
STATUTORY INSTRUMENTS

1998 No. 1506

The Social Security (Northern Ireland) Order 1998

PART II

DECISIONS AND APPEALS

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Social fund payments

Reviews of determinations

38^{F1}.—^{F2}[^{F3}(1) An appropriate officer—

- (a) shall review a social fund determination, if an application for a review is made, within such time and in such form and manner as may be prescribed, by or on behalf of the person who applied for the payment to which the determination relates;
- (b) may review such a determination on the ground that the person who applied for the payment to which the determination relates misrepresented, or failed to disclose, any material fact; and
- (c) may review such a determination in such other circumstances as he thinks fit.

(2) The power to review a social fund determination conferred by paragraph (1) includes power to review a determination made on a previous review.

(3) A social fund determination which has been reviewed under paragraph (1) shall be further reviewed by a social fund inspector if an application is made, within such time and in such form and manner as may be prescribed, by or on behalf of the person who applied for the payment to which the determination relates.

(4) On a review under paragraph (3) a social fund inspector shall have the following powers—

- (a) power to confirm the determination made by the appropriate officer;
- (b) power to make any determination which an appropriate officer could have made;
- (c) power to refer the matter to such an officer for determination.

(5) A social fund inspector may review a determination under paragraph (3) made by himself or some other social fund inspector.

(6) In making a determination on a review an appropriate officer or a social fund inspector need not consider—

- (a) in the case of a determination on a review under paragraph (1)(a), any issue that is not raised by the application;
- (b) in the case of a determination on a review under paragraph (1)(b), any issue that is not raised by the material fact;

Changes to legislation: *The Social Security (Northern Ireland) Order 1998, Section 38 is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (c) in the case of a determination on a review under paragraph (1)(c), any issue that did not cause him to carry out the review.
- (7) In making a determination on a review under paragraph (1)(a) or (c) an appropriate officer or a social fund inspector shall—
 - (a) subject to sub-paragraphs (b) and (c), have regard to whichever of the following are applicable, namely—
 - (i) all the circumstances of the case and, in particular, the criteria specified in paragraphs (a) to (e) of subsection (1) of section 136 of the Contributions and Benefits Act; ^{F4}and]
 - (ii) the criteria mentioned in paragraphs (a) and (b) of subsection (1A) of that section; ^{F5} . . .
 - (iii) ^{F5}
 - (b) act in accordance with any general directions issued by the Department under subsection (2) of that section, and any general directions issued by it with regard to reviews; and
 - (c) take account of any general guidance issued by the Department under that subsection or with regard to reviews.
- (8) In making a determination on a review under paragraph (1)(b) an appropriate officer or a social fund inspector shall—
 - (a) act in accordance with any general directions issued by the Department; and
 - (b) take account of any general guidance issued by the Department.
- (9) Any reference in paragraph (6), (7) or (8) to a determination on a review under a particular provision of paragraph (1) shall be construed, in relation to a social fund inspector, as a reference to a determination on a further review of a determination which has been reviewed under that provision.
- (10) Directions under this Article may specify—
 - (a) the circumstances in which a social fund determination is to be reviewed; and
 - (b) the manner in which a review is to be conducted.
- (11) In making a determination on a review under paragraph (1)(a) or (c) an appropriate officer shall take account (subject to any directions or guidance issued by the Department under this Article) of any guidance issued by the appropriate officer nominated for his area under Article 36(2).
- (12) A social fund inspector reviewing a social fund determination which has been reviewed under paragraph (1)(a) or (c) shall be under the same duties in relation to such guidance as the appropriate officer or social fund inspector who made the determination.
- (13) In this Article “social fund determination” means a determination made under the Contributions and Benefits Act by an appropriate officer.]

F1	mod. by SR 1999/349, 350
F2	prosp. in pt. certain functions transf. by 2002 c. 21
F3	Art. 38 repealed (28.11.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006) , art. 2(2), Sch. 12 Pt. 7 ; S.R. 2016/411, art. 2(3)(c) (with art. 4)
F4	Word in art. 38(7)(a)(i) inserted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2) , ss. 56, 60(2)(c), Sch. 7 para. 4
F5	Art. 38(7)(a)(iii) and preceding word repealed (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2) , ss. 58, 60(2)(d)(iii), Sch. 8

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Changes and effects yet to be applied to :

- power to am. (prosp.) by [1998 c. 47 s.87](#)
- art. 38(1)(a) words inserted by [2010 c. 13 \(N.I.\) s. 16\(1\)\(a\)](#)
- art. 38(1)(b) words substituted by [2010 c. 13 \(N.I.\) s. 16\(1\)\(b\)](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1999 c. 10 s.1\(2\)Sch.1 paras.16\(r\)](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 7A and cross-heading inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 41\(3\)](#)
- Sch. 3 para. 3A inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 42](#)
- art. 38(1A) inserted by [2010 c. 13 \(N.I.\) s. 16\(2\)](#)