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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 V**

**APPEAL TRIBUNALS FOR SOCIAL SECURITY,  
CONTRACTING-OUT OF PENSIONS AND CHILD SUPPORT**

*CHAPTER II*

*Procedure in connection with determination of appeals and referrals*

**Consideration and determination of appeals and referrals**

**38.**—(1) The procedure in connection with the consideration and determination of an appeal or a referral shall, subject to the following provisions of these Regulations, be such as a legally qualified panel member shall determine.

(2) A legally qualified panel member may give directions requiring a party to the proceedings to comply with any provision of these Regulations and may at any stage of the proceedings, either of his own motion or on a written application made to the clerk to the appeal tribunal by any party to the proceedings, give such directions as he may consider necessary or desirable for the just, effective and efficient conduct of the proceedings and may direct any party to the proceedings to provide such particulars or to produce such documents as may be reasonably required.

(3) Where a clerk to the appeal tribunal is authorised to take steps in relation to the procedure of the tribunal he may give directions requiring any party to the proceedings to comply with any provision of these Regulations.

**Directions concerning oral hearings**

**39.**—(1) Where an appeal or a referral is made to an appeal tribunal, the clerk to the appeal tribunal shall direct the appellant and any other party to the proceedings to notify the clerk to the appeal tribunal in writing whether he wishes to have an oral hearing of the appeal or referral or whether he is content for the appeal or referral to proceed without an oral hearing.

(2) Except in the case of a referral, a direction under paragraph (1) shall include a statement informing the appellant that, if he does not respond in writing to the direction within the period specified in paragraph (3), the appeal may be struck out in accordance with regulation 46.

(3) A notification given in accordance with paragraph (1) shall be sent to the clerk to the appeal tribunal within 14 days of the date of issue of the direction under that paragraph or within such longer period as the clerk to the appeal tribunal may direct.

(4) Where a party to the proceedings notifies the clerk to the appeal tribunal in accordance with paragraph (3) that he wishes to have an oral hearing of the appeal or referral, the appeal tribunal shall hold an oral hearing.

(5) The chairman or, in the case of an appeal tribunal which has only one member, that member, may of his own motion direct that an oral hearing of the appeal or referral be held if he is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

### **Withdrawal of appeals and referrals**

**40.**—(1) An appeal may be withdrawn by the appellant or an authorised representative of his or, as the case may be, a referral may be withdrawn by the Department either—

- (a) at an oral hearing; or
- (b) at any other time before the appeal or referral is determined, by giving notice in writing of the withdrawal to the clerk to the appeal tribunal.

(2) If an appeal or, as the case may be, a referral is withdrawn in accordance with paragraph (1) (a), the clerk to the appeal tribunal shall send notice in writing to any party to the proceedings who is not present when the appeal or referral is withdrawn, informing him that the appeal or, as the case may be, referral has been withdrawn.

(3) If an appeal or, as the case may be, a referral is withdrawn in accordance with paragraph (1) (b), the clerk to the appeal tribunal shall send notice in writing to every party to the proceedings informing them that the appeal or, as the case may be, referral has been withdrawn.

### **Medical examination required by appeal tribunal**

**41.** For the purposes of Article 20(2), the prescribed condition which shall be satisfied is that the issue, or one of the issues, raised on the appeal—

- (a) is 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,
  - (iv) a disability working allowance specified in section 128(1)(b) of that Act,
  - (v) incapacity benefit under section 30A of that Act, or
  - (vi) severe disablement allowance under section 68 of that Act;
- (b) relates to the period throughout which the claimant is likely to satisfy the conditions for entitlement to an attendance allowance or a disability living allowance;
- (c) is the rate at which an attendance allowance is payable;
- (d) is the rate at which the care component or the mobility component of a disability living allowance is payable;
- (e) relates to either statutory sick pay or statutory maternity pay and the appeal is made by the employer concerned;
- (f) relates to the extent of a person's disablement and its assessment in accordance with Schedule 6 to the Contributions and Benefits Act;
- (g) is whether the claimant suffers a loss of physical or mental faculty as a result of the relevant accident for the purposes of section 103 of that Act;
- (h) relates to any disease or injury prescribed for the purposes of section 108 of that Act; or
- (i) relates to any payment arising under, or by virtue of a scheme having effect under, section 111 of, and Schedule 8 to, that Act.

### **Non-disclosure of medical advice or evidence**

42.—(1) Where, in connection with the consideration and determination of an appeal or a referral there is before an appeal tribunal medical advice or medical evidence relating to a person which has not been disclosed to him and in the opinion of the chairman or, in the case of an appeal tribunal which has only one member, that member, the disclosure to that person of that advice or evidence would be harmful to his health, such advice or evidence shall not be required to be disclosed to that person.

(2) Advice or evidence such as is mentioned in paragraph (1) shall not be disclosed to any person acting for or representing the person to whom it relates or, in a case where a claim for benefit is made by reference to the disability of a person other than the claimant and the advice or evidence relates to that other person, shall not be disclosed to the claimant or any person acting for or representing him, unless the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that it is in the interests of the person to whom the advice or evidence relates to do so.

(3) A tribunal shall not be precluded from taking into account for the purposes of the determination advice or evidence which has not been disclosed to a person under the provisions of paragraph (1) or (2).

### **Summoning of witnesses and administration of oaths**

43.—(1) A chairman or, in the case of an appeal tribunal which has only one member, that member, may by summons require any person in Northern Ireland to attend as a witness at a hearing of an appeal, application or referral at such time and place as shall be specified in the summons and, subject to paragraph (2), at the hearing to answer any question or produce any documents in his custody or under his control which relate to any matter in question in the appeal, application or referral but—

- (a) no person shall be required to attend in obedience to such summons unless he has been given at least 14 days notice of the hearing or, if less than 14 days notice is given, he has informed the tribunal that the notice given is sufficient; and
- (b) no person shall be required to attend and give evidence or to produce any document in obedience to such summons unless the necessary expenses of attendance are paid or tendered to him.

(2) No person shall be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce on a trial of an action in a court of law in Northern Ireland.

(3) In exercising the powers conferred by this regulation the chairman or, in the case of an appeal tribunal which has only one member, that member, shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence or concerns national security.

(4) Every summons issued under this regulation shall contain a statement to the effect that the person in question may apply in writing to the chairman or, in the case of an appeal tribunal which has only one member, that member, to vary or set aside the summons.

(5) A chairman or, in the case of an appeal tribunal which has only one member, that member, may require any witness, including a witness summoned under the powers conferred by this regulation, to give evidence on oath and for that purpose there may be administered an oath in due form.

### **Confidentiality in child support appeals and referrals**

44.—(1) In the circumstances specified in paragraph (2), for the purposes of paragraph 7 of Schedule 1 to the Order, in a child support appeal or referral, the prescribed material is—

- (a) the address of the absent parent, the parent with care, the child or any other person with care of the child; or
- (b) any information the use of which could reasonably be expected to lead to the location of any person specified in sub-paragraph (a).

(2) Except where the appeal is brought against a reduced benefit direction within the meaning of Article 43(11) of the Child Support Order, paragraph (1) applies where, in response to an enquiry from the Department, the absent parent or, as the case may be, the parent with care has within 14 days of the issue of that enquiry notified the Department that he would like the information specified in paragraph (1) which relates to him to remain confidential.

(3) In this regulation “absent parent” and “parent with care” have the same meanings as in Article 2(2) of the Child Support Order.

### **Consideration of more than one appeal under Article 22 of the Child Support Order**

**45.** An appeal tribunal which is considering an appeal under Article 22 of the Child Support Order in respect of a departure direction which relates to a maintenance assessment may, if it considers it appropriate to do so, consider at the same time any appeal under that Article in respect of another departure direction which relates to the same maintenance assessment.