

---

STATUTORY INSTRUMENTS

---

**1992 No. 2182**

**Fines (Deductions from Income Support) Regulations 1992**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Fines (Deductions from Income Support) Regulations 1992 and shall come into force on 1st October 1992.

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

“the 1971 Act” means the Vehicles (Excise) Act 1971(1);

“the 1973 Act” means the Powers of Criminal Courts Act 1973(2);

“the 1992 Act” means the Social Security Administration Act 1992(3);

“adjudication officer” means an officer appointed in accordance with section 38(1) of the 1992 Act;

“application” means an application made under regulation 2 in the form and containing the information specified in regulation 3(1);

“appropriate appeal court” means, except in regulation 9(9), the appropriate court as determined in accordance with regulation 9(9) and 9(10);

“benefit week” has the meaning prescribed in regulation 2(1) of the Income Support Regulations;

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(4);

“Commissioner” means the Chief or any other Social Security Commissioner appointed in accordance with section 52(1) or (2) of the 1992 Act and includes a Tribunal of Commissioners constituted in accordance with section 57(1) of that Act;

“court” means in England and Wales a magistrates' court and in Scotland a court;

“5 per cent. of the personal allowance for a single claimant aged not less than 25” means, 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 Regulations” means the Income Support (General) Regulations 1987(5);

“payments to third parties” means direct payments to third parties in accordance with Schedules 9 and 9A to the Claims and Payments Regulations, regulation 2(4) of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990(6) and regulation 2(4) of the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(7);

---

(1) 1971 c. 10.

(2) 1973 c. 62.

(3) 1992 c. 5.

(4) S.I.1987/1968.

(5) S.I. 1987/1967; relevant amending instruments are S.I. 1988/1445 and S.I. 1991/2910.

(6) S.I. 1990/545.

(7) S.I. 1989/507; relevant amending instrument is S.I. 1990/113.

“personal allowance for a single claimant aged not less than 25” means the amount specified in paragraph 1(1)(e) of column 2 of Schedule 2 to the Income Support Regulations;

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

“tribunal” means a social security appeal tribunal constituted in accordance with section 41 of the 1992 Act; and

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

### **Application for deductions from income support**

2.—(1) Where a fine has been imposed on an offender by a court or a sum is required to be paid by a compensation order which has been made against an offender by a court and (in either case) the offender is entitled to income support, the court may, subject to paragraph (2), apply to the Secretary of State asking him to deduct sums from any amounts payable to the offender by way of income support, in order to secure the payment of any sum which is or forms part of the fine or compensation.

(2) Before making an application the court shall make an enquiry as to the offender’s means.

### **Contents of application**

3.—(1) An application shall be made in the form set out in Schedule 3, or a form to like effect, and shall contain the following information—

- (a) the name and address of the offender, and, if it is known, his date of birth;
- (b) the date when the fine was imposed or the compensation order made;
- (c) the name and address of the court imposing the fine or making the compensation order;
- (d) the amount of the fine or the amount payable by the compensation order as the case may be;
- (e) the date on which the application is made;
- (f) the date on which the court enquired into the offender’s means;
- (g) whether the offender has defaulted in paying the fine, compensation order or any instalment of either.

(2) A court making an application shall serve it on the Secretary of State by sending or delivering it to a social security office.

(3) Where it appears to the Secretary of State that an application from a court gives insufficient information to enable the offender to be identified, he may require the court to furnish such further information as he may reasonably require for that purpose.

### **Reference to adjudication officer**

4.—(1) Where the Secretary of State receives an application from a court in respect of an offender, he shall, subject to regulation 7(4), refer it forthwith to an adjudication officer who shall determine the following questions—

- (a) whether there is sufficient entitlement to income support to enable the Secretary of State to make any deduction at a rate of 5 per cent. of the personal allowance for a single claimant aged not less than 25;

- (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 any deduction under regulation 6 and to make payments to third parties and where there is such an insufficiency of entitlement to income support the following priorities shall apply—
- (i) any liability mentioned in paragraph 3(5) of Schedule 9A (mortgage interest) to the Claims and Payments Regulations;
  - (ii) any liability mentioned in paragraph 3 of Schedule 9 (housing costs) to those Regulations;
  - (iii) 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;
  - (iv) any liability mentioned in paragraph 6 of Schedule 9 (fuel costs) to those Regulations;
  - (v) any liability mentioned in paragraph 7 of Schedule 9 (water charges) to those Regulations;
  - (vi) any liability for arrears in respect of community charges mentioned in regulation 2 of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990 or regulation 2 of the Community Charges (Deductions from Income Support) Scotland Regulations 1989(8)(deductions from income support);
  - (vii) any liability mentioned in regulation 6.
- (2) The adjudication officer shall determine there is sufficient entitlement to income support if—
- (a) the amount payable by way of income support after any deduction to be made under regulation 6 is 10 pence or more; and
  - (b) where payments to third parties are being made, the aggregate amount of any payments under paragraphs 3(2)(a), 5(6), 6(2)(a), 7(3)(a) and 7(5)(a) of Schedule 9 and paragraph 3(5) of Schedule 9A to the Claims and Payments Regulations together with the amount to be deducted under regulation 6 does not exceed an amount equal to 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.
- (3) The adjudication officer shall determine these questions, so far as is practicable, within 14 days of receipt of the reference from the Secretary of State.

### **Notification of decision**

5. The Secretary of State shall notify the offender and the court in writing of the adjudication officer's decision so far as is practicable within 14 days from the date on which he receives that decision and at the same time he shall notify the offender of his right of appeal.

### **Deductions from offender's income support**

6. Where the adjudication officer has determined that there is sufficient entitlement to income support the Secretary of State may deduct a sum equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 and pay that sum to the court towards satisfaction of the fine or the sum required to be paid by compensation order.

### **Circumstances, time of making and termination of deductions**

7.—(1) The Secretary of State may make deductions from income support under regulation 6 only if—

- (a) the offender is entitled to income support throughout any benefit week; and
  - (b) no deductions are being made in respect of the offender under any other application.
- (2) The Secretary of State shall not make a deduction unless—
- (a) the offender at the date of application by the court is aged not less than 18;
  - (b) the offender is entitled to income support; and
  - (c) the offender has defaulted in paying the fine, compensation order or any instalment of either.
- (3) The Secretary of State shall make deductions from income support by reference to the times at which payment of income support is made to the offender<sup>(9)</sup>.
- (4) The Secretary of State shall cease making deductions from income support if—
- (a) there is no longer sufficient entitlement to income support to enable him to make the deduction;
  - (b) entitlement to income support ceases;
  - (c) a court withdraws its application for deductions to be made; or
  - (d) the liability to make payment of the fine or under the compensation order as the case may be has ceased.
- (5) Where at any time during which the Secretary of State is making deductions in respect of an application he receives one or more further applications in respect of the offender from whom the deductions are being made, he shall refer those further applications to the adjudication officer in accordance with the following order of priority, namely, the one bearing the earliest date shall be referred first and each subsequent application shall be referred, one at a time and in date order, only after deductions under any earlier application have ceased.
- (6) Payments of sums deducted from income support by the Secretary of State under these Regulations shall be made to the court at intervals of 13 weeks.
- (7) Where the whole of the amount to which the application relates has been paid, the court shall so far as is practicable give notice of that fact within 21 days to the Secretary of State.
- (8) The Secretary of State shall notify the offender in writing of the total of sums deducted by him under any application—
- (a) on receipt of a written request for such information from the offender; or
  - (b) on the termination of deductions made under any such application.

### **Withdrawal of application**

**8.** A court may withdraw an application at any time by giving notice in writing to the social security office to which the application was sent or delivered.

### **Appeal**

**9.—(1)** Where the adjudication officer has determined a question under regulation 4, the offender 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 offender 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

---

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

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 three of the Commissioners and if the decision is not unanimous, the decision of the majority shall be the decision of the Tribunal.

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

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

(5) No appeal lies—

- (a) to the Commissioner from a decision of a tribunal without the leave of the chairman of the tribunal which gave the decision or, if he refuses leave, without the leave of a Commissioner, or
- (b) to the appropriate appeal court from a decision of a Commissioner, without the leave of the Commissioner who decided the case, or if he refuses, without the leave of the appropriate appeal court.

(6) 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 41(4) of the 1992 Act to act as a chairman of tribunals.

(7) 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 appropriate appeal court 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.

(8) If the office of Chief Commissioner is vacant, or if the Chief Commissioner is unable to act, paragraph (7) 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.

(9) an application to a Commissioner for leave under this regulation it shall be the duty of the Commissioner to specify as the appropriate court—

- (a) the Court of Appeal if it appears to him that the relevant place is in England and Wales; and
- (b) the Court of Session if it appears to him that the relevant place is in Scotland;

except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) and (b) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.

(10) In paragraph (9)—

“the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the tribunal whose decision was the subject of the Commissioner’s decision usually exercises its functions.

**Review**

**10.**—(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 9(1) and Schedule 2 shall apply with the necessary modification in relation to a decision given on review as they apply to the original decision on a question.

**Correction of accidental errors**

**11.**—(1) Subject to regulation 13, accidental errors in any decision or record of a decision made under regulations 4, 9 and 10 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 is practicable to every party to the proceedings.

**Setting aside decisions on certain grounds**

**12.**—(1) Subject to regulation 13, on an application made by a party to the proceedings, a decision, made under regulation 4, 9, 10 and Schedule 2 by an adjudication officer, a tribunal or a Commissioner (“the adjudicating authority”), together with any determination given on an application for leave to appeal to a Commissioner or the appropriate appeal court against such a decision may be set aside by the adjudicating authority which gave the decision or an authority 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 to the proceedings 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 14 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 a decision, there shall be disregarded, but subject to any contrary intention, 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 by post to that person's last known notified address.

### **Provisions common to regulation 11 and 12**

**13.**—(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 11 or on which notice is given that a determination of a decision shall not be set aside following an application under regulation 12, as the case may be.

(2) There shall be no appeal against a correction made under regulation 11 or a refusal to make such a correction or against a determination under regulation 12.

(3) Nothing in regulation 11 or 12 shall be construed as derogating from any inherent or other power to correct or set aside decisions which is exercisable apart from these Regulations.

### **Manner of making applications or appeals and time limits**

**14.**—(1) Any application or appeal set out in Column (1) of Schedule 1 shall be in writing and 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; and

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

and in the case of an appeal to the Commissioner, but 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, chairman of a tribunal or Commissioner that an application or appeal which is made to him, or to 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.**

**15.**—(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 or sent 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.

9th September 1992

*Alistair Burt*  
Parliamentary Under-Secretary of State,  
Department of Social Security