
STATUTORY INSTRUMENTS

1979 No. 432

The Vaccine Damage Payments Regulations 1979

PART III

REVIEW BY TRIBUNALS

Vaccine damage tribunals

7.—(1) For the purpose of determining matters under section 4 of the Act, the Secretary of State shall appoint tribunals to be known as vaccine damage tribunals which shall consist of a chairman and two medical practitioners.

(2) A person shall not act as a member of a tribunal for the purpose of the consideration of any case referred to them if he—

- (a) is or may be directly affected by that case; or
- (b) has taken part in such a case as a medical practitioner who has regularly attended the disabled person or whose opinion has been sought on any matter in connection with the said case.

(3) Where any member of a tribunal is not present at the consideration of a case, the reference to that tribunal shall be revoked and the case shall forthwith be referred to another such tribunal.

(4) Where the tribunal are unable to reach a unanimous decision on any case the decision of the majority of its members shall be the decision of the tribunal.

Procedure of vaccine damage tribunals

8.—(1) If the Secretary of State or the claimant, as the case may be, makes a request to a tribunal for a hearing in connection with any question referred to the tribunal under section 4 of the Act such request shall be granted and a tribunal may of its own motion if satisfied that a hearing is desirable, hold a hearing.

(2) Where, in accordance with the provisions of the preceding paragraph, a tribunal holds a hearing, reasonable notice of the time and place of the hearing shall be given to the Secretary of State and the claimant and except with the consent of the claimant, the tribunal shall not proceed with the hearing unless such notice has been given.

(3) Every hearing held by a tribunal shall be in public except in so far as the chairman may for special reasons otherwise direct and, subject to the provisions of this regulation, the procedure shall be such as the tribunal shall determine.

(4) Nothing in the preceding paragraph shall prevent a member of the Council on Tribunals or of the Scottish Committee of the Council from being present at a hearing in his capacity as such notwithstanding that the hearing is not in public.

(5) The Secretary of State and the claimant shall have the right to be heard at a hearing of a tribunal.

(6) If a claimant, to whom notice of hearing has been duly given should fail to appear at the hearing, the tribunal may proceed to determine the case notwithstanding his absence, or may give such directions with a view to the determination of the case as they may think proper having regard to all the circumstances including any explanation offered for the absence.

(7) Any person having the right to be heard who appears at a hearing before a tribunal may call witnesses and shall be given an opportunity of putting questions directly to any witnesses called at the hearing and of addressing the tribunal.

(8) Any person who by virtue of the provisions of these regulations has a right to be heard at a hearing may be represented at a hearing by another person whether having professional qualifications or not and, for the purposes of the proceedings at the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled under the Act and these regulations.

(9) Where a tribunal hold a hearing they shall, for the purpose of arriving at their decision or discussing any question of procedure and notwithstanding anything contained in these regulations, order all persons not being members of the tribunal other than the person acting as a clerk of the tribunal to withdraw from the sitting of the tribunal provided that, if all the members of the tribunal agree and if no person having the right to be heard objects, they may permit a member or members of the Council on Tribunals, or of the Scottish Committee of the Council, present only in that capacity, to remain present at any such sitting even though by virtue of this paragraph other persons are ordered to withdraw.

Notice of decision of tribunal

9.—(1) A tribunal shall in each case record their decision in writing in such form as may from time to time be approved by the Secretary of State and shall include in such record which shall be signed by all the members of the tribunal a statement of the reasons for their decision.

(2) As soon as may be practicable, the claimant shall be sent written notice of the decision of a tribunal and such notice shall be in such form as may from time to time be approved by the Secretary of State and shall contain a summary of the record of that decision made in accordance with this regulation.

Non-disclosure of evidence

10. Where, in connection with the consideration and determination of any matter there is before a tribunal medical advice or medical evidence relating to the claimant or the disabled person which has not been disclosed to the claimant and in the opinion of the chairman of the tribunal it would be undesirable in the interests of the claimant or the disabled person to disclose that advice or evidence to the claimant such advice or evidence shall not be required to be disclosed, but the tribunal shall not by reason of such non-disclosure be precluded from taking it into account for the purpose of the said determination.