Revised Regulations of Anguilla: S45-3

SOCIAL SECURITY ACT (R.S.A. c. S45)

DECISIONS AND APPEALS REGULATIONS

Note: These Regulations are enabled under sections 32, 33 and 44 of the Social Security Act, R.S.A. c. S45.

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Definitions

1. In these Regulations—

"Act" means the Social Security Act;

"claim" means a claim for benefit or any right conferred by the Act and the word "claimant" shall be construed accordingly;

"Director" means the person appointed as Director under section 6 of the Act;

"hearing" means an oral hearing.

Matters for decision by the Director

2. (1) Every question arising—

(a) in relation to a claim for benefit;

(b) as to whether a person is or was disqualified for benefit;

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(c) as to the period of 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; or

(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 authorised person to make the decision on his behalf.

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

(3) The decision of the Director, or any authorised person giving a decision under subsection (1), on any of the matters referred to in that subsection shall, subject to the provisions of section 3, be final and conclusive, but the Director or any authorised 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.

Appeal against decision of Director

3. If any person is dissatisfied with the decision given by the Director, or any other authorised person, the question shall, on notice of appeal being given, within 21 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.

Appeal Tribunal

4. (1) There shall be an Appeal Tribunal for the purposes of hearing appeals from the decisions of the Director or authorised person.

(2) The Appeal Tribunal shall consist of 3 members appointed by the Minister as follows—

(a) an Attorney at Law who shall act as chairperson;

(b) a person representing employers;

(c) a person representing employees.

(R.A. 12/2001 s.1)

Notice of appeal

5. (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.

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

Summary decisions

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

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Oral hearing

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

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

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

(2) The Director, or any person authorised 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 decision under appeal.

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

Failure to appear

9. 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 Appeal Tribunal

10. (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 section 11, be final and conclusive.

Reference of question to High Court

11. (1) Where any question is referred to the Appeal Tribunal—

(a) the Appeal 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 Appeal Tribunal may appeal within 21 days therefrom to the High Court on any question of law.

(2) In the event of the Appeal Tribunal determining in accordance with paragraph (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 section.

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Citation

12. These Regulations may be cited as the Decisions and Appeals Regulations, Revised Regulations of Anguilla, S45-3.

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