1975 No. 100

SOCIAL SECURITY

The Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975

Made . . . . . *4th April* 1975

Coming into operation . . . . *6th April* 1975

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SCHEDULE

Regulations revoked

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 30(3), 109(2) and (3), 110(5), 111(1) and (3), 113(1) and (2), 114, 115, 119(3) and (4) and 137(5) of, and Schedules 12 and 13 to, the Social Security (Northern Ireland) Act 1975(a), and section 2(1) of, and paragraphs 3, 7 and 9 of Schedule 3 to, the Social Security (Consequential Provisions) Act 1975(b), and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975 and shall come into operation on 6th April 1975.

Interpretation

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

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

"applicant" in Part II of these regulations means any person who has made an application to the Department for the determination of a question to which that Part relates;

(a) 1975 c. 15 (b) 1975 c. 18

"competent tribunal" means a Commissioner, a local tribunal, a medical appeal tribunal, a medical board or a single medical practitioner acting in place of a medical board;

"hearing" means oral hearing;

"question" includes, except for the purposes of Part II of these regulations, a claim under the Act;

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

"local tribunal" means a tribunal constituted in accordance with section 97(2) and (4) of the Act;

and other expressions have the same meanings as in the Act.

(2) 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.

(3) Any power given by these regulations to extend the period during which anything is required to be done under these regulations or to dispense with any of the requirements thereof may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

(4) Unless the context otherwise requires, any reference in these regulations—

(*a*) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number;

(*b*) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(*c*) to any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(c) shall apply in relation to this statutory rule and in relation to the revocations effected by it as if this statutory rule and the regulations revoked by it were Acts of Parliament, and as if each revocation were a repeal.

Procedure at hearings and in connection with determinations; and right to representation

3.—(1) Subject to the provisions of the 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 competent tribunal or the person holding the inquiry, as the case may be, shall determine; so however that in the case of a local tribunal the procedure shall be such as the chairman of the tribunal shall determine;

(c) 1889 c. 63

(*b*) any person who by virtue of the provisions of these regulations has the right to be heard at a hearing or an inquiry 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 Act and these regulations.

(2) For the purpose of arriving at their decision or discussing any question of procedure, a local tribunal, a medical board or a medical appeal tribunal, as the case may be, shall, notwithstanding anything contained in these regulations, order all persons not being members of the tribunal or board, other than the person acting as a clerk to the tribunal or board, to withdraw from the sitting of the tribunal or board.

(3) Any person having the right to be heard who appears at a hearing before a local tribunal, a medical appeal tribunal or a Commissioner, as the case may be, 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 or Commissioner, as the case may be.

Non-disclosure of evidence by local tribunal, medical appeal tribunal and Commissioner

4. Where, in connection with the consideration and determination of any claim or question there is before a local tribunal, a medical appeal tribunal, or a Commissioner, medical advice or medical evidence relating to the claimant which has not been disclosed to him and in the opinion of the chairman of the tribunal or a Commissioner, as the case may be, the disclosure to the claimant of that advice or evidence would be harmful to the claimant's health, such advice or evidence shall not be required to be disclosed to the claimant, but the tribunal or the Commissioner shall not by reason of such non-disclosure be precluded from taking it into account for the purpose of the said determination.

Reference by the Department, an insurance officer or a competent tribunal to medical practitioner for report

5. The Department, an insurance officer or a competent tribunal, as the case may be, may refer to a medical practitioner for examination and report any question arising for its, his or their decision.

PART II

ADJUDICATION BY THE DEPARTMENT

Application for and procedure on, determination of question by the Department

6.—(1) A person desiring to obtain the decision of the Department on any of the questions mentioned in section 93(1) shall deliver or send to the Department an application for the purpose in writing in a form approved by it, and shall furnish such particulars as the Department may require for the purpose of the consideration and determination of any such question.

(2) The Department shall take steps to bring any such application and any such particulars to the notice of any person appearing to it to be interested in the application and to obtain from such person such particulars within such time and in such form as it considers reasonably necessary for the proper determination of the question.

(3) Any person appointed by the Department under section 93(3) to hold an inquiry into the question or any matters arising in connection therewith and to report to it thereon, may by summons require persons to attend any such inquiry to give evidence or to produce documents reasonably required for the purpose of the inquiry.

(4) If any person fails to comply with any requirement of a summons issued under paragraph (3) he shall for each offence be liable on summary conviction to a penalty not exceeding £50.

(5) The applicant and any persons notified of the application in accordance with paragraph (2) and any other person appearing to the person appointed to hold the inquiry to be interested in the application shall have the right to be present and be heard at any such inquiry and they shall be given reasonable notice of the time and place of the inquiry.

(6) The Department shall give notice in writing of its decision to the applicant and to any persons appearing to it to be interested therein and may publish its decision in such manner as it thinks fit.

(7) An application for a decision of the Department shall not be made otherwise than by a person interested.

(8) In this regulation, a person interested means a person whose interest in the application or decision—

(*a*) is under and for the purposes of the Act; and

(*b*) relates to that person's own liability under the Act or his actual or potential rights under it;

and references to a person appearing to be interested shall be construed accordingly.

(9) Nothing in paragraph (1) or (7) shall affect the right or obligation of any adjudicating authority to refer any question to the Department.

Statement of grounds for Department's decision

7. The applicant and any other person appearing to the Department to be interested shall, on request, be furnished with such a statement of the grounds of the Department's decision as will enable him to determine whether any question of law (not being a question which has been referred to the Court of Appeal in Northern Ireland in accordance with section 94(1)) has arisen upon which he may wish to appeal to the Court of Appeal in Northern Ireland under section 94(3).

Review or reference

8.—(1) A person desiring to raise a question with a view to a review under section 96(1) of a decision under section 93(1) shall make application to the Department in writing within 3 months of the date when he receives notice, (given under regulation 6(6)) of that decision or, if a statement of grounds is requested within 21 days of that date, within 3 months of the date when he receives the statement or in either case within such further time as the Department may for special reasons allow.

(2) The provisions of regulation 6(7) to (9) shall apply to an application under paragraph (1) as they apply to an application under regulation 6(1).

(3) The foregoing provisions of these regulations shall apply with the necessary modifications to any case in which—