
STATUTORY RULES OF NORTHERN IRELAND

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 7

Appeals

Other persons with a right of appeal

48. In addition to the claimant, but subject to regulation 7 (consideration of revision before appeal), the following persons have the right of appeal under Article 13(2) of the 1998 Order⁽¹⁾—

- (a) any person appointed by the Department under regulation 51 of the Claims and Payments Regulations (payments on death) to proceed with the claim of a person who claimed benefit and subsequently died;
- (b) any person appointed by the Department under regulation 52 of those Regulations (persons unable to act) to act on behalf of another;
- (c) any person claiming personal independence payment on behalf of another under Article 87(5) of the 2015 Order (terminal illness); and
- (d) in the case of a decision under section 69ZB, 69ZG or 69ZH of the Administration Act to recover any amount paid by way of benefit, any person from whom such an amount is recoverable, but only if that person's rights, duties or obligations are affected by that decision.

Decisions which may or may not be appealed

49.—(1) An appeal lies against a decision set out in Schedule 2 (decisions against which an appeal lies).

(2) No appeal lies against a decision set out in Schedule 3 (decisions against which no appeal lies).

(3) In paragraph (2) and Schedule 3 “decision” includes a determination embodied in or necessary to a decision.

Notice of a decision against which an appeal lies

50.—(1) This regulation applies in the case of a person (“P”) who has a right of appeal under the 1998 Order or these Regulations.

(1) Article 13(2) was substituted by paragraph 19(2) of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 and amended by Article 107(2) of the Welfare Reform (Northern Ireland) Order 2015.

(2) The Department must—

- (a) give P written notice of the decision and of the right to appeal against that decision; and
- (b) inform P that, where that notice does not include a statement of the reasons for the decision, P may, within one month of the date of notification of that decision, request that the Department provide a written statement of the reasons for that decision.

(3) If the Department is requested under paragraph (2)(b) to provide a written statement of reasons, it must provide such a statement within 14 days of the request or as soon as practicable afterwards.

Appeals against decisions which have been revised

51.—(1) An appeal against a decision of the Department does not lapse where—

- (a) the decision is revised under Article 10 of the 1998 Order before the appeal is decided; and
- (b) the decision of the Department as revised is not more advantageous to the appellant than the decision before it was revised.

(2) In a case to which paragraph (1) applies, the appeal must be treated as though it had been brought against the decision as revised.

(3) The Department must inform the appellant that the appellant may, within one month of the date of notification of the decision as revised, make further representations as to the appeal.

(4) After the end of that period, or within that period if the appellant consents in writing, the appeal to the appeal tribunal must proceed, except where—

- (a) the Department further revises the decision in light of further representations from the appellant; and
- (b) that decision is more advantageous to the appellant than the decision before it was revised.

(5) Decisions which are more advantageous for the purpose of this regulation include those where—

- (a) the amount of any benefit payable to the appellant is greater, or any benefit is awarded for a longer period, as a result of the decision;
- (b) the decision would have resulted in the amount of benefit in payment being greater but for the operation of any provision of the Administration Act or the Contributions and Benefits Act restricting or suspending the payment of, or disqualifying a claimant from receiving, some or all of the benefit;
- (c) as a result of the decision, a denial or disqualification for the receipt of any benefit is lifted, wholly or in part;
- (d) the decision reverses a decision to pay benefit to a third party instead of to the appellant;
- (e) in consequence of the decision, benefit paid is not recoverable under section 69ZB, 69ZG or 69ZH of the Administration Act or regulations made under any of those sections, or the amount so recoverable is reduced; or
- (f) a financial gain accrued or will accrue to the appellant in consequence of the decision.

Decisions involving issues that arise on appeal in other cases

52.—(1) For the purposes of Article 25(3)(b) of the 1998 Order (decisions involving issues that arise on appeal in other cases)—

- (a) a prescribed case is a case in which the claimant would be entitled to the benefit to which the decision relates, even if the other appeal referred to in Article 25(1)(b) of the 1998 Order were decided in a way which is the most unfavourable to the claimant; and

- (b) the prescribed basis on which the Department may make the decision is as if—
 - (i) the other appeal referred to in Article 25(1)(b) of the 1998 Order had already been decided, and
 - (ii) that appeal had been decided in a way which is the most unfavourable to the claimant.
- (2) For the purposes of Article 25(5)(c) of the 1998 Order the prescribed circumstances are that the Department—
 - (a) certifies in writing that it is considering appealing against that decision; and
 - (b) considers that, if such an appeal were to be decided in a particular way—
 - (i) there would be no entitlement to benefit in that case, or
 - (ii) the appeal would affect the decision in that case in some other way.

Appeals involving issues that arise in other cases

- 53.** For the purposes of Article 26(6)(c) of the 1998 Order (appeals involving issues that arise on appeal in other cases) the prescribed circumstances are that the Department—
- (a) certifies in writing that it is considering appealing against that decision; and
 - (b) considers that, if such an appeal were already decided, it would affect the determination of the appeal referred to in Article 26(1)(a) of the 1998 Order.