

ARRANGEMENT OF REGULATIONS

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S.R.O. 17/1981

**THE SOCIAL SECURITY (DECISIONS AND APPEALS) REGULATIONS
MADE MARCH 6, 1981 UNDER SECTIONS 32, 33 AND 44 OF THE SOCIAL
SECURITY ORDINANCE.**

Short title. **1.** These Regulations may be cited as the Social Security (Decisions and Appeals) Regulations.

Definitions. **2.** In these Regulations—
“the Director” means the person appointed as Director under section 7 of the Ordinance;
“the Ordinance” means the Social Security Ordinance;
“claim” means a claim for benefit of any right conferred by the Ordinance and the word claimant shall be construed accordingly;
“hearing” means an oral hearing.

Matters for decision by the Director. **3.** (1) Every question arising—
 (a) in relation to a claim for benefit;
 (b) as to whether a person is or was qualified for benefit;
 (c) as to the period for any such disqualification for benefit;
 (d) as to whether an employment is or was insurable employment;
 (e) as to whether a person is or was employed in an insurable employment;
 (f) as to the amount of contribution payable by an employer in respect of an employed person;
 (g) as to who is or was the employer of an employed person;

(h) as to whether a person is entitled to become a voluntary contributor,

shall be decided by the Director or in his absence the Deputy Director or any other person to whom the Director may delegate the authority hereinafter referred to as the authorized person to make the decision on his behalf.

(2) A reference in these Regulations to a question arising in relation to a claim for benefit includes a reference to a question whether benefit is or was not payable.

(3) The Decision of the Director, or any authorized person to giving a decision under sub-paragraph (1), on any of the matters referred to in the said sub-paragraph shall, subject to the provisions of Regulation 4 be final and conclusive:

Provided however that the Director or any authorized person may set aside his own decision, on representation made and production of fresh evidence which was not available at the time of such decision.

4. If any person is dissatisfied with the decision given by the Director, or any other authorized person, the question shall, on notice of appeal being given, within twenty one days of receipt of notification of the decision, or such longer period as the Minister may allow having regard to the circumstances of the case, be referred to an appeal tribunal.

Appeals against decisions of Director.

5. (1) There shall be an Appeal Tribunal to hear and determine appeals from decisions of the Director or other authorized person.

Appeal Tribunal.
33/1997.

(2) The Appeal Tribunal shall consist of three members appointed by the Minister responsible for Social Security as follows:

- (a) a barrister-at-law, who shall act as Chairperson;
- (b) a person representing employers; and
- (c) a person representing employees.

6. (1) The notice of appeal shall contain a statement of the facts and contentions on which the appellant intends to rely, and a copy thereof shall be served on the Director.

Statement of Appeal.

(2) The Appeal Tribunal may at any time require the appellant to furnish in writing further particulars with respect to the appeal.

7. If the Appeal Tribunal is of the opinion that a case is of such a nature that it can properly be decided without a hearing it may dispense with such a hearing and decide the case summarily.

Summary decisions.

Oral hearing.

8. (1) If in the opinion of the Appeal Tribunal an oral hearing is required, the Tribunal shall, as soon as may be, fix a date and place for the hearing and reasonable notice shall be given to the appellant and any other person or persons whose attendance at the hearing is in the opinion of the Tribunal deemed necessary.

(2) The Appeal Tribunal may, by giving notice in writing to any person, require such person to attend to the hearing to give evidence in relation to any matter referred to the Tribunal or to produce documents relating to such matter.

(3) The Appeal Tribunal may, in relation to any matter referred to it, award to any person any costs or expenses which it considers reasonable.

Procedure at oral hearing.

9. (1) The appellant may appear at the hearing in person or may be represented by his authorized representative with the prior consent of the Appeal Tribunal.

(2) The Director, or any person authorized by him, may appear at the hearing in person or may submit to the Appeal Tribunal a written statement giving the grounds on which he based the same decision.

(3) Any other person who, in the opinion of the Appeal Tribunal, should be heard may also appear at the hearing.

Failure to appear.

10. If after notice of a hearing has been duly given, either of the parties fails to appear at the hearing, the Appeal Tribunal may decide the appeal in the absence of that party.

Decisions of Tribunal.

11. (1) The decision of the Appeal Tribunal, which shall be by a majority of votes, shall be sent in writing, together with a memorandum setting out the reasons for the decision, as soon as may be, to the appellant.

(2) The decision of the Appeal Tribunal, on any matter referred to it in accordance with these Regulations shall, save as provided in the next following Regulation, be final and conclusive.

Reference of question to Supreme Court.

12. (1) Where any question is referred to the Appeal Tribunal__

(a) the Tribunal may of its own motion refer any question arising on an appeal for the decision of the High Court; and

(b) any person who is dissatisfied with the decision of the Tribunal may appeal within twenty-one days therefrom to the Supreme Court on any question of law.

(2) In the event of the Appeal Tribunal determining in accordance with sub-regulation (1)(a) to refer any question to the High Court it shall notify the appellant and any other interested parties accordingly.

(3) Without prejudice to the rights of any other person the Appeal Tribunal shall be entitled to be represented and be heard on such reference or appeal made under this Regulation.
