# 2001 - 2008

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R (Hook) v Social Security Commissioner and Secretary of State for Work and Pensions [2007] EWHC 1705 (Admin) R(IS) 7/07

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Applicable amount – person from abroad – habitual residence – British citizen originally resident in Cyprus coming to the United Kingdom – whether completion of an appreciable period of residence is required – whether ECJ judgment in *Swaddling* applicable to a domestic law case

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Contribution-based jobseeker's allowance – calculation and attribution of earnings – whether earnings of part-time casual supply teacher to be disregarded in period of non-employment

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# REDUCED EARNINGS ALLOWANCE

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Secretary of State for Social Security v Hagan [2001] EWCA Civ 1452

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# REMUNERATIVE WORK

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School ancillary worker – whether "engaged in remunerative work" during school holidays

Banks v Chief Adjudication Officer [2001] UKHL 33

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Secretary of State for Work and Pensions v Ahmed [2005] EWCA Civ 535 R(IS) 8/05

Presence condition – Turkish asylum seeker – whether "a national of a State with which the Community has established an Agreement under Article 238 of the Treaty establishing the European Community providing, in the field of social security, for the equal treatment of workers who are nationals of the signatory State and their families" R(FC) 1/01

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Kola and another v Secretary of State for Work and Pensions [2007] UKHL 54

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Residence and presence conditions – exporting of retirement pension to France – Article 10 of Regulation (EEC) 1408/71 – higher rate retirement pension derived from legislation bringing into force an international social security agreement concluded between the UK and a third State

Secretary of State for Work and Pensions v Burley [2008] EWCA Civ 376 R(P) 2/08

Residence and presence conditions – habitual residence test

Collins v Secretary of State for Work and Pensions (C-138/02) [2006] EWCA Civ 376 R(JSA) 3/06

Residence and presence conditions – pending application for extension of exceptional leave to remain granted outside the immigration rules – whether Immigration (Variation of Leave) Order 1976 applied – whether to be treated as if leave to remain subject to a limitation or condition

**R(DLA) 1/01** 

Residence and presence conditions – person subject to immigration control – exception for nationals of states which are signatories to certain treaties – meaning of "lawfully present in the United Kingdom"

Szoma v Secretary of State for Work and Pensions [2005] UKHL 64 R(IS) 2/06

Residence and presence conditions – person subject to immigration control – whether maintenance undertaking made pursuant to the Immigration Rules if not made on official form

R v Secretary of State ex parte Begum [2003] EWHC 3380 (Admin) R(IS) 11/04

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Residence condition – claimant in receipt of attendance allowance and mother in receipt of invalid care allowance moving to Republic of Ireland in 1991 – whether regulations *ultra vires* – whether entitlement continued by virtue of Council Regulation (EEC) 1408/71

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Residence condition — claimants resident in both Britain and New Zealand — whether "ordinarily resident" in both countries  $R(P)\ 1/01$ 

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Residence condition – habitual residence – length of period of residence required

Secretary of State for Work and Pensions v Bhakta [2006] EWCA Civ 65

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Residence condition – transitional protection – whether applies on a renewal claim for period M v Secretary of State for Social Security [2001] UKHL 35 R(DLA) 7/01

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Category B retirement pension – backdating – whether a claim is necessary where Category A pension already in payment

Secretary of State for Work and Pensions v Nelligan [2003] EWCA Civ 555 R(P) 2/03

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Supersession – satisfaction of grounds – removal of existing award of benefit

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Supersession – whether level of needs can be a relevant change of circumstances

R 1/05 (DLA)

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R(DLA) 6/02

Supersession – wrong advice by Departmental official on notice requirement where permitted work undertaken – whether power to supersede entitlement decision discretionary – whether supersession abuse of power or prevented by estoppel  $\bf R~1/07~(IB)$ 

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#### **TRIBUNALS**

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Practice – appeal against decision that claimant is not entitled to benefit – whether tribunal required to determine entitlement R(IS) 2/08

Practice – claimant arguing that a conclusive determination is wrong – whether duty to adjourn to allow supersession of that determination  $R(I) \ 2/04$ 

Practice – Company Secretary failing to attend tribunal to give evidence relating to company's financial affairs and to produce relevant documentary evidence in default of witness summons – whether tribunal able to make findings of fact on such issues

#### Denson v Stevenson and another

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Practice – decision by tribunal awarding benefit in respect of one period of claim and adjourning consideration of later period – whether a final decision in relation to period for which award made and if so whether later tribunal has power to reconsider that decision

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Practice – extent of duty to give reasons for refusal to grant adjournment

Carpenter v Secretary of State for Work and Pensions [2003] EWCA Civ 33 R(IB) 6/03

Practice – fair hearing – confidentiality – masking of papers

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Mote v Secretary of State for Work and Pensions and another [2007] EWCA Civ 1324 R(IS) 4/08

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Practice – leave to appeal granted and then purportedly rescinded by chairman – whether chairman had power to rescind R(IS) 12/01

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Gillies v Secretary of State for Work and Pensions [2006] UKHL 2 R(DLA) 5/06

Practice – natural justice – fair and impartial tribunal – actual or apparent bias – tests to be applied

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Practice – natural justice – perception of bias – chairman had sat on three occasions with the examining doctor whose report was under consideration **R(DLA) 3/07** 

Practice – paper hearing – whether failure of clerk to appeal tribunal to issue a direction under regulation 39(1) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 fatal to tribunal's decision **R** 3/04 (IB)

Practice – period within which application for statement of reasons must be made R(IB) 4/02

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Practice – request for adjournment by absent parent allegedly unable to attend on account of migraine in default of direction by earlier tribunal to attend and to produce documentary evidence – whether refusal to adjourn unlawful

#### Denson v Stevenson and another

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Practice – weighing evidence and fact-finding – function of appellate court

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Practice – weighing evidence – fact-finding for tribunals – role of appellate court – effect of previous award

Quinn v Department for Social Development [2004] NICA 22

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Practice – whether medical appeal tribunal bound by findings of social security appeal tribunal – obligations of medical appeal tribunal in relation to other documents and Court decisions

# **Eagle Star Insurance v Department for Social Development**

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Practice – whether request from claimant for tribunal to view his knee was request for tribunal to carry out physical examination  $\bf R~1/01~(IB)(T)$ 

Practice – whether requirement to give compensator notice of social security appeal tribunal hearing

## **Eagle Star Insurance v Department for Social Development**

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Practice – whether tribunal chairman under obligation to treat application for leave to appeal as application for statement of reasons – whether possible for Commissioner to grant leave in the absence of a statement of reasons – power of Commissioner to direct tribunal to provide statement

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