

*SCHEDULES*

## SCHEDULE 1

## APPEAL TRIBUNALS: SUPPLEMENTARY PROVISIONS

*Tenure of office*

1.—(1) Subject to the following provisions of this paragraph, the President of appeal tribunals shall hold and vacate office in accordance with the terms of his appointment.

(2) The President shall vacate his office on the day on which he attains the age of 70, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

(3) The President may be removed from office by the Lord Chancellor on the ground of incapacity or misbehaviour.

(4) Where the Lord Chancellor proposes to exercise a power conferred on him by sub-paragraph (3) above, it shall be his duty to consult the Lord Advocate with respect to the proposal.

*Remuneration etc.*

2. The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions or allowances to or in respect of the President as he may determine.

3. The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions or allowances to or in respect of any person appointed under this Chapter to act as a member of an appeal tribunal, or as an expert to such a tribunal, as he may determine.

4.—(1) The Secretary of State may pay—

(a) to any person required to attend at any proceedings under section 12 of this Act or section 20 of the Child Support Act; or

(b) to any person required under this Part (whether for the purposes of this Part or otherwise) to attend for or to submit himself to medical or other examination or treatment,

such travelling and other allowances as he may determine.

(2) In this paragraph references to travelling and other allowances include references to compensation for loss of remunerative time but such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under paragraph 3 above.

**5.**—(1) Subject to sub-paragraph (2) below, the Secretary of State may pay such other expenses in connection with the work of any person or tribunal appointed or constituted under any provision of this Part as he may determine.

(2) Expenses are not payable under sub-paragraph (1) above in connection with the work of a tribunal presided over by a Social Security Commissioner.

*Officers and staff*

**6.** The Secretary of State may appoint such officers and staff as he thinks fit for the President and for appeal tribunals.

*Functions of President*

**7.** The President shall ensure that appropriate steps are taken by an appeal tribunal to secure the confidentiality, in such circumstances as may be prescribed, of any prescribed material or any prescribed classes or categories of material.

**8.** —(1) The President shall, after the requisite consultation, arrange such training for persons appointed to the panel constituted under section 6 above as he considers appropriate.

(2) In sub-paragraph (1) above “the requisite consultation” means—

- (a) except in the case of medical practitioners, consultation with the Secretary of State;
- (b) in the case of such practitioners, consultation with the Chief Medical Officers of the Department of Health, the Welsh Office and the Scottish Office.

**9.** The President shall supply the Secretary of State with such reports and other information with respect to the carrying out of the functions of appeal tribunals as the Secretary of State may require.

**10.** Each year the President shall make to the Secretary of State a written report, based on the cases coming before appeal tribunals, on the standards achieved by the Secretary of State in the making of decisions against which an appeal lies to an appeal tribunal; and the Secretary of State shall publish the report.

*Clerks to appeal tribunals*

**11.** The Secretary of State may by regulations provide—

- (a) for clerks to be assigned to service appeal tribunals; and
- (b) for clerks so assigned to be responsible for summoning members of the panel constituted under section 6 above to serve on such tribunals.

*Delegation of certain functions of appeal tribunals*

**12.**—(1) The Secretary of State may by regulations provide—

- (a) for officers authorised by the Secretary of State to make any determinations which fall to be made by an appeal tribunal and which do not involve the determination of any appeal, application for leave to appeal or reference;
- (b) for the procedure to be followed by such officers in making such determinations;

- (c) for the manner in which such determinations by such officers may be called in question.

(2) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by an appeal tribunal is not a determination of the appeal, application or reference for the purposes of sub-paragraph (1) above.

*Certificates*

**13.** 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 a decision of an appeal tribunal or of an officer of the Secretary of State,

shall be conclusive evidence of the decision; and a certificate purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

SCHEDULE 2

DECISIONS AGAINST WHICH NO APPEALS

*Jobseeker's allowance for persons under 18*

1. In relation to a person who has reached the age of 16 but not the age of 18, a decision—

- (a) whether section 16 of the Jobseekers Act is to apply to him; or
- (b) whether to issue a certificate under section 17(4) of that Act.

*Christmas bonus*

2. A decision whether a person is entitled to payment under section 148 of the Contributions and Benefits Act.

*Priority between persons entitled to invalid care allowance*

3. A decision as to the exercise of the discretion under section 70(7) of the Contributions and Benefits Act.

*Priority between persons entitled to child benefit*

4. A decision as to the exercise of the discretion under paragraph 5 of Schedule 10 to the Contributions and Benefits Act.

*Persons treated as if present in Great Britain*

5. A decision whether to certify, in accordance with regulations made under section 64(1), 71(6), 113(1) or 119 of the Contributions and Benefits Act, that it is consistent with the proper administration of that Act to treat a person as though he were present in Great Britain.

*[<sup>1</sup>Work - focused interviews*

5A. A decision terminating or reducing the amount of a person's benefit made in consequence of any decision made under regulations under section 2A of the Administration Act (work-focused interviews).]

*Alteration of rates of benefit*

6. A decision as to the amount of benefit to which a person is entitled, where it appears to the Secretary of State that the amount is determined by—

- (a) the rate of benefit provided for by law; or
- (b) an alteration of a kind referred to in—
  - (i) section 159(1)(b) of the Administration Act (income support); or
  - (ii) section 159A(1)(b) of that Act (jobseeker's allowance).

*Increases in income support due to attainment of particular ages*

7. A decision as to the amount of benefit to which a person is entitled, where it appears to the Secretary of State that the amount is determined by the recipient's entitlement to an increased amount of income support or income-based jobseeker's allowance in the circumstances referred to in section 160(2) or 160A(2) of the Administration Act.

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<sup>1</sup> Para.5A inserted (11.11.99) by the Welfare Reform and Pensions Act 1999 (c.30), Sch.11, para.87.

*Reduction in accordance with reduced benefit direction*

**8.** A decision to reduce the amount of a person's benefit in accordance with a reduced benefit direction (within the meaning of section 46 of the Child Support Act).

*Power to prescribe other decisions*

**9.** Such other decisions as may be prescribed.

SCHEDULE 3

DECISIONS AGAINST WHICH AN APPEAL LIES

PART I

BENEFIT DECISIONS

*Entitlement to benefit without a claim*

1. In such cases or circumstances as may be prescribed, a decision whether a person is entitled to a relevant benefit for which no claim is required.
2. If so, a decision as to the amount to which he is entitled.

*Payability of benefit*

3. A decision whether a relevant benefit (or a component of a relevant benefit) to which a person is entitled is not payable by reason of—
  - (a) any provision of the Contributions and Benefits Act by which the person is disqualified for receiving benefit;
  - (b) *regulations made under section 72(8) of that Act (disability living allowance);*
  - (c) regulations made under section 113(2) of that Act (suspension of payment);  
or
  - (d) *section 19 of the Jobseekers Act (jobseeker's allowance) [1]; or*
  - (e) section 62 or 63 of the Child Support, Pensions and Social Security Act 2000]

*Payments to third parties*

4. Except in such cases or circumstances as may be prescribed, a decision whether the whole or part of a benefit to which a person is entitled is, by virtue of regulations, to be paid to a person other than him.

*Recovery of benefits*

5. A decision whether payment is recoverable under section 71 or 71A of the Administration Act.
6. If so, a decision as to the amount of payment recoverable.

*Industrial injuries benefit*

7. *A decision whether an accident was an industrial accident for the purposes of industrial injuries benefit.*

*Jobseekers' agreements*

8. *A decision in relation to a jobseeker's agreement as proposed to be made under section 9 of the Jobseekers Act, or as proposed to be varied under section 10 of that Act.*

*Power to prescribe other decisions*

9. Such other decisions relating to a relevant benefit as may be prescribed.

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<sup>1</sup> Para. 3(e) inserted (15.10.01) by the Child Support, Pensions and Social Security Act 2000 (c. 19), s. 66.

PART II

CONTRIBUTIONS DECISIONS

*Categorisation of earners*

- 10.** *A decision whether a person is an earner.*
- 11.** *If so, a decision as to the category of earners in which the person is to be included.*

*Compulsory contributions*

- 12.** *A decision whether a person is liable to pay contributions of any particular class.*
- 13.** *If so, a decision as to the amount that the person is liable to pay.*

*Voluntary contributions*

- 14.** *A decision whether a person is entitled to pay contributions of any particular class that he is not liable to pay.*
- 15.** *If so, a decision as to the amount that the person is entitled to pay.*

*Responsibilities at home*

- 16.** *A decision whether a person was (within the meaning of regulations) precluded from regular employment by responsibilities at home.*

*Earnings and contributions credits*

- 17.** *A decision whether a person is entitled to be credited with earnings or contributions in accordance with regulations made under section 22(5) of the Contributions and Benefits Act.*

*Statutory sick pay*

- 18.** *A decision whether an employer is entitled to make any deduction from his contributions payments in accordance with an order under section 159A of the Contributions and Benefits Act.*
- 19.** *If so, a decision as to the amount that he is entitled to deduct.*

*Statutory maternity pay*

- 20.** *A decision whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 167 of the Contributions and Benefits Act.*
- 21.** *If so, a decision as to the amount that he is entitled to deduct.*

*Liability of directors etc. for company's contributions*

**22.** *Subject to the provisions of section 121D of the Administration Act, a decision as to the issue and content of a notice under section 121C(2) of that Act.*

*Preserved rights to benefit etc.*

**23.** *A decision falling to be made by virtue of regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992.*

*Employment of long-term unemployed*

**24.** *A decision falling to be made under section 27 of the Jobseekers Act.*

*Interest and penalties*

**25.** *A decision whether a person is liable to pay interest under paragraph 7B(2)(e) or (i) of Schedule 1 to the Contributions and Benefits Act.*

**26.** *A decision whether a person is liable to a penalty under—*  
*(a) paragraph 7A(2) or 7B(2)(h) of Schedule 1 to the Contributions and Benefits Act; or*  
*(b) section 113(1)(a) or 114A(1) of the Administration Act.*

**27.** *A decision whether to charge any interest or penalty under paragraph 7C(1) of Schedule 1 to the Contributions and Benefits Act.*

**28.** *A decision as to the amount of interest or penalty payable under any of the provisions mentioned in paragraphs 25 to 27 above, except in so far as the decision relates to the exercise of the discretion under—*

*(a) paragraph 7A(3)(e) or 7B(5)(e) of Schedule 1 to the Contributions and Benefits Act; or*  
*(b) section 113(2)(e) or 114A(3)(e) of the Administration Act.*

*Power to prescribe other decisions*

**29.** *Such other decisions relating to contributions as may be prescribed.*

SCHEDULE 4  
SOCIAL SECURITY COMMISSIONERS

*Appointment*

1.—(1) Her Majesty may from time to time appoint, from among persons who have a 10 year general qualification or advocates or solicitors in Scotland of at least 10 years' standing—

- (a) a Chief Social Security Commissioner; and
- (b) such number of other Social Security Commissioners as Her Majesty thinks fit.

(2) If the Lord Chancellor considers that, in order to facilitate the disposal of the business of Social Security Commissioners, he should make an appointment in pursuance of this sub-paragraph, he may appoint—

- (a) a person who has a 10 year general qualification; or
- (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing,

to be a Social Security Commissioner (but to be known as a deputy Commissioner) for such period or on such occasions as the Lord Chancellor thinks fit.

(3) In this paragraph "10 year general qualification" shall be construed in accordance with section 71 of the Courts and Legal Services Act 1990.

*Remuneration etc.*

2. The Lord Chancellor shall pay to a Commissioner such salary or other remuneration, and such expenses incurred in connection with the work of a Commissioner or any tribunal presided over by a Commissioner, as he may determine.

3.—(1) The Lord Chancellor or, in Scotland, the Secretary of State may pay to any person who attends any proceedings under section 14 of this Act such travelling and other allowances as he may determine.

(2) In this paragraph the reference to travelling and other allowances includes a reference to compensation for loss of remunerative time.

*Tenure of office*

4.—(1) Commissioners shall vacate their offices on the day on which they attain the age of 70, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

(2) Nothing in sub-paragraph (1) above or in section 13 or 32 of the Judicial Pensions Act 1981 (which relate to pensions for Commissioners) shall apply to a person by virtue of his appointment in pursuance of paragraph 1(2) above.

5. —(1) A Commissioner may be removed from office by the Lord Chancellor on the ground of incapacity or misbehaviour.

(2) Nothing in sub-paragraph (1) above applies to a Commissioner appointed before 23rd May 1980.

**SOCIAL SECURITY ACT 1998 (c. 14)**

**Sch. 4**

*Delegation of functions*

- 6.** The Lord Chancellor may by regulations provide—
- (a) for officers authorised by the Lord Chancellor or, in Scotland, by the Secretary of State to make any determinations which fall to be made by Commissioners;
  - (b) for the procedure to be followed by such officers in making such determinations;
  - (c) for the manner in which such determinations by such officers may be called in question.

*Certificates*

- 7.** 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 a decision of a Commissioner,
- shall be conclusive evidence of the decision; and a certificate purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

*Supplemental*

- 8.** Where the Lord Chancellor proposes to exercise a power conferred on him by paragraph 1(2), 5(1) or 6 above, it shall be his duty to consult the Lord Advocate with respect to the proposal.

## SCHEDULE 5

## REGULATIONS AS TO PROCEDURE: PROVISION WHICH MAY BE MADE

1. Provision prescribing the procedure to be followed in connection with—
  - (a) the making of decisions or determinations by the Secretary of State, an appeal tribunal or a Commissioner; and
  - (b) the withdrawal of claims, applications, appeals or references falling to be decided or determined by the Secretary of State, an appeal tribunal or a Commissioner.
2. Provision as to the striking out or reinstatement of proceedings.
3. Provision as to the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence.
4. Provision as to the time within which, or the manner in which—
  - (a) any evidence is to be produced; or
  - (b) any application, reference or appeal is to be made.
5. Provision for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses.
6. Provision with respect to the procedure to be followed on appeals to and in other proceedings before appeal tribunals.
7. Provision for authorising an appeal tribunal consisting of two or more members to proceed with any case, with the consent of the claimant, in the absence of any member.
8. Provision for empowering an appeal tribunal to give directions for the disposal of any purported appeal which the tribunal is satisfied that it does not have jurisdiction to entertain.
9. Provision for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of a determination.

Sch. 6

SCHEDULE 6

[...<sup>1</sup>]

SCHEDULE 7

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<sup>1</sup> Sch. 6 repealed (29.11.99) by S.S. Act 1998, Sch. 8.



**SOCIAL SECURITY ACT 1998 (c. 14)**

**Schs. 7-8**

**MINOR AND CONSEQUENTIAL AMENDMENTS**

..... *various amends, see Annex 1, page 1.3301*

**SCHEDULE 8**

**REPEALS**

..... *various repeals, see Annex 1, page 1.3301*