



Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART II

ADJUDICATION

Attendance allowance, disability living allowance and disability working allowance

28 Reviews of decisions of adjudication officers

- (1) On an application under this section made within the prescribed period, a decision of an adjudication officer under section 19 above which relates to an attendance allowance, a disability living allowance or a disability working allowance may be reviewed on any ground subject, in the case of a disability working allowance, to section 128(6) of the Contributions and Benefits Act.
- (2) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above which relates to an attendance allowance or a disability living allowance may be reviewed if—
 - (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
 - (b) there has been any relevant change of circumstances since the decision was given;
 - (c) it is anticipated that a relevant change of circumstances will so occur;
 - (d) the decision was erroneous in point of law; or
 - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

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- (3) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (2)(b) and (c) above.
- (4) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act may be reviewed if there has been a change of medical opinion with respect to his condition or his reasonable expectation of life.
- (5) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above which relates to a disability working allowance may be reviewed if—
- (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
 - (b) subject to section 128(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given;
 - (c) the decision was erroneous in point of law; or
 - (d) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,
- but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (6) The claimant shall be given such notification as may be prescribed of a decision which may be reviewed under this section and of his right to a review under subsection (1) above.
- (7) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer stating the grounds of the application and supplying such information and evidence as may be prescribed.
- (8) Regulations—
- (a) may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application under subsection (7) above has been made; and
 - (b) if they do so provide, shall specify under which provision of this section a review carried out by virtue of any such regulations falls.
- (9) Reviews under this section shall be carried out by adjudication officers.
- (10) Different aspects of any question which arises on such a review may be dealt with by different adjudication officers; and for this purpose this section and the other provisions of this Part of this Act which relate to reviews under this section shall apply with any necessary modifications.
- (11) If a review is under subsection (1) above, the officer who took the decision under review shall not deal with any question which arises on the review.
- (12) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance by an adjudication officer is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.

(13) Where—

- (a) a claim for an attendance allowance, a disability living allowance or a disability working allowance in respect of a person has been refused; and
- (b) a further claim for the same allowance is made in respect of him within the period prescribed under subsection (1) above,

the further claim shall be treated as an application for a review under that subsection.

29 Further reviews

(1) Subsections (2), (4) and (5) of section 28 above shall apply to a decision on a review under subsection (1) of that section as they apply to a decision of an adjudication officer under section 19 above but as if the words “made after the end of the prescribed period” were omitted from each subsection.

(2) Subsections (1), (2), (4) and (5) of section 28 above shall apply—

- (a) to a decision on a review under subsection (2), (4) or (5) of that section; and
- (b) to a refusal to review a decision under subsection (2), (4) or (5) of that section, as they apply to a decision of an adjudication officer under section 19 above.

(3) The claimant shall be given such notification as may be prescribed—

- (a) of a decision on a review under section 28 above;
- (b) if the review was under section 28(1), of his right of appeal under section 31 below; and
- (c) if it was under section 28(2), (4) or (5), of his right to a further review under section 28(1).

30 Reviews of decisions as to attendance allowance, disability living allowance or disability working allowance - supplementary

(1) An award of an attendance allowance, a disability living allowance or a disability working allowance on a review under section 28 above replaces any award which was the subject of the review.

(2) Where a person who has been awarded a disability living allowance consisting of one component applies or is treated as applying for a review under section 28 above and alleges that he is also entitled to the other component, the adjudication officer need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.

(3) Where a person who has been awarded a disability living allowance consisting of both components applies or is treated as applying for a review under section 28 above and alleges that he is entitled to one component at a rate higher than that at which it has been awarded, the adjudication officer need not consider the question of his entitlement to the other component or the rate of that component.

(4) Where a person has been awarded a component for life, on a review under section 28 above the adjudication officer shall not consider the question of his entitlement to that component or the rate of that component or the period for which it has been awarded unless—

- (a) the person awarded the component expressly applies for the consideration of that question; or

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- (b) information is available to the adjudication officer which gives him reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.
- (5) No decision which relates to an attendance allowance or a disability living allowance shall be reviewed under section 28 above on the ground that the person is or was at any time terminally ill, within the meaning of section 66(2) of the Contributions and Benefits Act, unless an application for review is made expressly on that ground either—
- (a) by the person himself; or
 - (b) by any other person purporting to act on his behalf, whether or not that other person is acting with his knowledge or authority;
- and a decision may be so reviewed on such an application, notwithstanding that no claim under section 66(1), 72(5) or 73(12) of that Act has been made.
- (6) Where a decision is reviewed under section 28 above on the ground that it is anticipated that a change of circumstances will occur, the decision given on review—
- (a) shall take effect on the day prescribed for that purpose by reference to the date on which the change of circumstances is expected to occur; and
 - (b) shall be reviewed again if the change of circumstances either does not occur or occurs otherwise than on that date.
- (7) Where a claimant has appealed against a decision of an adjudication officer under section 31 below and the decision is reviewed again under section 28(2), (4) or (5) above by an adjudication officer, then—
- (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the appeal succeeded, then the appeal shall lapse; but
 - (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.
- (8) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (9) Where an adjudication officer has determined that any amount paid by way of an attendance allowance, a disability living allowance or a disability working allowance is recoverable under or by virtue of section 69 below, any person from whom he has determined that it is recoverable shall have the same right of review under section 28 above as a claimant.
- (10) This Act and the Contributions and Benefits Act shall have effect in relation to a review by virtue of subsection (9) above as if any reference to the claimant were a reference to the person from whom the adjudication officer has determined that the amount in question is recoverable.

31 Appeals following reviews

- (1) Where an adjudication officer has given a decision on a review under section 28(1) above, the claimant or such other person as may be prescribed may appeal—
- (a) in prescribed cases, to a disability appeal tribunal; and
 - (b) in any other case, to a social security appeal tribunal.

- (2) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (3) An award on an appeal under this section replaces any award which was the subject of the appeal.
- (4) Where a person who has been awarded a disability living allowance consisting of one component alleges on an appeal that he is also entitled to the other component, the tribunal need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.
- (5) Where a person who has been awarded a disability living allowance consisting of both components alleges on an appeal that he is entitled to one component at a rate higher than that at which it has been awarded, the tribunal need not consider the question of his entitlement to the other component or the rate of that component.
- (6) The tribunal shall not consider—
 - (a) a person's entitlement to a component which has been awarded for life;
 - (b) the rate of a component so awarded; or
 - (c) the period for which a component has been so awarded,unless—
 - (i) the appeal expressly raises that question; or
 - (ii) information is available to the tribunal which gives it reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.

32 Appeal from social security appeal tribunals or disability appeal tribunals to Commissioners and appeals from Commissioners

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal or disability appeal tribunal under section 31 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) An appeal lies under this section at the instance of any of the following—
 - (a) an adjudication officer;
 - (b) the claimant;
 - (c) a trade union—
 - (i) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
 - (ii) where that question in any way relates to a deceased person who was a member of the union at the time of his death; and
 - (d) a person from whom it is determined that any amount is recoverable under section 69 below.
- (3) Subsection (2) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (4) Subsections (7) to (10) of section 21 above have effect for the purposes of this section as they have effect for the purposes of that section.

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- (5) Section 22 above applies to a decision of a Commissioner under this section as it applies to a decision of a Commissioner under section 21 above.

33 Reviews of decisions on appeal

- (1) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to an attendance allowance or a disability living allowance may be reviewed at any time by an adjudication officer if—

- (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
- (b) there has been any relevant change of circumstances since the decision was given;
- (c) it is anticipated that a relevant change of circumstances will so occur;
- (d) the decision was that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act and there has been a change of medical opinion with respect to his condition or his reasonable expectation of life; or
- (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

- (2) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (1)(b) and (c) above.

- (3) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to a disability working allowance may be reviewed at any time by an adjudication officer if—

- (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
- (b) subject to section 128(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given; or
- (c) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,

but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.

- (4) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer, stating the grounds of the application and supplying such information and evidence as may be prescribed.

- (5) Regulations may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application for a review has been made under subsection (4) above.

- (6) Reviews under this section shall be carried out by adjudication officers.

- (7) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance on an appeal is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.
- (8) Subsections (1), (2), (4) and (5) of section 28 above shall apply—
- (a) to a decision on a review under this section; and
 - (b) to a refusal to review a decision such as is mentioned in subsection (1) above, as they apply to a decision of an adjudication officer under section 19 above.
- (9) The person whose claim was the subject of the appeal the decision on which has been reviewed under this section shall be given such notification as may be prescribed—
- (a) of the decision on the review; and
 - (b) of his right to a further review under section 28(1) above.
- (10) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to what a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (11) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
- (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
 - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.
- (12) Sections 28(10) and 30(1) to (5) above shall apply in relation to a review under this section as they apply to a review under section 28 above.