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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 593**

**The Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006**

**General provisions relating to the procedure for appeals**

**8.**—(1) Where an appeal is made, the provisions of the Social Security Regulations specified in paragraph (2) shall apply in relation to the appeal as they apply to an appeal to an appeal tribunal under section 12 of the Social Security Act 1998<sup>(1)</sup>, subject to the modifications to those regulations set out in paragraphs (3) to (10).

(2) The provisions referred to in paragraph (1) are—

- (a) 34 (death of a party to an appeal)<sup>(2)</sup>;
- (b) 36(1) and (5) (composition of appeal tribunals)<sup>(3)</sup>;
- (c) 38 (consideration and determination of appeals and referrals);
- (d) 39 (choice of hearing)<sup>(4)</sup>;
- (e) 40 (withdrawal of appeal or referral)<sup>(5)</sup>;
- (f) 42 (non-disclosure of medical advice or evidence)<sup>(6)</sup>;
- (g) 43 (summoning of witnesses and administration of oaths);
- (h) 46 (appeals which may be struck out)<sup>(7)</sup>;
- (i) 47 (reinstatement of struck out appeals)<sup>(8)</sup>;
- (j) 49 (procedure at oral hearings)<sup>(9)</sup>;
- (k) 51 (postponement and adjournment)<sup>(10)</sup>;
- (l) 53 (decisions of appeal tribunals)<sup>(11)</sup>;
- (m) 54 (late application for a statement of reasons of tribunal decision)<sup>(12)</sup>;
- (n) 55 (record of tribunal; proceedings)<sup>(13)</sup>;

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- (1) 1998. c.14. Section 12 was amended by the Social Security Contributions (Transfer of Functions etc) Act 1999 (c. 2), sections 18 and 26(3), Schedule 7, paragraph 25 and Schedule 10, Part 1.
- (2) S.I.1999/991. Revoked in so far as relating to a child benefit or guardian's allowance under the Social Security Contributions and Benefits Act 1992 by S.I. 2003/916. Paragraphs 1 and (3) were amended by S.I. 1999/991.
- (3) S.I. 1999/991. Amended by S.I. 1999/1466 and S.I. 2004/1596.
- (4) S.I. 1999/991. Provision heading and paragraphs (1) to (4) were amended by S.I. 2004/3368.
- (5) S.I. 1999/991. Paragraph (1) was amended by S.I. 1999/2570.
- (6) S.I. 1999/991. Paragraphs (1) and (3) were amended by S.I. 2000/1596.
- (7) S.I. 1999/991. Paragraphs (1) and (4) were amended by S.I. 2004/3368.
- (8) S.I. 1999/991. Paragraphs (1) and (2) were amended by S.I. 2002/1379 and paragraph (2) was amended by S.I. 2004/3368.
- (9) S.I. 1999/991. Paragraphs (6), (9), (10) and (13) were amended by S.I. 2002/1379 and paragraph (7) was amended by S.I. 2002/1379 and S.I. 2005/337.
- (10) S.I. 1999/991. Paragraph (5) was revoked by S.I. 2002/1379.
- (11) S.I. 1999/991. Paragraph (3) was amended by S.I. 1999/2677 and S.I. 2005/337, paragraph (4) was amended by S.I. 2002/1379 and S.I. 2005/337 and paragraph (4A) was inserted by 2005/337.
- (12) S.I. 1999/991. Paragraph (1) was amended by S.I. 2000/1596 and S.I. 2005/337, paragraphs (6), (10), (11) and (12) were amended by S.I. 2002/1379 and paragraph (13) was amended by S.I. 2002/1379 and S.I. 2005/337.
- (13) S.I. 1999/991. Paragraphs (2) to (4) were amended by S.I. 2005/337.

- (o) 56 (correction of accidental errors)(**14**);
- (p) 57 (setting aside decisions on certain grounds)(**15**);
- (q) 58 (application for leave to appeal to a commissioner from an appeal tribunal)(**16**); and
- (r) Schedule 3 (qualifications of persons appointed to the panel)(**17**).

(3) Regulation 38 (consideration and determination of appeals and referrals) of the Social Security Regulations shall apply as if the reference to “any provision of these Regulations” were a reference to any of the Social Security Regulations specified in paragraph (2).

(4) The provisions specified in paragraph (2) shall have effect in relation to an appeal as if–

- (a) any reference in any of those provisions to a party to the proceedings were a reference to the Scottish Ministers and to any person entitled under section 157(1) to make an appeal; and
- (b) any reference to the Secretary of State as a party to the proceedings were a reference to the Scottish Ministers.

(5) Regulation 39(1) and 39(3) (choice of hearing) shall apply as if the reference to the Secretary of State were a reference to the Scottish Ministers.

(6) Regulation 40 (withdrawal of appeal or referral) shall apply as if the reference to the Secretary of State were a reference to the Scottish Ministers.

(7) Regulation 46 (appeals which may be struck out) of the Social Security Regulations shall apply as if–

- (a) Paragraph (1)(a) were omitted; and
- (b) in paragraph (1)(b), the reference to “these Regulations” were a reference to regulations 4(5) or 5(4), as the case may be, of these Regulations.

(8) Regulations 56(1) (correction of accidental errors) and 57(1) (setting aside decisions on certain grounds) of the Social Security Regulations shall apply as if the reference to “a relevant enactment” were a reference to section 158.

(9) Regulation 58(1) (application for leave to appeal to a Commissioner from an appeal tribunal) of the Social Security Regulations shall apply as if the reference to “section 13 of the 1997 Act or under section 12 or 13” were a reference to section 159.

(10) Regulation 58(2) (Application for leave to appeal to a Commissioner from an appeal tribunal) shall apply as if the reference to the Secretary of State were a reference to the Scottish Ministers.

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(14) S.I. 1999/991. Paragraph (1) was amended by S.I. 2000/1596 and S.I. 2005/337 and paragraph (2) was amended by S.I. 2005/337.

(15) S.I. 1999/991. Paragraphs (2), (3), (6) and (12) were amended by S.I. 2002/1379 and paragraph (4A) was inserted by S.I. 2005/337.

(16) S.I. 1999/991. Paragraph (1) was amended by S.I. 2002/1379 and S.I. 2005/337, paragraph (1A) was inserted by S.I. 2005/337, paragraph (2) was amended by S.I. 1999/2570, paragraph (3) was revoked by S.I. 2002/1379, paragraph (4) was amended by S.I. 2002/1379, paragraph (5) was amended by S.I. 2005/337 and paragraph (6) was amended by S.I. 2002/1379.

(17) S.I. 1999/991. Paragraphs (2) and (3) were amended by S.I. 2005/337 and paragraph (4) was amended by S.I. 2002/1379.