

SCHEDULE 2

CONDUCT AND PROCEDURE IN RELATION TO APPEALS AND APPLICATIONS

PART II

APPLICATION AND APPEALS TO THE TRIBUNAL

Procedure in connection with determinations

6. For the purposes of arriving at its decision a tribunal shall, and for the purpose of discussing any question of procedure may, notwithstanding anything in these Regulations, order all persons not being members of the tribunal other than its clerk to withdraw from the sitting of the tribunal except that—

- (a) a member of the Council on Tribunals or of the Scottish Committee of that Council, the President of Social Security Appeal Tribunals and any full time chairman of a social security appeal tribunal appointed under section 51(1) of the 1992 Act; and
- (b) with the leave of the chairman of the tribunal, if no person having the right to be heard objects, any person mentioned in paragraph 13(1)(b) and (d) (except a person undergoing training as an adjudication officer),

may remain present at any such sitting.

Oral Hearings

7. A tribunal shall hold an oral hearing of every appeal made to them.

8. If a party to the proceedings to whom notice has been given under paragraph 2 should fail to appear at the hearing, the tribunal may, having regard to all the circumstances, including any explanation offered for the absence, proceed with the case notwithstanding his absence or give such directions with a view to the determination of the case as they think fit.

9. Any oral hearing before a tribunal shall be in public except that the hearing shall be in private where the debtor requests a private hearing, or where the chairman is satisfied in the particular circumstances of the case that intimate personal or financial circumstances may have to be disclosed, or that considerations of public security are involved.

10. Any case may, with the consent of the debtor or his representative, but not otherwise, be proceeded with in the absence of any one member other than the chairman.

11. Where the oral hearing is adjourned and at the hearing after the adjournment the tribunal is differently constituted otherwise than through the operation of paragraph 10, the proceedings at that hearing shall be by way of a complete rehearing of the case.

12.—(1) The decision of the majority of the 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) The chairman of a tribunal shall—

- (a) record in writing all its decisions; and
- (b) include in the record of every decision a statement of the reasons for 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 dissenting.

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

(3) As soon as may be practicable after a case has been decided by a tribunal, a copy of the record of the decision made in accordance with this paragraph shall be sent to every party to the proceedings who shall also be informed of the conditions governing appeals to a Commissioner.

13.—(1) The following persons shall be entitled to be present at an oral hearing (whether or not it is in private) but shall take no part in the proceedings—

- (a) the President of Social Security Appeal Tribunals and any regional or full-time chairman of a social security appeal tribunal appointed under section 51(1) of the 1992 Act;
- (b) any person undergoing training as a chairman or other member of a tribunal, or as a clerk to a tribunal, or as an adjudication officer;
- (c) any person acting on behalf of the President of the Social Security Appeal Tribunals, the Chief Adjudication Officer appointed under section 39 of the 1992 Act, or the Secretary of State, in the training or supervision of clerks to tribunals or adjudication officers or officers of the Secretary of State or in the monitoring of standards of adjudication by adjudication officers;
- (d) with the leave of the chairman of the tribunal and with the consent of every party to the proceedings actually present, any other person.

(2) Nothing in sub-paragraph (1) affects the rights of any person mentioned in heads (a) and (b) at any oral hearing where he is sitting as a member of the tribunal or acting as its clerk, and nothing in this paragraph prevents the presence at an oral hearing of any witness.

14. Any person entitled to be heard at an oral hearing may address the tribunal, may give evidence, may call witnesses and may put questions directly to any person called as a witness.

Withdrawal of appeals

15. Any appeal to the tribunal under these Regulations may be withdrawn by the person who made the appeal—

- (a) before the hearing begins by giving written notice of intention to withdraw to the tribunal and with the consent in writing of the adjudication officer who made the decision; or
- (b) after the hearing has begun with the leave of the chairman of the tribunal at any time before the determination is made.

Application to a chairman for leave to appeal from a tribunal to a Commissioner

16.—(1) Subject to the following provisions of this paragraph, an application to the chairman of a tribunal for leave to appeal to a Commissioner from a decision of the tribunal shall be made—

- (a) orally at the hearing after the decision is announced by the tribunal; or
- (b) as provided by regulation 15 and Schedule 1.

(2) Where an application in writing for leave to appeal is made by an adjudication officer, the clerk to the tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) The decision of the chairman on an application for leave to appeal made under sub-paragraph (1)(a) shall be recorded in the record of the proceedings of the tribunal, and an application under sub-paragraph (1)(b) shall be recorded in writing and a copy shall be sent to each party to the proceedings.

(4) A person who has made an application to the chairman of a tribunal for leave to appeal to a Commissioner may withdraw his application at any time before it is determined by giving written notice to the chairman.