

SCHEDULES

SCHEDULE 4

RECOVERY OF SUMS EQUIVALENT TO BENEFIT FROM COMPENSATION PAYMENTS IN RESPECT OF ACCIDENTS ETC: SUPPLEMENTARY PROVISION

PART III

ADMINISTRATION AND ADJUDICATION

Appeals

- 17 (1) An appeal shall lie in accordance with this paragraph 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 paragraph 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.
- (3) Notwithstanding sub-paragraph (2) above, where—
- (a) an award of provisional damages has been made under section 32A of the Supreme Court Act 1981 or section 12 of the Administration of Justice Act 1982, 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 paragraph 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—
- (a) make provision as to the manner in which, and the time within which, appeals under this paragraph are to be brought, and
 - (b) make provision for the purpose of enabling any such appeal to be treated as an application for review under paragraph 16 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 paragraph 16 above.

Status: This is the original version (as it was originally enacted).

- (5) If any of the medical questions arises for determination on an appeal under this paragraph, 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 sub-paragraph (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 paragraph, 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 sub-paragraph (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 sub-paragraph (9) below.
- (9) When the Secretary of State has received the determinations of the tribunals on the questions referred to them under sub-paragraphs (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 paragraph of questions to medical appeal tribunals or social security appeal tribunals.
- (11) An appeal shall lie to a Commissioner at the instance of the compensator, the victim or the intended recipient from a decision of a medical appeal tribunal or a social security appeal tribunal under this paragraph on the ground that the decision was erroneous in point of law; and for the purposes of appeals under this sub-paragraph—
 - (a) section 101(5), (5A) and (5B) of the principal Act shall apply in relation to an appeal from the decision of a social security appeal tribunal; and
 - (b) section 112(3) of that Act shall apply in relation to an appeal from the decision of a medical appeal tribunal.
- (12) In this paragraph “the medical questions” means—
 - (a) any question whether, as the result of a particular occurrence, a person suffered an injury, sickness or disease;
 - (b) any question as to the period for which a person suffered any injury, sickness or disease.