

1980 No. 329

SOCIAL SECURITY

**The Social Security Commissioners (Appeals to the Courts)
Regulations (Northern Ireland) 1980**

Made 30th September 1980

Coming into operation 24th November 1980

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 14(2), (3) and (6) of the Social Security Act 1980(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Commissioners (Appeals to the Courts) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1980;

“the Chief Commissioner” means the Chief Social Security Commissioner for Northern Ireland;

“the Department” means the Department of Health and Social Services for Northern Ireland;

and other expressions have the same meanings as in the Social Security (Northern Ireland) Act 1975(b).

(3) Any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

Selection of Commissioner

2.—(1) In a case where the Chief Commissioner considers that it is impracticable, or would be likely to cause undue delay, for an application for leave to appeal against a decision of a Commissioner to be determined by that Commissioner, that application shall be determined—

(a) where the decision was a decision of an individual Commissioner, by the Chief Commissioner or a Commissioner selected by the Chief Commissioner; and

(b) where the decision was a decision of a Tribunal of Commissioners, by a differently constituted Tribunal of Commissioners selected by the Chief Commissioner.

(2) If the Chief Commissioner is unable to act, paragraph (1) shall have effect as if the expression “the Chief Commissioner” referred to such other of the Commissioners as he may have nominated to act for the purpose.

(a) 1980 c. 30; as given effect in relation to Northern Ireland by section 21(6) of that Act

(b) 1975 c. 15

Persons unable to act

3.—(1) Where in the case of any person—

- (a) benefit is payable to him or he is alleged to be entitled to it, or a claim for benefit has been made by him or on his behalf;
- (b) he is a child or is unable for the time being to act; and
- (c) no committee has been appointed by the Office of Care and Protection with power to claim, or as the case may be, receive benefit on his behalf,

the Department may, upon written application made to it by a person who, if a natural person, is over the age of 18, appoint that person to apply, on behalf of the child or the person who is unable to act, for leave to appeal against a Commissioner's decision.

(2) Where the Department has made an appointment under paragraph (1)—

- (a) it may at any time in its absolute discretion revoke any such appointment;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Department of his intention to do so; and
- (c) any such appointment shall terminate when the Department is notified that a committee to which paragraph (1)(c) above applies has been appointed.

(3) In this regulation, "benefit" means benefit under the Family Income Supplements Act (Northern Ireland) 1971(c), the Social Security (Northern Ireland) Acts 1975 to 1980, the Child Benefit (Northern Ireland) Order 1975(d), the Supplementary Benefits (Northern Ireland) Order 1977(e), the Family Income Supplements Act 1970(f), the Social Security Acts 1975 to 1980, Part I of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(g), the Child Benefit Act 1975(h) or the Supplementary Benefits Act 1976(i).

Time and manner of applications for leave to appeal

4.—(1) An application to a Commissioner for leave to appeal against a Commissioner's decision, by a person entitled to make such an application, shall be made in writing within 3 months beginning with the date on which the Commissioner has given to that person notice in writing of the decision (a notice sent by post being deemed to have been given on the day on which it was posted), or such further period as the Commissioner may for special reasons allow (notwithstanding that the period of 3 months has already expired); and every such application shall include a statement of the question of law in respect of which it is alleged that the Commissioner's decision is erroneous and on which it is desired to appeal.

(2) An application shall be delivered or sent to the Commissioners' office in Belfast.

Provisions for the hearing and determination of applications for leave to appeal

5.—(1) If the Commissioner to whom an application for leave to appeal has been made is satisfied that a hearing is desirable, he may direct that a hearing be held, and reasonable notice of the time and place of the hearing shall be given to every person who applied or was entitled to apply for leave to appeal.

(2) Every such hearing shall be in public except in so far as the Commissioner may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(c) 1971 c. 8 (N.I.)
 (d) S.I. 1975/1504 (N.I. 16)
 (e) S.I. 1977/2156 (N.I. 27)
 (f) 1970 c. 55

(g) 1975 c. 18
 (h) 1975 c. 61
 (i) 1976 c. 71

(3) Every person who applied or was entitled to apply for leave to appeal shall have the right to be present and to be heard at such a hearing and may be represented by counsel or solicitor or any other person.

(4) If any person to whom notice of hearing has been duly given in accordance with paragraph (1) should fail to appear either in person or by representative at the hearing, the Commissioner may proceed to determine the application notwithstanding the absence of that person, or may give such directions as he thinks proper with a view to the determination of the application.

(5) Subject to the provisions of these regulations, the procedure in connection with the consideration and determination of any application shall be such as a Commissioner may determine.

(6) The decision of a Commissioner on an application for leave to appeal shall be recorded in writing and signed by him, and a copy thereof shall be given as soon as may be practicable to every person who applied or was entitled to apply for leave to appeal.

Modification of the Act in relation to appeals from a medical appeal tribunal on a question of law

6.—(1) In relation to a decision of a medical appeal tribunal subsections (1) to (5) of section 14 of the Act shall have effect with the following modifications.

(2) For section 14(2)(a) there shall be substituted—

“(a) with the leave of the Chairman of the medical appeal tribunal which gave the decision or, in a case prescribed by regulations, with the leave of a Commissioner selected in accordance with regulations; or”.

(3) Section 14(3) shall have effect with the modification that an application for leave to appeal against the medical appeal tribunal's decision may only be made by—

- (a) the person in relation to whose claim the question of law arose before the medical appeal tribunal (in this paragraph referred to as “the claimant”);
- (b) a person appointed to apply on behalf of the claimant under regulation 3;
- (c) a trade union of which the claimant was a member at the material time;
- (d) any other association which exists to promote the interests and welfare of its members and of which the claimant was a member at the material time; or
- (e) the Department.

In sub-paragraphs (c) and (d), “the material time” means, where the question of law arose in relation to—

- (i) an accident, the time of that accident;
- (ii) a prescribed disease, the date of development (within the meaning of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1977(j)) of that disease; or
- (iii) a claim for mobility allowance, the date on which the case was referred to a medical appeal tribunal.

(4) Section 14(5) shall have effect with the modification that “the relevant place” means premises where the medical appeal tribunal usually exercises its functions.

(5) For the references to Commissioner in subsections (3) (where it last occurs) and (4) of section 14 there shall be substituted references to Chairman of a medical appeal tribunal.

Application for leave to appeal from a medical appeal tribunal on a question of law

7.—(1) Where an application for leave to appeal arises from a decision of a medical appeal tribunal, regulations 3, 4 and 5 shall have effect as substituted herein.

(2) Regulation 3 (persons unable to act), shall apply as if for the reference in paragraph (1) to Commissioner's decision there was substituted a reference to medical appeal tribunal's decision.

(3) For regulation 4 there shall be substituted the following regulation—

“Time and manner of applications for leave to appeal

4.—(1) An application to a Chairman of a medical appeal tribunal for leave to appeal against a medical appeal tribunal's decision, by a person entitled to make such an application, shall be made in writing within 3 months beginning with the date on which the medical appeal tribunal has given to that person notice in writing of the decision (a notice sent by post being deemed to have been given on the day on which it was posted), or such further period as the Chairman of a medical appeal tribunal may for special reasons allow (notwithstanding that the period of 3 months has already expired); and every such application shall include a statement of the question of law in respect of which it is alleged that the medical appeal tribunal's decision is erroneous and on which it is desired to appeal.

(2) An application shall be delivered or sent to the premises where the medical appeal tribunal usually exercises its functions.’’.

(4) In a case where leave to appeal falls to be determined by the Chairman of the medical appeal tribunal, regulation 5 (provisions for the hearing and determination of applications for leave to appeal), shall have effect as if for the references to Commissioner there were substituted references to Chairman of the medical appeal tribunal.

Selection of Commissioner to determine applications for leave to appeal from decisions of a medical appeal tribunal

8.—(1) In a case where the Chief Commissioner considers that it is impracticable, or would be likely to cause undue delay, for an application for leave to appeal against a decision of a medical appeal tribunal to be determined by the Chairman of that tribunal, that application shall be determined by the Chief Commissioner or a Commissioner selected by the Chief Commissioner.

(2) If the Chief Commissioner is unable to act, paragraph (1) shall have effect as if the expression “the Chief Commissioner” referred to such other of the Commissioners as he may have nominated to act for the purpose.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 30th September 1980.

(L.S.)

T.S. Martin

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations are concerned with applications for leave to appeal on a question of law from a decision of a Social Security Commissioner to the appropriate court, under section 14 of the Social Security Act 1980. They make provision for the selection of a Commissioner, other than the one against whose decision leave is sought to appeal, to determine the application for leave; for the procedure when the person who would otherwise have been entitled to apply for leave is a child or has become unable to act; for the time within which and the manner in which an application may be made; and for the hearing and determination of applications. Special provision is also made for cases where the question of law is from a decision of a medical appeal tribunal.