
STATUTORY INSTRUMENTS

1997 No. 1183

The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997

Reviews and appeals

Review of certificates of recoverable benefits

- 12.—^{F1}(1) The Department may review any certificate of recoverable benefits if it is satisfied—
- (a) that the certificate was issued in ignorance of, or was based on a mistake as to, a material fact, or
 - (b) that a mistake (whether in computation or otherwise) has occurred in the preparation of the certificate.
- (2) On a review under this Article the Department may either—
- (a) confirm the certificate,^{F2} or
 - (b) (subject to paragraph (3)) issue a fresh certificate containing such variations as it considers appropriate.

^{F3}(3) The Department may not vary the certificate so as to increase the total amount of the recoverable benefits unless it appears to the Department that the variation is required as a result of the person who applied for the certificate supplying the Department with incorrect or insufficient information.

[^{F4}(4) The scheme administrator of the Diffuse Mesothelioma Payment Scheme may not apply for a review under this Article.]

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| <p>F1 prosp. in pt. subst. by 1998 NI 10</p> <p>F2 prosp. in pt. rep. by 1998 NI 10</p> <p>F3 prosp. in pt. inserted by 1998 NI 10</p> <p>F4 Art. 12(4) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 13; S.I. 2014/459, art. 3(c)</p> |
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Appeals against certificates of recoverable benefits

- 13.—(1) An appeal against a certificate of recoverable benefits may be made on the ground—
- (a) that any amount, rate or period specified in the certificate is incorrect,^{F5} or
 - (b) that listed benefits which have been, or are likely to be, paid otherwise than in respect of the accident, injury or disease in question have been brought into account.
- ^{F6}(2) An appeal under this Article may be made by—
- (a) the person who applied for the certificate of recoverable benefits,^{F5} or

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^{F7}(b) (in a case where the amount of the compensation payment has been calculated under Article 10^{[F8} or 10A]) the injured person or other person to whom the payment is made, ^[F9]but the scheme administrator of the Diffuse Mesothelioma Payment Scheme may not appeal under this Article.]

^{[F10}(2A) Regulations may provide that, in such cases or circumstances as may be prescribed, an appeal may be made under this Article only if the Department has reviewed the certificate under Article 12.

(2B) The regulations may in particular provide that that condition is met only where—

- (a) the review by the Department was on an application,
- (b) the Department considered issues of a specified description, or
- (c) the review by the Department satisfied any other condition specified in the regulations.]

(3) No appeal may be made under this Article until—

- (a) the claim giving rise to the compensation payment has been finally disposed of, and
- (b) the liability under Article 8 has been discharged.

(4) For the purposes of paragraph (3)(a), if an award of damages in respect of a claim has been made under or by virtue of paragraph 10(2)(a) of Schedule 6 to the Administration of Justice Act 1982, (orders for provisional damages in personal injury cases), the claim is to be treated as having been finally disposed of.

(5) Regulations may make provision—

- (a) as to the manner in which, and the time within which, appeals under this Article may be made,
- (b) as to the procedure to be followed where such an appeal is made, and
- (c) for the purpose of enabling any such appeal ^{[F11}(or, where in accordance with regulations under paragraph (2A) there is no right of appeal, any purported appeal)] to be treated as an application for review under Article 12.

^{F5}(6) Regulations under paragraph (5)(c) may (among other things) provide that the circumstances in which a review may be carried out are not to be restricted to those specified in Article 12(1).

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| F5 | prosp. in pt. rep. by 1998 NI 10 |
| F6 | prosp. in pt. added by 1998 NI 10 |
| F7 | prosp. in pt. inserted by 1998 NI 10 |
| F8 | Words in art. 13(2)(b) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 16; S.I. 2014/459, art. 3(c) |
| F9 | Words in art. 13(2) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 14; S.I. 2014/459, art. 3(c) |
| F10 | Art. 13(2A)(2B) inserted (17.3.2016 with effect as mentioned in art. 107(7)-(9) of the amending Order) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), Sch. 11 para. 7(2); S.R. 2016/166, art. 2(b) |
| F11 | Words in art. 13(5)(c) inserted (17.3.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), Sch. 11 para. 7(3); S.R. 2016/166, art. 2(b) |

^{F12}Reference of questions to medical appeal tribunal

14.—^{F12}(1) The Department shall refer to a medical appeal tribunal any question mentioned in paragraph (2) arising for determination on an appeal under Article 13.

^{F12}(2) The questions are any concerning—

- (a) any amount, rate or period specified in the certificate of recoverable benefits, or
- (b) whether listed benefits which have been, or are likely to be, paid otherwise than in respect of the accident, injury or disease in question have been brought into account.

(3) In determining^{F12} any question referred to it under paragraph (1), the tribunal shall take into account any decision of a court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.

- (4) On^{F12} a reference under paragraph (1) a medical appeal tribunal may either—
- (a) confirm the amounts, rates and periods specified in the certificate of recoverable benefits,^{F13} or
 - (b) specify any variations which are to be made on the issue of a fresh certificate under paragraph (5).

^{F14}(5) When the Department has received the decision of the tribunal on the^{F12} questions referred to the tribunal under paragraph (1), the Department shall in accordance with that decision either—

- (a) confirm the certificate against which the appeal was brought,^{F13} or
- (b) issue a fresh certificate.

^{F14}^{F13}(6) Regulations may make provision—

- (a) as to the manner in which, and the time within which, a reference under paragraph (1) is to be made, and
- (b) as to the procedure to be followed where such a reference is made.

(7) Regulations^{F13} under paragraph (6)(b) may (among other things) provide for the non-disclosure of medical advice or medical evidence given or submitted following a reference under paragraph (1).

^{F13}(8) In this Article “medical appeal tribunal” means a medical appeal tribunal constituted under section 48 of the Administration Act.

F12 prosp. in pt. subst. by [1998 NI 10](#)

F13 prosp. in pt. rep. by [1998 NI 10](#)

F14 prosp. in pt. added by [1998 NI 10](#)

Appeal to Social Security Commissioner

15.—(1) An appeal may be made to a Commissioner against any decision of^{F15} a medical appeal tribunal under Article 14 on the ground that the decision was erroneous in point of law.

(2) An appeal under this Article may be made by—

- (a) the Department,
- (b) the person who applied for the certificate of recoverable benefits,^{F16} or

^{F17}(c) (in a case where the amount of the compensation payment has been calculated in accordance with Article 10^{F18} or 10A) the injured person or other person to whom the payment is made,

[^{F19}but the scheme administrator of the Diffuse Mesothelioma Payment Scheme may not appeal under this Article.]

^{F15}(3) Subsections (7) to (10) of section 21 of the Administration Act apply to appeals under this Article as they apply to appeals under that section.

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(4) In this Article “Commissioner” has the same meaning as in section 167(1) of the Administration Act.

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| <p>F15 prosp. in pt. subst. by 1998 NI 10</p> <p>F16 prosp. in pt. rep. by 1998 NI 10</p> <p>F17 prosp. in pt. inserted by 1998 NI 10</p> <p>F18 Words in art. 15(2)(c) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 16; S.I. 2014/459, art. 3(c)</p> <p>F19 Words in art. 15(2) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 15; S.I. 2014/459, art. 3(c)</p> |
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Reviews and appeals: supplementary

16.—(1) This Article applies in cases where a fresh certificate of recoverable benefits is issued as a result of a review under Article 12 or an appeal under Article 13.

(2) If—

- (a) a person has made one or more payments to the Department under Article 8, and
- (b) in consequence of the review or appeal, it appears that the total amount paid is more than the amount that ought to have been paid,

regulations may provide for the Department to pay the difference to that person, or to the person to whom the compensation payment is made, or partly to one and partly to the other.

(3) If—

- (a) a person has made one or more payments to the Department under Article 8, and
- (b) in consequence of the review or appeal, it appears that the total amount paid is less than the amount that ought to have been paid,

regulations may provide for that person to pay the difference to the Department.

(4) Regulations under this Article may provide—

- (a) for the recalculation in accordance with Article 10^[F20] or 10A] of the amount of any compensation payment,
- (b) for giving credit for amounts already paid, and
- (c) for the payment by any person of any balance or the recovery from any person of any excess,

and may provide for any matter by modifying this Order.

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| <p>F20 Words in art. 16(4)(a) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), Sch. 1 para. 16; S.I. 2014/459, art. 3(c)</p> |
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Changes and effects yet to be applied to :

- power to am. (prosp.) by [1998 c. 47 s.87](#)