Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART II

ADJUDICATION

Restrictions on entitlement to benefit following erroneous decision

66 Restrictions on entitlement to benefit in certain cases of error

(1) This section applies where—

(a) on the determination, whenever made, of a Commissioner or the court (the "relevant determination"), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and

(b) after both—

(i) 14th August 1990 (the date of the coming into operation of section 154D of the 1975 Act, the provision of that Act corresponding to this section); and

(ii) the date of the relevant determination,

a claim which falls, or which would apart from this section fall, to be decided in accordance with the relevant determination is made or treated under section 5(1)(i) above as made by any person for any benefit.

(2) Where this section applies, any question which arises on, or on the review of a decision which is referable to, the claim mentioned in subsection (1)(b) above and which relates to the entitlement of the claimant or any other person to any benefit—

(a) in respect of a period before the relevant date; or

(b) in the case of a widow's payment, in respect of a death occurring before that date,

shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.

(3) In determining whether a person is entitled to benefit in a case where—

(a) his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age; and

(b) he attained that age—

(i) before both the date of the relevant determination and the date of the claim referred in subsection (1)(b) above, but

(ii) not before the earliest day in respect of which benefit could, apart from this section, have been awarded on that claim,

subsection (2) above shall be disregarded for the purpose only of determining the question whether he was entitled as mentioned in paragraph (a) above.

(4) In this section—

"adjudicating authority" means—

(a) an adjudication officer or, where the original decision was given on a reference under section 19(2) or 23(1) above, a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal;

(b) any of the following former bodies or officers, that is to say, the National Assistance Board for Northern Ireland, the Supplementary Benefits Commission for Northern Ireland, the Attendance Allowance Board for Northern Ireland, a benefit officer, an insurance officer or a supplement officer; or

(c) any of the officers who, or tribunals or other bodies which, in Great Britain correspond to those mentioned in paragraph (a) or (b) above;

"benefit" means—

(a) benefit as defined in section 121 of the Contributions and Benefits Act;

(b) any income-related benefit;

"the court" means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in England and Wales, the House of Lords or the Court of Justice of the European Community;

"the relevant date" means whichever is the latest of—

(a) the date of the relevant determination;

(b) the date which falls 12 months before the date on which the claim referred to in subsection (1)(b) above is made or treated under section 5(1)(i) above as made; and

(c) the earliest date in respect of which the claimant would, apart from this section, be entitled on that claim to the benefit in question.

(5) For the purposes of this section—

(a) any reference in this section to entitlement to benefit includes a reference to entitlement—

(i) to any increase in the rate of a benefit; or

(ii) to a benefit, or increase of benefit, at a particular rate; and

(b) any reference to a decision which is "referable to" a claim is a reference to—

(i) a decision on the claim,

(ii) a decision on a review of the decision on the claim, or

(iii) a decision on a subsequent review of the decision on the review,

and so on.

(6) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this section in accordance with any regulations made for that purpose.