
STATUTORY INSTRUMENTS

1987 No. 214

The Social Security Commissioners Procedure Regulations 1987

PART V

MISCELLANEOUS AND SUPPLEMENTARY

General powers of a Commissioner

27.—(1) Subject to the provisions of these Regulations, and without prejudice to Regulation 12, a Commissioner may adopt such procedure in relation to any proceedings before him as he sees fit.

(2) A Commissioner may, if he thinks fit:—

- (a) subject to Regulations 3(5) and 7(2) above, extend the time specified by or under these Regulations for doing any act, notwithstanding that the time specified may have expired;
- (b) abridge the time so specified;
- (c) expedite the proceedings in such manner as he thinks fit.

(3) A Commissioner may, if he thinks fit, either on the application of a party or of his own motion, strike out for want of prosecution any application for leave to appeal, appeal or reference.

Provided that before making any such order, the Commissioner shall send notice to the party against whom it is proposed that it shall be made giving him an opportunity to show cause why it should not be made.

(4) A Commissioner may, on application by the party concerned, give leave to reinstate any application, appeal or reference which has been struck out in accordance with paragraph (3) above and, on giving leave, he may make such directions as to the future conduct of the proceedings as he thinks fit.

(5) Nothing in these Regulations shall be construed as derogating from any inherent or other power which is exercisable apart from these Regulations.

Miscellaneous provisions relating to references of forfeiture rule questions

28.—(1) Section 116 of the Act (tribunal of Commissioners to deal with cases involving questions of law of special difficulty) shall apply in relation to forfeiture rule questions as it applies in relation to the Act.

(2) Section 104(1) of the Act (review of decisions) shall apply to a decision on a forfeiture rule question by a Commissioner with the modification that the power of review shall be exercisable only by a Commissioner, to whom any application for review shall be made.

(3) Subject to paragraph (2) above and section 14 of the Social Security Act 1980(1), the decision of a Commissioner on any reference of a forfeiture rule question shall be final, but any finding of fact or other determination embodied in or necessary to the decision or on which it is based shall not be conclusive for the purpose of any further decision.

Delegation of functions to nominated officers

29.—(1) All or any of the following functions of a Commissioner may be exercised by a nominated officer, that it so say:

- (a) making any direction under Regulations 12(1), (3) and (4);
- (b) making orders for oral hearings under Regulations 15(2) and (3);
- (c) summoning witnesses under Regulation 18(1) and setting aside a summons made by a nominated officer under Regulation 18(2);
- (d) ordering the postponement of oral hearings under Regulation 19(1);
- (e) giving leave for the withdrawal of any appeal or reference under Regulation 20(2);
- (f) making any order for the extension or abridgement of time, or for expediting the proceedings, under Regulations 27(2)(a), (b) and (c);
- (g) making an order under paragraph (2) of this Regulation.

(2) Any party may, within 10 days of being given the decision of a nominated officer, in writing request a Commissioner to consider, and confirm or replace with his own, that decision, but such a request shall not stop the proceedings unless so ordered by the Commissioner.

Manner of and time for service of notices, etc

30.—(1) Any notice or other document required or authorised to be given or sent to any party under the provisions of these Regulations shall be deemed to have been given or sent if it was sent by post properly addressed and pre-paid to that party at his ordinary or last notified address.

(2) Any notice or other document given, sent or served by post shall be deemed to have been given on the day on which it was posted.

(3) Any notice or document required to be given, sent or submitted to or served on a Commissioner:—

- (a) shall be given, sent or submitted to an office of the Social Security Commissioners;
- (b) shall be deemed to have been given, sent or submitted if it was sent by post properly addressed and pre-paid to an office of the Social Security Commissioners.

Application to a Commissioner for leave to appeal to the Courts

31.—(1) An application to a Commissioner under section 14(3) of the Social Security Act 1980 for leave to appeal against a decision of a Commissioner shall be made in writing and shall be made within 3 months from the date on which the applicant was given written notice of the decision.

(2) In a case where the Chief Commissioner considers that it is impracticable, or would be likely to cause undue delay, for such an application to be determined by the Commissioner who decided the case, that application shall be determined—

- (a) where the decision was a decision of an individual Commissioner, by the Chief Commissioner or a Commissioner selected by the Chief Commissioner, and
- (b) where the decision was a decision of a Tribunal of Commissioners, by a differently constituted Tribunal of Commissioners selected by the Chief Commissioner.

(3) If the office of Chief Commissioner is vacant, or if the Chief Commissioner is unable to act, paragraph (2) above shall have effect as if the expression “the Chief Commissioner” referred to such other of the Commissioners as may have been nominated to act for the purpose either by the Chief Commissioner or, if he has not made such a nomination, by the Lord Chancellor.

(4) Regulation 28 of the Social Security (Claims and Payments) Regulations 1979⁽²⁾ (persons unable to act) shall apply to the right of appeal conferred by section 14 of the Social Security Act 1980⁽³⁾ (appeal from Commissioners etc. on point of law) as it applies to rights arising under the Act.

(5) In relation to a decision of a Commissioner which was given in consequence of a reference under section 112(4) of the Act (references of questions of law by medical appeal tribunals), section 14(3) of the Social Security Act 1980 shall have effect with the modification that an application for leave to appeal against the Commissioner's decision may be made only by—

- (a) the claimant in relation to whose claim the question of law arose before the medical appeal tribunal; or
- (b) a person appointed to apply on behalf of the claimant under paragraph (4) above; or
- (c) a trade union of which the claimant is a member at the material time; or
- (d) any other association which exists to promote the interests and welfare of its members and of which the claimant is a member at the material time; or
- (e) an adjudication officer; or
- (f) the Secretary of State.

(6) In paragraph (5)(c) and (d), “the material time” means, where the question of law arose in relation to—

- (a) an accident, the time of that accident; or
- (b) a prescribed disease, the date of onset (within the meaning of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985⁽⁴⁾) of that disease; or
- (c) a claim for mobility allowance, the date on which the reference was made.

(7) In relation to such a decision of a Commissioner as is referred to in paragraph (5), section 14(5) of the Social Security Act 1980 shall have effect with the modification that “the relevant place” means the premises where the medical appeal tribunal which has referred the question of law to the Commissioner usually exercises its functions.

(8) A person in respect of whom a forfeiture rule question arises and, as appropriate, an adjudication officer or the Secretary of State shall be authorised to apply for leave to appeal from a Commissioner's decision of a forfeiture rule question.

(9) Regulations 20(1) and 20(3) shall apply to applications to a Commissioner for leave to appeal from a Commissioner as they do to the proceedings therein set out.

Revocation

32. The following Regulations are hereby revoked to the extent that they relate to proceedings before the Commissioners:

- (i) the Statutory Sick Pay (Adjudication) Regulations 1982⁽⁵⁾;
- (ii) the Social Security (Adjudication) Regulations 1984⁽⁶⁾;
- (iii) the Social Security (Adjudication) Amendment Regulations 1984⁽⁷⁾;
- (iv) the Social Security (Adjudication) Amendment (No. 2) Regulations 1984⁽⁸⁾.

(2) S.I.1979/628.

(3) 1980 c. 30.

(4) S.I. 1985/967.

(5) S.I. 1982/1400.

(6) S.I. 1984/451.

(7) S.I. 1984/613.

(8) S.I. 1984/1991.

Transitional provisions

33.—(1) Subject to paragraphs (2) and (3) below, these Regulations shall apply to proceedings before the Commissioners commenced before the date on which they come into operation as well as to proceedings commenced on or after that date.

(2) Where he considers that the application of these Regulations to proceedings before a Commissioner would be inappropriate, a Commissioner may give such directions for the future conduct of the proceedings as he thinks fit and, in particular, he may order the proceedings to continue as if the Social Security (Adjudication) Regulations 1984⁽⁹⁾ were still applicable to the proceedings to such extent as he may specify.

(3) Notwithstanding paragraphs (1) and (2) above, where before these Regulations came into operation the time limit for making an application, appeal or reference to a Commissioner had begun to run, then nothing in these Regulations shall operate so as to reduce that time limit.

(9) S.I. 1984/451, as amended by the Social Security (Adjudication) Amendment Regulations 1984 (S.I. 1984/613) and the Social Security (Adjudication) Amendment (No. 2) Regulations 1984 (S.I. 1984/1991).