
STATUTORY INSTRUMENTS

1999 No. 991

**The Social Security and Child Support
(Decisions and Appeals) Regulations 1999**

PART V

**APPEAL TRIBUNALS FOR SOCIAL SECURITY CONTRACTING
OUT OF PENSIONS VACCINE DAMAGE AND CHILD SUPPORT**

CHAPTER I

THE PANEL AND APPEAL TRIBUNALS

Persons appointed to the panel

35. For the purposes of section 6(3), the panel shall include persons with the qualifications specified in Schedule 3.

Composition of appeal tribunals

36.—(1) Subject to the following provisions of this regulation, an appeal tribunal, including an appeal tribunal determining a misconceived appeal as a preliminary issue in accordance with regulation 48, shall consist of a legally qualified panel member.

(2) Subject to paragraphs (3), (4) and (5), an appeal tribunal shall consist of a medically qualified panel member and a legally qualified panel member where—

- (a) the issue, or one of the issues raised on the appeal relates to—
 - (i) incapacity benefit under section 30A of the Contributions and Benefits Act⁽¹⁾;
 - (ii) industrial injuries benefit under Part V of that Act; or
 - (iii) severe disablement allowance under section 68 of that Act;
- (b) the appeal is made under section 11(1)(b) of the 1997 Act; or
- (c) the appeal is made under section 4 of the Vaccine Damage Payments Act.

(3) An appeal tribunal shall consist of a financially qualified panel member and a legally qualified panel member where—

- (a) the issue raised, or one of the issues raised on appeal or referral, relates to child support or a relevant benefit; and
- (b) the appeal or referral may require consideration by members of the appeal tribunal of issues which are, in the opinion of the President, difficult and which relate to—
 - (i) profit and loss accounts, revenue accounts or balance sheets relating to any enterprise;

(1) Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c. 18).

- (ii) an income and expenditure account in the case of an enterprise not trading for profit;
or
- (iii) the accounts of any trust fund.

(4) Where the composition of an appeal tribunal would fall to be prescribed under both paragraphs (2) and (3), it shall consist of a medically qualified panel member, a financially qualified panel member and a legally qualified panel member.

(5) Where the composition of an appeal tribunal is prescribed under paragraphs (1), (2) or (3), the President may determine that the appeal tribunal shall include such an additional member drawn from the panel constituted under section 6 as he considers appropriate for the purposes of providing further experience for that additional member or for assisting the President in the monitoring of standards of decision making by panel members.

(6) An appeal tribunal shall consist of a legally qualified panel member, a medically qualified panel member and a panel member with a disability qualification in any appeal which relates to an attendance allowance or a disability living allowance under Part III of the Contributions and Benefits Act or a disability working allowance under section 129 of that Act.

Assignment of clerks to appeal tribunals: function of clerks

37. The Secretary of State shall assign a clerk to service each appeal tribunal and the clerk so assigned shall be responsible for summoning members of the panel constituted under section 6 to serve on the tribunal.

CHAPTER II

PROCEDURE IN CONNECTION WITH DETERMINATION OF APPEALS AND REFERRALS

Consideration and determination of appeals and referrals

38.—(1) The procedure in connection with the consideration and determination of an appeal or a referral shall, subject to the following provisions of these Regulations, be such as a legally qualified panel member shall determine.

(2) A legally qualified panel member may give directions requiring a party to the proceedings to comply with any provision of these Regulations and may at any stage of the proceedings, either of his own motion or on a written application made to the clerk to the appeal tribunal by any party to the proceedings, give such directions as he may consider necessary or desirable for the just, effective and efficient conduct of the proceedings and may direct any party to the proceedings to provide such particulars or to produce such documents as may be reasonably required.

(3) Where a clerk to the appeal tribunal is authorised to take steps in relation to the procedure of the tribunal he may give directions requiring any party to the proceedings to comply with any provision of these Regulations.

Directions concerning oral hearings

39.—(1) Where an appeal or a referral is made to an appeal tribunal, the clerk to the appeal tribunal shall direct the appellant and any other party to the proceedings to notify the clerk to the appeal tribunal in writing whether he wishes to have an oral hearing of the appeal or whether he is content for the appeal or referral to proceed without an oral hearing.

(2) Except in the case of a referral, a direction under paragraph (1) shall include a statement informing the appellant that, if he does not respond in writing to the direction within the period specified in paragraph (3), the appeal may be struck out in accordance with regulation 46.

(3) A notification given in accordance with paragraph (1) must be received by the clerk to the appeal tribunal within 14 days of the date of issue of the direction of the clerk to the appeal tribunal under paragraph (1) or within such longer period as the clerk to the appeal tribunal may direct.

(4) Where a party to the proceedings notifies the clerk to the appeal tribunal in accordance with paragraph (3) that he wishes to have an oral hearing of the appeal or referral, the appeal tribunal shall hold an oral hearing.

(5) The chairman, or in the case of an appeal tribunal which has only one member, that member, may of his own motion direct that an oral hearing of the appeal or referral be held if he is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

Withdrawal of appeal or referral

40.—(1) An appeal may be withdrawn by the appellant or an authorised representative of the appellant and a referral may be withdrawn by the Secretary of State, as the case may be, either—

- (a) at an oral hearing; or
- (b) at any other time before the appeal or referral is determined, by giving notice in writing of withdrawal to the clerk to the appeal tribunal.

(2) If an appeal or a referral is withdrawn (as the case may be) in accordance with paragraph (1) (a), the clerk to the appeal tribunal shall send a notice in writing to any party to the proceedings who is not present when the appeal or referral is withdrawn, informing him that the appeal or referral (as the case may be) has been withdrawn.

(3) If an appeal or a referral is withdrawn (as the case may be) in accordance with paragraph (1) (b), the clerk to the appeal tribunal shall send a notice in writing to every party to the proceedings informing them that the appeal or referral (as the case may be) has been withdrawn.

Medical examination required by appeal tribunal

41. For the purposes of section 20(2) (medical examination required by appeal tribunal) the prescribed condition which must be satisfied is that the issue, or one of the issues, raised on the appeal—

- (a) is whether the claimant satisfies the conditions for entitlement to—
 - (i) the care component of a disability living allowance specified in section 72(1) and (2) of the Contributions and Benefits Act;
 - (ii) the mobility component of a disability living allowance specified in section 73(1), (8) and (9) of that Act;
 - (iii) an attendance allowance specified in section 64 and 65(1) of that Act;
 - (iv) a disability working allowance specified in section 129(1)(b) of that Act;
 - (v) incapacity benefit under section 30A of that Act; or
 - (vi) severe disablement allowance under section 68 of that Act;
- (b) relates to the period throughout which the claimant is likely to satisfy the conditions for entitlement to an attendance allowance or a disability living allowance;
- (c) is the rate at which an attendance allowance is payable;
- (d) is the rate at which the care component or the mobility component of a disability living allowance is payable;
- (e) relates to either statutory sick pay or statutory maternity pay and the appeal is made by the employer concerned;

- (f) relates to the extent of a person's disablement and its assessment in accordance with Schedule 6 to the Contributions and Benefits Act;
- (g) is whether the claimant suffers a loss of physical or mental faculty as a result of the relevant accident for the purposes of section 103 of the Contributions and Benefits Act;
- (h) relates to any disease or injury prescribed for the purposes of section 108 of the Contributions and Benefits Act; or
- (i) relates to any payment arising under, or by virtue of a scheme having effect under, section 111 of, and Schedule 8 to, the Contributions and Benefits Act (workmen's compensation).

Non-disclosure of medical advice or evidence

42.—(1) Where, in connection with the consideration and determination of an appeal or referral there is before an appeal tribunal medical advice or medical evidence relating to a person which has not been disclosed to him and in the opinion of the chairman, or in the case of an appeal tribunal which has only one member, in the opinion of that member, the disclosure to that person of that advice or evidence would be harmful to his health, such advice or evidence shall not be required to be disclosed to that person.

(2) Advice or evidence such as is mentioned in paragraph (1) shall not be disclosed to any person acting for or representing the person to whom it relates or, in a case where a claim for benefit is made by reference to the disability of a person other than the claimant and the advice or evidence relates to that other person, shall not be disclosed to the claimant or any person acting for or representing him, unless the chairman, or in the case of an appeal tribunal which has only one member, that member, is satisfied that it is in the interests of the person to whom the advice or evidence relates to do so.

(3) A tribunal shall not be precluded from taking into account for the purposes of the determination advice or evidence which has not been disclosed to a person under the provisions of paragraph (1) or (2).

Summoning of witnesses and administration of oaths

43.—(1) A chairman, or in the case of an appeal tribunal which has only one member, that member, may by summons, or in Scotland, by citation, require any person in Great Britain to attend as a witness at a hearing of an appeal, application or referral at such time and place as shall be specified in the summons or citation and, subject to paragraph (2), at the hearing to answer any question or produce any documents in his custody or under his control which relate to any matter in question in the appeal, application or referral but—

- (a) no person shall be required to attend in obedience to such summons or citation unless he has been given at least 14 days' notice of the hearing or, if less than 14 days' notice is given, he has informed the tribunal that the notice given is sufficient; and
- (b) no person shall be required to attend and give evidence or to produce any document in obedience to such summons or citation unless the necessary expenses of attendance are paid or tendered to him.

(2) No person shall be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce on a trial of an action in a court of law in that part of Great Britain where the hearing takes place.

(3) In exercising the powers conferred by this regulation, the chairman, or in the case of an appeal tribunal which has only one member, that member, shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence or concerns national security.

(4) Every summons or citation issued under this regulation shall contain a statement to the effect that the person in question may apply in writing to a chairman to vary or set aside the summons or citation.

(5) A chairman, or in the case of an appeal tribunal which has only one member, that member, may require any witness, including a witness summoned under the powers conferred by this regulation, to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

Confidentiality in child support appeals or referrals

44.—(1) In the circumstances specified in paragraph (2), for the purposes of paragraph 7 of Schedule 1 to the Act (President to secure confidentiality), in a child support appeal or referral, the prescribed material is—

- (a) the address of the absent parent; the parent with care; the child; a parent of the child or any other person with care of the child; or
- (b) any information the use of which could reasonably be expected to lead to the location of any person specified in paragraph (a).

(2) Except where the appeal is brought against a reduced benefit direction within the meaning of section 46(11) of the Child Support Act(2), paragraph (1) applies where in response to an enquiry from the Secretary of State, the absent parent or, as the case may be, the parent with care, has within 14 days of issue of that enquiry notified the Secretary of State that he would like the information specified in paragraph (1) which relates to him to remain confidential.

(3) In this regulation, the expressions “absent parent” and “parent with care” have the meanings those expressions bear in section 54 of the Child Support Act.

Consideration of more than one appeal under section 20 of the Child Support Act

45. An appeal tribunal which is considering an appeal under section 20 of the Child Support Act in respect of a departure direction(3) which relates to a maintenance assessment may, if it considers it appropriate to do so, consider at the same time any appeal under that section in respect of another departure direction which relates to the same maintenance assessment.

CHAPTER III

STRIKING OUT APPEALS

Appeals which may be struck out

46.—(1) Subject to paragraphs (2) and (3), an appeal may be struck out by the clerk to the appeal tribunal—

- (a) where it is an out of jurisdiction appeal and the appellant has been notified by the Secretary of State that an appeal brought against such a decision may be struck out;
- (b) for want of prosecution including an appeal not made within the time specified in these Regulations; or
- (c) subject to regulation 39(4), for failure of the appellant to comply with a direction given under these Regulations where the appellant has been notified that failure to comply with the direction could result in the appeal being struck out.

(2) Section 46(11) is amended by paragraph 43 of Schedule 7 to the Social Security Act 1998.

(3) Section 20 of the Child Support Act 1991 as extended by Schedule 4C to that Act applies to an appeal against a departure direction by virtue of section 28H of the Act as substituted by paragraph 39 of Schedule 7 to the Social Security Act 1998.

(2) Where the clerk to the appeal tribunal determines to strike out the appeal, he shall notify the appellant that his appeal has been struck out and of the procedure for reinstatement of the appeal as specified in regulation 47.

(3) The clerk to the appeal tribunal may refer any matter for determination under this regulation to a legally qualified panel member for decision by the panel member rather than the clerk to the appeal tribunal.

(4) Subject to regulation 48, a misconceived appeal may be struck out by a legally qualified panel member but such an appeal shall not be struck out unless the appellant has been given notice of—

- (a) the intention to strike out the appeal,
- (b) the ground on which the intention to strike out is based, and
- (c) the requirement to notify the clerk to the appeal tribunal in writing of the matters specified in regulation 48(1)(a) or (b) and that failure to comply with this requirement may result in the appeal being struck out.

Reinstatement of struck out appeals

47. A legally qualified panel member may reinstate an appeal which has been struck out in accordance with regulation 46 or regulation 48(2) where—

- (a) the appellant has made representations, or as the case may be, further representations in support of his appeal with reasons why he considers that his appeal should not have been struck out, to the clerk to the appeal tribunal, in writing within one month of the order to strike out the appeal being issued, and the panel member is satisfied in the light of those representations that there are reasonable grounds for reinstating the appeal;
- (b) the panel member is satisfied that the appellant did not receive the notification required under regulation 46(4);
- (c) the panel member is satisfied that the appeal is not an appeal which may be struck out under regulation 46; or
- (d) the panel member is satisfied that notwithstanding that the appeal is one which may be struck out under regulation 46, it is not in the interests of justice for the appeal to be struck out.

Misconceived appeals

48.—(1) Where the appellant has been given notice under regulation 46(4) of intention to strike out an appeal on the ground that it is a misconceived appeal that person must within 14 days of the issue of such notice notify the clerk to the appeal tribunal in writing that—

- (a) he wishes the question of whether his appeal is misconceived to be determined by an appeal tribunal as a preliminary issue at an oral hearing, or
- (b) he is content for an appeal tribunal to consider the question of whether his appeal is misconceived as a preliminary issue without an oral hearing and make representations in writing to the clerk to the appeal tribunal as to why he considers that the appeal is not misconceived.

(2) Where the appellant fails to notify or to make representations to the clerk to the appeal tribunal in writing as required in paragraph (1) within the period specified in that paragraph, a legally qualified panel member may strike out the appeal.

(3) Where the appellant notifies the clerk to the appeal tribunal under paragraph (1) within the period specified in that paragraph that he wishes an appeal tribunal to determine the question of whether his appeal is misconceived as a preliminary issue at an oral hearing, the appeal tribunal shall hold an oral hearing for that preliminary issue.

(4) Where the appeal tribunal determine as a preliminary issue that the appeal is a misconceived appeal, the appeal shall be struck out and the clerk to the appeal tribunal shall notify the appellant that the appeal is struck out.

(5) Where the appeal tribunal determine as a preliminary issue that the appeal is not a misconceived appeal—

- (a) the appeal tribunal shall refer the appeal and all the supporting documentation to the Secretary of State together with a statement of the reasons why the appeal tribunal considers that the appeal is not misconceived;
- (b) the clerk to the appeal tribunal shall notify the appellant of the referral of the appeal to the Secretary of State and send the appellant a copy of the reasons why the appeal tribunal considers that the appeal is not misconceived;
- (c) the Secretary of State may revise or supersede the decision against which the appeal is brought; and
- (d) if the Secretary of State does not revise or supersede the decision against the appeal is brought in the appellant's favour, the Secretary of State shall refer the appeal for determination by an appeal tribunal.

(6) Chapter IV of this Part shall apply to an oral hearing held under this regulation.

CHAPTER IV

ORAL HEARINGS

Procedure at oral hearings

49.—(1) Subject to the following provisions of this Part, the procedure for an oral hearing shall be such as the chairman, or in the case of an appeal tribunal which has only one member, such as that member, shall determine.

(2) Except where paragraph (3) applies, not less than 14 days notice (beginning with the day on which the notice is given and ending on the day before the hearing of the appeal is to take place) of the time and place of any oral hearing of an appeal shall be given to every party to the proceedings, and if such notice has not been given to a person to whom it should have been given under the provisions of this paragraph the hearing may proceed only with the consent of that person.

(3) Any party to the proceedings may waive his right to receive not less than 14 days notice of the time and place of any oral hearing by giving notice to the clerk to the appeal tribunal.

(4) If a party to the proceedings to whom notice has been given under paragraph (2) fails to appear at the hearing the chairman, or in the case of an appeal tribunal which has only one member, that member, may, having regard to all the circumstances including any explanation offered for the absence, proceed with the hearing notwithstanding his absence, or give such directions with a view to the determination of the appeal as he may think proper.

(5) If a party to the proceedings has waived his right to be given notice under paragraph (2) the chairman, or in the case of an appeal tribunal which has only one member, that member, may proceed with the hearing notwithstanding his absence.

(6) Any oral hearing shall be in public except—

- (a) where the appellant requests a private hearing, or
- (b) where the chairman, or in the case of an appeal tribunal which has only one member, that member, is satisfied that intimate personal or financial circumstances may have to be disclosed or that considerations of national security are involved, in which case the hearing shall be in private.

(7) Any party to the proceedings shall be entitled to be present and be heard at an oral hearing.

(8) A person who has the right to be heard at a hearing may be accompanied and may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled.

(9) The following persons shall also be entitled to be present at an oral hearing (whether or not it is otherwise in private) but shall take no part in the proceedings—

- (a) the President;
- (b) any person undergoing training as a chairman or panel member of an appeal tribunal or as a clerk to an appeal tribunal;
- (c) any person acting on behalf of the President in the training or supervision of panel members or in the monitoring of standards of decision-making by panel members;
- (d) with the leave of the chairman, or in the case of an appeal tribunal which has only one member, with the leave of that member, and the consent of every party to the proceedings actually present, any other person; and
- (e) a member of the Council on Tribunals or of the Scottish Committee of the Council on Tribunals.

(10) Nothing in paragraph (9) affects the rights of any person mentioned in sub-paragraphs (a) and (b) of that paragraph at any oral hearing where he is sitting as a member of the tribunal or acting as its clerk, and nothing in this regulation prevents the presence at an oral hearing of any witness.

(11) Any person entitled to be heard at an oral hearing may address the tribunal, may give evidence, may call witnesses and may put questions directly to any other person called as a witness.

(12) For the purpose of arriving at its decision an appeal tribunal shall, and for the purpose of discussing any question of procedure may, notwithstanding anything contained in these Regulations, order all persons not being members of the tribunal, other than the person acting as clerk to the appeal tribunal, to withdraw from the hearing except that—

- (a) a member of the Council on Tribunals or of the Scottish Committee of the Council on Tribunals, the President or any person mentioned in paragraph (9)(c); and
- (b) with the leave of the chairman, or in the case of an appeal tribunal which has only one member, with the leave of that member, any person mentioned in paragraph (9)(b) or (d),

may remain present at any such sitting.

Manner of providing expert assistance

50.—(1) Where an appeal tribunal require one or more experts to provide assistance to it in dealing with a question of fact of special difficulty under section 7(4), such an expert shall, if the chairman, or in the case of a tribunal with only one member, that member, so requests, attend at the hearing and give evidence and if the chairman or member sitting alone considers it appropriate, the expert shall enquire into and provide a written report on the question.

(2) A copy of any written report received from an expert in accordance with paragraph (1) shall be supplied to every party to the proceedings.

Postponement and adjournment

51.—(1) Where a person to whom notice of an oral hearing is given wishes to request a postponement of that hearing he shall do so in writing to the clerk to the appeal tribunal stating his reasons for the request, and the clerk to the appeal tribunal may grant or refuse the request as he thinks fit or may pass the request to a legally qualified panel member who may grant or refuse the request as he thinks fit.

(2) Where the clerk to the appeal tribunal or the panel member, as the case may be, refuses a request to postpone the hearing he shall—

- (a) notify in writing the person making the request of the refusal; and
- (b) place before the appeal tribunal at the hearing both the request for the postponement and notification of its refusal.

(3) A panel member or the clerk to the appeal tribunal may of his own motion at any time before the beginning of the hearing postpone the hearing.

(4) An oral hearing may be adjourned by the appeal tribunal at any time on the application of any party to the proceedings or of its own motion.

(5) Where a hearing has been adjourned and it is not practicable, or would cause undue delay, for it to be resumed before a tribunal consisting of the same member or members, the appeal or referral shall be heard by a differently constituted tribunal and the proceedings shall be by way of a complete rehearing.

Physical examinations at oral hearings

52. For the purposes of section 20(3) an appeal tribunal may not carry out a physical examination except in a case which relates to—

- (a) the extent of a person's disablement and its assessment in accordance with section 68(6) of, and Schedule 6 to, the Contributions and Benefits Act;
- (b) the extent of a person's disablement and its assessment in accordance with section 103 of that Act;
- (c) diseases or injuries prescribed for the purposes of section 108 of that Act.

CHAPTER V

DECISIONS OF APPEAL TRIBUNALS AND RELATED MATTERS

APPEAL TRIBUNAL DECISIONS

Decisions of appeal tribunals

53.—(1) Every decision of an appeal tribunal shall be recorded in summary by the chairman, or in the case of an appeal tribunal which has only one member, by that member.

(2) The decision notice specified in paragraph (1) shall be in such written form as shall have been approved by the President and shall be signed by the chairman, or in the case of an appeal tribunal which has only one member, by that member.

(3) As soon as may be practicable after an appeal or referral has been decided by an appeal tribunal, a copy of the decision notice prepared in accordance with paragraph (1) and (2) shall be sent or given to every party to the proceedings who shall also be informed of—

- (a) his right under paragraph (4); and
- (b) the conditions governing appeals to a Commissioner.

(4) A party to the proceedings may apply in writing to the chairman, or in the case of a tribunal with only one member, to that member, for a copy of a statement of the reasons for the tribunal's decision within one month of the sending or giving of the decision notice to every party to the proceedings or within such longer period as may be allowed in accordance with regulation 54.

(5) If the decision is not unanimous, the decision notice specified in paragraph (1) shall record that one of the members dissented and the statement of reasons referred to in paragraph (4) shall include the reasons given by the dissenting member for dissenting.

Late applications for a statement of reasons of tribunal decision

54.—(1) The time for making an application for a copy of the statement of the reasons for a tribunal's decision may be extended where the conditions specified in paragraphs (2) to (8) are satisfied, but no application shall in any event be brought more than three months after the date of the sending or giving of the notice of the decision of the appeal tribunal.

(2) An application for an extension of time under this regulation shall be made in writing and shall be determined by a legally qualified panel member.

(3) An application under this regulation shall contain particulars of the grounds on which the extension of time is sought, including details of any relevant special circumstances for the purposes of paragraph (4).

(4) The application for an extension of time shall not be granted unless the panel member is satisfied that it is in the interests of justice for the application to be granted.

(5) For the purposes of paragraph (4) it is not in the interests of justice to grant the application unless the panel member is satisfied that—

- (a) the special circumstances specified in paragraph (6) are relevant to the application; or
- (b) some other special circumstances are relevant to the application,

and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 53(4).

(6) For the purposes of paragraph (5)(a), the special circumstances are that—

- (a) the applicant or a spouse or dependant of the applicant has died or suffered serious illness;
- (b) the applicant is not resident in the United Kingdom; or
- (c) normal postal services were adversely disrupted.

(7) In determining whether it is in the interests of justice to grant the application, the panel member shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time within which the application for a copy of the statement of reasons for a tribunal's decision is to be made and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(8) In determining whether it is in the interests of justice to grant the application, no account shall be taken of the following—

- (a) that the person making the application or any person acting for him was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied.

(9) An application under this regulation for an extension of time which has been refused may not be renewed.

(10) The panel member who determines the application shall record a summary of his decision in such written form as has been approved by the President.

(11) As soon as practicable after the decision is made a copy of the decision shall be sent or given to every party to the proceedings.

(12) Any person who under paragraph (11) receives a copy of the decision may, within one month of the decision being sent to him, apply in writing for a copy of the reasons for that decision and a copy shall be supplied to him.

Record of tribunal proceedings

55.—(1) A record of the proceedings at an oral hearing, which is sufficient to indicate the evidence taken, shall be made by the chairman, or in the case of an appeal tribunal which has only one member, by that member, in such medium as he may direct.

(2) Such record shall be preserved by the clerk to the appeal tribunal for six months from the date of the decision made by the appeal tribunal to which the record relates and any party to the proceedings may within that period apply in writing for a copy of that record and a copy shall be supplied to him.

Correction of accidental errors

56.—(1) The clerk to the appeal tribunal, or where the clerk refers the matter to a legally qualified panel member, that member, may at any time correct accidental errors in any decision, or the record of any such decision, of an appeal tribunal made under a relevant enactment, the Child Support Act or the Vaccine Damage Payments Act.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision or record of that decision and written notice of it shall be given as soon as practicable to every party to the proceedings.

(3) In this regulation and regulation 57, “relevant enactment” has the same meaning as in section 28(3).

Setting aside decisions on certain grounds

57.—(1) On an application made by a party to the proceedings, a decision of an appeal tribunal made under a relevant enactment, the Child Support Act or the Vaccine Damage Payments Act, may be set aside by a legally qualified panel member in a case where it appears just to set the decision aside on the ground that—

- (a) a document relating to the proceedings in which the decision was made was not sent to, or was not received at an appropriate time by, a party to the proceedings or the party’s representative or was not received at an appropriate time by the person who made the decision;
- (b) a party to the proceedings in which the decision was made or the party’s representative was not present at a hearing relating to the proceedings.

(2) In determining whether it is just to set aside a decision on the ground set out in paragraph (1) (b), the panel member shall determine whether the party making the application gave notice that he wished to have an oral hearing, and if that party did not give such notice the decision shall not be set aside unless the chairman, or in the case of an appeal tribunal which has only one member, unless that member is satisfied that the interests of justice manifestly so require.

(3) An application under this regulation shall be made in accordance with regulations 31 to 33.

(4) Where an application to set aside a decision is entertained under paragraph (1), every party to the proceedings shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(5) Notice in writing of a determination on an application to set aside a decision shall be sent or given to every party to the proceedings as soon as may be practicable and the notice shall contain a statement giving the reasons for the determination.

*APPLICATIONS FOR LEAVE TO APPEAL TO A
COMMISSIONER (NOT INCLUDING CHILD SUPPORT)*

Application for leave to appeal to a Commissioner from an appeal tribunal

58.—(1) An application for leave to appeal to a Commissioner from a decision of an appeal tribunal under section 12 or 13 shall—

- (a) be made within the period of one month commencing on the date the applicant is sent a written statement of the reasons for the decision against which leave to appeal is sought; and
- (b) have annexed to it a copy of that written statement of the reasons for the decision.

(2) Where an application for leave to appeal to a Commissioner is made by the Secretary of State, the clerk to an appeal tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) Any party to the proceedings who is sent a copy of an application for leave to appeal in accordance with paragraph (2) may make representations in writing within one month of the date the application is sent.

(4) A person determining an application for leave to appeal to a Commissioner, shall take into account any further representations received from the applicant before the determination is made, and shall record his decision in writing and send a copy to every party to the proceedings.

(5) Where there has been a failure to apply for leave to appeal within the period of time specified in paragraph (1)(a) but an application is made within one year of the last date for making an application within that period, a legally qualified panel member may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.

(6) Where in any case it is impracticable, or it would be likely to cause undue delay for an application for leave to appeal against a decision of an appeal tribunal to be determined by the person who was the chairman, or in the case of an appeal tribunal which has only one member, the member, of that tribunal, the application shall be determined by a legally qualified panel member.