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DEPARTMENT OF HEALTH & SOCIAL SECURITY

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From the Secretary of State for Social Services

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Dear Tim

I enclose as promised an extract from the Supplementary Benefit Handbook on trade disputes. It does not in itself represent a statement of the law but the references are at the end. It is the latest (1983) edition.

*Yours ever
S H F*

S H F HICKEY
Private Secretary

12 Trade Disputes

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General

12.1 Special rules apply to a person who is without employment because of a stoppage of work at his place of employment.¹ To qualify for normal supplementary benefit as an unemployed person the claimant has to prove that he is not participating in or directly interested in the dispute which caused the stoppage.

12.2 Where there is a claim for unemployed benefit the supplementary benefit decision follows the decision on the unemployment benefit claim.² Thus if the claimant is disqualified from receiving unemployment benefit because of a trade dispute — whether he is a striker or, for example, 'locked out' — he is regarded as involved in a trade dispute for the purposes of his supplementary benefit claim also. If there is no claim for unemployment benefit, or a decision on that claim is awaited, the person is treated as involved in the dispute unless or until a claim for unemployment benefit is made and it is decided that the trade dispute disqualification does not apply to it.

12.3 A person involved in a trade dispute — called a striker for the purpose of this chapter — is not entitled to supplementary benefit for his own requirements.¹ There are special rules for the benefit payable for his partner and children and for any urgent need arising during the dispute but not connected with it.

Strikers without a partner or children

12.4 A striker without a partner or dependent children cannot qualify for normal benefit; he can only get help with certain urgent needs unconnected with the strike (see paragraph 12.11).

Strikers with a partner or children

12.5 Although a striker gets nothing for himself, he can get benefit for his partner and dependent children once the period covered by his final earnings has run out (for example a fortnight where the striker has worked a week in hand).³ If the last week's earnings are more than two and a half

times the family's normal scale rates, the excess is regarded as available income and set against the benefit requirements for the next week.⁴

12.6 The striker's entitlement for his family is worked out in the normal way except that:

1. the striker gets nothing for his own requirements;¹
2. the amount of the normal requirements for his partner is generally the single non-householder scale rate;⁵
3. additional requirements for non-striking members of the assessment unit are not allowed except for:
 - a. heating⁶ — the additions in sub-paragraph 2.a of paragraph 4.5 and paragraph 4.11 (the higher rate for serious illness or disablement or where mobility or attendance allowance is being paid);
 - b. blindness⁷ — the addition in paragraph 4.16;
 - c. diets⁷ — the additions in sub-paragraphs 1 and 2 of paragraph 4.17 for diets needed for diabetes, tuberculosis, serious digestive disorders and kidney failure);
 - d. hospital visiting⁷ — the additions in paragraph 4.24 (regular visits to members of the household or close relatives in hospital or similar institutions);
4. £15.00 is deducted from the weekly benefit entitlement.⁸

12.7 The income and savings of the striker and his family are taken into account in the normal way except that:

1. up to £15.00 of strike pay is ignored;⁹
2. certain earnings from the employer such as bonuses received during the strike remove the family's entitlement to benefit for an appropriate period;³
3. although income tax refunds are not generally available to strikers¹⁰ any such refunds which are received by the striker are taken into account in full⁸ in the week of receipt.¹¹

12.8 The only urgent need payments available to the striker and his family are those at paragraph 12.11.⁸

Other strikers

12.9 Where the striker is the partner of a claimant who is not on strike, the striker's own requirements are excluded from the claimant's benefit and the rules in paragraph 12.6 and sub-paragraphs 1 and 3 of paragraph 12.7 apply. The claimant's normal requirements are limited to the single non-householder scale rate and his or her benefit is reduced by £15.00. Where the claimant and his or her partner are both on strike and there are

no dependent children, there is no normal entitlement, but if they have dependent children the striker can get benefit for their requirements in accordance with paragraphs 12.5 – 12.8.

Urgent need payments

12.10 Strikers and their families cannot get single payments or urgent need payments under the normal rules.¹² Instead, certain urgent need payments may be made¹³ where the need cannot be met:

1. by other persons, public authorities, trade unions, relief funds or comparable sources to whom it is reasonable to expect the assessment unit to look for help; or
2. from capital (including that which is normally disregarded for supplementary benefit purposes) or from income not taken into account in the claimant's assessment; or
3. from available credit facilities.

12.11 Subject to the qualifications above, help may be given for:¹⁴

1. emergency relief — the expenses and items in paragraph 10.9 and 10.10 (immediate relief of distress in the case of fire, flood or similar disaster);
2. diets — the addition in sub-paragraph 2 of paragraph 4.17 for a diet needed under that sub-paragraph (for kidney failure); and for diets which cost more than that figure, the extra cost of the diet;
3. fares — essential fares for special transport for a disabled child to and from school.
4. maternity needs — the items in paragraph 9.8 (provided the birth or adoption occurs 11 weeks or more after the beginning of the strike);
5. essential household equipment — the repair, replacement or provision of a substitute (whichever is the cheapest) of household equipment for heating and cooking essential to health or safety;
6. visits in cases of illness — the expenses in paragraph 4.24 for a visit by:
 - a. any member of the assessment unit (including the striker) to a close relative or member of the household who is critically ill (whether or not in hospital);
 - b. a non-striking member of the assessment unit to a close relative or member of the household who is in hospital, and sub-paragraph 3.d of paragraph 12.6 does not apply;
 - c. the striker to a partner or to a dependent child (if he has no partner) in hospital.

12.12 Payments made under sub-paragraph 1 of paragraph 12.11 may be subject to recovery as in other urgent need cases.¹⁵

After the trade dispute

12.13 For the 15 days after return to work a former striker can get benefit if he receives insufficient wages and if an adequate advance from his employer is not available.¹⁶ Normal benefit entitlement rules are applied (in particular, the former striker can get benefit for his own requirements) but any advance of wages or loan available from his employer is taken fully into account.¹⁷ Any income tax refund available in the period is also taken into account except that £4 is disregarded.¹⁸ Benefit is not payable if the weekly amount of entitlement is less than £3.¹⁹ Any benefit paid in these circumstances is treated as a loan to be repaid later from earnings.²⁰

References

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| <ol style="list-style-type: none"> 1. SB Act section 8 2. Determination of Questions Regulation 5 and 5A 3. Conditions of Entitlement Regulation 9/1(b) and 9(3) 4. Resources Regulation 10(2)(e) 5. Requirements Regulation 6(1) 6. Requirements Regulation 12(2)(a) and (b) 7. Requirements Regulation 13(3) and (4) 8. Social Security (No 2) Act 1980 section 6(1) 9. Trade Disputes and Recovery from Earnings Regulation 12 10. Finance Act 1980 11. Resources Regulation 3(2)(d) 12. Social Security (No 2) Act 1980 section 6(1)(c); Urgent Cases Regulation 6(1)(b); and Single Payments Regulation 6(1)(b) | <ol style="list-style-type: none"> 13. Trade Disputes and Recovery from Earnings Regulation 3 14. Trade Disputes and Recovery from Earnings Regulations 4-9 15. Trade Disputes and Recovery from Earnings Regulations 4 and 11 16. SB Act section 9 17. Resources Regulation 10(6) 18. Resources Regulation 3(2)(d) and 11(5)(a) 19. Claims and Payments Regulation 10(2) 20. SB Act section 9(2) and Trade Disputes and Recovery from Earnings Regulations 13-23 |
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