
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 221

The Universal Credit, Personal Independence Payment,
Jobseeker's Allowance and Employment and Support Allowance
(Decisions and Appeals) Regulations (Northern Ireland) 2016

PART 3

Supersessions

CHAPTER 1

Grounds for supersession

Introduction

22. Subject to regulation 32 (decisions which may not be superseded), the Department may make a decision under Article 11 of the 1998 Order (“a superseding decision”) in any of the cases and circumstances set out in this Chapter.

Change of circumstances

23.—(1) The Department may supersede a decision in respect of which—

- (a) there has been a relevant change of circumstances since the decision to be superseded had effect or, in the case of an advance award under regulation 31, 32, or 33 of the Claims and Payments Regulations, since it was made; or
- (b) it is expected that a relevant change of circumstances will occur.

(2) The fact that a person has become terminally ill is not a relevant change of circumstances for the purposes of paragraph (1) unless an application for supersession is made which contains an express statement that the person is terminally ill.

Error of law, ignorance, mistake etc.

24. A decision of the Department, other than one to which regulation 25 (decisions against which no appeal lies) refers, may be superseded where—

- (a) the decision was wrong in law, or was made in ignorance of, or was based on a mistake as to, some material fact; and
- (b) an application for a supersession was received, or a decision was taken by the Department to act on its own initiative, more than one month after the date of notification of the decision to be superseded or after the expiry of such longer period as may have been allowed under regulation 6 (late application for a revision).

Decisions against which no appeal lies

25. A decision specified in Schedule 2 to the 1998 Order (decisions against which no appeal lies) or prescribed in regulation 49(2) (decisions which may or may not be appealed) may be superseded.

Medical evidence and limited capability for work etc.

26.—(1) An employment and support allowance decision, a personal independence payment decision or a universal credit decision may be superseded where, since the decision was made, the Department has—

- (a) received medical evidence from a healthcare professional or other person approved by the Department; or
- (b) made a determination that the claimant is to be treated as having—
 - (i) limited capability for work in accordance with regulation 16, 21, 22 or 29 of the Employment and Support Allowance Regulations; or
 - (ii) limited capability for work or for work and work-related activity in accordance with Part 5 (capability for work or work-related activity) of the Universal Credit Regulations.

(2) The decision awarding personal independence payment may be superseded where there has been a negative determination.

(3) In this regulation—

“an employment and support allowance decision”, “a personal independence payment decision” and “a universal credit decision” each has the meaning given in Schedule 1 (effective dates for superseding decisions made on the ground of a change of circumstances);

“healthcare professional” means—

- (a) a registered medical practitioner;
- (b) a registered nurse; or
- (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999 ^{M1} (regulation of health professions, social workers, other care workers etc.).

Modifications etc. (not altering text)

- C1** Reg. 26 applied (with modifications) (temp.) (13.3.2020) by [The Employment and Support Allowance and Universal Credit \(Coronavirus\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/33\)](#), regs. 1(1), 3 (with reg. 5), as amended (30.3.2020) by [The Social Security \(Coronavirus\) \(Further Measures\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/53\)](#), regs. 1(1), **10(3)**

Marginal Citations

- M1** 1999 c. 8; section 60 was amended by section 26(9) of the [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#) and paragraph 1 of Schedule 8, paragraph 10 of Schedule 10 and Part 2 of Schedule 15 to the [Health and Social Care Act 2008 \(c. 14\)](#), **sections 209(1) to (10)**, 210 and 213(7)(i) of, and paragraphs 60 and 72(2) of Schedule 15 to, the [Health and Social Care Act 2012 \(c. 7\)](#) and paragraph 8(a) of Schedule 4 to [S.I. 2002/254](#).

Sanctions cases

27.—(1) A decision as to the amount of an award of benefit may be superseded where the amount of that award is to be reduced by virtue of—

- (a) section 11J(1) of the 2007 Act (sanctions);
- (b) Article 8J(1) or 8K(1) of the Jobseekers Order (higher-level and other sanctions); or
- (c) Article 31(1) or 32(1) of the 2015 Order (higher-level and other sanctions).

(2) A decision reducing an award of benefit by virtue of any of those provisions may be superseded where the reduction falls to be suspended or terminated.

Loss of benefit cases

28. A decision that a benefit is payable to a claimant may be superseded where that benefit ceases to be payable or falls to be reduced by virtue of section 5B, 6 or 8 of the Fraud Act (the loss of benefit provisions) ^{M2}.

Marginal Citations

M2 Section 5B was inserted by section 19(1) of the [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13 \(N.I.\)\)](#) and is amended by Articles 115(8)(a), 117(2) to (6) and 118(2) of, and paragraph 47 of Schedule 2, paragraph 14 of Schedule 3 and Part 1 of Schedule 12 to, the Welfare Reform (Northern Ireland) Order 2015. Section 6 was amended by paragraph 33 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, Schedule 6 to the Tax Credits Act 2002, section 45 of, and paragraph 14(2) and (3) of Schedule 3 to, the Welfare Reform Act (Northern Ireland) 2007, paragraph 1 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2010, Articles 117(7), 118(3) to (11) of, and paragraph 48 of Schedule 2, paragraph 15 of Schedule 3 and Part 1 of Schedule 12 to, the Welfare Reform (Northern Ireland) Order 2015. Section 8 was amended by paragraph 34 of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002, paragraph 14(4) and (5) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007, paragraph 3 of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2010 and paragraph 50 of Schedule 2 and Part 1 of Schedule 12 to the Welfare Reform (Northern Ireland) Order 2015.

Contributions cases

29. The Department may supersede a decision (“the original decision”) where, on or after the date on which the decision is made, a late or an unpaid contribution is treated as paid under—

- (a) regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations (Northern Ireland) 2001 (treatment for the purpose of any contributory benefit of late paid primary Class 1 contributions where there was no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
- (b) regulation 6 of those Regulations (treatment for the purpose of any contributory benefit of contributions under the Act paid late through ignorance or error) on a date which falls on or before the date on which the original decision was made; or
- (c) regulation 60 of the Social Security (Contributions) Regulations 2001 (treatment for the purpose of contributory benefits of unpaid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made.

Housing costs: universal credit

30. A decision in relation to universal credit which adopts a determination made under the Universal Credit Housing Costs (Executive Determinations) Regulations (Northern Ireland) 2016 may be superseded where, in consequence of a redetermination by the Northern Ireland Housing

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Executive made under those Regulations, the amount which represents rent for the purposes of calculating the housing costs element in universal credit is reduced.

Appeal tribunal and Commissioner's decisions

- 31.** The Department may supersede a decision of an appeal tribunal or a Commissioner which—
- (a) was made in ignorance of, or was based on a mistake as to, some material fact; or
 - (b) in a case where Article 26(5) of the 1998 Order (appeals involving issues that arise on appeal in other cases) applies, was made in accordance with Article 26(4)(b) of that Order.

Changes to legislation:

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