

SOCIAL SECURITY ACT 1986



APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Decision

1. This claimant's appeal succeeds. My decision is that the social security appeal tribunal dated 12 June 1989 is erroneous in law. I set it aside and refer the case to another social security appeal tribunal for determination in accordance with my directions.

Representation

2. I held oral hearings of this appeal and of the associated appeal, the reference to which on Commissioner's file is CIS/254/89. The claimant did not attend. I was told that he is in Pakistan. He was represented by Ms S. Leathley of West Yorkshire Probation Service. The adjudication officer was represented by Mr M. Jenking-Rees of the Solicitor's Office, Departments of Health and Social Security.

Nature of the appeal

3. The question before the appeal tribunal was whether the claimant was not entitled to income support because his capital (ascertained in accordance with the Income Support (General) Regulations 1987), exceeded the prescribed limit which at the time of his claim (probably 26 July 1988) was £6,000.00. (Regulation 45, which imposed the limit, was amended from 9 April 1990 and since then the limit has been £8,000.00).

4. The main issue was whether the market value of two houses owned by the claimant (neither of which was the home of himself or his wife), after deducting the amount of the incumbrances, exceeded that limit. The claimant's appeal is on the ground that the appeal tribunal erroneously decided that notice of deposit of land certificate was not an "incumbrance", in terms of regulation 49 of the Regulations, so that the amount secured by the deposit (alleged to be £140,000.00) was not deductible from the value of the houses. (Regulation 49 is set out in the

Appendix).

5. The appeal raises the question of what constitutes an "incumbrance" under the regulation and as to what are the necessary findings of an appeal tribunal in cases of disputed valuation of houses or land in England or Wales.

The relevant statutory provisions

6. The relevant statutory provisions are set out in the Appendix.

The adjudication officer's decision

7. On 9 August 1988, an adjudication officer issued the following decision:

"The claimant is not entitled to Income Support because his capital exceeds the prescribed amount."

8. The claimant appealed and in his written submission to the appeal tribunal the adjudication officer submitted (in box 5 of form AT2) the following "Summary of Facts":

"5] SUMMARY OF FACTS

1. Mr Khan is an unemployed man aged 38. He is married with 3 dependent children. On 26 7 87 he claimed Income Support.

2. Mr Khan stated on his claim form that he owned property but was in financial dispute with the National Westminster Bank. (See Document A, sections 5c, 7c and 12.)

3. On 9 8 88 he stated that he had owned 25 Merton Road, Bradford and 308 Stanningley Road for about 6-7 years. He had a mortgage with the Co-op which was subsequently taken over by the National Westminster Bank. He was in dispute with this bank over another mortgage of £120,000 taken out to purchase a farm in Blackburn. No-one lived in the Bradford property, there were tenants in the shop at Stanningley Road. Because the deeds to these properties were held by the bank the properties were not available to sell. (See Document B.)

4. With the permission of the claimant the Department wrote to the National Westminster Bank to seek clarification as to why the deeds could not be released. (See Document C.)

5. The bank confirmed they held the deeds to Mr Khan's home, 14 Newton Park View, 25 Merton Road, and 308 Stanningley Road. The bank obtained Judgment against Mr Khan in the sum of £31,458.07. To enforce its Judgment they obtained charging orders against the properties. As

at 6 September 1988 the amount due to the bank was £33,086.99 with interest continuing to accrue at a rate of £12.93 per day thereafter. (see Document D.)

6. On 20 10 88 the Department telephoned the bank who stated that, provided the claimant paid what they were due, Mr Khan could sell the properties and they would release the deeds (see Document E).

7. On 21 10 88 Mr Khan was advised by the Department that the bank would release the deeds to the properties and he would be paid Income Support provided the properties were put up for sale.

8. On 10 11 88 the Department received confirmation from estate agents acting upon Mr Khan's behalf regarding the sale of 25 Merton Road and 308 Stanningley Road. The selling price being £60,000 and £50,000 respectively. (See Documents F and G.) Income Support was paid from that date.

NOTE Interim payments were made to Mr Khan from 18 8 88 to 27 10 88 which are recoverable by the Department."

The decision of the social security appeal tribunal

9. The appeal tribunal, who heard the appeal on 12 June 1989, decided:

"Appeal disallowed. The Appellant is not entitled to income support."

10. Their recorded findings of fact were:

"The Tribunal finds the facts as set out in box 5 in the Adjudication Officer's submission proved. The two properties belonging to the Appellant at Merton Road Bradford and Stanningley Road Leeds are collectively valued at £110,000. The properties were not put up for sale until 10.11.88. The National Westminster Bank held the deeds to the properties as security against loans advanced to the Appellant. The Bank has registered notice of deposit of the land certificates at HM Land Registry. Notice of deposit is not an incumbrance on the properties. On 3 May 1988 the Bank obtained judgment against the Appellant and his wife in the sum of £31,458.07 inclusive of interest to that date. The High Court has granted leave to Mr and Mrs Khan to defend the balance of the claim against them by the bank, which is alleged to be a total of about £140,000. It is in respect of the amount of judgement obtained which is now secured by way of a charging order upon the properties. To that extent, therefore, the properties are incumbered. Judgement has not been obtained in respect of the balance of the claim by the bank which continues to be the subject of litigation. Should Mr and Mrs Khan discharge the judgement debt together with

interest accrued thereon the properties would not have any incumbrance secured upon them."

11. Their recorded reasons for this decision were:

"The Appellant's capital exceeds the prescribed amount (S22(6) Social Security Act 1986).

The value of the two properties referred to fall to be considered as a capital resource of the Appellant to the extent that they do not have incumbrances secured on them. The properties are valued at approximately £110,000, after deducting 10% attributable expenses under Regulation 49 of the General Regulations and the amount of the incumbrance secured on the property by reference to Regulation 49 General Regulations, the remaining balance exceeds the limit of £6000 capital provided by Regulation 45 General Regulations. No relief can accrue to the Appellant under Schedule 10 to General Regulations (paragraph 26) because the properties were not for sale at the date of claim. The Tribunal rejects the Appellant's claim that his properties were incumbered to the extent of the whole of the claim by the Bank. The only incumbrance secured on the properties is the charging order securing the Judgment debt."

12. The claimant appeals against the decision of the appeal tribunal on the ground that their decision was erroneous in law since notice of deposit of land certificate was an incumbrance and the tribunal were in error in deciding that it was not.

Was the decision of the appeal tribunal erroneous in law?

13. Yes, there are several errors of law.

14. The properties were treated as incumbered by the amount of the judgment obtained on 3 May 1988 in respect of which there were charging orders. But the tribunal adopted the facts as set out in box 5. Commissioners have often referred to the dangers of adopting an adjudication officer's summary of facts in a case where the facts are in dispute. In the present case, in accepting the summary in box 5, which is set out verbatim in paragraph 8 above, they found as a fact that the claim for income support was made on 26 July 1987. At that date, there was no judgment debt.

15. The date of claim accepted by the tribunal was obviously wrong. Income support did not replace supplementary benefit until 11 April 1988. The claim was made on form BI(1988) (my underlining) and was dated by the claimant in Part 13 (Declaration) 26.7.88. The same date reappears on the claim details. A photocopy of the claim form was before the appeal tribunal. So, also, was a new statement by the claimant dated 9 August 1988 which says, at the top "The form signed on 26/7/88 has been read back to me". The claim may, of course, have been received by the Department later than 26 July 1988 and it is the date of receipt in an appropriate office which counts as the date

of claim for income support purposes: see the Social Security (Claims and Payments) Regulations 1987 regulation 6(1)(a). The date of receipt is not in evidence. But, whatever the correct date, it was not that found by the appeal tribunal; and the correct date of claim is crucial because that is the date from which entitlement to income support, as a general rule, commences: see paragraph 6(1) of Schedule 7 to the Social Security (Claims and Payments) Regulations 1987.

16. The market value accepted by the appeal tribunal in this decision was £110,000.00 for the two properties. This was arrived at by accepting the price of £50,000.00 which the claimant had instructed a firm of estate agents to quote for the Stanningley Road property and £60,000.00 which he had instructed another firm to quote for the Merton Road property. But there was a valuation by the District Valuer as at 25 August 1988 which estimated £19,000.00 for the Stanningley Road property (which was tenanted) and £35,000.00 for the Merton Road property. These two valuations by the District Valuer were adopted by the same appeal tribunal on the same day in the associated appeal, the reference to which on Commissioner's file is CIS/354/99 where the tribunal had before them the same estate agents' valuations and, after referring to the two estate agents' valuations mentioned above, described them as "wholly unrealistic. The true value of the properties was £54,000". It cannot be right, in one decision to accept an estate agents valuation as determinative of market value and in the other to reject it as wholly unrealistic. In this respect the appeal tribunal's decision was perverse.

17. The appeal tribunal were in error in regarding the notice of deposit of land certificate as of no significance. The notice itself is of course not an incumbrance. BUT such a notice "operates as a caution at the land registry ensuring all persons who looked at the register that the land certificate had been deposited with them as security for money: see Re White Rose Cottage [1965] Ch 940 at page 950 letters C and D, per Lord Denning M.R. (my underlining) and regulation 239 of the Land Registration Rules 1925 (set out in the Appendix). Lord Justice Harman, in the same case, said (page 955 letters D and E):

"the deposit of the land certificate did not create the charge - that was done by the memorandum ... Nevertheless the entry on the register was in my opinion a sufficient notice to all the world that the land certificate was in the hands of someone as security for money and this is enough to put the subsequent encumbrancer on enquiry which can only lead to ascertaining the true facts". (my underlining)

The same case decides that the notice confers priority over all subsequent encumbrancers [sic]: see also, Land Registration Act 1925 section 66. So the registration of notice of land certificate in respect of each of the two properties belonging to the claimant was clear notice of incumbrances secured on those properties. The tribunal were in error in disregarding them.

18. For the above reasons, I set aside the decision of the appeal tribunal as erroneous in law. Since the claimant was present at the appeal tribunal hearing but has not attended before me and the facts are still in dispute, I refer the case to another appeal tribunal for determination in accordance with my directions.

Directions to the fresh tribunal

19. In order to decide whether the two houses belonging to the claimant constitute capital of his bringing him above the limit for entitlement to income support the appeal tribunal must apply regulation 49(a) which provides that capital "which the claimant possesses in the United Kingdom" is to be calculated "at its current market ... value" less "(i) where there would be expenses attributable to sale, 10 per cent; and (ii) the amount of any incumbrance secured on it". The onus of proving entitlement in respect of a claim for income support rests, of course, on the claimant. But that does not absolve the statutory authorities (who include the adjudication officer and the tribunal) from investigating and ascertaining the facts. In order to apply this regulation in respect of any claim for income support where land (including houses or flats) is concerned it is necessary to:

(1) Ascertain and record the date of receipt of the claim in the appropriate office. This is the date of claim: see regulation 6 of the Social Security (Claims and Payments) Regulations 1987.

[Note: That is the date from which as pointed out in paragraph 15 above entitlement to income support, as a general rule, commences: see paragraph 6(1) of Schedule 7 to the Social Security (Claims and Payments) Regulations 1987.]

(2) Ascertain and record who has title to the land at the date of claim. Most land in England and Wales has a registered title. Registration of title on sale has been compulsory in respect of all land in England and Wales since the Registration of Title Order 1989 came into force on 1 January 1990. An office copy of the register, covering the date of claim, is easily obtained by a proprietor or, since 3 December 1990, when the Land Registration Act 1988 came into force (see Land Registration Act 1988 (Commencement) Order 1990), any other person and will show (1) the registered proprietors of the land and of any legal charge (2) the nature of the title e.g. whether freehold (absolute or possessory) or leasehold (absolute or good leasehold) (3) the registered charges and (4) any restrictions or cautions.

[Note: (a) If there is no caution or restriction on the register, the registered proprietor of the land is probably the beneficial owner and it is the beneficial interest (not simply the legal interest, which may be held in trust for someone else) which requires to be valued: see decision R(SB) 6/84, paragraph 8(4) (a decision on the comparable supplementary benefit legislation).

(b) far as possible, notice of any trust is excluded from the register (Land Registration Act section 74). But a nominee's title will usually have the entry of a nominee restriction which prevents dispositions without the consent of a named person, who must in practice be the beneficiary (see rule 22 of the Land Registration Rules 1925) and except where the survivor of joint proprietors can give a good receipt for capital money (i.e. the survivor of beneficial joint tenants) there will always be a restriction on the proprietorship register in the case of joint proprietors and there must be a trust the nature of which will require investigation to determine the beneficial ownership cf. R(SB) 49/83 at paragraph 7.]

(3) Ascertain and record the beneficial owner or owners of the property at the date of claim.

[Notes: As explained in the note to (2), it is the beneficial interest which requires to be valued under regulation 49. The General Regulations affect such interests. Joint beneficial owners are deemed to be entitled in equal shares: regulation 52. Capital of a child or young person is not valued: regulation 47. The capital value of a life interest or a reversionary interest is excluded from valuation (paragraphs 13 and 5 of Schedule 10 to the General Regulations). Property held on a discretionary trust is also excluded: see regulation 51(2)(a) of the Income Support (General) Regulations 1987]

(4) Ascertain and record who is in occupation of the property at the date of claim and the nature of such occupancy (e.g. as owner, or spouse, or tenant, lodger, squatter).

[Notes: (a) These findings are essential in order to determine whether the property is to be treated as disregarded capital, in which case it does not require to be valued at all, and (in any case where it is not so treated) the basis on which the valuation should be made. Paragraphs 1, 2, 3, 4, 25, 27 and 28 of Schedule 10 to the Income Support (General) Regulations 1987 (as amended) contain a variety of disregards connected with occupation.

(b) These findings are also necessary in order that a proper valuation can be made. No valuation made in ignorance of an existing tenancy or other occupation which can only be terminated by Court order can be regarded as reliable. Such rights will not necessarily appear on the register. Short term leases (i.e. those granted for a term not exceeding 21 years - Land Registration Act 1925 section 70(1)(k) as amended) are usually overriding interests and so are the rights of persons in actual occupation or receipts of the rents and profits (section 70(1)(g)) and will often not be entered on the register: see, generally, Ruoff and Roper's Registered Conveyancing, to which reference is made in paragraph (7)(c) below.]

(5) Ascertain and record the market value of the claimant's (or his partner's) interest in the property at the date of claim,

determining in the case of conflicting valuations which has been adopted and for what reason. "Market value" is the price which would be obtained on a sale between a willing buyer and willing seller: see R(SB) 6/84 at paragraph 8(3).

[Note: (a) "Incumbrances" secured on the property and falling within the meaning of that expression in regulation 49 must be disregarded in making that valuation. So with a beneficial owner of the property subject to a mortgage secured on it, it is not the owner's equity of redemption which falls to be valued but the value of his interest on the basis that the mortgage has been redeemed or discharged. This is because the regulation provides that the amount of such incumbrances is to be deducted from market value. Any other interpretation of the regulation would involve double counting of the incumbrance.

[An example will make this clear. A property less sale expenses but free from any mortgage debt is worth £100,000.00. It is then mortgaged for £80,000.00. The value of the equity of redemption (that is to say the value of the property with the mortgage unredeemed and not paid off) is £100,000.00-£80,000.00 = £20,000.00. This is the value of the claimant's interest in the property. Clearly, it is not from this interest that the amount of the mortgage falls to be deducted. For the result would be that the property was worthless (£20,000.00-£80,000.00). So the property must be valued free from the mortgage (i.e. at £100,000.00) and the £80,000.00 deducted from that so that the value for income support purposes is £100,000.00-£80,000.00 = £20,000.00.]

(b) Property is frequently subject to restrictive covenants and, sometimes, other burdens which are entered on the charges register and affect the value of the land, but which do not constitute "incumbrances" secured on the property within the meaning of regulation 49. Such covenants can have a crucial effect on the value of the land e.g. a covenant not to build. They must be taken into account in ascertaining market value.

(6) Decide whether a sale would involve expenses. In the case of land, it obviously would. 10% should be deducted from market value: see regulation 49.

(7) Ascertain the amount of the incumbrances secured on the property at the date of claim and deduct that amount from the market value less expenses.

[Note: (a)(i) What must be ascertained in respect of each property is "the amount of any incumbrance secured on it": see regulation 49(a). These words replace those in regulation 5 of the Supplementary Benefit (Resources) Regulations 1980 which contain similar provisions for valuation for supplementary benefit purposes. There what required to be deducted from capital resources were "any debt or mortgage secured on them". The reference to a mortgage secured on resources was tautologous since a mortgage is a security. But the substituted expression has a similar meaning. No capital can be ear-marked by a

claimant to meet unsecured liabilities and deducted from his reckonable resources when determining his entitlement to income support. The position thus corresponds with that under supplementary benefit, as to which see decision R(SB) 2/83. Any unsecured capital resource must be included in the calculation in full because it could be used to meet his needs. But capital is subject to an incumbrance, if a creditor has a secured right to resort to it for (or to prevent disposal until) satisfaction of his debt in priority to any unsecured debtor. The amount of the debt at the date of claim can then be deducted from the capital. This is because the gross capital is not available for income support purposes.

(ii) Accordingly, as regards land in England and Wales, any legal or equitable mortgage on the land to secure payment of money, any lien to retain documents of title to it (including a land certificate) until a debt is paid and any charge on it to secure any annuity or portion or other sum of money is an incumbrance within the meaning of regulation 49(a). It is considered that a registered creditor's notice of the entry of a bankruptcy inhibition also constitute incumbrances in terms of regulation 49(a).

(iii) As regards a registered creditor's notice (as in the present case) dispositions while this notice remains on the register will be entered on the register but not so as to override the interests of the creditors, an entry being made after the new proprietor's name stating that the transfer to him is subject to the rights of all creditors protected by the creditor's notice which remains on the register: and if the creditor's petition is followed by a bankruptcy order adjudging the proprietor bankrupt the disposition is liable to be upset by the trustee in bankruptcy and the register rectified because the disponee is not able to prove that he is a purchaser in good faith and without notice in view of the prior entry of the creditor's notice: see Ruoff and Roper's Registered Conveyancing, Looseleaf Edition (1991) paragraph 28(12). So the effect of registration of a creditor's notice is to confer priority to the proprietor's creditors against a subsequent purchaser. Such a notice is for the above reasons an incumbrance on the property. See, further, sections 59(1) and 61(6) of the Land Registration Act 1925, as amended, printed in the Appendix. A bankruptcy inhibition confers similar rights but inhibits (i.e. prevents) most dealings while the entry remains on the register: see section 61(4) of the Land Registration Act 1925 and, for similar reasons, is also considered to be such an incumbrance.

(b) The amount of any incumbrance must only be deducted once. If it is secured on two properties the value of both of which falls to be taken into account, their value should be aggregated and the amount of the incumbrance deducted from the total. But if the incumbrance is secured on two properties, one of which is exempt (e.g. the claimant's home) the whole can be deducted from the non-exempt property: see decision R(SB) 37/84.

(c) Any amount secured by two incumbrances in favour

of the same incumbrancer must only be counted, and deducted, once.

(d) In the present case, if the amounts secured (i) by the incumbrance to which the notice of deposit of land certificate with National Westminster Bank registered on 17 February 1983 and (ii) the equitable charge created by order of the High Court of Justice dated 22 August 1988 in favour of National Westminster Bank plc and registered on 7 November 1988 in respect of the Merton Road property and (iii) the notice of deposit and equitable charge registered on the same date in favour of the same Bank in respect of the Stanningley Road property all secure, as regards each property, the same debt, that debt must be counted once only. And in so far as the notice of deposit and the equitable charge cover the same sum, that sum must only be counted once. Only the excess can be added to that sum. The effect of this, in the present case, will be that the total amount owing at the time of the claim for benefit on any memorandum accompanying the deposit (if in the usual Bank form covering all present and future indebtedness) is all that should be deducted from the combined value of the Merton Road and Stanningley Road properties.

(e) No question of priority can arise where there is only one incumbrancer; and although questions of priority which arise between competing incumbrances are of concern to those in competition, they are of no significance when determining the amount that falls to be deducted from the value of a claimant's capital. All sums secured by incumbrances held by different incumbrancers must be aggregated, when secured on the same property. It is not clear, on the present evidence, whether there was any incumbrance on the Merton Road or Stanningley Road properties held by an incumbrancer other than National Westminster Bank plc. If, at the date of claim, there were creditors other than National Westminster Bank, it will be necessary to hear argument and make findings as to whether the creditors' notice registered against the claimant as proprietor in respect of each of these properties in fact protected any creditor other than the Bank. The rights of such creditor constitute an incumbrance in terms of regulation 49(a): see sections 61(3) and (4) of the Land Registration Act 1925 (as amended) further. But argument on this question will be required, if it arises.

(8) (a) Determine the period in issue before them. A claim for income support is usually to be treated as made for an indefinite period: see regulation 17(1) of the Social Security (Claims and Payments) Regulations 1987. In other words, it is open-ended. Usually, the period in issue on a fresh claim will be from the date of claim down to the date when the adjudication officer or the appeal tribunal gives its decision. If the situation is fluid and may have altered the claim must be looked at week by week and findings as to the position in weeks subsequent to the date of claim on each of the points on which findings have been made in respect of the date of claim (as to which see paragraphs (1) to (7) above) should also be made: see

decision R(SB) 4/85 at paragraph 13.

(b) In the present case benefit was awarded to the claimant on 10 November 1988. If the date of claim was 26 July 1988 (see paragraph 3 above) the period in issue in this appeal is 26 July 1988 to 9 November 1988. In the accompanying appeal (the reference to which on Commissioner's file is CIS/254/89) my decision on which is being issued with and by reference to this decision, the period under appeal commenced on 7 December 1988, when the award of 10 November 1988 was reviewed, and continues down to the date of the decision of the fresh tribunal. Clearly, in that appeal, the situation was and is fluid.

20. In ascertaining and recording the necessary facts, the appeal tribunal should disregard the copies of the registers of the two properties produced to the previous tribunal. They are incomplete and misleading. The tribunal should look at the office copies which were obtained at my request in connection with the present appeal and are dated 1 April 1992.

21. (1) There should if practicable, be a written submission prior to the new hearing by the claimant's representative and probation officer. The onus is on the claimant of establishing entitlement to income support at the date of claim. There is a District Valuer's valuation of the two properties in issue showing combined values totalling £54,000.00 before deduction of expenses. The Stanningley Road property has, according to the submission before me dated 26 May 1992 of the adjudication officer now concerned, been sold in December 1990 and the dispute with National Westminster was settled in the sum of £31,000.00. It is a well settled rule that an appeal tribunal conducting a complete rehearing is entitled to take into account facts and events since the date of claim and of the adjudication officer's decision: see Quilter v Mapleson [1882] 9 Q.B. 672 (C.A.); Ponnamara v Arumogen [1905] A.C. 383. These decisions have been applied in supplementary benefit cases (see R(SB) 1/82) and in family income supplement cases (see R(FIS) 1/82) and the same principle clearly applies to income support. It is for the claimant to explain how, in the light of the £54,000.00 valuation by the District Valuer in August 1988 and the settlement of his debts to the Bank in December 1990 for £31,000.00 it is contended that his capital fell below the prescribed limit during the period in issue, which must have terminated on 9 November 1988: see paragraph 17(8)(b) above.

(2) If the claimant's representative makes a further written submission, the adjudication officer should make a written reply. If no such submission is made, the adjudication officer should still make a written submission summarising the case.

22. There are references in the case papers to other possible assets of the claimant during the period in issue. Findings in this respect will be required if the claimant establishes that his capital in the two properties, valued in accordance with the

General Regulations, was below the prescribed limit. Enquiry should be made of the Bank and the claimant and findings as to their existence and value, if any, at the relevant time, should be made.

23. The tribunal should make findings on the points referred to in paragraph 17 of this decision and on all other relevant points raised by or on behalf of the claimant or the adjudication officer. If the claimant appears, he should have the opportunity of giving evidence, the salient points of which should be recorded by the chairman and the record of the decision should indicate whether and to what extent it is accepted or, if rejected, the reasons for doing so. The record of the tribunal's decision should comply with regulation 25(2)(b) of the Social Security (Adjudication) Regulations 1986.

24. My decision is set out in paragraph 1.

(Signed) V G H Hallett
Commissioner

Date: 7 September 1992

THE APPENDIX (see paragraph 7)

1. Regulation 49 of the Income Support (General) Regulations provides:

Calculation of capital in the United Kingdom

49. Capital which a claimant possesses in the United Kingdom shall be calculated -

(a) except in a case to which sub-paragraph (b) applies, at its current market or surrender value, less

(i) where there would be expenses attributable to sale, 10 per cent; and

(ii) the amount of any incumbrance secured on it;

(b) in the case of a National Savings Certificate -

(i) if purchased from an issue the sale of which ceased before 1st July last preceding the first day on which income support is payable or the date of the determination of the claim, whichever is the earlier, or in the case of a review, the date of any subsequent review, at the price which it would have realised on that 1st July had it been purchased on the last day of that issue;

(ii) in any other case, at its purchase price.

2. Section 59(1) of the Land Registration Act 1925 provides:

(1) A writ, order, deed of arrangement, pending action, or other interest which in the case of unregistered land may be protected by registration under the Land Charges Act 1925, shall, where the land affected or the charge securing the debt affected is registered, be protected only by lodging a creditor's notice, a bankruptcy inhibition or a caution against dealings with the land or the charge.

Section 61(6) (as amended by the Insolvency Act 1985) provides

(6) Where under a disposition to a purchaser in good faith for money or money's worth such purchaser is registered as proprietor of an estate or a charge, then, [notwithstanding that the person making the disposition is adjudged bankrupt,] the title of his trustee in bankruptcy acquired after the commencement of this Act shall, as from the date of such disposition, be void as against such purchaser unless at the date

of such disposition, either a creditors' notice or a bankruptcy inhibition has been registered, but a purchaser who, at the date of the execution of the registered disposition, has notice of [the bankruptcy petition or the] adjudication, shall not be deemed to take in good faith.

Nothing in this section shall impose on a purchaser a liability to make any search under the Land Charges Act 1925.

2. Section 66

Creation of liens by deposit of certificates.

66. The proprietor of any registered land or charge may, subject to the overriding interests, if any, to any entry to the contrary on the register, and to any estates, interests, charges, or rights registered or protected on the register at the date of the deposit, create a lien on the registered land or charge by deposit of the land certificate or charge certificate; and such lien shall, subject as aforesaid, be equivalent to a lien created in the case of unregistered land by the deposit of documents of title or of the mortgage deed by an owner entitled for his own benefit to the registered estate, or a mortgagee beneficially entitled to the mortgage, as the case may be.

3. Regulation 239 of the Land Registration Rules 1925 provides:

239.--(1) Any person with whom a land certificate charge certificate is deposited as security for money may, by registered letter or otherwise, in writing give notice to the Registrar of such deposit, and of his name and address.

(2) The notice shall describe (by reference to the district and parish or place and number of the title) the land to which the land to which the certificate relates.

(3) On receipt of such notice the Registrar shall enter notice of the deposit in the Charges Register, and shall give a written acknowledgment of its receipt.

(4) Such notice shall operate as a caution under Section 54 of the Act.

(5) The provisions of Section 66 of the Act, and of these rules, as respects the deposit of a charge certificate, shall apply to the deposit of a certificate of sub-charge or of an incumbrance in like manner.

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SOCIAL SECURITY ACT 1986

THE SOCIAL SECURITY COMMISSIONERS PROCEDURE REGULATIONS 1987
REGULATIONS 24(1)

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL ON A
QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER - CORRECTION

Page 9	sub-paragraph (ii)	line 7	delete "of the entry"
			insert "and"
		line 8	delete "of"
Page 10	sub-paragraph (d)	line 1	delete "secured"
			insert "covered"

(Signed) V G H Hallett
Commissioner

Date: 24 September 1992

Commissioner's File: CIS/255/89 (starred as 68/92)