1987 No. 112

SOCIAL SECURITY

The Social Security Commissioners Procedure Regulations (Northern Ireland) 1987

Made . . . . . *13th March 1987*

Coming into operation . . *6th April 1987*

Laid before Parliament

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SCHEDULE

Provisions conferring powers exercised in making these Regulations.

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(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations.

PART I

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Social Security Commissioners Procedure Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

(a) By virtue of Part II of Schedule 9 to the Social Security Act 1986 (c. 50) and paragraph 17 of Schedule 5 to the Social Security (Northern Ireland) Order 1986 S.I. 1986/1888 (N.I. 18)

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires:—

"the Act" means the Social Security (Northern Ireland) Act 1975(**a**);

"adjudicating authority" means, as the case may be, the Chief or any other adjudication officer, an appeal tribunal, the Attendance Allowance Board, or a medical appeal tribunal and, in cases where a forfeiture rule question arises, includes the Department;

"adjudication officer" means an officer appointed in accordance with section 97(1) of the Act;

"appeal tribunal" means a social security appeal tribunal constituted in accordance with section 97(2) to (2E) of the Act;

"the Attendance Allowance Board" means the Board constituted in accordance with section 105 of the Act and for the purpose of section 106(2) of the Act, unless the context otherwise requires, includes a delegate appointed in pursuance of paragraph 5 of Schedule 11 to the Act;

"the chairman" for the purposes of Regulations 3 and 4 means;

(i) the person who was the chairman of the appeal tribunal or medical appeal tribunal, as the case may be, when the decision was given against which leave to appeal is being sought; or

(ii) any other chairman of an appeal tribunal or medical appeal tribunal, as the case may be, duly authorised for the purposes of applications for leave to appeal to a Commissioner under the Social Security (Adjudication) Regulations (Northern Ireland) 1987(**b**);

"Chief Adjudication Officer" means the Chief Adjudication Officer appointed under section 97(1B) of the Act;

"Chief Commissioner" means the Chief Social Security Commissioner appointed under section 97(3) of the Act;

"Commissioner" means the Chief or any other Social Security Commissioner appointed in accordance with section 97(3) of the Act or section 13(5) of the Social Security Act 1980(**c**) and includes a Tribunal of 2 or 3 such Commissioners constituted in accordance with section 116 of the Act;

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

"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(**d**);

"medical appeal tribunal" means a medical appeal tribunal constituted in accordance with Schedule 12 to the Act;

(**a**) 1975 c. 15; section 97 was amended by paragraph 1 of Schedule 1 to the Social Security Adjudications (Northern Ireland) Order 1983 [S.I. 1983/1524 (N.I. 17) and by section 9(2) of the Social Security Act 1979 (c. 18)]

(**b**) S.R. 1987 No. 82

(**c**) 1980 c. 30

(**d**) S.I. 1982/1082 (N.I. 14) Paragraphs (1A) to (1H) were inserted into Article 6 of the Forfeiture (Northern Ireland) Order 1982 by Article 77(1) of the Social Security (Northern Ireland) Order 1986 [S.I. 1986/1888 (N.I. 18)]

"nominated officer" means an officer authorised by the Lord Chancellor in accordance with section 114(2B)(**a**) of the Act;

"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;

"respondent" means any person or organisation other than the applicant, appellant or person making the reference who would be entitled under Regulation 17(5) to be present and to be heard at any oral hearing;

"the specified time" for the purposes of Regulations 3(2) and 4(3) means the time specified under the Social Security (Adjudication) Regulations (Northern Ireland) 1987 for applying to a chairman of an appeal tribunal or, as the case may be, a medical appeal tribunal for leave to appeal to a Commissioner;

(2) The Interpretation Act 1978(**b**) shall apply to these Regulations as it applies to an Act of Parliament.

PART II

MAKING APPLICATIONS, APPEALS AND REFERENCES

Application to a Commissioner for leave to appeal

3.—(1) Subject to paragraph (2) of this Regulation, an application may be made to a Commissioner for leave to appeal against a decision of an appeal tribunal or a medical appeal tribunal only where the applicant has been refused leave to appeal by the chairman of an appeal tribunal or, as the case may be, of a medical appeal tribunal.

(2) Where there has been a failure to apply to the chairman for such leave within the specified time, an application for leave to appeal may be made to a Commissioner who may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.

(3) An application for leave to appeal under paragraph (1) above must be made within 42 days from the date on which notice in writing of the refusal of leave to appeal was given to the applicant.

(4) An application to a Commissioner for leave to appeal against a determination by the Attendance Allowance Board of any question of law arising

(i) on a review by the Board in pursuance of section 106(1) of the Act; or

(ii) in connection with a refusal by the Board to review a determination made in pursuance of section 105(3) of the Act,

must be made within 3 months from the date on which notice in writing of the determination was given to the applicant.

(5) A Commissioner may accept and proceed to consider and determine an application for leave to appeal under paragraphs (1) and (4) above notwithstanding that the period specified for making the application has expired, if for special reasons he thinks fit.

(**a**) Section 114 (2B) of the Social Security (Northern Ireland) Act 1975 was inserted by paragraph 14 of Schedule 5 to the Social Security (Northern Ireland) Order 1986

(**b**) 1978 c. 30

Notice of application to a Commissioner for leave to appeal

4.—(1) Subject to the following provisions of this Regulation, an application to a Commissioner for leave to appeal shall be brought by a notice to a Commissioner containing:—

(*a*) the name and address of the applicant;

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

(*c*) an address for service of notices and other documents on the applicant;

and the notice shall have annexed to it a copy of the decision against which leave to appeal is being sought.

(2) Where the applicant has been refused leave to appeal by the chairman of an appeal tribunal or of a medical appeal tribunal, otherwise than by a decision recorded in the record of the proceedings of the tribunal, the notice shall also have annexed to it a copy of the decision refusing leave and shall state the date on which the applicant was given notice in writing of the refusal of leave.

(3) Where the applicant has failed:—

(i) to apply within the specified time to the chairman of an appeal tribunal or of a medical appeal tribunal for leave to appeal; or

(ii) to comply with Regulation 3(3) above; or

(iii) to apply within the period specified in Regulation 3(4) above to a Commissioner for leave to appeal against a determination by the Attendance Allowance Board,

the notice of application for leave to appeal shall, in addition to complying with paragraphs (1) and (2) above, state the grounds relied upon for seeking acceptance of the application notwithstanding that the relevant period has expired.

(4) Where an application for leave to appeal is made by an adjudication officer or by the Department the applicant shall, as soon as may be practicable, send each respondent a copy of the notice of application for leave to appeal.

Determination of application

5.—(1) The office of the Social Security Commissioners shall notify the applicant and each respondent in writing of the determination by a Commissioner of the application.

(2) Subject to a direction by a Commissioner to the contrary, where a Commissioner grants leave to appeal on an application made in accordance with Regulation 4 above, notice of appeal shall be deemed to have been duly given on the date when notice of the determination is given to the applicant and the notice of application shall be deemed to be a notice of appeal duly served under Regulation 7 below.

(3) If on consideration of an application for leave to appeal to him from the decision of an adjudicating authority the Commissioner grants leave he may, with the consent of the applicant and each respondent, treat the application as an appeal and determine any question arising on the application as though it were a question arising on an appeal.