1990 No. 119

SOCIAL SECURITY

The Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1990

Made	*20th March 1990*
Coming into operation . .	*6th April 1990*

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

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Adjudication) (Amendment) Regulations (Northern Ireland) 1990 and shall come into operation on 6th April 1990.

(2) In these regulations "the principal regulations" means the Social Security (Adjudication) Regulations (Northern Ireland) 1987(**a**).

(3) The Interpretation Act (Northern Ireland) 1954(**b**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 3 of the principal regulations

2.—(1) Regulation 3 of the principal regulations (manner of making applications, appeals or references; and time limits) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (5) after "on which it is made or given" there shall be added "and, in the case of an appeal, it shall include sufficient particulars of the decision under appeal to enable that decision to be identified".

(3) After paragraph (6) there shall be added the following paragraph—

"(7) A chairman of an appeal tribunal or a medical 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.".

Amendment of regulation 6 of the principal regulations

3. In regulation 6(2)(*a*)(i) of the principal regulations (withdrawal of appeals) for "the adjudication officer" there shall be substituted "an adjudication officer".

(**a**) S.R. 1987 No. 82, to which there are amendments not relevant to these regulations
(**b**) 1954 c. 33 (N.I.)

Omission of regulation 8 of the principal regulations

4. Regulation 8 of the principal regulations (medical references) shall be omitted.

Amendment of regulation 21 of the principal regulations

5.—(1) Regulation 21 of the principal regulations (procedure on claim or question involving questions for determination by the Department) shall be amended in accordance with paragraphs (2) and (3).

(2) Paragraph (2) shall be omitted.

(3) For paragraphs (3) and (4) there shall be substituted the following paragraphs—

"(3) Where—

(*a*) the claimant replies to the notice referred to in paragraph (1) expressing his dissatisfaction with the decision;

(*b*) after any appropriate investigations and explanations have been made, the claimant nonetheless remains dissatisfied with the decision; and

(*c*) an adjudication officer certifies that the sole ground for dissatisfaction appears to be the assumption referred to in paragraph (1),

the claimant shall be notified in writing of his right to apply for the determination by the Department of the question arising on the assumption.

(4) Where the Department's decision—

(*a*) upholds the assumption, section 100(3) of the 1975 Act shall apply as if the adjudication officer had given the certificate therein referred to;

(*b*) does not uphold the assumption, the Department's decision may be treated by the adjudication officer as an application for the review of the adjudication officer's decision, and for the purposes of regulation 65, the date of the claimant's application for the Department's decision shall be treated as the date of the application for review.".

Amendment of regulation 24 of the principal regulations

6.—(1) Regulation 24 of the principal regulations (oral hearing of appeals and references) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) after "An appeal tribunal shall" there shall be inserted ", except where section 104(3B)(*a*) of the 1975 Act(**a**) applies,".

(3) Paragraphs (4) and (5) shall be omitted.

(**a**) Section 104(3B) was inserted by paragraph 7 of Schedule 3 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

Omission of regulation 35 of the principal regulations

7. Regulation 35 of the principal regulations (reference by a medical appeal tribunal of a question of law for decision by a Commissioner) shall be omitted.

Amendment of regulation 36 of the principal regulations

8.—(1) Regulation 36 of the principal regulations (procedure of a medical appeal tribunal on receipt of a Commissioner's decision) shall be amended in accordance with paragraphs (2) to (4).

(2) In paragraph (1) the words "or reference" shall be omitted.

(3) Paragraph (3) shall be omitted.

(4) In paragraph (4) from "unless the medical appeal tribunal consists of" to the end there shall be substituted "subject to any direction of the Commissioner, be by way of a complete rehearing of the appeal by persons who were not members of the tribunal which gave the erroneous decision.".

Amendment of regulation 38 of the principal regulations

9.—(1) Regulation 38 of the principal regulations (application for reviews of determinations made by the Board) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1) after "a determination on any ground is" there shall be inserted ", subject to paragraph (1A),".

(3) After paragraph (1) there shall be inserted the following paragraph—

"(1A) Where a claimant submits an application for review under paragraph (1) by post, and the arrival of the application with an office of the Department is delayed by postal disruption caused by industrial action, whether within the postal service or elsewhere, the application shall be treated as received on the day on which it would have been received if it had been delivered in the ordinary course of post.".

Amendment of Schedule 2 to the principal regulations

10.—(1) Schedule 2 to the principal regulations (time limits for making applications, appeals or references) shall be amended in accordance with paragraph (2).

(2) In column (3) of paragraph 3 (specified time) for the words "medical board" there shall be substituted "adjudicating medical practitioner".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 20th March 1990.

(L.S.) *A. N. Burns*
Assistant Secretary