

1982 No. 324

STATUTORY SICK PAY

The Statutory Sick Pay (Adjudication) Regulations  
(Northern Ireland) 1982

Made . . . . . 8th October 1982

Coming into operation . . . . . 6th April 1983

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 13(1) and (2), 14(2), (5) and (6), 15(5), 16, 17(5) and 18(3) and (4) of, and Schedule 3 to, the Social Security (Northern Ireland) Order 1982(a) and Article 19(2)(i) of the Supplementary Benefits (Northern Ireland) Order 1977(b) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(c) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

## PART I

## GENERAL

*Citation and commencement*

1. These regulations may be cited as the Statutory Sick Pay (Adjudication) Regulations (Northern Ireland) 1982 and shall come into operation on 6th April 1983.

*Interpretation*

2.—(1) In these regulations—

“the Order” means the Social Security (Northern Ireland) Order 1982;

“hearing” means oral hearing;

“inspector” means an officer appointed as such under section 135 of the principal Act and referred to in Article 21 of the Order.

(2) In Part II of these regulations “a person interested” means an employer or employee—

(a) in relation to whose rights, duties or obligations under Part II of the Order, or under regulations made under that Part, a question has arisen that is for determination by the Department under Article 13(1), or

(b) whose rights, duties or obligations are called in question by way of review of a determination under the said Article 13(1).

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations may be sent to him by post to his ordinary or last known address.

(4) Any power given by these regulations to extend the period during which anything is required to be done under these regulations, or to dispense with any of the requirements thereof, may be exercised in any case, notwithstanding that the period within which it was required to be done has expired.

(a) S.I. 1982/1084 (N.I. 16)

(b) S.I. 1977/2156 (N.I. 27); Article 19(2)(i) was inserted by Article 7(1) of, and paragraph 13 of Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(c) 1980 c. 30

(5) Any reference in these regulations to a numbered Article or Schedule is a reference to the Article of, or as the case may be, the Schedule to, the Order bearing that number.

## PART II

### ADJUDICATION BY THE DEPARTMENT

#### *Persons who may apply for reference of questions to the Department for determination*

3.—(1) Where a question such as is specified in Article 13 (determination of questions by Department) arises under Part II of the Order or under regulations made under that Part, an application may be made by the employer or the employee in relation to whom the question arose, or by an inspector, for that question to be referred to the Department for determination.

(2) For the purposes of this regulation—

“the employer” includes a person (or persons) claiming or alleged to have been the employer of another person in the period in question;

“the employee” includes a person claiming or alleged to have been an employee in the period in question.

#### *Reference of questions for determination by the Department*

4.—(1) An application by a person mentioned in regulation 3 for a question to be referred for determination by the Department shall be made in writing, in a form approved by the Department for the purpose or in such other manner as it may accept as sufficient.

(2) An application for reference of such a question shall be made by delivering it to or sending it by post to the Department.

(3) Before determining any question specified in Article 13(1) that is referred to the Department, whether by way of an application under the preceding paragraphs or by an insurance officer under Article 17(1) (reference of questions determinable by the Department arising in connection with adjudication of questions not so determinable), the Department shall—

(a) take steps to bring the fact that the question has been so referred to the notice of any person appearing to the Department to be a person interested;

(b) take steps to obtain from every such person information which the Department considers reasonably necessary for determining the question;

(c) receive any representations in writing relating to the question that may be submitted by or on behalf of any such person to the Department for its consideration.

#### *Procedure for inquiries*

5.—(1) Where, under Article 13(3), the Department appoints a person to hold an inquiry into, and to report on, a question referred to the Department for determination by it or any matter arising in connection with that question, the person so appointed may—

(a) by summons require persons to attend such inquiry to give evidence or produce documents which are reasonably required for the purpose of the inquiry;

(b) take evidence on oath and for that purpose administer oaths to persons giving evidence.

(2) Any person notified of the reference of the question in accordance with regulation 4(3)(a) and any other person appearing to the person holding the inquiry to be a person interested—

- (a) shall be given reasonable notice of the time and place at which the inquiry is to be held;
- (b) has the right to be present and to be heard at the inquiry;
- (c) may be represented at the inquiry by another person, whether having professional qualifications or not; and for the purposes of the inquiry any such representative shall have the rights and powers, under Part II of the Order and under these regulations, of the person whom he represents.

(3) Subject to the provisions of Part II of the Order and these regulations, the procedure at such an inquiry shall be such as the person holding it shall determine.

#### *Decisions of the Department and statements of grounds*

6.—(1) The Department shall give a decision in writing on a question referred for its determination under Article 13 and shall give notice of that decision—

- (a) if the question was referred to it by an insurance officer under Article 17(1), to the insurance officer; or
- (b) if the question was referred to it by way of an application under these regulations, to the applicant,

and in either case,

- (c) to any other person appearing to the Department to be a person interested.

(2) A person who applied for the reference of a question to the Department and any other person given notice of the Department's decision on a question referred to it, may apply in writing to the Department for a statement of the grounds of the decision.

(3) Where an application for a statement of grounds is made under paragraph (2), the person making the application shall be provided with such a statement in writing as will enable him to determine whether the Department has given a decision on a question of law such as would enable the applicant to appeal against it under Article 13(5) (right of appeal to the Court of Appeal).

#### *Review of decisions of the Department*

7.—(1) Subject to paragraph (2), the Department may, whether or not on an application made under this regulation, review a decision given by it under Article 13, or under this regulation, if it is satisfied that the decision was given in ignorance of, or was based on a mistake as to, a material fact.

(2) No such decision shall be reviewed—

- (a) while an appeal under Article 13(5) against a decision on a question of law arising in connection with the decision to be reviewed remains undetermined, or
- (b) before expiry of the time limits for so appealing, disregarding for this purpose any power to extend time conferred by rules of court unless exercised in the particular case.

(3) A question may be raised with a view to review by the Department under this regulation by means of an application in writing only by a person interested—

- (a) within 3 months of the date on which the applicant was given notice in writing of the decision, or
- (b) in a case where the applicant has requested a statement of the grounds of the decision within 28 days of the date specified in sub-paragraph (a), within 3 months of the date on which he receives such a statement,

or in either case within such further time as the Department may for special reasons allow.

(4) Provisions of the preceding regulations applicable to applications for reference of questions and the determination of questions so referred shall apply with any necessary modifications to applications for review under this regulation and the determination of questions by way of review of decisions of the Department under Article 13.

*Further provision as to determination on review by the Department*

8. Paragraphs (3) to (7) of Article 13 (determination of questions by Department and by the courts) shall apply with the necessary modifications to the determination of questions by way of review under regulation 7 as they apply to the determination of questions under Article 13(1) (questions determinable by Department).

### PART III

#### ADJUDICATION BY INSURANCE OFFICERS, LOCAL TRIBUNALS AND COMMISSIONERS

#### Reference of Questions

*Reference of questions for determination by an insurance officer*

9.—(1) A question to which Article 14(1) or (4) (questions determinable by an insurance officer or a local tribunal) applies may be referred, when it arises, by—

- (a) the Department, or
- (b) an employee

to an insurance officer for determination.

(2) A reference by the Department of any such question shall be made in writing within 3 months of the day on which it appeared to the Department that the question arose.

(3) A reference of any such question by an employee shall be made by way of an application in writing in a form approved for the purpose by the Department or in such other manner, being in writing, as the Department may accept as sufficient in the circumstances.

(4) Such an application made by an employee shall—

- (a) be delivered or sent to the Department within 6 months of the earliest day in respect of which liability for statutory sick pay is in dispute; and
- (b) state the grounds (if any) on which the applicant's employer has denied liability for statutory sick pay in respect of the period specified in the application.

*Reference of questions to a medical practitioner for report*

10. An insurance officer, a local tribunal or a Commissioner may refer to a medical practitioner for examination and report any question arising for determination by him or it, as the case may be, under Part II of the Order or regulations made thereunder.

**Provisions concerning Adjudication by Insurance Officers, Local Tribunals and Commissioners**

*Hearings before local tribunals and Commissioners*

**11.**—(1) Subject to the provisions of the Order and of these regulations—

- (a) the procedure in connection with the consideration and determination by a local tribunal or a Commissioner of any question to which Article 14(1) or (4) (determination of questions by insurance officer or local tribunal) applies, shall be such as the chairman of the tribunal, or the Commissioner, as the case may be, shall determine;
- (b) any person who by virtue of the provisions of these regulations has the right to be heard at a hearing may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at any such hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under the Order or these regulations.

(2) Any person having the right to be heard who appears at a hearing before a local tribunal or a Commissioner, as the case may be, may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing and of addressing the tribunal or Commissioner, as the case may be.

(3) For the purpose of arriving at its decision a local 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 a clerk to the tribunal, to withdraw from the sitting of the tribunal.

*Non-disclosure of medical evidence*

**12.** Where in connection with the consideration and determination of any reference or question there is before a local tribunal or a Commissioner medical advice or medical evidence which has not been disclosed to the person to whom it relates and, in the opinion of the chairman of the tribunal or the Commissioner, as the case may be, disclosure of that advice or evidence would be undesirable in that person's interest, such advice or evidence shall not be required to be disclosed to that person but the local tribunal or Commissioner shall not, by reason of such non-disclosure, be precluded from taking it into account for the purpose of the said determination.

*Review of decisions of insurance officers, local tribunals or Commissioners*

**13.**—(1) Any determination under the Order by an insurance officer, a local tribunal or a Commissioner may be reviewed at any time by an insurance officer or, on a reference from an insurance officer, by a local tribunal if—

- (a) the officer or tribunal is satisfied and, in the case of a decision of a Commissioner, satisfied by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the decision was given; or
- (c) the decision was based on a decision by the Department of a question for its determination under the Order and the decision of that question has been revised under the Order or these regulations.

(2) Any determination under the Order by an insurance officer may be reviewed at any time by an insurance officer if he is satisfied that it was based on a mistake as to law.

(3) A question may be raised with a view to a review under this regulation by means of an application in writing to an insurance officer stating the grounds of the application.

(4) On receipt of any such application the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with Articles 14 and 15.

(5) A decision given on review under this regulation and a refusal to review a decision thereunder shall be subject to appeal in like manner as an original determination and Articles 14 and 15 shall apply with the necessary modifications in relation to a decision given on such a review as they apply in relation to the original determination of a question.

#### *Time and place of hearings before local tribunals*

14.—(1) Reasonable notice (being not less than 10 days beginning with the day on which the notice is given and ending on the day before the hearing of the case is to take place) of the time and place of any hearing before a local tribunal shall be given to the insurance officer, the employee and the employer to whom the question relates and any other person who may appear to the chairman of the tribunal to be interested; and if such notice has not been given to a person to whom it should have been given under this paragraph the tribunal shall not proceed with the hearing of the case without the consent of that person.

(2) If an employee, or an employer or other person to whom notice of hearing has been duly given in accordance with these regulations, should fail to appear at the hearing, the tribunal may proceed with the case notwithstanding his absence or may give such directions with a view to the determination of the case as it may think proper, having regard to all the circumstances including any explanation offered for the absence.

#### *Withdrawal of appeals to local tribunals*

15. A person who has appealed to a local tribunal against a decision of an insurance officer may withdraw his appeal at any time but he shall require leave to withdraw from the chairman of the tribunal if the application to withdraw is first made either at a hearing of the appeal or after a hearing which is part-heard has been adjourned.

#### *Hearings before local tribunals*

16.—(1) Every hearing by a local tribunal shall be in public except in so far as the chairman of the tribunal may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(2) The following persons shall be entitled to be present and be heard at the hearing of any case by a local tribunal—

- (a) the employee;
- (b) the employer;
- (c) the Department;
- (d) the insurance officer;
- (e) any person appearing to the chairman of the tribunal to be interested.

(3) Unless either the employee or the employer has indicated in writing that he does not consent, any case may be proceeded with in the absence of any one member other than the chairman, but this provision shall apply only if both employee and employer have been informed, prior to the hearing, of the effect of the provisions requiring leave to appeal to a Commissioner from a decision which is unanimous.

(4) Where a hearing is adjourned and, at the hearing after the adjournment, the

tribunal is differently constituted otherwise than through the operation on that occasion of paragraph (3), the proceedings at that hearing shall be by way of a complete rehearing of the case.

(5) In such cases as the chairman of a local tribunal may determine, a medical practitioner may sit with that tribunal as an assessor.

(6) An assessor sitting with a local tribunal under paragraph (5) shall not take any part in the determination of that tribunal except in an advisory capacity.

#### *Decisions of local tribunals*

17.—(1) The decision of the majority of the local tribunal shall be the decision of the tribunal but, where the tribunal consists of an even number, the chairman shall have a second or casting vote.

(2) A local tribunal shall—

(a) record in writing all its decisions; and

(b) include in the record of every decision a statement of the grounds of such decision and of its findings on questions of fact material thereto; and

(c) if a decision is not unanimous, record a statement that one of the members dissented and the reasons given by him for so doing.

(3) As soon as may be practicable after a case has been decided by a local tribunal, a copy of the record of its decision made in accordance with this regulation shall be sent to the employee, the employer, and the insurance officer and if the decision of the tribunal is, in whole or in part, adverse to the employee, the employer or any person aggrieved by the decision, he shall be informed of the conditions governing appeals to a Commissioner.

### ✓ Appeals to the Commissioner

#### *Applications for leave to appeal to a Commissioner*

18.—(1) Subject to the following provisions of this regulation, an application to the chairman of a local tribunal for leave to appeal to a Commissioner from a decision of a local tribunal which is unanimous (such application being required by Article 11 of the Social Security (Northern Ireland) Order 1980(a)) shall be made in the first instance—

(a) orally at the hearing after the decision is announced; or

(b) in writing within 28 days beginning with the date when a copy of the record of the tribunal's decision was given to the person concerned or within such further time as the chairman of a tribunal may for special reasons allow.

(2) The decision of the chairman on an application for leave to appeal made orally shall be recorded in the proceedings of the tribunal.

(3) Where an application for leave to appeal made within the time provided for in paragraph (1) is refused by the chairman of a local tribunal, the person concerned may apply for such leave in writing to a Commissioner within 6 weeks beginning with the date when that person is given notice in writing of the chairman's decision refusing leave, or within such further time as the Commissioner may for special reasons allow.

(4) Where the chairman of a local tribunal refuses to extend the time for applying for leave to appeal in accordance with paragraph (1)(b), he shall also refuse leave; and the person concerned may then apply for such leave in writing to a Commissioner within 10 weeks, beginning with the date when a copy of the record of the tribunal's



decision against which he seeks leave to appeal was given to him, or within such further time as the Commissioner may for special reasons allow.

(5) Every application for leave to appeal required by this regulation to be made in writing shall be made by giving or sending it to the Department for transmission either to the chairman of the local tribunal against whose decision it is desired to appeal, or to a Commissioner, as the case may be; and every such application shall contain a statement of the grounds upon which leave to appeal is requested.

(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 a local tribunal to be determined under Article 11(1) of the Social Security (Northern Ireland) Order 1980 by the person who was the chairman of that tribunal, that application shall be determined by any other person appointed to act as a chairman for the particular area or if there is no such person by the chairman of a local tribunal in an adjoining area.

*Persons to be given notice of appeals and applications for leave to appeal*

19. Where a person—

(a) applies in writing to a local tribunal, under regulation 18(1)(b), for leave to appeal to a Commissioner, or

(b) applies in writing to a Commissioner, under regulation 18(3) or (4), for such leave, or

(c) gives notice of appeal under Article 15(2) (appeal to a Commissioner),

a copy of the application or notice shall be sent by the Department, as soon as practicable after it has received it, to the insurance officer and to the employee and employer concerned in the case except whichever of them is the applicant or appellant.

*Procedure of the Commissioners on appeals from local tribunals*

20.—(1) If a person by or to whom notice of appeal from a decision of a local tribunal is given makes a request to a Commissioner for a hearing of the appeal, the Commissioner shall grant such request unless, after considering the record of the case and the reasons put forward in the request for the hearing, he is satisfied that the appeal can properly be determined without a hearing, in which event he shall so inform the employee and the employer in writing and may proceed to determine the case without a hearing.

(2) If, in accordance with the provisions of paragraph (1), a request for a hearing has been granted, or if, notwithstanding that no request has been made, a Commissioner is otherwise satisfied that a hearing is desirable, reasonable notice of the time and place of the hearing shall be given to every person to or by whom notice of appeal was given and, if a Commissioner thinks fit, to any other person appearing to him to be interested.

(3) The insurance officer and any person to whom notice of the hearing has been given shall be entitled to be present and to be heard at the hearing.

(4) If any person to whom notice of the hearing has been duly given should fail to appear either in person or by representative at the hearing, the Commissioner may proceed with the case, notwithstanding the absence of any such person or representative, or may give such directions with a view to the determination of the case as he thinks proper.

(5) In any case in which a hearing of an appeal is held, it shall be in public, except in so far as the Commissioner may otherwise direct if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(6) The decision of a Commissioner shall be in writing and signed by him and shall record the reasons for his decision; and a copy of the decision and reasons shall be sent as soon as may be practicable to the employee and the employer and to any other person appearing to the Commissioner to be interested.

#### PART IV

#### COSTS INCURRED IN CONNECTION WITH ENFORCEMENT PROCEEDINGS

*Advances by the Department in connection with court fees etc.*

21.—(1) In a case to which Article 18 (enforcement of decisions) applies, where an employee has made or wishes to make an application to a county court for an order that the amount of statutory sick pay payable to him by his employer in pursuance of a decision of an insurance officer, local tribunal or Commissioner (or the balance remaining unpaid of such an amount) be recoverable as if payable under an order of that court, the Department shall, on being requested in writing to do so by the employee, advance to the employee a sum equal to the court fees paid or payable in connection with the making of the application.

(2) Where—

- (a) an order has been made in pursuance of an application under paragraph (1);
- (b) the employer has not paid the whole of the sums ordered to be paid within the time specified in the order; and
- (c) the employee has taken, or wishes to take, steps to enforce payment of the amount remaining unpaid under the order through the Enforcement of Judgments Office,

the Department shall, on being requested in writing to do so by the employee and if it considers proceedings in the Enforcement of Judgments Office to be a reasonable method of enforcing payment of that amount in the circumstances of the case, advance to the employee a sum equal to the enforcement fees paid or payable in connection with the enforcement.

(3) Where an advance is requested under paragraph (1) or (2)—

- (a) if the employee has paid the court fees or the enforcement fees, the advance shall be made only on production of a receipt issued by the court office or by the Enforcement of Judgments Office by way of evidence of the amount paid; and
- (b) if the employee has not paid the court fees or the enforcement fees, the advance shall be made by means of a girocheque in favour of the chief clerk for the county court division for the amount of the court fees or in favour of the Chief Enforcement Officer for the amount of the enforcement fees.

(4) Subject to paragraphs (5) and (6), and to regulation 18 of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981(a) as substituted by paragraph (7), any advance made to an employee under paragraph (1) or (2) shall be repaid by the employee to the Department, and, if not repaid, may be recovered (without prejudice to any other method of recovery) by the Department by deduction from any benefit, except maternity grant or death grant, under the Social Security (Northern Ireland) Acts 1975 to 1982 or any supplementary pension or allowance

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(a) S.R. 1981 No. 368, to which there are amendments not relevant to the subject matter of these regulations

under the Supplementary Benefits (Northern Ireland) Order 1977(a) to which the employee is, or at any time becomes, entitled.

(5) Where an advance has been made to an employee under paragraph (1) or (2) and the employee has failed to recover all or part of the court fees or the enforcement fees, but the Department is satisfied that reasonable steps have been taken to recover them, the amount repayable by the employee and recoverable by the Department shall not exceed the amount recovered by the employee.

(6) The Department shall not deduct, under paragraph (4), from any benefit payable to the employee under the Supplementary Benefits (Northern Ireland) Order 1977 in respect of any one week, any sum, to the extent that it exceeds—

(a) where one advance under this regulation falls to be recovered, 5 per cent.;

(b) where 2 such advances fall to be recovered, 10 per cent.;

(c) where more than 2 such advances fall to be recovered, 15 per cent.,

of the single householder rate (as defined in regulation 14(1) of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981) and references to 5 per cent., 10 per cent. or 15 per cent. of that rate are to that percentage rounded, where it is not a multiple of 5 pence, to the next higher such multiple.

(7) For regulation 18 of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981 there shall be substituted the following regulation—

*“Priority as between certain debts*

**18.**—(1) Subject to paragraph (2), where in any one week both regulations 16 and 17 are applicable to the beneficiary—

(a) the total weekly amount deductible under paragraph (2)(a) of both of those regulations shall not exceed an amount equal to 3 times 5 per cent. there mentioned;

(b) priority as between debts shall be as set out in paragraph (3).

(2) Where, in any one week, any 2 or all of the following circumstances exist, namely—

(a) an amount is deductible from the award of pension or allowance to a beneficiary by virtue of paragraph (2)(a) of either regulation 16 or regulation 17 or both;

(b) any payment falls to be recovered from that beneficiary by deduction from that award pursuant to regulations 6(c) and 7 of the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980(b) (recovery from pension or allowance in cases of misrepresentation or non-disclosure);

(c) any payment falls to be recovered from that beneficiary by deduction from that award pursuant to regulation 21(4) of the Statutory Sick Pay (Adjudication) Regulations (Northern Ireland) 1982 (recovery from pension or allowance of advance of court fees etc.),

the weekly aggregate of any such amount and any such deduction or deductions shall not exceed an amount equal to 3 times the 5 per cent. mentioned in paragraph (1)(a), save that, in a case to which paragraph (2) of the said regulation 7 applies

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- (a) S.I. 1977/2156 (N.I. 27); as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) (and as set out in Part II of that Schedule), Article 6(5) of the Social Security (No. 2) (Northern Ireland) Order 1980 (S.I. 1980/1087 (N.I. 13)), Article 5 of the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25)) and Articles 31 and 38 of, and paragraph 14 of Schedule 4 to, the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))
- (b) S.R. 1980 No. 396, as amended by S.R. 1980 No. 415 and S.R. 1981 No. 215

(higher maximum deductible in certain cases) a further sum, not exceeding the difference between the maximum amount specified in that paragraph and the maximum which would otherwise apply under this paragraph, may be deducted in respect of the payment to be recovered, priority as to debts being as set out in paragraph (3).

(3) For the purposes of this regulation—

- (a) any debt which is in respect of rent or mortgage payments shall have priority over any other debt or any payment to be recovered as mentioned in paragraph (2)(b) or (c);
- (b) any debt for a fuel item shall have priority over any debt for a housing item, other than one to which sub-paragraph (a) applies, or any payment to be recovered as mentioned in paragraph (2)(b) or (c);
- (c) as between debts for fuel items of gas or electricity, the benefit officer shall give priority as specified in regulation 17(5);
- (d) any debt for a housing item other than one to which sub-paragraph (a) applies shall have priority over any payment to be recovered as mentioned in paragraph (2)(b) or (c);
- (e) any payment to be recovered as mentioned in paragraph (2)(c) shall have priority over any payment to be recovered as mentioned in paragraph (2)(b)."

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 8th October 1982.

(L.S.)

C. Davie

Assistant Secretary

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations relate to the determination of questions concerning statutory sick pay under the Social Security (Northern Ireland) Order 1982 ("the 1982 Order").

Part I of the regulations contains commencement and interpretation provisions; Part II relates to questions determinable by the Department, Part III to questions determinable by insurance officers, local tribunals and the Social Security Commissioners, (the "statutory authorities" appointed or constituted under the Social Security (Northern Ireland) Act 1975) and Part IV to the reimbursement of court costs where enforcement proceedings are taken by employees.

Regulation 3 (Part II) authorises employers, employees and inspectors (appointed under the Social Security (Northern Ireland) Act 1975) to apply for determination by the Department of any question mentioned in Article 13 of the 1982 Order, if it arises. Regulation 4 provides for the reference of such a question by way of application, and the action to be taken preparatory to adjudication. Regulation 5 confers powers on a person appointed, under Article 13(3) of the 1982 Order, to hold an inquiry and to report before determination of the question; it also makes provision for the inquiry

procedure. Regulation 6 requires notice of a decision of the Department to be given to those concerned and for a statement of the grounds of the decision to be provided on application. Regulation 7 enables review of a decision of the Department that was given in ignorance of, or was based on a mistake as to, a material fact; regulation 8 puts decisions on review on the same footing, as respects rights of appeal etc., as original decisions.

Regulation 9 (Part III) enables either the Department or an employee to refer any question arising under Part II of the 1982 Order (other than one determinable by the Department) to an insurance officer for determination; an employee's reference is to be by application, made within 6 months of the earliest day in dispute, stating the grounds on which the employer denies liability to make statutory sick payments. Regulation 10 enables any of the statutory authorities to refer a question to a medical practitioner for examination and report. Regulation 11 makes general provisions for the procedure of hearings before local tribunals and Commissioners. Regulation 12 provides for non-disclosure to a person of medical advice or evidence if disclosure is considered undesirable in his interests. Regulation 13 authorises review of a decision given in ignorance of, or based on a mistake as to, a material fact, or one based on a decision of the Department which, in turn, has been revised; an insurance officer, if satisfied that an earlier decision of an insurance officer was based on a mistake of law, is enabled to review that decision.

Regulations 14 to 17 relate to adjudication by local tribunals. Regulation 14 provides for the notice to be given of local tribunal hearings, for hearings not to proceed (save by consent) where such notice has not been given, and for hearings in the absence of a person concerned. Regulation 15 authorises withdrawal of an appeal but, if sought at a hearing or after a hearing is adjourned part-heard, only if the chairman gives leave. Regulation 16 makes detailed provision for hearings including provision for a hearing to proceed, by consent, in the absence of one tribunal member other than the chairman and provision for a medical assessor to sit with a tribunal in an advisory capacity. Regulation 17 requires decisions to be in writing and their notification to those concerned.

Regulations 18 to 20 relate to adjudication by a Social Security Commissioner. Regulation 18 makes provision for leave to appeal against a decision of a local tribunal to a Commissioner. Regulation 19 relates to the giving to others concerned of notice of a written application for such leave, and of a notice of appeal to a Commissioner. Regulation 20 confers discretionary powers on the Commissioner to decide whether there is to be an oral hearing of an appeal to him, whether such a hearing is to proceed in the absence of a person notified of it and whether the hearing should be in public; it requires the decision to be in writing and the reasons for it to be stated.

Regulation 21 (Part IV) makes provision for the Department to advance to employees sums equal to court fees or enforcement fees paid or payable in seeking to enforce decisions by the statutory authorities that statutory sick pay is due. Such advances are to be repaid, and if not repaid, may be recovered by deduction from specified benefits. For the case where such deductions are made from benefits under the Supplementary Benefits (Northern Ireland) Order 1977, the regulation (by substituting a new regulation 18 in the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1981) provides for the order of the priority between those and other deductions.