
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 162

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

PART V

**APPEAL TRIBUNALS FOR SOCIAL SECURITY,
CONTRACTING-OUT OF PENSIONS AND CHILD SUPPORT**

CHAPTER V

Decisions of appeal tribunals and related matters

Decisions of appeal tribunals

53.—(1) Every decision of an appeal tribunal shall be recorded in summary by the chairman or, in the case of an appeal tribunal which has only one member, by that member.

(2) The decision notice specified in paragraph (1) shall be in such written form as shall have been approved by the President and shall be signed by the chairman or, in the case of an appeal tribunal which has only one member, by that member.

(3) As soon as may be practicable after an appeal or a referral has been decided by an appeal tribunal, a copy of the decision notice prepared in accordance with paragraphs (1) and (2) shall be sent or given to every party to the proceedings who shall also be informed of—

- (a) his right under paragraph (4); and
- (b) the conditions governing appeals to a Commissioner or, as the case may be, a Child Support Commissioner.

(4) A party to the proceedings may apply in writing to the chairman or, in the case of an appeal tribunal which has only one member, to that member, for a copy of a statement of the reasons for the tribunal's decision within one month of the sending or giving of the decision notice to every party to the proceedings or within such longer period as may be allowed in accordance with regulation 54.

(5) If the decision is not unanimous, the decision notice specified in paragraph (1) shall record that one of the members dissented and the statement of reasons referred to in paragraph (4) shall include the reasons given by that member for dissenting.

Late applications for statement of reasons for tribunal decision

54.—(1) The time for making an application for a copy of the statement of the reasons for an appeal tribunal's decision may be extended where the conditions specified in paragraphs (2) to (8) are satisfied, but no application shall in any event be made more than three months after the date of the sending or giving of the notice of the decision of the appeal tribunal.

(2) An application for an extension of time under this regulation shall be made in writing and shall be determined by a legally qualified panel member.

(3) An application under this regulation shall contain particulars of the grounds on which the extension of time is sought, including details of any relevant special circumstances for the purposes of paragraph (4).

(4) The application for an extension of time shall not be granted unless the legally qualified panel member is satisfied that it is in the interests of justice for the application to be granted.

(5) For the purposes of paragraph (4), it is not in the interests of justice to grant the application unless the legally qualified panel member is satisfied that—

- (a) the special circumstances specified in paragraph (6) are relevant to the application; or
- (b) some other special circumstances exist which are wholly exceptional and relevant to the application,

and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 53(4).

(6) For the purposes of paragraph (5)(a), the special circumstances are that—

- (a) the applicant or a spouse or dependant of the applicant has died or suffered serious illness;
- (b) the applicant is not resident in the United Kingdom; or
- (c) normal postal services were disrupted.

(7) In determining whether it is in the interests of justice to grant the application, the legally qualified panel member shall have regard to the principle that the greater the amount of time that has elapsed between the expiry of the time within which the application for a copy of the statement of reasons for an appeal tribunal's decision is to be made and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(8) In determining whether it is in the interests of justice to grant the application, no account shall be taken of the following—

- (a) that the applicant or any person acting for him was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied.

(9) An application under this regulation for an extension of time which has been refused may not be renewed.

(10) The legally qualified panel member who determines an application under this regulation shall record a summary of his decision in such written form as has been approved by the President.

(11) As soon as practicable after the decision is made a copy of the decision shall be sent or given to every party to the proceedings.

(12) Any person who, under paragraph (11), receives a copy of the decision may, within one month of the decision being sent to him, apply in writing for a copy of the reasons for that decision and a copy shall be supplied to him.

(13) In this regulation "Commissioner" includes—

- (a) the Commissioner within the meaning of section 39(1) of the Social Security Act 1998(1); and
- (b) a Child Support Commissioner appointed under section 22 or 23 of the Child Support Act 1991.

Record of tribunal proceedings

55.—(1) A record of the proceedings at an oral hearing, which is sufficient to indicate the evidence taken, shall be made by the chairman or, in the case of an appeal tribunal which has only one member, by that member, in such medium as he may determine.

(2) Such record shall be preserved by the clerk to the appeal tribunal for six months from the date of the decision made by the appeal tribunal to which the record relates and any party to the proceedings may within that period apply in writing for a copy of that record and a copy shall be supplied to him.

Correction of accidental errors

56.—(1) The clerk to the appeal tribunal or, where the clerk refers the matter to a legally qualified panel member, that member, may at any time correct accidental errors in any decision, or the record of any such decision, of an appeal tribunal made under a relevant statutory provision or the Child Support Order.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision or record of that decision and written notice of it shall be given as soon as practicable to every party to the proceedings.

(3) In this regulation and regulation 57 “relevant statutory provision” has the same meaning as in Article 28(3).

Setting aside decisions on certain grounds

57.—(1) On an application made by a party to the proceedings, a decision of an appeal tribunal made under a relevant statutory provision or the Child Support Order may be set aside by a legally qualified panel member in a case where it appears just to set the decision aside on the ground that—

- (a) a document relating to the proceedings in which the decision was made was not sent to, or was not received at an appropriate time by, a party to the proceedings or the party’s representative or was not received at an appropriate time by the person who made the decision; or
- (b) a party to the proceedings in which the decision was made or the party’s representative was not present at a hearing relating to the proceedings.

(2) In determining whether it is just to set aside a decision on the ground set out in paragraph (1) (b), the legally qualified panel member shall determine whether the party making the application gave notice that he wished to have an oral hearing, and if that party did not give such notice the decision shall not be set aside unless the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that the interests of justice manifestly so require.

(3) An application under this regulation shall be made in accordance with regulations 31 to 33.

(4) Where an application to set aside a decision is entertained under paragraph (1), every party to the proceedings shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(5) Notice in writing of a determination on an application to set aside a decision shall be sent or given to every party to the proceedings as soon as may be practicable and the notice shall contain a statement giving the reasons for the determination.

Application for leave to appeal to a Commissioner from an appeal tribunal

58.—(1) An application for leave to appeal to a Commissioner from a decision of an appeal tribunal under Article 13 or 14 shall—

- (a) be made within the period of one month commencing on the date the applicant is sent a written statement of the reasons for the decision against which leave to appeal is sought; and
 - (b) have annexed to it a copy of that written statement of the reasons for the decision.
- (2) Where an application for leave to appeal to a Commissioner is made by the Department, the clerk to the appeal tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.
- (3) Any party to the proceedings who is sent a copy of an application for leave to appeal in accordance with paragraph (2) may make representations in writing within one month of the date on which the application is sent.
- (4) A person determining an application for leave to appeal to a Commissioner shall take into account any further representations received from the applicant before the determination is made, and shall record his decision in writing and send a copy to every party to the proceedings.
- (5) Where there has been a failure to apply for leave to appeal within the period of time specified in paragraph (1)(a) but an application is made within one year of the last date for making an application within that period, a legally qualified panel member may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.
- (6) Where in any case it is impracticable, or it would be likely to cause undue delay for an application for leave to appeal against a decision of an appeal tribunal to be determined by the person who was the chairman or, in the case of an appeal tribunal which had only one member, that member, the application shall be determined by a legally qualified panel member.