STATUTORY RULES OF NORTHERN IRELAND

1995 No. 293

SOCIAL SECURITY

The Social Security (Adjudication) Regulations (Northern Ireland) 1995

Made - - - -	*21st July 1995*
Coming into operation	*25th August 1995*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers set out in Schedule 1 and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Adjudication) Regulations (Northern Ireland) 1995 and shall come into operation on 25th August 1995.

(2) In these Regulations—

"the Acts" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and the Social Security Administration (Northern Ireland) Act 1992(**2**);

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

"the Contributions and Benefits Act" means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"adjudicating authority" means, as the case may be, an adjudicating medical practitioner, the Chief or any other adjudication officer, an appeal tribunal, a medical appeal tribunal, a disability appeal tribunal or a medical board;

"adjudicating medical authority" has the meaning assigned to it by regulation 34;

(**1**) 1992 c. 7
(**2**) 1992 c. 8

"adjudicating medical practitioner" means a medical practitioner appointed in accordance with section 47(1) of the Administration Act;

"adjudication officer" means an officer appointed in accordance with section 36(1) of the Administration Act;

"appeal tribunal" means a social security appeal tribunal constituted in accordance with section 39 of the Administration Act;

"Chief Adjudication Officer" means the Chief Adjudication Officer appointed under section 37(1) of the Administration Act;

"claimant" means a person who has claimed benefit under the Acts (including, in relation to an award or decision, a beneficiary under the award or a person affected by the decision) or from whom benefit is alleged to be recoverable, and, in relation to statutory sick pay and statutory maternity pay, includes both the employee alleged to be entitled to, and the employer alleged to be liable to pay, such pay;

"Commissioner" means the Chief or any other Social Security Commissioner appointed in accordance with section 50(1) of the Administration Act and includes a Tribunal of 2 or 3 such Commissioners constituted in accordance with section 55 of that Act;

"disability appeal tribunal" means a tribunal constituted in accordance with section 41 of the Administration Act;

"disability question" has the meaning assigned by regulation 27(2);

"full-time chairman" means a full-time chairman of appeal tribunals, medical appeal tribunals and disability appeal tribunals appointed under section 49 of the Administration Act;

"income support" means income support under Part VII of the Contributions and Benefits Act and includes personal expenses addition, special transitional addition and transitional addition as defined in the Income Support (Transitional) Regulations;

"the Income Support Regulations" means the Income Support (General) Regulations (Northern Ireland) 1987(**3**);

"the Income Support (Transitional) Regulations" means the Income Support (Transitional) Regulations (Northern Ireland) 1987(**4**);

"inquiry" means an inquiry held pursuant to section 15(4) of the Administration Act;

"medical appeal tribunal" means a tribunal constituted in accordance with section 48 of the Administration Act;

"medical board" has the meaning assigned to it by regulation 34;

"party to the proceedings" means—

(a) the claimant;

(b) in proceedings before an appeal tribunal or a disability appeal tribunal, the adjudication officer;

(c) in proceedings relating to the determination of a question included in section 15(1) of the Administration Act, any person interested within the meaning of regulation 12;

(d) in any other proceedings, the adjudication officer and the Department except in proceedings in which the adjudication officer or the Department is the adjudicating authority; and

(**3**) S.R. 1987 No. 459
(**4**) S.R. 1987 No. 460

(e) any other person appearing to the Department, the adjudicating authority or, in the case of a tribunal or board, its chairman or, in relation to an inquiry, the person appointed to hold the inquiry, to be interested in the proceedings.

"the Prescribed Diseases Regulations" means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986(**5**);

"President" means the President of appeal tribunals, medical appeal tribunals and disability appeal tribunals appointed under section 49 of the Administration Act;

"proceedings" means proceedings on a claim, application, appeal or reference to which these Regulations apply.

(3) Where, by any provision of the Acts or of these Regulations—

(a) any notice or other document is required to be given or sent to any office, that notice or document shall be treated as having been so given or sent on the day that it is received in that office; and

(b) any notice or other document is required to be given or sent to any person, that notice or document shall, if sent by post to that person's last known or notified address, be treated as having been given or sent on the day that it was posted.

(4) Unless otherwise provided, where any power is conferred by these Regulations on a chairman of an appeal tribunal, a medical appeal tribunal or a disability appeal tribunal then—

(a) where that power is to be exercised at the hearing of an appeal or application, it shall be exercised by the chairman of the tribunal hearing that appeal or application; and

(b) otherwise, it shall be exercised by a person who is eligible to be nominated to act as a chairman of an appeal tribunal under section 39 of the Administration Act.

(5) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

PART II

COMMON PROVISIONS

Procedure in connection with determinations; and right to representation

2.—(1) Subject to the provisions of the Administration Act and of these Regulations—

(a) the procedure in connection with the consideration and determination of any claim or question to which these Regulations relate shall be such as the Department, the adjudicating authority or the person holding the inquiry, as the case may be, shall determine; so however that in the case of a tribunal or board, the procedure shall be such as the chairman shall determine; and

(b) any person who by virtue of these Regulations has the right to be heard at a hearing or inquiry may be accompanied and may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at any such hearing or inquiry, any such representative shall have all the rights and powers to which the person whom he represents is entitled under the Administration Act and these Regulations.

(2) For the purpose of arriving at its decision an appeal tribunal, a medical board, a medical appeal tribunal or a disability appeal tribunal, as the case may be, shall, and for the purpose of discussing any question of procedure may, notwithstanding anything contained in these Regulations, order all

(**5**) S.R. 1986 No. 179
(**6**) 1954 c. 33 (N.I.)

persons not being members of the tribunal or board, other than the person acting as clerk to the tribunal or board, to withdraw from the sitting of the tribunal or board, except that—

(a) the President and any full-time chairman; and

(b) with the leave of the chairman of the tribunal or board, and if no person having the right to be heard objects, any person mentioned in regulation 4(6)(b) and (d) (oral hearings and inquiries), except a person undergoing training as an adjudication officer or as an adjudicating medical practitioner,

may remain present at any such sitting.

Manner of making applications, appeals or references; and time limits

3.—(1) Any application, appeal or reference mentioned in column (1) of Schedule 2 shall be in writing and shall be made or given by sending or delivering it to the appropriate office within the specified time.

(2) In this regulation—

"the appropriate office" means the office specified in column (2) of Schedule 2 opposite the description of the relevant application, appeal or reference listed in column (1) of that Schedule;

"the specified time" means the time specified in column (3) of Schedule 2 opposite the description of the relevant application, appeal or reference listed in column (1) of that Schedule.

(3) The time specified by this regulation and Schedule 2 for the making of any application, appeal or reference (except an application to the chairman of an appeal tribunal, a medical appeal tribunal or a disability appeal tribunal for leave to appeal to a Commissioner) may be extended for special reasons, even though the time so specified may already have expired, and any application for an extension of time under this paragraph shall be made to and determined by the person or body to whom the application, appeal or reference is sought to be made or, in the case of a tribunal or board, its chairman.

(4) An application under paragraph (3) for an extension of time which has been refused may not be renewed.

(5) Any application, appeal or reference under these Regulations shall contain particulars of the grounds on which it is made or given and, in the case of an appeal, it shall include sufficient particulars of the decision under appeal to enable that decision to be identified.

(6) Where it appears to the Department, an adjudication officer or the chairman of a tribunal or board that an application, appeal or reference which is made to it or him or to the tribunal or board gives insufficient particulars to enable the question at issue to be determined, it or he may require the person making the application, appeal or reference to furnish such further particulars as may reasonably be required.

(7) A chairman of an appeal tribunal, a medical appeal tribunal or a disability appeal tribunal may give directions for the disposal of any purported appeal where he is satisfied that the tribunal does not have jurisdiction to entertain the appeal.

Oral hearings and inquiries

4.—(1) This regulation applies to any oral hearing of an application, appeal or reference and to any inquiry.

(2) Reasonable notice (being not less than 10 days beginning with the day on which the notice is given and ending on the day before the hearing of the case or, as the case may be, the inquiry is to take place) of the time and place of any oral hearing by an adjudicating authority or of an inquiry shall be given to every party to the proceedings, and where such notice has not been given to a person

to whom it should have been given under the provisions of this paragraph the hearing or inquiry may proceed only with the consent of that person.

(3) Where a party to the proceedings to whom notice has been given under paragraph (2) fails to appear at the hearing or inquiry the adjudicating authority or the person holding the inquiry may, having regard to all the circumstances including any explanation offered for the absence, proceed with the case or inquiry notwithstanding his or its absence, or give such directions with a view to the determination of the case or conduct of the inquiry as it or he may think proper.

(4) Any oral hearing by an adjudicating authority and any inquiry shall be in public except where (in the case of an oral hearing) the claimant requests a private hearing or, in any case, the chairman or the person holding the inquiry is satisfied that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved, in which case the hearing or inquiry shall be in private.

(5) At any oral hearing or inquiry any party to the proceedings shall be entitled to be present and be heard.

(6) The following persons shall also be entitled to be present at an oral hearing (whether or not it is otherwise in private) but shall take no part in the proceedings—

(a) the President and any full-time chairman;

(b) any person undergoing training as a chairman or other member of an appeal tribunal, a medical appeal tribunal or a disability appeal tribunal, or as a clerk to any such tribunal, or as an adjudication officer or an adjudicating medical practitioner;

(c) any person acting on behalf of the President, the Chief Adjudication Officer or the Department in the training or supervision of clerks to appeal tribunals, medical appeal tribunals or disability appeal tribunals or of adjudication officers or officers of the Department or in the monitoring of standards of adjudication by adjudication officers; and

(d) with the leave of the chairman of the tribunal or board, as the case may be, and the consent of every party to the proceedings actually present, any other person.

(7) At any inquiry (whether or not it is otherwise in private) the following persons shall be entitled to be present but shall take no part in the proceedings—

(a) any person undergoing training as an officer of the Department;

(b) any person acting on behalf of the Department in the training or supervision of officers of the Department; and

(c) with the leave of the person holding the inquiry and the consent of every party to the proceedings actually present, any other person.

(8) Nothing in paragraph (6) affects the rights of any person mentioned in sub-paragraphs (a) and (b) of that paragraph at any oral hearing where he is sitting as a member of the tribunal or acting as its clerk, and nothing in this regulation prevents the presence at an oral hearing or inquiry of any witness.

(9) Any person entitled to be heard at an oral hearing or inquiry may address the adjudicating authority or person holding the inquiry, may give evidence, may call witnesses and may put questions directly to any other person called as a witness.

Postponement and adjournment

5.—(1) Where a person to whom notice of an oral hearing by an adjudicating authority or of an inquiry has been given wishes to apply for that hearing or inquiry to be postponed, he shall do so in writing to the chairman or, as the case may be, the person appointed to hold the inquiry stating his reasons for the application, and the chairman or person appointed may grant or refuse the application as he sees fit.