



# Social Security Administration (Northern Ireland) Act 1992

## 1992 CHAPTER 8

### PART II

#### ADJUDICATION

##### **Modifications etc. (not altering text)**

- C1** Part II (ss. 15-68): Power to modify conferred (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 116\(2\), 171\(8\), 173\(4\)](#) (with s. 108(5))
- Part II (ss. 15-68): Power to modify conferred (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 117\(1\), 171\(8\), 173\(4\)](#) (with s. 108(5))
- Part II (ss. 15-68): Power to modify conferred (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 119, 171\(8\), 173\(4\)](#) (with s. 108(5))
- Part II (ss. 15-68) amended (25.8.1995) by [S.R. 1995/293, reg. 43\(2\)](#)
- Part II (ss. 15-68) applied (with modifications) (25.8.1995) by [S.R. 1995/293, reg. 44\(2\)\(a\)](#)
- Part II (ss. 15-68): power to modify (*temp.*) conferred (24.3.1999) by [S.I. 1999/671, arts. 1\(2\)\(c\), 14\(2\)\(a\)](#)
- Part. II (ss. 15-68) (except ss. 22 and 50) ceased to have effect (5.7.1999, 6.9.1999, 5.10.1999, 18.10.1999 and 29.11.1999 for different purposes, otherwise *prosp.*) by virtue of [S.I. 1998/1506 \(N.I. 10\), arts. 1\(2\), 39\(3\)](#) (with transitory provisions in [Sch. 5](#)); [S.R. 1999/310, art. 2\(1\)\(b\), Sch. 1](#) (with arts. 4, 14); [S.R. 1999/371, art. 2\(b\), Sch. 1](#) (with arts. 4, 18); [S.R. 1999/407, art. 2\(b\), Sch.](#) (with art. 4); [S.R. 1999/428, art. 2\(b\), Sch. 1](#) (with arts. 4, 16) and [S.R. 1999/472, art. 2\(1\), Sch. 1](#) (with arts. 20-22 and subject to art. 2(2) of that S.R.)

#### *Adjudication by the Department*

### 15 Questions for the Department.

- (1) Subject to this Part of this Act, any of the following questions shall be determined by the Department—

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- (a) a question whether a person is an earner and, if he is, as to the category of earners in which he is to be included;
  - (b) subject to subsection (2) below, a question whether the contribution conditions for any benefit are satisfied, or otherwise relating to a person's contributions or his earnings factor;
  - (c) a question whether a Class 1A contribution is payable or otherwise relating to a Class 1A contribution;
  - (d) a question whether a person is or was employed in employed earner's employment for the purposes of Part V of the Contributions and Benefits Act;
  - (e) a question as to whether a person was, within the meaning of regulations, precluded from regular employment by responsibilities at home;
  - (f) any question as to which surpluses are to be taken into account under section 45(1) of the Contributions and Benefits Act;
  - (g) any question arising under any provision of Part XI of the Contributions and Benefits Act or this Act, or under any provision of regulations under that Part, as to—
    - (i) whether a person is, or was, an employee or employer of another;
    - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 154 of the Contributions and Benefits Act;
    - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
    - (iv) the amount that falls to be so deducted or paid;
    - (v) the amount of an employer's contributions payments for any period for the purposes of regulations under section 154(3) of the Contributions and Benefits Act; or
    - (vi) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 159(5) of that Act, to be treated as one; and
  - (h) any question arising under any provision of Part XII of that Act or this Act, or under any provision of regulations under that Part, as to—
    - (i) whether a person is, or was, an employee or employer of another;
    - (ii) whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 163 of the Contributions and Benefits Act;
    - (iii) whether a payment falls to be made to an employer in accordance with the regulations;
    - (iv) the amount that falls to be so deducted or paid; or
    - (v) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 167(2) of that Act, to be treated as one,
 and any question arising under regulations made by virtue of paragraph (c), (d) or (f) of section 160(9) of that Act.
- (2) Subsection (1)(b) above includes any question arising—
- (a) under section 17(1) of the Contributions and Benefits Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
  - (b) under regulations made by virtue of section 17(3) or (4) or 18 of that Act;

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but not any other question relating to Class 4 contributions, nor any question within section 18(1)(c) below.

- (3) Regulations may make provision restricting the persons who may apply to the Department for the determination of any such question as is mentioned in subsection (1) above.
- (4) The Department may, if it thinks fit, before determining any such question as is mentioned in subsection (1) above, appoint a person to hold an inquiry into the question, or any matters arising in connection with it, and to report on the question, or on those matters, to the Department.

**Modifications etc. (not altering text)**

- C2** S. 15 applied (7.2.1994) by 1993 c. 49, s. 166(2); S.R. 1994/17, art. 2
- C3** S. 15(1) extended (7.2.1994) by 1993 c. 49, s.165(1); S.R. 1994/17, art. 2
- S. 15(1) excluded (7.2.1994) by 1993 c. 49, ss.165(4); S.R. 1994/17, art. 2

**16 Appeal on question of law.**

- (1) A question of law arising in connection with the determination by the Department of any such question as is mentioned in section 15(1) above may, if the Department thinks fit, be referred for decision to the Court of Appeal.
- (2) If the Department determines in accordance with subsection (1) above to refer any question of law to the court, it shall give notice in writing of its intention to do so—
  - (a) in a case where the question arises on an application made to the Department, to the applicant; and
  - (b) in any case to such persons as appear to it to be concerned with the question.
- (3) Any person aggrieved by the decision of the Department on any question of law within subsection (1) above which is not referred in accordance with that subsection may appeal from that decision to the court.
- (4) The Department shall be entitled to appear and be heard on any such reference or appeal.
- (5) Rules of court may include provision for regulating references and appeals to the court under this section.
- (6) Notwithstanding anything in any Act, the decision of the court on a reference or appeal under this section shall be final.

**Modifications etc. (not altering text)**

- C4** S. 16 applied (7.2.1994) by 1993 c. 49, s. 166(2); S.R. 1994/17, art. 2
- s. 16 modified (6.4.1996 for certain purposes otherwise 6.4.1997) by 1993 c. 49, s. 165(7)(8) as added by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 60(3); S.R. 1996/91, art. 2, Sch. Pt. IV; S.R. 1997/192, art. 2

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## 17 Review of decisions.

- (1) Subject to subsection (2) below, the Department may review any decision given by it on any such question as is mentioned in section 15(1) above, if—
  - (a) new facts have been brought to its notice; or
  - (b) it is satisfied that the decision—
    - (i) was given in ignorance of some material fact;
    - (ii) was based on a mistake as to some material fact; or
    - (iii) was erroneous in point of law.
- (2) A decision shall not be reviewed while an appeal under section 16 above is pending against the decision of the Department on a question of law arising in connection with it, or before the time for so appealing has expired.
- (3) On a review any question of law may be referred under subsection (1) of section 16 above or, where it is not so referred, may be the subject of an appeal under subsection (3) of that section, and the other provisions of that section shall apply accordingly.

### Modifications etc. (not altering text)

- C5** S. 17 applied (7.2.1994) by 1993 c. 49, s. 166(2); S.R. 1994/17, art. 2  
 S. 17 modified (6.4.1996 for certain purposes, otherwise 6.4.1997) by 1993 c. c. 49, s. 165(7)(8) as added by S.I. 1995/3213 (N.I. 22), art. 147, Sch. 3 para. 60(c); S.R. 1996/91, art. 2, Sch. Pt. IV; S.R. 1997/192, art. 2

### *Adjudication by adjudication officers*

## 18 Claims and questions to be submitted to adjudication officer.

- (1) Subject to section 52 below, there shall be submitted forthwith to an adjudication officer for determination in accordance with this Part of this Act—
  - (a) any claim for a benefit to which this section applies;
  - (b) subject to subsection (2) below, any question arising in connection with a claim for, or award of, such a benefit; and
  - (c) any question whether, if he had otherwise had a right to it, a person would be disqualified—
    - (i) by reason of section 28(1) of the Contributions and Benefits Act, for receiving unemployment benefit;
    - (ii) by reason of any regulations under section 32(1) of that Act, for receiving sickness benefit; or
    - (iii) by reason of any regulations under section 59(1) of that Act, for receiving invalidity benefit.
- (2) Subsection (1) above does not apply to any question which falls to be determined otherwise than by an adjudication officer.
- (3) Any question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay may be submitted to an adjudication officer—
  - (a) by the Department; or
  - (b) subject to and in accordance with regulations, by the employee concerned,

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for determination in accordance with this Part of this Act.

- (4) If—
- (a) a person submits a question relating to the age, marriage or death of any person; and
  - (b) it appears to the adjudication officer that the question may arise if the person who has submitted it to him submits a claim to a benefit to which this section applies,
- the adjudication officer may determine the question.
- (5) Different aspects of the same claim or question may be submitted to different adjudication officers; and for that purpose this section and the other provisions of this Part of this Act with respect to the determination of claims and questions shall apply with any necessary modifications.
- (6) This section applies to the following benefits—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) income support;
  - (c) family credit;
  - (d) disability working allowance;
  - (e) any social fund payment such as is mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act;
  - (f) child benefit;
  - (g) statutory sick pay; and
  - (h) statutory maternity pay.

**Modifications etc. (not altering text)**

C6 S. 18(1) excluded (7.2.1994) by 1993 c. 49, s.165(4); S.R. 1994/17, art. 2

## 19 Decision of adjudication officer.

- (1) An adjudication officer to whom a claim or question is submitted under section 18 above (other than a claim which under section 28(12) or (13) or 33(7) below falls to be treated as an application for a review) shall take it into consideration and, so far as practicable, dispose of it, in accordance with this section, and with procedure regulations under section 57 below, within 14 days of its submission to him.
- (2) Subject to subsection (3) and section 35 below, the adjudication officer may decide a claim or question himself or refer it to a social security appeal tribunal.
- (3) The adjudication officer must decide a claim for or question relating to an attendance allowance, a disability living allowance or a disability working allowance himself.
- (4) Where an adjudication officer refers a question as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay to a social security appeal tribunal, the employee and employer concerned shall each be given notice in writing of the reference.
- (5) In any other case notice in writing of the reference shall be given to the claimant.
- (6) Where—

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- (a) a case has been referred to a social security appeal tribunal (“the tribunal”); and
  - (b) the claimant makes a further claim which raises the same or similar questions; and
  - (c) that further claim is referred to the tribunal by the adjudication officer,
- then the tribunal may proceed to determine the further claim whether or not notice has been given under subsection (4) or (5) above.

**Modifications etc. (not altering text)**

C7 S. 19 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 2

*Appeals from adjudication officers - general*

**20 Appeal to social security appeal tribunal.**

- (1) Subject to subsection (3) below, where the adjudication officer has decided a claim or question other than a claim or question relating to an attendance allowance, a disability living allowance or a disability working allowance—
  - (a) if it relates to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to a social security appeal tribunal; and
  - (b) in any other case the claimant shall have a right to do so.
- (2) A person with a right of appeal under this section shall be given such notice of a decision falling within subsection (1) above and of that right as may be prescribed.
- (3) No appeal lies under this section where—
  - (a) in connection with the decision of the adjudication officer there has arisen any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer; and
  - (b) the question has been determined; and
  - (c) the adjudication officer certifies that the decision on that question is the sole ground of his decision.
- (4) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (5) Where an adjudication officer has determined that any amount, other than an amount—
  - (a) of an attendance allowance;
  - (b) of a disability living allowance;
  - (c) of a disability working allowance;
  - (d) of statutory sick pay; or
  - (e) of statutory maternity pay,
 is recoverable under or by virtue of section 69 or 72 below, any person from whom he has determined that it is recoverable shall have the same right of appeal to a social security appeal tribunal as a claimant.
- (6) In any case where—

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- (a) an adjudication officer has decided any claim or question under Part V of the Contributions and Benefits Act; and
- (b) the right to benefit under that Part of that Act of any person other than the claimant is or may be, under Part VI of Schedule 7 to that Act, affected by that decision,

that other person shall have the like right of appeal to a social security appeal tribunal as the claimant.

- (7) Subsection (2) above shall apply to a person with a right of appeal under subsection (5) or (6) above as it applies to a claimant.

#### Modifications etc. (not altering text)

- C8** S. 20 excluded (14.11.1994) by S.R. 1987/82, reg. 64(2) (as substituted by S.R. 1994/396, reg. 2(2))  
 S. 20 modified (25.8.1995) by S.R. 1995/293, reg. 46  
 S. 20 excluded (25.8.1995) by S.R. 1995/293, reg. 56(2)  
 S. 20 modified (1.7.1998) by S.R. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 3

## 21 Appeal from social security appeal tribunal to Commissioner.

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal under section 20 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) In the case of statutory sick pay or statutory maternity pay an appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the employee concerned;
  - (c) the employer concerned;
  - (d) a trade union, where—
    - (i) the employee is a member of the union at the time of the appeal and was so immediately before the question at issue arose; or
    - (ii) the question at issue is a question as to or in connection with entitlement of a deceased person who was at the time of his death a member of the union;
  - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the question at issue arose.
- (3) In any other case an appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the claimant;
  - (c) in any of the cases mentioned in subsection (5) below, a trade union; and
  - (d) a person from whom it is determined that any amount is recoverable under section 69 or 72 below.
- (4) In a case relating to industrial injuries benefit an appeal lies under this section at the instance of a person whose right to benefit is, or may be, under Part VI of Schedule 7 to the Contributions and Benefits Act, affected by the decision appealed against, as well as at the instance of any person or body such as is mentioned in subsection (3) above.



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- (5) The following are the cases in which an appeal lies at the instance of a trade union—
- (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
  - (b) where that question in any way relates to a deceased person who was a member of the union at the time of his death;
  - (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased, was a member of the union at the time of the relevant accident.
- (6) Subsections (2), (3) and (5) above, as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.
- (7) Where the Commissioner holds that the decision was erroneous in point of law, he shall set it aside and—
- (a) he shall have power—
    - (i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or
    - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and
  - (b) in any other case he shall refer the case to a tribunal with directions for its determination.
- (8) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (7)(b) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.
- (9) No appeal lies under this section without the leave—
- (a) of the person who was the chairman of the tribunal when the decision was given or, in a prescribed case, the leave of some other chairman; or
  - (b) subject to and in accordance with regulations, of a Commissioner.
- (10) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.

**Modifications etc. (not altering text)**

**C9** S. 21 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, **Sch. 5**, para. 4

**C10** S. 21(7)-(10) applied (5.2.1996 for certain purposes and otherwise 7.10.1996) by S.I. 1995/2705, **art. 13(8)**; S.R. 1996/26, art. 2(b), **Sch.**; S.R. 1996/401, **art. 2(b)**

S. 21(7)-(10) applied (5.9.1997 for certain purposes, otherwise 6.10.1997) by S.I. 1997/1183 (N.I. 12), **art. 28(3)**; S.R. 1997/400, art. 2(1), **Sch. Pt. II**

**22 Appeal from Commissioners on point of law.**

- (1) Subject to subsections (2) and (3) below, 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 prescribed case, with the leave of a Commissioner selected in accordance with regulations; or



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- (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 paragraph (a) above was given;
  - (c) the Department, in a case where it is not entitled to apply for leave by virtue of paragraph (a) or (b) above;
  - (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 in Northern Ireland if it appears to him that the relevant place is in Northern Ireland;
  - (b) the Court of Appeal if it appears to him that the relevant place is in England or Wales; and
  - (c) the Court of Session if it appears to him that the relevant place is in Scotland, 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) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.
- (5) In this section—
- “the appropriate court”, except in subsection (4) above, means the court specified in pursuance of that subsection;
- “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) The powers to make regulations conferred by this section shall be exercisable by the Lord Chancellor.

**Modifications etc. (not altering text)**

- C11** S. 22 modified (10.3.1999 for certain purposes, otherwise 1.6.1999) by S.I. 1991/2628 (N.I. 23), art. 43A (as inserted by S.I. 1998/1506 (N.I. 10), art. 78(1), Sch. 6 para. 29; S.R. 1999/102, art. 2(a), Sch. Pt. I; S.I. 1999/246, art. 2, Sch. 1

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## Reviews - general

### 23 Review of decisions.

- (1) Subject to the following provisions of this section, any decision under this Act of an adjudication officer, a social security appeal tribunal or a Commissioner (other than a decision relating to an attendance allowance, a disability living allowance or a disability working allowance) may be reviewed at any time by an adjudication officer or, on a reference by an adjudication officer, by a social security appeal tribunal, if—
  - (a) the officer or tribunal is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) there has been any relevant change of circumstances since the decision was given;
  - (c) it is anticipated that a relevant change of circumstances will so occur;
  - (d) the decision was based on a decision of a question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, and the decision of that question is revised; or
  - (e) the decision falls to be reviewed under section 57(4) or (5) of the Contributions and Benefits Act.
- (2) Any decision of an adjudication officer (other than a decision relating to an attendance allowance, a disability living allowance or a disability working allowance) may be reviewed, upon the ground that it was erroneous in point of law, by an adjudication officer or, on a reference from an adjudication officer, by a social security appeal tribunal.
- (3) Regulations may provide that a decision may not be reviewed on the ground mentioned in subsection (1)(a) above unless the officer or tribunal is satisfied as mentioned in that paragraph by fresh evidence.
- (4) In its application to family credit, subsection (1)(b) and (c) above shall have effect subject to section 127(3) of the Contributions and Benefits Act (change of circumstances not to affect award or rate during specified period).
- (5) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
  - (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.

#### Modifications etc. (not altering text)

**C12** S. 23(1)(b)(c) modified (12.12.1995) by S.R. 1995/293, **reg. 63(7)-(11)** (as amended by S.R. 1995/434, **reg. 3**)

**C13** S. 23(2) restricted (28.2.1994) by S.R. 1987/82, **reg. 64A(3A)** (as inserted by S.R. 1994/21, **reg. 2(2)**)

### 24 Procedure for reviews.

- (1) A question may be raised with a view to a review under section 23 above by means of an application in writing to an adjudication officer, stating the grounds of the application.

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- (2) On receipt of any such application, the adjudication officer shall proceed to deal with or refer any question arising on it in accordance with sections 19 to 21 above.
- (3) Regulations may provide for enabling, or requiring, in prescribed circumstances, a review under section 23 above notwithstanding that no application for a review has been made under subsection (1) above.

**Modifications etc. (not altering text)**

C14 Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

## 25 Reviews under s. 23 - supplementary.

- (1) Regulations—
  - (a) may prescribe what are, or are not, relevant changes of circumstances for the purposes of section 23 above; and
  - (b) may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (2) Regulations under subsection (1)(b) above shall not restrict the payment to or for a woman of so much of—
  - (a) any widow's benefit, any invalidity pension under section 40 of the Contributions and Benefits Act or any Category A or Category B retirement pension; or
  - (b) any increase of such a benefit or pension,as falls to be paid by reason of a review which takes place by virtue of section 23(1)(a) or (b) above in consequence of a claim for a widowhood benefit, within the meaning of section 3 above, which is made or treated as made by virtue of that section.

## 26 Appeals following reviews or refusals to review.

A decision given on a review under section 23 above, and a refusal to review a decision under that section, shall be subject to appeal in like manner as an original decision, and sections 19 to 21 above shall, with the necessary modifications, apply in relation to a decision given on such a review as they apply to the original decision of a question.

**Modifications etc. (not altering text)**

C15 Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

## 27 Review after claimant appeals.

Where a claimant has appealed against a decision of an adjudication officer and the decision is reviewed by an adjudication officer under section 23 above—

- (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the claimant's appeal succeeded, the appeal shall lapse; but

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- (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.

**Modifications etc. (not altering text)**

**C16** Ss. 23-27 modified (25.8.1995) by S.R. 1995/293, regs. 46, 67

*Attendance allowance, disability living allowance and disability working allowance*

**28 Reviews of decisions of adjudication officers.**

- (1) On an application under this section made within the prescribed period, a decision of an adjudication officer under section 19 above which relates to an attendance allowance, a disability living allowance or a disability working allowance may be reviewed on any ground subject, in the case of a disability working allowance, to section 128(6) of the Contributions and Benefits Act.
- (2) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above which relates to an attendance allowance or a disability living allowance may be reviewed if—
- (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) there has been any relevant change of circumstances since the decision was given;
  - (c) it is anticipated that a relevant change of circumstances will so occur;
  - (d) the decision was erroneous in point of law; or
  - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,
- but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (3) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (2)(b) and (c) above.
- (4) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act may be reviewed if there has been a change of medical opinion with respect to his condition or his reasonable expectation of life.
- (5) On an application under this section made after the end of the prescribed period, a decision of an adjudication officer under section 19 above which relates to a disability working allowance may be reviewed if—
- (a) the adjudication officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) subject to section 128(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given;
  - (c) the decision was erroneous in point of law; or

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- (d) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,  
but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (6) The claimant shall be given such notification as may be prescribed of a decision which may be reviewed under this section and of his right to a review under subsection (1) above.
- (7) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer stating the grounds of the application and supplying such information and evidence as may be prescribed.
- (8) Regulations—
- (a) may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application under subsection (7) above has been made; and
  - (b) if they do so provide, shall specify under which provision of this section a review carried out by virtue of any such regulations falls.
- (9) Reviews under this section shall be carried out by adjudication officers.
- (10) Different aspects of any question which arises on such a review may be dealt with by different adjudication officers; and for this purpose this section and the other provisions of this Part of this Act which relate to reviews under this section shall apply with any necessary modifications.
- (11) If a review is under subsection (1) above, the officer who took the decision under review shall not deal with any question which arises on the review.
- (12) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance by an adjudication officer is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.
- (13) Where—
- (a) a claim for an attendance allowance, a disability living allowance or a disability working allowance in respect of a person has been refused; and
  - (b) a further claim for the same allowance is made in respect of him within the period prescribed under subsection (1) above,
- the further claim shall be treated as an application for a review under that subsection.

**Modifications etc. (not altering text)**

C17 S. 28(2)(d) restricted (28.2.1994) by S.R. 1987/82, **reg. 64A(3A)** (as inserted by S.R. 1994/21, **reg. 2(2)**)

**29 Further reviews.**

- (1) Subsections (2), (4) and (5) of section 28 above shall apply to a decision on a review under subsection (1) of that section as they apply to a decision of an adjudication

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officer under section 19 above but as if the words “made after the end of the prescribed period” were omitted from each subsection.

- (2) Subsections (1), (2), (4) and (5) of section 28 above shall apply—
  - (a) to a decision on a review under subsection (2), (4) or (5) of that section; and
  - (b) to a refusal to review a decision under subsection (2), (4) or (5) of that section, as they apply to a decision of an adjudication officer under section 19 above.
- (3) The claimant shall be given such notification as may be prescribed—
  - (a) of a decision on a review under section 28 above;
  - (b) if the review was under section 28(1), of his right of appeal under section 31 below; and
  - (c) if it was under section 28(2), (4) or (5), of his right to a further review under section 28(1).

### **30 Reviews of decisions as to attendance allowance, disability living allowance or disability working allowance - supplementary.**

- (1) An award of an attendance allowance, a disability living allowance or a disability working allowance on a review under section 28 above replaces any award which was the subject of the review.
- (2) Where a person who has been awarded a disability living allowance consisting of one component applies or is treated as applying for a review under section 28 above and alleges that he is also entitled to the other component, the adjudication officer need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.
- (3) Where a person who has been awarded a disability living allowance consisting of both components applies or is treated as applying for a review under section 28 above and alleges that he is entitled to one component at a rate higher than that at which it has been awarded, the adjudication officer need not consider the question of his entitlement to the other component or the rate of that component.
- (4) Where a person has been awarded a component for life, on a review under section 28 above the adjudication officer shall not consider the question of his entitlement to that component or the rate of that component or the period for which it has been awarded unless—
  - (a) the person awarded the component expressly applies for the consideration of that question; or
  - (b) information is available to the adjudication officer which gives him reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.
- (5) No decision which relates to an attendance allowance or a disability living allowance shall be reviewed under section 28 above on the ground that the person is or was at any time terminally ill, within the meaning of section 66(2) of the Contributions and Benefits Act, unless an application for review is made expressly on that ground either—
  - (a) by the person himself; or
  - (b) by any other person purporting to act on his behalf, whether or not that other person is acting with his knowledge or authority;

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and a decision may be so reviewed on such an application, notwithstanding that no claim under section 66(1), 72(5) or 73(12) of that Act has been made.

- (6) Where a decision is reviewed under section 28 above on the ground that it is anticipated that a change of circumstances will occur, the decision given on review—
  - (a) shall take effect on the day prescribed for that purpose by reference to the date on which the change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the change of circumstances either does not occur or occurs otherwise than on that date.
- (7) Where a claimant has appealed against a decision of an adjudication officer under section 31 below and the decision is reviewed again under section 28(2), (4) or (5) above by an adjudication officer, then—
  - (a) if the adjudication officer considers that the decision which he has made on the review is the same as the decision that would have been made on the appeal had every ground of the appeal succeeded, then the appeal shall lapse; but
  - (b) in any other case, the review shall be of no effect and the appeal shall proceed accordingly.
- (8) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to which a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (9) Where an adjudication officer has determined that any amount paid by way of an attendance allowance, a disability living allowance or a disability working allowance is recoverable under or by virtue of section 69 below, any person from whom he has determined that it is recoverable shall have the same right of review under section 28 above as a claimant.
- (10) This Act and the Contributions and Benefits Act shall have effect in relation to a review by virtue of subsection (9) above as if any reference to the claimant were a reference to the person from whom the adjudication officer has determined that the amount in question is recoverable.

### **31 Appeals following reviews.**

- (1) Where an adjudication officer has given a decision on a review under section 28(1) above, the claimant or such other person as may be prescribed may appeal—
  - (a) in prescribed cases, to a disability appeal tribunal; and
  - (b) in any other case, to a social security appeal tribunal.
- (2) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (3) An award on an appeal under this section replaces any award which was the subject of the appeal.
- (4) Where a person who has been awarded a disability living allowance consisting of one component alleges on an appeal that he is also entitled to the other component, the tribunal need not consider the question of his entitlement to the component which he has already been awarded or the rate of that component.



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- (5) Where a person who has been awarded a disability living allowance consisting of both components alleges on an appeal that he is entitled to one component at a rate higher than that at which it has been awarded, the tribunal need not consider the question of his entitlement to the other component or the rate of that component.
- (6) The tribunal shall not consider—
- (a) a person's entitlement to a component which has been awarded for life;
  - (b) the rate of a component so awarded; or
  - (c) the period for which a component has been so awarded,
- unless—
- (i) the appeal expressly raises that question; or
  - (ii) information is available to the tribunal which gives it reasonable grounds for believing that entitlement to the component, or entitlement to it at the rate awarded or for that period, ought not to continue.

**Modifications etc. (not altering text)**

**C18** S. 31 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 3(2)

**32 Appeal from social security appeal tribunals or disability appeal tribunals to Commissioners and appeals from Commissioners.**

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of a social security appeal tribunal or disability appeal tribunal under section 31 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) An appeal lies under this section at the instance of any of the following—
- (a) an adjudication officer;
  - (b) the claimant;
  - (c) a trade union—
    - (i) where the claimant is a member of the union at the time of the appeal and was so immediately before the question at issue arose;
    - (ii) where that question in any way relates to a deceased person who was a member of the union at the time of his death; and
  - (d) a person from whom it is determined that any amount is recoverable under section 69 below.
- (3) Subsection (2) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (4) Subsections (7) to (10) of section 21 above have effect for the purposes of this section as they have effect for the purposes of that section.
- (5) Section 22 above applies to a decision of a Commissioner under this section as it applies to a decision of a Commissioner under section 21 above.

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#### **Modifications etc. (not altering text)**

**C19** S. 32 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 4(2)

### **33 Reviews of decisions on appeal.**

- (1) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to an attendance allowance or a disability living allowance may be reviewed at any time by an adjudication officer if—
  - (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) there has been any relevant change of circumstances since the decision was given;
  - (c) it is anticipated that a relevant change of circumstances will so occur;
  - (d) the decision was that a person is or was at any time terminally ill for the purposes of section 66(1), 72(5) or 73(12) of the Contributions and Benefits Act and there has been a change of medical opinion with respect to his condition or his reasonable expectation of life; or
  - (e) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (2) Regulations may prescribe what are, or are not, relevant changes of circumstances for the purposes of subsection (1)(b) and (c) above.
- (3) Any decision under this Act of a social security appeal tribunal, a disability appeal tribunal or a Commissioner which relates to a disability working allowance may be reviewed at any time by an adjudication officer if—
  - (a) he is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact;
  - (b) subject to section 128(6) of the Contributions and Benefits Act, there has been any prescribed change of circumstances since the decision was given; or
  - (c) the decision was to make an award for a period wholly or partly after the date on which the claim was made or treated as made but subject to a condition being fulfilled and that condition has not been fulfilled,but regulations may provide that a decision may not be reviewed on the ground mentioned in paragraph (a) above unless the officer is satisfied as mentioned in that paragraph by fresh evidence.
- (4) A question may be raised with a view to a review under this section by means of an application made in writing to an adjudication officer, stating the grounds of the application and supplying such information and evidence as may be prescribed.
- (5) Regulations may provide for enabling or requiring, in prescribed circumstances, a review under this section notwithstanding that no application for a review has been made under subsection (4) above.
- (6) Reviews under this section shall be carried out by adjudication officers.

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- (7) Except in prescribed circumstances, where a claim for a disability living allowance in respect of a person already awarded such an allowance on an appeal is made or treated as made during the period for which he has been awarded the allowance, it shall be treated as an application for a review under this section.
- (8) Subsections (1), (2), (4) and (5) of section 28 above shall apply—
- (a) to a decision on a review under this section; and
  - (b) to a refusal to review a decision such as is mentioned in subsection (1) above, as they apply to a decision of an adjudication officer under section 19 above.
- (9) The person whose claim was the subject of the appeal the decision on which has been reviewed under this section shall be given such notification as may be prescribed—
- (a) of the decision on the review; and
  - (b) of his right to a further review under section 28(1) above.
- (10) Regulations may make provision restricting the payment of any benefit, or any increase of benefit, to what a person would, but for this subsection, be entitled by reason of a review in respect of any period before or after the review (whether that period falls wholly or partly before or after the making of the regulations).
- (11) Where a decision is reviewed on the ground mentioned in subsection (1)(c) above, the decision given on the review—
- (a) shall take effect on the day prescribed for that purpose by reference to the date on which the relevant change of circumstances is expected to occur; and
  - (b) shall be reviewed again if the relevant change of circumstances either does not occur or occurs otherwise than on that date.
- (12) Sections 28(10) and 30(1) to (5) above shall apply in relation to a review under this section as they apply to a review under section 28 above.

*Questions first arising on appeal*

**34 Questions first arising on appeal.**

- (1) Where a question which but for this section would fall to be determined by an adjudication officer first arises in the course of an appeal to a social security appeal tribunal, a disability appeal tribunal or a Commissioner, the tribunal, subject to subsection (2) below, or the Commissioner may, if they or he think fit, proceed to determine the question notwithstanding that it has not been considered by an adjudication officer.
- (2) A social security appeal tribunal may not determine a question by virtue of subsection (1) above if an appeal in relation to such a question would have lain to a disability appeal tribunal.

*Reference of special questions*

**35 Reference of special questions.**

- (1) Subject to subsection (2) below—

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- (a) if on consideration of any claim or question an adjudication officer is of opinion that there arises any question which under or by virtue of this Act falls to be determined otherwise than by an adjudication officer, he shall refer the question for such determination; and
  - (b) if on consideration of any claim or question a social security appeal tribunal or Commissioner is of opinion that any such question arises, the tribunal or Commissioner shall direct it to be referred by an adjudication officer for such determination.
- (2) The person or tribunal making or directing the reference shall then deal with any other question as if the referred question had not arisen.
- (3) The adjudication officer, tribunal or Commissioner may—
- (a) postpone the reference of, or dealing with, any question until other questions have been determined;
  - (b) in cases where the determination of any question disposes of a claim or any part of it, make an award or decide that an award cannot be made, as to the claim or that part of it, without referring or dealing with, or before the determination of, any other question.

**Modifications etc. (not altering text)**

**C20** S. 35 modified (25.8.1995) by S.R. 1995/293, reg. 46

*Adjudication officers and the Chief Adjudication Officer*

**36 Adjudication officers.**

- (1) Adjudication officers shall be appointed by the Department, subject to the consent of the Department of Finance and Personnel as to number, and may include officers of the Department of Social Security appointed with the concurrence of the Secretary of State.
- (2) An adjudication officer may be appointed to perform all the functions of adjudication officers under any enactment or such functions of such officers as may be specified in his instrument of appointment.

**37 The Chief Adjudication Officer.**

- (1) The Department shall appoint for Northern Ireland a Chief Adjudication Officer.
- (2) It shall be the duty of the Chief Adjudication Officer to advise adjudication officers on the performance of their functions under this or any other enactment.
- (3) The Chief Adjudication Officer shall keep under review the operation of the system of adjudication by adjudication officers and matters connected with the operation of that system.
- (4) The Chief Adjudication Officer shall report annually in writing to the Department on the standards of adjudication and the Department shall publish his report.

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### *Social security appeal tribunals*

#### **38 Panels for appointment to social security appeal tribunals.**

- (1) The President shall constitute for the whole of Northern Ireland to act for such areas as he thinks fit and to be composed of such persons as he thinks fit to appoint, panels of persons to act as members of social security appeal tribunals.
- (2) The panel for an area shall be composed of persons appearing to the President to have knowledge or experience of conditions in the area and to be representative of persons living or working in the area.
- (3) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (4) The members of the panels shall hold office for such period as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

#### **39 Constitution of social security appeal tribunals.**

- (1) A social security appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be drawn from the appropriate panel constituted under section 38 above.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 49(1)(b) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor under section 49(1)(c) below.
- (5) If practicable, at least one of the members of the appeal tribunal hearing a case shall be of the same sex as the claimant.
- (6) Schedule 2 to this Act shall have effect for supplementing this section.

#### **Modifications etc. (not altering text)**

**C21** S. 39 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 1

### *Disability appeal tribunals*

#### **40 Panels for appointment to disability appeal tribunals.**

- (1) The President shall constitute for the whole of Northern Ireland, to act for such areas as he thinks fit and be composed of such persons as he thinks fit to appoint, panels of persons to act as members of disability appeal tribunals.
- (2) There shall be two panels for each area.
- (3) One panel shall be composed of medical practitioners.

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- (4) The other shall be composed of persons who are experienced in dealing with the needs of disabled persons—
  - (a) in a professional or voluntary capacity; or
  - (b) because they are themselves disabled,but may not include medical practitioners.
- (5) In considering the appointment of members of the panels the President shall have regard to the desirability of appointing disabled persons.
- (6) Before appointing members of a panel, the President shall take into consideration any recommendations from such organisations or persons as he considers appropriate.
- (7) The members of the panels shall hold office for such periods as the President may direct, but the President may at any time terminate the appointment of any member of a panel.

#### **41 Constitution of disability appeal tribunals.**

- (1) A disability appeal tribunal shall consist of a chairman and two other persons.
- (2) Of the members of a tribunal other than the chairman, one shall be drawn from the panel mentioned in subsection (3) of section 40 above.
- (3) The other shall be drawn from the panel mentioned in subsection (4) of that section.
- (4) The President shall nominate the chairman.
- (5) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 49(1)(b) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor under section 49(1)(c) below.
- (6) In summoning members of a panel to serve on a tribunal, the clerk to the tribunal shall have regard to the desirability of at least one of the members of the tribunal being a disabled person.
- (7) If practicable, at least one of the members of the tribunal shall be of the same sex as the claimant.
- (8) Schedule 2 to this Act shall have effect for supplementing this section.

*Adjudication in relation to industrial injuries and disablement benefit*

#### **42 Declaration that accident is an industrial accident.**

- (1) Where, in connection with any claim for industrial injuries benefit, it is determined that the relevant accident was or was not an industrial accident, an express declaration of that fact shall be made and recorded and (subject to subsection (3) below) a claimant shall be entitled to have the question whether the relevant accident was an industrial accident determined notwithstanding that his claim is disallowed on other grounds.
- (2) Subject to subsection (3) below and to section 58 below, any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident,

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to have that question determined, and a declaration made and recorded accordingly, notwithstanding that no claim for benefit has been made in connection with which the question arises; and this Part of this Act applies for that purpose as if the question had arisen in connection with a claim for benefit.

- (3) The adjudication officer, social security appeal tribunal or Commissioner (as the case may be) may refuse to determine the question whether an accident was an industrial accident if satisfied that it is unlikely to be necessary to determine the question for the purposes of any claim for benefit; but any such refusal of an adjudication officer or social security appeal tribunal shall be subject to appeal to a social security appeal tribunal or Commissioner, as the case may be.
- (4) Subject to the provisions of this Part of this Act as to appeal and review, any declaration under this section that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident.
- (5) Where subsection (4) above applies—
  - (a) in relation to a death occurring before 11th April 1988; or
  - (b) for the purposes of section 60(2) of the Contributions and Benefits Act,
 it shall have effect as if at the end there were added the words “ whether or not the claimant is the person at whose instance the declaration was made ”.
- (6) For the purposes of this section (but subject to section 58(3) below), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—
  - (a) it arises out of and in the course of his employment;
  - (b) that employment is employed earner’s employment for the purposes of Part V of the Contributions and Benefits Act;
  - (c) payment of benefit is not under section 94(5) of that Act precluded because the accident happened while he was outside Northern Ireland.
- (7) A decision under this section shall be final except that sections 23 to 27 above apply to a decision under this section that an accident was or was not an industrial accident as they apply to a decision under sections 19 to 21 above if, but only if, the adjudication officer or social security appeal tribunal, as the case may be, is satisfied that the decision under this section was given in consequence of any wilful non-disclosure or misrepresentation of a material fact.

**Modifications etc. (not altering text)**

C22 S. 42 excluded (25.8.1995) by S.R. 1995/293, reg. 44(1)

**43 Disablement questions.**

- (1) In relation to industrial injuries benefit and severe disablement allowance, the “disablement questions” are the questions—
  - (a) in relation to industrial injuries benefit, whether the relevant accident has resulted in a loss of faculty;
  - (b) in relation to both benefits, at what degree the extent of disablement resulting from a loss of faculty is to be assessed, and what period is to be taken into account by the assessment;



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but questions relating to the aggregation of percentages of disablement resulting from different accidents are not disablement questions (and accordingly fall to be determined by an adjudication officer).

(2) Subject to and in accordance with regulations, the disablement questions shall be referred to and determined—

- (a) by an adjudicating medical practitioner;
- (b) by two or more adjudicating medical practitioners;
- (c) by a medical appeal tribunal; or
- (d) in such cases relating to severe disablement allowance as may be prescribed, by an adjudication officer.

(3) Where—

- (a) the case of a claimant for disablement benefit has been referred by the adjudication officer to one or more adjudicating medical practitioners for determination of the disablement questions; and
- (b) on that or any subsequent reference, the extent of the disablement is provisionally assessed,

the case shall again be referred under this section, to one or more adjudicating medical practitioners as regulations may provide for the purposes of such subsequent references, not later than the end of the period taken into account by the provisional assessment.

(4) Where, in the case of a claimant for disablement benefit, the extent of any disablement of his resulting from an aggregable accident (that is to say, an accident other than the one which is the basis of the claim in question) has been assessed in accordance with paragraph 6(3) of Schedule 6 to the Contributions and Benefits Act at less than 14 per cent., then—

- (a) the adjudication officer may refer the disablement questions relating to the aggregable accident to one or more adjudicating medical practitioners for fresh determination; and
- (b) on any such reference—
  - (i) those questions shall be determined as at the first day of the common period; and
  - (ii) the period to be taken into account shall be the period beginning with that day.

(5) In subsection (4) above “the first day of the common period” means whichever is the later of—

- (a) the first day of the period taken into account by the assessment of the extent of the claimant’s disablement resulting from the accident which is the basis of the claim in question;
- (b) the first day of the period taken into account by the assessment of the extent of his disablement resulting from the aggregable accident.

(6) In the following provisions of this Act “adjudicating medical practitioner” means, in relation to any case, one such practitioner, unless regulations applicable to cases of that description provide for references to more than one.

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#### **44 Medical appeals and references.**

- (1) This section has effect where the case of a claimant for disablement benefit or severe disablement allowance has been referred by the adjudication officer to an adjudicating medical practitioner for determination of the disablement questions.
- (2) Subject to subsection (3) below, if the claimant is dissatisfied with the decision of the adjudicating medical practitioner, he may appeal in the prescribed manner and within the prescribed time, and the case shall be referred to a medical appeal tribunal.
- (3) If—
  - (a) the Department notifies the adjudication officer within the prescribed time that it is of the opinion that any decision of the adjudicating medical practitioner ought to be considered by a medical appeal tribunal; or
  - (b) the adjudication officer is of the opinion that any such decision ought to be so considered,the adjudication officer shall refer the case to a medical appeal tribunal for their consideration, and the tribunal may confirm, reverse or vary the decision in whole or in part as on an appeal.

#### **45 Review of medical decisions.**

- (1) Any decision under this Act of an adjudicating medical practitioner or a medical appeal tribunal may be reviewed at any time by an adjudicating medical practitioner if satisfied that the decision was given in ignorance of a material fact or was based on a mistake as to a material fact.
- (2) Any decision under this Act of an adjudicating medical practitioner may be reviewed at any time by such a practitioner if he is satisfied that the decision was erroneous in point of law.
- (3) Regulations may provide that a decision may not be reviewed under subsection (1) above unless the adjudicating medical practitioner is satisfied as mentioned in that subsection by fresh evidence.
- (4) Any assessment of the extent of the disablement resulting from the relevant loss of faculty may also be reviewed by an adjudicating medical practitioner if he is satisfied that since the making of the assessment there has been an unforeseen aggravation of the results of the relevant injury.
- (5) Where in connection with a claim for disablement benefit made after 20th October 1953 it is decided that the relevant accident has not resulted in a loss of faculty, the decision—
  - (a) may be reviewed under subsection (4) above as if it were an assessment of the extent of disablement resulting from a relevant loss of faculty; but
  - (b) subject to any further decision on appeal or review, shall be treated as deciding the question whether the relevant accident had so resulted both for the time about which the decision was given and for any subsequent time.
- (6) For the purposes of subsection (5) above, a final assessment of the extent of the disablement resulting from a loss of faculty made for a period limited by reference to a definite date shall be treated as deciding that at that date the relevant accident had not resulted in a loss of faculty.

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- (7) An assessment made, confirmed or varied by a medical appeal tribunal shall not be reviewed under subsection (4) above without the leave of a medical appeal tribunal, and (notwithstanding the provisions of Part V of the Contributions and Benefits Act) on a review under that subsection the period to be taken into account by any revised assessment shall only include a period before the date of the application for the review if and in so far as regulations so provide.
- (8) Subject to the foregoing provisions of this section, an adjudicating medical practitioner may deal with a case on a review in any manner in which he could deal with it on an original reference to him, and in particular may in any case relating to disablement benefit make a provisional assessment notwithstanding that the assessment under review was final.
- (9) Section 44 above applies to an application for a review under this section and to a decision of an adjudicating medical practitioner in connection with such an application as it applies to an original claim for disablement benefit or severe disablement allowance, as the case may be, and to a decision of an adjudicating medical practitioner in connection with such a claim.
- (10) In subsection (6) above the reference to a final assessment does not include an assessment made for the purpose of section 12(1)(a) or (b) of the <sup>M1</sup>National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 as originally enacted and having the effect that benefit is not payable.

#### Modifications etc. (not altering text)

- C23** S. 45(1) modified (25.8.1995) by S.R. 1995/293, **art. 36(1)**  
S. 45(1) restricted (25.8.1995) by S.R. 1995/293, **reg. 61**
- C24** S. 45(2) modified (25.8.1995) by S.R. 1995/293, **reg. 36(1)**
- C25** S. 45(5) excluded (25.8.1995) by S.R. 1995/293, **reg. 44(1)**
- C26** S. 45(7) excluded (25.8.1995) by S.R. 1995/293, **reg. 51**
- C27** S. 45(8) modified (25.8.1995) by S.R. 1995/293, **reg. 52**

#### Marginal Citations

- M1** 1946 c. 21 (N.I.).

## 46 Appeal etc. on question of law to Commissioner.

- (1) Subject to this section, an appeal lies to a Commissioner from any decision of a medical appeal tribunal (if given after 6th April 1987) on the ground that the decision is erroneous in point of law, at the instance of—
- an adjudication officer;
  - the claimant;
  - a trade union of which the claimant was a member at the time of the relevant accident or, in a case relating to severe disablement allowance, at the prescribed time; or
  - the Department.
- (2) Subsection (1) above, as it applies to a trade union, applies also to any other association which exists to promote the interests and welfare of its members.
- (3) No appeal lies under subsection (1) above without the leave—

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- (a) of the person who was the chairman of the medical appeal tribunal when the decision was given or, in a prescribed case, the leave of some other chairman of a medical appeal tribunal; or
  - (b) subject to and in accordance with regulations, of a Commissioner, and regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.
- (4) On any such appeal, the question of law arising for the decision of the Commissioner and the facts on which it arises shall be submitted for his consideration in the prescribed manner.
- (5) Where the Commissioner holds that the decision was erroneous in point of law he shall set it aside and refer the case to a medical appeal tribunal with directions for its determination.
- (6) Subject to any direction of the Commissioner, the tribunal on a reference under subsection (5) above shall consist of persons who were not members of the tribunal which gave the erroneous decision.

**Modifications etc. (not altering text)**

**C28** S. 46 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, **Sch. 5 para. 4(3)**

*Adjudicating medical practitioners and medical appeal tribunals*

**47 Adjudicating medical practitioners.**

- (1) Adjudicating medical practitioners shall be appointed by the Department.
- (2) The Department may make arrangements whereby any adjudicating medical practitioners for the purposes of the Great Britain Administration Act shall be adjudicating medical practitioners for the purposes of this Act.
- (3) Subject to subsections (1) and (2) above, the appointment of adjudicating medical practitioners shall be determined by regulations.

**48 Constitution of medical appeal tribunals.**

- (1) A medical appeal tribunal shall consist of a chairman and two other persons.
- (2) The members other than the chairman shall be medical practitioners appointed by the President after consultation with such academic medical bodies as appear to him to be appropriate.
- (3) The President shall nominate the chairman.
- (4) The President may nominate as chairman—
  - (a) himself;
  - (b) one of the full-time chairmen appointed under section 49(1)(b) below; or
  - (c) a person drawn from the panel appointed by the Lord Chancellor under section 49(1)(c) below.

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- (5) The Department may make arrangements whereby a medical appeal tribunal for the purposes of the Great Britain Administration Act shall be a medical appeal tribunal for the purposes of this Act.
- (6) Subject to subsections (1) to (4) above, the constitution of medical appeal tribunals shall be determined by regulations.
- (7) Schedule 2 to this Act shall have effect for supplementing this section.

#### *The President and chairmen of tribunals*

### **49 The President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals and chairmen.**

- (1) The Lord Chancellor may appoint for Northern Ireland—
  - (a) a President of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals;
  - (b) full-time chairmen of such tribunals; and
  - (c) a panel of persons who may be appointed part-time chairmen of such tribunals.
- (2) A person is qualified to be appointed President if he is a barrister or solicitor of at least 10 years' standing.
- (3) A person is qualified to be appointed a full-time chairman if he is a barrister or solicitor of at least 7 years' standing.
- (4) A person is qualified to be appointed to the panel referred to in subsection (1)(c) above if he is a barrister or solicitor of at least 5 years' standing.
- (5) Schedule 2 to this Act shall have effect for supplementing this section.

#### *Social Security Commissioners*

### **50 Appointment of Commissioners.**

- (1) Her Majesty may from time to time appoint for Northern Ireland, from among persons who are barristers or solicitors of at least 10 years' standing—
  - (a) a Chief Social Security Commissioner; and
  - (b) such number of other Social Security Commissioners, as Her Majesty thinks fit.
- (2) 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) a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing;
  - (b) a person who has a 10 year general qualification within the meaning of section 71 of the <sup>M2</sup>Courts and Legal Services Act 1990; or
  - (c) an advocate or solicitor in Scotland of at least 10 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.

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(3) Schedule 2 to this Act shall have effect for supplementing this section.

#### Marginal Citations

M2 1990 c. 41.

*References to medical practitioners, the Disability Living Allowance Advisory Board etc.*

### 51 Power of adjudicating authorities to refer matters to experts.

- (1) An authority to which this section applies may refer any question of special difficulty arising for decision by the authority to one or more experts for examination and report.
- (2) The authorities to which this section applies are—
  - (a) an adjudication officer;
  - (b) an adjudicating medical practitioner, or two or more such practitioners acting together;
  - (c) a specially qualified adjudicating medical practitioner appointed by virtue of section 60 below, or two or more such practitioners acting together;
  - (d) a social security appeal tribunal;
  - (e) a disability appeal tribunal;
  - (f) a medical appeal tribunal;
  - (g) a Commissioner;
  - (h) the Department.
- (3) Regulations may prescribe cases in which a Commissioner shall not exercise the power conferred by subsection (1) above.
- (4) In this section “expert” means a person appearing to the authority to have knowledge or experience which would be relevant in determining the question of special difficulty.

### 52 Claims relating to attendance allowance, disability living allowance and disability working allowance.

- (1) Before a claim for an attendance allowance, a disability living allowance or a disability working allowance or any question relating to such an allowance is submitted to an adjudication officer under section 18 above the Department may refer the person in respect of whom the claim is made or the question is raised to a medical practitioner for such examination and report as appears to the Department to be necessary—
  - (a) for the purpose of providing the adjudication officer with information for use in determining the claim or question; or
  - (b) for the purpose of general monitoring of claims for attendance allowances, disability living allowances and disability working allowances.
- (2) An adjudication officer may refer—
  - (a) a person in respect of whom such a claim is made or such a question is raised;
  - (b) a person who has applied or is treated as having applied for a review under section 28 or 33 above,

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to a medical practitioner for such examination and report as appears to the adjudication officer to be needed to enable him to reach a decision on the claim or question or the matter under review.

- (3) The Department may direct adjudication officers to refer for advice to a medical practitioner who is an officer of the Department any case falling within a specified class of cases relating to attendance allowance or disability living allowance, and an adjudication officer may refer for advice any case relating to attendance allowance or disability living allowance to such a medical practitioner without such a direction.
- (4) An adjudication officer may refer for advice any case relating to disability working allowance to such a medical practitioner.
- (5) A medical practitioner who is an officer of the Department and to whom a case or question relating to an attendance allowance or a disability living allowance is referred under section 51 above or subsection (3) above may refer the case or question to the Disability Living Allowance Advisory Board for advice.
- (6) Such a medical practitioner may obtain information about such a case or question from another medical practitioner.
- (7) A medical practitioner who is an officer of the Department and to whom a question relating to disability working allowance is referred under section 51 above may obtain information about it from another medical practitioner.
- (8) Where—
  - (a) the Department has exercised the power conferred on it by subsection (1) above or an adjudication officer has exercised the power conferred on him by subsection (2) above; and
  - (b) the medical practitioner requests the person referred to him to attend for or submit himself to medical examination; but
  - (c) he fails without good cause to do so,the adjudication officer shall decide the claim or question or matter under review against him.

### **53 Medical examination etc. in relation to appeals to disability appeal tribunals.**

- (1) Where an appeal has been brought under section 31 above, a person who may be nominated as chairman of a disability appeal tribunal may, if prescribed conditions are satisfied, refer the claimant to a medical practitioner for such examination and report as appears to him to be necessary for the purpose of providing a disability appeal tribunal with information for use in determining the appeal.
- (2) At a hearing before a disability appeal tribunal, except in prescribed circumstances, the tribunal—
  - (a) may not carry out a physical examination of the claimant; and
  - (b) may not require the claimant to undergo any physical test for the purpose of determining whether he satisfies the condition mentioned in section 73(1)(a) of the Contributions and Benefits Act.



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### *Determination of questions of special difficulty*

#### **54 Assessors.**

- (1) Where it appears to an authority to which this section applies that a matter before the authority involves a question of fact of special difficulty, then, unless regulations otherwise provide, the authority may direct that in dealing with that matter they shall have the assistance of one or more assessors.
- (2) The authorities to which this section applies are—
  - (a) two or more adjudicating medical practitioners acting together;
  - (b) two or more specially qualified adjudicating medical practitioners, appointed by virtue of section 60 below, acting together;
  - (c) a social security appeal tribunal;
  - (d) a disability appeal tribunal;
  - (e) a medical appeal tribunal;
  - (f) a Commissioner;
  - (g) the Department.

#### **55 Tribunal of 2 or 3 Commissioners.**

- (1) If it appears to the Chief Social Security Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that an appeal falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with, not by that Commissioner alone, but by a Tribunal consisting of any 2 or 3 of the Commissioners.
- (2) If the decision of the Tribunal is not unanimous, the decision of the majority, or, in the case of a Tribunal consisting of 2 Commissioners, the decision of the presiding member, shall be the decision of the Tribunal.

VALID FROM 01/07/1997

#### *[<sup>F1</sup> Medical examinations]*

##### **Textual Amendments**

- F1** [S. 55A](#) and the preceding *cross-heading* inserted (1.7.1997) by [S.I. 1997/1182 \(N.I. 11\)](#), [art. 17](#); [S.R. 1997/316](#), [art. 2](#), [Sch.](#)

#### **[<sup>F2</sup>55A Medical examinations of persons awarded attendance allowance or disability living allowance.**

Regulations may make provision—

- (a) enabling the Department to require a person to whom attendance allowance or disability living allowance has been awarded to submit to medical examination in prescribed circumstances;

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- (b) for withholding payments of benefit in prescribed circumstances where a person has failed to submit himself to a medical examination to which he has been required to submit in accordance with regulations under paragraph (a) above; and
- (c) for the subsequent making in prescribed circumstances of payments withheld in accordance with regulations under paragraph (b) above.]

#### Textual Amendments

- F2** S. 55A and the preceding cross-heading inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 17; S.R. 1997/316, art. 2., Sch.

### Regulations

#### 56 Regulations as to determination of questions and matters arising out of, or pending, reviews and appeals.

- (1) Subject to the provisions of this Act, provision may be made by regulations for the determination—
  - (a) by the Department; or
  - (b) by a person or tribunal appointed or constituted in accordance with the regulations,
 of any question arising under or in connection with the Contributions and Benefits Act or the former legislation, including a claim for benefit.
- (2) In this section “the former legislation” means the National Insurance Acts (Northern Ireland) 1965 to 1974 and the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1965 to 1974 and the 1975 Act and Part III of the 1986 Order.
- (3) Regulations under subsection (1) above may modify, add to or exclude any provisions of this Part of this Act, so far as relating to any questions to which the regulations relate.
- (4) It is hereby declared for the avoidance of doubt that the power to make regulations under subsection (1) above includes power to make regulations for the determination of any question arising as to the total or partial recoupment of unemployment benefit in pursuance of regulations under Article 72(1) of the<sup>M3</sup> Industrial Relations (Northern Ireland) Order 1976 (including any decision as to the amount of benefit).
- (5) Regulations under subsection (1) above may provide for the review by the Department of decisions on questions determined by it.
- (6) The Lord Chancellor may by regulations provide—
  - (a) for officers authorised by him to determine any question which is determinable by a Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;
  - (b) for the procedure to be followed by any such officer in determining any such question;
  - (c) for the manner in which determinations of such questions by such officers may be called in question.

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- (7) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Commissioner is not a determination of the appeal, application or reference for the purposes of subsection (6) above.
- (8) Regulations under subsection (1) above may provide—
- (a) for the reference to the Court of Appeal for decision of any question of law arising in connection with the determination of a question by the Department; and
  - (b) for appeals to that court from the decision of the Department on any such question of law;
- and subsections (5) and (6) of section 16 above shall apply to a reference or appeal under this subsection as they apply to a reference or appeal under subsections (1) to (3) of that section.

**Modifications etc. (not altering text)**

**C29** S. 56 extended (7.2.1994) by 1993 c. 49, s.163(3); S.R. 1994/17, art. 2

**Marginal Citations**

**M3** S.I. 1976/1043 (N.I. 16).

**57 Procedure.**

- (1) Regulations (in this section referred to as “procedure regulations”) may make any such provision as is specified in Schedule 3 to this Act.
- (2) Procedure regulations may deal differently with claims and questions relating to—
  - (a) benefit under Parts II to IV of the Contributions and Benefits Act;
  - (b) industrial injuries benefit;
  - (c) each of the other benefits to which section 18 above applies.
- (3) At any inquiry held by virtue of procedure regulations the witnesses shall, if the person holding the inquiry thinks fit, be examined on oath; and the person holding the inquiry shall have power to administer oaths for that purpose.
- (4) In proceedings for the determination of a question mentioned in section 15(1)(c) above (including proceedings on an inquiry), there shall be available to a witness (other than the person who is liable, or alleged to be liable, to pay the Class 1A contribution in question) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings.
- (5) It is hereby declared—
  - (a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
  - (b) that the power to provide for the manner in which questions arising for determination by the Department are to be raised includes power to make provision with respect to the formulation of any such questions, whether arising on a reference under section 111 below or otherwise.

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- (6) Except so far as it may be applied by procedure regulations, the <sup>M4</sup>Arbitration Act (Northern Ireland) 1937 shall not apply to any proceedings under this Part of this Act.

#### Marginal Citations

M4 1937 c. 8 (N.I.).

## 58 Finality of decisions.

- (1) Subject to the provisions of this Part of this Act, the decision of any claim or question in accordance with the foregoing provisions of this Part of this Act shall be final; and subject to the provisions of any regulations under section 56 above, the decision of any claim or question in accordance with those regulations shall be final.
- (2) Subsection (1) above shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.
- (3) A decision (given under subsection (2) of section 42 above or otherwise) that an accident was an industrial accident is to be taken as determining only that paragraphs (a), (b) and (c) of subsection (5) of that section are satisfied in relation to the accident, and neither any such decision nor the reference to an adjudicating medical practitioner or a medical appeal tribunal under section 43 above of the disablement questions in connection with any claim to or award of disablement benefit is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received; but—
- (a) a decision that on a particular occasion when there was no such event a person had an industrial accident by reason of an injury shall be treated as a decision that, if the injury was suffered by accident on that occasion, the accident was an industrial accident; and
- (b) a decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with section 42 above, without its having been found that personal injury resulted from the accident (saving always the discretion under subsection (3) of that section to refuse to determine the question if it is unlikely to be necessary for the purposes of a claim for benefit).
- (4) Notwithstanding anything in subsection (2) or (3) above (but subject to the provisions of this Part of this Act as to appeal and review), where for purposes of disablement pension or disablement gratuity in respect of an accident it has been found by an adjudicating medical practitioner or a medical appeal tribunal, on the determination or last determination of the disablement questions, that an injury resulted in whole or in part from the accident, then for purposes of industrial death benefit in respect of that accident the finding shall be conclusive that the injury did so result.
- (5) Subsections (2) to (4) above shall apply as regards the effect to be given in any proceedings to any decision, or to a reference under section 43 above, whether the decision was given or reference made or the proceedings were commenced before or after the passing of the <sup>M5</sup>National Insurance Act 1972 (section 5 of which originally contained the provisions contained in this section), except that it shall not affect the determination of any appeal under section 46 above from a decision of a medical

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appeal tribunal given before the passing of that Act, nor affect any proceedings consequent on such an appeal from a decision so given; and accordingly—

- (a) any decision given before the passing of that Act that a claimant was not entitled to industrial death benefit may be reviewed in accordance with this Part of this Act to give effect to subsection (4) above; and
- (b) the references in subsections (2) and (3) above to provisions of this Act, and the reference in this subsection to section 43 above shall (so far as necessary) include the corresponding provisions of previous Acts.

**Modifications etc. (not altering text)**

**C30** S. 58(1) excluded (25.8.1995) by S.R. 1995/293, reg. 54(2)

**Marginal Citations**

**M5** 1972 c. 57.

**59 Regulations about supplementary matters relating to determinations.**

- (1) Regulations may make provision as respects matters arising—
  - (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review)—
    - (i) of any claim for benefit to which this section applies;
    - (ii) of any question affecting any person’s right to such benefit or its receipt; or
    - (iii) of any person’s liability for contributions under Part I of the Contributions and Benefits Act; or
  - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may include provision as to the date from which any decision on a review is to have effect or to be deemed to have had effect.
- (3) Regulations under subsection (1) above as it applies to child benefit may include provision as to the date from which child benefit is to be payable to a person in respect of a child in a case where, before the benefit was awarded to that person, child benefit in respect of the child was awarded to another person.
- (4) This section applies to the following benefits—
  - (a) benefit as defined in section 121 of the Contributions and Benefits Act;
  - (b) child benefit;
  - (c) statutory sick pay;
  - (d) statutory maternity pay;
  - (e) income support;
  - (f) family credit;
  - (g) disability working allowance; and
  - (h) any social fund payments such as are mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act.

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VALID FROM 21/11/1994

[<sup>F3</sup> Incapacity for work]

**Textual Amendments**

**F3** S. 59A and the preceding cross-heading inserted (21.11.1994 for certain purposes, otherwise 13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 8(2); S.R. 1994/450, art. 2, Sch. Pts. II, IV

**<sup>F4</sup>59A Adjudication: incapacity for work.**

(1) The following provisions apply in relation to the determination, for any purpose for which the provisions of Part XIIA of the Contributions and Benefits Act apply, whether a person—

- (a) is, or is to be treated as, capable or incapable of work; or
- (b) falls to be disqualified for any period in accordance with regulations under section 167E of that Act;

and to the determination for any such purpose of such other related questions as may be prescribed.

(2) Provision may be made by regulations for a determination made for one such purpose to be treated as conclusive for another such purpose.

Regulations may in particular provide that a determination that a person is disqualified for any period in accordance with regulations under section 167E of the Contributions and Benefits Act shall have effect for such purposes as may be prescribed as a determination that he is to be treated as capable of work for that period, and *vice versa*.

(3) Provision may be made by regulations for questions of such descriptions as may be prescribed to be determined by an adjudication officer, notwithstanding that other questions fall to be determined by another authority.

(4) Provision may be made by regulations—

- (a) requiring a social security appeal tribunal to sit with one or more medical assessors in such classes of case as may be prescribed; and
- (b) as to the constitution of panels of medical practitioners to act as medical assessors in such cases;

and regulations under this subsection may confer on the President, or such other person as may be prescribed, such functions as may be prescribed.

**Textual Amendments**

**F4** S. 59A and the preceding cross-heading inserted (21.11.1994 for certain purposes, otherwise 13.4.1995) by S.I. 1994/1898 (N.I. 12), art. 8(2); S.R. 1994/450, art. 2, Sch. Pts. II, IV

**Modifications etc. (not altering text)**

**C31** S. 59A: power to make regulations modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3), 73

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### *Industrial diseases*

#### **60 Adjudication as to industrial diseases.**

- (1) Regulations shall provide for applying, in relation—
  - (a) to claims for benefit under sections 108 to 110 of the Contributions and Benefits Act; and
  - (b) to questions arising in connection with such claims or with awards of such benefit,the provisions of this Part of this Act subject to any prescribed additions or modifications.
- (2) Regulations for those purposes may in particular provide—
  - (a) for the appointment of specially qualified adjudicating medical practitioners and the appointment of medical officers for the purposes of the regulations (which shall be taken to include, in the case of specially qualified adjudicating medical practitioners, the purposes for which adjudicating medical practitioners are appointed and medical appeal tribunals are established); and
  - (b) for the payment by the prescribed persons of fees of the prescribed amount in connection with any medical examination by specially qualified adjudicating medical practitioners or any such officer and their return in any prescribed cases, and (so far as not required to be returned) their payment into the National Insurance Fund and recovery as sums due to that Fund.

### *Housing benefit*

#### **61 Adjudication.**

- (1) Regulations shall require a person who has claimed housing benefit to be notified of the determination of the claim.
- (2) Any such notification shall be given in such form as may be prescribed.
- (3) Regulations shall make provision for reviews of determinations relating to housing benefit.

### *Social fund officers and inspectors and the social fund Commissioner*

#### **62 Social fund officers.**

- (1) The Department shall appoint officers, to be known as “social fund officers”, for the purpose of performing functions in relation to payments out of the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.
- (2) A social fund officer may be appointed to perform all the functions of social fund officers or such functions of such officers as may be specified in his instrument of appointment.
- (3) The Department may nominate for an area a social fund officer who shall issue general guidance to the other social fund officers in the area about such matters relating to the social fund as the Department may specify.



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### **63 The social fund Commissioner and inspectors.**

- (1) There shall continue to be an officer known as “the social fund Commissioner” (in this section referred to as “the Commissioner”).
- (2) The Commissioner shall be appointed by the Department.
- (3) The Commissioner—
  - (a) shall appoint such social fund inspectors; and
  - (b) may appoint such officers and staff for himself and for social fund inspectors, as he thinks fit, but with the consent of the Department and the Department of Finance and Personnel as to numbers.
- (4) Appointments under subsection (3) above shall be made from persons made available to the Commissioner by the Department.
- (5) It shall be the duty of the Commissioner—
  - (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions;
  - (b) to arrange such training of social fund inspectors as he considers appropriate; and
  - (c) to carry out such other functions in connection with the work of social fund inspectors as the Department may direct.
- (6) The Commissioner shall report annually in writing to the Department on the standards of reviews by social fund inspectors and the Department shall publish his report.

### **64 Reviews.**

- (1) A social fund officer—
  - (a) shall review a determination made under the Contributions and Benefits Act by himself or some other social fund officer, if an application for a review is made within such time and in such form and manner as may be prescribed by or on behalf of the person who applied for the payment to which the determination relates; and
  - (b) may review such a determination in such other circumstances as he thinks fit; and may exercise on a review any power exercisable by an officer under Part VIII of the Contributions and Benefits Act.
- (2) The power to review a determination conferred on a social fund officer by subsection (1) above includes power to review a determination made by a social fund officer on a previous review.
- (3) On an application made by or on behalf of the person to whom a determination relates within such time and in such form and manner as may be prescribed a determination of a social fund officer which has been reviewed shall be further reviewed by a social fund inspector.
- (4) On a review a social fund inspector shall have the following powers—
  - (a) power to confirm the determination made by the social fund officer;
  - (b) power to make any determination which a social fund officer could have made;

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- (c) power to refer the matter to a social fund officer for determination.
- (5) A social fund inspector may review a determination under subsection (3) above made by himself or some other social fund inspector.
- (6) In determining a question on a review a social fund officer or social fund inspector shall have regard, subject to subsection (7) below, to all the circumstances of the case and, in particular, to the matters specified in section 136(1)(a) to (e) of the Contributions and Benefits Act.
- (7) An officer or inspector shall determine any question on a review in accordance with any general directions issued by the Department under section 136(2) of the Contributions and Benefits Act and any general directions issued by the Department with regard to reviews and in determining any such question shall take account of any general guidance issued by the Department under that subsection or with regard to reviews.
- (8) Directions under this section may specify—
  - (a) the circumstances in which a determination is to be reviewed; and
  - (b) the manner in which a review is to be conducted.
- (9) In reviewing a question under this section a social fund officer shall take account (subject to any directions or guidance issued by the Department under this section) of any guidance issued by the social fund officer nominated for his area under section 62(3) above.
- (10) A social fund inspector reviewing a determination shall be under the same duties in relation to such guidance as the social fund officer or inspector who made the determination.

**Modifications etc. (not altering text)**

C32 S. 64 modified (1.7.1998) by S.I. 1998/1506, arts. 1(3)(c)(d), 77, Sch. 5 para. 7

*Christmas bonus*

**65 Determination of questions.**

- (1) A determination by the competent authority that a person is entitled or not entitled to payment of a qualifying benefit in respect of a period which includes a day in the relevant week shall be conclusive for the purposes of section 144 of the Contributions and Benefits Act; and in this subsection “competent authority” means, in relation to a payment of any description of a qualifying benefit, an authority that ordinarily determines whether a person is entitled to such a payment.
- (2) Any question arising under that section other than one determined or falling to be determined under subsection (1) above shall be determined by the Department whose decision shall, except as provided by subsection (3) below, be final.
- (3) The Department may reverse a decision under subsection (2) above on new facts being brought to its notice or if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact.

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- (4) Expressions used in this section to which a meaning is assigned by section 146 of the Contributions and Benefits Act have that meaning in this section.

*Restrictions on entitlement to benefit following erroneous decision*

**66 Restrictions on entitlement to benefit in certain cases of error.**

- (1) This section applies where—
- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and
  - (b) after both—
    - (i) 14th August 1990 (the date of the coming into operation of section 154D of the 1975 Act, the provision of that Act corresponding to this section); and
    - (ii) the date of the relevant determination,
 a claim which falls, or which would apart from this section fall, to be decided in accordance with the relevant determination is made or treated under section 5(1)(i) above as made by any person for any benefit.
- (2) Where this section applies, any question which arises on, or on the review of a decision which is referable to, the claim mentioned in subsection (1)(b) above and which relates to the entitlement of the claimant or any other person to any benefit—
- (a) in respect of a period before the relevant date; or
  - (b) in the case of a widow’s payment, in respect of a death occurring before that date,
- shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.
- (3) In determining whether a person is entitled to benefit in a case where—
- (a) his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age; and
  - (b) he attained that age—
    - (i) before both the date of the relevant determination and the date of the claim referred in subsection (1)(b) above, but
    - (ii) not before the earliest day in respect of which benefit could, apart from this section, have been awarded on that claim,
 subsection (2) above shall be disregarded for the purpose only of determining the question whether he was entitled as mentioned in paragraph (a) above.
- (4) In this section—
- “adjudicating authority” means—
- (a) an adjudication officer or, where the original decision was given on a reference under section 19(2) or 23(1) above, a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal;
  - (b) any of the following former bodies or officers, that is to say, the National Assistance Board for Northern Ireland, the Supplementary Benefits Commission for Northern Ireland, the Attendance Allowance Board for

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Northern Ireland, a benefit officer, an insurance officer or a supplement officer; or

- (c) any of the officers who, or tribunals or other bodies which, in Great Britain correspond to those mentioned in paragraph (a) or (b) above;

“benefit” means—

- (a) benefit as defined in section 121 of the Contributions and Benefits Act;  
 (b) any income-related benefit;

“the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in England and Wales, the House of Lords or the Court of Justice of the European Community;

“the relevant date” means whichever is the latest of—

- (a) the date of the relevant determination;  
 (b) the date which falls 12 months before the date on which the claim referred to in subsection (1)(b) above is made or treated under section 5(1)(i) above as made; and  
 (c) the earliest date in respect of which the claimant would, apart from this section, be entitled on that claim to the benefit in question.

- (5) For the purposes of this section—

- (a) any reference in this section to entitlement to benefit includes a reference to entitlement—  
 (i) to any increase in the rate of a benefit; or  
 (ii) to a benefit, or increase of benefit, at a particular rate; and  
 (b) any reference to a decision which is “referable to” a claim is a reference to—  
 (i) a decision on the claim,  
 (ii) a decision on a review of the decision on the claim, or  
 (iii) a decision on a subsequent review of the decision on the review,  
 and so on.

- (6) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this section in accordance with any regulations made for that purpose.

**Modifications etc. (not altering text)**

**C33** S. 66 applied (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), s. 121\(1\)\(c\), 173\(4\)](#) (with s. 108(5))

**67 Determination of questions on review following erroneous decisions.**

- (1) Subsection (2) below applies in any case where—

- (a) on the determination, whenever made, of a Commissioner or the court (the “relevant determination”), a decision made by an adjudicating authority is or was found to have been erroneous in point of law; and  
 (b) in consequence of that determination, any other decision—  
 (i) which was made before the date of that determination; and  
 (ii) which is referable to a claim made or treated as made by any person for any benefit,

falls (or would, apart from subsection (2) below, fall) to be revised on a review carried out under section 23(5) above after 14th August 1990 (the date of the

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coming into force of section 104(7) to (10) of the 1975 Act, the provision of that Act corresponding to this section) or on a review under section 28 above on the ground that the decision under review was erroneous in point of law.

(2) Where this subsection applies, any question arising on the review referred to in subsection (1)(b) above, or on any subsequent review of a decision which is referable to the same claim, as to any person's entitlement to, or right to payment of, any benefit—

- (a) in respect of any period before the date of the relevant determination; or
- (b) in the case of a widow's payment, in respect of a death occurring before that date,

shall be determined as if the decision referred to in subsection (1)(a) above had been found by the Commissioner or court in question not to have been erroneous in point of law.

(3) In determining whether a person is entitled to benefit in a case where his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age, subsection (2) above shall be disregarded for the purpose only of determining the question whether he was so entitled before attaining that age.

(4) For the purposes of this section—

- (a) “adjudicating authority” and “the court” have the same meaning as they have in section 66 above;
- (b) any reference to—
  - (i) a person's entitlement to benefit; or
  - (ii) a decision which is referable to a claim,

shall be construed in accordance with subsection (5) of that section; and

- (c) the date of the relevant determination shall, in prescribed cases, be determined in accordance with any regulations made under subsection (6) of that section.

#### Modifications etc. (not altering text)

**C34** S. 67 modified (25.8.1995) by S.R. 1995/293, reg. 46

S. 67 restricted (25.8.1995) by S.R. 1995/293, reg. 67

S. 67 modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 6

#### Correction of errors

### 68 Regulations as to correction of errors.

(1) Regulations may make provision with respect to—

- (a) the correction of accidental errors in any decision or record of a decision given with respect to a claim or question arising under or in connection with any relevant enactment by a body or person authorised to decide the claim or question; and
- (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—

- (i) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a

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- party to the proceedings or a party’s representative or was not received at an appropriate time by the body or person who gave the decision; or
- (ii) a party to the proceedings or a party’s representative was not present at a hearing related to the proceedings.
- (2) Nothing in subsection (1) above shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that subsection.
- (3) In this section “relevant enactment” means any enactment contained in—
- (a) the National Insurance Measures (Northern Ireland) 1966 to 1974;
  - (b) the National Insurance (Industrial Injuries) Measures (Northern Ireland) 1966 to 1974;
  - (c) the Workmen’s Compensation (Supplementation) Measures (Northern Ireland) 1966 to 1974;
  - (d) the <sup>M6</sup>Social Security Act 1973;
  - (e) the Social Security (Northern Ireland) Acts 1975 to 1991;
  - (f) the Old Cases Act;
  - (g) the <sup>M7</sup>Child Benefit (Northern Ireland) Order 1975;
  - (h) the <sup>M8</sup>Family Income Supplements Act (Northern Ireland) 1971;
  - (i) the <sup>M9</sup>Supplementary Benefits (Northern Ireland) Order 1977;
  - (j) the Contributions and Benefits Act;
  - (k) this Act. [<sup>F5</sup>or
  - (l) the Pensions Act]

#### Textual Amendments

**F5** Words in s. 68(3) added (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para.38**; S.R. 1994/17, **art. 2**

#### Marginal Citations

**M6** 1973 c. 38.

**M7** S.I. 1975/1504 (N.I. 16).

**M8** 1971 c. 8 (N.I.).

**M9** S.I. 1977/2156 (N.I. 27).

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