



Social Security Administration Act 1992

1992 CHAPTER 5

PART II

ADJUDICATION

Regulations

58 Regulations as to determination of questions and matters arising out of, or pending, reviews and appeals

- (1) Subject to the provisions of this Act, provision may be made by regulations for the determination—
 - (a) by the Secretary of State; or
 - (b) by a person or tribunal appointed or constituted in accordance with the regulations,of any question arising under or in connection with the Contributions and Benefits Act or the former legislation, including a claim for benefit.
- (2) In this section “the former legislation” means the National Insurance Acts 1965 to 1974 and the National Insurance (Industrial Injuries) Acts 1965 to 1974 and the 1975 Act and Part II of the 1986 Act.
- (3) Regulations under subsection (1) above may modify, add to or exclude any provisions of this Part of this Act, so far as relating to any questions to which the regulations relate.
- (4) It is hereby declared for the avoidance of doubt that the power to make regulations under subsection (1) above includes power to make regulations for the determination of any question arising as to the total or partial recoupment of unemployment benefit in pursuance of regulations under section 132 of the Employment Protection (Consolidation) Act 1978 (including any decision as to the amount of benefit).
- (5) Regulations under subsection (1) above may provide for the review by the Secretary of State of decisions on questions determined by him.

Status: This is the original version (as it was originally enacted).

- (6) The Lord Chancellor may by regulations provide—
- (a) for officers authorised—
 - (i) by the Lord Chancellor; or
 - (ii) in Scotland, by the Secretary of State,

to determine any question which is determinable by a Commissioner and which does not involve the determination of any appeal, application for leave to appeal or reference;
 - (b) for the procedure to be followed by any such officer in determining any such question;
 - (c) for the manner in which determinations of such questions by such officers may be called in question.
- (7) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by a Commissioner is not a determination of the appeal, application or reference for the purposes of subsection (6) above.
- (8) Regulations under subsection (1) above may provide—
- (a) for the reference to the High Court or, in Scotland, the Court of Session for decision of any question of law arising in connection with the determination of a question by the Secretary of State; and
 - (b) for appeals to the High Court or Court of Session from the decision of the Secretary of State on any such question of law;
- and subsections (5) to (7) of section 18 above shall apply to a reference or appeal under this subsection as they apply to a reference or appeal under subsections (1) to (3) of that section.

59 Procedure

- (1) Regulations (in this section referred to as “procedure regulations”) may make any such provision as is specified in Schedule 3 to this Act.
- (2) Procedure regulations may deal differently with claims and questions relating to—
 - (a) benefit under Parts II to IV of the Contributions and Benefits Act;
 - (b) industrial injuries benefit;
 - (c) each of the other benefits to which section 20 above applies.
- (3) At any inquiry held by virtue of procedure regulations the witnesses shall, if the person holding the inquiry thinks fit, be examined on oath; and the person holding the inquiry shall have power to administer oaths for that purpose.
- (4) In proceedings for the determination of a question mentioned in section 17(1)(c) above (including proceedings on an inquiry)—
 - (a) in England and Wales, there shall be available to a witness (other than the person who is liable, or alleged to be liable, to pay the Class 1A contribution in question) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings; and
 - (b) in Scotland, section 3 of the Evidence (Scotland) Act 1853 (competence and compellability of witnesses) shall apply as it applies to civil proceedings.

- (5) Procedure regulations prescribing the procedure to be followed in cases before a Commissioner shall provide that any hearing shall be in public except in so far as the Commissioner for special reasons otherwise directs.
- (6) It is hereby declared—
 - (a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
 - (b) that the power to provide for the manner in which questions arising for determination by the Secretary of State are to be raised includes power to make provision with respect to the formulation of any such questions, whether arising on a reference under section 117 below or otherwise.
- (7) Except so far as it may be applied in relation to England and Wales by procedure regulations, the Arbitration Act 1950 shall not apply to any proceedings under this Part of this Act.

60 Finality of decisions

- (1) Subject to the provisions of this Part of this Act, the decision of any claim or question in accordance with the foregoing provisions of this Part of this Act shall be final; and subject to the provisions of any regulations under section 58 above, the decision of any claim or question in accordance with those regulations shall be final.
- (2) Subsection (1) above shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.
- (3) A decision (given under subsection (2) of section 44 above or otherwise) that an accident was an industrial accident is to be taken as determining only that paragraphs (a), (b) and (c) of subsection (5) of that section are satisfied in relation to the accident, and neither any such decision nor the reference to an adjudicating medical practitioner or a medical appeal tribunal under section 45 above of the disablement questions in connection with any claim to or award of disablement benefit is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received; but—
 - (a) a decision that on a particular occasion when there was no such event a person had an industrial accident by reason of an injury shall be treated as a decision that, if the injury was suffered by accident on that occasion, the accident was an industrial accident; and
 - (b) a decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with section 44 above, without its having been found that personal injury resulted from the accident (saving always the discretion under subsection (3) of that section to refuse to determine the question if it is unlikely to be necessary for the purposes of a claim for benefit).
- (4) Notwithstanding anything in subsection (2) or (3) above (but subject to the provisions of this Part of this Act as to appeal and review), where for purposes of disablement pension or disablement gratuity in respect of an accident it has been found by an adjudicating medical practitioner or a medical appeal tribunal, on the determination or last determination of the disablement questions, that an injury resulted in whole or in

part from the accident, then for purposes of industrial death benefit in respect of that accident the finding shall be conclusive that the injury did so result.

- (5) Subsections (2) to (4) above shall apply as regards the effect to be given in any proceedings to any decision, or to a reference under section 45 above, whether the decision was given or reference made or the proceedings were commenced before or after the passing of the National Insurance Act 1972 (section 5 of which originally contained the provisions contained in this section), except that it shall not affect the determination of any appeal under section 48 above from a decision of a medical appeal tribunal given before the passing of that Act, nor affect any proceedings consequent on such an appeal from a decision so given; and accordingly—
- (a) any decision given before the passing of that Act that a claimant was not entitled to industrial death benefit may be reviewed in accordance with this Part of this Act to give effect to subsection (4) above; and
 - (b) the references in subsections (2) and (3) above to provisions of this Act, and the reference in this subsection to section 45 above shall (so far as necessary) include the corresponding provisions of previous Acts.

61 Regulations about supplementary matters relating to determinations

- (1) Regulations may make provision as respects matters arising—
- (a) pending the determination under this Act (whether in the first instance or on an appeal or reference, and whether originally or on review)—
 - (i) of any claim for benefit to which this section applies; or
 - (ii) of any question affecting any person's right to such benefit or its receipt; or
 - (iii) of any person's liability for contributions under Part I of the Contributions and Benefits Act; or
 - (b) out of the revision on appeal or review of any decision under this Act on any such claim or question.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may include provision as to the date from which any decision on a review is to have effect or to be deemed to have had effect.
- (3) Regulations under subsection (1) above as it applies to child benefit may include provision as to the date from which child benefit is to be payable to a person in respect of a child in a case where, before the benefit was awarded to that person, child benefit in respect of the child was awarded to another person.
- (4) This section applies—
- (a) to benefit as defined in section 122 of the Contributions and Benefits Act;
 - (b) to child benefit;
 - (c) to statutory sick pay;
 - (d) to statutory maternity pay;
 - (e) to income support;
 - (f) to family credit;
 - (g) to disability working allowance; and
 - (h) to any social fund payments such as are mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act.