
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 221

The Universal Credit, Personal Independence
Payment, Jobseeker's Allowance and Employment
and Support Allowance (Decisions and
Appeals) Regulations (Northern Ireland) 2016

PART 3

Supersessions

CHAPTER 3

Effective dates for supersessions

Effective dates: tribunal and Commissioner's cases

37.—(1) This paragraph applies where—

- (a) the Department supersedes a decision of an appeal tribunal or a Commissioner on the ground that it is made in ignorance of, or based on a mistake as to, a material fact in accordance with regulation 31(a) (appeal tribunal and Commissioner's decisions); and
- (b) as a result of that ignorance or mistake, the decision to be superseded was more advantageous to the claimant than it would otherwise have been.

(2) In a case where paragraph (1) applies where the decision relates to—

- (a) a jobseeker's allowance;
- (b) personal independence payment,

the superseding decision takes effect from the date on which the decision of the appeal tribunal or Commissioner took, or was to take, effect.

(3) In a case where paragraph (1) applies and the decision relates to an employment and support allowance or universal credit where—

- (a) the material fact does not relate to a limited capability for work determination embodied in or necessary to the decision; or
- (b) the material fact does relate to such a determination and the Department is satisfied that at the time the decision was made the claimant knew or could reasonably be expected to know of it and that it was relevant,

the superseding decision takes effect from the first day of the benefit week or (as the case may be) the assessment period in which the appeal tribunal's or Commissioner's decision took, or was to take, effect.

(4) Where the Department supersedes a decision of an appeal tribunal or a Commissioner in accordance with regulation 31(b), the decision takes effect—

- (a) if the decision relates to personal independence payment, from the date on which the decision of the appeal tribunal or the Commissioner would have taken effect had it been decided in accordance with the determination of a Commissioner or a court in the appeal referred to in Article 26(1)(b) of the 1998 Order;
 - (b) if the decision relates to a jobseeker's allowance or an employment and support allowance, from the first day of the benefit week in which the appeal tribunal's or Commissioner's decision would have taken effect had it been so decided;
 - (c) if the decision relates to universal credit, from the first day of the assessment period in which the appeal tribunal's or Commissioner's decision would have taken effect had it been so decided.
- (5) Paragraph (6) applies where—
- (a) a Commissioner, or the court (within the meaning of Article 27 of the 1998 Order⁽¹⁾ (restrictions on entitlement to benefit in certain cases of error)), determines an appeal as mentioned in paragraph (1)(a) of that Article (“the relevant determination”);
 - (b) the Department makes a decision of the kind specified in Article 27(1)(b) of that Order;
 - (c) there is an appeal against the relevant determination;
 - (d) after the Department's decision, payment is suspended in accordance with regulation 43 (suspension in prescribed cases); and
 - (e) on appeal the court (within the meaning of Article 27 of the 1998 Order), reverses the relevant determination in whole or in part.
- (6) A consequential decision by the Department under Article 11 of the 1998 Order⁽²⁾ which supersedes an earlier decision of the Department under paragraph (5)(b) takes effect from the date on which the earlier decision took effect.

⁽¹⁾ The definition of “the court” was amended by paragraph 67 of Schedule 9 to the Constitutional Reform Act 2005.

⁽²⁾ Article 11 was amended by paragraph 17 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.