1975 No. 341

SOCIAL SECURITY

The Child Interim Benefit (Determination of Questions) Regulations (Northern Ireland) 1975

Made . . . . . 1*st December* 1975

Coming into operation . . . 2*nd January* 1976

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by Article 18(7) and (9) of the Child Benefit (Northern Ireland) Order 1975(**a**), and of all other powers enabling it in that behalf, hereby makes the following regulations:

(a) S.I. 1975 No. 1504 (N.I. 16)

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Interim Benefit (Determination of Questions) Regulations (Northern Ireland) 1975 and shall come into operation on 2nd January 1976.

(2) In these regulations—

"the Order" means the Child Benefit (Northern Ireland) Order 1975;

"benefit" means benefit under Article 18 of the Order;

"claimant" means a person who has claimed benefit;

"determining authority" means, as the case may require, the Department, a tribunal or the Referee,

"hearing" means an oral hearing;

"the Referee" means a person appointed by the Lord Chief Justice under Article 18(7) of the Order for the purpose of determining an appeal from any decision given by a tribunal;

"tribunal" means a tribunal constituted in accordance with regulation 2(2) for the purpose of determining an appeal from any decision given by the Department under the said Article 18(7).

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last known address.

Appellate bodies

2.—(1) An appeal shall lie to a tribunal from any decision given by the Department under Article 18(7) of the Order.

(2) A tribunal shall consist of—

(*a*) a chairman who shall be a person (being a person who is a barrister or solicitor) appointed by the Department under section 97(2)(*c*) of the Social Security Act to act as chairman of a local tribunal under that Act; and

(*b*) two other members, one of whom shall be a member of a panel referred to in section 97(2)(*a*) of the said Act (one member of a local tribunal to be a person drawn from a panel composed of persons representing employers and persons representing earners other than employed earners) and the other of whom shall be a member of a panel referred to in section 97(2)(*b*) of that Act (one member of a local tribunal to be a person drawn from a panel of persons representing employed earners).

(3) There shall be a right of appeal to the Referee from any decision given by such a tribunal as is referred to in paragraph (1).

Review of decisions

3.—(1) Subject to paragraph (3), any decision of a determining authority may be reviewed at any time by the Department if—

(*a*) it is satisfied and, in the case of a decision of the Referee, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or

(*b*) there has been any relevant change of circumstances since the decision was given,

and the Department may review any decision given by it on the ground that it was erroneous in point of law.

(2) A question may be raised with a view to a review under this regulation by making application in writing to the Department, delivered or sent to an office of the Department, stating the grounds of the application.

(3) An application for a review which is not received in an office of the Department within 26 weeks of the end of the interim period shall not be entertained; and the Department shall not of its own motion institute a review more than 26 weeks after the end of the interim period.

(4) A decision given on a review under this regulation, or under regulation 4(2) or 13(2) of the Child Interim Benefit (Claims and Payments) Regulations (Northern Ireland) 1975(**b**), or a decision refusing to review a decision, shall be subject to appeal in like manner as an original decision, and regulations 2 and 4 shall, with the necessary modifications, apply in relation to such a decision as they apply to the original decision of a question.

PART II

ADJUDICATION BY A TRIBUNAL AND BY THE REFEREE

Time and manner of bringing appeals to a tribunal

4.—(1) When a question as to the right to benefit is decided by the Department adversely to the claimant, the Department shall inform the claimant of the decision, of the reasons for it, and of his right of appeal.

(2) An appeal against a decision given by the Department shall be brought at the instance of the claimant by giving notice of appeal to the Department within 21 days after the date of the decision, or within such further time as the chairman of a tribunal may in any case for good cause allow.

(3) A notice of appeal under this regulation shall be in writing and shall contain a statement of the grounds upon which the appeal is made.

Time and place of hearing before a tribunal

5.—(1) Reasonable notice of the time and place of any hearing shall be given to the claimant and to any person who may appear to the chairman of a tribunal to be interested and, except with the consent of the claimant, the tribunal shall not proceed with the hearing of any appeal unless such notice has been given.

(b) S.R. 1975 No. 340

(2) If a claimant or other person to whom notice of a hearing has been duly given in accordance with paragraph (1) should fail to appear at the hearing, a tribunal may proceed to determine the appeal notwithstanding such absence or may give such directions with a view to the determination of the appeal as having regard to all the circumstances including any explanation offered for the absence they may think proper; so however that if a reasonable explanation for his absence has been given by him or on his behalf a tribunal shall not without his consent determine the appeal in his absence, unless the hearing has first been adjourned for at least 1 month (or such shorter period as he may request) and reasonable notice of the time and place of the adjourned hearing has been given to him.

Hearing before a tribunal

6.—(1) Every hearing by a tribunal shall be in public except in so far as the chairman of a tribunal may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(2) The following persons shall be entitled to be present and be heard at the hearing of any appeal—

(*a*) the claimant;

(*b*) the Department;

(*c*) a person appearing to a tribunal to be interested,

and any person appearing to a tribunal to be interested shall have the right to be present notwithstanding that the hearing of the case is not in public.

(3) Any appeal may with the consent of the claimant, but not otherwise, be proceeded with in the absence of any one member of a tribunal other than the chairman.

(4) Where a hearing is adjourned and at the adjourned hearing a tribunal is differently constituted, the proceedings at the adjourned hearing shall be by way of a complete rehearing of the appeal.

Procedure at hearings and right to representation

7.—(1) Subject to the provisions of the Order and of this Part of these regulations—

(*a*) the procedure in connection with the consideration and determination of an appeal brought under regulation 4 shall be such as the chairman of a tribunal shall determine;

(*b*) any person who by virtue of regulation 6(2) has the right to be heard at a hearing may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at any such hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under the Order and these regulations.

(2) For the purpose of arriving at their decision or discussing any question of procedure, a tribunal shall order all persons not being members of that tribunal, other than the person acting as clerk to that tribunal, to withdraw from the sitting of that tribunal.

(3) Any person having the right to be heard who appears at a hearing may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing and of addressing the tribunal.