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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 162**

**The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999**

**PART II**

**REVISIONS, SUPERSESSIONS AND OTHER NOTICES**

*CHAPTER III*

*Other matters*

**Certificates of recoverable benefits**

**9.** A certificate of recoverable benefits may be reviewed under Article 12 of the Recovery of Benefits Order<sup>(1)</sup> where the Department is satisfied that—

- (a) a mistake (whether in computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the benefit recovered from a person who makes a compensation payment (as defined in Article 3 of the Recovery of Benefits Order) is in excess of the amount due to the Department;
- (c) incorrect or insufficient information was supplied to the Department by the person who applied for the certificate and in consequence the amount of benefit specified in the certificate was less than it would have been had the information supplied been correct and sufficient; or
- (d) a ground for appeal is satisfied under Article 13 of the Recovery of Benefits Order.

**Effect of a determination as to capacity for work**

**10.** A determination (including a determination made following a change of circumstances) whether a person is, or is to be treated as, capable or incapable of work which is embodied in or necessary to a decision under Chapter II of Part II of the Order or on which such a decision is based shall be conclusive for the purposes of any further such decision.

**Department to determine certain matters**

**11.** Where, in relation to a determination for any purpose to which Part XIAA of the Contributions and Benefits Act<sup>(2)</sup> applies, an issue arises as to—

- (a) whether a person is, or is to be treated as, capable or incapable of work in respect of any period; or

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(1) Article 12(1) was substituted by paragraph 120(1) of Schedule 6 to the Social Security (Northern Ireland) Order 1998 (S.I.1998/1506 (N.I. 10))

(2) Part XIAA was inserted by Articles 7 and 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994

- (b) whether a person is terminally ill,

that issue shall be determined by the Department, notwithstanding that other matters fall to be determined by another authority.

### **Decisions of the Department relating to industrial injuries benefit**

**12.**—(1) This regulation applies where, for the purpose of a decision of the Department relating to a claim for industrial injuries benefit under Part V of the Contributions and Benefits Act an issue to be decided is—

- (a) the extent of a personal injury for the purposes of section 94 of that Act;
- (b) whether the claimant has a disablement for the purposes of section 103 of that Act or the extent of any such disablement; or
- (c) whether the claimant has a disease prescribed for the purposes of section 108 of that Act or the extent of any disablement resulting from such a disease.

(2) In connection with making a decision to which this regulation applies, the Department may refer an issue, together with any relevant information or evidence available to it, including any information or evidence provided by or on behalf of the claimant, to a medical practitioner who has experience in such of the issues specified in paragraph (1) as are relevant to the decision, for such report as appears to the Department to be necessary for the purpose of providing it with information for use in making the decision.

(3) In making a decision to which this regulation applies, the Department shall have regard to (among other factors)—

- (a) all relevant medical reports provided to it in connection with that decision; and
- (b) the experience, in such of the issues specified in paragraph (1) as are relevant to the decision, of any medical practitioner who has provided a report, including a medical practitioner who has provided a report following an examination required by the Department under Article 19.

### **Income support and social fund determinations on incomplete evidence**

**13.**—(1) Where, for the purpose of a decision under Article 9 or 11—

- (a) a determination falls to be made by the Department as to what housing costs are to be included in a claimant's applicable amount by virtue of regulation 17(1)(e) or 18(1)(f) of, and Schedule 3 to, the Income Support Regulations; and
- (b) it appears to the Department that it is not in possession of all of the information or evidence which is relevant for the purposes of such a determination,

it shall make the determination on the assumption that the housing costs to be included in the claimant's applicable amount are those that can be immediately determined.

(2) Where, for the purpose of a decision under Article 9 or 11—

- (a) a determination falls to be made by the Department as to whether—
  - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 125(3) of the Contributions and Benefits Act,
  - (ii) for the purposes of regulation 12 of the Income Support Regulations<sup>(3)</sup>, a person is by virtue of that regulation to be treated as receiving relevant education, or

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(3) Regulation 12 was substituted by regulation 5 of S.R. 1990 No. 131 and amended by S.R. 1992 No. 403 and S.R. 1993 No. 373

- (iii) in relation to any claimant, the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e) of, and paragraph 13 of Schedule 2 to, the Income Support Regulations; and
  - (b) it appears to the Department that it is not in possession of all of the information or evidence which is relevant for the purposes of such a determination,
- it shall make the determination on the assumption that the relevant information or evidence which is not in its possession is adverse to the claimant.

#### **Effect of alteration in the component rates of income support and jobseeker's allowance**

14.—(1) Section 139 of the Administration Act shall not apply to any award of income support in force in favour of a person where there is applicable to that person—

- (a) any amount determined in accordance with regulation 17(2) to (7) of the Income Support Regulations<sup>(4)</sup>;
- (b) any protected sum determined in accordance with Schedule 3A or 3B to those Regulations<sup>(5)</sup>; or
- (c) any transitional addition, personal expenses addition or special transitional addition applicable under Part II of the Income Support (Transitional) Regulations (Northern Ireland) 1987<sup>(6)</sup>.

(2) Where section 139 of the Administration Act does not apply to an award of income support by virtue of paragraph (1), a decision under Article 11 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 132 of the Administration Act<sup>(7)</sup>.

(3) Section 139A of the Administration Act<sup>(8)</sup> shall not apply to any award of a jobseeker's allowance in force in favour of a person where there is applicable to that person any amount determined in accordance with regulation 87 of the Jobseeker's Allowance Regulations.

(4) Where section 139A of the Administration Act does not apply to an award of a jobseeker's allowance by virtue of paragraph (3), a decision under Article 11 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 132 of the Administration Act.

#### **Jobseeker's allowance determinations on incomplete evidence**

15. Where, for the purpose of a decision under Article 9 or 11—

- (a) a determination falls to be made by the Department as to whether—
  - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of Article 17 of the Jobseekers Order, or
  - (ii) for the purposes of regulation 54 of the Jobseeker's Allowance Regulations<sup>(9)</sup>, a person is by virtue of that regulation to be treated as receiving relevant education; and
- (b) it appears to the Department that it is not in possession of all of the information or evidence which is relevant for the purposes of such a determination,

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(4) Paragraphs (2) to (7) were added by regulation 2 of [S.R. 1988 No. 193](#) and amended by [S.R. 1989 No. 395](#) and [S.R. 1993 No. 149](#)

(5) Schedules 3A and 3B were inserted by Schedule 2 to [S.R. 1988 No. 318](#) and Schedule 1 to [S.R. 1989 No. 139](#) respectively

(6) [S.R. 1987 No. 460](#); relevant amending regulations are [S.R. 1988 No. 132](#)

(7) Section 132 was amended by paragraph 41 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49)

(8) Section 139A was inserted by Article 26 of the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15))

(9) Regulation 54 was amended by regulation 5 of [S.R. 1997 No. 541](#)

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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it shall make the determination on the assumption that the relevant information or evidence which is not in its possession is adverse to the claimant.