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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 II**

**SOCIAL SECURITY DECISIONS AND APPEALS**

*Industrial accidents*

**Decision that accident is an industrial accident**

**29.**—(1) Where, in connection with any claim for industrial injuries benefit, it is decided that the relevant accident was or was not an industrial accident—

- (a) an express declaration of that fact shall be made and recorded; and
- (b) subject to paragraph (3), a claimant shall be entitled to have the issue whether the relevant accident was an industrial accident decided notwithstanding that his claim is disallowed on other grounds.

(2) Subject to paragraph (3) and Article 30, any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident—

- (a) to have that issue decided; and
- (b) to have a declaration made and recorded accordingly,

notwithstanding that no claim for benefit has been made in connection with which the issue arises; and this Chapter shall apply for that purpose as if the issue had arisen in connection with a claim for benefit.

(3) The Department, an appeal tribunal or a Commissioner (as the case may be) may refuse to decide the issue whether an accident was an industrial accident if satisfied that it is unlikely to be necessary to decide the issue for the purposes of any claim for benefit; and this Chapter shall apply as if any such refusal were a decision on the issue.

(4) Subject to Articles 10 to 15 and to section 22 of the Administration Act, any declaration under this Article that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident.

(5) Where paragraph (4) applies—

- (a) in relation to a death occurring before 11th April 1988; or
- (b) for the purposes of section 60(2) of the Contributions and Benefits Act,

it shall have effect as if at the end there were added the words “whether or not the claimant is the person at whose instance the declaration was made”.

(6) For the purposes of this Article (but subject to Article 30), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—

- (a) it arises out of and in the course of his employment;
- (b) that employment is employed earner's employment for the purposes of Part V of the Contributions and Benefits Act; and
- (c) payment of benefit is not under section 94(5) of that Act precluded because the accident happened while he was outside Northern Ireland.

(7) A decision under this Article shall be final except that Articles 10 and 11 apply to a decision under this Article that an accident was or was not an industrial accident as they apply to a decision under Article 9 if, but only if, the Department is satisfied that the decision under this Article was given in consequence of any wilful non-disclosure or misrepresentation of a material fact.

### **Effect of decision**

**30.**—(1) A decision (given under paragraph (2) of Article 29 or otherwise) that an accident was an industrial accident is to be taken as determining only that sub-paragraphs (a), (b) and (c) of paragraph (6) of that Article are satisfied in relation to the accident.

(2) Subject to paragraphs (3) and (4), no such decision is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received.

(3) A decision that, on a particular occasion when there was no event so identifiable, a person had an industrial accident by reason of an injury shall be treated as a decision that, if the injury was suffered by accident on that occasion, the accident was an industrial accident.

(4) A decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with Article 29, without its having been found that personal injury resulted from the accident.

(5) Paragraph (4) has effect subject to the discretion under Article 29(3) to refuse to decide the issue if it is unlikely to be necessary for the purposes of a claim for benefit.