- (2) The Department may make any determination required by subsection (1)(c) on such basis as it considers appropriate.

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- (3) Any question arising under this Act as to whether the employment of an earner in employed earner's employment at any time is or was contracted-out employment in relation to him shall be referred by the Department to the Board and determined by them.
- (4) Neither section 15(1) nor section 18(1) of the ^{M4}Social Security Administration (Northern Ireland) Act 1992 (questions for determination by adjudication officers) shall apply to any such question as is mentioned in subsection (3).
- (5) Any question arising in proceedings before any court or tribunal whether the rules of an occupational pension scheme conform with the equal access requirements shall be referred to and determined by the Board.
- (6) Subsection (4) of section 130 shall apply to determinations under subsection (5) as it applies to determinations under that section.

Marginal Citations

- M1** 1992 c. 8.
M2 1975 c. 75.
M3 S.I. 1986/1888 (N.I. 18).
M4 1992 c. 8.

166 Questions arising in proceedings.

- (1) Where in any proceedings—
 - (a) for an offence under this Act; or
 - (b) involving any question as to the payment of a state scheme premium;
 any such question arises as is mentioned in section 165(1)(a), (b)(i) or (c), the decision of the Department shall be conclusive for the purpose of the proceedings.
- (2) If—
 - (a) a decision of any such question is necessary for the determination of the proceedings; and
 - (b) the decision of the Department has not been obtained or a question has been raised with a view to a review of the decision obtained,
 the question shall be referred to the Department for determination or review in accordance (subject to any necessary modifications) with sections 15 to 17 of the ^{M5}Social Security Administration (Northern Ireland) Act 1992.
- (3) Subsection (1) does not apply if—
 - (a) an appeal under section 16 of that Act is pending; or
 - (b) the time for appealing has not expired; or
 - (c) a question has been raised with a view to a review of the Department's decision under section 17 of that Act,
 and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.

Modifications etc. (not altering text)

- C1** S. 166(1) modified (28.3.1997) by S.R. 1997/192, art. 4(2) (with art. 9)

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Marginal Citations

M5 1992 c. 8.

VALID FROM 05/07/1999

[^{F1}166A Reports by Inland Revenue.

- (1) The Inland Revenue shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by their officers in the making of decisions against which, by virtue of section 165(6), an appeal lies to an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998.
- (2) Any report under this section—
 - (a) may be included in any annual report by the Inland Revenue of which a copy is laid before each House of Parliament, or
 - (b) may be annexed to any report of the Secretary of State under section 81 of the Social Security Act 1998 ^{F2}.
- (3) A copy of every report under this section shall be laid before each House of Parliament unless the report is included in, or annexed to, a report of which a copy is so laid.]

Textual Amendments

- F1** S. 166A inserted (5.7.1999) by S.I. 1999/671, art. 17, **Sch. 6 para. 14**; S.R. 1999/271, art. 2(b), **Sch. Pt. II**
- F2** 1998 c. 14.

167 Review of the Board's determinations.

- (1) Subject to the provisions of this section and section 168, where the Board have—
 - (a) determined to issue, cancel or vary a contracting-out certificate or an appropriate scheme certificate; or
 - (b) determined to make, or not to make, any order which they have power to make under section 132, 135 or 138; or
 - (c) determined any other question which it is within their functions to determine, their determination shall be final.
- (2) The Board may on the application of a person appearing to them to be interested—
 - (a) at any time review any such determination of theirs as is mentioned in subsection (1), or a determination given by them on a previous review, if they are satisfied that there has been a relevant change of circumstances since the determination was made, or that the determination was made in ignorance of a material fact or based on a mistake as to a material fact or was erroneous in point of law;

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- (b) at any time within a period of six months from the date of the determination, or within such longer period as they may allow in any particular case, review such a determination on any ground.
- (3) The Board's powers on a review under this section shall include power—
- (a) to vary or revoke any determination or order previously made;
 - (b) to substitute a different determination or order; and
 - (c) generally to deal with the matters arising on the review as if they had arisen on the original determination.

168 References and appeals from the Board.

- (1) Any question of law arising in connection with—
- (a) any matter arising under this Act for determination by the Board;
 - (b) any other matter which under section 165(3) falls to be determined by them;
 - (c) any matter arising on an application to the Board for a review of a determination by them, or on a review by them entered upon without an application,
- may, if the Board think fit, be referred for decision to the Court of Appeal.
- (2) If the Board determine in accordance with subsection (1) to refer any question of law to the Court, they shall give notice in writing of their intention to do so—
- (a) in a case where the question arises on an application made to the Board, to the applicant; and
 - (b) in any case to such persons as appear to them to be concerned with the question.
- (3) Any person who is aggrieved—
- (a) by a determination of the Board given on a review under section 167, or
 - (b) by the refusal of the Board to review a determination,
- where the determination involves a question of law and that question is not referred by the Board to the Court of Appeal under subsection (1), may on that question appeal from the determination to the Court.
- (4) The Board shall be entitled to appear and be heard on any reference or appeal under this section.
- (5) Notwithstanding anything in any enactment, the decision of the court on a reference or appeal under this section shall be final.
- (6) On any such reference or appeal the court may order the Board to pay the costs of any other person, whether or not the decision is in that other person's favour and whether or not the Board appear on the reference or appeal.

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