

SCHEDULES

SCHEDULE 1

Articles 6(3) and 8(7).

APPEAL TRIBUNALS: SUPPLEMENTARY PROVISIONS

Tenure of office

1.—(1) Subject to the following provisions of this paragraph, the President of appeal tribunals shall hold and vacate office in accordance with the terms of his appointment.

[^{F1}(1A) Those terms are to be determined by the Northern Ireland Judicial Appointments Commission with the agreement of the [^{F2}Department of Justice].]

(2) The President shall vacate his office on the day on which he attains the age of 70, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

(3) ^{F3}

F1	Sch. 1 para. 1(1A) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), Sch. 4 para. 31 (with Sch. 5 para. 16); S.I. 2010/812, art. 2
F2	Words in Sch. 1 para. 1(1A) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), Sch. para. 13 ; S.R. 2010/147, art. 2(2)
F3	Sch. 1 para. 1(3) repealed (3.4.2006) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 86, 87, Sch. 13; S.R. 2006/124, art. 2 , Sch. paras. 9, 11(k)

Remuneration, etc.

2. The Department may pay, or make such payments towards the provision of, such remuneration, pensions or allowances to or in respect of the President as it may determine.

3. The Department may pay, or make such payments towards the provision of, such remuneration, pensions or allowances to or in respect of any person appointed under this Chapter to act as a member of an appeal tribunal, or as an expert to such a tribunal, as it may determine.

[^{F4}**3A.** Paragraph 2 and 3, so far as relating to pensions and allowances by way of superannuation, shall not have effect in relation to persons to whom a pension is payable under a scheme made by the Department of Justice under section 1 of the Public Service Pensions Act (Northern Ireland) 2014 by virtue of section 1(2)(b) (holders of judicial office), except to the extent provided by or under that Act.]

F4	Sch. 1 para. 3A inserted (28.4.2014) by Public Service Pensions Act (Northern Ireland) 2014 (c. 2), s. 37(2), Sch. 8 para. 25 ; S.R. 2014/123, art. 2(1)(r)
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4.—(1) The Department may pay—

Status: Point in time view as at 02/05/2016.

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- (a) to any person required to attend at any proceedings under Article 13 of this Order^{F5}, Article 22 of the Child Support Order or paragraph 6 of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000]; or
- (b) to any person required under this Part (whether for the purposes of this Part or otherwise) to attend for or to submit himself to medical or other examination or treatment,

such travelling and other allowances as it may determine.

(2) In this paragraph references to travelling and other allowances include references to compensation for loss of remunerative time but such compensation shall not be paid to any person in respect of any time during which he is in receipt of remuneration under paragraph 3.

F5 2000 c. 4 (NI)

5.—(1) Subject to sub-paragraph (2), the Department may pay such other expenses in connection with the work of any person or tribunal appointed or constituted under any provision of this Part as it may determine.

(2) Expenses are not payable under sub-paragraph (1) in connection with the work of a tribunal presided over by a Social Security Commissioner.

Officers and staff

6. The Department may appoint such officers and staff as it thinks fit for the President and for appeal tribunals.

Functions of President

7. The President shall ensure that appropriate steps are taken by an appeal tribunal to secure the confidentiality, in such circumstances as may be prescribed, of any prescribed material or any prescribed classes or categories of material.

8.—(1) The President shall, after the requisite consultation, arrange such training for persons appointed to the panel constituted under Article 7 as he considers appropriate.

(2) In sub-paragraph (1) “the requisite consultation” means—

- (a) except in the case of medical practitioners, consultation with the Department;
- (b) in the case of such practitioners, consultation with the Chief Medical Officer of the Department.

9. The President shall supply the Department with such reports and other information with respect to the carrying out of the functions of appeal tribunals as the Department may require.

10. Each year the President shall make to the Department a written report, based on the cases coming before appeal tribunals, on the standards achieved by the Department in the making of decisions against which an appeal lies to an appeal tribunal; and the Department shall publish the report.

Clerks to appeal tribunals

11. The Department may by regulations provide—

- (a) for clerks to be assigned to service appeal tribunals; and
- (b) for clerks so assigned to be responsible for summoning members of the panel constituted under Article 7 to serve on such tribunals.

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Delegation of certain functions of appeal tribunals

12.—(1) The Department may by regulations provide—

- (a) ^{F6} for officers authorised by the Department to make any determinations which fall to be made by an appeal tribunal and which do not involve the determination of any appeal, application for leave to appeal or reference;
- (b) for the procedure to be followed by such officers in making such determinations;
- (c) for the manner in which such determinations by such officers may be called in question.

(2) A determination which would have the effect of preventing an appeal, application for leave to appeal or reference being determined by an appeal tribunal is not a determination of the appeal, application or reference for the purposes of sub-paragraph (1).

F6 mod. by SI 2005/191

Certificates

13. A document bearing a certificate which—

- (a) is signed by a person authorised in that behalf by the Department; and
- (b) states that the document, apart from the certificate, is a record of a decision of an appeal tribunal or of an officer of the Department,

shall be conclusive evidence of the decision; and a certificate purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

SCHEDULE 2

Article 13(1).

DECISIONS AGAINST WHICH NO APPEAL LIES

Jobseeker's allowance for persons under 18

1. In relation to a person who has reached the age of 16 but not the age of 18, a decision—

- (a) whether Article 18 of the Jobseekers Order is to apply to him; or
- (b) whether to issue a certificate under Article 19(4) of that Order.

Christmas bonus

2. A decision whether a person is entitled to payment under section 144 of the Contributions and Benefits Act.

Priority between persons entitled to ^{F7}invalid care allowance

F7 (Coming into operation on 21.10.02 for the purposes of exercising powers to make subordinate legislation to come into operation on or after 1.4.03 and 1.4.03 for all other purposes) subst. by SR 2002/321

3. A decision as to the exercise of the discretion under section 70(7) of the Contributions and Benefits Act.

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Priority between persons entitled to child benefit

4. A decision as to the exercise of the discretion under paragraph 5 of Schedule 10 to the Contributions and Benefits Act.

Persons treated as if present in Northern Ireland

5. A decision whether to certify, in accordance with regulations made under section 64(1), 71(6), 113(1) or 119 of the Contributions and Benefits Act, that it is consistent with the proper administration of that Act to treat a person as though he were present in Northern Ireland.

[^{F8}Work-focused interviews

F8 1999 NI 11

5A. A decision terminating or reducing the amount of a person's benefit made in consequence of any decision made under regulations under section 2A^[F9] or 2AA] of the Administration Act (work-focused interviews).]

F9 2002 c. 10 (NI)

Alteration of rates of benefit

6. A decision as to the amount of benefit to which a person is entitled, where it appears to the Department that the amount is determined by—

- (a) the rate of benefit provided for by law; or
- (b) an alteration of a kind referred to in—
 - (i) section 139(1)(b) of the Administration Act (income support);^{F10} . . .
 - (ii) section 139A(1)(b) of that Act (jobseeker's allowance)^[F11, F12 . . .]
 - ^[F11](iii) section 139B(1)(b) of that Act (state pension credit)^{[F13}, or
 - (iv) section 139C(1)(b) of that Act (employment and support allowance).]

F10 2002 c. 14 (NI)

F11 2002 c. 14 (NI)

F12 Word in Sch. 2 para. 6(b)(ii) repealed (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 58, 60(1), Sch. 8; S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2

F13 Sch. 2 para. 6(b)(iv) and preceding word added (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), Sch. 3 para. 10(8); S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2

Increases in income support or income-based jobseeker's allowance due to attainment of particular ages

7. A decision as to the amount of benefit to which a person is entitled, where it appears to the Department that the amount is determined by the recipient's entitlement to an increased amount of income support or income-based jobseeker's allowance in the circumstances referred to in section 140(2) or 140A(2) of the Administration Act.

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Reduction in accordance with reduced benefit [^{F14}direction] [^{F15}decision]

- F14** Word in Sch. 2 para. 8 heading substituted (3.3.2003 for certain purposes, otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 33; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F15** Word in Sch. 2 para. 8 heading substituted (3.3.2003 for certain purposes, otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 33; S.R. 2003/53, art. 3\(1\), Sch.](#)

8. A decision to reduce the amount of a person's benefit in accordance with a reduced benefit [^{F16}direction] [^{F17}decision](within the meaning of Article 43 of the Child Support Order).

- F16** Word in Sch. 2 para. 8 substituted (3.3.2003 for certain purposes, otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 33; S.R. 2003/53, art. 3\(1\), Sch.](#)
- F17** Word in Sch. 2 para. 8 substituted (3.3.2003 for certain purposes, otherwise prosp.) by [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c. 4\), ss. 25, 68\(2\), Sch. 3 para. 33; S.R. 2003/53, art. 3\(1\), Sch.](#)

[^{F18}Reduction on application of benefit cap

- F18** [Sch. 2 para. 8A and cross-heading inserted \(17.2.2016\) by The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\), arts. 2\(2\), 102\(2\); S.R. 2016/46, art. 3\(4\)\(a\)](#)

8A. A decision to apply the benefit cap in accordance with regulations under Article 101 of the Welfare Reform (Northern Ireland) Order 2015.]

Power to prescribe other decisions

9. Such other decisions as may be prescribed.

SCHEDULE 3

Article 13(1).

DECISIONS AGAINST WHICH AN APPEAL LIES

PART I

BENEFIT DECISIONS

Entitlement to benefit without a claim

- 1.** In such cases or circumstances as may be prescribed, a decision whether a person is entitled to a relevant benefit for which no claim is required.
- 2.** If so, a decision as to the amount to which he is entitled.

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Payability of benefit

3. A decision whether a relevant benefit (or a component of a relevant benefit) to which a person is entitled is not payable by reason of—
- (a) any provision of the Contributions and Benefits Act by which the person is disqualified for receiving benefit;
 - (b) regulations made under section 72(8) of that Act (disability living allowance);
 - (c) regulations made under section 113(2) of that Act (suspension of payment); or
 - [^{F19}(ca) regulations made under Article [^{F20}10 or] 19A of the Jobseekers Order;]
 - (d) Article 21 [^{F21}or 22C] of the Jobseekers Order (jobseeker's allowance). ^{F22}
 - (e) ^{F23}
 - [^{F24}(f) section [^{F25}5B,] 6, 7 or 8 of the Social Security Fraud Act (Northern Ireland) 2001.][^{F26}, or
 - (g) section 18 of the Welfare Reform Act (Northern Ireland) 2007.]

F19	Sch. 3 para. 3(ca) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 1(4), 36(1)(a)
F20	Words in Sch. 3 para. 3(ca) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 27(4), 36(1)(j)
F21	Words in Sch. 3 para. 3(d) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 20(4), 36(1)(f)
F22	Sch. 3 para. 3(d): words "; or" added (prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 57, 68(2) and word "or" subsequently repealed (1.5.2002) by Social Security Fraud Act (Northern Ireland) 2001 (c. 17), ss. 16, 17(1), Sch., S.R. 2002/165, art. 2(d)
F23	Sch. 3 para. 3(e) added (prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 57, 68(2) and subsequently repealed (23.9.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 34(1), 36(2), Sch. 4 Pt. 3; S.R. 2010/327, art. 2(2)(c)(d)
F24	2001 c. 17 (NI)
F25	Words in Sch. 3 para. 3(f) inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13), ss. 19(2)(b), 36(1)(e), Sch. 3 para. 8
F26	Sch. 3 para. 3(g) and preceding words added (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), Sch. 3 para. 10(9); S.R. 2008/276, art. 2(2)(d), Sch. Pt. 2

Payments to third parties

4. Except in such cases or circumstances as may be prescribed, a decision whether the whole or part of a benefit to which a person is entitled is, by virtue of regulations, to be paid to a person other than him.

Recovery of benefits

- 5. A decision whether payment is recoverable under section 69 or 69A of the Administration Act.
- 6. If so, a decision as to the amount of payment recoverable.

[^{F27}**6A.** A decision as to whether payment of housing credit (within the meaning of the State Pension Credit Act (Northern Ireland) 2002) is recoverable under section 69ZB of the Administration Act.]

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F27 Sch. 3 paras. 6A, 6B inserted (4.4.2016 for specified purposes, 2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **109(7)**; S.R. 2016/46, art. 4(a); S.R. 2016/215, art. 2(6)(b)

[^{F27}**6B.** A decision as to the amount of payment recoverable under section 69ZB, 69ZG or 69ZH of the Administration Act.]

F27 Sch. 3 paras. 6A, 6B inserted (4.4.2016 for specified purposes, 2.5.2016 for specified purposes) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), arts. 2(2), **109(7)**; S.R. 2016/46, art. 4(a); S.R. 2016/215, art. 2(6)(b)

[^{F28}State pension: prisoners and overseas residents

F28 Sch. 3 paras. 6C, 6D and cross-heading inserted (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by Pensions Act (Northern Ireland) 2015 (c. 5), s. 53(3), **Sch. 12 para. 33**

6C A decision that a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 is not payable by reason of section 19 of that Act (prisoners).

6D A decision that a person is not entitled to increases in the rate of a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 by reason of regulations under section 20 of that Act (overseas residents).]

Industrial injuries benefit

7. A decision whether an accident was an industrial accident for the purposes of industrial injuries benefit.

Jobseekers' agreements

8. A decision in relation to a jobseeker's agreement as proposed to be made under Article 11 of the Jobseekers Order, or as proposed to be varied under Article 12 of that Order.

[^{F29}State pension credit

F29 2002 c. 14 (NI)

8A. A decision whether to specify a period as an assessed income period under section 6 of the State Pension Credit Act (Northern Ireland) 2002.

8B. If so, a decision as to the period to be so specified.

8C. A decision whether an assessed income period comes to an end by virtue of section 9(4) or (5) of that Act.

8D. If so, a decision as to when the assessed income period so ends.]

Power to prescribe other decisions

9. Such other decisions relating to a relevant benefit as may be prescribed.

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PART II CONTRIBUTIONS DECISIONS

Categorisation of earners

Para. 10 rep. by SI 1999/671

Para. 11 rep. by SI 1999/671

Compulsory contributions

Para. 12 rep. by SI 1999/671

Para. 13 rep. by SI 1999/671

Voluntary contributions

Para. 14 rep. by SI 1999/671

Para. 15 rep. by SI 1999/671

Responsibilities at home

16. A decision whether a person was (within the meaning of regulations) precluded from regular employment by responsibilities at home.

Earnings and contributions credits

17. A decision whether a person is entitled to be credited with earnings or contributions in accordance with regulations made under section 22(5) of the Contributions and Benefits Act.

Statutory sick pay

Para. 18 rep. by SI 1999/671

Para. 19 rep. by SI 1999/671

Statutory maternity pay

Para. 20 rep by SI 1999/671

Liability of directors, etc. for company's contributions

Para. 22 rep. by SI 1999/671

Preserved rights to benefit, etc.

Para. 23 rep. by SI 1999/671

Employment of long-term unemployed

Para. 24 rep. by SI 1999/671

Interest and penalties

Para. 25 rep. by SI 1999/671

Para. 26 rep. by SI 1999/671

Para. 27 rep. by SI 1999/671

Para. 28 rep. by SI 1999/671

Power to prescribe other decisions

Para. 29 rep. by SI 1999/671

SCHEDULE 4 ^{F30}

Article 16(1).

REGULATIONS AS TO PROCEDURE: PROVISION WHICH MAY BE MADE

F30 temp. mod. by SI 2002/2926

1. Provision prescribing the procedure to be followed in connection with—
 - (a) ^{F31} the making of decisions or determinations by the Department, an appeal tribunal or a Commissioner; and
 - (b) ^{F31} the withdrawal of claims, applications, appeals or references falling to be decided or determined by the Department, an appeal tribunal or a Commissioner.

F31 mod. by SI 2005/191

2. Provision as to the striking out or reinstatement of proceedings.

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3. Provision as to the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence.
4. Provision as to the time within which, or the manner in which—
 - (a) any evidence is to be produced; or
 - (b) any application, reference or appeal is to be made.
5. Provision for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses.
6. Provision with respect to the procedure to be followed on appeals to and in other proceedings before appeal tribunals.
7. Provision for authorising an appeal tribunal consisting of two or more members to proceed with any case, with the consent of the claimant, in the absence of any member.
8. Provision for empowering an appeal tribunal to give directions for the disposal of any purported appeal which the tribunal is satisfied that it does not have jurisdiction to entertain.
9. Provision for the non-disclosure to a person of the particulars of any medical advice or medical evidence given or submitted for the purposes of a determination.

F³²SCHEDULE 5

Article 77.

TRANSITORY PROVISIONS

F32 prosp. rep. by 1998 NI 10 but rep. in force on the 29.11.99 in so far as relating to child's special allowance, income support, the social fund and recovery of benefits.

Constitution of appeal tribunals

1. In relation to any time before the coming into operation of Article 8 so far as it relates to appeals under Article 13, section 39 of the Administration Act (constitution of social security appeal tribunals) shall have effect as if—
 - (a) in subsection (1), for the words “and two other persons” there were substituted the words “sitting either alone or with one or two other persons”;
 - (b) in subsection (2), for the words “The members other than the chairman” there were substituted the words “Any members other than the chairman”; and
 - (c) for subsection (5) there were substituted the following subsection—

“(5) Where the appeal tribunal hearing a case consists of more than one member it shall, if practicable, include at least one member who is of the same sex as the claimant.”.

Claims no longer subsisting after decisions made

2. In relation to any time before the coming into operation of Article 9(2), section 19 of the Administration Act (decision of adjudication officer) shall have effect as if after subsection (6) there were added the following subsection—

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“(7) Where at any time a claim for a benefit to which section 18 above applies is decided by an adjudication officer or by a social security appeal tribunal on a reference by such an officer—

- (a) the claim shall not be regarded as subsisting after that time; and
- (b) accordingly, the claimant shall not (without making a further claim) be entitled to the benefit on the basis of circumstances not obtaining at that time.” .

Appeals to tribunals

3.—(1) In relation to appeals brought after the coming into operation of Article 77 and any time before the coming into operation of Article 13(8)(b), section 20 of the Administration Act (appeal to social security appeal tribunal) shall have effect as if after subsection (7) there were added the following subsection—

“(8) In deciding an appeal under this section, a social security appeal tribunal shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.” .

(2) In relation to such appeals and any such time, section 31 of that Act (appeals following reviews) shall have effect as if after subsection (6) there were added the following subsection—

“(7) The tribunal shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.” .

Appeals to Commissioners

4.—(1) In relation to any time before the coming into operation of Article 15(7), section 21 of the Administration Act (appeal from social security appeal tribunal to Commissioner) shall have effect as if—

(a) after subsection (6) there were inserted the following subsection—

“(6A) If each of the principal parties to the appeal expresses the view that the decision appealed against was erroneous in point of law, the Commissioner may set aside the decision and refer the case to a tribunal with directions for its determination.

In this subsection “principal parties” means—

- (a) in a case relating to statutory sick pay or statutory maternity pay, the persons mentioned in subsection (2)(a), (b) and (c) above;
- (b) in any other case—
 - (i) the persons mentioned in subsection (3)(a) and (b) above; and
 - (ii) where applicable, the person mentioned in subsection (3)(d) above and such a person as is first mentioned in subsection (4) above.” ; and

(b) in subsection (8), for the words “subsection (7)(b) above” there were substituted the words “subsection (6A) or (7)(b) above”.

(2) In relation to any such time, section 32 of that Act (appeal from social security appeal tribunals or disability appeal tribunals to Commissioners and appeals from Commissioners), shall have effect as if, in subsection (4), for the words “(7) to (10) of section 21” there were substituted the words “(6A) to (10) of section 21”.

(3) In relation to any such time, section 46 of that Act (appeal etc. on question of law to Commissioner) shall have effect as if—

(a) after subsection (4) there were inserted the following subsection—

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“(4A) If each of the principal parties to the appeal expresses the view that the decision appealed against was erroneous in point of law, the Commissioner may set aside the decision and refer the case to a medical appeal tribunal with directions for its determination.

In this subsection “principal parties” means the persons mentioned in subsection (1)(a) and (b) above and the Department.” ; and

(b) in subsection (6), for the words “subsection (5) above” there were substituted the words “subsection (4A) or (5) above”.

Suspension of benefit in prescribed circumstances

5.—(1) In relation to any time before the coming into operation of Article 21(2)(d), section 5(1) of the Administration Act (regulations about claims for and payments of benefit) shall have effect as if after paragraph (o) there were inserted the following paragraph—

“(oo) for suspending payment, in whole or in part, where an appeal is pending against the decision given in a different case by a social security appeal tribunal, a Commissioner or a court, and it appears to the Department that if the appeal were to be determined in a particular way an issue would arise whether the award in the case itself ought to be revised;” .

(2) In relation to any such time, paragraph 10(2) of Schedule 1 to the Jobseekers Order (supplementary provisions) shall have effect as if for the words “5(1)(o)” there were substituted the words “5(1)(o) or (oo)”.

Restrictions on entitlement in certain cases of error

6. In relation to applications under section 24(1) or 28 of the Administration Act made after the coming into operation of Article 77 and any time before the coming into operation of Article 27, section 67 of that Act (determination of questions on review following erroneous decisions) shall have effect as if after subsection (1) there were inserted the following subsection—

“(1A) Where the review under section 23(2) or 28 above was carried out on an application under section 24(1) above or (as the case may be) section 28, it is immaterial for the purposes of subsection (1) above whether the application was made before or after the date of the relevant determination.” .

Reviews of social fund determinations

7. In relation to any time before the coming into operation of Article 38, section 64 of the Administration Act (reviews) shall have effect as if—

(a) after paragraph (a) of subsection (1) there were inserted the following paragraph—

“(aa) may review such a determination on the ground that the person who applied for the payment to which the determination relates misrepresented, or failed to disclose, any material fact; and” ;

(b) after subsection (5) there were inserted the following subsection—

“(5A) In making a determination on a review a social fund officer or a social fund inspector need not consider—

(a) in the case of a determination on a review under subsection (1)(a) above, any issue that is not raised by the application;

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- (b) in the case of a determination on a review under subsection (1)(aa) above, any issue that is not raised by the material fact;
- (c) in the case of a determination on a review under subsection (1)(b) above, any issue that did not cause him to carry out the review.” ;
- (c) for subsection (6) there were substituted the following subsection—
 - “(6) In determining a question on a review under subsection (1)(a) or (b) above a social fund officer or social fund inspector shall, subject to subsection (7) below, have regard to whichever of the following are applicable, namely—
 - (a) all the circumstances of the case and, in particular, the criteria specified in paragraphs (a) to (e) of subsection (1) of section 136 of the Contributions and Benefits Act;
 - (b) the criteria mentioned in paragraphs (a) and (b) of subsection (1A) of that section; and
 - (c) the criterion specified in directions issued by the Department under that subsection and the criteria mentioned in paragraph (b) of that subsection.” ;
 - (d) in subsection (7) of that section, after the word “review” there were inserted the words “under subsection (1)(a) or (b) above”;
 - (e) after that subsection there were inserted the following subsections—
 - “(7A) In making a determination on a review under subsection (1)(aa) above a social fund officer or a social fund inspector shall—
 - (a) act in accordance with any general directions issued by the Department; and
 - (b) take account of any general guidance issued by the Department.
 - (7B) Any reference in subsection (5A), (6), (7) or (7A) above to a determination on a review under a particular provision of subsection (1) above shall be construed, in relation to a social fund inspector, as a reference to a determination on a further review of a determination which has been reviewed under that provision.” ;
 - (f) in subsection (9), for the words “this section”, in the first place where they occur, there were substituted the words “subsection (1)(a) or (b) above”; and
 - (g) in subsection (10), after the word “determination”, in the first place where it occurs, there were inserted the words “which has been reviewed under subsection (1)(a) or (b) above”.

Overpayments out of the social fund

8. In relation to any time before the coming into operation of Articles 10, 11 and 38, section 69ZA of the Administration Act (overpayments out of the social fund) shall have effect as if for subsection (2) there were substituted the following subsection—

- “(2) Section 69 above as it so applies shall have effect as if the following provisions were omitted, namely—
 - (a) in paragraph (a) of subsection (5) and subsection (5A), the words “reversed or varied on an appeal or”;
 - (b) in paragraph (b) of subsection (5), the words “appeal or”;
 - (c) subsections (7) and (10A).” .

Status: Point in time view as at 02/05/2016.

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Child support: appeals to tribunals

9. In relation to appeals brought after the coming into operation of Article 77 and any time before the coming into operation of Article 42, Article 22 of the Child Support Order (appeals) shall have effect as if after paragraph (4) there were added the following paragraph—

“(5) In deciding an appeal under this Article, the tribunal shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.” .

Schedule 6—Amendments

Schedule 7—Repeals

Status:

Point in time view as at 02/05/2016.

Changes to legislation:

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