
STATUTORY INSTRUMENTS

1982 No. 1400**TERMS AND CONDITIONS OF EMPLOYMENT****The Statutory Sick Pay (Adjudication) Regulations 1982***Made* - - - - 30th September 1982*Laid before Parliament* 11th October 1982*Coming into Operation* 6th April 1983**ARRANGEMENT OF REGULATIONS****PART I****GENERAL**

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The Secretary of State for Social Services, after consultation with the Council on Tribunals insofar as is required by section 10 of the Tribunals and Inquiries Act 1971(a), in exercise of the powers conferred upon him by sections 11(1) and (2), 12, 13(5), 14, 15(5) and 16 of, and Schedule 3 to, the Social Security and Housing Benefits Act 1982(b) and section 14(2)(i) of the Supplementary Benefits Act 1976(c), and of all other powers enabling him in that behalf hereby makes the following regulations.

This instrument satisfies the requirements of paragraph 38 of Schedule 4 to the Social Security and Housing Benefits Act 1982, and the Secretary of State has not referred proposals to make any of the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

PART I

GENERAL

Citation and commencement

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

Interpretation

- 2.—(1) In these regulations, unless the context otherwise requires—
 - “the Act” means the Social Security and Housing Benefits Act 1982;
 - “the Department” means the Department of Health and Social Security;
 - “hearing” means oral hearing;
 - “inspector” means an officer appointed as such under section 144 of the Social Security Act 1975(d) and referred to in section 19 of the Act.
- (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 I of the

(a) 1971 c. 62.
 (b) 1982 c. 24.
 (c) 1976 c. 71; section 14 was amended by the Social Security Act 1980 (c. 30), section 6(1) and Schedule 2.
 (d) 1975 c. 14.

Act, or under regulations under that Part, a question has arisen that is for determination by the Secretary of State under section 11(1), or

(b) whose rights, duties or obligations are called in question by way of review of a determination under the said section 11(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.

(5) Unless the context otherwise requires, any reference in these regulations—

(a) to a numbered section or Schedule is a reference to the section of, or as the case may be, the Schedule to, the Act bearing that number;

(b) to a numbered regulation, is a reference to the regulation bearing that number in these regulations and to a numbered paragraph, is a reference to the paragraph of that regulation bearing that number.

PART II

ADJUDICATION BY THE SECRETARY OF STATE

Persons who may apply for reference of questions to the Secretary of State for determination

3.—(1) Where a question such as is specified in section 11 (determination of questions by Secretary of State) arises under Part I of the Act 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 Secretary of State 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 Secretary of State

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

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

(3) Before determining any question specified in section 11(1) that is referred to the Secretary of State, whether by way of an application under the preceding paragraphs of this regulation or by an insurance officer under section 15(1) (reference of questions determinable by the Secretary of State arising in connection with adjudication of questions not so determinable), the Secretary of State shall—

- (a) take steps to bring the fact that the question has been so referred to the notice of any person appearing to the Secretary of State to be a person interested;
- (b) take steps to obtain from every such person information which the Secretary of State 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 Secretary of State for his consideration.

Procedure for inquiries

5.—(1) Where, under section 11(3), the Secretary of State appoints a person to hold an inquiry into, and to report on, a question referred to the Secretary of State for determination by him or any matter arising in connection with it, 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 purpose of the inquiry any such representative shall have the rights and powers, under Part I of the Act and under these regulations, of the person whom he represents.

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

Decisions of the Secretary of State and statements of grounds

6.—(1) The Secretary of State shall give a decision in writing on a question referred for his determination under section 11 and shall give notice of that decision—

- (a) if the question was referred to him by an insurance officer under section 15(1), to the insurance officer; or

- (b) if the question was referred to him by way of an application under these regulations, to the applicant,
- and in either case,
- (c) to any other person appearing to the Secretary of State to be a person interested.

(2) A person who applied for the reference of a question to the Secretary of State and any other person given notice of the Secretary of State's decision on a question referred to him, 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 Secretary of State has given a decision on a question of law such as would enable the applicant to appeal against it under section 11(5) (right of appeal to High Court or Court of Session).

Review of decisions of the Secretary of State

7.—(1) Subject to paragraph (2), the Secretary of State may, whether or not on an application made under this regulation, review a decision of his given under section 11, or under this regulation, if he 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 section 11(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 under section 11(8), unless exercised in the particular case.

(3) A question may be raised with a view to review by the Secretary of State 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 Secretary of State 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 Secretary of State under section 11.

Further provision as to determination on review by the Secretary of State

8. Subsections (3) to (8) of section 11 (determination of questions by Secretary of State 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 section 11(1) (questions determinable by Secretary of State).

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 section 12(1) or (4) (questions determinable by an insurance officer or a local tribunal) applies may be referred, when it arises, by—

- (a) the Secretary of State, or
- (b) an employee

to an insurance officer for determination.

(2) A reference by the Secretary of State of any such question shall be made in writing within 3 months of the day on which it appeared to him 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 Secretary of State or in such other manner, being in writing, as he may accept as sufficient in the circumstances.

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

- (a) be delivered or sent to a local office of 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 them, as the case may be, under Part I of the Act or regulations made thereunder.

Provisions concerning Adjudication by Insurance Officers, Tribunals and Commissioners

Hearings before local tribunals and Commissioners

11.—(1) Subject to the provisions 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 section 12(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 Act 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 their 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 provided that if all the members of the tribunal agree, and if no person having the right to be heard objects, they may permit a member or members of the Council on Tribunals or of the Scottish Committee of the Council present only in that capacity, to remain present at any such sitting even though by virtue of this paragraph other persons are ordered to withdraw.

(4) Nothing in these regulations shall prevent a member of the Council on Tribunals, or of the Scottish Committee of the Council, from being present at a hearing before a local tribunal or a Commissioner in his capacity as such, notwithstanding that the hearing is not in public.

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 this Act 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 Secretary of State of a question for his determination under the Act and the decision of that question has been revised under the Act or these regulations.

(2) Any determination under this Act 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 sections 12 and 13.

(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 sections 12 and 13 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 they 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 an oral 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 insofar 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 Secretary of State;
- (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 their decisions; and
- (b) include in the record of every decision a statement of the grounds of such decision and of their 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 their 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 section 15 of the Social Security Act 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 an office of 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 section 15(1) of the Social Security Act 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

(a) 1980 c. 30.

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 section 13(2) (appeal to a Commissioner),

a copy of the application or notice shall be sent by the Secretary of State, as soon as practicable after he 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 an oral 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 insofar 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 Secretary of State in connection with Court fees etc

21.—(1) In a case to which section 16 (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 Secretary of State 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 by legal process in a County Court,

the Secretary of State shall, on being requested in writing to do so by the employee and if he considers the legal process 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 Court fees paid or payable in connection with the legal process.

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

- (a) if the employee has paid the Court fees, the advance shall be made only on production of the plaint note or other paper issue by the Court by way of evidence of the amount paid; and
- (b) if the employee has not paid the Court fees, the advance shall be made by means of a giro-cheque in favour of the Registrar of the County Court for the amount of the Court fees.

(4) In a case to which section 16 applies, where an employee seeks to enforce in Scotland such a decision as is mentioned in paragraph (1), the Secretary of State shall, on being requested in writing to do so by the employee, advance to the employee the amount of any fees paid or payable to an enforcing officer (which in this regulation means a sheriff officer or messenger-at-arms) in respect of diligence done or proposed to be done on the instructions of the employee in the course of such enforcement.

(5) The Secretary of State shall make such an advance as is mentioned in paragraph (4) only if he considers the diligence done or proposed to be done to be a reasonable method of enforcing payment in the circumstances of the case.

(6) Where an advance is requested under paragraph (4)—

- (a) if the employee has paid the fees due to the enforcing officer, the advance shall be made only on production of a duly discharged note of fee (in whatever form) in respect of the diligence; and

(b) if the employee has not paid the fees, the advance shall be made by means of a girocheque for the amount of the fees in favour of the enforcing officer.

(7) Subject to paragraphs (8) and (9), and to regulation 18 of the Supplementary Benefit (Claims and Payments) Regulations 1981(a) as substituted by paragraph (10), any advance made to an employee under paragraph (1), (2) or (4) shall be repaid by the employee to the Secretary of State, and, if not repaid, may be recovered (without prejudice to any other method of recovery) by the Secretary of State by deduction from any benefit, except maternity grant or death grant, under the Social Security Acts 1975 to 1982 or any supplementary pension or allowance under the Supplementary Benefits Act 1976(b) to which the employee is, or at any time becomes, entitled.

(8) Where an advance has been made to an employee under paragraph (1), (2) or (4) and the employee has failed to recover all or part of the Court fees or the enforcing officer's fees, but the Secretary of State is satisfied that reasonable steps have been taken to recover them, the amount repayable by the employee and recoverable by the Secretary of State shall not exceed the amount recovered by the employee.

(9) The Secretary of State shall not deduct, under paragraph (7), from any benefit payable to the employee under the Supplementary Benefits Act 1976 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; and

(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 1981).

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

“Priority as between certain debts

18.—(1) Subject to paragraph (2), where in any one week more than one of regulations 15B to 17 are applicable to the beneficiary—

(a) the total weekly amount deductible under regulation 15B and under regulations 16(2)(a) and 17(2)(a) shall not exceed an amount equal to 3 times 5 per cent of the single householder rate;

(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 one or more of the provisions mentioned in paragraph (1)(a);

(a) S.I. 1981/1525; the relevant amending instruments are S.I. 1982/522, 914.

(b) 1976 c. 71.

- (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 1980(a) (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(7) of the Statutory Sick Pay (Adjudication) Regulations 1982 (recovery from pension or allowance of advance of Court fees etc),

the weekly aggregate of any such amount and any such deduction 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 (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 arrears 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)."

(11) Regulation 4(8) of the Supplementary Benefit (Housing Benefits) (Miscellaneous Consequential Amendments) Regulations 1982(b) is hereby revoked.

Signed by authority of
the Secretary of
State for Social Services.
30th September 1982.

Hugh Rossi,
Minister of State,
Department of Health and
Social Security.

(a) S.I. 1980/1580, amended by S.I. 1981/815.

(b) S.I. 1982/914.

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 and Housing Benefits Act 1982 ("the 1982 Act").

Part I of the Regulations contains commencement and interpretation provisions; Part II relates to questions determinable by the Secretary of State, 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 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 Act 1975) to apply for determination by the Secretary of State of any question mentioned in section 11 of the 1982 Act, 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 section 11(3) of the 1982 Act, 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 Secretary of State 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 Secretary of State 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 Secretary of State or an employee to refer any question arising under Part I of the 1982 Act (other than one determinable by the Secretary of State) 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 and enables members of the Council on Tribunals to attend hearings (where not held in public). 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 Secretary of State 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 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 Secretary of State to advance to employees sums equal to Court fees or enforcing officers' 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 Act 1976, the regulation (by substituting a new regulation 18 in the Supplementary Benefit (Claims and payments) Regulations 1981) provides for the order of the priority between those and other deductions.

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