
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

Decisions by the Department

- 9.—(1) Subject to the provisions of this Chapter, it shall be for the Department—
- (a) to decide any claim for a relevant benefit;
 - (b) to decide any claim for a social fund payment mentioned in section 134(1)(b) of the Contributions and Benefits Act;
 - (c) subject to paragraph (5), to make any decision that falls to be made under any relevant statutory provision; and
 - (d) subject to and in accordance with regulations, to decide any issue arising as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay.
- (2) Where at any time a claim for a relevant benefit is decided by the Department—
- (a) the claim shall not be regarded as subsisting after that time; and
 - (b) accordingly, the claimant shall not (without making a further claim) be entitled to the benefit on the basis of circumstances not obtaining at that time.
- (3) In this Chapter “relevant benefit”, subject to Article 21(4), means any of the following, namely—
- (a) benefit under Parts II to V of the Contributions and Benefits Act;
 - (b) a jobseeker’s allowance;
 - (c) income support;
 - (d) family credit;
 - (e) disability working allowance;
 - (f) a social fund payment mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act;
 - (g) child benefit;
 - (h) such other benefit as may be prescribed.
- (4) In this Article “relevant statutory provision” means any statutory provision contained in this Chapter, the Contributions and Benefits Act, the Administration Act, the Social Security

(Consequential Provisions) (Northern Ireland) Act 1992 or the Jobseekers Order, other than one contained in—

- (a) Part VII of the Contributions and Benefits Act so far as relating to housing benefit;
- (b) Part VIII of the Administration Act (arrangements for housing benefit).

(5) Paragraph (1)(c) does not include any decision relating to Class 4 contributions other than a decision falling to be made—

- (a) under subsection (1) of section 17 of the Contributions and Benefits Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
- (b) under regulations made by virtue of subsection (3) or (4) of that section or section 18 of that Act.

Revision of decisions

10.—(1) Subject to Article 36(3), any decision of the Department under Article 9 or 11 may be revised by the Department—

- (a) either within the prescribed period or in prescribed cases or circumstances; and
- (b) either on an application made for the purpose or on the Department's own initiative,

and regulations may prescribe the procedure by which a decision of the Department may be so revised.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Subject to paragraphs (4) and (5) and Article 27, a revision under this Article shall take effect as from the date on which the original decision took (or was to take) effect.

(4) Regulations may provide that, in prescribed cases or circumstances, a revision under this Article shall take effect as from such other date as may be prescribed.

(5) Where a decision is revised under this Article, for the purpose of any rule as to the time allowed for bringing an appeal, the decision shall be regarded as made on the date on which it is so revised.

(6) Except in prescribed circumstances, an appeal against a decision of the Department shall lapse if the decision is revised under this Article before the appeal is determined.

Decisions superseding earlier decisions

11.—(1) Subject to paragraphs (3) and (4) and Article 36(3), the following, namely—

- (a) any decision of the Department under Article 9 or this Article, whether as originally made or as revised under Article 10; and
- (b) any decision under this Chapter of an appeal tribunal or a Commissioner,

may be superseded by a decision made by the Department, either on an application made for the purpose or on the Department's own initiative.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this Article.

(4) Paragraph (1)(a) does not apply in the case of a decision of the Department under paragraph (1)(c) of Article 9 where the relevant statutory provision within the meaning of that Article is section 115B or 115C of the Administration Act (liability of directors, etc. for company's contributions).

(5) Subject to paragraph (6) and Article 27, a decision under this Article shall take effect as from the date on which it is made or, where applicable, the date on which the application was made.

(6) Regulations may provide that, in prescribed cases or circumstances, a decision under this Article shall take effect as from such other date as may be prescribed.

Regulations with respect to decisions

12.—(1) Subject to the provisions of this Chapter and the Administration Act, provision may be made by regulations for the making of any decision by the Department under or in connection with the current legislation, or the former legislation, including a decision on a claim for benefit.

(2) Where it appears to the Department that a matter before it involves a question of fact requiring special expertise, the Department may direct that in dealing with that matter it shall have the assistance of one or more experts.

(3) In this Article—

“the current legislation” means the Contributions and Benefits Act, the Jobseekers Order and the Recovery of Benefits Order;

“expert” means a person appearing to the Department to have knowledge or experience which would be relevant in determining the question of fact requiring special expertise;

“the former legislation” means the National Insurance Acts (Northern Ireland) 1966 to 1974, the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1974, the Social Security (Northern Ireland) Act 1975 and Part III of the Social Security (Northern Ireland) Order 1986.