

1990 No. 107

COMMUNITY CHARGES, ENGLAND AND WALES

Community Charges (Deductions from Income Support)
Regulations 1990

<i>Made</i> - - - -	<i>25th January 1990</i>
<i>Laid before Parliament</i>	<i>1st February 1990</i>
<i>Coming into force</i>	<i>1st April 1990</i>

The Secretary of State in exercise of powers conferred by sections 22(3) and 146(6) of, and paragraph 6 of Schedule 4 to, the Local Government Finance Act 1988(a) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(b), hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charges (Deductions from Income Support) Regulations 1990 and shall come into force on 1st April 1990.

(2) In these Regulations, unless the context otherwise requires—

“the 1975 Act” means the Social Security Act 1975(c);

“the 1986 Act” means the Social Security Act 1986(d);

“adjudication officer” means an officer appointed in accordance with section 97(1) of the 1975 Act;

“appropriate social security office” means an office of the Department of Social Security which is normally open to the public for the receipt of claims for income support and includes an office of the Department of Employment which is normally open to the public for the receipt of claims for unemployment benefit;

“Commissioner” means the Chief or any other Social Security Commissioner appointed in accordance with section 97(3) of the 1975 Act or section 13(5) of the Social Security Act 1980(e), and includes a Tribunal of 3 Commissioners constituted in accordance with section 116 of the 1975 Act;

“couple” means a married or unmarried couple;

“debtor” means a person against whom a liability order has been obtained;

“5 per cent. of the personal allowance for a single claimant aged not less than 25” and “5 per cent. of the personal allowance for a couple where both members are aged not less than 18” means, in each case, where the percentage is not a multiple of 5 pence, the sum obtained by rounding that 5 per cent. to the next higher such multiple;

“income support” means income support within the meaning of the 1986 Act;

“liability order” means an order under regulation 29 of the Community Charges (Administration and Enforcement) Regulations 1989(f);

“married couple” has the meaning ascribed to it in section 20(11) of the 1986 Act;

(a) 1988 c.41. Section 146(6) is cited for the meaning it ascribes to “Prescribed”.

(b) 1971 c.62.

(c) 1975 c.14.

(d) 1986 c.50.

(e) 1980 c.30.

(f) S.I. 1989/438.

“payments to third parties” means direct payments to third parties in accordance with Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(a);

“polygamous marriage” means a marriage to which section 22B of the Social Security Act 1986 refers(b);

“single debtor” means a debtor who is not a member of a couple;

“tribunal” means a social security appeal tribunal constituted in accordance with section 97(2) to (2E) of the 1975 Act; and

“unmarried couple” has the meaning ascribed to it in section 20(11) of the 1986 Act.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation and Schedule bearing that number in the Regulations and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph of that regulation or Schedule having that number.

Deductions from income support

2.—(1) Where a debtor is entitled to income support, without prejudice to its right to pursue any other means of recovery, an authority may apply to the Secretary of State by sending an application in respect of each debtor or, where a liability order is made against a couple in respect of both of them, to an appropriate social security office asking him to deduct sums from any amount payable to a debtor by way of that income support.

(2) An application from an authority shall be in writing and shall contain the following particulars—

- (a) the name and address of the debtor or where the liability order is made against a couple, the names and address of both of them;
- (b) the name and place of the court at which the liability order was obtained;
- (c) the date when the liability order was obtained;
- (d) the total amount of the arrears specified in the liability order;
- (e) the total amount which the authority wishes to have deducted from income support.

(3) Where it appears to the Secretary of State that an application from an authority gives insufficient particulars to enable the debtor to be identified he may require the authority to furnish such further particulars as may reasonably be required.

(4) Subject to regulation 4(1), where the Secretary of State receives an application from an authority, he shall refer it to an adjudication officer who shall determine, so far as is practicable within 14 days of its submission to him, the following questions—

- (a) whether there is sufficient entitlement to income support so as to enable the Secretary of State to make any deduction—
 - (i) where a liability order is made against a single debtor, or a debtor who is a member of a couple, or a member of a polygamous marriage, at a rate of 5 per cent. of the personal allowance set out in Schedule 2 to the Income Support (General) Regulations 1987(c), paragraph 1(1)(c) (single claimant aged not less than 25); or
 - (ii) where a liability order is made against a couple and income support is payable in respect of both of them at a rate of 5 per cent. of the personal allowance set out in Schedule 2 to the Income Support (General) Regulations 1987, paragraph 1(3)(c) (couple where both members are aged not less than 18), and, if the amount payable by way of income support to the debtor were to be 10 pence or more after any such deduction, the adjudication officer shall determine that there is sufficient entitlement;
- (b) the priority of any sum to be deducted as against any payments to third parties where there is insufficient entitlement to income support to meet both the deduction in respect of arrears of community charges and those payments to third parties, and the following priorities shall apply—

(a) S.I. 1987/1968, amended by S.I. 1988/522, 1725, 1989/136 and 1689.

(b) Section 22B was inserted into the Social Security Act 1986 by the Local Government Finance Act 1988 (c.41), Schedule 10, paragraph 5 and was amended by the Social Security Act 1989 (c.24), Schedule 8, paragraph 9(3).

(c) S.I. 1987/1967, to which the relevant amendment is S.I. 1988/1228.

- (i) any liability mentioned in paragraph 3 of Schedule 9 (housing costs) to the Social Security (Claims and Payments) Regulations 1987;
- (ii) any liability mentioned in paragraph 5 of Schedule 9 (service charges for fuel, and rent not falling within paragraph 2(1)(a)) to those Regulations;
- (iii) any liability mentioned in paragraph 6 of Schedule 9 (fuel costs) to those Regulations;
- (iv) any liability mentioned in paragraph 7 of Schedule 9 (water charges) to those Regulations;
- (v) any liability for arrears in respect of community charges.

(5) Subject to any right of appeal or review under these Regulations, the decision of the adjudication officer shall be final.

Notification of decision

3. The Secretary of State shall notify the debtor in writing of the adjudication officer's decision as soon as is practicable after he receives that decision and at the same time he shall notify the debtor of his right of appeal.

Circumstances, time of making and termination of deductions

4.—(1) The Secretary of State shall make deductions from income support only—

- (a) where the debtor is entitled to income support throughout any benefit week; and
- (b) in respect of one application (the original application) at a time, and where, at the time he is making deductions under the original application, the Secretary of State receives one or more applications under regulation 2(1), he shall not refer them to the adjudication officer until he has ceased making deductions under the original application when he shall forthwith refer the applications to the adjudication officer in the chronological order in which they were made.

(2) The Secretary of State shall make deductions from income support at a time which corresponds to the payment of income support to the debtor^(a) and he shall cease making deductions when—

- (a) a payment to a third party has priority;
- (b) there is insufficient entitlement to income support to enable him to make the deduction;
- (c) entitlement to income support ceases;
- (d) an authority withdraws its application for deductions to be made; or
- (e) the debt is discharged.

(3) Payments shall be made to the authority at such intervals as the Secretary of State may decide.

Appeal

5.—(1) Where the adjudication officer has decided a question under regulation 2(4), the debtor may appeal to a tribunal.

(2) Subject to paragraph (5), an appeal lies to a Commissioner from any decision of a tribunal on the grounds that the decision of that tribunal was erroneous in point of law and the persons who may appeal are the debtor and the adjudication officer.

(3) If it appears to the Chief Commissioner or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for that purpose, that an appeal falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the appeal be dealt with, not by that Commissioner alone but by a Tribunal consisting of any 3 of the Commissioners and if the decision is not unanimous, the decision of the majority shall be the decision of the Tribunal.

(a) See Schedule 7 to S.I. 1987/1968.

(4) Subject to paragraph (5), an appeal on a question of law lies to the Court of Appeal from any decision of a Commissioner on a question of law and the persons who may appeal are—

- (a) the debtor;
- (b) the adjudication officer; and
- (c) the Secretary of State.

(5) No appeal lies to the Commissioner or to the Court of Appeal—

- (a) in the case of an appeal to the Commissioner, without the leave of the chairman of a tribunal, which decided the appeal or, where he refuses leave, the Commissioner;
- (b) in the case of the Court of Appeal, with the leave of the Commissioner who decided the appeal or, if he refuses leave, the Court of Appeal.

Review

6.—(1) Any decision under these Regulations of an adjudication officer, a tribunal or a Commissioner may be reviewed at any time by an adjudication officer if—

- (a) the officer is satisfied that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been a relevant change of circumstances since the decision was given.

(2) Any decision of an adjudication officer may be reviewed by an adjudication officer on the grounds that the decision was erroneous in point of law.

(3) A question may be raised with a view to review under this regulation by means of an application in writing to an adjudication officer, stating the grounds of the application.

(4) On receipt of any such application, the adjudication officer shall take it into consideration and, so far as is practicable, dispose of it within 14 days of its receipt.

(5) A decision given by way of revision or a refusal to review under this regulation shall be subject to appeal in the same manner as an original decision and regulation 5(1) and Schedule 2 shall apply with the necessary modifications in relation to a decision given on review as they apply to the original decision on a question.

Correction of accidental errors

7.—(1) Subject to regulation 9, accidental errors in any decision or record of a decision made under regulations 2(4), 5 and 6 and Schedule 2 may at any time be corrected by the person or tribunal by whom the decision was made or a person or tribunal of like status.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision or, of that record, and written notice of it shall be given as soon as practicable to every party to the proceedings.

Setting aside decisions on certain grounds

8.—(1) Subject to regulation 9, on application made by a party to the proceedings, a decision including an application for leave to appeal to a Commissioner or the Court of Appeal made under regulations 2(4), 5, 6 and Schedule 2 by an adjudication officer, tribunal or a Commissioner may be set aside by the person or tribunal by whom the decision was made, or by a person or tribunal of like status, in a case where it appears just to set that decision aside on the grounds that—

- (a) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by a party or their representative or was not received at the appropriate time by the person or tribunal who gave the decision;
- (b) in the case of an appeal to a tribunal or an oral hearing before a Commissioner a party to the proceedings in which the decision was given or the party's representative was not present at the hearing relating to the proceedings; or
- (c) the interests of justice so require.

(2) An application under this regulation shall be made in accordance with regulation 10 and Schedule 1.

(3) Where an application to set aside is made under paragraph (1) every party to the proceedings shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(4) Notice in writing of a determination on an application to set aside a decision shall be given to every party to the proceedings as soon as may be practicable and the notice shall contain a statement giving the reasons for the determination.

(5) For the purpose of determining under these Regulations an application to set aside, there shall be disregarded any provision in any enactment or instrument to the effect that any notice or other document required or authorised to be given or sent to any person shall be deemed to have been given or sent if it was sent to that person's last known notified address.

Provisions common to regulations 7 and 8

9.—(1) In calculating any time specified in Schedule 1 there shall be disregarded any day falling before the day on which notice was given of a correction of a decision or the record thereof pursuant to regulation 7 or on which notice is given that a determination of a decision shall not be set aside following an application under regulation 8, as the case may be.

(2) There shall be no appeal against a correction made under regulation 7 or a refusal to make such a correction or against a determination under regulation 8.

(3) Nothing in regulation 7 or 8 shall be construed as derogating from any inherent or other power to correct errors or set aside decisions which is exercisable apart from these Regulations.

Manner of making applications or appeals and time limits

10.—(1) Any application or appeal set out in Column (1) of Schedule 1 shall be made or given by sending or delivering it to the appropriate office within the specified time.

(2) In this regulation—

(a) “appropriate office” means the office specified in Column (2) of Schedule 1 opposite the description of the relevant application or appeal listed in Column (1); and

(b) “specified time” means the time specified in Column (3) of that Schedule opposite the description of the relevant application or appeal so listed.

(3) The time specified by this regulation and Schedule 1 for the making of any application or appeal (except an application to the chairman of a tribunal for leave to appeal to a Commissioner) may be extended for special reasons, even though the time so specified may already have expired, and any application for an extension of time under this paragraph shall be made to and determined by the person to whom the application or appeal is sought to be made or, in the case of a tribunal, its chairman.

(4) An application under paragraph (3) for an extension of time (except where it is made to a Commissioner) which has been refused may not be renewed.

(5) Any application or appeal set out in Column (1) of Schedule 1 shall be in writing and shall contain:—

(a) the name and address of the appellant or applicant;

(b) the particulars of the grounds on which the appeal or application is to be made or given;

(c) his address for service of documents if it is different from that in (a); and

(d) in the case of an appeal to the Commissioner, subject to paragraph 21(2) of Schedule 2, the notice of appeal shall have annexed to it a copy of the determination granting leave to appeal and a copy of the decision against which leave to appeal has been granted.

(6) Where it appears to an adjudication officer, or chairman of a tribunal, or Commissioner that an application or appeal which is made to him, or the tribunal, gives insufficient particulars to enable the question at issue to be determined, he may require, and in the case of a Commissioner, direct that the person making the application or appeal shall furnish such further particulars as may reasonably be required.

(7) The conduct and procedure in relation to any application or appeal shall be in accordance with Schedule 2.

Manner and time for the service of notices etc.

11.—(1) Any notice or other document required or authorised to be given or sent to any person under 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 required or authorised to be given to an appropriate social security office or office of the clerk to a tribunal shall be treated as having been so given or sent on the day that it is received in the appropriate social security office or office of the clerk to the tribunal.

(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.

Signed by authority of the Secretary of State for Social Security.

Gillian Shephard
Parliamentary Under-Secretary of State
Department of Social Security

25th January 1990

SCHEDULE 1

Regulation 10(1)

TIME LIMITS FOR MAKING APPLICATIONS OR APPEALS

(1) <i>Application or Appeal</i>	(2) <i>Appropriate Office</i>	(3) <i>Specified time</i>
1. Appeal to a tribunal from an adjudication officer's decision (regulation 5).	An appropriate social security office.	3 months beginning with the date when notice in writing of the decision was given to the appellant.
2. Application to the Chairman for leave to appeal to a Commissioner from the decision of a tribunal (paragraph 16, Schedule 2).	The office of the Clerk to the tribunal.	3 months beginning with the date when a copy of the record of the decision was given to the applicant.
3. Application to— (a) an adjudication officer; (b) a tribunal; or (c) a Commissioner, to set aside decision (regulation 8).	(a) An appropriate social security office; (b) The office of the clerk to the tribunal; (c) The office of the Social Security Commissioners.	(a) and (b) 3 months beginning with the date when notice in writing of the decision was given to the applicant. (c) 30 days from the date on which notice in writing of the decision was given to the applicant by the office of the Social Security Commissioners.
4. Application for leave to appeal to the Commissioner where the chairman has refused leave (paragraph 17, Schedule 2).	An office of the Social Security Commissioners.	42 days beginning with the date when notice in writing of the decision by the chairman to refuse leave was given to the applicant.
5. Appeal to the Commissioner (regulation 5).	An office of the Social Security Commissioners.	42 days beginning with the date when notice in writing of the decision was given to the applicant.
6. Leave to appeal to the Court of Appeal (regulation 5(4) and Schedule 2).	The Office of the Social Security Commissioners.	3 months beginning with the date when notice in writing of the decision was given to the applicant.

CONDUCT AND PROCEDURE IN RELATION TO APPEALS AND APPLICATIONS

Common provisions in connection with appeals and applications

1.—(1) Subject to the provisions of these Regulations—

- (a) the procedure in connection with the consideration of any appeal, or any application in relation to questions to which these Regulations relate, shall be such as the adjudication officer, chairman of the tribunal or the Commissioner may determine;
- (b) any person who by virtue of these Regulations has the right to be heard at a hearing may be accompanied and represented by another person whether having professional qualifications or not, and for the purposes of any proceedings at any hearing any such representative shall have all the rights and powers to which the person whom he represents is entitled under these Regulations.

(2) Nothing in these Regulations shall prevent a member of the Council on Tribunals in his capacity as such from being present at any oral hearing before a tribunal or a Commissioner, notwithstanding that the hearing is not in public.

2. Reasonable notice (being not less than 10 days beginning on the day on which notice is given and ending on the day before the hearing of the appeal) of the time and place of any oral hearing before the tribunal or the Commissioner shall be given to every party to the proceedings, and if such notice has not been given to a person to whom it should have been given under the provisions of this paragraph the hearing may only proceed with the consent of that person.

3. At any oral hearing any party shall be entitled to be present and be heard.

Postponements and adjournments

4.—(1) Where a person to whom notice of an oral hearing has been given wishes to apply for that hearing to be postponed he shall do so in writing to the chairman of the tribunal or the Commissioner stating his reasons for the application and the chairman or the Commissioner may grant or refuse the application as he sees fit.

(2) An oral hearing may be adjourned at any time on the application of any party to the proceedings or on the motion of the tribunal or the Commissioner.

Striking out of proceedings for want of prosecution

5.—(1) The chairman of a tribunal or the Commissioner may, subject to sub-paragraph (2), on the application of any party to the proceedings or of his own motion, strike out any appeal or application for want of prosecution.

(2) Before making an order under sub-paragraph (1) the chairman of a tribunal or the Commissioner, as the case may be, shall send notice to the person against whom it is proposed that any order should be made giving him a reasonable opportunity to show cause why such an order should not be made.

(3) The chairman of a tribunal or the Commissioner, as the case may be, may, on application by the party concerned, give leave to reinstate any application or appeal which has been struck out in accordance with sub-paragraph (1).

APPLICATION AND APPEALS TO THE TRIBUNAL

Procedure in connection with determinations

6. For the purpose 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, the President of Social Security Appeal Tribunals and any full time chairman; 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 adjudicating 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 where the debtor requests a private hearing, or (in any case) the chairman is satisfied that intimate personal or financial circumstances may have to be disclosed, or that considerations of public security are involved, in which case the hearing shall be in private.

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 an 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.

(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;
- (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 97(1B)(a) of the 1975 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) any regional or full-time chairman of appeal tribunals appointed under paragraph 1A of Schedule 10 to the 1975 Act(b); and
- (e) 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 other 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.

(a) Sub-sections 97(1) to (2E) of the Social Security Act 1975 were substituted for subsection 97(1) by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 8, paragraph 2.

(b) Paragraph 1A of Schedule 10 to the Social Security Act 1975 (c.14) was inserted by paragraph 8 of Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41).

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 10 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) Where in any case it is impracticable, or it would be likely to cause undue delay for an application for leave to appeal against a decision of a tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 97(2D) of the 1975 Act to act as a chairman of tribunals.

(5) 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 of intention to the chairman.

APPLICATIONS AND APPEAL TO A COMMISSIONER

Applications to a Commissioner for leave to appeal from a tribunal

17. Subject to paragraph 18, an application may be made to a Commissioner for leave to appeal against a decision of a tribunal only where the applicant has been refused leave to appeal by the chairman of a tribunal.

18. Where there has been a failure to apply to the chairman for leave to appeal during the time specified in Schedule 1, an application for leave to appeal may be made to a Commissioner who may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.

Notice of application

19.—(1) Where the applicant has been refused leave to appeal by the chairman of a tribunal otherwise than by a decision recorded in the record of proceedings of the tribunal, the notice shall also have annexed to it a copy of the decision refusing leave and shall state the date on which the applicant was given notice in writing of the refusal of leave.

(2) Where the applicant has failed—

- (a) to apply within the specified time to the chairman of a tribunal for leave to appeal; or
- (b) to comply with paragraph 4 of Schedule 1;

the notice of application for leave to appeal shall, in addition to complying with regulation 10(5), state the grounds relied upon for seeking acceptance of the application notwithstanding that the relevant period has expired.

20. Where an application for leave to appeal is made by an adjudication officer the applicant shall, as soon as may be practicable, send the respondent a copy of the notice of application for leave to appeal.

Determination of applications for leave

21.—(1) The office of the Social Security Commissioners shall notify the applicant and the respondent in writing of the determination by a Commissioner of the application.

(2) Subject to a direction by a Commissioner to the contrary, where a Commissioner grants leave to appeal on an application notice of appeal shall be deemed to have been duly given on the date when notice of the determination is given to the applicant and the notice of application shall be deemed to be a notice of appeal duly served under paragraph 5 of Schedule 1.

(3) If on consideration of an application for leave to appeal to him from the decision of a tribunal the Commissioner grants leave he may, with the consent of the applicant and each respondent treat the application as an appeal and determine any question arising on the application as though it were a question arising on an appeal.

Acknowledgement of a notice of appeal and notification to each respondent

22. The office of the Social Security Commissioners shall send—

- (a) to the appellant an acknowledgement of the receipt of a notice of appeal; and
- (b) to each respondent a copy of the notice of appeal.

Respondent's written observations

23.—(1) A respondent who wishes to submit to a Commissioner written observations on the appeal shall do so within 30 days of being given notice in writing of it.

(2) Any such written observations shall include—

- (a) the respondent's name and address for service; and
- (b) in the case of observations on an appeal, a statement as to whether or not he opposes the appeal,
- (c) in any case, the grounds upon which the respondent proposes to rely,

and a copy of any written observations from a respondent shall be sent by the office of the Social Security Commissioners to the other parties.

Written observations in reply

24. Any party may, within 30 days of being sent written observations submitted in accordance with paragraph 23 submit to a Commissioner written observations in reply and a copy of any such observations shall be sent by the office of the Social Security Commissioners to the other parties.

Directions

25.—(1) At any stage of the proceedings, a Commissioner may, either of his own motion or on application setting out the direction which the applicant is seeking, give such directions as he considers necessary or desirable for the efficient and effective despatch of the proceedings.

(2) Without prejudice to paragraphs 23 and 24 or to sub-paragraph (1) above, a Commissioner may direct any party to any proceedings before him to make such written observations as may seem to him necessary to enable the question at issue to be determined.

(3) An application under sub-paragraph (1) shall be made to a Commissioner in writing and shall set out the direction which the applicant is seeking to have made and the grounds for the application.

(4) Unless a Commissioner shall otherwise determine, an application made pursuant to sub-paragraph (1) above shall be copied by the office of the Social Security Commissioners to the other parties.

Requests for oral hearing

26.—(1) Subject to sub-paragraphs (2) and (3) a Commissioner may determine an application for leave to appeal or an appeal without an oral hearing.

(2) Where, in any proceedings before a Commissioner, a request is made by any party for an oral hearing the Commissioner shall grant the request unless, after considering all the circumstances of the case and the reasons put forward in the request for the hearing, he is satisfied that the application or appeal can properly be determined without a hearing, in which event he may proceed to determine the case without a hearing and he shall in writing either before giving his determination or decision, or in it, inform the person making the request that it has been refused.

(3) A Commissioner may of his own motion at any stage, if he is satisfied that an oral hearing is desirable, direct such a hearing.

Oral hearings

27.—(1) If any party to the proceedings to whom notice of an oral hearing has been given under paragraph 2 should fail to appear at the hearing, the Commissioner may, having regard to all the circumstances, including any explanation offered for the absence, proceed with the case notwithstanding his absence, or the Commissioner may give such directions with a view to the determination of the case as he thinks fit.

(2) Any oral hearing shall be in public except where the Commissioner is satisfied that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved, in which case the hearing or any part of it shall be in private.

(3) Where a Commissioner holds an oral hearing the following persons shall be entitled to be present and be heard—

- (a) the person making the application or appeal;
- (b) the debtor;
- (c) an adjudication officer;
- (d) a representative of a trade union, employers' association or other association which exists to promote the interest and welfare of its members; or
- (e) any other person with the leave of the Commissioner.

Summoning of witnesses

28.—(1) A Commissioner may summon any person to attend as a witness, at such time and place as may be specified in the summons, at an oral hearing of an application to a Commissioner for leave to appeal, or of an appeal to answer any questions or produce any documents in his custody or under his control which relate to any matter in question in the proceedings:

Provided that no person shall be required to attend in obedience to such a summons unless he has been given at least 7 days' notice of the hearing or, if less than 7 days, has informed the Commissioner that he accepts such notice as he has been given.

(2) A Commissioner may upon the application of a person summoned under this paragraph set the summons aside.

Postponement and adjournment

29. A Commissioner may of his own motion postpone an oral hearing, or, adjourn it at any time once it has begun.

Withdrawal of applications for leave to appeal and appeals

30. At any time before it is determined—

(a) an application for leave to appeal may be withdrawn by the applicant by giving written notice to a Commissioner of his intention to do so,

(b) an appeal may be withdrawn by the appellant with leave of the Commissioner,

and a Commissioner may, on application by the party concerned give leave to reinstate any application or appeal which has been withdrawn and on giving leave he may give such directions as he thinks fit.

Irregularities

31. Any irregularity resulting from failure to comply with the requirements of these Regulations before a Commissioner has determined the application or appeal shall not by itself invalidate any proceedings, and the Commissioner, before reaching his decision, may waive the irregularity or take such steps as he thinks fit to remedy the irregularity whether by amendment of any document, or the giving of any notice or directions or otherwise.

Determinations and decisions of a Commissioner

32.—(1) The determination of a Commissioner on an application for leave to appeal shall be in writing and signed by him.

(2) The decision of a Commissioner on an appeal shall be in writing and signed by him and, except in respect of a decision made with the consent of the parties, he shall record reasons.

(3) A copy of the determination or decision and any reasons shall be sent to the parties by the office of the Social Security Commissioners.

(4) Without prejudice to sub-paragraphs (2) and (3) above, a Commissioner may announce his determination or decision at the conclusion of an oral hearing.

General powers of a Commissioner

33. A Commissioner may, if he thinks fit—

(a) except where regulation 10(3) applies, extend the time specified in these Regulations for doing any act, notwithstanding that the time specified may have expired;

(b) abridge the time specified in these Regulations for doing any act;

(c) expedite the proceedings in such manner as he thinks fit.

Delegation of functions to nominated officers

34.—(1) All or any of the following functions of a Commissioner may be exercised by a nominated officer authorised by the Lord Chancellor in accordance with section 114(2C)(a) of the 1975 Act—

- (a) making a direction under regulation 10(6) and paragraph 25;
- (b) making orders for oral hearings under paragraphs 26(2) and (3);
- (c) summoning witnesses under paragraph 28 and setting aside any witness summons made by a nominated officer;
- (d) ordering a postponement of oral hearings under paragraph 4(1);
- (e) giving leave for withdrawal of any appeal under paragraph 30;
- (f) making any order for extension of time under regulation 10 or extension or abridgement of time, or expediting proceedings under paragraph 33;
- (g) making an order under sub-paragraph (2).

(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.

APPLICATION TO A COMMISSIONER FOR LEAVE TO APPEAL TO THE COURT OF APPEAL

35.—(1) In a case where the Chief Commissioner considers that it is impracticable, or would be likely to cause undue delay, for an application for leave to appeal to the Court of Appeal 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.

(2) If the office of Chief Commissioner is vacant, or if the Chief Commissioner is unable to act, sub-paragraph (1) 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.

36.—(1) For the purposes of making an application for leave to appeal where—

- (a) a debtor is unable for the time being to act; and
- (b) no receiver has been appointed by the Court of Protection with power to claim or receive benefit on his behalf,

the Secretary of State may, upon written application made to him by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that person may be entitled.

(2) Where the Secretary of State has made an appointment under sub-paragraph (1)—

- (a) he may at any time revoke it;
- (b) the person appointed may resign his office after having given one month’s notice in writing to the Secretary of State of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified that a receiver has been appointed by the Court of Protection.

37. Paragraph 30 shall apply to an application for leave to appeal as it applies to the proceedings therein set out.

(a) Section 114(2C) of the Social Security Act 1975 was inserted by paragraph 16(a) of Schedule 5 to the Social Security Act 1986 (c.50).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for deductions to be made from income support towards discharging a debt in respect of community charges where an authority (that is, the charging authority) has obtained a liability order against a person (the debtor).

The Regulations further provide that where the Secretary of State receives a notice from an authority asking him to deduct amounts payable by way of income support, he shall refer the matter to an adjudication officer for the determination of the questions as to whether there is enough income support to make such deduction and in the case where other deductions are being made from income support, the priority of the community charges debts in relation to those (regulation 2). Payment to an authority is to be at such intervals as the Secretary of State may decide.

Provision is also made for appeals by the debtor from the decision of the adjudication officer to a Social Security Appeal Tribunal and for further appeal from that by the debtor and the adjudication officer to the Social Security Commissioners and from there by the debtor, adjudication officer and Secretary of State to the Court of Appeal.

Incidental provision is made for setting aside decisions, correction of decisions, withdrawal of applications, time limits for making appeals and applications and service of notices and to enable nominated officers to act instead of a Commissioner in certain procedural matters.