STATUTORY RULES OF NORTHERN IRELAND

2003 No. 18

SOCIAL SECURITY

The Social Security Commissioners (Procedure) (Tax Credits Appeals) Regulations (Northern Ireland) 2003

Made - - - -	*13th January 2003*
To be laid before Parliament	
Coming into operation	*7th February 2003*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 22 and 165(2) of the Social Security Administration (Northern Ireland) Act 1992(**1**), Articles 2 and 74(2) of the Social Security (Northern Ireland) Order 1998(**2**) and Articles 15, 16 and 28 of, and Schedule 4 to, the Social Security (Northern Ireland) Order 1998 as applied and modified by the Tax Credits (Appeals) Regulations 2002(**3**), hereby makes the following Regulations–

PART I

GENERAL PROVISIONS

Citation, commencement and duration

1.—(1) These Regulations may be cited as the Social Security Commissioners (Procedure) (Tax Credits Appeals) Regulations (Northern Ireland) 2003 and shall come into operation on 7th February 2003.

(2) These Regulations shall cease to have effect on such day as is appointed by order made under section 63(1) of the Tax Credits Act 2002(**4**) (tax credit appeals etc.: temporary modifications).

Interpretation

2. In these Regulations, unless the context otherwise requires–

(**1**) 1992 c. 8
(**2**) S.I.1998/1506 (N.I. 10); Article 2 is an interpretation provision and is cited because of the meaning assigned to the word "prescribe"
(**3**) S.I. 2002/2926
(**4**) 2002 c. 21

"the Order" means the Social Security (Northern Ireland) Order 1998, as applied and modified by the Tax Credits (Appeals) Regulations 2002;

"the 1992 Act" means the Social Security Administration (Northern Ireland) Act 1992;

"the 2002 Act" means the Tax Credits Act 2002;

"appeal" means an appeal which, by virtue of section 63 of the 2002 Act, is from an appeal tribunal to a Social Security Commissioner;

"appeal tribunal" means an appeal tribunal constituted under Chapter I of Part II of the Order;

"authorised officer" means an officer authorised by the Lord Chancellor in accordance with Article 15(13) of the Order;

"chairman" means–

(i) the person who was the chairman or the sole member of the appeal tribunal which gave the decision against which leave to appeal is being sought; or

(ii) any other person authorised to deal with applications for leave to appeal to a Commissioner against that decision under Article 15 of the Order;

"joint claimant" means a person making a claim under section 3(3)(a) of the 2002 Act;

"legally qualified" means being a solicitor or barrister;

"month" means a calendar month;

"office" means the Office of the Social Security Commissioners;

"party" means a party to the proceedings;

"penalty proceedings" means proceedings taken under Schedule 2 of the 2002 Act;

"proceedings" means any proceedings before a Commissioner, whether by way of an application for leave to appeal to, or from, a Commissioner, or by way of an appeal, or otherwise;

"respondent" means–

(i) any person or organisation other than the applicant or appellant who is one of the principal parties as defined in Article 14 of the Order;

(ii) any other person taking part in the proceedings in accordance with Article 15 of the Order or at the direction or with the leave of the Commissioner; and

"tax credit" means a child tax credit or a working tax credit, construing those terms in accordance with section 1(1) and (2) of the 2002 Act.

General powers of a Commissioner

3.—(1) Subject to the provisions of these Regulations, a Commissioner may adopt any procedure in relation to proceedings before him.

(2) A Commissioner may–

(a) extend or abridge any time limit under these Regulations (including, subject to regulations 7(3) and 11(2), granting an extension where the time limit has expired);

(b) expedite, postpone or adjourn any proceedings.

(3) Subject to paragraph (4), a Commissioner may, on or without the application of a party, strike out any proceedings for want of prosecution or abuse of process.

(4) Before making an order under paragraph (3), the Commissioner shall send notice to the party against whom it is proposed that it should be made giving him an opportunity to make representations why it should not be made.

(5) A Commissioner may, on application by the party concerned, give leave to reinstate any proceedings which have been struck out in accordance with paragraph (3) and, on giving leave, he may give directions as to the conduct of the proceedings.

(6) Nothing in these Regulations shall affect any power which is exercisable apart from these Regulations.

Transfer of proceedings between Commissioners

4. If it becomes impractical or inexpedient for a Commissioner to continue to deal with proceedings which are or have been before him, any other Commissioner may rehear or deal with those proceedings and any related matters.

Delegation of functions to authorised officers

5.—(1) The following functions of the Commissioners may be exercised by legally qualified authorised officers, to be known as legal officers to the Commissioners–

(a) postponing a hearing under regulation 3;

(b) extending or abridging time, directing expedition, giving notices, striking out and reinstating proceedings under regulation 3.

(c) giving directions under regulations 6 and 16;

(d) determining requests for or directing hearings under regulation 18;

(e) summoning witnesses, and setting aside a summons made by a legal officer, under regulation 20;

(f) giving leave to withdraw or reinstate applications or appeals under regulation 21;

(g) waiving irregularities under regulation 22 in connection with any matter being dealt with by a legal officer;

(2) Any party may, within 14 days of being sent notice of the direction or order of a legal officer, make a written request to a Commissioner asking him to reconsider the matter and confirm or replace the direction or order with his own, but, unless ordered by a Commissioner, a request shall not stop proceedings under the direction or order.

Manner of and time for service of notices, etc.

6.—(1) A notice to or document for any party shall be deemed duly served if it is–

(a) delivered to him personally; or

(b) properly addressed and sent to him by prepaid post at the address last notified by him for this purpose, or to his ordinary address; or

(c) served in any other manner a Commissioner may direct.

(2) A notice to or other document for a Commissioner shall be delivered or sent to the office.

(3) For the purposes of any time limit, a properly addressed notice or other document sent by prepaid post, fax or email is effective from the date it is sent.

PART II

APPLICATIONS FOR LEAVE TO APPEAL AND APPEALS

Application to a Commissioner for leave to appeal

7.—(1) An application to a Commissioner for leave to appeal against the decision of an appeal tribunal may be made only where the applicant has sought to obtain leave from the chairman and leave has been refused or the application has been rejected.

(2) Subject to paragraph (3) an application to a Commissioner shall be made within one month of notice of the refusal or rejection being sent to the applicant by the appeal tribunal.

(3) A Commissioner may for special reasons accept a late application or an application where the applicant failed to seek leave from the chairman within the specified time, but did so on or before the final date.

(4) In paragraph (3) the final date means the end of a period of 13 months from the date on which the decision of the appeal tribunal or, if later, any separate statement of the reasons for it, was sent to the applicant by the appeal tribunal.

Notice of application to a Commissioner for leave to appeal

8.—(1) An application to a Commissioner for leave to appeal shall be made by notice in writing, and shall contain–

(a) the name and address of the applicant;

(b) the grounds on which the applicant intends to rely;

(c) if the application is made late, the grounds for seeking late acceptance; and

(d) an address for sending notices and other documents to the applicant.

(2) The notice in paragraph (1) shall have with it copies of–

(a) the decision against which leave to appeal is sought;

(b) if separate, the written statement of the appeal tribunal's reasons for it; and

(c) the notice of refusal or rejection sent to the applicant by the appeal tribunal.

(3) Where an application for leave to appeal is made by the Board, they shall send each respondent a copy of the notice of application and any documents sent with it when they are sent to the Commissioner.

Determination of application

9.—(1) The office shall send written notice to the applicant and each respondent of the determination of an application for leave to appeal to a Commissioner.

(2) Subject to a direction by a Commissioner, where a Commissioner grants leave to appeal under regulation 7–

(a) notice of appeal shall be deemed to have been sent on the date when notice of the determination is sent to the applicant; and

(b) the notice of application shall be deemed to be a notice of appeal sent under regulation 10.

(3) If a Commissioner grants an application for leave to appeal he may, with the consent of the applicant and each respondent, treat and determine the application as an appeal.

Notice of appeal

10.—(1) Subject to regulation 9(2), an appeal shall be made by notice in writing and shall contain–

(a) the name and address of the appellant;

(b) the date on which the appellant was notified that leave to appeal had been granted;

(c) the grounds on which the appellant intends to rely;

(d) if the appeal is made late, the grounds for seeking late acceptance; and

(e) an address for sending notices and other documents to the appellant.

(2) The notice in paragraph (1) shall have with it copies of–

(a) the notice informing the appellant that leave to appeal has been granted;

(b) the decision against which leave to appeal has been granted; and

(c) if separate, the written statement of the appeal tribunal's reasons for it.

Time limit for appealing after leave obtained

11.—(1) Subject to paragraph (2), a notice of appeal shall not be valid unless it is sent to a Commissioner within one month of the date on which the appellant was sent written notice that leave to appeal had been granted.

(2) A Commissioner may for special reasons accept a late notice of appeal.

Acknowledgement of a notice of appeal and notification to each respondent

12. The office shall send–

(a) to the appellant, an acknowledgement of the receipt of the notice of appeal;

(b) to each respondent, a copy of the notice of appeal.

PART III

PROCEDURE

Representation

13. A party may conduct his case himself (with assistance from any person if he wishes) or be represented by any person whom he may appoint for the purpose.

Respondent's written observations

14.—(1) A respondent may submit to a Commissioner written observations on an appeal within one month of being sent written notice of it.

(2) Written observations shall include–

(a) the respondent's name and address and address for sending documents;

(b) a statement as to whether or not he opposes the appeal; and

(c) the grounds upon which the respondent proposes to rely.

(3) The office shall send a copy of any written observations from a respondent to every other party.

(4) Where there is more than one respondent, the order of and time for written observations shall be as directed by a Commissioner under regulation 16.