
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 293

**The Social Security (Adjudication)
Regulations (Northern Ireland) 1995**

PART III

ADJUDICATING AUTHORITIES

SECTION A —

THE DEPARTMENT

Construction of Section A

12. In this Section “a person interested” means, except in relation to statutory sick pay or statutory maternity pay, a person whose interest in the application or decision relates to that person’s own liability under the Acts or his actual or potential rights under them and in relation to statutory sick pay or statutory maternity pay means an employer or employee (including a person who is alleged or claims to be the employer or employee of another person)—

- (a) in relation to whose rights, duties or obligations under Parts XI and XII of the Contributions and Benefits Act or under regulations under those Parts, a question has arisen that is for determination by the Department under section 15(1)(g) or (h) of the Administration Act; or
- (b) whose rights, duties or obligations are called into question by way of review of a determination under section 17 of the Administration Act,

and references to a person appearing to be interested shall be construed accordingly.

Application for decision of the Department on principal questions

13.—(1) A person desiring to obtain the decision of the Department on any of the questions mentioned in section 15(1) of the Administration Act (including those to which that section applies by virtue of section 16.5(1) of the Pension Schemes (Northern Ireland) Act 1993(1)) shall deliver or send to the Department an application for the purpose in writing in a form approved by it.

(2) The Department shall take steps to bring any such application to the notice of any person appearing to it to be interested in the application and to obtain from such person such particulars within such time and in such form as it considers reasonably necessary for the proper determination of the question.

(3) An application for a decision of the Department shall not be made otherwise than by a person interested or, in the case of an application relating to statutory sick pay or statutory maternity pay, by an inspector appointed under section 104 of the Administration Act.

(4) Nothing in paragraph (1) or (3) shall affect any right or obligation under the Acts or regulations made under the Acts to refer any question to the Department.

Procedures for inquiries

14. Any person appointed by the Department under section 15(4) of the Administration Act to hold an inquiry into any question or any matters arising in connection therewith and to report to it thereon may—

- (a) by summons require persons to attend any such inquiry to give evidence or to produce documents reasonably required for the purpose of the inquiry;
- (b) require any person so summoned, or who otherwise attends to give evidence, to be examined on oath; and
- (c) for that purpose administer oaths.

The Department's decision and statement of grounds

15.—(1) The Department shall give notice in writing of its decision under section 15 of the Administration Act and of the right to request a statement of the grounds of the decision to the applicant and to any persons appearing to it to be interested therein and may publish its decision in such manner as it thinks fit.

(2) The applicant and any other person appearing to the Department to be interested shall, on request, be furnished with such a statement of the grounds of the Department's decision under section 15 of the Administration Act as will enable him to determine whether any question of law (not being a question which has been referred to the Court of Appeal in accordance with section 16(1) of that Act) has arisen upon which he may appeal to the Court of Appeal under section 16(3) of that Act.

Review or reference

16.—(1) The provisions of regulation 13(3) and (4) (application for decision of the Department on principal questions) shall apply to any application for a review under section 17(1) of the Administration Act of a decision under section 15(1) of that Act as they apply to an application under regulation 13(1).

(2) The provisions of regulations 13(2), 14 (procedure for inquiries) and 15 (the Department's decision and statement of grounds) shall apply with the necessary modifications to any case in which—

- (a) a question has been raised with a view to the review under section 17(1) of the Administration Act of any decision of the Department given in accordance with this Section; or
- (b) a question such as is mentioned in regulation 13(1) is referred to the Department under section 35(1) or 111(2) of the Administration Act.

Questions for determination by the Department

17.—(1) It shall be for the Department to determine—

- (a) a question whether—
 - (i) an increase of disablement pension under section 104 of the Contributions and Benefits Act, or
 - (ii) a further increase under section 105 of that Act,is to be granted or renewed and, if so, for what period and of what amount;

- (b) a question how the limitations under Part VI of Schedule 7 to the Contributions and Benefits Act on the benefit payable in respect of any death are to be applied in the circumstances of any case;
 - (c) a question arising under regulations made under section 5(1)(i) of the Administration Act.
- (2) The Department may review any determination given by it on any question referred to in paragraph (1) where—
- (a) new facts have been brought to its notice; or
 - (b) it is satisfied that the determination—
 - (i) was given in ignorance of some material fact,
 - (ii) was based on a mistake as to some material fact, or
 - (iii) was erroneous in point of law.
- (3) A decision of the Department on a question under section 70(7) of the Contributions and Benefits Act or on any question which by virtue of regulations falls to be determined by the Department in its discretion may be given so as to have effect with respect to a period before the date of the decision; and it may at any time and from time to time reconsider the exercise of its discretion with respect to such a question and decide it again with such other effects as may seem to it to be proper in the circumstances of the case.

*SECTION B —
ADJUDICATION OFFICERS*

Notification of decisions

18.—(1) Subject to paragraph (2) and regulation 55 (notification of decisions in income support cases), the decision of an adjudication officer on any claim or question and the reasons for it shall be notified in writing to the claimant who shall at the same time be informed—

- (a) in the case of a decision of an adjudication officer—
 - (i) under section 19 of the Administration Act relating to attendance allowance, disability living allowance or disability working allowance, or
 - (ii) on a review under section 28(2) or (4) or section 33 of that Act, of his right to a review under section 28(1) of that Act;
- (b) in the case of a decision of an adjudication officer under section 28(1) of that Act, of his right of appeal—
 - (i) to a disability appeal tribunal where the appeal relates to the determination of a disability question, and
 - (ii) to an appeal tribunal in any other case; and
- (c) in all other cases, of his right of appeal to an appeal tribunal under section 20 of that Act.

(2) Paragraph (1) does not apply in relation to a decision (other than a decision given on review) awarding benefit for a period which begins immediately after a period in respect of which the claimant had been awarded benefit of the same kind and at the same rate as that awarded by the first-mentioned decision.

Procedure on claim or question involving questions for determination by the Department

19.—(1) Where an adjudication officer has decided any claim or question on an assumption of facts as to which there appeared to him to be no dispute, but concerning which, had a question arisen, that question would have fallen for determination by the Department, it shall be deemed to be a

sufficient compliance with the requirements of regulation 18 as to notification to the claimant, to give him notice in writing informing him of the decision and of the reasons for it and that, if he is dissatisfied with the decision, he should reply to that effect, giving the reasons for his dissatisfaction.

(2) Where—

- (a) the claimant replies to the notice referred to in paragraph (1) expressing his dissatisfaction with the decision;
- (b) after any appropriate investigations and explanations have been made, the claimant nonetheless remains dissatisfied with the decision; and
- (c) an adjudication officer certifies that the sole ground for dissatisfaction appears to be the assumption referred to in paragraph (1)

the claimant shall be notified in writing of his right to apply for the determination by the Department of the question arising on the assumption.

(3) Where the Department's decision—

- (a) upholds the assumption, section 20(3) of the Administration Act shall apply as if the adjudication officer had given the certificate therein referred to;
- (b) does not uphold the assumption, the Department's decision may be treated by the adjudication officer as an application for the review of the adjudication officer's decision, and, for the purposes of regulation 59 (review of decisions involving payment or increase of benefit other than industrial injuries benefit, income support, family credit or disability working allowance), the date of the claimant's application for the Department's decision shall be treated as the date of the application for review.

Reference by an employee of questions relating to statutory sick pay or statutory maternity pay for determination by an adjudication officer

20.—(1) A question in relation to statutory sick pay or statutory maternity pay to which sections 18(3), 19(4), 20(1) and (2) and 21(2) of the Administration Act apply may be submitted to an adjudication officer by the employee concerned in accordance with paragraphs (2) and (3) and not otherwise.

(2) A reference of any such question by an employee shall be made by way of an application in writing in a form approved for the purpose by the Department or in such other manner, being in writing, as it may accept as sufficient in the circumstances.

(3) Such an application made by an employee shall—

- (a) be delivered or sent to an office of the Department within six months of the earliest day in respect of which liability for statutory sick pay or statutory maternity pay is in dispute; and
- (b) state the grounds (if any) on which the applicant's employer has denied liability for statutory sick pay or statutory maternity pay in respect of the period specified in the application.

Reference of a special question in child benefit cases

21.—(1) In this regulation—

“child benefit” means child benefit under Part IX of the Contributions and Benefits Act;

“question” means any question as to the right to child benefit other than a special question; and

“special question” means any question relating to child benefit which, under the provisions of Schedule 10 to the Contributions and Benefits Act or regulations made under the Acts, falls to be determined by the Department in its discretion; any question whether an establishment is a recognised educational establishment as defined in section 143(1) of the Contributions and

Benefits Act or any question which by virtue of the provisions of regulation 5 of the Child Benefit (Residence and Persons Abroad) Regulations (Northern Ireland) 1976(2) falls to be determined by the Department under the provisions of the Administration Act as if it were a question arising under that Act.

(2) Paragraphs (3) and (4) apply where on consideration of any claim or question an adjudication officer is of the opinion that there arises a special question.

(3) Subject to paragraph (4), the adjudication officer shall—

- (a) refer the question so arising for determination by the Department; and
- (b) deal with any other question as if the question so referred had not arisen.

(4) The adjudication officer may—

- (a) postpone the reference of, or dealing with, any question until other questions have been determined; and
- (b) in cases where the determination of any question disposes of a claim, or any part of it, determine that question and dispose of the claim or that part of it, without referring or dealing with any other question.

*SECTION C —
APPEAL TRIBUNALS*

Oral hearing of appeals and references

22.—(1) An appeal tribunal shall, except where section 27(a) of the Administration Act applies, hold an oral hearing of any appeal or reference made to it.

(2) Any case may with the consent of the claimant or his representative, but not otherwise, be proceeded with in the absence of any one member other than the chairman.

(3) Where an oral hearing is adjourned and at the hearing after the adjournment the tribunal is differently constituted, otherwise than through the operation on that occasion of paragraph (2), the proceedings at that hearing shall be by way of a complete rehearing of the case.

(4) Regulation 21 (reference of a special question in child benefit cases) applies to an appeal tribunal as it applies to an adjudication officer, except that a tribunal shall, instead of referring a question in accordance with paragraph (3)(a) of that regulation, direct it to be so referred by an adjudication officer.

Decisions of appeal tribunals

23.—(1) The decision of the majority of the appeal tribunal shall be the decision of the tribunal but, where the tribunal consists of an even number, the chairman shall have a second or casting vote.

(2) The chairman of an appeal tribunal shall—

- (a) record the decision of the tribunal in writing (whether on an appeal or on a reference from an adjudication officer);
- (b) include in such record a statement of the reasons for the decision, including findings on all questions of fact material to the decision; and
- (c) if the decision is not unanimous, record a statement that one of the members dissented and the reasons given by him for dissenting.

(2) [S.R. 1976 No. 227](#); relevant amending regulations are [S.R. 1976 No. 329](#)

(3) As soon as may be practicable after a case has been decided by an appeal tribunal, a copy of the record of the decision made in accordance with this regulation shall be sent to every party to the proceedings who shall also be informed of the conditions governing appeals to a Commissioner.

Application for leave to appeal to a Commissioner from an appeal tribunal

24.—(1) Subject to paragraphs (2) to (4), an application to the chairman of an appeal tribunal for leave to appeal to a Commissioner from a decision of an appeal tribunal shall be made—

- (a) orally at the hearing after the decision is announced by the tribunal; or
- (b) in accordance with regulation 3 and Schedule 2.

(2) Where an application in writing for leave to appeal is made by an adjudication officer the clerk to the tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) The decision of the chairman on an application for leave to appeal made under paragraph (1) (a) shall be recorded in the record of the proceedings of the tribunal, and on an application under paragraph 1 (b) shall be recorded in writing and a copy shall be sent to every party to the proceedings.

(4) Where in any case it is impracticable, or it would be likely to cause undue delay for an application for leave to appeal against a decision of an appeal tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 39(4) of the Administration Act to act as a chairman of appeal tribunals.

SECTION D —

DISABILITY ADJUDICATION

Prescribed period

25.—(1) Subject to paragraph (2), the prescribed period for the purposes of section 28(1), (2) and (4) of the Administration Act shall be three months beginning with the date on which notice in writing of the decision of an adjudication officer under section 19 of that Act was given to the claimant.

(2) Where a claimant submits an application for review under section 28(1) of the Administration Act by post which would have arrived in an office of the Department in the ordinary course of the post within the period prescribed by paragraph (1) but is delayed by postal disruption caused by industrial action whether within the postal service or elsewhere, that period shall expire on the day the application is received in the office of the Department where that day does not fall within the period prescribed by paragraph (1).

Manner of making applications for review under section 28 of the Administration Act

26. An application for a review of a decision of an adjudication officer under section 28(1), (2) and (4) of the Administration Act shall be made to an office of the Department.

Appeal to a disability appeal tribunal

27.—(1) The claimant may appeal to a disability appeal tribunal from a decision of an adjudication officer under section 28(1) of the Administration Act in any case in which there arises—

- (a) a disability question; or
- (b) both a disability question and any other question relating to attendance allowance, disability living allowance or disability working allowance.

- (2) In this regulation “disability question” means a question as to—
- (a) whether the claimant satisfies the conditions for entitlement to—
 - (i) the care component of a disability living allowance specified in section 72(1) and (2) of the Contributions and Benefits Act,
 - (ii) the mobility component of a disability living allowance specified in section 73(1), (8) and (9) of that Act,
 - (iii) an attendance allowance specified in sections 64 and 65(1) of that Act, or
 - (iv) a disability working allowance specified in section 128(1)(b) of that Act⁽³⁾;
 - (b) the period throughout which the claimant is likely to satisfy the conditions for entitlement to attendance allowance or disability living allowance;
 - (c) the rate at which attendance allowance is payable; or
 - (d) the rate at which the care component or the mobility component of a disability living allowance is payable.

Persons who may appeal to disability appeal tribunals and appeal tribunals

28. A person purporting to act on behalf of a person who is terminally ill as defined in section 66(2) of the Contributions and Benefits Act, whether or not that person is acting with his knowledge or authority, may appeal to a disability appeal tribunal or an appeal tribunal, as appropriate, in accordance with section 31(1) of the Administration Act in any case where the ground of appeal is that that person is or was at any time terminally ill.

Procedure for disability appeal tribunals

29.—(1) A disability appeal tribunal, except where section 30(7)(a) of the Administration Act applies, shall hold an oral hearing of any appeal made to it.

(2) Where any member of a disability appeal tribunal is not present at the consideration of a case the tribunal shall not proceed to determine that case but shall adjourn it for consideration by another tribunal.

(3) Where an oral hearing is adjourned and at the hearing after the adjournment the tribunal is differently constituted, otherwise than through the operation on that occasion of paragraph (2), the proceedings at that hearing shall be by way of a complete rehearing of the case.

(4) Where a disability appeal tribunal is unable to reach a unanimous decision on any case the decision of the majority of its members shall be the decision of the tribunal.

- (5) The chairman of a disability appeal tribunal shall in each case—
- (a) record the decision of the tribunal in writing;
 - (b) include in such record a statement of the reasons for the decision, including findings on all questions of fact material to the decision;
 - (c) if the decision is not unanimous, record a statement that one of the members dissented and the reasons given by him for dissenting.

(6) As soon as may be practicable after a case has been decided by a disability appeal tribunal, a copy of the record of the decision made in accordance with this regulation shall be sent to every party to the proceedings who shall also be informed of the conditions governing appeals to a Commissioner.

(3) Section 128(1) was amended by Article 12(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12))

Examination and report by a medical practitioner

30. A person who may be nominated as chairman of a disability appeal tribunal may refer a claimant to a medical practitioner for examination and report if he is satisfied that without such examination and report an appeal by the claimant cannot be properly determined.

Persons who may not act as members of disability appeal tribunals

31.—(1) A person shall not act as a member of a disability appeal tribunal in any case where he—

- (a) is or may be directly affected by that case; or
- (b) has taken any part in such case as an assessor, a medical practitioner who has regularly attended the claimant or to whom any question has been referred for report or advice, or as a witness.

(2) Where a disability appeal tribunal is unable to determine a question by reason of the provisions of paragraph (1) the case shall be referred to another such tribunal.

Application for leave to appeal to a Commissioner from a disability appeal tribunal

32.—(1) Subject to paragraphs (2) to (4), an application to the chairman of a disability appeal tribunal for leave to appeal to a Commissioner from a decision of a disability appeal tribunal shall be made—

- (a) orally at the hearing after the decision is announced by the tribunal; or
- (b) in accordance with regulation 3 and Schedule 2.

(2) Where an application in writing for leave to appeal is made by an adjudication officer, the clerk to the tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) The decision of the chairman on an application for leave to appeal shall be recorded in writing and notice of it shall be given to every party to the proceedings.

(4) Where in any case it is impracticable, or it would be likely to cause undue delay, for an application for leave to appeal against a decision of a disability appeal tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 41(5) of the Administration Act to act as a chairman of disability appeal tribunals.

Procedure of a disability appeal tribunal on receipt of a Commissioner's decision

33.—(1) Subject to paragraph (2), the provisions of these Regulations apply for the disposal by a disability appeal tribunal of a case remitted to it following an appeal to a Commissioner as if it were an original hearing of an appeal to the disability appeal tribunal.

(2) Where the case is remitted to the disability appeal tribunal following an appeal to a Commissioner in which it was decided that the decision of the disability appeal tribunal was erroneous in point of law, the proceedings shall, subject to any direction of the Commissioner, be by way of a complete rehearing of the appeal by persons who were not members of the tribunal which gave the erroneous decision.

*SECTION E —
MEDICAL ADJUDICATION*

Construction of Section E

34. In this Section—

“adjudicating medical authority” means, as the case may be, an adjudicating medical practitioner or a medical board;

“medical board” means two or more adjudicating medical practitioners nominated by the Department to act jointly in the consideration of a case.

Appointment of adjudicating medical practitioners

35. Adjudicating medical practitioners shall be appointed by the Department to act for such area or areas as may be specified in the instrument of appointment.

Determination of medical questions

(a) (i) Section 45(1) of the Administration Act shall have effect as if for the words “an adjudicating medical practitioner” in the second place where they occur there were substituted “a medical board”,

(ii) section 45(2) of the Administration Act shall have effect as if for “such a practitioner if he” there were substituted “a medical board if it”;

(b) any case which, in the opinion of the Department, should be determined by more than one adjudicating medical practitioner, shall be referred to and determined by a medical board.

(2) Any question which falls to be determined by an adjudicating medical authority other than those within paragraph (1) shall be referred to and determined by an adjudicating medical practitioner.

(3) Where a case has been referred to an adjudicating medical practitioner for determination the Department may, at any time before the determination is made, revoke that reference and refer the case to a medical board.

(4) Where a case has been referred to a medical board consisting of two members and they are unable to agree, the reference to that board shall be revoked and the case shall be referred to a board consisting of three members and if they are not unanimous the decision of the majority shall be the decision of the board.

(5) The Department shall appoint one of the members of any medical board to act as chairman.

(6) A medical board shall not determine any question unless all the members thereof are present at the consideration of that question, and if any member of the board is absent the reference to that board shall be revoked and the case shall be referred to another such board.

(7) Reasonable notice (being not less than 10 days beginning with the day on which the notice is given and ending on the day before the sitting is to take place) of the time and place at which an adjudicating medical authority will sit for the consideration of any case shall be given to the claimant and if such notice is not given or if, after such notice has been given, the claimant fails to appear at the sitting of the authority, the authority may proceed to determine the questions referred to it only with the claimant’s consent.

(8) For the purposes of these Regulations a sitting of an adjudicating medical authority is not an oral hearing, and the only persons entitled to be present and be heard during the consideration of any question by such an authority are the claimant and any other person whom the authority may,

with the consent of the claimant, allow to be present as being a person who, in its opinion, is likely to assist it in the determination of that question.

Decisions of adjudicating medical authorities

37.—(1) An adjudicating medical authority shall in each case record its decision in writing in such form as may from time to time be approved by the Department and shall include in such record (which shall be signed by all members of the authority)—

- (a) a statement of its findings on all questions of fact material to the decision; and
- (b) in a case in which the decision of a medical board consisting of three members was not unanimous, a statement that one of the members dissented and the reasons given by him for dissenting.

(2) As soon as may be practicable, the claimant shall be sent written notice of the decision of the adjudicating medical authority, and such notice shall be in such form as may from time to time be approved by the Department and shall contain a summary of the findings of the authority, including, if the decision is not unanimous, a statement that one of the members dissented and the reasons given by him for dissenting.

(3) A person to whom written notice of the decision of an adjudicating medical authority is sent in accordance with paragraph (2) shall be informed in writing of the conditions governing an appeal to a medical appeal tribunal.

Medical appeal tribunals

38.—(1) A medical appeal tribunal shall hold an oral hearing of any appeal or reference made to it.

(2) Where any member of a medical appeal tribunal is not present at the consideration of a case, the tribunal shall not proceed to determine that case but shall adjourn it for consideration by another tribunal.

(3) Where a medical appeal tribunal is unable to reach a unanimous decision on any case, the decision of the majority of its members shall be the decision of the tribunal.

(4) A medical appeal tribunal shall in each case record its decision in writing and shall include in such record, which shall be signed by all members of the tribunal, a statement of the reasons for the decision, including findings on all questions of fact material to the decision.

(5) As soon as may be practicable after a case has been decided by a medical appeal tribunal, a copy of the record of the decision made in accordance with this regulation shall be sent to every party to the proceedings who shall also be informed of the conditions governing appeals to a Commissioner.

Application for leave to appeal to a Commissioner from a medical appeal tribunal

39.—(1) Subject to paragraphs (2) to (4), an application to the chairman of a medical appeal tribunal for leave to appeal to a Commissioner from a decision of a medical appeal tribunal shall be made in accordance with regulation 3 and Schedule 2.

(2) Where an application in writing for leave to appeal is made by the Department or an adjudication officer, the clerk to the tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) The decision of the chairman on an application for leave to appeal shall be recorded in writing and notice of it shall be given to every party to the proceedings.

(4) Where in any case it is impracticable, or it would be likely to cause undue delay, for an application for leave to appeal against a decision of a medical appeal tribunal to be determined by

the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 48(4) of the Administration Act to act as a chairman of medical appeal tribunals.

Disqualification from acting as an adjudicating medical authority or as a member thereof or as a member of a medical appeal tribunal

40.—(1) Subject to paragraphs (2) and (3), a person shall not act as an adjudicating medical authority or as a member thereof or as a member of a medical appeal tribunal in any case where he—

- (a) is or may be directly affected by that case;
- (b) has taken any part in such a case as a medical assessor, or as a medical practitioner who has regularly attended the claimant or to whom any question has been referred for report, or as an employer or as a witness; or
- (c) in the case only of a medical appeal tribunal, has acted as an adjudicating medical authority, or as a member thereof, to whom the case was referred.

(2) A medical practitioner to whom a question has been referred under regulation 45(1) (reference of diagnosis and recrudescence questions for medical report) shall not be precluded from acting as an adjudicating medical practitioner solely by reason of his having prepared, under that regulation, a report on the case of the claimant (whether in relation to the question for determination or otherwise) if he proposes to determine the question in favour of the claimant.

(3) A medical practitioner shall not be precluded from acting as a member of a medical board for the purpose of the consideration of a case solely because he has taken part in that case as a medical practitioner to whom a question relating to any of the diseases numbered B6, C15, C17, C18 C22(b), D1, D2, D3, D7, D8, D9, D10, D11 or D12 in Part I of Schedule 1 to the Prescribed Diseases Regulations(4); has been referred for report.

(4) Where an adjudicating medical authority or a medical appeal tribunal is unable to determine a question by reason of the provisions of paragraph (1), the reference to that authority or tribunal shall be revoked and the case shall be referred to another such authority or tribunal.

Application for review involving review of a decision of a medical appeal tribunal

41. Where, in the opinion of an adjudication officer, an application made under the provisions of section 45(4) of the Administration Act raises a question as to the review of a decision of a medical appeal tribunal and, by virtue of section 45(7) of that Act, such a decision may not be reviewed without the leave of a medical appeal tribunal, the adjudication officer shall submit the application to a medical appeal tribunal so that the tribunal may consider whether such leave shall be granted and shall not refer the question to an adjudicating medical authority with a view to the review of that decision unless the medical appeal tribunal grant such leave.

Procedure of a medical appeal tribunal on receipt of a Commissioner's decision

42.—(1) Subject to paragraphs (2) and (3), the provisions of these Regulations apply for the disposal by a medical appeal tribunal of a case remitted to it following an appeal to a Commissioner as if it were an original hearing of an appeal to the medical appeal tribunal.

(2) Where, on appeal from a medical appeal tribunal to him, the Commissioner has decided that the decision of the medical appeal tribunal is not erroneous in point of law, the medical appeal tribunal need not hold a hearing for the purpose of confirming its decision.

(3) Where the case is remitted to the medical appeal tribunal following an appeal to a Commissioner in which it was decided that the decision of the medical appeal tribunal was erroneous

(4) Relevant amending regulations are [S.R. 1986 No. 270](#), [S.R. 1987 No. 116](#), [S.R. 1991 No. 414](#) and [S.R. 1993 Nos. 148 and 350](#)

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

in point of law, the proceedings shall, subject to any direction of the Commissioner, be by way of a complete rehearing of the appeal by persons who were not members of the tribunal which gave the erroneous decision.