
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 162

The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999

PART III

SUSPENSION, TERMINATION AND OTHER MATTERS

CHAPTER I

Suspension and termination

Suspension in prescribed cases

16.—(1) Subject to paragraph (2), the Department may suspend payment of a relevant benefit, in whole or in part, in the circumstances prescribed in paragraph (3).

(2) The Department shall suspend payment of a jobseeker's allowance in the circumstances prescribed in paragraph (3)(a)(i) or (ii) where the issue or one of the issues is whether a person, who has claimed a jobseeker's allowance, is or was available for employment or whether he is or was actively seeking employment.

(3) The prescribed circumstances are that—

(a) it appears to the Department that—

- (i) an issue arises whether the conditions for entitlement to a relevant benefit are or were fulfilled,
- (ii) an issue arises whether a decision as to an award of a relevant benefit should be revised under Article 10 or superseded under Article 11,
- (iii) an issue arises whether any amount paid or payable to a person by way of, or in connection with a claim for, a relevant benefit is recoverable under section 69, 69A or 72 of the Administration Act⁽¹⁾ or regulations made under any of those sections, or
- (iv) the last address notified to it of a person who is in receipt of a relevant benefit is not the address at which that person is residing; or

(b) an appeal is pending against—

- (i) a decision of an appeal tribunal, a Commissioner or a court, or
- (ii) a decision given in a different case by a Commissioner or a court, and it appears to the Department that, if the appeal were to be determined in a particular way, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

(1) Section 69 was amended by Article 33(1) of, and paragraph 31 of Schedule 2 to, the Jobseekers (Northern Ireland) Order 1995 and section 2(2) to (4) of the Social Security (Overpayments) Act 1996 (c. 51); section 69A was inserted by Article 20 of the Jobseekers (Northern Ireland) Order 1995; section 72 was amended by paragraph 33 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995

(4) For the purposes of Article 21(3)(c) an appeal is pending where the Department certifies in writing that it proposes—

- (a) to make a request under regulation 53(4) for a statement of reasons for a decision of an appeal tribunal;
- (b) to bring an appeal against the decision; or
- (c) to bring an appeal against a decision in a different case and, if that appeal were to be allowed, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

(5) In this regulation “Commissioner” includes a Commissioner within the meaning of section 39(1) of the Social Security Act 1998.

Provision of information or evidence

17.—(1) This regulation applies where the Department requires information or evidence for a determination whether a decision awarding a relevant benefit should be—

- (a) revised under Article 10; or
- (b) superseded under Article 11.

(2) For the purposes of paragraph (1), the following persons shall satisfy the requirements of paragraph (4)—

- (a) a person in respect of whom payment of a benefit has been suspended in the circumstances prescribed in regulation 16(3)(a);
- (b) a person who has made an application for a decision of the Department to be revised or superseded;
- (c) a person who fails to comply with the provisions of regulation 32(1) of the Claims and Payments Regulations in so far as they relate to documents, information or facts required by the Department;
- (d) a person who qualifies for income support by virtue of paragraph 7 of Schedule 1B to the Income Support Regulations⁽²⁾;
- (e) a person whose entitlement to benefit is conditional on his being, or being treated as, incapable of work.

(3) The Department shall notify any person to whom paragraph (2) refers of the requirements of this regulation.

(4) A person to whom paragraph (2) refers shall either—

- (a) supply the information or evidence within—
 - (i) a period of one month beginning with the date on which the notification under paragraph (3) was sent to him, or
 - (ii) such longer period as he satisfies the Department is necessary in order to enable him to comply with the requirements; or
- (b) satisfy the Department within the period of time specified in sub-paragraph (a)(i) that either—
 - (i) the information or evidence required of him does not exist, or
 - (ii) that it is not possible for him to obtain it.

(5) The Department may suspend payment of a relevant benefit, in whole or in part, to any person to whom paragraph (2)(b) to (e) applies who fails to satisfy the requirements of paragraph (4).

(2) Schedule 1B was inserted by Schedule 1 to [S.R. 1996 No. 199](#)

(6) 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(3).

Termination in cases of failure to furnish information or evidence

18.—(1) Subject to paragraphs (2) to (4), the Department shall decide that where a person—

- (a) whose benefit has been suspended in accordance with regulation 16 and who subsequently fails to comply with an information requirement made in pursuance of regulation 17; or
- (b) whose benefit has been suspended in accordance with regulation 17(5),

that person shall cease to be entitled to that benefit from the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(2) Paragraph (1)(a) shall not apply where not more than one month has elapsed since the information requirement was made in pursuance of regulation 17.

(3) Paragraph (1)(b) shall not apply where not more than one month has elapsed since the first payment was suspended in accordance with regulation 17.

(4) Paragraph (1) shall not apply where benefit has been suspended in part under regulation 16 or, as the case may be, regulation 17.

Suspension and termination for failure to submit to medical examination

19.—(1) Except where regulation 8 of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 applies, the Department may require a person to submit to a medical examination by a medical practitioner where that person is in receipt of a relevant benefit, and either—

- (a) the Department considers it necessary to satisfy itself as to the correctness of the award of the benefit, or of the rate at which it was awarded; or
- (b) that person applies for a revision or supersession of the award and the Department considers that the examination is necessary for the purpose of making its decision.

(2) The Department may suspend payment of a relevant benefit, in whole or in part, to a person who fails, without good cause, on two consecutive occasions to submit to a medical examination in accordance with requirements under paragraph (1) except where entitlement to benefit is suspended on an earlier date other than under this regulation.

(3) Subject to paragraph (4), the Department may determine that entitlement to a relevant benefit of a person, in respect of whom payment of such a benefit has been suspended under paragraph (2), shall cease from a date not earlier than the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(4) Paragraph (3) shall not apply where not more than one month has elapsed since the first payment was suspended under paragraph (2).

Making of payments which have been suspended

20.—(1) Subject to paragraphs (2) and (3), payment of a benefit suspended in accordance with regulation 16 shall be made where—

- (a) in a case to which regulation 16(2) or (3)(a)(i) to (iii) applies, the Department is satisfied that the benefit suspended is properly payable and no outstanding issues remain to be resolved;

(3) S.R. 1976 No. 175; relevant amending regulations are S.R. 1982 No. 153, S.R. 1987 No. 117, S.R. 1992 No. 83, S.R. 1994 No. 468 and S.R. 1995 No. 149

- (b) in a case to which regulation 16(3)(a)(iv) applies, the Department is satisfied that it has been notified of the address at which the person is residing; or
- (c) in a case to which regulation 16(3)(b) applies, an appeal is no longer pending and the benefit suspended remains payable following the determination of the appeal.

(2) Where regulation 16(4)(a) applies, payment of a benefit suspended shall be made if, within one month of the date on which the Department received a copy of the tribunal's decision, it has not notified the claimant in writing that it has requested, pursuant to regulation 53(4), a statement of the reasons for the decision.

(3) Where regulation 16(4)(b) or (c) applies, payment of a benefit suspended shall be made if the Department fails to notify the claimant in writing, within one month of the date on which it receives the reasons in writing for the decision on appeal which was pending for the purposes of regulation 16(3)(b), that an appeal against the decision has been brought (or, as the case may be, an application for leave to appeal against the decision has been made).

(4) Payment of benefit which has been suspended in accordance with regulation 19 for failure to submit to a medical examination shall be made where the Department is satisfied that it is no longer necessary for the person referred to in that regulation to submit to a medical examination.

CHAPTER II

Other matters

Decisions involving issues that arise on appeal in other cases

21.—(1) For the purposes of Article 25(3)(b), a case which satisfies the condition in paragraph (2) is a prescribed case.

(2) The condition is that the claimant would be entitled to the benefit to which the decision which falls to be made relates, even if the appeal in the other case referred to in Article 25(1)(b) were decided in a way which is the most unfavourable to him.

(3) For the purposes of Article 25(3)(b), the prescribed basis on which the Department may make the decision is as if—

- (a) the appeal in the other case referred to in Article 25(1)(b) had already been determined; and
- (b) that appeal had been decided in a way which is the most unfavourable to the claimant.

(4) The circumstances prescribed under Article 25(5)(c), where an appeal is pending against a decision for the purposes of that Article, even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired, are where 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 determined in a particular way—
 - (i) there would be no entitlement to benefit in a case to which Article 25(1)(a) refers, or
 - (ii) the appeal would affect the decision in that case in some other way.

Appeals involving issues that arise in other cases

22. The circumstances prescribed under Article 26(6)(c), where an appeal is pending against a decision in the case described in Article 26(1)(b), even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired, are where the Department—

- (a) certifies in writing that it is considering appealing against that decision; and

- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in Article 26(1)(a).

Child support decisions involving issues that arise on appeal in other cases

23.—(1) For the purposes of Article 28ZA(2)(b) of the Child Support Order(4), a case which satisfies either of the conditions in paragraph (2) is a prescribed case.

(2) The conditions are that—

- (a) if a decision were not made on the basis prescribed in paragraph (3), the parent with care would become entitled to income support if a claim were made, or to an increased amount of that benefit; or
- (b) the absent parent is an employed earner or a self-employed earner.

(3) For the purposes of Article 28ZA(2)(b) of the Child Support Order, the prescribed basis on which the Department may make the decision is as if—

- (a) the appeal in relation to the different maintenance assessment, which is referred to in Article 28ZA(1)(b) of that Order had already been determined; and
- (b) that appeal had been decided in a way that was the most unfavourable to the applicant for the decision mentioned in Article 28ZA(1)(a) of that Order.

(4) The circumstances prescribed under Article 28ZA(4)(c) of the Child Support Order(5), where an appeal is pending against a decision for the purposes of that Article, even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired, are where 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 determined in a particular way—
 - (i) there would be no liability for child support maintenance, or
 - (ii) such liability would be less than would be the case were an appeal not made.

(5) In this regulation—

- “absent parent” and “parent with care” have the same meanings as in Article 2(2) of the Child Support Order(6);
- “employed earner” and “self-employed earner” have the same meanings as in section 2(1) of the Contributions and Benefits Act.

Child support appeals involving issues that arise in other cases

24. The circumstances prescribed under Article 28ZB(6)(c) of the Child Support Order(7), where an appeal is pending against a decision in the case described in Article 28ZB(1)(b) of that Order, even though an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired, are where the Department—

- (a) certifies in writing that it is considering appealing against that decision; and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in Article 28ZB(1)(a) of that Order.

(4) Article 28ZA(2)(b) was inserted by Article 43 of the Social Security (Northern Ireland) Order 1998

(5) Article 28ZA(4)(c) was inserted by Article 43 of the Social Security (Northern Ireland) Order 1998

(6) The definition of “parent with care” was inserted by paragraph 2(a) of Schedule 3 to the Child Support (Northern Ireland) Order 1995 (S.I.1995/2702 (N.I. 13))

(7) Article 28ZB(6)(c) was inserted by Article 43 of the Social Security (Northern Ireland) Order 1998

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