STATUTORY RULES OF NORTHERN IRELAND

1999 No. 225

SOCIAL SECURITY

The Social Security Commissioners (Procedure) Regulations (Northern Ireland) 1999

Made - - - -	*12th May 1999*
To be laid before Parliament	
Coming into operation	*7th June 1999*

The Lord Chancellor, in exercise of the powers conferred by the provisions set out in the Schedule to these Regulations and now vested in him(**1**) and of all other powers enabling him in that behalf, hereby makes the following Regulations—

PART I

GENERAL PROVISIONS

Citation and commencement

1. These Regulations may be cited as the Social Security Commissioners (Procedure) Regulations (Northern Ireland) 1999 and shall come into operation on 7th June 1999.

Revocation

2. The following Regulations are revoked—

(a) the Social Security Commissioners Procedure Regulations (Northern Ireland) 1987(**2**);

(b) the Social Security Commissioners Procedure (Amendment) Regulations (Northern Ireland) 1992(**3**); and

(c) the Social Security Commissioners Procedure (Amendment) Regulations (Northern Ireland) 1997(**4**).

(**1**) By virtue of Part II of Schedule 9 to the Social Security Act 1986 (c. 50), paragraphs 3(1)(c), 2(a) to (g) and (j) of which were repealed by Schedule 1 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9); section 165(2) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) and Article 74(2) of the Social Security (Northern Ireland) Order 1998 [S.I.1998/1506 (N.I. 10)]

(**2**) S.R. 1987 No. 112

(**3**) S.R. 1992 No. 312

(**4**) S.R. 1997 No. 427

Transitional provisions

3.—(1) Subject to paragraphs (2) and (3), these Regulations shall apply to all proceedings before the Commissioners on or after 7th June 1999.

(2) In relation to any appeal or application for leave to appeal from any social security, disability or medical appeal tribunal constituted under Part II of the Administration Act(**5**) these Regulations shall have effect with the modifications that—

(a) "appeal tribunal" includes a reference to any such tribunal;

(b) "chairman" includes a reference to a person authorised to deal with applications for leave to appeal under the Social Security (Adjudication) Regulations (Northern Ireland) 1995(**6**);

(c) "Department" includes a reference to an adjudication officer;

(d) "Article 15(7) of the Order" includes a reference to sections 21(6A) and 46(4A) of the Administration Act(**5**) as modified by paragraph 4 of Schedule 5 to the Order;

(e) "42 days" shall be substituted for "one month" in regulations 9(2) and 13(1); and

(f) under regulation 9 a Commissioner may for special reasons accept an application for leave to appeal even though the applicant has not sought to obtain leave to appeal from the Chairman.

(3) Any transitional question arising under any application, appeal or reference in consequence of the coming into operation of these Regulations shall be determined by a Commissioner who may for this purpose give such directions as he may think just, including modifying the normal requirements of these Regulations in relation to the application, appeal or reference.

Interpretation

4. In these Regulations, unless the context otherwise requires—

"the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992(**7**);

"the Order" means the Social Security (Northern Ireland) Order 1998(**8**);

"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;

"the chairman" for the purposes of regulations 9 and 10 means—

(i) the person who was the chairman or 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;

"Commissioner" means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of two or more Commissioners constituted under Article 16(7) of the Order;

"the Department" means the Department of Health and Social Services for Northern Ireland;

(**5**) 1992 c. 8
(**6**) 1995 No. 293
(**5**) 1992 c. 8
(**7**) 1992 c. 8
(**8**) S.I. 1998/1506 (N.I. 10)

"forfeiture rule question" means any question referred to in Article 6(1) or 6(1A) to 6(1H) of the Forfeiture (Northern Ireland) Order 1982(**9**);

"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;

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

"respondent" means any person or organisation other than the applicant, appellant or person making the reference, who is one of the principal parties as defined in Article 14 of the Order or is otherwise taking part in the proceedings in accordance with Article 15 of the Order or regulation 24(6).

General powers of a Commissioner

5.—(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 9(3) and 13(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

6. 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

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

(a) giving directions under regulations 8 and 20;

(b) determining requests for or directing hearings under regulation 23;

(**9**) S.I. 1982/1082 (N.I. 14) paragraphs (1A) to (1H) were inserted by Article 77(1) of the Social Security (Northern Ireland) Order 1986 [S.I. 1986/1888 (N.I. 18)]

(c) summoning witnesses, and setting aside a summons made by a legal officer, under regulation 25;

(d) postponing a hearing under regulation 5;

(e) giving leave to withdraw or reinstate applications, appeals or references under regulation 26;

(f) waiving irregularities under regulation 27 in connection with any matter being dealt with by a legal officer;

(g) extending or abridging time, directing expedition, giving notices, striking out and reinstating proceedings under regulation 5.

(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

8.—(1) A notice to or other 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 pre-paid 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 pre-paid post, fax or e-mail is effective from the date it is sent.

PART II

APPLICATIONS FOR LEAVE TO APPEAL, APPEALS AND REFERENCES

Application to a Commissioner for leave to appeal

9.—(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

10.—(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 Department, the Department 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

11.—(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 9—

(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 12.

(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

12.—(1) Subject to regulation 11(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 has 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

13.—(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.