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## STATUTORY INSTRUMENTS

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# 1998 No. 1506

## The Social Security (Northern Ireland) Order 1998

### PART II

#### DECISIONS AND APPEALS

##### CHAPTER I

##### GENERAL

##### *Decisions*

#### **Transfer of functions to the Department**

- 3**<sup>F1</sup>. The following functions are hereby transferred to the Department, namely—
- (a) the functions of adjudication officers appointed under section 36 of the Administration Act;
  - (b) the functions of social fund officers appointed under section 62 of that Act; and
  - (c) the functions of child support officers appointed under Article 15 of the Child Support Order.

**F1** functions transf. by 1999 c. 10

#### **Use of computers**

**4.**—(1) Any decision, determination or assessment falling to be made or certificate falling to be issued by the Department under any relevant statutory provision may be made or issued not only by an officer of the Department acting under its authority but also—

- (a) by a computer for whose operation such an officer is responsible; and
  - (b) in the case of a decision, determination or assessment that may be made or a certificate that may be issued by a person providing services to the Department, by a computer for whose operation such a person is responsible.
- (2) In this Article “relevant statutory provision” means any statutory provision contained in—
- (a) Chapter II of this Part;
  - (b) the Contributions and Benefits Act;
  - (c) the Administration Act;
  - (d) the Child Support Order;
  - (e) the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
  - (f) the Child Support (Northern Ireland) Order 1995;
  - (g) the Jobseekers Order;<sup>F2</sup> . . .

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- (h) the Recovery of Benefits Order<sup>[F3; F4 . . . ]</sup>
- <sup>[F3]</sup>(i) the State Pension Credit Act (Northern Ireland) 2002<sup>[F5; F6...]</sup>
- (j) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.<sup>[F7]</sup>or
- (k) Part 2 of the Welfare Reform (Northern Ireland) Order 2015.<sup>[F8; F9...]</sup>
- (l) Part 5 of that Order.<sup>[F10]</sup>or
- (m) Part 1 of the Pensions Act (Northern Ireland) 2015.<sup>[F11]</sup> or
- (n) section 29 of the Pensions Act (Northern Ireland) 2015;<sup>[F12]</sup>or
- (o) Articles 13 to 16 of the Welfare Reform and Work (Northern Ireland) Order 2016.]

<b>F2</b>	2002 c. 14 (NI)
<b>F3</b>	2002 c. 14 (NI)
<b>F4</b>	Word in art. 4(2)(h) repealed (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 58, 60(1), <b>Sch. 8</b> ; S.R. 2008/276, <b>art. 2(2)(d)</b> , Sch. Pt. 2
<b>F5</b>	Art. 4(2)(j) and preceding word added (27.7.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), <b>Sch. 3 para. 10(2)</b> ; S.R. 2008/276, <b>art. 2(2)(b)</b>
<b>F6</b>	Word in art. 4(2)(i) repealed (2.5.2016 for specified purposes, 27.9.2017 in so far as not already in operation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), <b>Sch. 2 para. 35(a)</b> ; S.R. 2016/215, art. 2(2)(c)(v)(ff); S.R. 2017/190, art. 4(1)(2)(g)(iii)
<b>F7</b>	Art. 4(2)(k) and word inserted (2.5.2016 for specified purposes, 27.9.2017 in so far as not already in operation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), <b>Sch. 2 para. 35(b)</b> ; S.R. 2016/215, art. 2(2)(c)(v)(ff); S.R. 2017/190, art. 4(1)(2)(g)(iii)
<b>F8</b>	Word in art. 4(2) omitted (4.9.2017) by virtue of The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), <b>15(4)(a) (with art. 16)</b> ; S.R. 2017/166, art. 2(c)
<b>F9</b>	Art. 4(2)(l) and word inserted (20.6.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), <b>Sch. 9 para. 36</b> ; S.R. 2016/215, art. 3(2)
<b>F10</b>	Art. 4(2)(m) and word inserted (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), <b>Sch. 12 para. 28</b>
<b>F11</b>	Art. 4(2)(n) and word inserted (6.4.2017) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(1), <b>Sch. 16 para. 36</b> ; S.R. 2017/44, art. 2(2) (with arts. 3, 4)
<b>F12</b>	Art. 4(2)(o) and preceding word inserted (4.9.2017) by The Welfare Reform and Work (Northern Ireland) Order 2016 (S.I. 2016/999), arts. 2(1), <b>15(4)(b) (with art. 16)</b> ; S.R. 2017/166, art. 2(c)

## Appeals

### Unified appeal tribunals

5.—(1) Subject to the provisions of this Order—

- (a) the functions of social security appeal tribunals, disability appeal tribunals and medical appeal tribunals constituted under Part II of the Administration Act;
- (b) the functions of child support appeal tribunals established under Article 23 of the Child Support Order; and
- (c) the functions of vaccine damage tribunals established by regulations made under section 4 of the Vaccine Damage Payments Act,

are hereby transferred to appeal tribunals constituted under the following provisions of this Chapter.

(2) Accordingly appeals under—

- (a) Article 13;

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- (b) Article 22 of the Child Support Order, as substituted by Article 42;
- (c) section 4 of the Vaccine Damage Payments Act, as substituted by section 46 of the Social Security Act 1998; and
- (d) Article 13 of the Recovery of Benefits Order,

shall be determined by appeal tribunals so constituted (in the following provisions of this Chapter referred to as “appeal tribunals”).

### President of appeal tribunals

6.—(1) The<sup>F13</sup>[Northern Ireland Judicial Appointments Commission] may appoint for Northern Ireland a President of appeal tribunals.

(2) A person is qualified to be appointed President if he is a barrister or solicitor of at least 10 years' standing.

(3) Schedule 1 shall have effect for supplementing this Article.

**F13** Words in art. 6(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), Sch. 4 para. 29 (with Sch. 5 para. 16); S.I. 2010/812, art. 2

### Panel for appointment to appeal tribunals

7.—(1) The<sup>F14</sup>[Northern Ireland Judicial Appointments Commission] shall constitute for Northern Ireland a panel of persons to act as members of appeal tribunals.

(2) Subject to paragraph (3), the panel shall be composed of<sup>F15</sup> persons appointed by the<sup>F14</sup>[Northern Ireland Judicial Appointments Commission].

(3) The panel shall include persons possessing such qualifications as may be prescribed by regulations made with the concurrence of the<sup>F16</sup>[<sup>F17</sup>Department of Justice]<sup>F18</sup>; and such concurrence may be given only after consultation with the Lord Chief Justice].

<sup>F19</sup>(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”

(3B) As part of the selection process for the appointment of a medical practitioner as a member of the panel, the Northern Ireland Judicial Appointments Commission shall consult the Chief Medical Officer of the Department.]

(4) The<sup>F20</sup>terms and conditions of appointments to the panel] shall be determined by the<sup>F14</sup>[Northern Ireland Judicial Appointments Commission] with the consent of the Department.

(5) <sup>F21</sup>.....

**F14** Words in art. 7(1)(2)(4) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), Sch. 4 para. 30(2) (with Sch. 5 para. 16); S.I. 2010/812, art. 2

**F15** Words in art. 7(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 113(2); S.I. 2006/1014, art. 2(a), Sch. 1 paras. 10, 12(b)

**F16** Words in art. 7(3) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), Sch. 4 para. 30(3) (with Sch. 5 para. 16); S.I. 2010/812, art. 2

**F17** Words in art. 7(3) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), Sch. para. 13; S.R. 2010/147, art. 2(2)

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- F18** Words in art. 7(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 113(3); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)
- F19** Art. 7(3A)(3B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 113(4); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)
- F20** Words in art. 7(4) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 30(4)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**
- F21** Art. 7(5) repealed (3.4.2006) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 86, 87, Sch. 13; S.R. 2006/124, **art. 2**, Sch. paras. 9, 11(k)

### Constitution of appeal tribunals

8.—(1) Subject to paragraph (2), an appeal tribunal shall consist of one, two or three members drawn by the President from the panel constituted under Article 7.

(2) The member, or (as the case may be) at least one member, of an appeal tribunal shall be a barrister or solicitor.

(3) Where an appeal tribunal has more than one member—

- (a) the President shall nominate one of the members as chairman;
- (b) decisions shall be taken by a majority of votes; and
- (c) unless regulations otherwise provide, the chairman shall have any casting vote.

(4) Where it appears to an appeal tribunal that a matter before it involves a question of fact of special difficulty, then, unless regulations otherwise provide, the tribunal may require one or more experts to provide assistance to it in dealing with the question.

(5) In paragraph (4) “expert” means a member of the panel constituted under Article 7 who appears to the appeal tribunal concerned to have knowledge or experience which would be relevant in determining the question of fact of special difficulty.

(6) Regulations shall make provision with respect to—

- (a) the composition of appeal tribunals;
- (b) the procedure to be followed in allocating cases among differently constituted tribunals; and
- (c) the manner in which expert assistance is to be given under paragraph (4).

(7) Schedule 1 shall have effect for supplementing this Article.

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