
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 4

Other matters relating to decision-making

Issues for HMRC

42.—(1) Where, on consideration of any claim or other matter, it appears to the Department that an issue arises which, by virtue of Article 7 of the Transfer of Functions Order⁽¹⁾, falls to be decided by an officer of HMRC, it must refer the issue to HMRC.

(2) Where—

- (a) the Department has decided any claim or other matter on an assumption of facts—
 - (i) which appeared to it not to be in dispute, but
 - (ii) concerning which, had an issue arisen, that issue would have fallen, by virtue of Article 7 of the Transfer of Functions Order, to be decided by HMRC;
- (b) an application for a revision or supersession is made, or an appeal is brought, in relation to that claim or other matter; and
- (c) it appears to the Department on receipt of that application or appeal that such an issue arises,

the Department must refer that issue to HMRC.

(3) Pending the final decision of any issue which has been referred to HMRC in accordance with paragraph (1) or (2), the Department may—

- (a) determine any other issue arising on consideration of the claim, application or other matter;
- (b) seek a preliminary opinion from HMRC on the issue referred and decide the claim, application or other matter in accordance with that opinion; or
- (c) defer making any decision on the claim, application or other matter.

(4) On receipt by the Department of the final decision of an issue which has been referred to HMRC under paragraph (1) or (2), it must—

⁽¹⁾ Article 7 was amended by sections 80(6) and 81(5) of, and Part VIII(2) of Schedule 9 to, the Child Support, Pensions and Social Security Act 2000 (c. 19) and Article 10(2) and (3) of the Employment (Northern Ireland) Order 2002 ([S.I.2002/2836 \(N.I. 2\)](#)).

- (a) in a case where the Department made a decision under paragraph (3)(b), decide whether to revise the decision under Article 10 of the 1998 Order or to supersede it under Article 11 of that Order;
 - (b) in a case to which paragraph (3)(a) or (c) applies, decide the claim, application or other matter in accordance with the final decision of the issue so referred.
- (5) In this regulation—
- “final decision” means the decision of HMRC under Article 7 of the Transfer of Functions Order or the determination of any appeal in relation to that decision; and
 - “the Transfer of Functions Order” means the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(2).