

SCHEDULE 21

Article 4

TRANSITIONAL PROVISIONS IN RELATION TO THE RECOVERY OF BENEFITS

1.—(1) Regulation 2 of the 1997 Regulations shall, notwithstanding regulation 59 of the Regulations continue to have effect until 29th December 2000 in relation to any certificate of recoverable benefits in respect of which a right of appeal arose before 29th November 1999 subject to the modifications specified in sub-paragraph (2) below.

(2) The modifications referred to in sub-paragraph (1) above are as if—

(a) for the word “chairman” in each place in which it occurs there were substituted the words “legally qualified panel member”;

(b) in paragraph (2) the words “of a medical appeal tribunal” were omitted;

(c) for paragraph (7) there were substituted the following paragraph—

“(7) Notwithstanding paragraph (2), no appeal may be brought after 29th December 2000.”;

(d) in paragraph (18) the words from “, notwithstanding that a condition” to the end were omitted; and

(e) after paragraph (18) there were added the following paragraph—

“(19) In this regulation “legally qualified panel member” has the meaning it bears in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999.”.

2. An appeal duly made (but not determined) before 29th November 1999 against a certificate of recoverable benefits shall be referred to and determined by an appeal tribunal under section 12 of the Social Security (Recovery of Benefits) Act 1997(1).

3.—(1) Notwithstanding regulation 39 and Chapter III of Part V of the Regulations, this paragraph applies where a direction (“the direction”) was given under regulation 4(1) of the 1997 Regulations.

(2) An appeal tribunal shall hold an oral hearing of an appeal if—

(a) sub-paragraph (3) below applies; or

(b) the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that such a hearing is necessary to enable the tribunal to reach a decision.

(3) This sub-paragraph applies where a notification that a party to the proceedings wishes an oral hearing to be held is received by a clerk to a medical appeal tribunal before 29th November 1999 or by a clerk to an appeal tribunal (notwithstanding that it was sent to a clerk to a medical appeal tribunal) after that date within—

(a) 10 days of receipt by that party of the direction; or

(b) such other period as—

(i) the clerk to, or the chairman of, the medical appeal tribunal may have directed; or

(ii) where head (i) above does not apply, a clerk to an appeal tribunal may direct.

(4) An appeal tribunal shall determine an appeal without an oral hearing where sub-paragraph (2) does not apply.

4. An appeal tribunal shall completely rehear any appeal to a medical appeal tribunal in relation to a certificate of recoverable benefits which stands adjourned immediately before 29th November 1999.

(1) 1997 c. 27.

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5. A copy of a statement of—

- (a) the reasons for a decision of a medical appeal tribunal in relation to a certificate of recoverable benefits; and
- (b) its findings on questions of fact material thereto,

shall be supplied to each party to the proceedings before that tribunal, if requested by any such party within 21 days of the date on which notification of that decision was given or sent.

6.—(1) Subject to paragraph 1(2) above and sub-paragraph (3) below—

- (a) regulation 11; and
- (b) regulations 2(16) and (17) and 12 in so far as they relate to regulation 11,

of the 1997 Regulations shall, notwithstanding regulation 59 of the Regulations, continue to have effect, subject to the modifications specified in sub-paragraph (2) below, in relation to any application to set aside a decision of a medical appeal tribunal in relation to a certificate of recoverable benefits.

(2) The modifications referred to in sub-paragraph (1) above are as if in—

- (a) regulation 2(16), for the words “the chairman” there were substituted the words “the legally qualified panel member”;
- (b) regulation 11(1), for the words “the tribunal which gave the decision or by another medical appeal tribunal” there were substituted the words “a legally qualified panel member within the meaning of regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999”;
- (c) regulation 11(2)—
 - (i) for the words “the tribunal shall” in both places in which they occur there were substituted the words “the legally qualified panel member shall”; and
 - (ii) for the words “it is satisfied” there were substituted the words “he is satisfied”;
- (d) regulation 11(3)(b), after the words “the office of the clerk to the tribunal which made the relevant decision” there were inserted the words “or to a clerk to an appeal tribunal”; and
- (e) regulation 11(4)—
 - (i) for the words “the chairman of the tribunal” there were substituted the words “a legally qualified panel member”; and
 - (ii) for the words “a chairman” there were substituted the words “a legally qualified panel member”.

(3) Sub-paragraph (1) above shall not apply in any case where an application to set aside a decision of a medical appeal tribunal is made after 29th December 2000.

7.—(1) Subject to sub-paragraph (2) below, any decision of a medical appeal tribunal under section 12 of the Social Security (Recovery of Benefits) Act 1997 shall be treated as a decision of an appeal tribunal under that section.

(2) Where sub-paragraph (1) above applies, any application for leave to appeal which is made for the purposes of section 14(10)(a)(2) shall be—

- (a) made no later than three months after the date on which a copy of the statement of the reasons for the decision of the medical appeal tribunal was given or sent to the applicant; and
- (b) determined by a legally qualified panel member.

(2) Section 14(7) to (10) of the Social Security Act 1998 applies by virtue of section 13(3) of the Social Security (Recovery of Benefits) Act 1997 (c. 27) as amended by the Social Security Act 1998, section 86(1) and Schedule 7, paragraph 152(3).

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