
STATUTORY INSTRUMENTS

1998 No. 1506

The Social Security (Northern Ireland) Order 1998

PART II

DECISIONS AND APPEALS

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Procedure, etc.

Procedure

16.—(1) Regulations (“procedure regulations”) may make any such provision as is specified in Schedule 4.

(2) Procedure regulations prescribing the procedure to be followed in cases before a Commissioner shall provide that any hearing shall be in public except in so far as the Commissioner for special reasons otherwise directs.

(3) It is hereby declared—

- (a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
- (b) that the power to provide for the procedure to be followed in connection with the making of decisions by the Department includes power to make provision with respect to the formulation of the matters to be decided, whether on a reference under section 111 of the Administration Act or otherwise.

(4) Paragraph (5) applies to any issue—

- (a) as to whether a Class 1A contribution is payable, or otherwise relating to a Class 1A contribution; or
- (b) relating to emoluments in respect of which a Class 1A contribution would be payable but for section 10(8A) of the Contributions and Benefits Act,

and in that paragraph, in relation to such an issue, “the relevant person” means the person who is liable or alleged to be liable, or (as the case may be) who would be liable or who it is alleged would be liable, to pay the Class 1A contribution in question.

(5) In proceedings for the determination of an issue to which this paragraph applies, there shall be available to a witness (other than the relevant person) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings.

(6) If it appears to a Commissioner that a matter before him involves a question of fact of special difficulty, he may direct that in dealing with that matter he shall have the assistance of one or more experts.

In this paragraph “expert” means a person appearing to the Commissioner to have knowledge or experience which would be relevant in determining the question of fact of special difficulty.

(7) If it appears to the Chief Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that—

- (a) an application for leave under Article 15(10)(b); or
- (b) an appeal,

falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the application or appeal be dealt with, not by that Commissioner alone, but by a tribunal consisting of any two or more of the Commissioners.

If the decision of such a tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal; and the presiding Commissioner shall have a casting vote if the votes are equally divided.

(8) Where a direction is given under paragraph (7)(a), Article 15(10)(b) shall have effect as if the reference to a Commissioner were a reference to such a tribunal as is mentioned in paragraph (7).

(9) Except so far as it may be applied by procedure regulations, Part I of the Arbitration Act 1996 shall not apply to any proceedings under this Chapter.

Finality of decisions

17.—(1) Subject to the provisions of this Chapter, any decision made in accordance with the foregoing provisions of this Chapter shall be final; and subject to the provisions of any regulations under Article 12, any decision made in accordance with those regulations shall be final.

(2) If and to the extent that regulations so provide, any finding of fact or other determination embodied in or necessary to such a decision, or on which such a decision is based, shall be conclusive for the purposes of—

- (a) further such decisions;
- (b) decisions made under the Child Support Order; and
- (c) decisions made under the Vaccine Damage Payments Act.

Matters arising as respects decisions

18.—(1) Regulations may make provision as respects matters arising—

- (a) pending any decision under this Chapter of the Department, an appeal tribunal or a Commissioner which relates to—
 - (i) any claim for a relevant benefit;
 - (ii) any person’s entitlement to such a benefit or its receipt;
 - (iii) statutory sick pay or statutory maternity pay; or
 - (iv) any person’s liability for contributions; or
- (b) out of the revision under Article 10 or on appeal of any such decision.

(2) Regulations under paragraph (1) as it applies to child benefit may include provision as to the date from which child benefit is to be payable to a person in respect of a child in a case where, before the benefit was awarded to that person, child benefit in respect of the child was awarded to another person.