
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 310

The Social Security (1998 Order) (Commencement No. 7 and Savings, Consequential and Transitional Provisions) Order (Northern Ireland) 1999

Consequential Amendments

Amendment of the Social Security (Guardian's Allowances) Regulations

5. In regulation 1(2) of the Social Security (Guardian's Allowances) Regulations (Northern Ireland) 1975(1) (interpretation) for the definition of "determining authority" there shall be substituted the following definition—

““determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998 or a Commissioner to whom an appeal lies under Article 15 of that Order;”.

Amendment of the Social Security (Claims and Payments) Regulations

6.—(1) The Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(2) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation) the definition of "determining authority"(3) shall be omitted.

(3) In regulation 26 (obligations of claimants for, and beneficiaries in receipt of, disablement benefit)—

(a) in paragraph (1)—

(i) in sub-paragraph (a) for "medical authority (as defined in paragraph (4))" there shall be substituted "medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999", and

(ii) in sub-paragraph (b) the words from "or by any" to the end shall be omitted;

(b) in paragraph (2) for the words from "to examination" to the end there shall be substituted "to examination before the expiry of the period of 6 days beginning with the date of the notice or such shorter period as may be reasonable in the circumstances"; and

(c) paragraph (4)(4) shall be omitted.

(1) S.R. 1975 No. 98; relevant amending regulations are S.R. 1984 No. 174

(2) S.R. 1977 No. 351; relevant amending regulations are S.R. 1984 No. 174

(3) The definition of "determining authority" was substituted by regulation 11(a) of S.R. 1984 No. 174

(4) Paragraph (4) was substituted by regulation 11(b) of S.R. 1984 No. 174

Amendment of the Child Benefit (General) Regulations

7.—(1) The Child Benefit (General) Regulations (Northern Ireland) 1979⁽⁵⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(2) (interpretation) after the definition of “the Order” there shall be inserted the following definition—

““the 1998 Order” means the Social Security (Northern Ireland) Order 1998;”.

(3) In regulation 16A(6) (exception to Article 8(3) of the Order)—

(a) in paragraph (1)(b)(i) and (ii) for “on review” there shall be substituted “under Article 10 or 11 of the 1998 Order”; and

(b) for paragraph (2) there shall be substituted the following paragraph—

“(2) In this regulation “determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the 1998 Order or a Commissioner to whom an appeal lies under Article 15 of that Order.”.

(4) In regulation 16B(g)(7) (prescribed conditions relating to persons subject to immigration control) for the words from “reviewed under” to the end there shall be substituted “revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order”.

Amendment of the Workmen’s Compensation (Supplementation) Regulations

8.—(1) The Workmen’s Compensation (Supplementation) Regulations (Northern Ireland) 1983⁽⁸⁾ shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Act of 1966” there shall be inserted the following definition—

““the Order” means the Social Security (Northern Ireland) Order 1998;”;

(b) for the definition of “the appropriate determining authority” there shall be substituted the following definition—

““the appropriate determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Order or a Commissioner to whom an appeal lies under Article 15 of that Order;”;

(c) for the definition of “claimant” there shall be substituted the following definition—

““claimant” means a person claiming an allowance and includes, in relation to the revision or supersession of a decision, a beneficiary under the award or affected by the decision;”;

(d) after the definition of “corresponding disablement pension rate” there shall be inserted the following definition—

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

(e) after the definition of “the Department” there shall be inserted the following definition—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Decisions and Appeals Regulations;”;

(5) S.R. 1979 No. 5; relevant amending regulations are S.R. 1988 No. 273 and S.R. 1996 Nos. 422 and 469

(6) Regulation 16A was inserted by regulation 7 of S.R. 1988 No. 273

(7) Regulation 16B was inserted by regulation 2 of S.R. 1996 No. 422 and paragraph (g) was added by regulation 2(b) of S.R. 1996 No. 469

(8) S.R. 1983 No. 101; relevant amending regulations are S.R. 1990 No. 445. See also Article 3 of the Social Security Adjudications (Northern Ireland) Order 1983 (S.I. 1983/1524 (N.I. 17))

- (f) the definition of “the adjudication officer” shall be omitted.
- (3) In regulation 6(5) (amount of workmen’s compensation) for “review” there shall be substituted “revision under Article 10 of the Order or supersession under Article 11 of the Order”.
- (4) For regulation 12 (determination of questions arising under the regulations) there shall be substituted the following regulation—

“Determination of claims and applications for revision and supersession arising under the regulations

12. Any issue relating to any allowance under these regulations shall be determined as if it had arisen under Part V of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽⁹⁾ and except where these regulations otherwise provide, the provisions of the Order and of the Social Security (General Benefit) Regulations (Northern Ireland) 1984⁽¹⁰⁾, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽¹¹⁾, the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988⁽¹²⁾, the Decisions and Appeals Regulations and the Social Security Commissioners (Procedure) Regulations (Northern Ireland) 1999⁽¹³⁾ which are specified in Schedule 2, shall, with the necessary modifications, apply for the purposes of these regulations.”.

- (5) For regulation 22 (review of decisions) there shall be substituted the following regulation—

“Revision or supersession of decisions

22.—(1) The Department may at any time revise or supersede any decision made under provisions of the Workmen’s Compensation (Supplementation) Regulations (Northern Ireland) 1966⁽¹⁴⁾ in force immediately before 17th October 1977, where—

- (a) the decision was erroneous in point of law, or was made in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the decision was made.

(2) A decision may be revised or superseded by the Department on its own initiative or on an application in writing to the Department for the purpose.

(3) Where it appears to the Department that an issue has arisen whether the decision as to an award of an allowance to which this regulation relates ought to be revised or superseded in accordance with the provisions of paragraph (1), the Department may direct that payment of the allowance shall be suspended in whole or in part until that issue has been determined.

(4) Repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this regulation in any case where the Department is satisfied that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has not misrepresented nor failed to disclose a material fact.

(5) For the purposes of this regulation a decision made under any scheme made under the Act of 1951 shall be treated as if it had been made under the Workmen’s Compensation (Supplementation) Regulations (Northern Ireland) 1966 as they were immediately before the Workmen’s Compensation (Supplementation) (Amendment) Regulations (Northern Ireland) 1977⁽¹⁵⁾ came into operation.

(9) 1992 c. 7

(10) S.R. 1984 No. 92

(11) S.R. 1987 No. 465

(12) S.R. 1988 No. 142

(13) S.R. 1999 No. 225

(14) S.R. & O. (N.I.) 1966 No. 105

(15) S.R. 1977 No. 273

(6) On a revision or supersession of a decision made under any scheme made under the Act of 1951 in force before 23rd May 1966 a decision made by the Department may determine any issue referred to it arising under any such scheme.”.

(6) In regulation 27 (review)—

- (a) for “a question” there shall be substituted “an issue”;
- (b) for “reviewed by the adjudication officer” there shall be substituted “considered by the Department and it may decide the issue afresh”; and
- (c) for “the question” there shall be substituted “the issue”.

(7) For Schedule 2 (provisions of the Social Security Act or regulations applicable (with the necessary modifications) to these regulations) there shall be substituted the Schedule set out in Schedule 2 to this Order.

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations

9.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986⁽¹⁶⁾ shall be amended in accordance with paragraphs (2) to (16).

(2) In regulation 1(2) (interpretation)—

- (a) after the definition of “the Contributions and Benefits Act”⁽¹⁷⁾ there shall be inserted the following definition—

““the Order” means the Social Security (Northern Ireland) Order 1998;”;

- (b) the definition of “adjudicating medical authority”⁽¹⁸⁾ shall be omitted;
- (c) after the definition of “the Claims and Payments Regulations” there shall be inserted the following definition—

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

- (d) for the definition of “determining authority” there shall be substituted the following definition—

““determining authority” means, as the case may require, the Department, an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Order or a Commissioner to whom an appeal lies under Article 15 of the Order;”;

- (e) after the definition of “medical board” there shall be inserted the following definition—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Decisions and Appeals Regulations;”.

(3) In regulation 6(1)(a) (date of onset) “subject to the provisions of section 117(4), as modified by paragraph 1 of Schedule 3 to the Adjudication Regulations,” shall be omitted.

(4) In regulation 8(3) (workmen’s compensation cases)—

- (a) for “question”, in both places where it occurs, there shall be substituted “issue”;
- (b) for “reviewed” there shall be substituted “revised under Article 10 of the Order or superseded under Article 11 of the Order”; and
- (c) for “review” there shall be substituted “revision or supersession”.

(5) In regulation 13A(1)⁽¹⁹⁾ (aggregation of percentages of disablement) for “adjudication officer” there shall be substituted “Department”.

⁽¹⁶⁾ S.R. 1986 No. 179; relevant amending regulations are S.R. 1986 No. 340, S.R. 1989 No. 319 and S.R. 1993 No. 168

⁽¹⁷⁾ The definition of “the Contributions and Benefits Act” was inserted by regulation 2(2) of S.R. 1997 No. 158

⁽¹⁸⁾ The definition of “adjudicating medical authority” was inserted by regulation 2(2) of S.R. 1993 No. 168

⁽¹⁹⁾ Regulation 13A was inserted by regulation 3(2) of S.R. 1986 No. 340

(6) In regulation 18(1B)(a)(20) (special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma) for “on a re-assessment or review of the extent of disablement” there shall be substituted “on a re-assessment of the extent of disablement or in consequence of an application for a revision under Article 10 of the Order or a supersession under Article 11 of the Order”.

(7) In regulation 20(2)(21) (pneumoconiosis – effects of emphysema and chronic bronchitis)—

(a) for “question” there shall be substituted “issue”;

(b) in sub-paragraph (a) for the words from “that question” to the end there shall be substituted “that issue shall be determined by the Department”; and

(c) in sub-paragraph (b)—

(i) for “question” there shall be substituted “issue”, and

(ii) for “the adjudicating medical authority or medical appeal tribunal, as the case may be” there shall be substituted “the Department or, as the case may be, an appeal tribunal”.

(8) In regulation 21(22) (reduced earnings allowance – special provision for pneumoconiosis cases) for “an adjudicating medical authority” there shall be substituted “the Department”.

(9) For regulation 22 (special requirement for pneumoconiosis claimants in unscheduled occupation cases) there shall be substituted the following regulation—

“22.—(1) A claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(b)(ii) shall be referred by the Department to a medical practitioner for a report, unless the Department is satisfied on reasonable grounds that the claimant is not suffering or has not suffered from pneumoconiosis, in which case it may decide the claim without such a report.

(2) The provisions of paragraph (1) shall apply to an appeal tribunal and a Commissioner as they apply to the Department.”.

(10) In regulation 23(2)(d)(ii) (time for claiming benefit in respect of occupational deafness) after “tribunal” there shall be inserted “or, as the case may be, the Department or an appeal tribunal”.

(11) In regulation 25(23) (further claims in respect of occupational deafness)—

(a) in paragraph (1)(b) and (c) for “an adjudicating medical authority” there shall be substituted “the Department, an appeal tribunal”; and

(b) for paragraph (2) there shall be substituted the following paragraph—

“(2) A claim to be paid benefit by virtue of paragraph (1)(c) may be disallowed by the determining authority without reference to a medical practitioner where the determining authority is satisfied by medical evidence that the claimant is not suffering from occupational deafness.”.

(12) For regulation 28 (review of assessment for unforeseen aggravation in respect of occupational deafness) there shall be substituted the following regulation—

“Supersession of a decision in respect of occupational deafness

28.—(1) The provisions of regulation 6 of the Decisions and Appeals Regulations shall not apply to—

(20) Paragraph (1B) was inserted by regulation 3(3) of S.R. 1986 No. 340

(21) Paragraph (2) was amended by regulation 2(3) of S.R. 1993 No. 168

(22) Regulation 21 was amended by regulation 6(3) of S.R. 1986 No. 340 and regulation 2(4) of S.R. 1993 No. 168

(23) Regulation 25 was amended by regulation 2(5) of S.R. 1993 No. 168

- (a) a decision of the Department in respect of occupational deafness until after the expiry of 5 years from the commencement of the period taken into account by that decision; or
 - (b) an assessment of the extent of disablement in respect of occupational deafness which is less than 20 per cent.”.
- (13) For regulation 29(24) there shall be substituted the following regulation—

“Requirement for leave of appeal tribunal

29. Subject to the provisions of regulation 28 and notwithstanding the provisions of regulation 6 of the Decisions and Appeals Regulations, a decision of a medical board or a medical appeal tribunal or, as the case may be, the Department or an appeal tribunal that a person is entitled to a life assessment in respect of occupational deafness shall not be revised under Article 10 of the Order or superseded under Article 11 of the Order without leave of an appeal tribunal; but in the case of a provisional assessment in respect of occupational deafness no such leave shall be required.”.

(14) In regulation 30 (no appeal against initial provisional assessment of disablement in respect of occupational deafness) the words from the beginning to “section 109(3),” shall be omitted.

(15) In regulation 32(7) (assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness)—

- (a) in sub-paragraphs (a) and (b) for “reviewed or varied” there shall be substituted “revised under Article 10 of the Order or superseded under Article 11 of the Order”; and
- (b) in sub-paragraph (b)(ii) for “review or variation” there shall be substituted “revision or supersession”.

(16) In regulation 33 (commencement date of period of assessment in respect of occupational deafness) “the provisions of section 108 and” shall be omitted.