
STATUTORY INSTRUMENTS

1998 No. 1506

The Social Security (Northern Ireland) Order 1998

PART II

DECISIONS AND APPEALS

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Decisions and appeals dependent on other cases

Appeals involving issues that arise on appeal in other cases

26^{F1}.—^{F2}(1) This Article applies where—

- (a) an appeal (“appeal A”) in relation to a decision under Article 9, 10 or 11 is made to an appeal tribunal, or from an appeal tribunal to a Commissioner; and
- (b) an appeal (“appeal B”) is pending against a decision given in a different case by a Commissioner or a court (whether or not the two appeals concern the same benefit).

(2) If the Department considers it possible that the result of appeal B will be such that, if it were already determined, it would affect the determination of appeal A, the Department may serve notice requiring the tribunal or Commissioner—

- (a) not to determine appeal A but to refer it to the Department; or
- (b) to deal with the appeal in accordance with paragraph (4).

(3) Where appeal A is referred to the Department under paragraph (2)(a), following the determination of appeal B and in accordance with that determination, the Department shall if appropriate—

- (a) in a case where appeal A has not been determined by the tribunal, revise (under Article 10) its decision which gave rise to that appeal; or
- (b) in a case where appeal A has been determined by the tribunal, make a decision (under Article 11) superseding the tribunal's decision.

(4) Where appeal A is to be dealt with in accordance with this paragraph, the appeal tribunal or Commissioner shall either—

- (a) stay appeal A until appeal B is determined; or
- (b) if the tribunal or Commissioner considers it to be in the interests of the appellant to do so, determine appeal A as if—
 - (i) appeal B had already been determined; and
 - (ii) the issues arising on appeal B had been decided in the way that was most unfavourable to the appellant.

In this paragraph “the appellant” means the person who appealed or, as the case may be, first appealed against the decision mentioned in paragraph (1)(a).

Changes to legislation: *The Social Security (Northern Ireland) Order 1998, Section 26 is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Where the appeal tribunal or Commissioner acts in accordance with paragraph (4)(b), following the determination of appeal B the Department shall, if appropriate, make a decision (under Article 11) superseding the decision of the tribunal or Commissioner in accordance with that determination.

(6) For the purposes of this Article, an appeal against a decision is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for leave to appeal against the decision has been made but not determined; or
- (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.

(7) In this Article—

- (a) the reference in paragraph (1)(a) to an appeal to a Commissioner includes a reference to an application for leave to appeal to a Commissioner; and
- (b) any reference in sub-paragraph (a), (b) or (c) of paragraph (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.

(8) Regulations may make provision supplementing that made by this Article.

F1 mod. by SR 1999/349, 350

F2 prosp. in pt. certain functions transf. by 2002 c. 21

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Changes and effects yet to be applied to :

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

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1999 c. 10 s.1\(2\)Sch.1 paras.16\(r\)](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 7A and cross-heading inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 41\(3\)](#)
- Sch. 3 para. 3A inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 42](#)
- art. 38(1A) inserted by [2010 c. 13 \(N.I.\) s. 16\(2\)](#)