
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 272

**SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT
PENSIONS**

**The Social Security and Child Support (Decisions and Appeals)
(Amendment No. 3) Regulations (Northern Ireland) 1999**

Made - - - - *15th June 1999*
Coming into operation *5th July 1999*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 11A, 20(2), 24A and 74(1), (5) and (6) of the Social Security (Northern Ireland) Order 1998(1) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of that Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Decisions and Appeals) (Amendment No. 3) Regulations (Northern Ireland) 1999 and shall come into operation on 5th July 1999.

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations

2.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(2) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 1(2) (interpretation) after the definition of “referral” there shall be added the following definition—

““the Transfer of Functions Order” means the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999(3).”.

(1) S.I.1998/1506 (N.I. 10); Articles 11A and 24A were inserted respectively by paragraphs 18 and 27 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)
(2) S.R. 1999 No. 162, to which there are amendments not relevant to these regulations
(3) S.I. 1999/671

(3) After regulation 11 (Department to determine certain matters) there shall be inserted the following regulation—

“Issues for decision by officers of the Inland Revenue

11A.—(1) Where, on consideration of any claim or other matter, it appears to the Department that an issue arises which, by virtue of Article 7 of the Transfer of Functions Order, falls to be decided by an officer of the Board, it shall refer that issue to the Board.

(2) Where—

- (a) the Department has decided any claim or other matter on an assumption of facts—
 - (i) as to which there appeared to it to be no dispute, but
 - (ii) concerning which, had an issue arisen, that issue would have fallen, by virtue of Article 7 of the Transfer of Functions Order, to be decided by an officer of the Board;
- (b) an application for revision or supersession is made in relation to the decision on that claim or other matter; and
- (c) it appears to the Department on consideration of the application that such an issue arises,

it shall refer that issue to the Board.

(3) Pending the final decision on any issue which has been referred to the Board in accordance with paragraph (1) or (2), the Department may—

- (a) determine any other issue arising on consideration of the claim or other matter or, as the case may be, on the application;
- (b) seek a preliminary opinion of the Board on the issue referred and decide the claim or other matter or, as the case may be, the application in accordance with that opinion on that issue; or
- (c) defer making any decision on the claim or other matter or, as the case may be, the application.

(4) On receipt by the Department of the final decision on an issue which has been referred to the Board in accordance with paragraph (1) or (2), it shall—

- (a) in a case to which paragraph (3)(b) applies—
 - (i) consider whether the decision ought to be revised under Article 10 or superseded under Article 11, and
 - (ii) if so, revise it or, as the case may be, make a further decision which supersedes it; or
- (b) in a case to which paragraph (3)(a) or (c) applies, decide the claim or other matter or, as the case may be, the application,

in accordance with the final decision on the issue so referred.

(5) In paragraphs (3) and (4) “final decision” means the decision of an officer of the Board under Article 7 of the Transfer of Functions Order or the determination of any appeal in relation to that decision.”.

(4) After regulation 38 (consideration and determination of appeals and referrals) there shall be inserted the following regulation—

“Appeals raising issues for decision by officers of the Inland Revenue

38A.—(1) Where, on consideration of any appeal, it appears to an appeal tribunal that an issue arises which, by virtue of Article 7 of the Transfer of Functions Order, falls to be decided by an officer of the Board, the tribunal shall—

(a) refer the appeal to the Department pending the decision on that issue by an officer of the Board; and

(b) require the Department to refer that issue to the Board,

and the Department shall refer that issue accordingly.

(2) Pending the final decision on any issue which has been referred to the Board in accordance with paragraph (1), the Department may revise the decision under appeal, or make a further decision superseding that decision, in accordance with its determination of any issue other than one which has been so referred.

(3) On receipt by the Department of the final decision on an issue which has been referred to the Board in accordance with paragraph (1), it shall consider whether the decision under appeal ought to be revised under Article 10 or superseded under Article 11, and—

(a) if so, revise it or, as the case may be, make a further decision which supersedes it; or

(b) if not, forward the appeal to the appeal tribunal for determination in accordance with the final decision on the issue so referred.

(4) In paragraphs (2) and (3), “final decision” has the same meaning as in regulation 11A(5).”

(5) In regulation 41 (medical examination required by appeal tribunal)—

(a) in paragraph (a) sub-paragraph (v) shall be omitted;

(b) after paragraph (d) there shall be inserted the following paragraph—

“(dd) is whether a person is incapable of work for the purposes of the Contributions and Benefits Act;” and

(c) paragraph (e) shall be omitted.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

15th June 1999.

John O'Neill
Assistant Secretary

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

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999. They make provision in the light of the transfer of decision-making functions in relation to issues arising in connection with social security contributions, statutory sick pay and statutory maternity pay to officers of the Commissioners of Inland Revenue (“the Board”).

Regulation 2(3) and (4) inserts regulations 11A and 38A to provide for the referral to the Board of issues falling to be decided by the Board which arise on consideration of a claim or other matter, an application for revision or supersession of a decision, or an appeal. The new regulations also make provision for the seeking of a preliminary opinion from the Board on any issue referred to them, and for dealing with any matter pending a final decision on the referred issue.

Regulation 2(5) amends regulation 41 to specify incapacity for work as one of the issues in relation to which an appeal tribunal may require a person to undergo a medical examination, and to remove provision in relation to statutory sick pay and statutory maternity pay appeals.

The enabling provisions of the Social Security (Northern Ireland) Order 1998, under which these Regulations are made, were brought into operation, for the purpose only of authorising the making of regulations as follows—

- (a) Article 20(2) on 10th March 1999, by virtue of the Social Security (1998 Order) (Commencement No. 4) Order (Northern Ireland) 1999 ([S.R. 1999 No. 102 \(C. 13\)](#)); and
- (b) Articles 11A and 24A on 15th June 1999, by virtue of the Social Security Contributions (Transfer of Functions, etc.) (1999 Order) (Commencement No. 2 and Consequential and Transitional Provisions) Order (Northern Ireland) 1999 ([S.R. 1999 No. 271 \(C. 22\)](#)).

As the Regulations are made before the end of the period of 6 months from the commencement of those provisions, they are, accordingly, exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992, from reference to the Social Security Advisory Committee.