1972. No. 267 **[NC]**

PENSIONS (NORTHERN IRELAND)

Pensions Appeal Tribunals (Northern Ireland) Rules 1972

RULES, DATED 11TH OCTOBER 1972, MADE BY THE LORD CHIEF JUSTICE OF NORTHERN IRELAND UNDER PARAGRAPH 5 OF THE SCHEDULE TO THE PENSIONS APPEAL TRIBUNALS ACT 1943.

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I, THE RIGHT HONOURABLE SIR ROBERT LYND ERSKINE LOWRY, Lord Chief Justice of Northern Ireland, by virtue of the powers conferred on me by paragraph 5 of the Schedule to the Pensions Appeal Tribunals Act 1943(**a**), and of all other powers enabling me in this behalf, do hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Pensions Appeal Tribunals (Northern Ireland) Rules 1972 and shall come into operation on 1st December 1972.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereinafter assigned to them respectively:—

"the Act" means the Pensions Appeal Tribunals Acts 1943 and 1949(**b**);

"appeal" includes an entitlement appeal and an assessment appeal;

"appellant" means the person by whom or on whose behalf the appeal is brought;

"assessment appeal" means an appeal brought under section 5 of the Act;

"entitlement appeal" means an appeal brought under section 1, 2, 3 or 4 of the Act;

"notice of appeal" means notice of an appeal given to the Secretary of State in manner prescribed by these Rules;

"patient" means a person who by reason of mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961(**c**), is incapable of managing and administering his property and affairs;

"Pensions Appeal Office" means The Central Office of the Pensions Appeal Tribunals for Northern Ireland at Belfast;

(**a**) 6 & 7 Geo. 6. c. 39.
(**b**) 12, 13 & 14 Geo. 6. c. 12.
(**c**) 1961. c. 15.

"the Chairman" means, as respects entitlement appeals, a legal member of the Pensions Appeal Tribunal or, as respects assessment appeals, the duly qualified medical practitioner appointed to be chairman by the Lord Chief Justice of Northern Ireland, as the case may be;

"the Secretary of State" means the Secretary of State for Social Services;

"Tribunal" means a Pensions Appeal Tribunal;

"Supreme Court" means the Supreme Court of Judicature of Northern Ireland.

(2) The Interpretation Act 1889(**d**) applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) Unless the context otherwise requires, any reference in these Rules to a numbered rule or schedule is a reference to the rule or schedule so numbered in these Rules.

(4) In these Rules a form referred to by number means the form so numbered in Schedule 1 or a form as near thereto as circumstances permit.

Persons by whom appeals may be brought

3.—(1) Subject to the provisions of this rule—

(*a*) an entitlement appeal shall be brought by the person in respect of whose claim the Secretary of State has given the decision against which the appeal lies; and

(*b*) an assessment appeal shall be brought by the person in respect of whose claim the Secretary of State has made the interim assessment, final decision, or final assessment against which the appeal lies.

(2) Where a person by whom an appeal may be brought is under the age of 16, or is prevented by mental or physical infirmity from acting on his own behalf, the appeal shall be brought by some other person acting for him.

(3) Where an appeal is brought by a person acting on behalf of another, that person may take all such steps and do all such things for the purposes of the appeal as an appellant is by these Rules required or authorised to take or do.

(4) An appeal on behalf of, or in respect of the estate of a minor or patient may be brought, and an appeal in respect of the estate of a deceased person may be carried on by virtue of directions given by the Chairman under Rule 23(2), notwithstanding that a next friend, receiver or committee has not been appointed or, as the case may be, that probate or letters of administration has not been granted in respect of the deceased's estate.

Method of appealing

4.—(1) An appeal to a Tribunal shall be commenced by a notice of appeal given to the Secretary of State on whichever of the forms of notice of appeal set out in Schedule 1 is appropriate:

Provided that where a person who is desirous of commencing an assessment appeal has signified to the Secretary of State his intention to appeal by a prepaid letter sent to the Secretary of State before the time for commencing the appeal has expired, and the appropriate form of notice of appeal is sent to the Secretary of State within six weeks after the form was sent by the Secretary of State to the appellant for completion, the appeal shall be deemed to have been commenced on the date on which the letter was so sent.

(**d**) 52 & 53 Vict. c. 63.

(2) The appropriate form of notice of appeal shall be supplied by the Secretary of State on request.

(3) A notice of appeal in Form 1, 3 or 5, shall be signed by the appellant, and a notice of appeal in Form 2, 4 or 6, shall be signed by the person acting on behalf of the appellant, and in each case shall bear the date on which it was signed, and shall be sent by post addressed to "The Secretary of State for Social Services".

Statement of Case and Answer

5.—(1) Subject to the provisions of Rules 6, 9 and 22, the Secretary of State shall, on receipt by him of a notice of appeal, prepare a document (to be called a "Statement of Case") containing the following information—

(*a*) the relevant facts relating to the appellant's case as known to the Secretary of State, including the relevant medical history of the appellant; and

(*b*) in the case of an entitlement appeal, the Secretary of State's reasons for making the decision against which the appeal is brought.

(2) When the Statement of Case has been prepared, the Secretary of State shall send two copies to the appellant and shall inform him that he may, if he so desires, submit (on a form to be supplied by the Secretary of State) an Answer to the statement indicating—

(*a*) whether, and in what respect, the facts in the Statement of Case are disputed;

(*b*) any further facts which, in his opinion, are relevant to the appeal; and

(*c*) his reasons for thinking that the decision of the Secretary of State, or the interim assessment, final decision or final assessment, as the case may be, made by the Secretary of State, was wrong.

(3) Where the appellant submits an Answer disputing any of the facts in the Statement of Case or putting forward further facts, he shall attach to his Answer such documentary evidence in support of his case as is in his possession or as he can reasonably obtain.

(4) Except where the appellant is resident outside the United Kingdom, he shall send his Answer, and any documents submitted therewith, to the Secretary of State within 28 days from the date on which the Statement of Case was sent to him.

(5) The Secretary of State may, if he so desires, comment in writing on the appellant's Answer and, if he does so, the Secretary of State shall send a copy of his comments to the appellant.

(6) As soon as may be after the receipt of the Answer or, if the Appellant does not send an Answer, on the expiration of the said 28 days (or, where the appellant is resident as aforesaid, at the expiration of such time as may be allowed by the Chairman) the Secretary of State shall, subject to the provisions of Rule 9, send to the Pensions Appeal Office—

(*a*) three copies of the Statement of Case;

(*b*) three copies of the appellant's Answer (if any);

(*c*) any documents submitted by the appellant; and

(*d*) three copies of any comments made by the Secretary of State on the appellant's Answer.

Disclosure of official documents and information

6.—(1) Where for the purposes of his appeal an appellant desires to have disclosed any document, or part of any document, which he has reason to believe is in the possession of a government department, he may, at any time not later that six weeks after the Statement of Case was sent to him, apply to the Chairman for the disclosure of the document or part, and, if the Chairman considers that the document or part is likely to be relevant to any issue to be determined on the appeal, he may give a direction to the department concerned requiring its disclosure (if in the possession of the department) in such manner and upon such terms and conditions as the Chairman may think fit:

Provided that directions given under this Rule shall not require the disclosure of—

(i) documents in the nature of departmental minutes or reports; or

(ii) the name of any person in the service of Her Majesty who has given a report or medical certificate relating to the appellant or to the person in respect of whose death the appeal is brought.

For the purposes of this paragraph a certificate given by an officer of the government department concerned (being an officer authorized in that behalf by the Secretary of State or Minister in charge of the department) that a document or name is such a document or name as is described in sub-paragraph (i) or sub-paragraph (ii) shall be final and conclusive.

(2) On receipt of a direction given by the Chairman under this Rule, the Secretary of State or Minister in charge of the government department concerned, or any person authorized by him in that behalf, may certify to the Chairman—

(*a*) that it would be contrary to the public interest for the whole or part of the document to which the direction relates to be disclosed publicly; or

(*b*) that the whole or part of the document ought not, for reasons of security, to be disclosed in any manner whatsoever;

and where a certificate is given under sub-paragraph (*a*), the Chairman shall give such directions to the Tribunal as may be requisite for prohibiting or restricting the disclosure in public of the document, or part thereof, as the case may be, and where a certificate is given under sub-paragraph (*b*) the Chairman shall direct the Tribunal to consider whether the appellant's case will be prejudiced if the appeal proceeds without such disclosure, and, where the Tribunal are of opinion that the appellant would be prejudiced if the appeal were to proceed without such disclosure, they shall adjourn the hearing of the appeal until such time as the necessity for non-disclosure on the ground of security no longer exists.

(3) At the hearing the appellant may apply to the Tribunal for the disclosure of such a document as is mentioned in this Rule, and, where it appears to the Tribunal that the document is likely to be relevant to any issue to be determined on the appeal, and that the appellant has reasonable excuse for having failed to make an application for disclosure to the Chairman before the hearing under paragraph (1) the Tribunal may, unless the document is produced by the Secretary of State's representative, adjourn the case for an application to the Chairman to be made by the appellant.