
STATUTORY INSTRUMENTS

2005 No. 965

The Pensions Appeal Commissioners (Procedure) (Northern Ireland) Regulations 2005

PART I

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Pensions Appeal Commissioners (Procedure) (Northern Ireland) Regulations 2005 and shall come into operation on 18th April 2005.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires –

“the 1943 Act” means the Pensions Appeal Tribunals Act 1943⁽¹⁾;

“appeal tribunal” means a Pensions Appeal Tribunal;

“authorised officer” means an officer authorised by the Lord Chancellor in accordance with section 6D(2) of the 1943 Act;

“the chairman” for the purposes of regulations 7 and 8 means –

- (i) the person who was the chairman or sole member of the appeal tribunal which gave the decision against which leave to appeal is being sought; or
- (ii) any other person authorised to deal with applications for leave to appeal to a Commissioner against that decision under section 6A of the 1943 Act;

“Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under section 50 of the Social Security Administration (Northern Ireland) Act 1992⁽²⁾ and includes a tribunal of two or more Commissioners constituted under section 6D(5) of the 1943 Act;

“funding notice” means the notice or letter from the Northern Ireland Legal Services Commission confirming that legal services are to be funded;

“legally qualified” means being a solicitor or barrister;

“live television link” means a television link or other audio and video facilities which allow a person who is not physically present at an oral hearing to see and hear proceedings and be seen and heard by all others who are present (whether physically present or otherwise);

“month” means a calendar month;

(1) 1943 c. 39; amended by the Armed Forces (Pension and Compensation) Act 2004 (c. 32)
(2) 1992 c. 8

“Northern Ireland Legal Services Commission” means the Northern Ireland Legal Services Commission established under Article 3 of the Access to Justice (Northern Ireland) Order 2003(3);

“office” means the Office of the Social Security Commissioners;

“party” means a party to the proceedings;

“proceedings” means any proceedings before a Commissioner, whether by way of an application for leave to appeal to, or from, a Commissioner by way of an appeal; and

“respondent” means the person with a right to appeal under section 6A(2) of the 1943 Act other than the applicant for leave or appellant.

(2) For the purposes of these Regulations, a Commissioner shall be known as the “Chief Pensions Appeal Commissioner” or a “Pensions Appeal Commissioner” as appropriate when dealing with applications under the 1943 Act.

General powers of a Commissioner

3.—(1) Subject to the provisions of these Regulations, a Commissioner may adopt any procedure in relation to proceedings before him.

(2) A Commissioner may –

(a) extend or abridge any time limit under these Regulations (including, subject to regulations 7(3) and 11(2), granting an extension where the time limit has expired);

(b) expedite, postpone or adjourn any proceedings.

(3) Subject to paragraph (4), a Commissioner may, on or without the application of a party, strike out any proceedings for want of prosecution or abuse of process.

(4) Before making an order under paragraph (3), the Commissioner shall send notice to the party against whom it is proposed that it should be made giving him an opportunity to make representations why it should not be made.

(5) A Commissioner may, on application by the party concerned, give leave to reinstate any proceedings which have been struck out in accordance with paragraph (3) and, on giving leave, he may give directions as to the conduct of the proceedings.

(6) Nothing in these Regulations shall affect any power which is exercisable apart from these Regulations.

Transfer of proceedings between Commissioners

4. If it becomes impractical or inexpedient for a Commissioner to continue to deal with proceedings which are or have been before him, any other Commissioner may rehear or deal with those proceedings and any related matters.

Delegation of functions to authorised officers

5.—(1) The following functions of Commissioners may be exercised by legally qualified authorised officers, to be known as legal officers to the Commissioners –

(a) giving directions under regulations 6 and 17;

(b) determining requests for or directing hearings under regulation 19;

(c) summoning witnesses, and setting aside a summons made by a legal officer, under regulation 21;

- (d) postponing a hearing under regulation 3;
- (e) giving leave to withdraw or reinstate applications or appeals under regulation 22;
- (f) waiving irregularities under regulation 23 in connection with any matter being dealt with by a legal officer;
- (g) extending or abridging time, directing expedition, giving notices, striking out and reinstating proceedings under regulation 3.

(2) Any party may, within 14 days of being sent notice of the direction or order of a legal officer, make a written request to a Commissioner asking him to reconsider the matter and confirm or replace the direction or order with his own, but, unless ordered by a Commissioner, a request shall not stop proceedings under the direction or order.

Manner of and time of service of notices, etc

6.—(1) A notice to or other document for any party shall be deemed duly served if it is –

- (a) delivered to him personally; or
- (b) properly addressed and sent to him by pre-paid post at the address last notified by him for this purpose, or to his ordinary address; or
- (c) subject to paragraph (2), sent by e-mail; or
- (d) served in any other manner a Commissioner may direct.

(2) A document may be served by e-mail on any party if the recipient has informed the party sending the e-mail in writing –

- (a) that he is willing to accept service by e-mail;
- (b) of the e-mail address to which documents should be sent; and
- (c) if the recipient wishes to so specify the format in which the documents must be sent.

(3) A notice to or other document for a Commissioner shall be –

- (a) delivered to the office in person;
- (b) sent to the office by prepaid post;
- (c) sent to the office by fax; or
- (d) where the office was given written permission in advance, sent to the office by e-mail.

(4) For the purposes of any time limit, a properly addressed notice or other document sent by pre-paid post, fax or e-mail is effective from the date it is sent.

Funding by the Northern Ireland Legal Services Commission

7. If at any time, a party is granted funding of legal services, he shall –

- (a) where funding is granted by the Northern Ireland Legal Services Commission, send a copy of the funding notice to the office; and
- (b) notify every other party that funding has been granted.