
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 472

**The Social Security (1998 Order) (Commencement
No. 11 and Consequential and Transitional
Provisions) Order (Northern Ireland) 1999**

Transitional Provisions and Revocations

Transitional provisions in relation to recovery of benefits

20.—(1) Notwithstanding regulation 59 of the Decisions and Appeals Regulations, regulation 2 of the Appeals Regulations shall continue to apply until 29th December 2000 in relation to any certificate of recoverable benefits in respect of which a right of appeal arose before 29th November 1999 subject to the modifications specified in paragraph (2).

(2) Regulation 2 of the Appeals Regulations shall have effect as if—

- (a) for “chairman” in each place where it occurs there were substituted “legally qualified panel member”;
- (b) in paragraph (2) “of a medical appeal tribunal” were omitted;
- (c) for paragraph (7) there were substituted the following paragraph—

“(7) Notwithstanding paragraph (2), no appeal may be brought after 29th December 2000.”;
- (d) in paragraph (18) the words from “, notwithstanding that a condition” to the end were omitted; and
- (e) after paragraph (18) there were added the following paragraph—

“(19) In this regulation “legally qualified panel member” has the same meaning as in regulation 1(2) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999.”.

(3) Any appeal made (but not determined) before 29th November 1999 against a certificate of recoverable benefits shall be referred to, and determined by, an appeal tribunal under Article 14 of the Recovery of Benefits Order.

(4) Where a direction (“the direction”) was given under regulation 4(1) of the Appeals Regulations an appeal tribunal shall hold an oral hearing of an appeal where—

- (a) a notification that a party to the proceedings wishes an oral hearing is received by the clerk to a medical appeal tribunal before 29th November 1999 or by the clerk to an appeal tribunal (notwithstanding that it was sent to the clerk to a medical appeal tribunal) after that date within—
 - (i) 10 days of receipt of the direction by that party, or
 - (ii) such other period as the clerk to, or the chairman of, the medical appeal tribunal may have directed or, as the case may be, the clerk to an appeal tribunal may direct, 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,

notwithstanding regulation 39 and Chapter III of Part V of the Decisions and Appeals Regulations.

(5) An appeal tribunal shall determine an appeal without an oral hearing where paragraph (4) does not apply.

(6) An appeal tribunal shall completely rehear any appeal to a medical appeal tribunal in relation to a certificate of recoverable benefits which stands adjourned immediately before 29th November 1999.

(7) A copy of a statement of—

- (a) the reasons for a decision of a medical appeal tribunal in relation to a certificate of recoverable benefits; and
- (b) its findings of fact material thereto,

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

(8) Notwithstanding regulation 59 of the Decisions and Appeals Regulations, and subject to paragraph (10), regulation 11 of the Appeals Regulations, and regulations 2(16) and (17) and 12 of those Regulations in so far as they relate to that regulation, shall continue to apply in relation to any application to set aside a decision of a medical appeal tribunal in relation to a certificate of recoverable benefits, subject to the modifications specified in paragraph (9).

(9) The Appeals Regulations shall have effect as if in—

- (a) regulation 2(16) for “chairman” there were substituted “legally qualified panel member”;
- (b) regulation 11(1) for “the tribunal which gave the decision or by another medical appeal tribunal” there were substituted “a legally qualified panel member”;
- (c) regulation 11(2)—
 - (i) for “tribunal shall” in both places where it occurs there were substituted “legally qualified panel member shall”, and
 - (ii) for “it is satisfied” there were substituted “he is satisfied”;
- (d) regulation 11(3)(b) after “the office of the clerk to the tribunal which made the relevant decision” there were inserted “or to the clerk to an appeal tribunal”; and
- (e) regulation 11(4)—
 - (i) for “the chairman of the tribunal” there were substituted “a legally qualified panel member”, and
 - (ii) for “chairman” there were substituted “legally qualified panel member”.

(10) Paragraph (8) shall not apply in any case where an application to set aside a decision of a medical appeal tribunal is made after 29th December 2000.

(11) Subject to paragraph (12), any decision of a medical appeal tribunal under Article 14 of the Recovery of Benefits Order shall be treated as a decision of an appeal tribunal under that Article.

(12) Where paragraph (11) applies, any application for leave to appeal which is made for the purposes of Article 15(10)(a) of the Order shall be—

- (a) made no later than three months after the date on which a copy of the statement of the reasons for the decision of the medical appeal tribunal was given or sent to the applicant; and
- (b) determined by a legally qualified panel member.

(13) In this Article—

“the Appeals Regulations” means the Social Security (Recovery of Benefits) (Appeals) Regulations (Northern Ireland) 1997(1);

“the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(2);

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

Transitional provisions in relation to relevant benefits

21.—(1) Any decision which fell to be made, but was not made, before 29th November 1999—

(a) on a claim for; or

(b) under or by virtue of Part II of the Administration Act in relation to,

a relevant benefit (other than a decision which fell to be made on appeal) shall be made by the Department under Article 9(1)(a) or, as the case may be, (c) of the Order.

(2) Any application made under Part II of the Administration Act for a review of a decision in relation to a relevant benefit which was not decided before 29th November 1999 shall be treated as an application to the Department—

(a) where the application is not in respect of a decision made on appeal and is made—

(i) within three months of the date of notification of the decision or such longer period as may be allowed under paragraph (4), and

(ii) other than on the grounds of a relevant change of circumstances, for a revision of that decision under Article 10 of the Order; or

(b) in any other case, for a decision under Article 11 of the Order superseding that decision.

(3) Subject to paragraphs (4) and (5), the period of three months specified in paragraph (2)(a) may be extended where the application is made before 29th December 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 a result of those special circumstances, it was not practicable for the application for review to be made within three months 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

(1) S.R. 1997 No. 430

(2) S.R. 1999 No. 162

- (b) that a Commissioner (including a Commissioner within the meaning of section 39(1) of the Social Security Act 1998(3)) 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 same decision could have been made on a review before 29th November 1999,
- that decision shall take effect from the date on which it would have taken effect had the decision been so made.
- (7) Any decision (other than a decision of a social security appeal tribunal or a Commissioner) made before 29th November 1999—
- (a) on a claim for; or
 - (b) under or by virtue of Part II of the Administration Act in relation to,
- a relevant benefit, shall be treated as a decision of the Department under Article 9(1)(a) or, as the case may be, (c) of the Order.
- (8) Where notice of a decision referred to in paragraph (7) was not given or sent to the claimant before 29th November 1999, the Department shall give or send notice of that decision to the claimant.
- (9) Where, in relation to a relevant benefit—
- (a) a decision was made before 29th November 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(4) 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 tribunal, a chairman or to a person considering the application were references to a legally qualified panel member; and
 - (b) in paragraph (3E)(5) for the words from “six years” to the end there were substituted “29th December 2000”.
- (11) Notwithstanding regulation 3 of the Decisions and Appeals Regulations, a decision made before 29th November 1999 on a claim for, or award of, a relevant benefit (other than a decision made on appeal) may be revised by the Department under Article 10 of the Order—
- (a) pursuant to an application for a review of that decision made within three months of the date of notification of the decision; or
 - (b) where an appeal has been made against that decision but not determined.
- (12) Where a decision is revised pursuant to paragraph (11), the appeal shall lapse unless the revised decision is not more advantageous to the appellant than the decision before it was revised.
- (13) Any appeal to a social security appeal tribunal in relation to a relevant benefit which was not determined before 29th November 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.
- (14) Paragraphs (15) to (17) shall apply where—

(3) 1998 c. 14

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

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

- (a) the clerk to the tribunal gave a direction under regulation 22(1) of the Adjudication Regulations(6); and
- (b) notification referred to in paragraph (1A) of regulation 22 of those Regulations was not received by him before 29th November 1999.

(15) A notification in response to a direction given under regulation 22(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.

(16) An appeal may be struck out by the clerk to the appeal tribunal where a notification referred to in paragraph (15) is not received within the period specified in that paragraph.

(17) An appeal which has been struck out in accordance with paragraph (16) shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Decisions and Appeals Regulations.

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

- (a) a notification is received by the clerk to the appeal tribunal under paragraph (15); 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.

(19) Where an appeal to a social security appeal tribunal in relation to a relevant benefit 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)(7) 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.

(20) An appeal tribunal shall completely rehear any appeal to a social security appeal tribunal in relation to a relevant benefit which stands adjourned immediately before 29th November 1999.

(21) A copy of a statement of—

- (a) the reasons for a decision of a social security appeal tribunal in relation to a relevant benefit; and
- (b) its findings of fact material thereto,

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

(22) Subject to paragraph (23), any decision of a social security appeal tribunal in relation to a relevant benefit shall be treated as a decision of an appeal tribunal.

(23) Where paragraph (22) applies, any application for leave to appeal which is made for the purposes of Article 15(10)(a) of the Order shall be—

- (a) made no later than three months from the date on which a copy of the statement of the reasons for the decision of the social security appeal tribunal was given or sent to the applicant; and
- (b) determined by a legally qualified panel member.

(24) Notwithstanding regulation 59 of the Decisions and Appeals Regulations, and subject to paragraph (26), 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

(6) Paragraphs (1) and (1A) of regulation 22 were substituted by regulation 3(10) of S.R. 1996 No. 457

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

aside a decision of a social security appeal tribunal in relation to a relevant benefit, subject to the modifications specified in paragraph (25).

(25) The Adjudication Regulations shall have effect as if in regulation 3 reference to a chairman and in regulation 10(1) the first reference to the adjudicating authority which gave the decision and to an authority of like status were references to a legally qualified panel member.

(26) Paragraph (24) shall not apply in any case where an application to set aside a decision of a social security appeal tribunal is made after 29th December 2000.

(27) Where, before 29th November 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.

(28) For the purpose of Article 11(1)(b) of the Order, a decision of a Commissioner in relation to a relevant benefit made before 29th November 1999 shall be treated as a decision of a Commissioner made under Article 15 of that Order.

(29) In this Article—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations (Northern Ireland) 1995(8);

“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 income support, child’s special allowance under section 56 of the Contributions and Benefits Act or, as the case may be, a social fund payment mentioned in section 134(1)(a) or (2) of that Act.

Transitional provisions in relation to the social fund

22.—(1) An application to—

(a) the social fund shall be determined by an appropriate officer; and

(b) a social fund officer for a review shall be treated as an application for a review by an appropriate officer.

(2) Any determination of a social fund officer shall be treated as a determination of an appropriate officer.

(3) In this Article “appropriate officer” has the same meaning as in Article 36(1) of the Order.

Revocations

23. The Regulations specified in column (1) of Schedule 2 are revoked to the extent mentioned in column (3) of that Schedule.