



Social Security Act 1980

1980 CHAPTER 30

Commissioners

12 Change of title of National Insurance Commissioners

National Insurance Commissioners shall, instead of being so called, be called Social Security Commissioners; and accordingly—

- (a) any enactment or instrument passed or made before the coming into force of this section shall have effect, so far as may be necessary in consequence of the change of title made by this section, as if for any reference to a Chief or other National Insurance Commissioner there were substituted respectively a reference to a Chief or other Social Security Commissioner ; and
- (b) documents and forms printed or duplicated for use in connection with functions of National Insurance Commissioners may be used notwithstanding that they contain references to such Commissioners and those references shall be construed as references to Social Security Commissioners.

13 Tenure of office of Commissioner

- (1) Subject to subsections (2), (3) and (5) of this section, a Social Security Commissioner appointed after the coming into force of this section shall vacate his office at the end of the completed year of service in which he attains the age of seventy-two.
- (2) Where the Lord Chancellor considers it desirable in the public interest to retain a Commissioner in office after the time at which he would be required by the preceding subsection to vacate it, the Lord Chancellor may from time to time authorise the continuance of the Commissioner in office until any date not later than that on which the Commissioner attains the age of seventy-five.
- (3) A Social Security Commissioner appointed after the coming into force of this section may be removed from office by the Lord Chancellor on the ground of misbehaviour or incapacity.
- (4) Subject to the following subsection, a person who holds office as a Social Security Commissioner shall not practise as a barrister or advocate or act for any remuneration

to himself as arbitrator, arbiter or referee or be directly or indirectly concerned in any matter as a conveyancer, notary public or solicitor.

- (5) If the Lord Chancellor considers that, in order to facilitate the disposal of the business of Social Security Commissioners, he should make an appointment in pursuance of this subsection, he may appoint a barrister, advocate or solicitor of not less than ten years standing to be a Social Security Commissioner (but to be known as a deputy Commissioner) for such period or on such occasions as the Lord Chancellor thinks fit; but—
- (a) nothing in subsection (1), (2) or (4) of this section or paragraph 5 or 6 of Schedule 10 to the principal Act (which relate to pensions for Commissioners) shall apply to a person by virtue of his appointment in pursuance of this subsection; and
 - (b) any reference to a Social Security Commissioner in Part I of Schedule 1 to the House of Commons Disqualification Act 1975 and the Northern Ireland Assembly Disqualification Act 1975 as amended by section 12 of this Act shall be construed as excluding a person appointed in pursuance of this subsection.
- (6) When the Lord Chancellor proposes to exercise a power conferred on him by subsection (2), (3) or (5) of this section otherwise than in relation to Northern Ireland, it shall be his duty to consult the Lord Advocate with respect to the proposal.
- (7) In relation to a Social Security Commissioner appointed for Northern Ireland after the coming into force of this section—
- (a) paragraph 5(1) of Schedule 10 to the Social Security (Northern Ireland) Act 1975 (which provides for retirement) shall not apply;
 - (b) in paragraph 6(1)(a) of that Schedule (which relates to pensions on retirement in pursuance of paragraph 5 of that Schedule) for the reference to paragraph 5 there shall be substituted a reference to this section; and
 - (c) for the reference in subsection (5) of this section to the paragraph 5 or 6 there mentioned there shall be substituted a reference to paragraph 6 or 7 of that Schedule.

14 Appeal from Commissioners etc on point of law

- (1) Subject to subsections (2) and (3) of this section, an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this section shall lie from a decision except—
- (a) with the leave of the Commissioner who gave the decision or, in a case prescribed by regulations, with the leave of a Commissioner selected in accordance with regulations; or
 - (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this section in respect of a Commissioner's decision may only be made by—
- (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner's decision relates;
 - (b) any other person who was a party to the proceedings in which the first decision mentioned in the preceding paragraph was given;

(c) the Secretary of State or the Department of Health and Social Services for Northern Ireland in a case where he or the Department is not entitled to apply for leave by virtue of either of the preceding paragraphs; and

(d) any other person who is authorised by regulations to apply for leave;

and regulations may make provision with respect to the manner in which and the time within which applications must be made to a Commissioner for leave under this section and with respect to the procedure for dealing with such applications.

(4) On an application to a Commissioner for leave under this section it shall be the duty of the Commissioner to specify as the appropriate court—

(a) the Court of Appeal if it appears to him that the relevant place is in England or Wales ;

(b) the Court of Session if it appears to him that the relevant place is in Scotland ; and

(c) the Court of Appeal in Northern Ireland if it appears to him that the relevant place is in Northern Ireland,

except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) to (c) of this subsection as the appropriate court it shall be his duty to specify the different court as the appropriate court.

(5) In this section—

" the appropriate court", except in subsection (4), means the court specified, in pursuance of that subsection;

" Commissioner ". except in subsections (7) and (8), has the meanings assigned to it by the principal Act and the Social Security (Northern Ireland) Act 1975 ; and

" the relevant place ". in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the authority whose decision was the subject of the Commissioner's decision usually exercises its functions.

(6) Regulations may provide for the preceding provisions of this section to have effect, with such modifications as may be prescribed by the regulations, in relation to a decision of a medical appeal tribunal appointed under the Social Security (Northern Ireland) Act 1975.

(7) In relation to a decision of a Commissioner within the meaning of the principal Act which was given in consequence of a reference under subsection (4) of section 112 of that Act (which enables a medical appeal tribunal to refer a question of law to a Commissioner), subsections (3) and (5) of this section shall have effect with such modifications as may be prescribed by regulations.

(8) The powers to make regulations conferred by this section shall be exercisable—

(a) so far as they relate to a Commissioner within the meaning of the principal Act, by the Secretary of State by statutory instrument; and

(b) so far as they relate to a Commissioner within the meaning of the Social Security (Northern Ireland) Act 1975, or a medical appeal tribunal appointed under that Act, by the Department of Health and Social Services for Northern Ireland by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 ;

Status: This is the original version (as it was originally enacted).

and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament and any statutory rule so made shall be subject to negative resolution as defined by section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act.

15 Leave required for appeal from local tribunal to Commissioner

- (1) No appeal shall lie to a Commissioner within the meaning of the principal Act from a decision which is given after the coming into force of this subsection by a local tribunal appointed under section 97 of that Act and is the unanimous decision of the members of the tribunal except—
 - (a) with the leave of the person who was the chairman of the tribunal when the decision was given or, in a case prescribed by regulations, with the leave of a person appointed to act as chairman of such a local tribunal who is selected in accordance with regulations ; or
 - (b) if he refuses leave, with the leave of such a Commissioner,and regulations may make provision with respect to the manner in which and the time within which applications must be made for leave under this subsection and with respect to the procedure for dealing with such applications.
- (2) The powers to make regulations conferred by the preceding subsection shall be exercisable by the Secretary of State by statutory instrument; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (5) of section 101 of the principal Act (under which, among other things, an appeal to a Commissioner from a decision of a local tribunal must be brought within 3 months beginning with the date when notice of the decision is given to the claimant) shall have effect, in relation to an appeal for which leave is required by virtue of this section, as if for the reference to that date there were substituted a reference to the date when leave under subsection (1) of this section is given for the appeal.