2001 No. 109

PENSIONS (NORTHERN IRELAND)

Pensions Appeal Tribunals (Northern Ireland) (Amendment) Rules 2001

Made . . . . . 14th March 2001

Coming into operation . . 9th April 2001

To be laid before Parliament

I, THE RIGHT HONOURABLE SIR ROBERT DOUGLAS CARSWELL, Lord Chief Justice of Northern Ireland in exercise of the powers conferred on me by section 6 of, and paragraphs 5 and 6 of the Schedule to, the Pensions Appeals Tribunals Act 1943(**a**) and of all other powers enabling me in this behalf, do hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Pensions Appeal Tribunals (Northern Ireland) (Amendment) Rules 2001 and shall come into operation on 9th April 2001.

(2) In these Rules a reference to a Rule or Schedule by number is a reference to that Rule or Schedule as numbered in the Pensions Appeal Tribunals (Northern Ireland) Rules 1981(**b**).

Amendment to the Pensions Appeal Tribunals (Northern Ireland) Rules 1981

2. Except in the Arrangement of Rules and Rules 2(1), 2A, 12(6), 13(1), 15(3), 18, 19(2), 24(5), 24(6), 26(3)(*e*), 26(5), 26(6) and 34 the words "the Chairman" and "a Chairman" in the Rules shall be substituted by the words "the President".

3. Rule 2(1) shall be amended as follows—

(*a*) In the definition of "appeal" for the words "and an assessment appeal" there shall be substituted ", an assessment appeal and an appeal against a specified decision";

(*b*) In the definition of "patient" for the words "Mental Health Act (Northern Ireland) 1961"(**c**) there shall be substituted "Mental Health (Northern Ireland) Order 1986"(**d**);

(**a**) 1943 c. 39; Section 6 was amended by the Judicature (Northern Ireland) Act 1978 (c.. 23), Section 122(1), the Social Security Act 1980 (c. 30), Section 16(4) and the Child Support, Pensions and Social Security Act 2000 (c. 19), section 57(2); paragraph 5 of the Schedule was amended by section 32(4) of the Administration of Justice Act 1977 (c. 38) and Section 16(6) of the Social Security Act 1980 (c. 30); paragraph 6 of the Schedule was amended, and paragraph 6A inserted, by Section 59 of the Administration of Justice Act 1985 (c. 61)

(**b**) S.R. 1981 No. 231 as amended by S.R. 1981 No. 201, S.R. 1983 No. 23 and S.R. 1998 No. 265

(**c**) 1961 c. 15 (N.I.)

(**d**) S.I. 1986 No. 595 (N.I. 4)

(*c*) In the definition of "the Chairman" the words ", as respects entitlement appeals," and "or, as respects assessment appeals, the duly qualified medical practitioner" and ", as the case may be" shall be omitted;

(*d*) After the definition of "Pensions Appeal Office" there shall be inserted the following definition—

""specified decision" has the meaning given in section 5A of the Act(**a**);"

(*e*) After the definition of "the Chairman" there shall be inserted the following definitions—

""the Deputy President" means the person appointed by the Lord Chief Justice of Northern Ireland to be Deputy President of the Pensions Appeal Tribunals for Northern Ireland under paragraph 2B of the Schedule to the Act(**b**);

""the President" means the person appointed by the Lord Chief Justice of Northern Ireland to be President of the Pensions Appeal Tribunals for Northern Ireland under paragraph 2B of the Schedule to the Act; and references to the President shall be construed as including the Deputy President where he is authorised to carry out any function of the President under any provision of the Act or of these Rules;"

4.—(1) In the Arrangement of Rules, after Rule 2 there shall be inserted the following—

"2A. Functions of the President.".

(2) After Rule 2 there shall be added the following new rule—

"*Functions of the President*

2A.—(1) In relation to a particular appeal, a category of appeal or to appeals generally the President may direct that all or any of his functions under these Rules be undertaken by the Deputy President or a Chairman.

(2) The functions of the President under these Rules may, if he is for any reason unable to act or during a vacancy in his office, be discharged by the Deputy President or, if there is no Deputy President or the Deputy President is for any reason unable to act, by a person nominated for that purpose by the Lord Chief Justice of Northern Ireland.".

5. Rule 3(1) shall be amended as follows—

(*a*) the word "and" shall be deleted at the end of paragraph (*a*); and

(*b*) after the word "lies" in paragraph (*b*) the full stop shall be omitted and there shall be inserted the following—

"; and

(**a**) Section 5A off the Pensions Appeal Tribunals Act 1943 (c. 39) was inserted by Section 57(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19)

(**b**) Paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 (c. 39) was inserted by section 60(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19)

(*c*) an appeal against a specified decision shall be brought by the person in respect of whose claim the Minister has made the decision."

6. In Rule 6(2) for the word "are" there shall be substituted the word "is" and for the word "they" there shall be substituted the word "it".

7. In Rule 10 after the word "list" there shall be inserted the words "or direct that the appeal be struck out".

8. Rule 11 shall be amended as follows—

(*a*) in paragraph (1) the words in brackets shall be omitted; and

(*b*) in paragraph (3) for the word "them" there shall be substituted the word "it".

9. Rule 12 shall be amended as follows—

(*a*) in paragraph (3) for the words "them" and "they" there shall be substituted the word "it";

(*b*) in paragraph (5) for the word "them" there shall be substituted the word "it"; and

(*c*) in paragraph (6) for the words "and to any direction given by the Chairman under Rule 6 or under Rule 15" there shall be substituted the words "and to any direction given by the President under Rule 6 or the Chairman under Rule 15".

10. In Rule 14(5) for the word "their" there shall be substituted the word "its".

11. Rule 15 shall be amended as follows—

(*a*) in paragraph (1) for the word "them" there shall be substituted the word "it" and for the word "their " there shall be substituted the word "its".

(*b*) in paragraph (5) for the word "their" there shall be substituted the word "its".

12. In Rule 18 for the word "their" there shall be substituted the word "its", for the word "have" there shall be substituted the word "has" and the word "shortly" shall be omitted.

13. In the Arrangement of Rules, in Rule 20 for the words "Appeal in absence of appellant" there shall be substituted the words "Appeal in absence of parties".

14. In Rule 20(2)(*b*), after the word "hearing" there shall be inserted ", giving written reasons for the adjournment".

15.—(1) In the Arrangement of Rules, after Rule 20 there shall be inserted the following—

"20A. Appellant resident abroad.".

(2) After Rule 20 there shall be added the following new rule—

"*Appellant resident abroad*

20A.—(1) This rule applies to an appeal where—

(*a*) an appellant is resident outside the United Kingdom, and

(*b*) his appeal ha been directed to be heard by a tribunal appointed for Northern Ireland.

(2) The appeal shall, subject to this rule, be heard in the absence of the appellant.

(3) When the appeal is ready for hearing, the Pensions Appeal Office shall notify the appellant and specify a period for the purposes of paragraph (4).

(4) The appellant may within that period request that the appeal should not be heard before a specified date on the ground that on that date he will be available to attend the appeal.

(5) The President may grant the request and may give such further directions for the hearing of the appeal as he thinks fit.

(6) In an entitlement appeal or an appeal against a specified decision the President may, and in an assessment appeal the President shall, unless he certifies that it is not practicable to do so, make arrangements for the appellant to be medically examined at some convenient place in the country in which he is resident.

(7) Where such an arrangement is made, the appeal shall not proceed until a medical report on the examination has been received in the Pensions Appeal Office and a copy has been sent to the appellant or his representative, and to the Secretary of State."

16. In the Arrangement of Rules in Rule 21 for the words "Appeal in absence of parties" there shall be substituted the words "Appellant unable to attend Tribunal through infirmity".

17. In Rule 21(1)(*a*) from after the words "the visit shall be made by" to the end of the paragraph there shall be substituted the following—

", or include, a medically qualified member of the Tribunal or another duly qualified medical practitioner, as may be appointed by the President."

18. In the Arrangement of Rules, in Rule 24 for the words "Appeal to Supreme Court on point of law" there shall be substituted the words "Appeal to Court of Appeal on point of law".

19. In Rule 24(5) for the word "decide" there shall be substituted the word "decides" and for the words "the judge" there shall be substituted the words "the Court".

20. In Rule 26(9) for the word “obtain” there shall be substituted the word “obtains”.

21. In Rules 27(1)(*b*) and 27(2)(*b*) for the words “the judge” there shall be substituted the words “the Court”.

22. In Rule 31, the words “by the tribunal or” and “(if any)” shall be omitted.

23. In Rule 33(3) for the word “they” there shall be substituted the word “it” and for the word “think” there shall be substituted the word “thinks”.

24. In Rule 34 for the word “they” there shall be substituted the word “it” and for the word “think” there shall be substituted the word “thinks”.

Dated this 14th day of March 2001

R. D. Carswell
Lord Chief Justice of Northern Ireland

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Pensions Appeal Tribunals (Northern Ireland) Rules 1981 so as to reflect the amendments to the Pensions Appeal Tribunals Acts made by the Child Support, Pension and Social Security Act 2000 and effect other minor changes. In particular, the Rules provide for—

(1) appeals against "specified decisions" under section 5A of the Pensions Appeal Tribunals Act 1943, as inserted by the Child Support, Pensions and Social Security Act 2000 (Rules 3 and 5);

(2) the position and powers of the President, Deputy President and Chairmen of Pensions Appeal Tribunals for Northern Ireland (Rules 2, 3, 4 and 9);

(3) power to strike out an appeal for want of prosecution (Rule 7);

(4) the omission of some unnecessary words in defining what person may represent an appellant (Rule 8);

(5) the statement of reasons for a decision of a Tribunal, including a decision to adjourn an appeal (Rules 12 and 14);

(6) the procedure to be followed where an appellant is resident abroad and his appeal has been directed to be heard by a tribunal appointed for Northern Ireland (Rule 15);

(7) visits in assessment appeals where the appellant is unable to attend the Tribunal through infirmity (Rule 17);

(8) the power to extend time limits to be confined to the President (Rule 22).

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