



# Social Security and Housing Benefits Act 1982

## 1982 CHAPTER 24

### PART I

#### STATUTORY SICK PAY

##### *Determination of questions*

#### **11 Determination of questions by Secretary of State**

- (1) Any question arising under any provision of this Part, or of regulations under this Part, as to—
- (a) whether a person is, or was, an employee or employer of another;
  - (b) whether an employer is entitled to make any deduction from his contributions payments, in accordance with regulations under section 9 of this Act;
  - (c) whether a payment falls to be made to an employer in accordance with those regulations ;
  - (d) the amount that falls to be so deducted or paid ; or
  - (e) whether two or more employers or two or more contracts of service are, by virtue of regulations made under section 26(5) of this Act, to be treated as one;
- shall be determined by the Secretary of State on a reference to him under this section made in accordance with regulations.
- (2) Regulations under subsection (1) above may, in particular—
- (a) provide for questions to be referred to the Secretary of State under this section only by prescribed persons or classes of person ; and
  - (b) make provision as to the manner in which, and time within which, references are to be made.

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- (3) The Secretary of State may, if he thinks fit, before determining any question under this section, appoint a person to hold an inquiry into, and to report on, the question or any matter arising in connection with it.
- (4) A question of law arising in connection with the determination by the Secretary of State of any question under this section may, if he thinks fit, be referred for decision to the appropriate court, that is to say the High Court or, in Scotland, the Court of Session.
- (5) Any person aggrieved by the decision of the Secretary of State on any such question of law which is not so referred may appeal from that decision to the appropriate court.
- (6) If the Secretary of State determines to refer any question of law to the appropriate court, he shall give notice in writing of his intention to do so to any person appearing to him to be concerned with that question.
- (7) On any such reference or appeal—
  - (a) the Secretary of State shall be entitled to appear and be heard;
  - (b) the court may order him to pay the costs (in Scotland, the expenses) of any other person, whether or not the decision is in that other person's favour and whether or not the Secretary of State has appeared on the reference or appeal;
  - (c) the decision of the court shall be final.
- (8) Rules of court may include provision for regulating references and appeals under this section and for limiting the time within which such appeals may be brought.

## **12 Determination by insurance officer or local tribunal**

- (1) Any question arising under any provision of this Part, or of regulations under this Part, as to, or in connection with, entitlement to statutory sick pay shall, unless it is for determination—
  - (a) by the Secretary of State under section 11 of this Act; or
  - (b) by a local tribunal on a reference under subsection (2) or (4) below;
 be determined by an insurance officer on a reference to him under this subsection.
- (2) Regulations may prescribe cases in which any such question is to be determined by a local tribunal on a reference to the tribunal under this subsection.
- (3) An insurance officer to whom a question is referred under subsection (1) above shall, so far as is practicable, dispose of it within fourteen days of the making of the reference.
- (4) An insurance officer may, instead of determining a question referred to him under subsection (1) above, refer it to a local tribunal.
- (5) Any reference under this section shall be made in accordance with regulations.
- (6) Regulations under subsection (5) above may, in particular—
  - (a) provide for questions to be referred under this section only by the Secretary of State or prescribed persons or classes of person ; and
  - (b) make provision as to the manner in which, and time within which, references are to be made.

- (7) Where an insurance officer refers a question to a local tribunal under subsection (4) above, notice of the reference shall be given in writing by the Secretary of State to those appearing to him to be concerned with the question.
- (8) Where an insurance officer determines a question referred to him under subsection (1) above, notice—
- (a) of the insurance officer's decision and of the reasons for it; and
  - (b) of the right of appeal given by section 13(1) of this Act;
- shall be given in writing by the Secretary of State to those appearing to him to be concerned with the question.

### **13 Appeals**

- (1) Where an insurance officer has determined a question referred to him under section 12(1) of this Act any person aggrieved by his decision may appeal to a local tribunal; but where—
- (a) there has arisen a question for determination by the Secretary of State under section 11 of this Act;
  - (b) that question has been determined ; and
  - (c) the insurance officer certifies that the decision on that question is the sole ground of his decision ;
- no appeal lies under this section without leave of the chairman of the local tribunal.
- (2) Where a local tribunal has taken any decision in respect of a question referred to it under section 12(2) or (4) of this Act or on an appeal brought under subsection (1) above, an insurance officer or any person aggrieved by the decision may, subject to section 15 of the Social Security Act 1980 (leave required for appeal from local tribunal to Commissioner), appeal to a Commissioner.
- (3) An appeal to a local tribunal under subsection (1) above shall be brought by giving notice of appeal at a local office before the expiry of the period of 28 days beginning with the date on which notice of the insurance officer's decision was given to the appellant in accordance with section 12(8) of this Act or within such further time as the chairman of the local tribunal may for good cause allow.
- (4) An appeal to a Commissioner under subsection (2) above shall be brought by giving notice of appeal at a local office before the expiry of the period of three months beginning—
- (a) in a case where leave to appeal is required, with the date on which leave was given for the appeal; or
  - (b) in any other case, with the date on which notice of the tribunal's decision was given to the appellant;
- or within such further time as a Commissioner may for special reasons allow.
- (5) A notice of appeal under subsection (3) or (4) above shall be in writing and shall contain a statement of the grounds upon which the appeal is made; and regulations may provide for copies of the notice to be sent by the Secretary of State to prescribed persons.

## 14 Review of decisions

- (1) Regulations may make provision for requiring or enabling, in prescribed circumstances—
  - (a) the Secretary of State to review any determination of his under this Part; and
  - (b) an insurance officer or (on a reference from an insurance officer) a local tribunal to review any other determination under this Part, whether made by an insurance officer or by a local tribunal or Commissioner ;and as to the consequences of any such review.
- (2) Regulations under this section may in particular provide for any decision on a review carried out in accordance with the regulations to be subject to appeal in such circumstances and in such manner as may be prescribed.

## 15 Determination: supplemental

- (1) If, in determining any question under this Part, it appears to an insurance officer that a question arises for determination by the Secretary of State under section 11 of this Act the insurance officer shall refer that question to the Secretary of State for determination.
- (2) An insurance officer may, in any case, postpone the reference, or determination, of any question until any other question has been determined (whether by him or by a local tribunal or Commissioner).
- (3) Subsections (1) and (2) above apply to a local tribunal and a Commissioner as they apply to an insurance officer except that a tribunal or Commissioner shall, instead of referring a question to the Secretary of State in accordance with subsection (1), direct it to be so referred by an insurance officer.
- (4) Where a question for determination under this Part (other than one for determination by the Secretary of State under section 11) first arises in the course of an appeal to a local tribunal or Commissioner, the tribunal or Commissioner may proceed to determine the question notwithstanding that it has not been considered by an insurance officer.
- (5) Regulations may make provision as to the procedure to be followed in connection with the determination of questions under this Part; and any such regulations may, in particular, make any provision of a kind mentioned in Schedule 3 to this Act.

## 16 Enforcement of decisions

- (1) This section applies to any case where—
  - (a) a decision of an insurance officer, local tribunal or Commissioner in proceedings under this Part is that an employee is entitled to an amount of statutory sick pay; and
  - (b) the requirements of regulations made under section 8(2) of this Act (time within which statutory sick pay to be paid) have not been satisfied in respect of the whole or any part of that amount.
- (2) In a case to which this section applies—
  - (a) any amount payable in pursuance of the decision shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court;

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- (b) the decision (or a copy of the decision certified by the person who, or chairman of the tribunal which, made it) may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) Regulations may, in relation to cases to which this section applies, make provision for payments to be made by the Secretary of State to employees in prescribed circumstances in connection with court fees (including sheriff officers' and messengers-at-arms' fees for doing diligence) incurred, or likely to be incurred, by those employees in seeking to enforce decisions by virtue of subsection (2) above.
- (4) The regulations may, in particular, make provision for the recovery of payments made under the regulations from persons to whom such payments are made ; and any sum so recoverable may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits (" benefits " having the meaning given by the regulations).
- (5) Any payment made by the Secretary of State under the regulations shall be paid out of the National Insurance Fund, and any sums recovered by him under the regulations shall be paid into that Fund.

## **17 Provision of information: general**

- (1) Where the Secretary of State considers that it is reasonable for information held by him to be disclosed to an employer, for the purpose of enabling that employer to determine the duration of a period of entitlement in respect of an employee, or whether such a period exists, he may disclose the information to that employer.
- (2) Any employee who claims to be entitled to statutory sick pay from his employer shall, if so required by his employer, provide such information as may reasonably be required for the purpose of determining the duration of the period of entitlement in question or whether a period of entitlement exists as between them.
- (3) Where an employee asks an employer of his to provide him with a written statement, in respect of a period before the request is made, of one or more of the following—
  - (a) the days within that period which the employer regards as days in respect of which he is liable to pay statutory sick pay to that employee ;
  - (b) the reasons why the employer does not so regard the other days in that period ;
  - (c) the employer's opinion as to the amount of statutory sick pay to which the employee is entitled in respect of each of those days ;the employer shall, to the extent to which the request was reasonable, comply with it within a reasonable time.
- (4) Regulations may require employers to maintain such records in connection with statutory sick pay as may be prescribed and may provide for—
  - (a) any person claiming to be entitled to statutory sick pay; or
  - (b) any other person who is a party to proceedings arising under this Part;to furnish to the Secretary of State, within a prescribed period, any information required for the determination of any question arising in connection therewith.

**18 Claims for sickness and other benefits: provision of information by employers**

- (1) Regulations may make provision requiring an employer, in a case falling within subsection (3) below, to furnish information in connection with the making, by a person who is, or has been, an employee of that employer, of a claim for—
- (a) sickness benefit;
  - (b) a maternity allowance ;
  - (c) an invalidity pension ;
  - (d) industrial injuries benefit; or
  - (e) a non-contributory invalidity pension.
- (2) Regulations under this section shall prescribe—
- (a) the kind of information to be furnished in accordance with the regulations;
  - (b) the person to whom information of the prescribed kind is to be furnished ; and
  - (c) the manner in which, and period within which, it is to be furnished.
- (3) The cases are—
- (a) where, by virtue of paragraph 2 of Schedule I to this Act or of regulations made under paragraph 1 of that Schedule, a period of entitlement does not arise in relation to a period of incapacity for work ;
  - (b) where a period of entitlement has come to an end but the period of incapacity for work which was running immediately before the period of entitlement came to an end continues ; and
  - (c) where a period of entitlement has not come to an end but, on the assumption that—
    - (i) the period of incapacity for work in question continues to run for a prescribed period; and
    - (ii) there is no material change in circumstances,the period of entitlement will have ended on or before the end of the prescribed period.