



# Social Security Administration Act 1992

## 1992 CHAPTER 5

### PART IV

#### RECOVERY FROM COMPENSATION PAYMENTS

##### *Administration and adjudication*

#### **94 Provision of information**

- (1) Any person who is, or is alleged to be, liable in respect of an accident, injury or disease, or any person acting on his behalf, shall furnish the Secretary of State with the prescribed information relating to any person seeking compensation, or in respect of whom compensation is sought, in respect of that accident, injury or disease.
- (2) Any person who claims a relevant benefit or who has been in receipt of such a benefit or, if he has died, the personal representatives of such a person, shall furnish the Secretary of State with the prescribed information relating to any accident, injury or disease suffered by that person.
- (3) A person who makes any payment (whether a compensation payment or not) on behalf of himself or another—
  - (a) in consequence of any accident, injury or disease suffered, or any damage to property sustained, by any other person, or
  - (b) which is referable to any costs, or, in Scotland, expenses, incurred by any such other person by reason of such an accident, injury, disease or damage,shall, if the Secretary of State so requests him in writing, furnish the Secretary of State with such particulars relating to the size and composition of the payment as may be specified in the request.
- (4) Any person—
  - (a) who is the employer of a person who suffers or has suffered an accident, injury or disease, or
  - (b) who has been the employer of such a person at any time during the relevant period,

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shall furnish the Secretary of State with the prescribed information relating to the payment of statutory sick pay in respect of that person.

- (5) In subsection (4) above “employer” has the same meaning as it has in Part XI of the Contributions and Benefits Act.
- (6) Any person furnishing information under this section shall do so in the prescribed manner, at the prescribed place and within the prescribed time.

## **95 Applications for certificates of total benefit**

- (1) If at any time before he makes the compensation payment in question the compensator requests the Secretary of State to furnish him with a certificate of total benefit relating to the victim in question—
  - (a) the Secretary of State shall comply with that request before the end of the period of 4 weeks, or such other number of weeks as may be prescribed, following the day on which the request is, or is deemed in accordance with regulations to be, received, and
  - (b) any certificate so furnished shall, in particular, specify for the purposes of section 84(2)(a) above a date not earlier than the date of the request.
- (2) Where the Secretary of State furnishes any person with a certificate of total benefit, he shall also provide the information contained in that certificate to the person who appears to him to be the victim in relation to the compensation payment in question.
- (3) The victim may apply to the Secretary of State for particulars of the manner in which any amount, rate or period specified in a certificate of total benefit has been determined.

## **96 Liability of compensator unenforceable if certificate not issued within time limit**

- (1) The liability of the compensator to make the relevant deduction and payment relating to the first compensation payment after the default date shall not be enforceable if—
  - (a) he has made a request under section 95(1) above which—
    - (i) accurately states the prescribed particulars relating to the victim and the accident, injury or disease in question; and
    - (ii) specifies the name and address of the person to whom the certificate is to be sent;
  - (b) he has in his possession a written acknowledgment, sent to him in accordance with regulations, of the receipt of the request; and
  - (c) the Secretary of State does not, within the time limit referred to in section 95(1) above, send the certificate to the person specified in the request as the person to whom the certificate is to be sent, at the address so specified;

and accordingly, where those liabilities cease to be enforceable, nothing in this Part of this Act shall prevent the compensator from making that compensation payment.
- (2) In any case where—
  - (a) the liability to make the relevant deduction and payment becomes unenforceable by virtue of this section, but
  - (b) the compensator nevertheless makes that deduction and payment, he shall be treated for all purposes as if the liability had remained enforceable.

- (3) Where the compensator, in reliance on this section, does not make the relevant deduction and payment, then—
  - (a) he shall within 14 days of the default date give the Secretary of State notice of that fact together with such other particulars as may be prescribed; and
  - (b) in determining the amount of the relevant deduction and payment to be made in connection with any subsequent compensation payment made by the same or any other compensator, the amount which, apart from this section, would have fallen to be deducted and paid by him shall continue to form part of the total benefit and shall not be treated as if it had been paid.
- (4) If, in the opinion of the Secretary of State, circumstances have arisen which adversely affect normal methods of communication—
  - (a) he may by order provide that no liability shall become unenforceable by virtue of this section during a specified period not exceeding three months; and
  - (b) he may continue any such order in force for further periods not exceeding three months at a time.
- (5) In this section “the default date” means the date on which the time limit mentioned in subsection (1)(c) above expires.

## **97 Review of certificates of total benefit**

- (1) The Secretary of State may review any certificate of total benefit if he is satisfied that it was issued in ignorance of, or was based on a mistake as to, some material fact or that a mistake (whether in computation or otherwise) has occurred in its preparation.
- (2) On any such review the Secretary of State may either—
  - (a) confirm the certificate, or
  - (b) issue a fresh certificate containing such variations as he considers appropriate, but he shall not so vary the certificate as to increase the total benefit.
- (3) In any case where—
  - (a) one or more relevant payments have been made, and
  - (b) in consequence of a review under this section, it appears that the aggregate amount so paid exceeds the amount that ought to have been paid,the Secretary of State shall pay the intended recipient an amount equal to the excess.

## **98 Appeals**

- (1) An appeal shall lie in accordance with this section against any certificate of total benefit at the instance of the compensator, the victim or the intended recipient, on the ground—
  - (a) that any amount, rate or period specified in the certificate is incorrect, or
  - (b) that benefit paid or payable otherwise than in consequence of the accident, injury or disease in question has been brought into account.
- (2) No appeal shall be brought under this section until—
  - (a) the claim giving rise to the compensation payment has been finally disposed of; and
  - (b) the relevant payment, or where more than one such payment may fall to be made, the final relevant payment, has been made.

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- (3) Notwithstanding subsection (2) above, where—
- (a) an award of damages (“provisional damages”) has been made under or by virtue of—
    - (i) section 32A(2)(a) of the Supreme Court Act 1981;
    - (ii) section 12(2)(a) of the Administration of Justice Act 1982; or
    - (iii) section 51(2)(a) of the County Courts Act 1984; and
  - (b) the relevant payment or, where more than one such payment falls to be made, the final relevant payment in relation to the provisional damages so awarded has been made,
- an appeal may be brought under this section against any certificate of total benefit by reference to which the amount of that relevant payment, or any of those relevant payments, was made.
- (4) Regulations may make provision—
- (a) as to the manner in which, and the time within which, appeals under this section are to be brought, and
  - (b) for the purpose of enabling any such appeal to be treated as an application for review under section 97 above,
- and regulations under paragraph (b) above may, in particular, provide that the circumstances in which such a review may be carried out shall not be restricted to those specified in section 97 above.
- (5) If any of the medical questions arises for determination on an appeal under this section, the Secretary of State shall refer that question to a medical appeal tribunal, whose determination shall be binding, for the purposes of the appeal, on any social security appeal tribunal to whom a question is referred under subsection (7) below.
- (6) A medical appeal tribunal, in determining any of the medical questions, shall take into account any decision of any court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.
- (7) If any question concerning any amount, rate or period specified in the certificate of total benefit arises for determination on an appeal under this section, the Secretary of State shall refer that question to a social security appeal tribunal, but where any medical questions arising on the appeal have been referred to a medical appeal tribunal—
- (a) he shall not refer any question to the social security appeal tribunal until he has received the determination of the medical appeal tribunal on the questions referred to them; and
  - (b) he shall notify the social security appeal tribunal of the determinations of the medical appeal tribunal.
- (8) On a reference under subsection (7) above a social security appeal tribunal may either—
- (a) confirm the amounts, rates and periods specified in the certificate of total benefit; or
  - (b) specify any increases, reductions or other variations which are to be made on the issue of the fresh certificate under subsection (9) below.
- (9) When the Secretary of State has received the determinations of the tribunals on the questions referred to them under subsections (5) and (7) above, he shall in accordance with those determinations either—

- (a) confirm the certificate against which the appeal was brought, or
  - (b) issue a fresh certificate.
- (10) Regulations may make provision with respect to the procedure for the reference under this section of questions to medical appeal tribunals or social security appeal tribunals.
- (11) An appeal shall lie to a Commissioner at the instance of the Secretary of State, the compensator, the victim or the intended recipient from a decision of a medical appeal tribunal or a social security appeal tribunal under this section on the ground that the decision was erroneous in point of law; and for the purposes of appeals under this subsection—
  - (a) section 23(7) to (10) above shall apply in relation to an appeal from the decision of a social security appeal tribunal; and
  - (b) section 48(3) above shall apply in relation to an appeal from the decision of a medical appeal tribunal.
- (12) In this section “the medical questions” means—
  - (a) any question whether, as the result of a particular occurrence, the victim suffered an injury, sickness or disease;
  - (b) any question as to the period for which the victim suffered any injury, sickness or disease.

## **99 Recovery in consequence of an appeal**

- (1) Where it appears, in consequence of an appeal under section 98 above, that the aggregate amount of the relevant payment or payments actually made exceeds the amount that ought to have been paid, the Secretary of State shall pay the intended recipient an amount equal to that excess.
- (2) Where it appears, in consequence of such an appeal, that the aggregate amount of the relevant payment or payments actually made is less than the amount that ought to have been paid, the intended recipient shall pay the Secretary of State an amount equal to the deficiency.
- (3) Without prejudice to any other method of enforcement, an amount payable under subsection (2) above may be recovered by deduction from any benefits which are prescribed benefits for the purposes of section 71 above.

## **100 Recovery of relevant payment in cases of default**

- (1) This section applies in any case where the compensator has made a compensation payment but—
  - (a) has not requested a certificate of total benefit in respect of the victim, or
  - (b) if he has done so, has not made the relevant payment within the time limit imposed by section 83 above.
- (2) Where this section applies, the Secretary of State may—
  - (a) if no certificate of total benefit has been issued to the compensator, issue to him such a certificate and a demand for the relevant payment to be made forthwith, or
  - (b) if a certificate of total benefit has been issued to the compensator, issue to him a copy of that certificate and such a demand,

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and the amount so certified shall, to the extent that it does not exceed the amount of the compensation payment, be recoverable by the Secretary of State from the compensator.

- (3) Any amount recoverable under this section shall—
- (a) if the compensator resides or carries on business in England and Wales and a county court so orders, be recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; or
  - (b) if the compensator resides or carries on business in Scotland, be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State, and
  - (b) states that the document, apart from the certificate, is a record of the amount recoverable under this section,
- shall be conclusive evidence that that amount is so recoverable; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed unless the contrary is proved.
- (5) Where this section applies in relation to two or more connected compensators, the Secretary of State may proceed against them as if they were jointly and severally liable for an amount equal to the difference between—
- (a) the total benefit determined in accordance with the latest connected certificate of total benefit issued to any of them, and
  - (b) the aggregate amount of any connected relevant payments previously made.
- (6) Nothing in subsection (5) above authorises the recovery from any person of an amount in excess of the compensation payment by virtue of which this section applies to him (or, if there are two or more such payments which are connected, the aggregate amount of those payments).
- (7) In subsections (5) and (6) above, “connected” means relating to the same victim and the same accident, injury or disease.