
STATUTORY INSTRUMENTS

1987 No. 214

The Social Security Commissioners Procedure Regulations 1987

PART II

MAKING APPLICATIONS, APPEALS AND REFERENCES

Application to a Commissioner for leave to appeal

3.—(1) Subject to paragraph (2) of this Regulation, an application may be made to a Commissioner for leave to appeal against a decision of an appeal tribunal or a medical appeal tribunal only where the applicant has been refused leave to appeal by the chairman of an appeal tribunal or, as the case may be, of a medical appeal tribunal.

(2) Where there has been a failure to apply to the chairman for such leave within the specified time, an application for leave to appeal may be made to a Commissioner who may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.

(3) An application for leave to appeal under paragraph (1) above must be made within 42 days from the date on which notice in writing of the refusal of leave to appeal was given to the applicant.

(4) An application to a Commissioner for leave to appeal against a determination by the Attendance Allowance Board of any question of law arising

- (i) on a review by the Board in pursuance of section 106(1) of the Act; or
- (ii) in connection with a refusal by the Board to review a determination made in pursuance of section 105(3) of the Act,

must be made within 3 months from the date on which notice in writing of the determination was given to the applicant.

(5) A Commissioner may accept and proceed to consider and determine an application for leave to appeal under paragraphs (1) and (4) above notwithstanding that the period specified for making the application has expired, if for special reasons he thinks fit.

Notice of application to a Commissioner for leave to appeal

4.—(1) Subject to the following provisions of this Regulation, an application to a Commissioner for leave to appeal shall be brought by a notice to a Commissioner containing:

- (a) the name and address of the applicant;
- (b) the grounds on which the applicant intends to rely;
- (c) an address for service of notices and other documents on the applicant;

and the notice shall have annexed to it [^{F1}a copy of the full statement of the tribunal's decision against which leave to appeal is being sought].

(2) Where the applicant has been refused leave to appeal by the chairman of an appeal tribunal or of a medical appeal tribunal^{F2}... the notice shall also have annexed to it a copy of the decision refusing leave and shall state the date on which the applicant was given notice in writing of the refusal of leave.

Status: Point in time view as at 01/01/2014.

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(3) Where the applicant has failed:

- (i) to apply within the specified time to the chairman of an appeal tribunal or of a medical appeal tribunal for leave to appeal; or
- (ii) to comply with Regulation 3(3) above; or
- (iii) to apply within the period specified in Regulation 3(4) to a Commissioner for leave to appeal against a determination by the Attendance Allowance Board

the notice of application for leave to appeal shall, in addition to complying with paragraphs (1) and (2) above, state the grounds relied upon for seeking acceptance of the application notwithstanding that the relevant period has expired.

(4) Where an application for leave to appeal is made by an adjudication officer or by the Secretary of State the applicant shall, as soon as may be practicable, send each respondent a copy of the notice of application for leave to appeal.

Textual Amendments

- F1** Words in reg. 4(1) substituted (28.4.97) by S.I. 1997/955, reg. 1, 8(2)
- F2** Words in reg. 4(2) omitted (28.4.97) by S.I. 1997/955, reg. 1, 8(3)

Determination of application

5.—(1) The office of the Social Security Commissioners shall notify the applicant and each respondent in writing of the determination by a Commissioner of the application.

(2) Subject to a direction by a Commissioner to the contrary, where a Commissioner grants leave to appeal on an application made in accordance with Regulation 4 above, notice of appeal shall be deemed to have been duly given on the date when notice of the determination is given to the applicant and the notice of application shall be deemed to be a notice of appeal duly served under Regulation 7 below.

(3) If on consideration of an application for leave to appeal to him from the decision of an adjudicating authority the Commissioner grants leave he may, with the consent of the applicant and each respondent, treat the application as an appeal and determine any question arising on the application as though it were a question arising on an appeal.

Notice of appeal

6. Subject to Regulation 5(2) above, an appeal shall be brought by a notice to a Commissioner containing:

- (a) the name and address of the appellant;
- (b) the date on which leave to appeal was granted;
- (c) the grounds on which the appellant intends to rely;
- (d) an address for service of notices and other documents on the appellant;

and the notice shall have annexed to it a copy of the determination granting leave to appeal and a copy of the [^{F3}full statement of the tribunal's decision] against which leave to appeal has been granted.

Textual Amendments

- F3** Words in reg. 6 substituted (28.4.97) by S.I. 1997/955, reg. 1, 9

Time limit for appealing

7.—(1) Subject to paragraph (2) below, a notice of appeal shall not be valid unless it is served on a Commissioner within 42 days of the date on which the applicant was given notice in writing that leave to appeal had been granted.

(2) A Commissioner may accept a notice of appeal served after the expiry of the period prescribed by paragraph (1) above if for special reasons he thinks fit.

References

8.—(1) Where a forfeiture rule question arises in a case before an adjudicating authority and that authority is not satisfied that the case can be disposed of without that question being determined, the adjudicating authority shall—

(a) if not the Secretary of State, require the Secretary of State to arrange for the case to be referred to a Commissioner to determine the forfeiture rule question; and

(b) if the Secretary of State, refer the case to a Commissioner to determine that question, and shall inform the person in relation to whom the forfeiture rule question arises that his case is being referred to a Commissioner to determine that question.

(2) Any reference to a Commissioner under the Forfeiture Act 1982^{M1} or from a medical appeal tribunal shall be made in writing and shall include:

(a) a statement of the question for determination by the Commissioner and the facts upon which it arises;

(b) the grounds upon which the reference is made;

(c) the address for service of notices and other documents on the person making the reference and on any respondent.

Marginal Citations

M1 1982 c. 34.

Acknowledgement of a notice of appeal or a reference and notification to each respondent

9. There shall be sent by the office of the Social Security Commissioners:

(a) to the appellant or person making the reference an acknowledgement of the receipt of the notice of appeal or the reference; and

(b) to each respondent a copy of the notice of appeal or of the reference.

Status:

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