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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 221**

The Universal Credit, Personal Independence  
Payment, Jobseeker's Allowance and Employment  
and Support Allowance (Decisions and  
Appeals) Regulations (Northern Ireland) 2016

PART 5

Suspension

**Suspension in prescribed cases**

**43.**—(1) The Department may suspend, in whole or in part, payment of any benefit to a person (“P”) in the circumstances described in paragraph (2).

(2) The circumstances are where—

(a) it appears to the Department that—

(i) an issue arises whether the conditions for entitlement to the benefit are or were fulfilled,

(ii) an issue arises whether a decision relating to an award of the benefit should be revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order,

(iii) an issue arises whether any amount of benefit paid to P is recoverable under or by virtue of section 69ZB, 69ZG or 69ZH of the Administration Act<sup>(1)</sup>,

(iv) the last address of P notified to the Department is not the address at which P resides;

(b) an appeal is pending in P's case against a decision of an appeal tribunal, a Commissioner or a court; or

(c) an appeal is pending against a decision given by a Commissioner or a court in a different case and it appears to the Department that, if the appeal were to be decided in a particular way, an issue would arise as to whether the award of any benefit to P (whether the same benefit or not) ought to be revised or superseded.

(3) For the purposes of Article 21(2)(c) of the 1998 Order (suspension in prescribed circumstances), where an appeal against the decision has not been brought or an application for leave to appeal against the decision has not been made but the time for doing so has not yet expired, an appeal is pending in the circumstances described in paragraph (4).

(4) The circumstances are where a decision of an appeal tribunal, a Commissioner or a court has been made and the Department—

(a) is awaiting receipt of that decision;

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<sup>(1)</sup> Sections 69ZB, 69ZG and 69ZH are inserted by Article 109(1) of the Welfare Reform (Northern Ireland) 2015.

- (b) in the case of a decision of an appeal tribunal, is considering whether to apply for a statement of reasons for the decision or has applied for such a statement and is awaiting receipt; or
  - (c) has received that decision or, if it is a decision of an appeal tribunal has received the statement of reasons for it, and is considering whether to apply for leave to appeal, or where leave to appeal has been granted, is considering whether to appeal.
- (5) Where payment of any benefit is suspended as the result of paragraph (2)(b) or (c), the Department must, as soon as reasonably practicable, give written notice to P of any proposal to—
- (a) request a statement of the reasons for a tribunal’s decision;
  - (b) apply for leave to appeal; or
  - (c) make an appeal.

### **Provision of information or evidence**

**44.**—(1) This regulation applies where the Department requires information or evidence from a person mentioned in paragraph (2) (“P”) in order to determine whether a decision awarding a benefit should be revised under Article 10 of the 1998 Order or superseded under Article 11 of that Order.

- (2) The persons are—
- (a) a person in respect of whom payment of any benefit has been suspended in the circumstances set out in regulation 43(2)(a) (suspension in prescribed cases);
  - (b) a person who has made an application for a decision of the Department to be revised or superseded;
  - (c) a person from whom the Department requires information or evidence under regulation 37(2) of the Claims and Payments Regulations (evidence and information in connection with an award);
  - (d) a person from whom the Department requires documents, certificates or other evidence under regulation 31(3) of the Jobseeker’s Allowance Regulations (provision of information and evidence);
  - (e) a person whose entitlement to an employment and support allowance or universal credit is conditional on that person having, or being treated as having, limited capability for work.
- (3) The Department must notify P of the requirements of this regulation.
- (4) P must either—
- (a) supply the information or evidence within—
    - (i) a period of 14 days beginning with the date on which the notification under paragraph (3) was given or sent to P or such longer period as the Department allows in that notification, or
    - (ii) such longer period as P satisfies the Department is necessary in order to comply with the requirements; or
  - (b) satisfy the Department within the period applicable under sub-paragraph (a)(i) that either—
    - (i) the information or evidence does not exist, or
    - (ii) it is not possible for P to obtain it.
- (5) In relation to a person to whom paragraph (2)(d) refers, paragraph (4)(a)(i) has effect as if for “14 days” there were substituted “7 days”.
- (6) The Department may suspend the payment of a benefit, in whole or in part, to any person to whom paragraph (2)(b), (c), (d) or (e) applies who fails to satisfy the requirements of paragraph (4).

(7) In this regulation “evidence” includes evidence which a person is required to provide in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(2) (evidence of incapacity for work, limited capability for work and confinement).

### **Making of payments which have been suspended**

**45.** The Department must pay a benefit which has been suspended where—

- (a) in a case where regulation 43(2)(a) (suspension in prescribed cases) applies, it is satisfied that the benefit is properly payable and that there are no outstanding issues to be resolved;
- (b) in a case to which regulation 44(6) (provision of information or evidence) applies, it is satisfied that the benefit is properly payable and that the requirements of regulation 44(4) have been satisfied;
- (c) in a case to which regulation 43(2)(b) applies, it—
  - (i) does not, in the case of a decision of an appeal tribunal, apply for a statement of the reasons for that decision within the period specified under regulation 53(4) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(3),
  - (ii) does not, in the case of a decision of an appeal tribunal, a Commissioner or a court, make an application for leave to appeal or (where leave to appeal is granted) make the appeal within the time prescribed for the making of such application or appeal,
  - (iii) withdraws an application for leave to appeal or withdraws the appeal, or
  - (iv) is refused leave to appeal, in circumstances where it is not open to the Department to renew the application for leave or to make a further application for leave to appeal;
- (d) in a case to which regulation 43(2)(c) applies, the Department, in relation to the decision of a Commissioner or a court in a different case—
  - (i) does not make an application for leave to appeal or (where leave to appeal is granted) make the appeal within the time prescribed for the making of such application or appeal,
  - (ii) withdraws an application for leave to appeal or withdraws the appeal,
  - (iii) is refused leave to appeal, in circumstances where it is not open to the Department to renew the application for leave or to make a further application for leave to appeal.

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(2) [S.R. 1976 No. 175](#); regulation 2 was amended by regulation 2(3) of [S.R. 1987 No. 117](#), regulation 2(3) of [S.R. 1994 No. 468](#), regulation 3(3) of [S.R. 2000 No. 4](#), regulation 2(2) of [S.R. 2001 No. 308](#), regulation 8(3) of [S.R. 2008 No. 286](#) and regulation 2(2) of [S.R. 2010 No. 55](#).

(3) [S.R. 1999 No. 162](#); regulation 53(4) was amended by regulation 6(15)(b) of [S.R. 2000 No. 215](#), regulation 2(15) of [S.R. 2002 No. 189](#) and regulation 7(10)(b) of [S.R. 2005 No. 46](#).