
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 24

**CHILD SUPPORT;
FAMILY LAW;
SOCIAL SECURITY**

**The Social Security (Adjudication) and Child Support
(Amendment) Regulations (Northern Ireland) 1996**

Made - - - - *2nd February 1996*
Coming into operation *28th February 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 23(2) of the Child Support (Northern Ireland) Order 1991(1) and section 57(1) of, and paragraphs 2 and 5 of Schedule 3 to, the Social Security Administration (Northern Ireland) Act 1992(2) 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 (Adjudication) and Child Support (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 28th February 1996.

(2) The Interpretation Act (Northern Ireland) 1954(3) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the Social Security (Adjudication) Regulations

2.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1995(4) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 3 (manner of making applications, appeals or references; and time limits)—

(a) in paragraph (3) for “for special reasons” there shall be substituted “in the case of an application or reference, for special reasons, and in the case of an appeal, provided the conditions set out in paragraphs (3A) to (3E) are satisfied”;

(1) S.I.1991/2628 (N.I. 23)
(2) 1992 c. 8
(3) 1954 c. 33 (N.I.)
(4) S.R. 1995 No. 293

- (b) after paragraph (3) there shall be inserted the following paragraphs—
- “(3A) Where the time specified for the making of an appeal has already expired, an application for an extension of time for making an appeal shall not be granted unless the applicant has satisfied the person considering the application that—
- (a) if the application is granted there are reasonable prospects that such an appeal will be successful; and
 - (b) it is in the interests of justice that the application be granted.
- (3B) For the purposes of paragraph (3A) it shall not be considered to be in the interests of justice to grant an application unless the person considering the application is satisfied that—
- (a) special reasons exist, which are wholly exceptional and which relate to the history or facts of the case;
 - (b) such special reasons have existed throughout the period beginning with the day on which the time specified by Schedule 2 for the making of an appeal expires and ending with the day on which the application for an extension of time is made; and
 - (c) such special reasons manifestly constitute a reasonable excuse of compelling weight for the applicant’s failure to make an appeal within the time specified.
- (3C) In determining whether there are special reasons for granting an application for an extension of time for making an appeal under paragraph (3) the person considering the application shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified for the making of the appeal and the making of the application for an extension of time, the more cogent should be the special reasons on which the application is based.
- (3D) In determining whether facts constitute special reasons for granting an application for an extension of time for making an appeal under paragraph (3) no account shall be taken of the following—
- (a) that the applicant or anyone acting for him or advising him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of any time limits imposed by Schedule 2);
 - (b) that a Commissioner (including a Commissioner within the meaning of section 191 of the Social Security Administration Act 1992(5)) or a court has taken a different view of the law from that previously understood and applied.
- (3E) Notwithstanding paragraph (3), no appeal may in any event be brought later than six years after the beginning of the period specified in column (3) of Schedule 2.”;
- (c) for paragraph (5) there shall be substituted the following paragraph—
- “(5) Any application, appeal or reference under these Regulations shall contain particulars of the grounds on which it is made or given and—
- (a) in the case of an appeal, shall include sufficient particulars of the decision under appeal to enable that decision to be identified; and
 - (b) in the case of an application under paragraph (3) for an extension of time in which to appeal, shall state the grounds on which it is proposed to bring the appeal.”; and
- (d) after paragraph (7) there shall be added the following paragraphs—

“(8) In the case of an application under paragraph (3) for an extension of time for making an appeal, the person who determines that application shall record his decision in writing together with a statement of the reasons for the decision.

(9) As soon as practicable after the decision has been made it shall be communicated to the applicant and to every other party to the proceedings and if within three months of such communication being sent the applicant or any other party to the proceedings so requests in writing, a copy of the record referred to in paragraph (8) shall be supplied to him or it.”.

(3) In regulation 23 (decisions of appeal tribunals) after paragraph (3) there shall be added the following paragraph—

“(4) A record of the proceedings at the hearing shall be made by the chairman in such medium as he may direct and preserved by the clerk to the tribunal for 18 months, and a copy of such record (which may take the form of a transcript or tape) shall be supplied to the parties if requested by any of them within that period.”.

(4) In regulation 29 (procedure for disability appeal tribunals) after paragraph (6) there shall be added the following paragraph—

“(7) A record of the proceedings at the hearing shall be made by the chairman in such medium as he may direct and preserved by the clerk to the tribunal for 18 months, and a copy of such record (which may take the form of a transcript or tape) shall be supplied to the parties if requested by any of them within that period.”.

(5) In regulation 38 (medical appeal tribunals) after paragraph (5) there shall be added the following paragraph—

“(6) A record of the proceedings at the hearing shall be made by the chairman in such medium as he may direct and preserved by the clerk to the tribunal for 18 months, and a copy of such record (which may take the form of a transcript or tape) shall be supplied to the parties if requested by any of them within that period.”.

Amendment of the Child Support Appeal Tribunals (Procedure) Regulations

3. In regulation 13 of the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993(6) (decisions) after paragraph (3) there shall be inserted the following paragraph—

“(3A) A record of the proceedings at the hearing shall be made by the chairman in such medium as he may direct and preserved by the clerk to the tribunal for 18 months, and a copy of such record (which may take the form of a transcript or tape) shall be supplied to the parties if requested by any of them within that period.”.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

2nd February 1996.

W. G. Purdy
Assistant Secretary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Social Security (Adjudication) Regulations (Northern Ireland) 1995 (“the Adjudication Regulations”) and the Child Support Appeal Tribunals (Procedure) Regulations (Northern Ireland) 1993 (“the Child Support Regulations”).

Regulation 3 of the Adjudication Regulations provides for the manner of making applications, appeals and references and the time limits for so doing. Regulation 3(3) provides that the time limit may be extended for special reasons. Regulation 3 is amended to make further provision about an application for an extension of time for making an appeal—

- (a) new paragraph (3B) provides that special reasons for granting an extension must exist throughout the period between the end of the specified time limit and the time when the application for an extension is made;
- (b) new paragraphs (3C) and (3D) set out criteria to be taken into account when deciding whether special reasons exist and specify certain factors that are not to be taken into account;
- (c) new paragraph (3E) imposes an absolute time limit of six years for making an appeal;
- (d) paragraph (5) is amended so as to require that an application for an extension of time shall state the grounds on which it is made;
- (e) new paragraph (8) requires the person deciding the application to record his decision in writing together with the reasons for it; and
- (f) new paragraph (9) provides that, as soon as practicable, a copy of the decision shall be sent to every party to the proceedings and that a copy of the record be supplied to any party on a request being made within three months.

Regulations 23, 29 and 38 of the Adjudication Regulations and regulation 13 of the Child Support Regulations are amended to provide that the chairman of, respectively, a social security appeal tribunal, a disability appeal tribunal, a medical appeal tribunal and a child support appeal tribunal shall make a record of the proceedings at the hearing of a case and that the clerk to the tribunal shall preserve that record for 18 months during which time copies are to be made available to the parties to the hearing on request. This removes the practice of the automatic issue of the record of the proceedings to every appellant.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), insofar as they would otherwise be required to be referred, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.