
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 293

**The Social Security (Adjudication)
Regulations (Northern Ireland) 1995**

PART III

ADJUDICATING AUTHORITIES

SECTION D —

DISABILITY ADJUDICATION

Prescribed period

25.—(1) Subject to paragraph (2), the prescribed period for the purposes of section 28(1), (2) and (4) of the Administration Act shall be three months beginning with the date on which notice in writing of the decision of an adjudication officer under section 19 of that Act was given to the claimant.

(2) Where a claimant submits an application for review under section 28(1) of the Administration Act by post which would have arrived in an office of the Department in the ordinary course of the post within the period prescribed by paragraph (1) but is delayed by postal disruption caused by industrial action whether within the postal service or elsewhere, that period shall expire on the day the application is received in the office of the Department where that day does not fall within the period prescribed by paragraph (1).

Manner of making applications for review under section 28 of the Administration Act

26. An application for a review of a decision of an adjudication officer under section 28(1), (2) and (4) of the Administration Act shall be made to an office of the Department.

Appeal to a disability appeal tribunal

27.—(1) The claimant may appeal to a disability appeal tribunal from a decision of an adjudication officer under section 28(1) of the Administration Act in any case in which there arises—

- (a) a disability question; or
 - (b) both a disability question and any other question relating to attendance allowance, disability living allowance or disability working allowance.
- (2) In this regulation “disability question” means a question as to—
- (a) whether the claimant satisfies the conditions for entitlement to—
 - (i) the care component of a disability living allowance specified in section 72(1) and (2) of the Contributions and Benefits Act,

- (ii) the mobility component of a disability living allowance specified in section 73(1), (8) and (9) of that Act,
- (iii) an attendance allowance specified in sections 64 and 65(1) of that Act, or
- (iv) a disability working allowance specified in section 128(1)(b) of that Act⁽¹⁾;
- (b) the period throughout which the claimant is likely to satisfy the conditions for entitlement to attendance allowance or disability living allowance;
- (c) the rate at which attendance allowance is payable; or
- (d) the rate at which the care component or the mobility component of a disability living allowance is payable.

Persons who may appeal to disability appeal tribunals and appeal tribunals

28. A person purporting to act on behalf of a person who is terminally ill as defined in section 66(2) of the Contributions and Benefits Act, whether or not that person is acting with his knowledge or authority, may appeal to a disability appeal tribunal or an appeal tribunal, as appropriate, in accordance with section 31(1) of the Administration Act in any case where the ground of appeal is that that person is or was at any time terminally ill.

Procedure for disability appeal tribunals

29.—(1) A disability appeal tribunal, except where section 30(7)(a) of the Administration Act applies, shall hold an oral hearing of any appeal made to it.

(2) Where any member of a disability appeal tribunal is not present at the consideration of a case the tribunal shall not proceed to determine that case but shall adjourn it for consideration by another tribunal.

(3) Where an oral hearing is adjourned and at the hearing after the adjournment the tribunal is differently constituted, otherwise than through the operation on that occasion of paragraph (2), the proceedings at that hearing shall be by way of a complete rehearing of the case.

(4) Where a disability appeal tribunal is unable to reach a unanimous decision on any case the decision of the majority of its members shall be the decision of the tribunal.

(5) The chairman of a disability appeal tribunal shall in each case—

- (a) record the decision of the tribunal in writing;
- (b) include in such record a statement of the reasons for the decision, including findings on all questions of fact material to the decision;
- (c) if the decision is not unanimous, record a statement that one of the members dissented and the reasons given by him for dissenting.

(6) As soon as may be practicable after a case has been decided by a disability appeal tribunal, a copy of the record of the decision made in accordance with this regulation shall be sent to every party to the proceedings who shall also be informed of the conditions governing appeals to a Commissioner.

Examination and report by a medical practitioner

30. A person who may be nominated as chairman of a disability appeal tribunal may refer a claimant to a medical practitioner for examination and report if he is satisfied that without such examination and report an appeal by the claimant cannot be properly determined.

(1) Section 128(1) was amended by Article 12(2) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I.1994/1898 (N.I. 12))

Persons who may not act as members of disability appeal tribunals

31.—(1) A person shall not act as a member of a disability appeal tribunal in any case where he—

- (a) is or may be directly affected by that case; or
- (b) has taken any part in such case as an assessor, a medical practitioner who has regularly attended the claimant or to whom any question has been referred for report or advice, or as a witness.

(2) Where a disability appeal tribunal is unable to determine a question by reason of the provisions of paragraph (1) the case shall be referred to another such tribunal.

Application for leave to appeal to a Commissioner from a disability appeal tribunal

32.—(1) Subject to paragraphs (2) to (4), an application to the chairman of a disability appeal tribunal for leave to appeal to a Commissioner from a decision of a disability appeal tribunal shall be made—

- (a) orally at the hearing after the decision is announced by the tribunal; or
- (b) in accordance with regulation 3 and Schedule 2.

(2) Where an application in writing for leave to appeal is made by an adjudication officer, the clerk to the tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) The decision of the chairman on an application for leave to appeal shall be recorded in writing and notice of it shall be given to every party to the proceedings.

(4) Where in any case it is impracticable, or it would be likely to cause undue delay, for an application for leave to appeal against a decision of a disability appeal tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 41(5) of the Administration Act to act as a chairman of disability appeal tribunals.

Procedure of a disability appeal tribunal on receipt of a Commissioner's decision

33.—(1) Subject to paragraph (2), the provisions of these Regulations apply for the disposal by a disability appeal tribunal of a case remitted to it following an appeal to a Commissioner as if it were an original hearing of an appeal to the disability appeal tribunal.

(2) Where the case is remitted to the disability appeal tribunal following an appeal to a Commissioner in which it was decided that the decision of the disability appeal tribunal was erroneous in point of law, the proceedings shall, subject to any direction of the Commissioner, be by way of a complete rehearing of the appeal by persons who were not members of the tribunal which gave the erroneous decision.