
STATUTORY INSTRUMENTS

1998 No. 1506 (N.I. 10)

NORTHERN IRELAND

The Social Security (Northern Ireland) Order 1998

Made - - - - 24th June 1998

Laid before Parliament 25th June 1998

Coming into operation in accordance with Article 1

At the Court at Buckingham Palace, the 24th day of June 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to those of the Social Security Act 1998:
Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 85 of the said Act of 1998) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1998.

(2) Subject to paragraph (3), this Order shall come into operation on such day or days as the Department may by order appoint.

(3) The following provisions of this Order shall come into operation on the seventh day after the day on which this Order is made—

(a) this Article and Article 2;

(b) paragraph (1) of Article 47 (so far as relating to a sum which is chargeable to tax by virtue of section 313 of the Income and Corporation Taxes Act 1988), and paragraphs (2) to (4) of that Article;

(c) Articles 62, 65, 68 and 73 to 77;

(d) Schedule 5.

(4) An order under paragraph (2) may make such savings, or such transitional or consequential provision, as the Department considers necessary or expedient—

- (a) in preparation for or in connection with the coming into operation of any provision of this Order; or
- (b) in connection with the operation of any statutory provision repealed or amended by a provision of this Order during any period when the repeal or amendment is not wholly in operation.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

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

“the Child Support Order” means the Child Support (Northern Ireland) Order 1991;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Department” means the Department of Health and Social Services;

“the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995;

“prescribe” means prescribe by regulations;

“the Recovery of Benefits Order” means the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“the Vaccine Damage Payments Act” means the Vaccine Damage Payments Act 1979.

PART II

DECISIONS AND APPEALS

CHAPTER I

GENERAL

Decisions

Transfer of functions to the Department

3. The following functions are hereby transferred to the Department, namely—

- (a) the functions of adjudication officers appointed under section 36 of the Administration Act;
- (b) the functions of social fund officers appointed under section 62 of that Act; and
- (c) the functions of child support officers appointed under Article 15 of the Child Support Order.

Use of computers

4.—(1) Any decision, determination or assessment falling to be made or certificate falling to be issued by the Department under any relevant statutory provision may be made or issued not only by an officer of the Department acting under its authority but also—

- (a) by a computer for whose operation such an officer is responsible; and
- (b) in the case of a decision, determination or assessment that may be made or a certificate that may be issued by a person providing services to the Department, by a computer for whose operation such a person is responsible.

(2) In this Article “relevant statutory provision” means any statutory provision contained in—

- (a) Chapter II of this Part;
- (b) the Contributions and Benefits Act;
- (c) the Administration Act;
- (d) the Child Support Order;
- (e) the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (f) the Child Support (Northern Ireland) Order 1995;
- (g) the Jobseekers Order; or
- (h) the Recovery of Benefits Order.

Appeals

Unified appeal tribunals

5.—(1) Subject to the provisions of this Order—

- (a) the functions of social security appeal tribunals, disability appeal tribunals and medical appeal tribunals constituted under Part II of the Administration Act;
- (b) the functions of child support appeal tribunals established under Article 23 of the Child Support Order; and
- (c) the functions of vaccine damage tribunals established by regulations made under section 4 of the Vaccine Damage Payments Act,

are hereby transferred to appeal tribunals constituted under the following provisions of this Chapter.

(2) Accordingly appeals under—

- (a) Article 13;
- (b) Article 22 of the Child Support Order, as substituted by Article 42;
- (c) section 4 of the Vaccine Damage Payments Act, as substituted by section 46 of the Social Security Act 1998; and
- (d) Article 13 of the Recovery of Benefits Order,

shall be determined by appeal tribunals so constituted (in the following provisions of this Chapter referred to as “appeal tribunals”).

President of appeal tribunals

6.—(1) The Lord Chancellor may appoint for Northern Ireland a President of appeal tribunals.

(2) A person is qualified to be appointed President if he is a barrister or solicitor of at least 10 years' standing.

(3) Schedule 1 shall have effect for supplementing this Article.

Panel for appointment to appeal tribunals

7.—(1) The Lord Chancellor shall constitute for Northern Ireland a panel of persons to act as members of appeal tribunals.

(2) Subject to paragraph (3), the panel shall be composed of such persons as the Lord Chancellor thinks fit to appoint after consultation, in the case of medical practitioners, with the Chief Medical Officer of the Department.

(3) The panel shall include persons possessing such qualifications as may be prescribed by regulations made with the concurrence of the Lord Chancellor.

(4) The numbers of persons appointed to the panel, and the terms and conditions of their appointments, shall be determined by the Lord Chancellor with the consent of the Department.

(5) A person may be removed from the panel by the Lord Chancellor on the ground of incapacity or misbehaviour.

Constitution of appeal tribunals

8.—(1) Subject to paragraph (2), an appeal tribunal shall consist of one, two or three members drawn by the President from the panel constituted under Article 7.

(2) The member, or (as the case may be) at least one member, of an appeal tribunal shall be a barrister or solicitor.

(3) Where an appeal tribunal has more than one member—

(a) the President shall nominate one of the members as chairman;

(b) decisions shall be taken by a majority of votes; and

(c) unless regulations otherwise provide, the chairman shall have any casting vote.

(4) Where it appears to an appeal tribunal that a matter before it involves a question of fact of special difficulty, then, unless regulations otherwise provide, the tribunal may require one or more experts to provide assistance to it in dealing with the question.

(5) In paragraph (4) “expert” means a member of the panel constituted under Article 7 who appears to the appeal tribunal concerned to have knowledge or experience which would be relevant in determining the question of fact of special difficulty.

(6) Regulations shall make provision with respect to—

(a) the composition of appeal tribunals;

(b) the procedure to be followed in allocating cases among differently constituted tribunals; and

(c) the manner in which expert assistance is to be given under paragraph (4).

(7) Schedule 1 shall have effect for supplementing this Article.

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Decisions

Decisions by the Department

9.—(1) Subject to the provisions of this Chapter, it shall be for the Department—

- (a) to decide any claim for a relevant benefit;
 - (b) to decide any claim for a social fund payment mentioned in section 134(1)(b) of the Contributions and Benefits Act;
 - (c) subject to paragraph (5), to make any decision that falls to be made under any relevant statutory provision; and
 - (d) subject to and in accordance with regulations, to decide any issue arising as to, or in connection with, entitlement to statutory sick pay or statutory maternity pay.
- (2) Where at any time a claim for a relevant benefit is decided by the Department—
- (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.
- (3) In this Chapter “relevant benefit”, subject to Article 21(4), means any of the following, namely—
- (a) benefit under Parts II to V of the Contributions and Benefits Act;
 - (b) a jobseeker’s allowance;
 - (c) income support;
 - (d) family credit;
 - (e) disability working allowance;
 - (f) a social fund payment mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act;
 - (g) child benefit;
 - (h) such other benefit as may be prescribed.
- (4) In this Article “relevant statutory provision” means any statutory provision contained in this Chapter, the Contributions and Benefits Act, the Administration Act, the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 or the Jobseekers Order, other than one contained in—
- (a) Part VII of the Contributions and Benefits Act so far as relating to housing benefit;
 - (b) Part VIII of the Administration Act (arrangements for housing benefit).
- (5) Paragraph (1)(c) does not include any decision relating to Class 4 contributions other than a decision falling to be made—
- (a) under subsection (1) of section 17 of the Contributions and Benefits Act as to whether by regulations under that subsection a person is excepted from liability for Class 4 contributions, or his liability is deferred; or
 - (b) under regulations made by virtue of subsection (3) or (4) of that section or section 18 of that Act.

Revision of decisions

10.—(1) Subject to Article 36(3), any decision of the Department under Article 9 or 11 may be revised by the Department—

- (a) either within the prescribed period or in prescribed cases or circumstances; and
 - (b) either on an application made for the purpose or on the Department’s own initiative,
- and regulations may prescribe the procedure by which a decision of the Department may be so revised.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Subject to paragraphs (4) and (5) and Article 27, a revision under this Article shall take effect as from the date on which the original decision took (or was to take) effect.

(4) Regulations may provide that, in prescribed cases or circumstances, a revision under this Article shall take effect as from such other date as may be prescribed.

(5) Where a decision is revised under this Article, for the purpose of any rule as to the time allowed for bringing an appeal, the decision shall be regarded as made on the date on which it is so revised.

(6) Except in prescribed circumstances, an appeal against a decision of the Department shall lapse if the decision is revised under this Article before the appeal is determined.

Decisions superseding earlier decisions

11.—(1) Subject to paragraphs (3) and (4) and Article 36(3), the following, namely—

- (a) any decision of the Department under Article 9 or this Article, whether as originally made or as revised under Article 10; and
- (b) any decision under this Chapter of an appeal tribunal or a Commissioner,

may be superseded by a decision made by the Department, either on an application made for the purpose or on the Department's own initiative.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this Article.

(4) Paragraph (1)(a) does not apply in the case of a decision of the Department under paragraph (1)(c) of Article 9 where the relevant statutory provision within the meaning of that Article is section 115B or 115C of the Administration Act (liability of directors, etc. for company's contributions).

(5) Subject to paragraph (6) and Article 27, a decision under this Article shall take effect as from the date on which it is made or, where applicable, the date on which the application was made.

(6) Regulations may provide that, in prescribed cases or circumstances, a decision under this Article shall take effect as from such other date as may be prescribed.

Regulations with respect to decisions

12.—(1) Subject to the provisions of this Chapter and the Administration Act, provision may be made by regulations for the making of any decision by the Department under or in connection with the current legislation, or the former legislation, including a decision on a claim for benefit.

(2) Where it appears to the Department that a matter before it involves a question of fact requiring special expertise, the Department may direct that in dealing with that matter it shall have the assistance of one or more experts.

(3) In this Article—

“the current legislation” means the Contributions and Benefits Act, the Jobseekers Order and the Recovery of Benefits Order;

“expert” means a person appearing to the Department to have knowledge or experience which would be relevant in determining the question of fact requiring special expertise;

“the former legislation” means the National Insurance Acts (Northern Ireland) 1966 to 1974, the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1974, the Social Security (Northern Ireland) Act 1975 and Part III of the Social Security (Northern Ireland) Order 1986.

Appeals

Appeal to appeal tribunal

13.—(1) This Article applies to any decision of the Department under Article 9 or 11 (whether as originally made or as revised under Article 10) which—

- (a) is made on a claim for, or on an award of, a relevant benefit, and does not fall within Schedule 2;
 - (b) is made otherwise than on such a claim or award, and falls within Schedule 3; or
 - (c) relates to statutory sick pay or statutory maternity pay.
- (2) In the case of a decision to which this Article applies—
- (a) if it relates to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to an appeal tribunal; and
 - (b) in any other case, the claimant and such other person as may be prescribed shall have a right to do so,

but nothing in this paragraph shall confer a right of appeal in relation to a prescribed decision, or a prescribed determination embodied in or necessary to a decision.

(3) Regulations under paragraph (2) shall not prescribe any decision or determination that relates to the conditions of entitlement to a relevant benefit for which a claim has been validly made or for which no claim is required.

(4) Where the Department has determined that any amount is recoverable under section 69 or 72 of the Administration Act, any person from whom the Department has determined that it is recoverable shall have the same right of appeal to an appeal tribunal as a claimant.

(5) In any case where—

- (a) the Department has made a decision in relation to a claim under Part V of the Contributions and Benefits Act; and
- (b) the entitlement to benefit under that Part of that Act of any person other than the claimant is or may be, under Part VI of Schedule 7 to that Act, affected by that decision,

that other person shall have the same right of appeal to an appeal tribunal as the claimant.

(6) A person with a right of appeal under this Article shall be given such notice of a decision to which this Article applies and of that right as may be prescribed.

(7) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.

(8) In deciding an appeal under this Article, an appeal tribunal—

- (a) need not consider any issue that is not raised by the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.

(9) The reference in paragraph (1) to a decision under Article 11 is a reference to a decision superseding any such decision as is mentioned in sub-paragraph (a) or (b) of paragraph (1) of that Article.

Redetermination, etc. of appeals by tribunal

14.—(1) This Article applies where an application is made to a person under Article 15(10)(a) for leave to appeal from a decision of an appeal tribunal.

(2) If the person considers that the decision was erroneous in point of law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.

(3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.

(4) In this Article and Article 15 “principal parties” means—

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

Appeal from tribunal to Commissioner

15.—(1) Subject to the provisions of this Article, an appeal lies to a Commissioner from any decision of an appeal tribunal under Article 13 or 14 on the ground that the decision of the tribunal was erroneous in point of law.

(2) In the case of statutory sick pay or statutory maternity pay an appeal lies under this Article at the instance of any of the following—

- (a) the Department;
- (b) the employee concerned;
- (c) the employer concerned;
- (d) a trade union, where—
 - (i) the employee is a member of the union at the time of the appeal and was so immediately before the matter in question arose; or
 - (ii) the matter in question concerns the entitlement of a deceased person who was at the time of his death a member of the union; and
- (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the matter in question arose.

(3) In any other case an appeal lies under this Article at the instance of any of the following—

- (a) the Department;
- (b) the claimant and such other person as may be prescribed;
- (c) in any of the cases mentioned in paragraph (5), a trade union; and
- (d) a person from whom it is determined that any amount is recoverable under section 69 or 72 of the Administration Act.

(4) In a case relating to industrial injuries benefit an appeal lies under this Article at the instance of a person whose entitlement to benefit is, or may be, under Part VI of Schedule 7 to the Contributions and Benefits Act, affected by the decision appealed against, as well as at the instance of any person or body such as is mentioned in paragraph (3).

(5) The following are the cases in which an appeal lies at the instance of a trade union—

- (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the matter in question arose;
- (b) where that matter in any way relates to a deceased person who was a member of the union at the time of his death;
- (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased, was a member of the union at the time of the relevant accident.

(6) Paragraphs (2), (3) and (5), as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.

(7) 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.

(8) Where the Commissioner holds that the decision appealed against was erroneous in point of law, he shall set it aside and—

- (a) he shall have power—
 - (i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or
 - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and

(b) in any other case he shall refer the case to a tribunal with directions for its determination.

(9) Subject to any direction of the Commissioner, a reference under paragraph (7) or (8)(b) shall be to a differently constituted tribunal.

(10) No appeal lies under this Article without the leave—

- (a) of the person who constituted, or was the chairman of, the tribunal when the decision was given or, in a prescribed case, the leave of such other person as may be prescribed; or
- (b) subject to and in accordance with regulations, of a Commissioner.

(11) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.

(12) The Lord Chancellor may pay to any person who attends any proceedings under this Article such travelling and other allowances as he may determine; and in this paragraph the reference to travelling and other allowances includes a reference to compensation for loss of remunerative time.

(13) The Lord Chancellor may by regulations provide—

- (a) for officers authorised by him to make any determinations which fall to be made by Commissioners;
- (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.

Procedure, etc.

Procedure

16.—(1) Regulations (“procedure regulations”) may make any such provision as is specified in Schedule 4.

(2) Procedure regulations prescribing the procedure to be followed in cases before a Commissioner shall provide that any hearing shall be in public except in so far as the Commissioner for special reasons otherwise directs.

- (3) It is hereby declared—
- (a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
 - (b) that the power to provide for the procedure to be followed in connection with the making of decisions by the Department includes power to make provision with respect to the formulation of the matters to be decided, whether on a reference under section 111 of the Administration Act or otherwise.
- (4) Paragraph (5) applies to any issue—
- (a) as to whether a Class 1A contribution is payable, or otherwise relating to a Class 1A contribution; or
 - (b) relating to emoluments in respect of which a Class 1A contribution would be payable but for section 10(8A) of the Contributions and Benefits Act,

and in that paragraph, in relation to such an issue, “the relevant person” means the person who is liable or alleged to be liable, or (as the case may be) who would be liable or who it is alleged would be liable, to pay the Class 1A contribution in question.

(5) In proceedings for the determination of an issue to which this paragraph applies, there shall be available to a witness (other than the relevant person) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings.

(6) If it appears to a Commissioner that a matter before him involves a question of fact of special difficulty, he may direct that in dealing with that matter he shall have the assistance of one or more experts.

In this paragraph “expert” means a person appearing to the Commissioner to have knowledge or experience which would be relevant in determining the question of fact of special difficulty.

(7) 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 the purpose) that—

- (a) an application for leave under Article 15(10)(b); or
- (b) an appeal,

falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the application or appeal be dealt with, not by that Commissioner alone, but by a tribunal consisting of any two or more of the Commissioners.

If the decision of such a tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal; and the presiding Commissioner shall have a casting vote if the votes are equally divided.

(8) Where a direction is given under paragraph (7)(a), Article 15(10)(b) shall have effect as if the reference to a Commissioner were a reference to such a tribunal as is mentioned in paragraph (7).

(9) Except so far as it may be applied by procedure regulations, Part I of the Arbitration Act 1996 shall not apply to any proceedings under this Chapter.

Finality of decisions

17.—(1) Subject to the provisions of this Chapter, any decision made in accordance with the foregoing provisions of this Chapter shall be final; and subject to the provisions of any regulations under Article 12, any decision made in accordance with those regulations shall be final.

(2) If and to the extent that regulations so provide, any finding of fact or other determination embodied in or necessary to such a decision, or on which such a decision is based, shall be conclusive for the purposes of—

- (a) further such decisions;
- (b) decisions made under the Child Support Order; and
- (c) decisions made under the Vaccine Damage Payments Act.

Matters arising as respects decisions

18.—(1) Regulations may make provision as respects matters arising—

- (a) pending any decision under this Chapter of the Department, an appeal tribunal or a Commissioner which relates to—
 - (i) any claim for a relevant benefit;
 - (ii) any person’s entitlement to such a benefit or its receipt;
 - (iii) statutory sick pay or statutory maternity pay; or
 - (iv) any person’s liability for contributions; or
- (b) out of the revision under Article 10 or on appeal of any such decision.

(2) Regulations under paragraph (1) as it applies to child benefit may include provision as to the date from which child benefit is to be payable to a person in respect of a child in a case where, before the benefit was awarded to that person, child benefit in respect of the child was awarded to another person.

Medical examinations

Medical examination required by the Department

19.—(1) Before making a decision on a claim for a relevant benefit, or as to a person’s entitlement to such a benefit or to statutory sick pay or statutory maternity pay, the Department may refer the person—

- (a) in respect of whom the claim is made; or
- (b) whose entitlement is at issue,

to a medical practitioner for such examination and report as appears to the Department to be necessary for the purpose of providing it with information for use in making the decision.

(2) Paragraph (3) applies where—

- (a) the Department has exercised the power conferred on it by paragraph (1); and
- (b) the medical practitioner requests the person referred to him to attend for or submit himself to medical examination.

(3) If the person fails without good cause to comply with the request, the Department shall make the decision against him.

Medical examination required by appeal tribunal

20.—(1) This Article applies where an appeal has been brought under Article 13 against a decision on a claim for a relevant benefit, or as to a person’s entitlement to such a benefit or to statutory sick pay or statutory maternity pay.

(2) An eligible person may, if prescribed conditions are satisfied, refer the person—

- (a) in respect of whom the claim is made; or
- (b) whose entitlement is at issue,

to a medical practitioner for such examination and report as appears to the eligible person to be necessary for the purpose of providing an appeal tribunal with information for use in determining the appeal.

In this paragraph “eligible person” means a person who is eligible to be appointed as the sole member of an appeal tribunal, or to be nominated as the chairman of such a tribunal.

(3) At a hearing before an appeal tribunal, except in prescribed cases or circumstances, the tribunal—

- (a) may not carry out a physical examination of the person mentioned in paragraph (2); and
- (b) may not require that person to undergo any physical test for the purpose of determining whether he satisfies the condition mentioned in section 73(1)(a) of the Contributions and Benefits Act.

Suspension and termination of benefit

Suspension in prescribed circumstances

21.—(1) Regulations may provide for—

- (a) suspending payments of a relevant benefit, in whole or in part, in prescribed circumstances;
- (b) the subsequent making in prescribed circumstances of any or all of the payments so suspended.

(2) Regulations made under paragraph (1) may, in particular, make provision for any case where—

- (a) it appears to the Department that an issue arises whether the conditions for entitlement to a relevant benefit are or were fulfilled;
- (b) it appears to the Department that an issue arises whether a decision as to an award of a relevant benefit should be revised (under Article 10) or superseded (under Article 11);
- (c) an appeal is pending against a decision of an appeal tribunal, a Commissioner or a court; or
- (d) an appeal is pending against the decision given in a different case by 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 of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

(3) For the purposes of paragraph (2), an appeal against a decision is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for leave to appeal against the decision has been made but not determined; or
- (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.

(4) Any reference in this Article or Article 24 or 25 to a relevant benefit includes a reference to statutory sick pay and statutory maternity pay.

Suspension and termination for failure to furnish information, etc.

22.—(1) The powers conferred by this Article are exercisable in relation to persons who fail to comply with information requirements.

(2) Regulations may provide for—

- (a) suspending payments of a relevant benefit, in whole or in part;

(b) the subsequent making in prescribed circumstances of any or all of the payments so suspended.

(3) In this Article and Article 23 “information requirement” means a requirement, made in pursuance of regulations under subsection (1)(hh) of section 5 of the Administration Act, to furnish information or evidence needed for a determination whether a decision on an award of benefit to which that section applies should be revised under Article 10 or superseded under Article 11.

Termination in cases of failure to furnish information

23. Regulations may provide that, except in prescribed cases or circumstances, a person—

- (a) whose benefit has been suspended in accordance with regulations under Article 21 and who subsequently fails to comply with an information requirement; or
- (b) whose benefit has been suspended in accordance with regulations under Article 22 for failing to comply with such a requirement,

shall cease to be entitled to the benefit from a date not earlier than the date on which payments were suspended.

Suspension and termination for failure to submit to medical examination

24. Regulations may make provision—

- (a) enabling the Department to require a person to whom a relevant benefit has been awarded to submit to medical examination;
- (b) for suspending payments of benefit, in whole or in part, in a case of a person who fails to submit himself to a medical examination to which he is required to submit in accordance with regulations under paragraph (a);
- (c) for the subsequent making in prescribed circumstances of any or all of the payments so suspended;
- (d) for entitlement to the benefit to cease, except in prescribed cases or circumstances, from a date not earlier than the date on which payments were suspended.

Decisions and appeals dependent on other cases

Decisions involving issues that arise on appeal in other cases

25.—(1) This Article applies where—

- (a) a decision by the Department falls to be made under Article 9, 10 or 11 in relation to a particular case; and
- (b) an appeal is pending against the decision given in another case by a Commissioner or a court (whether or not the two cases concern the same benefit).

(2) In a case relating to a relevant benefit, the Department need not make the decision while the appeal is pending if it considers it possible that the result of the appeal will be such that, if it were already determined, there would be no entitlement to benefit.

(3) If the Department considers it possible that the result of the appeal will be such that, if it were already determined, it would affect the decision in some other way—

- (a) the Department need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;
- (b) the Department may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.

(4) Where the Department acts in accordance with paragraph (3)(b), following the determination of the appeal it shall, if appropriate, revise its decision (under Article 10) in accordance with that determination.

(5) For the purposes of this Article, an appeal against a decision is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for leave to appeal against the decision has been made but not determined; or
- (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.

(6) In sub-paragraphs (a), (b) and (c) of paragraph (5), any reference to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.

Appeals involving issues that arise on appeal in other cases

26.—(1) This Article applies where—

- (a) an appeal (“appeal A”) in relation to a decision under Article 9, 10 or 11 is made to an appeal tribunal, or from an appeal tribunal to a Commissioner; and
- (b) an appeal (“appeal B”) is pending against a decision given in a different case by a Commissioner or a court (whether or not the two appeals concern the same benefit).

(2) If the Department considers it possible that the result of appeal B will be such that, if it were already determined, it would affect the determination of appeal A, the Department may serve notice requiring the tribunal or Commissioner—

- (a) not to determine appeal A but to refer it to the Department; or
- (b) to deal with the appeal in accordance with paragraph (4).

(3) Where appeal A is referred to the Department under paragraph (2)(a), following the determination of appeal B and in accordance with that determination, the Department shall if appropriate—

- (a) in a case where appeal A has not been determined by the tribunal, revise (under Article 10) its decision which gave rise to that appeal; or
- (b) in a case where appeal A has been determined by the tribunal, make a decision (under Article 11) superseding the tribunal’s decision.

(4) Where appeal A is to be dealt with in accordance with this paragraph, the appeal tribunal or Commissioner shall either—

- (a) stay appeal A until appeal B is determined; or
- (b) if the tribunal or Commissioner considers it to be in the interests of the appellant to do so, determine appeal A as if—
 - (i) appeal B had already been determined; and
 - (ii) the issues arising on appeal B had been decided in the way that was most unfavourable to the appellant.

In this paragraph “the appellant” means the person who appealed or, as the case may be, first appealed against the decision mentioned in paragraph (1)(a).

(5) Where the appeal tribunal or Commissioner acts in accordance with paragraph (4)(b), following the determination of appeal B the Department shall, if appropriate, make a decision

(under Article 11) superseding the decision of the tribunal or Commissioner in accordance with that determination.

- (6) For the purposes of this Article, an appeal against a decision is pending if—
 - (a) an appeal against the decision has been brought but not determined;
 - (b) an application for leave to appeal against the decision has been made but not determined; or
 - (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (7) In this Article—
 - (a) the reference in paragraph (1)(a) to an appeal to a Commissioner includes a reference to an application for leave to appeal to a Commissioner; and
 - (b) any reference in sub-paragraph (a), (b) or (c) of paragraph (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.
- (8) Regulations may make provision supplementing that made by this Article.

Cases of error

Restrictions on entitlement to benefit in certain cases of error

- 27.—(1) Subject to paragraph (2), this Article applies where—
- (a) the effect of the determination, whenever made, of an appeal to a Commissioner or the court (“the relevant determination”) is that the adjudicating authority’s decision out of which the appeal arose was erroneous in point of law; and
 - (b) after the date of the relevant determination a decision falls to be made by the Department in accordance with that determination (or would, apart from this Article, fall to be so made)—
 - (i) in relation to a claim for benefit;
 - (ii) as to whether to revise, under Article 10, a decision as to a person’s entitlement to benefit; or
 - (iii) on an application made under Article 11 for a decision as to a person’s entitlement to benefit to be superseded.
- (2) This Article does not apply where the decision of the Department mentioned in paragraph (1) (b)—
- (a) is one which, but for Article 25(2) or (3)(a), would have been made before the date of the relevant determination; or
 - (b) is one made in pursuance of Article 26(3) or (5).
- (3) In so far as the decision relates to a person’s entitlement to a benefit in respect of—
- (a) a period before the date of the relevant determination; or
 - (b) in the case of a widow’s payment, a death occurring before that date,
- it shall be made as if the adjudicating authority’s decision had been found by the Commissioner or court not to have been erroneous in point of law.
- (4) In deciding whether a person is entitled to benefit in a case where his entitlement depends on his having been entitled to the same or some other benefit before attaining a particular age,

paragraph (3) shall be disregarded for the purpose only of deciding whether he was so entitled before attaining that age.

- (5) Paragraph (1)(a) shall be read as including a case where—
- (a) the effect of the relevant determination is that part or all of a purported regulation or order is invalid; and
 - (b) the error of law made by the adjudicating authority was to act on the basis that the purported regulation or order (or the part held to be invalid) was valid.
- (6) It is immaterial for the purposes of paragraph (1)—
- (a) where such a decision as is mentioned in sub-paragraph (b)(i) falls to be made, whether the claim was made before or after the date of the relevant determination;
 - (b) where such a decision as is mentioned in sub-paragraph (b)(ii) or (iii) falls to be made on an application under Article 10 or (as the case may be) Article 11, whether the application was made before or after that date.

(7) In this Article—

“adjudicating authority” means—

- (a) the Department;
- (b) any former officer, tribunal or body; or
- (c) any officer, tribunal or body in Great Britain corresponding to a former officer, tribunal or body;

“benefit” means—

- (a) benefit under Parts II to V of the Contributions and Benefits Act, other than Old Cases payments;
- (b) benefit under Part II of the Social Security (Northern Ireland) Act 1975 (in respect of a period before 1st July 1992 but not before 6th April 1975);
- (c) benefit under the National Insurance Act (Northern Ireland) 1946 or 1966, or the National Insurance (Industrial Injuries) Act (Northern Ireland) 1946 or 1966 (in respect of a period before 6th April 1975);
- (d) a jobseeker’s allowance;
- (e) any benefit corresponding to a benefit mentioned in paragraphs (a) to (d); and
- (f) any income-related benefit;

“the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in England and Wales, the House of Lords or the Court of Justice of the European Community;

“former officer, tribunal or body” means any of the following, that is to say—

- (a) an adjudication officer or, in the case of a decision given on a reference under section 19(2) or 23(1) of the Administration Act, a social security appeal tribunal, a disability appeal tribunal or a medical appeal tribunal;
- (b) an adjudicating medical practitioner appointed under section 47 of that Act or a specially qualified adjudicating medical practitioner appointed in accordance with regulations under section 60(2) of that Act; or
- (c) the National Assistance Board for Northern Ireland, the Supplementary Benefits Commission for Northern Ireland, the Attendance Allowance Board for Northern Ireland, a benefit officer, an insurance officer or a supplement officer.

(8) For the purposes of this Article, any reference to entitlement to benefit includes a reference to entitlement—

- (a) to any increase in the rate of a benefit; or
 - (b) to a benefit, or increase of benefit, at a particular rate.
- (9) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this Article in accordance with any regulations made for that purpose.
- (10) Regulations made under paragraph (9) may include provision—
- (a) for a determination of a higher court to be treated as if it had been made on the date of a determination of a lower court or a Commissioner; or
 - (b) for a determination of a lower court or a Commissioner to be treated as if it had been made on the date of a determination of a higher court.

Correction of errors and setting aside of decisions

- 28.**—(1) Regulations may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision made under any relevant statutory provision; and
 - (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
 - (i) 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 a party’s representative or was not received at an appropriate time by the person who gave the decision; or
 - (ii) a party to the proceedings or a party’s representative was not present at a hearing related to the proceedings.
- (2) Nothing in paragraph (1) shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that paragraph.
- (3) In this Article “relevant statutory provision” means any statutory provision contained in—
- (a) this Chapter;
 - (b) the Contributions and Benefits Act;
 - (c) the Pension Schemes (Northern Ireland) Act 1993;
 - (d) the Jobseekers Order; or
 - (e) the Recovery of Benefits Order.

Industrial accidents

Decision that accident is an industrial accident

- 29.**—(1) Where, in connection with any claim for industrial injuries benefit, it is decided that the relevant accident was or was not an industrial accident—
- (a) an express declaration of that fact shall be made and recorded; and
 - (b) subject to paragraph (3), a claimant shall be entitled to have the issue whether the relevant accident was an industrial accident decided notwithstanding that his claim is disallowed on other grounds.
- (2) Subject to paragraph (3) and Article 30, any person suffering personal injury by accident shall be entitled, if he claims the accident was an industrial accident—
- (a) to have that issue decided; and
 - (b) to have a declaration made and recorded accordingly,

notwithstanding that no claim for benefit has been made in connection with which the issue arises; and this Chapter shall apply for that purpose as if the issue had arisen in connection with a claim for benefit.

(3) The Department, an appeal tribunal or a Commissioner (as the case may be) may refuse to decide the issue whether an accident was an industrial accident if satisfied that it is unlikely to be necessary to decide the issue for the purposes of any claim for benefit; and this Chapter shall apply as if any such refusal were a decision on the issue.

(4) Subject to Articles 10 to 15 and to section 22 of the Administration Act, any declaration under this Article that an accident was or was not an industrial accident shall be conclusive for the purposes of any claim for industrial injuries benefit in respect of that accident.

(5) Where paragraph (4) applies—

- (a) in relation to a death occurring before 11th April 1988; or
- (b) for the purposes of section 60(2) of the Contributions and Benefits Act,

it shall have effect as if at the end there were added the words “whether or not the claimant is the person at whose instance the declaration was made”.

(6) For the purposes of this Article (but subject to Article 30), an accident whereby a person suffers personal injury shall be deemed, in relation to him, to be an industrial accident if—

- (a) it arises out of and in the course of his employment;
- (b) that employment is employed earner’s employment for the purposes of Part V of the Contributions and Benefits Act; and
- (c) payment of benefit is not under section 94(5) of that Act precluded because the accident happened while he was outside Northern Ireland.

(7) A decision under this Article shall be final except that Articles 10 and 11 apply to a decision under this Article that an accident was or was not an industrial accident as they apply to a decision under Article 9 if, but only if, the Department is satisfied that the decision under this Article was given in consequence of any wilful non-disclosure or misrepresentation of a material fact.

Effect of decision

30.—(1) A decision (given under paragraph (2) of Article 29 or otherwise) that an accident was an industrial accident is to be taken as determining only that sub-paragraphs (a), (b) and (c) of paragraph (6) of that Article are satisfied in relation to the accident.

(2) Subject to paragraphs (3) and (4), no such decision is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received.

(3) A decision that, on a particular occasion when there was no event so identifiable, a person had an industrial accident by reason of an injury shall be treated as a decision that, if the injury was suffered by accident on that occasion, the accident was an industrial accident.

(4) A decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with Article 29, without its having been found that personal injury resulted from the accident.

(5) Paragraph (4) has effect subject to the discretion under Article 29(3) to refuse to decide the issue if it is unlikely to be necessary for the purposes of a claim for benefit.

Other special cases

Incapacity for work

31.—(1) Regulations may provide that a determination that a person is disqualified for any period in accordance with regulations under section 167E of the Contributions and Benefits Act shall have effect for such purposes as may be prescribed as a determination that he is to be treated as capable of work for that period, and vice versa.

(2) Provision may be made by regulations for matters of such descriptions as may be prescribed to be determined by the Department, notwithstanding that other matters fall to be determined by another authority.

(3) Nothing in this Article shall be taken to prejudice the generality of the power conferred by Article 17(2).

Industrial diseases

32. Regulations shall provide for applying the provisions of this Chapter, subject to any prescribed additions or modifications, in relation to decisions made or falling to be made under sections 108 to 110 of the Contributions and Benefits Act.

Christmas bonus

33.—(1) A decision by the Department that a person is entitled or not entitled to payment of a qualifying benefit in respect of a period which includes a day in the relevant week shall be conclusive for the purposes of section 144 of the Contributions and Benefits Act.

(2) In this Article, expressions to which a meaning is assigned by section 146 of that Act have that meaning.

Housing benefit

Determination of claims and reviews

34.—(1) Regulations shall require a person who has claimed housing benefit to be notified of the determination of the claim.

(2) Any such notification shall be given in such form as may be prescribed.

(3) Where claims for housing benefit are made by, or in respect of, persons who have been entitled to a jobseeker's allowance or to income support, regulations may require priority to be given, in prescribed circumstances, to those claims over other claims for housing benefit.

(4) Regulations shall make provision for reviews of determinations relating to housing benefit.

(5) Regulations may make provision as respects matters arising out of the revision on review of such determinations.

Suspension of benefit in prescribed circumstances

35.—(1) Regulations may provide for—

- (a) suspending in prescribed circumstances, in whole or in part, payments of housing benefit;
- (b) the subsequent making, or restoring, in prescribed circumstances of any or all of the payments so suspended.

(2) Regulations made under paragraph (1) may, in particular, make provision for any case where, in relation to a claim for housing benefit—

- (a) it appears to the Housing Executive or the Department of the Environment that an issue arises whether the conditions for entitlement to the benefit are or were fulfilled;
 - (b) it appears to the Housing Executive or the Department of the Environment that an issue arises whether the determination of the claim should be reviewed in accordance with regulations made under Article 34(4);
 - (c) an appeal is pending to a court in relation to the determination of the claim; or
 - (d) an appeal is pending to a court in relation to the determination (whether made by the Housing Executive or by the Department of the Environment) of a different claim for housing benefit, and it appears to the Executive or that Department that if the appeal were to be determined in a particular way an issue would arise whether the determination of the claim ought to be reviewed.
- (3) For the purposes of paragraph (2), an appeal is pending to a court in relation to a determination if—
- (a) an application, or a renewed application, for leave to apply for judicial review of the determination has been made but not determined;
 - (b) such leave has been granted but the application for judicial review has not been determined;
 - (c) an appeal has been brought (or an application has been made for leave to appeal) against an order made on a judicial review of the determination, and the appeal (or application) has not been determined; or
 - (d) in such circumstances as may be prescribed, the time for making an application or appeal such as is mentioned in sub-paragraph (a) or (c) has not yet expired.

Social fund payments

Appropriate officers

36.—(1) In this Article and Article 38, “appropriate officer” means an officer of the Department who, acting under its authority, is exercising functions of the Department in relation to payments from the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.

(2) The Department may nominate for an area an appropriate officer who shall issue general guidance to other such officers in the area about such matters relating to the social fund as the Department may specify.

(3) In relation to any decision of an appropriate officer, Article 38 shall apply in substitution for Articles 10 and 11.

The social fund Commissioner and inspectors

37.—(1) There shall continue to be an officer known as “the social fund Commissioner”.

(2) The social fund Commissioner shall be appointed by the Department.

(3) The social fund Commissioner—

(a) shall appoint such social fund inspectors; and

(b) may appoint such officers and staff for himself and for social fund inspectors,

as he thinks fit, but with the consent of the Department as to numbers.

(4) Appointments under paragraph (3) shall be made from persons made available to the social fund Commissioner by the Department.

- (5) It shall be the duty of the social fund Commissioner—
 - (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions;
 - (b) to arrange such training of social fund inspectors as he considers appropriate; and
 - (c) to carry out such other functions in connection with the work of social fund inspectors as the Department may direct.
- (6) The social fund Commissioner shall report annually in writing to the Department on the standards of reviews by social fund inspectors and the Department shall publish his report.

Reviews of determinations

- 38.**—(1) An appropriate officer—
- (a) shall review a social fund determination, if an application for a review is made, within such time and in such form and manner as may be prescribed, by or on behalf of the person who applied for the payment to which the determination relates;
 - (b) 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
 - (c) may review such a determination in such other circumstances as he thinks fit.
- (2) The power to review a social fund determination conferred by paragraph (1) includes power to review a determination made on a previous review.
- (3) A social fund determination which has been reviewed under paragraph (1) shall be further reviewed by a social fund inspector if an application is made, within such time and in such form and manner as may be prescribed, by or on behalf of the person who applied for the payment to which the determination relates.
- (4) On a review under paragraph (3) a social fund inspector shall have the following powers—
- (a) power to confirm the determination made by the appropriate officer;
 - (b) power to make any determination which an appropriate officer could have made;
 - (c) power to refer the matter to such an officer for determination.
- (5) A social fund inspector may review a determination under paragraph (3) made by himself or some other social fund inspector.
- (6) In making a determination on a review an appropriate officer or a social fund inspector need not consider—
- (a) in the case of a determination on a review under paragraph (1)(a), any issue that is not raised by the application;
 - (b) in the case of a determination on a review under paragraph (1)(b), any issue that is not raised by the material fact;
 - (c) in the case of a determination on a review under paragraph (1)(c), any issue that did not cause him to carry out the review.
- (7) In making a determination on a review under paragraph (1)(a) or (c) an appropriate officer or a social fund inspector shall—
- (a) subject to sub-paragraphs (b) and (c), have regard to whichever of the following are applicable, namely—
 - (i) 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;

- (ii) the criteria mentioned in paragraphs (a) and (b) of subsection (1A) of that section; and
 - (iii) the criterion specified in directions issued by the Department under that subsection and the criteria mentioned in paragraph (b) of that subsection;
- (b) act in accordance with any general directions issued by the Department under subsection (2) of that section, and any general directions issued by it with regard to reviews; and
- (c) take account of any general guidance issued by the Department under that subsection or with regard to reviews.
- (8) In making a determination on a review under paragraph (1)(b) an appropriate 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.
- (9) Any reference in paragraph (6), (7) or (8) to a determination on a review under a particular provision of paragraph (1) 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.
- (10) Directions under this Article may specify—
- (a) the circumstances in which a social fund determination is to be reviewed; and
 - (b) the manner in which a review is to be conducted.
- (11) In making a determination on a review under paragraph (1)(a) or (c) an appropriate officer shall take account (subject to any directions or guidance issued by the Department under this Article) of any guidance issued by the appropriate officer nominated for his area under Article 36(2).
- (12) A social fund inspector reviewing a social fund determination which has been reviewed under paragraph (1)(a) or (c) shall be under the same duties in relation to such guidance as the appropriate officer or social fund inspector who made the determination.
- (13) In this Article “social fund determination” means a determination made under the Contributions and Benefits Act by an appropriate officer.

Supplemental

Interpretation, etc. of Chapter II

- 39.**—(1) In this Chapter—
- “appeal tribunal” means an appeal tribunal constituted under Chapter I;
 - “relevant benefit” has the meaning given by Article 9(3).
- (2) Expressions used in this Chapter to which a meaning is assigned by section 167(1) of the Administration Act have that meaning in this Chapter.
- (3) Part II of the Administration Act (except sections 22 and 50 of that Act), which is superseded by the foregoing provisions of this Chapter, shall cease to have effect.
- (4) References in any statutory provision to this Chapter include (where appropriate) references to section 22 of the Administration Act.

CHAPTER III
CHILD SUPPORT DECISIONS AND APPEALS

Child support: revision of decisions

40. For Article 18 of the Child Support Order there shall be substituted the following Article—

“Revision of decisions

18.—(1) Any decision of the Department under Article 13, 14 or 19 may be revised by the Department—

- (a) either within the prescribed period or in prescribed cases or circumstances; and
- (b) either on an application made for the purpose or on the Department’s own initiative,

and regulations may prescribe the procedure by which a decision of the Department may be so revised.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Subject to paragraphs (4) and (5) and Article 28ZC, a revision under this Article shall take effect as from the date on which the original decision took (or was to take) effect.

(4) Regulations may provide that, in prescribed cases or circumstances, a revision under this Article shall take effect as from such other date as may be prescribed.

(5) Where a decision is revised under this Article, for the purpose of any rule as to the time allowed for bringing an appeal, the decision shall be regarded as made on the date on which it is so revised.

(6) Except in prescribed circumstances, an appeal against a decision of the Department shall lapse if the decision is revised under this Article before the appeal is determined.”.

Child support: decisions superseding earlier decisions

41. For Articles 19 to 21 of the Child Support Order there shall be substituted the following Article—

“Decisions superseding earlier decisions

19.—(1) Subject to paragraph (2), the following, namely—

- (a) any decision of the Department under Article 13 or 14 or this Article, whether as originally made or as revised under Article 18;
- (b) any decision of an appeal tribunal under Article 22; and
- (c) any decision of a Child Support Commissioner on an appeal from such a decision as is mentioned in sub-paragraph (b),

may be superseded by a decision made by the Department, either on an application made for the purpose or on the Department’s own initiative.

(2) In making a decision under paragraph (1), the Department need not consider any issue that is not raised by the application or, as the case may be, did not cause the Department to act on its own initiative.

(3) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this Article.

(4) Subject to paragraph (5) and Article 28ZC, a decision under this Article shall take effect as from the date on which it is made or, where applicable, the date on which the application was made.

(5) Regulations may provide that, in prescribed cases or circumstances, a decision under this Article shall take effect as from such other date as may be prescribed.”.

Child support: appeals to appeal tribunals

42. For Articles 22 to 23 of the Child Support Order there shall be substituted the following Article—

“Appeals to appeal tribunals

22.—(1) Where an application for a maintenance assessment is refused, the person who made that application shall have a right of appeal to an appeal tribunal against the refusal.

(2) Where a maintenance assessment is in force, the absent parent or person with care with respect to whom it was made shall have a right of appeal to an appeal tribunal against the amount of the assessment or the date from which the assessment takes effect.

(3) Where a maintenance assessment is cancelled, or an application for the cancellation of a maintenance assessment is refused, the absent parent or person with care with respect to whom the maintenance assessment in question was, or remains, in force, shall have a right of appeal to an appeal tribunal against the cancellation or refusal.

(4) A person with a right of appeal under this Article shall be given such notice of that right and, in the case of a right conferred by paragraph (1) or (3), such notice of the decision as may be prescribed.

(5) Regulations may make—

- (a) provision as to the manner in which, and the time within which, appeals are to be brought; and
- (b) such provision with respect to proceedings before appeal tribunals as the Department considers appropriate.

(6) The regulations may in particular make any provision of a kind mentioned in Schedule 4 to the Social Security (Northern Ireland) Order 1998.

(7) In deciding an appeal under this Article, an appeal tribunal—

- (a) need not consider any issue that is not raised by the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the decision or assessment appealed against was made.”.

Child support: decisions and appeals dependent on other cases

43. After Article 28 of the Child Support Order there shall be inserted the following Articles—

“Decisions and appeals dependent on other cases

Decisions involving issues that arise on appeal in other cases

28ZA.—(1) This Article applies where—

- (a) a decision by the Department falls to be made under Article 13, 14, 18 or 19 in relation to a maintenance assessment; and
 - (b) an appeal is pending against a decision given in relation to a different maintenance assessment by a Child Support Commissioner or a court.
- (2) If the Department considers it possible that the result of the appeal will be such that, if it were already determined, it would affect the decision in some way—
- (a) the Department need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;
 - (b) the Department may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.
- (3) Where the Department acts in accordance with paragraph (2)(b), following the determination of the appeal it shall, if appropriate, revise its decision (under Article 18) in accordance with that determination.
- (4) For the purposes of this Article, an appeal against a decision is pending if—
- (a) an appeal against the decision has been brought but not determined;
 - (b) an application for leave to appeal against the decision has been made but not determined; or
 - (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (5) In sub-paragraphs (a), (b) and (c) of paragraph (4), any reference to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.

Appeals involving issues that arise on appeal in other cases

- 28ZB.**—(1) This Article applies where—
- (a) an appeal (“appeal A”) in relation to a decision falling within Article 22(1) or (3), or an assessment falling within Article 22(2), is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner; and
 - (b) an appeal (“appeal B”) is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) If the Department considers it possible that the result of appeal B will be such that, if it were already determined, it would affect the determination of appeal A, the Department may serve notice requiring the tribunal or Child Support Commissioner—
- (a) not to determine appeal A but to refer it to the Department; or
 - (b) to deal with the appeal in accordance with paragraph (4).
- (3) Where appeal A is referred to the Department under paragraph (2)(a), following the determination of appeal B and in accordance with that determination, the Department shall if appropriate—
- (a) in a case where appeal A has not been determined by the tribunal, revise (under Article 18) its decision which gave rise to that appeal; or
 - (b) in a case where appeal A has been determined by the tribunal, make a decision (under Article 19) superseding the tribunal’s decision.
- (4) Where appeal A is to be dealt with in accordance with this paragraph, the appeal tribunal or Child Support Commissioner shall either—

- (a) stay appeal A until appeal B is determined; or
- (b) if the tribunal or Child Support Commissioner considers it to be in the interests of the appellant to do so, determine appeal A as if—
 - (i) appeal B had already been determined; and
 - (ii) the issues arising on appeal B had been decided in the way that was most unfavourable to the appellant.

In this paragraph “the appellant” means the person who appealed or, as the case may be, first appealed against the decision or assessment mentioned in paragraph (1)(a).

(5) Where the appeal tribunal or Child Support Commissioner acts in accordance with paragraph (4)(b), following the determination of appeal B the Department shall, if appropriate, make a decision (under Article 19) superseding the decision of the tribunal or Child Support Commissioner in accordance with that determination.

- (6) For the purposes of this Article, an appeal against a decision is pending if—
 - (a) an appeal against the decision has been brought but not determined;
 - (b) an application for leave to appeal against the decision has been made but not determined; or
 - (c) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (7) In this Article—
 - (a) the reference in paragraph (1)(a) to an appeal to a Child Support Commissioner includes a reference to an application for leave to appeal to a Child Support Commissioner; and
 - (b) any reference in sub-paragraph (a), (b) or (c) of paragraph (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to an application for, or for leave to apply for, judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978.
- (8) Regulations may make provision supplementing that made by this Article.”.

Child support: cases of error

44. After Article 28ZB of the Child Support Order there shall be inserted the following Articles—

“Cases of error

Restrictions on liability in certain cases of error

- 28ZC.**—(1) Subject to paragraph (2), this Article applies where—
- (a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that the adjudicating authority’s decision out of which the appeal arose was erroneous in point of law; and
 - (b) after the date of the relevant determination a decision falls to be made by the Department in accordance with that determination (or would, apart from this Article, fall to be so made)—
 - (i) with respect to an application for a maintenance assessment (made after the commencement date);

- (ii) as to whether to revise, under Article 18, a decision (made after the commencement date) with respect to such an assessment; or
 - (iii) on an application under Article 19 (made after the commencement date) for a decision with respect to such an assessment to be superseded.
- (2) This Article does not apply where the decision of the Department mentioned in paragraph (1)(b)—
- (a) is one which, but for Article 28ZA(2)(a), would have been made before the date of the relevant determination; or
 - (b) is one made in pursuance of Article 28ZB(3) or (5).
- (3) In so far as the decision relates to a person’s liability in respect of a period before the date of the relevant determination, it shall be made as if the adjudicating authority’s decision had been found by the Commissioner or court not to have been erroneous in point of law.
- (4) Paragraph (1)(a) shall be read as including a case where—
- (a) the effect of the relevant determination is that part or all of a purported regulation or order is invalid; and
 - (b) the error of law made by the adjudicating authority was to act on the basis that the purported regulation or order (or the part held to be invalid) was valid.
- (5) It is immaterial for the purposes of paragraph (1)—
- (a) where such a decision as is mentioned in sub-paragraph (b)(i) falls to be made; or
 - (b) where such a decision as is mentioned in sub-paragraph (b)(ii) or (iii) falls to be made on an application under Article 18 or (as the case may be) Article 19,
- whether the application was made before or after the date of the relevant determination.
- (6) In this Article—
- “adjudicating authority” means the Department or a child support officer;
 - “the commencement date” means the date of the coming into operation of Article 44 of the Social Security (Northern Ireland) Order 1998;
 - “the court” means the High Court, the Court of Appeal, the Court of Session, the High Court or Court of Appeal in England and Wales, the House of Lords or the Court of Justice of the European Community.
- (7) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this Article in accordance with any regulations made for that purpose.
- (8) Regulations made under paragraph (7) may include provision—
- (a) for a determination of a higher court to be treated as if it had been made on the date of a determination of a lower court or a Child Support Commissioner; or
 - (b) for a determination of a lower court or a Child Support Commissioner to be treated as if it had been made on the date of a determination of a higher court.

Correction of errors and setting aside of decisions

- 28ZD.**—(1) Regulations may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision given under this Order; and
 - (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—

- (i) 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 a party's representative or was not received at an appropriate time by the person who gave the decision; or
 - (ii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.
- (2) Nothing in paragraph (1) shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that paragraph.”

PART III

CONTRIBUTIONS

Amendments of the Contributions and Benefits Act

Apportionment of payments, etc. made for more than one earner

45. After subsection (2) of section 3 of the Contributions and Benefits Act (“earnings” and “earner”) there shall be inserted the following subsection—

“(2A) Regulations made for the purposes of subsection (2) above may provide that, where a payment is made or a benefit provided to or for the benefit of two or more earners, a proportion (determined in such manner as may be prescribed) of the amount or value of the payment or benefit shall be attributed to each earner.”

Payments on account of directors' contributions

46. After subsection (3) of section 3 of the Contributions and Benefits Act there shall be added the following subsections—

“(4) Subsection (5) below applies to regulations made for the purposes of subsection (2) above which make special provision with respect to the earnings periods of directors and former directors of companies.

(5) Regulations to which this subsection applies may make provision—

- (a) for enabling companies, and directors and former directors of companies, to pay on account of any earnings-related contributions that may become payable by them such amounts as would be payable by way of such contributions if the special provision had not been made; and
- (b) for requiring any payments made in accordance with the regulations to be treated, for prescribed purposes, as if they were the contributions on account of which they were made.”

Payments treated as remuneration and earnings

47.—(1) For subsection (4) of section 4 of the Contributions and Benefits Act (payments treated as remuneration and earnings) there shall be substituted the following subsection—

“(4) For the purposes of section 3 above there shall be treated as remuneration derived from an employed earner's employment—

- (a) any gain on which the earner is chargeable to tax by virtue of section 135 (gains by directors and employees from share options) of the Income and Corporation Taxes Act 1988 (“the 1988 Act”);
 - (b) any sum paid (or treated as paid) to or for the benefit of the earner which is chargeable to tax by virtue of section 313 of the 1988 Act (taxation of consideration for certain restrictive undertakings).”.
- (2) After subsection (5) of that section there shall be added the following subsection—
- “(6) For the purposes of section 3 above regulations may make provision for treating as remuneration derived from an earner’s employment any amount on which the earner is, by virtue of any provision of sections 140A to 140H of the 1988 Act, chargeable to income tax under Schedule E in respect of an acquisition of shares or an interest in shares.”.
- (3) Paragraph (1), so far as relating to a sum which is chargeable to tax by virtue of section 313 of the Income and Corporation Taxes Act 1988, shall have effect in relation to any undertaking given on or after 10th July 1997.
- (4) Regulations under subsection (6) of section 4 of the Contributions and Benefits Act (as added by paragraph (2))—
- (a) shall not be made before the passing of the Finance Act 1998; but
 - (b) may make provision having effect in relation to acquisitions on or after 6th April 1998.

Class 1 contributions

48.—(1) For subsection (1) of section 5 of the Contributions and Benefits Act (earnings limits for Class 1 contributions) there shall be substituted the following subsection—

“(1) For the purposes of this Act there shall for every tax year be—

- (a) a lower earnings limit (for primary Class 1 contributions);
- (b) an upper earnings limit (for primary Class 1 contributions); and
- (c) an earnings threshold (for secondary Class 1 contributions),

and those limits and that threshold shall be the amounts specified for that year by regulations which, in the case of those limits, shall be made in accordance with subsections (2) and (3) below.”.

(2) For subsection (1) of section 6 of that Act (liability for Class 1 contributions) there shall be substituted the following subsection—

“(1) Where in any tax week earnings are paid to or for the benefit of an earner over the age of 16 in respect of any one employment of his which is employed earner’s employment—

- (a) a primary Class 1 contribution shall be payable in accordance with this section and section 8 below if the amount paid exceeds the current lower earnings limit (or the prescribed equivalent in the case of earners paid otherwise than weekly); and
- (b) a secondary Class 1 contribution shall be payable in accordance with this section and section 9 below if the amount paid exceeds the current earnings threshold (or the prescribed equivalent in the case of earners paid otherwise than weekly).”.

(3) For subsections (1) and (2) of section 8 of that Act (calculation of primary Class 1 contributions) there shall be substituted the following subsections—

“(1) Where a primary Class 1 contribution is payable, the amount of that contribution shall be the primary percentage of so much of the earner’s earnings paid in the tax week, in respect of the employment in question, as—

- (a) exceeds the current lower earnings limit (or the prescribed equivalent); and

(b) does not exceed the current upper earnings limit (or the prescribed equivalent), but this subsection is subject to regulations under section 6(5) above and sections 116 to 119 below and to section 37 of the Pensions Act (reduced rates of Class 1 contributions for earnings in contracted-out employment).

(2) For the purposes of this Act the primary percentage shall be 10 per cent., but the percentage is subject to alteration under section 129 of the Administration Act.”

(4) For section 9 of that Act there shall be substituted the following section—

“9 Calculation of secondary Class 1 contributions.

(1) Where a secondary Class 1 contribution is payable, the amount of that contribution shall be the secondary percentage of so much of the earnings paid in the tax week, in respect of the employment in question, as exceeds the current earnings threshold (or the prescribed equivalent).

(2) For the purposes of subsection (1) above, the secondary percentage shall be 12.2 per cent., but the percentage is subject to alteration under section 129 of the Administration Act.

(3) Subsection (1) above is subject to regulations under section 6(5) above and sections 116 to 119 below and to section 37 of the Pensions Act.”

Class 1A contributions

49. In subsection (2) of section 10 of the Contributions and Benefits Act (Class 1A contributions), for paragraph (b) there shall be substituted the following paragraph—

“(b) if paragraph (a) above does not apply, the person who, if the benefit in respect of which the Class 1A contribution is payable were earnings in respect of which Class 1 contributions would be payable, would be liable to pay the secondary Class 1 contribution.”

Class 1B contributions

50. After section 10 of the Contributions and Benefits Act there shall be inserted the following section—

“Class 1B contributions

Class 1B contributions.

10A.—(1) Where for any tax year a person is accountable to the Inland Revenue in respect of income tax on emoluments of his employees in accordance with a PAYE settlement agreement, a Class 1B contribution shall be payable by him for that tax year in accordance with this section.

(2) The Class 1B contribution referred to in subsection (1) above is payable in respect of—

- (a) the amount of any of the emoluments included in the PAYE settlement agreement which are chargeable emoluments; and
- (b) the total amount of income tax in respect of which the person is accountable for the tax year in accordance with the PAYE settlement agreement.

(3) The amount of the Class 1B contribution referred to in subsection (1) above shall be the Class 1B percentage of the aggregate of the amounts mentioned in paragraphs (a) and (b) of subsection (2) above.

(4) Emoluments are chargeable emoluments for the purposes of subsection (2) above if, apart from section 6(2A) or 10(8A) above, the person accountable in accordance with the PAYE settlement agreement would be liable or entitled to pay secondary Class 1 contributions or Class 1A contributions in respect of them.

(5) Where—

- (a) the PAYE settlement agreement was entered into after the beginning of the tax year; and
- (b) Class 1 contributions were due in respect of any emoluments before it was entered into,

those emoluments shall not be taken to be included in the PAYE settlement agreement.

(6) For the purposes of subsection (3) above the Class 1B percentage shall be 12.2 per cent., but the percentage is subject to alteration under section 129 of the Administration Act.

(7) Regulations may provide for persons to be excepted in prescribed circumstances from liability to pay Class 1B contributions.”.

Contributions paid in error

51. After section 19 of the Contributions and Benefits Act there shall be inserted the following section—

“Class 1, 1A or 1B contributions paid in error.

19A.—(1) This section applies where—

- (a) payments by way of Class 1, Class 1A or Class 1B contributions are made in respect of earnings paid to or for the benefit of an earner (or in respect of a benefit made available to an earner) in 1998-99 or a subsequent tax year (“year 1”);
- (b) the payments are made in error, in that the employment from which the earnings are derived (or by reason of which the benefit is made available) is not employed earner’s employment; and
- (c) the person making the payments has not been notified of the error by the Department before the end of the tax year following year 1 (“year 2”).

(2) After the end of year 2 the earner shall, except in such circumstances as may be prescribed, be treated for all purposes relating to—

- (a) contributions and contributory benefits; and
- (b) statutory sick pay and statutory maternity pay,

as if the earnings were derived from (or the benefit were made available by reason of) employed earner’s employment.”.

Recovery of primary Class 1 contributions by secondary contributors

52. In paragraph 3 of Schedule 1 to the Contributions and Benefits Act (supplementary provisions as to contributions)—

- (a) in sub-paragraph (3), for the words from “and notwithstanding” to “any enactment” there shall be substituted the words “and, subject to sub-paragraph (4) below but notwithstanding any other provision in any enactment”;

- (b) after that sub-paragraph there shall be added the following sub-paragraphs—

“(4) Sub-paragraph (5) below applies in a case where—

- (a) a person (“the employee”) ceases in a particular tax year (“the cessation year”) to be employed by a particular employer (“the employer”); and
- (b) the employee receives from the employer in the cessation year, after the cessation of the employment, earnings in a form other than money (“non-monetary earnings”).

(5) If and to the extent that regulations so provide, the employer may recover from the employee in such manner as may be prescribed any primary Class 1 contributions paid or to be paid by him on the employee’s behalf in respect of—

- (a) the non-monetary earnings mentioned in sub-paragraph (4) above; or
- (b) any non-monetary earnings received by the employee from the employer in the cessation year before the cessation of the employment,

which he was unable to recover by deduction from the employee’s earnings.”.

Contributions returns

53.—(1) In sub-paragraph (3) of paragraph 7 of Schedule 1 to the Contributions and Benefits Act—

- (a) for the words “is liable to” there shall be substituted the words “has been required to pay”; and
- (b) for the words “be liable to” there shall be substituted the words “be required to pay”.

(2) After that paragraph there shall be inserted the following paragraph—

“**7A.**—(1) This paragraph applies where paragraph 7 above applies; and in this paragraph “contributions return” has the same meaning as in that paragraph.

(2) Without prejudice to paragraph 7(2) above or to the powers of the Inland Revenue to penalise omissions or errors in returns, regulations may provide for the Department to impose penalties in respect of a person who, in making a contributions return, fraudulently or negligently—

- (a) fails to provide any information or computation that he is required to provide; or
- (b) provides any such information or computation that is incorrect.

(3) Regulations under sub-paragraph (2) above shall—

- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
- (b) provide for the penalty to be imposed by the Department within 6 years after the date on which the penalty is incurred;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the Department, in its discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.”.

Collection of contributions by the Department

54. After paragraph 7A of Schedule 1 to the Contributions and Benefits Act there shall be inserted the following paragraph—

“Collection of contributions by the Department

7B.—(1) Regulations may provide that, in such cases or circumstances as may be prescribed—

- (a) contributions payable under Part I of this Act shall be paid to the Department (and not to the Inland Revenue); and
- (b) the Department shall be responsible for the collection of such contributions, and generally for the relevant administration.

(2) Regulations under this paragraph may, in particular—

- (a) provide for returns to be made to the Department by such date as may be prescribed;
- (b) prescribe the form in which returns are to be made, or provide for returns to be made in such form as the Department may approve;
- (c) prescribe the manner in which contributions are to be paid, or provide for contributions to be paid in such manner as the Department may approve;
- (d) prescribe the due date for the payment of contributions;
- (e) subject to sub-paragraph (4) below, provide for interest to be charged by the Department on contributions that are not paid by the due date, and for enabling such interest to be remitted or repaid;
- (f) provide for interest to be paid on contributions that fall to be repaid;
- (g) provide for determining the date from which interest to be charged or paid pursuant to regulations under paragraph (e) or (f) above is to be calculated;
- (h) provide for penalties to be imposed in respect of a person who—
 - (i) fails to submit, within the time allowed, a return required to be made in accordance with regulations under paragraph (a) above;
 - (ii) in making such a return, fraudulently or negligently fails to provide any information or computation that he is required to provide;
 - (iii) in making such a return, fraudulently or negligently provides any incorrect information or computation; or
 - (iv) fails to pay Class 2 contributions by the due date;
- (i) provide for a penalty imposed pursuant to regulations under paragraph (h) above to carry interest from the date on which it becomes payable until payment.

(3) Where—

- (a) a decision relating to contributions falls to be made under Article 9, 10, 11, 13 or 15 of the Social Security (Northern Ireland) Order 1998 or section 22 of the Administration Act; and
- (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,

regulations under sub-paragraph (2)(e) above shall not require any such interest to be paid until the decision has been made.

(4) Regulations under sub-paragraph (2)(e) above may provide that, in such cases or circumstances as may be prescribed, interest under those regulations may be charged by the Inland Revenue (instead of the Department) as if the regulations were made by virtue of paragraph 6 above.

(5) Regulations under sub-paragraph (2)(h) above shall—

- (a) prescribe the rates of penalty, or provide for how they are to be ascertained;
- (b) subject to sub-paragraph (6) below, provide for the penalty to be imposed by the Department—
 - (i) within 6 years after the date on which the penalty is incurred; or
 - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within 3 years after the final determination of the amount of those contributions;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the Department, in its discretion, to mitigate or to remit the penalty, or to stay or to compound any proceedings for it.

(6) Regulations under sub-paragraph (2)(h)(ii) or (iii) above may provide that, in such cases or circumstances as may be prescribed, penalties under those regulations may be imposed by the Inland Revenue (instead of the Department) as if the return in question were a contributions return within the meaning of paragraph 7 above.

(7) Section 12 above shall not apply in relation to Class 2 contributions in respect of which the Department charges interest or imposes a penalty pursuant to regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(8) Interest or penalties may be charged by virtue of regulations under this paragraph in respect of a period before the coming into operation of Article 54 of the Social Security (Northern Ireland) Order 1998 but only to the extent that interest or penalties would have been chargeable if the contributions in question had been recoverable, in respect of that period, by virtue of regulations under paragraph 6 above.

(9) Any reference to contributions in sub-paragraph (1) above shall be construed as including a reference to any interest or penalty payable, in respect of contributions, by virtue of regulations under paragraph (e) or (h) of sub-paragraph (2) above.

(10) The rate of interest applicable for any purpose of this paragraph shall be—

- (a) the rate from time to time prescribed under section 178 of the Finance Act 1989 for the purpose of any enactment (whether or not extending to Northern Ireland) if prescribed by regulations made by virtue of this paragraph; or
- (b) such other rate as may be prescribed by such regulations.”.

Interest and penalties chargeable concurrently with Inland Revenue

55. After paragraph 7B of Schedule 1 to the Contributions and Benefits Act there shall be inserted the following paragraph—

“Interest and penalties chargeable concurrently with Inland Revenue

7C.—(1) Any interest or penalty chargeable by the Inland Revenue by virtue of regulations under paragraph 6 or 7 above may also be charged by the Department.

(2) To the extent that any interest or penalty is recovered by the Department by virtue of sub-paragraph (1) above, or by virtue of regulations under paragraph 7B above, it shall not be recoverable by the Inland Revenue by virtue of regulations under paragraph 6 or 7 above, and vice versa.

(3) To the extent that any penalty is recovered by the Department by virtue of regulations under paragraph 7A above, it shall not be recoverable by the Inland Revenue by virtue of regulations under paragraph 7 above, and vice versa.”.

Amendments of the Administration Act

Breach of regulations

56. For section 107 of the Administration Act there shall be substituted the following section—

“107 Breach of regulations.

(1) Regulations and schemes under any of the legislation to which section 104 above applies may provide that any person who contravenes, or fails to comply with, any provision contained in regulations made under that legislation—

- (a) in the case of a provision relating to contributions, shall be liable to a penalty;
- (b) in any other case, shall be guilty of an offence under that legislation.

(2) Any regulations or scheme making such provision as is mentioned in subsection (1) (a) above shall—

- (a) prescribe the amount or rate of penalty, or provide for how it is to be ascertained;
- (b) provide for the penalty to be imposed by the Department—
 - (i) within 6 years after the date on which the penalty is incurred; or
 - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within 3 years after the final determination of the amount of those contributions;
- (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
- (d) prescribe the means by which the penalty is to be enforced; and
- (e) provide for enabling the Department, in its discretion, to mitigate or to remit any such penalty, or to stay or to compound any proceedings for a penalty.

(3) A person guilty of such an offence as is mentioned in subsection (1)(b) above shall be liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale;
- (b) in the case of an offence of continuing a contravention or failure after conviction, to a fine not exceeding £40 for each day on which it is so continued.

(4) Any provision contained in regulations which authorises statutory sick pay or statutory maternity pay to be set off against secondary Class 1 contributions is not a provision relating to contributions for the purposes of this section.”.

Offences and penalties relating to contributions

57. For section 108 of the Administration Act there shall be substituted the following sections—

“108 Offences relating to contributions.

(1) Any person who is knowingly concerned in the fraudulent evasion of any contributions which he or any other person is liable to pay shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

108A Penalties relating to contributions.

(1) If a person fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable to pay, he shall be liable to a penalty.

(2) If a person fails to pay, at or within the time prescribed for the purpose, any sums which he is required by regulations made by virtue of paragraph 6 or 7B of Schedule 1 to the Contributions and Benefits Act to pay, he shall be liable to a penalty under subsection (1) above without proof of his failure so to pay any particular contribution.

- (3) For the purposes of subsection (1) above, regulations shall—
 - (a) prescribe the amount or rate of penalty, or provide for how it is to be ascertained;
 - (b) provide for the penalty to be imposed by the Department—
 - (i) within 6 years after the date on which the penalty is incurred; or
 - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within 3 years after the final determination of the amount of those contributions;
 - (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
 - (d) prescribe the means by which the penalty is to be enforced; and
 - (e) provide for enabling the Department, in its discretion, to mitigate or to remit any such penalty, or to stay or to compound any proceedings for a penalty.
- (4) Subsection (1) above does not apply—
 - (a) to any failure by a person in respect of which he has been convicted of an offence under section 108(1) above; or
 - (b) to Class 4 contributions recoverable by the Inland Revenue.”.

Evidence of non-payment

58.—(1) For subsection (1) of section 112 of the Administration Act (evidence of non-payment) there shall be substituted the following subsections—

“(1) A certificate of an authorised officer that any amount by way of contributions, or by way of interest or penalty in respect of contributions, which a person is liable to pay to the Department for any period has not been paid—

- (a) to the officer; or
- (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,

shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.

(1A) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 6(1) of Schedule 1 to the Contributions and Benefits Act (deduction with PAYE), contributions fall to be paid in like manner as income tax.”.

(2) In subsection (3) of that section, after the words “such a certificate”, in the first place where they occur, there shall be inserted the words “as is mentioned in subsection (1) or (2) above”.

(3) In subsection (4) of that section, the words “for a particular contribution card or”, and the words “the card in question or”, shall cease to have effect.

(4) After subsection (6) of that section there shall be added the following subsection—

“(7) In this section “authorised officer” means an officer of the Department authorised by it for the purposes of this section.”.

Recovery of contributions, etc.

59. After section 115 of the Administration Act there shall be inserted the following section—

“Recovery of contributions, etc.

115A.—(1) If—

- (a) a person is served at any time with a copy of a certificate under section 112(1) above; and
- (b) he neglects or refuses to pay the contributions, interest or penalty to which the certificate relates within 30 days of that time,

the Judgments Enforcement (Northern Ireland) Order 1981 (“the 1981 Order”) shall apply in relation to the amount in respect of which the certificate was issued, to the extent that it remains unpaid, as a money judgment, but subject to subsections (2) and (3) below, and such amount unpaid shall be enforceable by the Enforcement of Judgments Office on an application to it by the Department.

(2) Without prejudice to Article 141 of the 1981 Order (power to make Judgment Enforcement Rules) the Department may, with the consent of the Lord Chancellor, make such regulations with respect to the enforcement by the Enforcement of Judgments Office of amounts unpaid on certificates under section 112(1) above as it considers appropriate.

(3) Regulations made under subsection (2) above may, in particular, provide for the modification of any provision made by or under the 1981 Order in its application to certificates under section 112(1) above.

(4) In subsection (3) above, “modification” includes the making of additions, omissions or amendments.”.

Liability of directors, etc. for company’s contributions

60. After section 115A of the Administration Act there shall be inserted the following sections—

“Liability of directors, etc. for company’s contributions.

115B.—(1) This section applies to contributions which a body corporate is liable to pay, where—

- (a) the body corporate has failed to pay the contributions at or within the time prescribed for the purpose; and
- (b) the failure appears to the Department to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate (“culpable officers”).

(2) The Department may issue and serve on any culpable officer a notice (a “personal liability notice”)—

- (a) specifying the amount of the contributions to which this section applies (“the specified amount”);

- (b) requiring the officer to pay to the Department—
 - (i) a specified sum in respect of that amount; and
 - (ii) specified interest on that sum; and
- (c) where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the Department for the purposes of that paragraph.
- (3) The sum specified in the personal liability notice under subsection (2)(b)(i) above shall be—
 - (a) in a case where there is, in the opinion of the Department, no other culpable officer, the whole of the specified amount; and
 - (b) in any other case, such proportion of the specified amount as, in the opinion of the Department, the officer's culpability for the failure to pay that amount bears to that of all the culpable officers taken together.
- (4) In assessing an officer's culpability for the purposes of subsection (3)(b) above, the Department may have regard both to the gravity of the officer's fraud or neglect and to the consequences of it.
- (5) The interest specified in the personal liability notice under subsection (2)(b)(ii) above shall be at the prescribed rate and shall run from the date on which the notice is issued.
- (6) An officer who is served with a personal liability notice shall be liable to pay to the Department the sum and the interest specified in the notice under subsection (2)(b) above.
- (7) Where, after the issue of one or more personal liability notices, the amount of contributions to which this section applies is reduced by a payment made by the body corporate—
 - (a) the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;
 - (b) the Department shall serve on each such officer a notice to that effect; and
 - (c) where the reduced liability of any such officer is less than the amount that he has already paid under this section, the difference shall be repaid to him together with interest on it at the prescribed rate.
- (8) Any amount paid under a personal liability notice shall be deducted from the liability of the body corporate in respect of the specified amount.
- (9) In this section—
 - “contributions” includes any interest or penalty in respect of contributions;
 - “officer”, in relation to a body corporate, means—
 - (a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and
 - (b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so;
 - “the prescribed rate” means the rate from time to time prescribed under paragraph 6 of Schedule 1 to the Contributions and Benefits Act for the purposes of the corresponding provision of that paragraph, that is to say—
 - (a) in relation to subsection (5) above, sub-paragraph (2)(a);
 - (b) in relation to subsection (7) above, sub-paragraph (2)(b).

Appeals in relation to personal liability notices.

115C.—(1) No appeal shall lie in relation to a notice except as provided by this personal liability section.

(2) An individual who is served with a personal liability notice may appeal to an appeal tribunal against the Department's decision as to the issue and content of the notice on the ground that—

- (a) the whole or part of the amount specified under subsection (2)(a) of section 115B above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;
- (b) the failure to pay that amount was not attributable to any fraud or neglect on the part of the individual in question;
- (c) the individual was not an officer of the body corporate at the time of the alleged fraud or neglect; or
- (d) the opinion formed by the Department under subsection (3)(a) or (b) of that section was unreasonable.

(3) The Department shall give a copy of any notice of an appeal under this section, within 28 days of the giving of the notice, to each other individual who has been served with a personal liability notice.

(4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the Department.

(5) Where an appeal under this section—

- (a) is brought on the basis of evidence not considered by the Department, or on the ground mentioned in subsection (2)(d) above; and
- (b) is not allowed on some other basis or ground,

the appeal tribunal shall either dismiss the appeal or remit the case to the Department, with any recommendations it sees fit to make, for the Department to consider whether to revise its decision as to the issue and content of the personal liability notice.

(6) In this section—

“appeal tribunal” means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998;

“officer”, in relation to a body corporate, has the same meaning as in section 115B above;

“personal liability notice” has the meaning given by subsection (2) of that section;

“revise” means revise under Article 10 of the Social Security (Northern Ireland) Order 1998.”.

Class 1B contributions: supplemental

61.—(1) In section 129 of the Administration Act (amendments following alterations in Great Britain) after “143,” there shall be inserted “143A.”.

(2) In subsection (5) of section 142 of that Act (destination of contributions), after paragraph (c) there shall be inserted the following paragraph—

- “(ca) in the case of Class 1B contributions, 0.9 per cent. of the amount estimated to be the aggregate of the emoluments and the amounts of income tax in respect of which those contributions were paid;”.

Payments of certain contributions out of the Consolidated Fund

62.—(1) Subsection (4) of section 143 of the Administration Act (general financial arrangements) shall have effect, and shall be deemed always to have had effect, as if—

- (a) for the words “a secondary Class 1 contributor” there were substituted the words “any person”; and
- (b) after the words “any secondary Class 1 contributions” there were inserted the words “, or any Class 1A contributions,”.

(2) Paragraph (2) of Article 3 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (from which subsection (4) of section 143 of the Administration Act is derived) shall be deemed to have had effect with the same amendments as from the commencement of the Social Security (Contributions) (Northern Ireland) Order 1991.

PART IV BENEFITS

Amendments, etc. of the Contributions and Benefits Act

Daily rate of maternity allowance

63. In subsection (5) of section 35 of the Contributions and Benefits Act (state maternity allowance), for paragraphs (a) and (b) there shall be substituted the words “the amount payable by way of that allowance for any day shall be taken as one seventh of the weekly rate of the allowance.”.

Rates of short-term incapacity benefit

64. For subsection (4) of section 44 of the Contributions and Benefits Act (Category A retirement pension) there shall be substituted the following subsection—

“(4) The weekly rate of the basic pension shall be £64.70 except that, so far as the sum is relevant for the purpose of calculating the lower rate of short-term incapacity benefit under section 30B(3) above, it shall be £62.05.

In this subsection “the lower rate” means the rate payable for the first 196 days of entitlement in any period of incapacity for work.”.

Validation of certain housing benefit determinations

65.—(1) Subject to paragraphs (3) and (4), in so far as a housing benefit determination made before 18th August 1997 purported to determine that housing benefit was payable in respect of—

- (a) charges for medical care, nursing care or personal care; or
- (b) charges for general counselling or any other support services,

it shall be deemed to have been validly made if, on the assumption mentioned in paragraph (2), it would have been so made.

(2) The assumption is that, at all material times, such charges as are mentioned in paragraph (1) were eligible to be met by housing benefit where the claimant’s right to occupy the dwelling was conditional on his payment of the charges.

(3) Where the effect of a review carried out on or after 18th August 1997 was to revise the amount of housing benefit payable in respect of any validated charges—

- (a) the revision shall be deemed not to have been validly made in so far as it had the effect of increasing that amount; and
 - (b) housing benefit shall cease to be payable in respect of those charges as from the beginning of the period for which the first payment of the revised amount of benefit was made.
- (4) Housing benefit shall not be payable in respect of any validated charges for any period falling after—
- (a) 5th April 1998 where the rent is payable at intervals of a whole number of weeks; and
 - (b) 31st March 1998 in any other case.
- (5) In this Article—
- “the dwelling”, in relation to a housing benefit determination, means the dwelling in respect of which the determination was made;
- “housing benefit determination” means a determination under section 129 of the Contributions and Benefits Act or the corresponding provisions of the Social Security (Northern Ireland) Order 1986, or a decision on a review of such a determination;
- “medical care” includes treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence;
- “personal care” includes assistance at meal-times or with personal appearance or hygiene;
- “validated charges” means charges in respect of which housing benefit is payable only by virtue of paragraph (1).

Discretionary payments out of the social fund

66.—(1) For subsection (1) of section 134 of the Contributions and Benefits Act (payments out of the social fund) there shall be substituted the following subsection—

- “(1) There may be made out of the social fund, in accordance with this Part of this Act—
- (a) payments of prescribed amounts, whether in respect of prescribed items or otherwise, to meet, in prescribed circumstances, maternity expenses and funeral expenses; and
 - (b) payments by way of community care grant, crisis loan or budgeting loan to meet other needs in accordance with directions given or guidance issued by the Department.”.

(2) After subsection (4) of that section there shall be added the following subsection—

- “(5) In this Part—
- “budgeting loan” means a loan awarded in circumstances specified in directions issued by the Department for the purpose of defraying an intermittent expense;
- “community care grant” means a grant awarded in circumstances so specified for the purpose of meeting a need for community care;
- “crisis loan” means a loan awarded in circumstances so specified for the purpose of meeting an immediate short term need,

and any reference in this subsection to meeting a need or defraying an expense includes a reference to helping to meet the need or to defray the expense.”.

Budgeting loans: criteria for making awards

67.—(1) In subsection (1) of section 136 of the Contributions and Benefits Act (principles of determination), after the word “award” there shall be inserted the words “of a community care grant or a crisis loan”.

(2) After that subsection there shall be inserted the following subsection—

“(1A) Subject to subsection (2) below, in determining whether to make an award of a budgeting loan to the applicant, or the amount or value to be awarded, an appropriate officer shall have regard to—

(a) such of the applicant’s personal circumstances as are of a description specified in directions issued by the Department; and

(b) the criteria specified in paragraphs (b) to (e) of subsection (1) above,

but where the criterion mentioned in paragraph (a) above would preclude the award of such a loan, the appropriate officer shall have regard instead to such other criterion as may be specified in directions so issued.”.

(3) In subsection (4) of that section, paragraph (e) shall cease to have effect and after paragraph (a) there shall be inserted the following paragraph—

“(aa) that in circumstances specified in the direction an application for an award of a community care grant may be treated as an application for an award of a crisis loan, and vice versa;”.

Power to reduce child benefit for lone parents

68.—(1) Regulations may revoke any provision of regulations which prescribes a higher rate of child benefit in the case of a lone parent, notwithstanding anything in section 141(4) of the Contributions and Benefits Act (which precludes regulations from prescribing a rate lower than the rate it replaces).

(2) In this Article “lone parent” means a parent who—

(a) has no spouse or is not living with his spouse; and

(b) is not living with any other person as his spouse.

Statutory sick pay not precluded by maternity allowance

69. In paragraph 2(d) of Schedule 11 to the Contributions and Benefits Act (circumstances in which periods of entitlement to statutory sick pay do not arise), the words “(ii) she was entitled to a maternity allowance; or” shall cease to have effect.

Amendments of the Administration Act

Provision of information

70. In subsection (1) of section 5 of the Administration Act (regulations about claims for and payments of benefit), after paragraph (h) there shall be inserted the following paragraph—

“(hh) for requiring such person as may be prescribed in accordance with the regulations to furnish any information or evidence needed for a determination whether a decision on an award of benefit to which this section applies—

(i) should be revised under Article 10 of the Social Security (Northern Ireland) Order 1998; or

(ii) should be superseded under Article 11 of that Order;”.

Overpayments out of the social fund

71.—(1) After section 69 of the Administration Act there shall be inserted the following section—

“Overpayments out of the social fund.

69ZA.—(1) Subject to subsection (2) below, section 69 above shall apply in relation to social fund payments to which this section applies as it applies in relation to payments made in respect of benefits to which that section applies.

(2) Section 69 above as it so applies shall have effect as if—

- (a) in paragraph (a) of subsection (5) and subsection (5A), for the words “reversed or varied on an appeal or has been revised under Article 10 or superseded under Article 11” there were substituted the words “revised on a review under Article 38”;
- (b) in paragraph (b) of subsection (5), for the words “on the appeal or under that Article” there were substituted the words “on the review”; and
- (c) subsections (7) and (10A) were omitted.

(3) This section applies to social fund payments such as are mentioned in section 134(1) (b) of the Contributions and Benefits Act.”.

(2) This Article applies where such a determination as is mentioned in section 69(1) of the Administration Act is made in relation to a social fund payment—

- (a) to which section 69ZA of that Act applies; and
- (b) which is made on or after the day on which this Article comes into operation.

Power to anticipate pensions up-rating order

72. After section 135 of the Administration Act there shall be inserted the following section—

“Power to anticipate pensions up-rating order.

135A.—(1) This section applies where a statement is made in the House of Commons by or on behalf of the Secretary of State which specifies—

- (a) the amounts by which he proposes, by an order under section 150 of the Great Britain Administration Act, to increase—
 - (i) the weekly sums that are payable by way of retirement pension; or
 - (ii) the amount of graduated retirement benefit payable for each unit of graduated contributions; and
- (b) the date on which he proposes to bring the increases into force (“the commencing date”).

(2) Where, before the commencing date and after the date on which the statement is made, an award is made of a retirement pension or a graduated retirement benefit, the award either may provide for the pension or benefit to be paid as from the commencing date at the increased rate or may be expressed in terms of the rate appropriate at the date of the award.”.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Pilot schemes

73.—(1) Any regulations to which this paragraph applies may be made so as to have effect for a specified period not exceeding 12 months.

(2) Any regulations which, by virtue of paragraph (1), are to have effect for a limited period are referred to in this Article as “a pilot scheme”.

(3) A pilot scheme may provide that its provisions are to apply only in relation to—

- (a) one or more specified areas or localities;
- (b) one or more specified classes of person;
- (c) persons selected—
 - (i) by reference to prescribed criteria; or
 - (ii) on a sampling basis.

(4) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.

(5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same, or similar, provision (apart from the specified period) to that made by the previous scheme.

(6) In so far as a pilot scheme would, apart from this paragraph, have the effect of—

- (a) treating as capable of work any person who would not otherwise be so treated; or
- (b) reducing the total amount of benefit that would otherwise be payable to any person,

it shall not apply in relation to that person.

(7) Paragraph (1) applies to—

- (a) regulations made under section 167D of the Contributions and Benefits Act (incapacity for work: persons to be treated as incapable or capable of work); and
- (b) in so far as they are consequential on or supplementary to any such regulations, regulations made under any of the provisions mentioned in paragraph (8).

(8) The provisions are—

- (a) subsection (5)(a) of section 22 of the Contributions and Benefits Act (earnings factors);
- (b) section 30C of that Act (incapacity benefit: days and periods of incapacity for work);
- (c) sections 68 and 69 of that Act (severe disablement allowance);
- (d) subsection (1)(e) of section 123 of that Act (income support) and, so far as relating to income support, subsection (1) of section 131 of that Act (the applicable amount);
- (e) Part XIII A of that Act (incapacity for work);
- (f) section 59A of the Administration Act and Article 31 (incapacity for work).

Regulations and orders

74.—(1) Subject to paragraph (2) and Article 15(13), regulations under this Order shall be made by the Department.

(2) Regulations with respect to proceedings before the Commissioners (whether for the determination of any matter or for leave to appeal to or from the Commissioners) shall be made by the Lord Chancellor.

(3) Where a power under this Order to make regulations or an order is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.

(4) Powers to make regulations for the purposes of any one provision of this Order are without prejudice to powers to make regulations for the purposes of any other provision.

(5) Without prejudice to any specific provision in this Order, a power conferred by this Order to make regulations includes power to make thereby such incidental, supplementary, consequential

or transitional provision as appears to the authority making the regulations to be expedient for the purposes of those regulations.

(6) Without prejudice to any specific provision in this Order, a power conferred by any provision of this Order to make regulations includes power to provide for a person to exercise a discretion in dealing with any matter.

(7) Any power conferred by this Order to make regulations relating to housing benefit shall include power to make different provision for different areas.

(8) In this Article “Commissioner” has the same meaning as in section 167(1) of the Administration Act.

Assembly, etc. control of regulations

75.—(1) The regulations to which this paragraph applies shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(2) Paragraph (1) applies to regulations (whether made alone or with other regulations) under—

(a) Article 8, 13(2), 68 or 73; or

(b) paragraph 12 of Schedule 1, paragraph 9 of Schedule 2 or paragraph 2 of Schedule 4.

(3) Regulations made under this Order by the Department, other than regulations to which paragraph (1) applies, shall be subject to negative resolution.

(4) Regulations made under this Order by the Lord Chancellor shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Reports by the Department

76.—(1) The Department shall prepare, either annually or at such times or intervals as may be prescribed, a report on the standards achieved by the Department in the making of decisions against which an appeal lies to an appeal tribunal constituted under Chapter I of Part II.

(2) A copy of every such report shall be laid before the Assembly.

Transitory provisions

77. Schedule 5 (which contains transitory provisions) shall have effect.

Minor and consequential amendments and repeals

78.—(1) The statutory provisions mentioned in Schedule 6 shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Order.

(2) The statutory provisions mentioned in Schedule 7, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule.

N.H. Nicholls
Clerk of the Privy Council

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.

(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) The President may be removed from office by the Lord Chancellor on the ground of incapacity or misbehaviour.

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.

4.—(1) The Department may pay—

(a) to any person required to attend at any proceedings under Article 13 of this Order or Article 22 of the Child Support Order; 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.

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.

Delegation of certain functions of appeal tribunals

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

- (a) 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).

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 invalid care allowance

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

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.

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); or
 - (ii) section 139A(1)(b) of that Act (jobseeker's allowance).

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.

Reduction in accordance with reduced benefit direction

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

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.

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
 - (d) Article 21 of the Jobseekers Order (jobseeker's allowance).

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.

Industrial injuries benefit

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

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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.

Power to prescribe other decisions

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

PART II

CONTRIBUTIONS DECISIONS

Categorisation of earners

10. A decision whether a person is an earner.

11. If so, a decision as to the category of earners in which the person is to be included.

Compulsory contributions

12. A decision whether a person is liable to pay contributions of any particular class.

13. If so, a decision as to the amount that the person is liable to pay.

Voluntary contributions

14. A decision whether a person is entitled to pay contributions of any particular class that he is not liable to pay.

15. If so, a decision as to the amount that the person is entitled to pay.

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

18. A decision whether an employer is entitled to make any deduction from his contributions payments in accordance with an order under section 155A of the Contributions and Benefits Act.

19. If so, a decision as to the amount that he is entitled to deduct.

Statutory maternity pay

20. A decision whether an employer is entitled to make any deduction from his contributions payments in accordance with regulations under section 163 of the Contributions and Benefits Act.

21. If so, a decision as to the amount that he is entitled to deduct.

Liability of directors, etc. for company's contributions

22. Subject to the provisions of section 115C of the Administration Act, a decision as to the issue and content of a notice under section 115B(2) of that Act.

Preserved rights to benefit, etc.

23. A decision falling to be made by virtue of regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992.

Employment of long-term unemployed

24. A decision falling to be made under Article 29 of the Jobseekers Order.

Interest and penalties

25. A decision whether a person is liable to pay interest under paragraph 7B(2)(e) or (i) of Schedule 1 to the Contributions and Benefits Act.

26. A decision whether a person is liable to a penalty under—

- (a) paragraph 7A(2) or 7B(2)(h) of Schedule 1 to the Contributions and Benefits Act; or
- (b) section 107(1)(a) or 108A(1) of the Administration Act.

27. A decision whether to charge any interest or penalty under paragraph 7C(1) of Schedule 1 to the Contributions and Benefits Act.

28. A decision as to the amount of interest or penalty payable under any of the provisions mentioned in paragraphs 25 to 27, except in so far as the decision relates to the exercise of the discretion under—

- (a) paragraph 7A(3)(e) or 7B(5)(e) of Schedule 1 to the Contributions and Benefits Act; or
- (b) section 107(2)(e) or 108A(3)(e) of the Administration Act.

Power to prescribe other decisions

29. Such other decisions relating to contributions as may be prescribed.

SCHEDULE 4

Article 16(1).

REGULATIONS AS TO PROCEDURE: PROVISION WHICH MAY BE MADE

- 1.** Provision prescribing the procedure to be followed in connection with—
 - (a) the making of decisions or determinations by the Department, an appeal tribunal or a Commissioner; and
 - (b) the withdrawal of claims, applications, appeals or references falling to be decided or determined by the Department, an appeal tribunal or a Commissioner.
- 2.** Provision as to the striking out or reinstatement of proceedings.
- 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—

Status: This is the original version (as it was originally made).

- (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.

SCHEDULE 5

Article 77.

TRANSITORY PROVISIONS

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—
- “(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—

“(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”.

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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;

(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”; and
- (c) subsections (7) and (10A).”.

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

Article 78(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Army Act 1955 (c. 18)

1. In subsection (3) of section 150AA (enforcement of maintenance assessment by deductions from pay)—

- (a) for the words “a child support officer” there shall be substituted the words “the Department of Health and Social Services for Northern Ireland”; and
- (b) for the words “the Department of Health and Social Services for Northern Ireland” there shall be substituted the words “that Department”.

The Air Force Act 1955 (c. 19)

2. In subsection (3) of section 150AA (enforcement of maintenance assessment by deductions from pay)—

- (a) for the words “a child support officer” there shall be substituted the words “the Department of Health and Social Services for Northern Ireland”; and
- (b) for the words “the Department of Health and Social Services for Northern Ireland” there shall be substituted the words “that Department”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

3.—(1) In Part II of Schedule 1 (bodies of which all members are disqualified), the following entry shall cease to have effect, namely—

“A Medical Appeal Tribunal constituted for the purposes of Part II of the Social Security Administration (Northern Ireland) Act 1992 including any panel constituted for the purposes of any such Tribunal.”.

(2) In Part III of that Schedule (other disqualifying offices), in the entry relating to an adjudicating medical practitioner or specially qualified adjudicating medical practitioner, the words “appointed under or by virtue of Part II of the Social Security Administration (Northern Ireland) Act 1992” shall cease to have effect.

(3) In that Part of that Schedule, the following entries shall cease to have effect, namely—

“Full-time chairman of a child support appeal tribunal established under Article 23 of the Child Support (Northern Ireland) Order 1991”;

“Full-time Chairman of Social Security Appeal Tribunals, Medical Appeal Tribunals and Disability Appeal Tribunals for Northern Ireland.”; and

“President of Social Security Appeal Tribunals, Medical Appeal Tribunals and Disability Appeal Tribunals for Northern Ireland.”.

(4) In that Part of that Schedule, there shall be inserted at the appropriate places the following entries—

“Member of a panel of persons appointed under Article 7 of the Social Security (Northern Ireland) Order 1998.”; and

“President of appeal tribunals (within the meaning of Chapter I of Part II of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order.”.

The Forfeiture (Northern Ireland) Order 1982 (NI 14)

4. In paragraph (2)(b) of Article 6 (Social Security Commissioner to decide whether rule applies to social security benefits), for the words “section 57 of the Social Security Administration (Northern Ireland) Act 1992” there shall be substituted the words “Article 16 of the Social Security (Northern Ireland) Order 1998”.

The Child Support (Northern Ireland) Order 1991 (NI 23)

5. In paragraph (2) of Article 2 (interpretation)—

(a) the following definition shall be inserted at the appropriate place—

““appeal tribunal” means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998;” and

(b) the definitions of “adjudication officer”, “Chief Child Support Officer”, “child support appeal tribunal” and “child support officer” shall cease to have effect.

6. In Article 6 (welfare of children: the general principle), the words—

(a) “or any child support officer”;

(b) “or the child support officer”; and

(c) “or his”,

shall cease to have effect.

7. In paragraph (4) of Article 7 (child support maintenance), the words “or the child support officer” shall cease to have effect.

8. In paragraph (9) of Article 9 (applications by those receiving benefit), the words “or the child support officer” shall cease to have effect.

9. In paragraphs (1) and (2) of Article 10 (role of the courts with respect to maintenance for children), for the words “a child support officer” there shall be substituted the words “the Department”.

10.—(1) In paragraph (4)(a) of Article 12 (relationship between maintenance assessments and certain court orders and related matters)—

(a) for the words “the child support officer concerned” there shall be substituted the words “the Department”; and

(b) for the words “that officer” there shall be substituted the word “it”.

(2) In paragraph (5) of that Article, for the words “a child support officer” there shall be substituted the words “an officer of the Department”.

11.—(1) In paragraph (1) of Article 13 (maintenance assessments), for the words “referred by it to a child support officer whose duty it shall be to deal with the application” there shall be substituted the words “dealt with by it”.

(2) In paragraph (1A) of that Article, for the words “before referring the application to a child support officer” there shall be substituted the words “before determining the application”.

12.—(1) For paragraphs (1) and (1A) of Article 14 (interim maintenance assessments) there shall be substituted the following paragraph—

“(1) Where the Department—

(a) is required to make a maintenance assessment; or

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- (b) is proposing to make a decision under Article 18 or 19, and (in either case) it appears to the Department that it does not have sufficient information to enable it to do so, the Department may make an interim maintenance assessment.”
- (2) In paragraph (4) of that Article—
 - (a) for the words “a child support officer” there shall be substituted the words “the Department”; and
 - (b) for the word “his” there shall be substituted the word “its”.
- (3) In paragraph (5) of that Article—
 - (a) for the words “a child support officer” there shall be substituted the words “the Department”; and
 - (b) for the word “he” there shall be substituted the word “it”.
- 13.** Article 15 (child support officers) shall cease to have effect.
- 14.** In Article 16 (information required by the Department)—
 - (a) paragraphs (2), (2A) and (4) shall cease to have effect; and
 - (b) in paragraph (3), the words “or by child support officers” shall cease to have effect and for the word “them” there shall be substituted the word “it”.
- 15.** In paragraph (1) of Article 17 (powers of inspectors), the words “or any child support officer” shall cease to have effect.
- 16.—**(1) In paragraph (1) of Article 25 (appeal to Child Support Commissioner), for the words “a child support appeal tribunal, and any child support officer” there shall be substituted the words “an appeal tribunal, and the Department”.
- (2) Paragraph (1A) of that Article shall cease to have effect.
- (3) In paragraph (3) of that Article—
 - (a) for the words “the child support appeal tribunal” there shall be substituted the words “the appeal tribunal”;
 - (b) for the words “a child support appeal tribunal”, in both places where they occur, there shall be substituted the words “an appeal tribunal”; and
 - (c) for the words “a child support officer” there shall be substituted the words “the Department”.
- (4) For paragraph (4) of that Article there shall be substituted the following paragraph—

“(4) The reference under paragraph (3) to the Department shall, subject to any direction of the Child Support Commissioner, be to an officer of the Department, or to a person providing it with services, who has taken no part in the decision originally appealed against.”
- (5) In paragraph (5) of that Article, for the words “a child support appeal tribunal” there shall be substituted the words “an appeal tribunal”.
- (6) In paragraph (6)(a) of that Article—
 - (a) for the words “who was the chairman of the child support appeal tribunal” there shall be substituted the words “who constituted, or was the chairman of, the appeal tribunal”; and
 - (b) for the words “such other chairman of a child support appeal tribunal” there shall be substituted the words “such other person”.
- (7) In paragraph (8) of that Article, for the words “a child support officer”, in both places where they occur, there shall be substituted the words “the Department”.

17. In paragraph (1) of Article 27 (disputes about parentage), for the words “the child support officer concerned” there shall be substituted the words “the Department”.

18. In paragraph (1)(b) of Article 28 (reference to court for declaration of parentage), for the words “a child support officer to whom the case is referred” there shall be substituted the words “the Department”.

19. For paragraph (4) of Article 28A (application for a departure direction) there shall be substituted the following paragraph—

“(4) An application may be made under this Article even though an application has been made under Article 18(1) or 19(1) with respect to the current assessment.”.

20.—(1) Paragraphs (4) and (5) of Article 28B (preliminary consideration of applications) shall cease to have effect.

(2) For paragraph (6) of that Article there shall be substituted the following paragraph—

“(6) Where a decision as to a maintenance assessment is revised or superseded under Article 18 or 19, the Department—

- (a) shall notify the applicant and such other persons as may be prescribed that the decision has been revised or superseded; and
- (b) may direct that the application is to lapse unless, before the end of such period as may be prescribed, the applicant notifies the Department that he wishes it to stand.”.

21. In paragraphs (1)(b) and (3) of Article 28D (determination of applications), for the words “a child support appeal tribunal” there shall be substituted the words “an appeal tribunal”.

22. In paragraph (6) of Article 28F (departure directions), for the words “a child support officer to make” there shall be substituted the words “the making of”.

23. Paragraph (1) of Article 28G (effect and duration of departure directions) shall cease to have effect.

24. For Article 28H there shall be substituted the following Article—

“Departure directions: decisions and appeals

28H. Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to decisions with respect to departure directions.”.

25. After paragraph (2) of Article 40 (contribution to maintenance by deduction from benefit) there shall be added the following paragraph—

“(3) Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to any decision with respect to a person’s liability under this Article, that is to say, his liability to make payments under regulations made by virtue of this Article.”.

26. In paragraph (1) of Article 41 (jurisdiction), for the words “A child support officer” there shall be substituted the words “The Department”.

27.—(1) In paragraph (1)(a) of Article 42 (jurisdiction of courts in certain proceedings under this Order), for the words “a child support appeal tribunal” there shall be substituted the words “an appeal tribunal”.

(2) In paragraph (3) of that Article, for the words “child support appeal tribunals” there shall be substituted the words “appeal tribunals”.

28.—(1) In paragraph (2) of Article 43 (failure to comply with obligations imposed by Article 9)—

- (a) for the words “A child support officer” there shall be substituted the words “The Department”; and
- (b) for the word “him” there shall be substituted the words “the Department”.

(2) In paragraph (3) of that Article, for the words “the child support officer” there shall be substituted the words “the Department”.

(3) In paragraphs (4) to (6) of that Article—

- (a) for the words “the child support officer” there shall be substituted the words “the Department”; and
- (b) for the word “he” there shall be substituted the word “it”.

(4) For paragraphs (7) and (8) of that Article there shall be substituted the following paragraph—

“(7) Schedule 4C shall have effect for applying Articles 18, 19, 22 and 28ZA to 28ZC to decisions with respect to reduced benefit directions.”.

(5) In paragraph (11) of that Article, in the definition of “reduced benefit direction”, the words “, binding on the adjudication officer,” shall cease to have effect.

29. After Article 43 there shall be inserted the following Articles—

“Finality of decisions

43A.—(1) Subject to the provisions of this Order, any decision of the Department or an appeal tribunal made in accordance with the foregoing provisions of this Order shall be final.

(2) If and to the extent that regulations so provide, any finding of fact or other determination embodied in or necessary to such a decision, or on which such a decision is based, shall be conclusive for the purposes of—

- (a) further such decisions;
- (b) decisions made in accordance with Articles 9 to 16 of the Social Security (Northern Ireland) Order 1998 or section 22 of the Social Security Administration (Northern Ireland) Act 1992, or with regulations under Article 12 of that Order; and
- (c) decisions made under the Vaccine Damage Payments Act 1979.

Matters arising as respects decisions

43B.—(1) Regulations may make provision as respects matters arising pending—

- (a) any decision of the Department under Article 13, 14 or 19;
- (b) any decision of an appeal tribunal under Article 22; or
- (c) any decision of a Child Support Commissioner under Article 25.

(2) Regulations may also make provision as respects matters arising out of the revision under Article 18, or on appeal, of any such decision as is mentioned in paragraph (1).

(3) Any reference in this Article to Article 18, 19 or 22 includes a reference to that Article as extended by Schedule 4C.”.

30. In paragraph (5) of Article 46 (unauthorised disclosure of information), in sub-paragraph (c), after the words “other officer of,” there shall be inserted the words “an appeal tribunal or”.

31. In paragraph (2) of Article 47 (supplementary powers to make regulations)—

- (a) in sub-paragraph (a), for head (iii) there shall be substituted the following head—
 - “(iii) the making of decisions under Article 18 or 19;”;and
- (b) in sub-paragraph (b), for the words “Article 20 or 21” there shall be substituted the words “Schedule 4C”.

32.—(1) In paragraph 8 of Schedule 1 (housing costs), for the words “a child support officer” there shall be substituted the words “the Department”.

(2) In paragraph 9(b) of that Schedule (regulations about income and capital), for the words “the child support officer concerned” and the words “the child support officer” there shall be substituted the words “the Department”.

(3) In paragraph 13 of that Schedule (assessments where amount of child support is nil), for the words “A child support officer” there shall be substituted the words “The Department”.

(4) In paragraph 15 of that Schedule (separate assessments for different periods)—

- (a) for the words “a child support officer” there shall be substituted the words “the Department”; and
- (b) for the word “he” there shall be substituted the word “it”.

(5) In paragraph 16 of that Schedule (termination of assessments), for sub-paragraphs (2) to (11) there shall be substituted the following sub-paragraphs—

“(2) A maintenance assessment made in response to an application under Article 7 shall be cancelled by the Department if the person on whose application the assessment was made asks the Department to do so.

(3) A maintenance assessment made in response to an application under Article 9 shall be cancelled by the Department if—

- (a) the person on whose application the assessment was made (“the applicant”) asks it to do so; and
- (b) the Department is satisfied that the applicant has ceased to fall within paragraph (1) of that Article.

(4) Where the Department is satisfied that the person with care with respect to whom a maintenance assessment was made has ceased to be a person with care in relation to the qualifying child, or any of the qualifying children, with respect to whom the assessment was made, the Department may cancel the assessment with effect from the date on which, in its opinion, the change of circumstances took place.

(5) A maintenance assessment may be cancelled by the Department if it is proposing to make a decision under Article 18 or 19 and it appears to the Department—

- (a) that the person with care with respect to whom the maintenance assessment in question was made has failed to provide the Department with sufficient information to enable it to make the decision; and
- (b) where the maintenance assessment in question was made in response to an application under Article 9, that the person with care with respect to whom the assessment was made has ceased to fall within paragraph (1) of that Article.

(6) Where—

- (a) at any time a maintenance assessment is in force but the Department would no longer have jurisdiction to make it if it were to be applied for at that time; and
- (b) the assessment has not been cancelled, or has not ceased to have effect under any other provision made by or under this Order,

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it shall be taken to have continuing effect unless cancelled by the Department in accordance with such prescribed provision (including provision as to the effective date of cancellation) as the Department considers it appropriate to make.

(7) Where both the absent parent and the person with care with respect to whom a maintenance assessment was made request the Department to cancel the assessment, the Department may do so if it is satisfied that they are living together.

(8) Any cancellation of a maintenance assessment under sub-paragraph (5), (6) or (7) shall have effect from such date as may be determined by the Department.

(9) Where the Department cancels a maintenance assessment, it shall immediately notify the absent parent and person with care, so far as that is reasonably practicable.

(10) Any notice under sub-paragraph (9) shall specify the date with effect from which the cancellation took effect.

(11) A person with care with respect to whom a maintenance assessment is in force shall provide the Department with such information, in such circumstances, as may be prescribed, with a view to assisting the Department in determining whether the assessment has ceased to have effect, or should be cancelled.

(12) The Department may by regulations make such supplemental, incidental or transitional provision as it thinks necessary or expedient in consequence of the provisions of this paragraph.”

33. Schedule 2 (provision of information to the Department) shall cease to have effect.

34. Schedule 3 (child support appeal tribunals) shall cease to have effect.

35.—(1) In paragraph 1(2)(a) of Schedule 4 (proceedings before Child Support Commissioners), for the words “Article 23(3)” there shall be substituted the words “Schedule 4 to the Social Security (Northern Ireland) Order 1998”.

(2) For paragraph 2 of that Schedule there shall be substituted the following paragraph—

“Tribunal of Commissioners

2.—(1) If it appears to the Chief Child Support Commissioner (or, in the case of his inability to act, to such other of the Child Support Commissioners as he may have nominated to act for the purpose) that—

(a) an application for leave under Article 25(6)(b); or

(b) an appeal,

falling to be heard by one of the Child Support Commissioners involves a question of law of special difficulty, he may direct that the application or appeal be dealt with, not by that Commissioner alone, but by a tribunal consisting of any 2 or more of the Child Support Commissioners.

(2) If the decision of such a tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal; and the presiding Child Support Commissioner shall have a casting vote if the votes are equally divided.

(3) Where a direction is given under sub-paragraph (1)(a), Article 25(6)(b) shall have effect as if the reference to a Child Support Commissioner were a reference to such a tribunal as is mentioned in sub-paragraph (1).”

(3) In paragraph 3 of that Schedule (finality of decisions), for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) If and to the extent that regulations so provide, any finding of fact or other determination which is embodied in or necessary to a decision, or on which a decision is based, shall be conclusive for the purposes of any further decision.”

(4) In paragraph 3A of that Schedule (expenses of persons required to attend proceedings), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) The Lord Chancellor may pay to any person who attends any proceedings before a Child Support Commissioner such travelling and other allowances as he may determine.”

36.—(1) In paragraph 1 of Schedule 4A (interpretation), the definition of “review” shall cease to have effect.

(2) In paragraph 2 of that Schedule (applications for departure directions)—

(a) in sub-paragraph (b), for the words “a child support appeal tribunal” there shall be substituted the words “an appeal tribunal”; and

(b) in sub-paragraph (c), for the words “a departure application and a review are to be dealt with” there shall be substituted the words “a decision on a departure application and a decision under Article 18 or 19 are to be made”.

(3) In paragraph 4(1)(b) of that Schedule (information), the words “a child support officer or” shall cease to have effect.

(4) Paragraph 6 of that Schedule (reviews and departure directions) shall cease to have effect.

(5) In paragraph 8(2) of that Schedule (joint consideration of departure applications and appeals), for the words “A child support appeal tribunal” there shall be substituted the words “An appeal tribunal”.

(6) In paragraph 9 of that Schedule (child support appeal tribunals)—

(a) in the heading, for the words “Child support appeal tribunals” there shall be substituted the words “Appeal tribunals”; and

(b) in sub-paragraph (1)(a), for the words “a child support appeal tribunal” there shall be substituted the words “an appeal tribunal”.

37. After Schedule 4B there shall be inserted the following Schedule—

“SCHEDULE 4C

DECISIONS AND APPEALS: DEPARTURE DIRECTIONS AND REDUCED BENEFIT DIRECTIONS

Revision of decisions

1. Article 18 shall apply in relation to—

(a) any decision of the Department with respect to a departure direction, a reduced benefit direction or a person’s liability under Article 40;

(b) any decision of the Department under Article 19 as extended by paragraph 2; and

(c) any decision of an appeal tribunal on a referral under Article 28D(1)(b),

as it applies in relation to any decision of the Department under Article 13, 14 or 19.

Decisions superseding earlier decisions

2.—(1) Article 19 shall apply in relation to—

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- (a) any decision of the Department with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40;
- (b) any decision of the Department under Article 19 as extended by this sub-paragraph; and
- (c) any decision of an appeal tribunal on a referral under Article 28D(1)(b),

whether as originally made or as revised under Article 18 as extended by paragraph 1, as it applies in relation to any decision of the Department under Article 13, 14 or 19, whether as originally made or as revised under Article 18.

(2) Article 19 shall apply in relation to any decision of an appeal tribunal under Article 22 as extended by paragraph 3 as it applies in relation to any decision of an appeal tribunal under Article 22.

Appeals to appeal tribunals

3.—(1) Subject to sub-paragraphs (2) and (3), Article 22 shall apply—

- (a) in relation to a qualifying person who is aggrieved by any decision of the Department with respect to a departure direction; and
- (b) in relation to any person who is aggrieved by a decision of the Department—
 - (i) with respect to a reduced benefit direction; or
 - (ii) with respect to a person's liability under Article 40,

as it applies in relation to a person whose application for a maintenance assessment is refused or to such a person as is mentioned in paragraph (2) of Article 22.

(2) On an appeal under Article 22 as extended by sub-paragraph (1)(a), the appeal tribunal shall—

- (a) consider the matter—
 - (i) as if it were exercising the powers of the Department in relation to the application in question; and
 - (ii) as if it were subject to the duties imposed on the Department in relation to that application;
- (b) have regard to any representations made to it by the Department; and
- (c) confirm the decision or replace it with such decision as the tribunal considers appropriate.

(3) No appeal shall lie under Article 22 as extended by sub-paragraph (1)(b)(i) unless the amount of the person's benefit is reduced in accordance with the reduced benefit direction; and the time within which such an appeal may be brought shall run from the date of the notification of the reduction.

(4) In sub-paragraph (1) "qualifying person" means the person with care, or absent parent, with respect to whom the current assessment was made.

Decisions and appeals dependent on other cases

4.—(1) Article 28ZA shall also apply where—

- (a) a decision falls to be made—
 - (i) with respect to a departure direction, a reduced benefit direction or a person's liability under Article 40, by the Department; or

- (ii) with respect to a departure direction, by an appeal tribunal on a referral under Article 28D(1)(b); and
 - (b) an appeal is pending against a decision given with respect to a different direction by a Child Support Commissioner or a court.
 - (2) Article 28ZA as it applies by virtue of sub-paragraph (1) shall have effect as if the reference in paragraph (3) to Article 18 were a reference to that Article as extended by paragraph 1.
 - (3) Article 28ZA as it applies by virtue of sub-paragraph (1)(a)(ii) shall have effect as if—
 - (a) in paragraph (2), for the words “the Department”, in each place where they occur, there were substituted the words “the appeal tribunal”; and
 - (b) in paragraph (3)—
 - (i) for the words “the Department” there were substituted the words “the appeal tribunal”;
 - (ii) for the word “it” there were substituted the words “the Department”; and
 - (iii) for the word “its” there were substituted the words “the tribunal's”.
- 5.—(1) Article 28ZB shall also apply where—
- (a) an appeal is made to an appeal tribunal under Article 22 as extended by paragraph 3; and
 - (b) an appeal is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) Article 28ZB as it applies by virtue of sub-paragraph (1) shall have effect as if any reference to Article 18 or Article 19 were a reference to that Article as extended by paragraph 1 or, as the case may be, paragraph 2.

Cases of error

- 6.—(1) Subject to sub-paragraph (2), Article 28ZC shall also apply where—
- (a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that the adjudicating authority’s decision out of which the appeal arose was erroneous in point of law; and
 - (b) after the date of the relevant determination a decision falls to be made by the Department in accordance with that determination (or would, apart from this paragraph, fall to be so made)—
 - (i) in relation to an application for a departure direction (made after the commencement date);
 - (ii) as to whether to revise, under Article 18 as extended by paragraph 1, a decision (made after the commencement date) in relation to a departure direction, a reduced benefit direction or a person’s liability under Article 40; or
 - (iii) on an application made under Article 19 as extended by paragraph 2 before the date of the relevant determination (but after the commencement date) for a decision in relation to a departure direction, a reduced benefit direction or a person’s liability under Article 40 to be superseded.
- (2) Article 28ZC shall not apply where the decision of the Department mentioned in sub-paragraph (1)(b)—
- (a) is one which, but for Article 28ZA(2)(a) as it applies by virtue of paragraph 4(1), would have been made before the date of the relevant determination; or

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(b) is one made in pursuance of Article 28ZB(3) or (5) as it applies by virtue of paragraph 5(1).

(3) Article 28ZC as it applies by virtue of sub-paragraph (1) shall have effect as if in paragraph (4), in the definition of “adjudicating authority”, at the end there were added the words “or, in the case of a decision made on a referral under Article 28D(1)(b), an appeal tribunal”.

(4) In this paragraph “adjudicating authority”, “the commencement date” and “the court” have the same meanings as in Article 28ZC.”.

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38.—(1) In subsection (2) of section 1 (outline of contributory system), for the word “five” there shall be substituted the word “six” and after paragraph (b) there shall be inserted the following paragraph—

“(bb) Class 1B, payable under section 10A below by persons who are accountable to the Inland Revenue in respect of income tax on emoluments in accordance with a PAYE settlement agreement;”.

(2) In subsection (4)(a) of that section after “1A,” there shall be inserted “1B,”.

(3) In subsection (6) of that section, after the words “Class 1A”, in both places where they occur, there shall be inserted the words “, Class 1B”.

39. After subsection (2) of section 6 (liability for Class 1 contributions) there shall be inserted the following subsection—

“(2A) No primary or secondary Class 1 contribution shall be payable in respect of earnings if a Class 1B contribution is payable in respect of them.”.

40.—(1) In subsection (5) of section 10 (Class 1A contributions), for the words from “for secondary” to “earnings bracket” there shall be substituted the words “specified as the secondary percentage in section 9(2) above”.

(2) After subsection (8) of that section there shall be inserted the following subsection—

“(8A) No Class 1A contribution shall be payable in respect of the making available of a car, or the provision of fuel, if a Class 1B contribution is payable in respect of it.”.

41. After subsection (3) of section 14 (restriction on right to pay Class 3 contributions) there shall be added the following subsection—

“(4) Where primary Class 1 contributions have been paid or treated as paid on any part of a person’s earnings, subsection (1)(a) above shall have effect as if such contributions had been paid or treated as paid on so much of those earnings as did not exceed the upper earnings limit.”.

42. After subsection (5) of section 21 (contribution conditions) there shall be inserted the following subsection—

“(5A) Where primary Class 1 contributions have been paid or treated as paid on any part of a person’s earnings, the following provisions, namely—

- (a) subsection (5)(c) above;
- (b) sections 22(1)(a) and (3)(a), 23(3)(a), 24(2)(a), 44(6)(a) and 45A(1)(a) below; and
- (c) paragraphs 2(4)(a) and (5)(a), 4(2)(a), 5(2)(b) and (4)(a) and 7(4)(a) of Schedule 3 to this Act,

shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit.”.

43. In subsection (4)(a) of section 22 (earnings factors), for the words “upon which” there shall be substituted the words “in respect of which”.

44. In subsection (2) of section 54 (Category A and Category B retirement pensions: supplemental provisions), for the words “Part II of the Administration Act” there shall be substituted the words “Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

45. In subsection (5)(c) of section 95 (relevant employments), after the words “the Administration Act” there shall be inserted the words “or Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

46. In subsection (1)(b) of section 97 (accidents in course of illegal employments), for the words “section 42 of the Administration Act” there shall be substituted the words “Article 29 of the Social Security (Northern Ireland) Order 1998”.

47. In subsection (2) of section 109 (general provisions relating to benefit under section 108)—

- (a) in paragraph (a), for the words “or the Administration Act” there shall be substituted the words “, the Administration Act or Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”;
- (b) in paragraph (b), for the words “and that Act” there shall be substituted the words “, that Act and that Chapter”;
- (c) for the words “the Administration Act”, in the second place where they occur, there shall be substituted the words “that Act and that Chapter”; and
- (d) after the words “section 1” there shall be inserted the words “of that Act”.

48. In subsection (3) of section 113 (general provisions as to disqualification and suspension), for the words “or the Administration Act” there shall be substituted the words “, the Administration Act or Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

49. In subsection (2) of section 116 (Her Majesty’s forces), for the words “provision of Part II of the Administration Act which replaces” there shall be substituted the words “provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 which correspond to”.

50. In subsection (1) of section 117 (mariners, airmen, etc.), for the words “provision of Part II of the Administration Act which replaces” there shall be substituted the words “provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 which correspond to”.

51. In section 119 (persons outside Northern Ireland), for the words “provision of Part II of the Administration Act which replaces” there shall be substituted the words “provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 which correspond to”.

52. In subsection (1) of section 121 (interpretation of Parts I to VI and supplementary provisions)

- (a) in the definition of “entitled”, for the words “and 66 of the Administration Act” there shall be substituted the words “of the Administration Act and Article 27 of the Social Security (Northern Ireland) Order 1998”;
- (b) the definition of “initial primary percentage” shall cease to have effect;
- (c) for the definitions of “lower earnings limit” and “upper earnings limit” there shall be substituted the following definitions—
 - ““lower earnings limit”, “upper earnings limit” and “earnings threshold” are to be construed in accordance with subsection (1) of section 5 above, and references to the lower or upper earnings limit, or to the earnings threshold, of a tax year are to whatever is (or was) for that year the limit or threshold in force under that subsection;”;

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(d) after the definition of “Old Cases payments” there shall be inserted the following definition—

““PAYE settlement agreement” has the same meaning as in section 206A of the Income and Corporation Taxes Act 1988;” and

(e) in the definition of “primary percentage”, for the words “section 8(1) and (2)” there shall be substituted the words “section 8(2)”.

53.—(1) For subsection (1) of section 135 (awards by social fund officers), there shall be substituted the following subsection—

“(1) Whether a payment mentioned in section 134(1)(b) above is to be awarded, and how much it is to be, shall be determined by an appropriate officer, that is to say, an officer of the Department who, acting under its authority, is exercising functions of the Department in relation to payments so mentioned.”.

(2) In subsection (2) of that section, for the words “A social fund officer” there shall be substituted the words “An appropriate officer”.

(3) Subsection (3) of that section shall cease to have effect.

(4) In subsection (4) of that section, for the words “that is to be repayable” there shall be substituted the words “of a crisis loan or a budgeting loan”.

(5) In subsection (5) of that section, for the words “the social fund officer” there shall be substituted the words “the appropriate officer”.

54.—(1) In subsection (1) of section 136 (principles of determination), for the words “a social fund officer” there shall be substituted the words “an appropriate officer”.

(2) In subsection (2) of that section, for the words “A social fund officer” there shall be substituted the words “An appropriate officer”.

(3) In subsection (3) of that section, for the words “a social fund officer or group of social fund officers” there shall be substituted the words “an appropriate officer or group of appropriate officers”.

(4) In subsection (4) of that section—

(a) for the words “a social fund officer”, in each place where they occur, there shall be substituted the words “an appropriate officer”;

(b) for the words “social fund officers” there shall be substituted the words “appropriate officers”; and

(c) paragraph (e) shall cease to have effect.

(5) In subsection (5) of that section—

(a) for the words “a social fund officer” there shall be substituted the words “an appropriate officer”; and

(b) for the words “the social fund officer nominated for his area under section 62(3) of the Administration Act” there shall be substituted the words “the appropriate officer nominated for his area under Article 36 of the Social Security (Northern Ireland) Order 1998”.

55. In subsection (1) of section 159 (interpretation of Part XI and supplementary provisions), in the definition of “employer”, after the words “but for” there shall be inserted the words “the condition in”.

56. In subsection (1) of section 167 (interpretation of Part XII, etc.), in the definition of “employer”, after the words “but for” there shall be inserted the words “the condition in”.

57. In subsection (2) of section 167E (incapacity for work: disqualification, etc.), for the words “Part II of the Administration Act” there shall be substituted the words “Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

58.—(1) In the heading to Schedule 1 (supplementary provisions relating to contributions of Classes 1, 1A, 2 and 3), after the word “1A,” there shall be inserted the word “1B,”.

(2) For sub-paragraph (2) of paragraph 1 of that Schedule there shall be substituted the following sub-paragraph—

“(2) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above, then, except as may be provided by regulations—

- (a) if the aggregated earnings exceed the current lower earnings limit, the amount of the primary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (3) below; and
- (b) if the aggregated earnings exceed the current earnings threshold, the amount of the secondary Class 1 contribution in respect of the aggregated earnings shall be determined in accordance with sub-paragraph (6) below.”.

(3) In sub-paragraph (3) of that paragraph, immediately before the words “does not exceed”, in each place where they occur, there shall be inserted the words “exceeds the current lower earnings limit and”.

(4) In sub-paragraph (6) of that paragraph—

- (a) in paragraph (a), for the words “the APPS earnings” there shall be substituted the words “such part of the APPS earnings as exceeds the earnings threshold”;
- (b) in paragraphs (b) and (c), for the words “the part of the aggregated earnings attributable to such service” there shall be substituted the words “such part of the aggregated earnings attributable to such service as exceeds the earnings threshold”; and
- (c) in paragraph (d), for the words “the remainder of the aggregated earnings” there shall be substituted the words “such part of the remainder of the aggregated earnings as exceeds the earnings threshold”.

(5) In sub-paragraph (1) of paragraph 3 of that Schedule, for the words “his own secondary contribution” there shall be substituted the words “any secondary contribution of his own”.

(6) For paragraph 5 of that Schedule there shall be substituted the following paragraph—

“Class 1A contributions

5. Regulations may—

- (a) make provision for calculating the amount of Class 1A contributions so as to avoid fractional amounts;
- (b) modify section 10 above in relation to cases where a car is made available by reason of two or more employed earner’s employments under different employers.”.

(7) After that paragraph there shall be inserted the following paragraph—

“Class 1B contributions

5A. Regulations may make provision for calculating the amount of Class 1B contributions so as to avoid fractional amounts.”.

(8) In sub-paragraph (1) of paragraph 6 of that Schedule, for paragraph (a) there shall be substituted the following paragraph—

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- “(a) provide for Class 1, Class 1A, Class 1B or Class 2 contributions to be paid, accounted for and recovered in a similar manner to income tax in relation to which regulations under section 203 of the Income and Corporation Taxes Act 1988 (PAYE) have effect;”.
- (9) In sub-paragraph (2) of that paragraph—
- (a) for the words “or Class 1A”, in each place where they occur, there shall be substituted the words “, Class 1A or Class 1B”; and
- (b) in paragraph (b), the words “(being not less than one year after the end of the tax year in respect of which the sums are due)” shall cease to have effect.
- (10) For sub-paragraph (4) of that paragraph there shall be substituted the following sub-paragraph—
- “(4) Where—
- (a) a decision relating to contributions falls to be made under Article 9, 10, 11, 13 or 15 of the Social Security (Northern Ireland) Order 1998 or under section 22 of the Administration Act; and
- (b) the decision will affect a person’s liability for, or the amount of, any interest due in respect of those contributions,
- regulations under this paragraph shall not require any such interest to be paid until the decision has been made.”.
- (11) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(4A) Regulations under this paragraph shall not require the payment of interest on a sum due in respect of a Class 1B contribution if a relevant tax appeal has been brought but not finally determined; and “a relevant tax appeal” means an appeal against a determination as to the amount of income tax in respect of which the person liable to pay the Class 1B contribution is accountable in accordance with the relevant PAYE settlement agreement.”.
- (12) In sub-paragraph (11)(a) of paragraph 7 of that Schedule, for the words “and Class 1A” there shall be substituted the words “, Class 1A and Class 1B”.
- (13) For sub-paragraph (12) of that paragraph there shall be substituted the following sub-paragraph—
- “(12) A penalty under section 98A of that Act as it applies by virtue of this paragraph shall not be imposed where—
- (a) a decision relating to contributions falls to be made under Article 9, 10, 11, 13 or 15 of the Social Security (Northern Ireland) Order 1998 or under section 22 of the Administration Act, and has not yet been made; and
- (b) the decision will affect a person’s liability for the penalty, or the amount of it.”.
- (14) In sub-paragraph (1)(b) of paragraph 8 of that Schedule, after the words “Class 1A” there shall be inserted the words “or Class 1B”.
- (15) After paragraph (i) of that sub-paragraph there shall be inserted the following paragraph—
- “(ia) for the repayment, in prescribed cases, of the whole or a prescribed part of a Class 1B contribution;”.
- (16) In paragraph (1) of that sub-paragraph—
- (a) in sub-paragraph (i), after the words “Class 1A contributions” there shall be inserted the words “or a Class 1B contribution”; and
- (b) in sub-paragraph (ii), after the words “Class 1 contributions” there shall be inserted the words “, a Class 1B contribution”; and
- (c) after that sub-paragraph there shall be inserted the following sub-paragraph—

- “(iia) the whole or part of any payment of a Class 1B contribution to be treated as a payment of secondary Class 1 contributions, Class 1A contributions or Class 2 contributions;”;
- and
- (d) in sub-paragraph (iii), for the words “or Class 1A contributions” there shall be substituted the words “, Class 1A contributions or a Class 1B contribution”.

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59. In subsection (2) of section 3 (late claims for widowhood benefit where death is difficult to establish)—

- (a) for paragraph (a) there shall be substituted the following paragraph—
 - “(a) in any case falling within paragraph (b)(i) of subsection (1) above, where it has been decided under Article 9 of the Social Security (Northern Ireland) Order 1998 that the husband has died or is presumed to have died; or”;
 - and
- (b) for the word “determination” there shall be substituted the word “decision”.

60.—(1) In subsection (1) of section 5 (regulations about claims for and payments of benefit)—

- (a) for paragraph (e) there shall be substituted the following paragraph—
 - “(e) for any such award to be revised under Article 10 of the Social Security (Northern Ireland) Order 1998, or superseded under Article 11 of that Order, if any of those requirements are found not to have been satisfied;”;
 - and
 - (b) paragraphs (o) and (p) shall cease to have effect.
- (2) Subsection (3) of that section shall cease to have effect.

61. In section 22 (appeal from Commissioners on point of law)—

- (a) in subsection (3), paragraph (c) shall cease to have effect; and
- (b) in subsection (5), for the definition of “the relevant place” there shall be substituted the following definition—
 - ““the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the person or authority whose decision was the subject of the Commissioner’s decision usually exercises his or its functions.”.

62.—(1) In subsection (2) of section 69 (overpayments – general), after the word “shall” there shall be inserted the words “in the case of the Department or a tribunal, and may in the case of a Commissioner or a court”.

(2) In subsection (5) of that section—

- (a) in paragraph (a), for the words “revised on a review” there shall be substituted the words “has been revised under Article 10 or superseded under Article 11 of the Social Security (Northern Ireland) Order 1998”; and
- (b) in paragraph (b), for the word “review” there shall be substituted the words “under that Article”.

(3) In subsection (5A) of that section, for the words “revised on a review” there shall be substituted the words “has been revised under Article 10 or superseded under Article 11 of the Social Security (Northern Ireland) Order 1998”.

63. In subsection (1) of section 69A (recovery of jobseeker’s allowance: severe hardship cases)—

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- (a) for the words “an adjudication officer”, in both places where they occur, there shall be substituted the words “the Department”; and
 - (b) for the words “the Department” there shall be substituted the word “it”.
- 64.** Subsection (4) of section 110 (legal proceedings) shall cease to have effect.
- 65.** For section 111 there shall be substituted the following section—

“111 Issues arising in proceedings.

- (1) This section applies to proceedings before a court—
 - (a) for an offence under this Act or the Jobseekers (Northern Ireland) Order 1995;
 - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable by the Inland Revenue); or
 - (c) for the recovery of any sums due to the Department or the National Insurance Fund.
- (2) A decision of the Department which—
 - (a) falls within Part II of Schedule 3 to the Social Security (Northern Ireland) Order 1998 (“the 1998 Order”); and
 - (b) relates to or affects an issue arising in the proceedings,shall be conclusive for the purposes of the proceedings.
- (3) If—
 - (a) any such decision is necessary for the determination of the proceedings; and
 - (b) the decision of the Department has not been obtained or an application with respect to the decision has been made under Article 10 or 11 of the 1998 Order,the decision shall be referred to the Department to be made in accordance (subject to any necessary modifications) with Chapter II of Part II of that Order.
- (4) Subsection (2) above does not apply where, in relation to the decision—
 - (a) an appeal has been brought but not determined;
 - (b) an application for leave to appeal has been made but not determined;
 - (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
 - (d) an application has been made under Article 10 or 11 of the 1998 Order.
- (5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.”.

66. Subsection (2) of section 113 (recovery of unpaid contributions on prosecution) shall cease to have effect.

67.—(1) In subsection (1) of section 114 (proof of previous offences), the words “or (2)(a)” shall cease to have effect.

- (2) In subsection (3) of that section—
 - (a) after the words “Class 1A” there shall be inserted the words “or Class 1B”; and
 - (b) for the words “2 years” there shall be substituted the words “6 years”.
- (3) In subsection (4) of that section—
 - (a) after the words “Class 1” there shall be inserted the words “or Class 1B”; and

- (b) for the words “2 years” there shall be substituted the words “6 years”.
- (4) After that subsection there shall be inserted the following subsection—
- “(4A) If the offence is one of failure to pay a Class 1B contribution, evidence may be given of failure on his part to pay such contributions, or any Class 1 or Class 1A contributions or contributions equivalent premiums, on the date of the offence, or during the 6 years preceding that date.”.
- (5) In subsection (5) of that section—
- (a) paragraph (b) and the word “or” immediately preceding that paragraph shall cease to have effect; and
- (b) for the words “2 years” there shall be substituted the words “6 years”.
- (6) In subsection (6) of that section, after the word “(4)” there shall be inserted the word “, (4A)”.
- 68.** In subsections (1) and (2) of section 115 (unpaid contributions – supplementary), the words “or (2)(a)” shall cease to have effect.
- 69.** After subsection (7) of section 116C (supply of information to the Housing Executive), there shall be added the following subsection—
- “(8) This section and section 116D below shall each have effect as if the reference in subsection (1) to social security included a reference to child support.”.
- 70.** In subsection (6A) of section 117 (unauthorised disclosure of information relating to particular persons), for the words “section 52 above” there shall be substituted the words “Article 19 of the Social Security (Northern Ireland) Order 1998”.
- 71.** In subsection (1) of section 118 (regulations as to notification of deaths)—
- (a) after the words “the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997” there shall be inserted the words “, the Social Security (Northern Ireland) Order 1998”; and
- (b) for the words “or to that Order” there shall be substituted the words “or to those Orders”.
- 72.** In section 129 (amendments following alterations in Great Britain), for the words “, 145 or 146” there shall be substituted the words “or 145”.
- 73.** In subsection (2) of section 139 (effect of alteration in the component rates of income support), for the words “an adjudication officer” there shall be substituted the words “the Department”.
- 74.** In subsection (3) of section 139A (effect of alteration of rates of a jobseeker’s allowance), for the words “an adjudication officer” there shall be substituted the words “the Department”.
- 75.** In subsection (2) of section 140 (implementation of increases in income support due to attainment of particular ages), for the words “an adjudication officer” there shall be substituted the words “the Department”.
- 76.** In subsection (2) of section 140A (implementation of increases in income-based jobseeker’s allowance due to attainment of particular ages), for the words “an adjudication officer” there shall be substituted the words “the Department”.
- 77.**—(1) After subsection (2) of section 142 (destination of contributions) there shall be inserted the following subsection—
- “(2A) References in subsections (1) and (2) above to contributions include references to payments on account of contributions made in accordance with regulations under section 3(5) of the Contributions and Benefits Act (payments on account of directors’ contributions).”.
- (2) After subsection (4) of that section there shall be inserted the following subsection—

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“(4A) The sums recovered by the Department under regulations made under paragraph 7A, 7B or 7C of Schedule 1 to the Contributions and Benefits Act in respect of interest or penalties shall be paid into the National Insurance Fund.”.

(3) In subsection (5)(b) of that section, for the words “those contributions” there shall be substituted the words “primary Class 1 contributions”.

(4) In subsection (8)(b) of that section, after the words “paragraph (c)” there shall be inserted the words “or (ca)”.

78.—(1) In subsection (4) of section 143 (general financial arrangements), after the words “Class 1A” there shall be inserted the words “or Class 1B”.

(2) In subsection (5) of that section, after the words “paragraph 6”, where they first occur, there shall be inserted the words “or 7B”.

79. Subsection (5)(a) of section 144 (destination of repayments, etc.) shall cease to have effect.

80.—(1) In subsection (3)(a) of section 147 (allocations from social fund), for the words “a particular social fund officer or group of social fund officers” there shall be substituted the words “a particular appropriate officer or group of appropriate officers”.

(2) In subsection (5) of that section, for the words “social fund officers”, in each place where they occur, there shall be substituted the words “appropriate officers”.

(3) After that subsection there shall be added the following subsection—

“(6) In this section “appropriate officer” means an officer of the Department who, acting under its authority, is exercising functions of the Department in relation to payments from the social fund such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.”.

81. In subsection (5) of section 149 (functions of Social Security Advisory Committee in relation to legislation and regulations), after paragraph (ac) there shall be inserted the following paragraph—

“(ad) the provisions of Chapter II of Part II of the Social Security (Northern Ireland) Order 1998 and Article 68 of that Order;”.

82. In subsection (4) of section 153 (co-ordination with Great Britain)—

(a) in paragraph (a), after the words “Jobseekers (Northern Ireland) Order 1995” there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”; and

(b) in paragraph (b), after the words “Jobseekers Act 1995” there shall be inserted the words “, Chapter II of Part I of the Social Security Act 1998”.

83.—(1) In subsection (1) of section 154 (reciprocal arrangements with Great Britain – income-related benefits and child benefit), after the words “Jobseekers (Northern Ireland) Order 1995” there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

(2) In subsection (3) of that section, after the words “Jobseekers (Northern Ireland) Order 1995”, in each place where they occur, there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

84.—(1) In subsection (3)(a) of section 155 (reciprocal agreements with countries outside the United Kingdom), after the words “Jobseekers (Northern Ireland) Order 1995” there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

(2) In subsection (4) of that section, after paragraph (aa) there shall be inserted the following paragraph—

“(ab) to Chapter II of Part II of the Social Security (Northern Ireland) Order 1998; and”.

85. In section 156 (payment of travelling expenses by Department)—

- (a) in paragraph (a), after the words “the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997” there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”; and
- (b) in paragraph (b)(i), after the words “the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997” there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

86. In subsection (6) of section 165 (regulations and orders – general) the word “24,” shall cease to have effect.

87. In subsection (1) of section 167 (interpretation)—

- (a) the definitions of “the disablement questions” and “President” shall cease to have effect;
- (b) in the definition of “claimant” (in relation to industrial injuries benefit), for the words “section 42 above” there shall be substituted the words “Article 29 of the Social Security (Northern Ireland) Order 1998”; and
- (c) for the definition of “Commissioner” there shall be substituted the following definition—
““Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner and includes a tribunal of 2 or more Commissioners constituted under Article 16(7) of the Social Security (Northern Ireland) Order 1998;”.

88.—(1) For the heading to Schedule 2 (commissioners, tribunals, etc. – supplementary provisions), there shall be substituted the following heading—

“COMMISSIONERS – SUPPLEMENTARY PROVISIONS”.

(2) In that Schedule, the following shall cease to have effect, namely—

- (a) paragraph 1(1);
- (b) in paragraph 1(2), the words “, the President and the full-time chairmen”;
- (c) in paragraph 1(4), the words “, the President and a full-time chairman”;
- (d) paragraph 1(5);
- (e) paragraphs 2 to 6;
- (f) paragraph 8; and
- (g) in paragraph 9(b), paragraphs (ii) to (iv).

89. In Part I of Schedule 4 (persons employed in social security administration or adjudication)—

- (a) the entry headed “*Adjudication officers*” shall cease to have effect;
- (b) in the entry headed “*Adjudicating bodies*”, in paragraph (a), for the words “a social security” there shall be substituted the word “an”, and paragraphs (b) to (d) shall cease to have effect;
- (c) in the entry headed “*The social fund*”, the words “A social fund officer” shall cease to have effect; and
- (d) at the end of the entry headed “*Former statutory bodies*” there shall be added the words—
“A Chief Adjudication Officer.
An adjudication officer.

Status: This is the original version (as it was originally made).

A social fund officer.

A clerk to, or other officer or member of the staff of, a former social security appeal tribunal, a former disability appeal tribunal or a former medical appeal tribunal.”.

90. In paragraph 1(7) of Schedule 6 (old cases payments administration), after the words “this Act” there shall be inserted the words “, Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

91.—(1) In sub-paragraph (1) of paragraph 2 of Schedule 7 (supplementary benefits, etc.), for the words “Sections 18 to 27, 34 to 41 and 49 to 59 above” there shall be substituted the words “Articles 9 to 18, 29 to 31 and 39 of the Social Security (Northern Ireland) Order 1998 and section 22 above”.

(2) In sub-paragraph (2) of that paragraph, for the words “section 57 above” there shall be substituted the words “Article 16 of the Social Security (Northern Ireland) Order 1998”.

The Judicial Pensions and Retirement Act 1993 (c. 8)

92.—(1) In Part II of Schedule 1 (other appointments), for the entry relating to the President of social security appeal tribunals, medical appeal tribunals, disability appeal tribunals and child support appeal tribunals for Northern Ireland there shall be substituted the following entry—

“President of appeal tribunals (within the meaning of Chapter I of Part II of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order”.

(2) In that Part of that Schedule, the following entries shall cease to have effect, namely—

“Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland”; and

“Chairman of child support appeal tribunals in Northern Ireland”.

93.—(1) In Schedule 5 (retirement provisions: the relevant offices), for the entry relating to the President of social security appeal tribunals, medical appeal tribunals, disability appeal tribunals and child support appeal tribunals in Northern Ireland there shall be substituted the following entry—

“President of appeal tribunals (within the meaning of Chapter I of Part II of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order”.

(2) In that Schedule, the following entries shall cease to have effect, namely—

“Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland”; and

“Chairman of child support appeal tribunals in Northern Ireland”.

The Pension Schemes (Northern Ireland) Act 1993 (c. 49)

94. In subsection (2) of section 4 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”) for the words “section 38A(2)” there shall be substituted the words “section 38A”.

95. For subsections (1) and (1A) of section 37 (reduced rates of Class 1 contributions) there shall be substituted the following subsections—

“(1) Subsections (1A) to (1C) apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment; and

- (b) the earner’s service in the employment is service which qualifies him for a pension provided by a salary related contracted-out scheme,

and in subsections (1A) and (1B) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).

(1A) The amount of the primary Class 1 contribution in respect of the relevant part of those earnings (“amount A”) shall be reduced by an amount equal to 1.6 per cent. of that part.

(1B) The amount of any secondary Class 1 contribution in respect of the earnings (“amount B”) shall be reduced by an amount equal to 3 per cent. of the relevant part of those earnings (“amount C”).

(1C) Where amount C exceeds amount B, the excess shall be set off against the amount which the secondary contributor is liable to pay (under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992) in respect of amount A.”.

96. For subsections (1) and (2) of section 38A (reduced rates of Class 1 contributions, and rebates) there shall be substituted the following subsections—

“(1) Subsections (2) to (3) apply where—

- (a) the earnings paid to or for the benefit of an earner in any tax week are in respect of an employment which is contracted-out employment at the time of the payment; and
- (b) the earner’s service in the employment is service which qualifies him for a pension provided by a money purchase contracted-out scheme,

and in subsections (2) and (2A) “the relevant part”, in relation to those earnings, means so much of those earnings as exceeds the current lower earnings limit but not the current upper earnings limit for that week (or the prescribed equivalents if the earner is paid otherwise than weekly).

(2) The amount of the primary Class 1 contribution in respect of the relevant part of those earnings (“amount A”) shall be reduced by an amount equal to the appropriate flat-rate percentage of that part.

(2A) The amount of any secondary Class 1 contribution in respect of the earnings (“amount B”) shall be reduced by an amount equal to the appropriate flat-rate percentage of the relevant part of those earnings (“amount C”).

(2B) Where amount C exceeds amount B, the excess shall be set off against the amount which the secondary contributor is liable to pay (under paragraph 3 of Schedule 1 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992) in respect of amount A.”.

97. In subsection (6)(c) of section 154 (disclosure of information between government departments, etc.), for the words “sections 15 to 60 of the Social Security Administration (Northern Ireland) Act 1992” there shall be substituted the words “Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

98.—(1) In subsection (3) of section 163 (application of general provisions relating to administration of social security), for the words “Section 56 of that Act (regulations as to determination of questions and matters arising out of, or pending, reviews and appeals)” there shall be substituted the words “Article 12 of the Social Security (Northern Ireland) Order 1998 (regulations with respect to decisions)”.

(2) Subsection (4) of that section shall cease to have effect.

Status: This is the original version (as it was originally made).

99. For section 165 there shall be substituted the following section—

“165 Decisions and appeals.

(1) Article 4 (use of computers) of the Social Security (Northern Ireland) Order 1998 (“the 1998 Order”) applies as if, for the purposes of paragraph (1) of that Article, this Act were a relevant statutory provision.

(2) Articles 9, 10 and 11 of the 1998 Order (decisions by the Department, revision of decisions and decisions superseding earlier decisions) apply as if, for the purposes of Article 9(1)(c) of that Order, this Act were a relevant statutory provision.

(3) Regulations may make provision—

- (a) with respect to the procedure to be adopted on any application made under Article 10 or 11 of the 1998 Order by virtue of subsection (2); and
- (b) generally with respect to such applications, and revisions under Article 10 and decisions under Article 11,

but may not prevent such a revision or decision being made without such an application.

(4) Article 13 of the 1998 Order (appeal to appeal tribunal) applies as if, for the purposes of paragraph (1)(b) of that Article, any decision of the Department falling to be made under this Act were a decision falling within Schedule 3 to that Order.”.

100.—(1) In subsection (1) of section 166 (questions arising in proceedings), for the words from “any such question” to “Department” there shall be substituted the words “any decision such as is mentioned in section 165(2) is made by the Department, the decision”.

(2) For subsections (2) and (3) of that section there shall be substituted the following subsections—

“(2) If—

- (a) any such decision is necessary for the determination of the proceedings; and
- (b) the decision of the Department has not been obtained or an application with respect to the decision has been made under Article 10 or 11 of the Social Security (Northern Ireland) Order 1998,

the decision shall be referred to the Department to be made in accordance (subject to any necessary modifications) with Chapter II of Part II of that Order.

(3) Subsection (1) does not apply where, in relation to the decision—

- (a) an appeal has been brought but not determined;
- (b) an application for leave to appeal has been made but not determined;
- (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
- (d) an application has been made under Article 10 or 11 of that Order.

(4) In a case falling within subsection (3) the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.”.

The Jobseekers (Northern Ireland) Order 1995 (NI 15)

101. In paragraph (2) of Article 2 (interpretation)—

- (a) the definition of “adjudication officer” shall cease to have effect; and

- (b) in the definition of “entitled”, for the words “sections 1 and 66 of the Administration Act” there shall be substituted the words “section 1 of the Administration Act and Article 27 of the Social Security (Northern Ireland) Order 1998”.

102. After paragraph (3) of Article 4 (the contribution-based conditions) there shall be inserted the following paragraph—

“(3A) Where primary Class 1 contributions have been paid or treated as paid on any part of a person’s earnings, paragraphs (2)(b) and (3) shall have effect as if such contributions had been paid or treated as paid on so much of the earnings as did not exceed the upper earnings limit.”.

103.—(1) In paragraph (6) of Article 8 (availability for employment)—

- (a) the words “(“the first determination”)” shall cease to have effect; and
- (b) for the words “on a review of the first determination” there shall be substituted the words “under Article 10 or 11 of the Social Security (Northern Ireland) Order 1998”.

(2) In paragraph (8)(c) of that Article, for the words “an adjudication officer” there shall be substituted the words “the Department”.

104. In paragraph (7) of Article 9 (actively seeking employment)—

- (a) the words “(“the first determination”)” shall cease to have effect; and
- (b) for the words “on a review of the first determination” there shall be substituted the words “under Article 10 or 11 of the Social Security (Northern Ireland) Order 1998”.

105.—(1) In paragraph (6) of Article 11 (the jobseeker’s agreement), for the words “an adjudication officer for him” there shall be substituted the words “the Department for it”.

(2) In paragraph (7) of that Article—

- (a) for the words “An adjudication officer to whom a reference is made under paragraph (6)” there shall be substituted the words “On a reference under paragraph (6) the Department”;
- (b) for the words “the adjudication officer” there shall be substituted the words “the Department”; and
- (c) for the word “he” there shall be substituted the word “it”.

(3) In paragraph (8) of that Article, for the words “an adjudication officer”, in each place where they occur, there shall be substituted the words “the Department”.

(4) Paragraph (9) of that Article shall cease to have effect.

106.—(1) In paragraph (5) of Article 12 (variation of jobseeker’s agreement), for the words “an adjudication officer for him” there shall be substituted the words “the Department for it”.

(2) In paragraph (6) of that Article—

- (a) for the words “An adjudication officer to whom a reference is made under paragraph (5)” there shall be substituted the words “On a reference under paragraph (5) the Department”;
- and
- (b) for the word “he”, in both places where it occurs, there shall be substituted the word “it”.

(3) In paragraph (7) of that Article, for the words “an adjudication officer”, in each place where they occur, there shall be substituted the words “the Department”.

(4) Paragraph (8) of that Article shall cease to have effect.

107. Article 13 (jobseeker’s agreement: reviews and appeals) shall cease to have effect.

Status: This is the original version (as it was originally made).

108.—(1) In paragraph (3) of Article 18 (severe hardship), for sub-paragraph (b) there shall be substituted the following sub-paragraph—

- “(b) it appears to the Department that the person concerned has, without good cause—
- (i) neglected to avail himself of a reasonable opportunity of a place on a training scheme, or
 - (ii) after a place on such a scheme has been notified to him by an employment officer as vacant or about to become vacant, refused or failed to apply for it or to accept it when offered to him; or”.

(2) For paragraph (4) of that Article there shall be substituted the following paragraph—

- “(4) In this Article—
- “employment officer” means an officer of the Department or such other person as may be designated for the purposes of this Article by an order made by the Department;
- “period” includes—
- (a) a period of a determinate length;
 - (b) a period defined by reference to the happening of a future event; and
 - (c) a period of a determinate length but subject to earlier determination upon the happening of a future event;
- “training scheme” has such meaning as may be prescribed.”.

109.—(1) In paragraph (2)(b) of Article 19 (reduced payments), for the word “either” there shall be substituted the word “any”.

(2) In paragraph (3) of that Article, for sub-paragraph (b) there shall be substituted the following sub-paragraphs—

- “(b) he has given up a place on a training scheme, or failed to attend such a scheme on which he has been given a place, and no certificate has been issued to him under paragraph (4);
- (c) he has lost his place on such a scheme through misconduct.”.

(3) For paragraphs (4) and (5) of that Article there shall be substituted the following paragraphs—

“(4) Where a young person who has given up a place on a training scheme, or failed to attend such a scheme on which he has been given a place—

- (a) claims that there was good cause for his doing so; and
- (b) applies to the Department for a certificate under this paragraph,

the Department shall, if it is satisfied that there was good cause, issue a certificate to that effect and give a copy of it to the young person.

- (5) In this Article—
- “training scheme” has such meaning as may be prescribed;
- “young person” means a person who has reached the age of 16 but not the age of 18.”.

110.—(1) In paragraph (3) of Article 21 (circumstances in which a jobseeker’s allowance is not payable), for the words “the adjudication officer” there shall be substituted the words “the Department”.

(2) In paragraph (4) of that Article—

- (a) for the words “an adjudication officer” there shall be substituted the words “the Department”; and

(b) for the word “he” there shall be substituted the word “it”.

111. In paragraph (2)(b)(ii) of Article 22 (exemptions from Article 21), for the words “he has failed to complete a course of training” there shall be substituted the words “the condition mentioned in paragraph (3)(b) or (c) of that Article is satisfied”.

112. In paragraphs (1) and (2) of Article 32 (termination of awards), for the words “an adjudication officer” there shall be substituted the words “the Department”.

113. In paragraph (3) of Article 37 (Assembly, etc. control), after the word “11(13)” there shall be inserted the word “, 18(4)”.

114. In paragraph 10(2) of Schedule 1 (supplementary provisions), for the words “section 5(1)(o) of the Administration Act” there shall be substituted the words “Article 21(2) of the Social Security (Northern Ireland) Order 1998”.

The Ombudsman (Northern Ireland) Order 1996 (NI 8)

115. In Schedule 3 (tribunals referred to in Article 9(4))—

(a) the following entries shall cease to have effect, namely—

“Tribunals constituted in Northern Ireland under regulations made under section 4 of the Vaccine Damage Payments Act 1979.”;

“Child support appeal tribunals constituted under Article 23 of the Child Support (Northern Ireland) Order 1991.”;

“Social security appeal tribunals constituted under section 39 of the Social Security Administration (Northern Ireland) Act 1992.”;

“Disability appeal tribunals constituted under section 41 of that Act.”; and

“Medical appeal tribunals constituted under section 48 of that Act.”; and

(b) after the entry relating to Registered Homes Tribunals there shall be inserted the following entry—

“Appeal tribunals constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998.”.

The Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)

116. At the end of Article 17(2) (social security: amendments following certain orders) there shall be added the words “the Social Security Act 1998”.

The Employment Rights (Northern Ireland) Order 1996 (NI 16)

117. In paragraph (5) of Article 11 (employment abroad etc.) for the words “the Social Security Administration (Northern Ireland) Act 1992” there shall be substituted the words “Chapter II of Part II of the Social Security (Northern Ireland) Order 1998”.

The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

118. In paragraph (4) of Article 18 (power to provide for recoupment of benefits)—

(a) in sub-paragraph (a), the words “adjudication officers or” shall cease to have effect; and

(b) for sub-paragraph (d) there shall be substituted the following sub-paragraphs—

- “(cc) provide for the determination by the Department of Health and Social Services of any issue arising as to the total or partial recoupment in pursuance of the regulations of a jobseeker’s allowance, unemployment benefit or income support,
- (d) confer on an employee a right of appeal to an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998 against any decision of the Department of Health and Social Services on any such issue, and”.

The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (NI 12)

119. In paragraph (2) of Article 2 (interpretation) after the definition of “the Administration Act” there shall be inserted the following definition—

““appeal tribunal” means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998;”.

120.—(1) For paragraph (1) of Article 12 (review of certificates of recoverable benefits) there shall be substituted the following paragraph—

- “(1) Any certificate of recoverable benefits may be reviewed by the Department—
 - (a) either within the prescribed period or in prescribed cases or circumstances; and
 - (b) either on an application made for the purpose or on the Department’s own initiative.”.

(2) In paragraph (2) of that Article—

- (a) the word “or” at the end of sub-paragraph (a) shall cease to have effect; and
- (b) after sub-paragraph (b) there shall be added the words
“or
(c) revoke the certificate.”.

121.—(1) In paragraph (1) of Article 13 (appeals against certificates of recoverable benefits)—

- (a) the word “or” at the end of sub-paragraph (a) shall cease to have effect; and
- (b) after sub-paragraph (b) there shall be added the following sub-paragraphs—
 - “(c) that listed benefits which have not been, and are not likely to be, paid to the injured person during the relevant period have been brought into account, or
 - (d) that the payment on the basis of which the certificate was issued is not a payment within Article 3(1)(a).”.

(2) In paragraph (2) of that Article—

- (a) the word “or” at the end of sub-paragraph (a) shall cease to have effect; and
- (b) after sub-paragraph (a) there shall be inserted the following sub-paragraph—
 - “(aa) (in a case where that certificate was issued under Article 9(2)(a)) the person to whom it was so issued, or”.

(3) Paragraph (6) of that Article shall cease to have effect.

122.—(1) For the heading to Article 14 (reference of questions to medical appeal tribunal) there shall be substituted the following heading “Reference to appeal tribunal”.

(2) For paragraphs (1) and (2) of that Article there shall be substituted the following paragraph—

- “(1) The Department shall refer an appeal under Article 13 to an appeal tribunal.”.

(3) In paragraph (3) of that Article, for the words “any question referred to it under paragraph (1)” there shall be substituted the words “any appeal under Article 13”.

(4) In paragraph (4) of that Article—

(a) for the words “a reference under paragraph (1) a medical appeal tribunal” there shall be substituted the words “an appeal under Article 13 an appeal tribunal”;

(b) the word “or” at the end of sub-paragraph (a) shall cease to have effect; and

(c) after sub-paragraph (b) there shall be added the words

“or

(c) declare that the certificate of recoverable benefits is to be revoked.”.

(5) In paragraph (5) of that Article—

(a) for the words “questions referred to the tribunal under paragraph (1),” there shall be substituted the words “appeal under Article 13,”;

(b) the word “or” at the end of sub-paragraph (a) shall cease to have effect; and

(c) after sub-paragraph (b) there shall be added the words

“or

(c) revoke the certificate.”.

(6) The following shall cease to have effect, namely—

(a) paragraph (6) of that Article;

(b) in paragraph (7) of that Article, the words “under paragraph (6)(b)”;

(c) paragraph (8) of that Article.

123.—(1) In paragraph (1) of Article 15 (appeal to Social Security Commissioner), for the words “a medical appeal tribunal” there shall be substituted the words “an appeal tribunal”.

(2) In paragraph (2) of that Article—

(a) the word “or” at the end of sub-paragraph (b) shall cease to have effect; and

(b) after that sub-paragraph there shall be inserted the following sub-paragraph—

“(bb) (in a case where that certificate was issued under Article 9(2)(a)) the person to whom it was so issued, or”.

(3) For paragraph (3) of that Article there shall be substituted the following paragraph—

“(3) Paragraphs (7) to (13) of Article 15 of the Social Security (Northern Ireland) Order 1998 and Schedule 2 to the Administration Act apply to appeals under this Article as they apply to appeals under that Article.”.

SCHEDULE 7

Article 78(2).

REPEALS

Chapter or Number	Short title	Extent of repeal
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entry “A Medical Appeal Tribunal constituted for the purposes of Part II of the Social Security Administration

Status: This is the original version (as it was originally made).

Chapter or Number	Short title	Extent of repeal
		(Northern Ireland) Act 1992 including any panel constituted for the purposes of any such Tribunal.”.
		In Schedule 1, in Part III, in the entry relating to an adjudicating medical practitioner or specially qualified adjudicating medical practitioner, the words “appointed under or by virtue of Part II of the Social Security Administration (Northern Ireland) Act 1992” and the following entries, namely— “Full-time chairman of a child support appeal tribunal established under Article 23 of the Child Support (Northern Ireland) Order 1991”; “Full-time Chairman of Social Security Appeal Tribunals, Medical Appeal Tribunals and Disability Appeal Tribunals for Northern Ireland.”; and “President of Social Security Appeal Tribunals, Medical Appeal Tribunals and Disability Appeal Tribunals for Northern Ireland.”.
1983 NI 17.	The Social Security Adjudications (Northern Ireland) Order 1983.	The whole Order.
1991 NI 23.	The Child Support (Northern Ireland) Order 1991.	In Article 2(2), the definitions of “adjudication officer”, “Chief Child Support Officer”, “child support appeal tribunal” and “child support officer”. In Article 6, the words “or any child support officer”, “or the child support officer” and “or his”. In Article 7(4), the words “or the child support officer”. In Article 9(9), the words “or the child support officer”. Article 15.

Chapter or Number	Short title	Extent of repeal
		In Article 16, paragraphs (2), (2A), in paragraph (3), the words “or by child support officers” and paragraph (4).
		In Article 17(1), the words “or any child support officer”.
		Article 25(1A).
		In Article 28B, paragraphs (4) and (5).
		Article 28G(1).
		In Article 43(11), in the definition of “reduced benefit direction”, the words “, binding on the adjudication officer,”.
		Schedules 2 and 3.
		In Schedule 4A, in paragraph 1, the definition of “review”, in paragraph 4(1)(b), the words “a child support officer or” and paragraph 6.
		In Schedule 5, paragraph 1.
1992 c. 7.	The Social Security Contributions and Benefits (Northern Ireland) Act 1992.	In section 121(1), the definition of “initial primary percentage”.
		Section 135(3).
		Section 136(4)(e).
		In Schedule 1, in paragraph 6(2)(b), the words “(being not less than one year after the end of the tax year in respect of which the sums are due)”.
		In Schedule 11, in paragraph 2(d), the words “(ii) she was entitled to a maternity allowance; or”.
1992 c. 8.	The Social Security Administration (Northern Ireland) Act 1992.	In section 5, in subsection (1), paragraphs (o) and (p), and subsection (3).
		Sections 15 to 21.
		In section 22, subsection (3) (c).
		Sections 23 to 49.

Status: This is the original version (as it was originally made).

Chapter or Number	Short title	Extent of repeal
		Sections 51 to 68.
		Section 110(4).
		In section 112(4), the words “for a particular contribution card or” and “the card in question or”.
		Section 113(2).
		In section 114, in subsection (1), the words “or (2)(a)” and, in subsection (5), paragraph (b) and the word “or” immediately preceding that paragraph.
		In section 115, in subsections (1) and (2), the words “or (2)(a)”.
		Section 144(5)(a).
		In section 165(6), the word “24,”.
		In section 167(1), the definitions of “the disablement questions” and “President”.
		In Schedule 2, paragraph 1(1), in paragraph 1(2), the words “, the President and the full-time chairmen”, in paragraph 1(4), the words “, the President and a full-time chairman”, paragraph 1(5), paragraphs 2 to 6, paragraph 8 and in paragraph 9(b), paragraphs (ii) to (iv).
		Schedule 3.
		In Schedule 4, in Part I, the entry headed “ <i>Adjudication officers</i> ”, in the entry headed “ <i>Adjudicating bodies</i> ”, paragraphs (b) to (d) and in the entry headed “The social fund”, the words “A social fund officer”.
1992 c. 9.	The Social Security (Consequential Provisions) (Northern Ireland) Act 1992.	In Schedule 2, paragraphs 13(b), (e) and (f) and 26(1).

Chapter or Number	Short title	Extent of repeal
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	Section 26(8)(d). In Schedule 1, in Part II, the following entries, namely— “Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland”; and “Chairman of child support appeal tribunals in Northern Ireland”. In Schedule 5, the following entries, namely— “Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland”; and “Chairman of child support appeal tribunals in Northern Ireland”. In Schedule 6, paragraphs 24 and 63. In Schedule 8, paragraphs 22 and 24.
1993 c. 49.	The Pension Schemes (Northern Ireland) Act 1993.	Section 163(4). In Schedule 7, paragraphs 28, 29 and 38.
1994 c. 40.	The Deregulation and Contracting Out Act 1994.	In Schedule 16, paragraph 24(1).
1994 NI 4.	The Social Security (Contributions) (Northern Ireland) Order 1994.	Article 3.
1994 NI 12.	The Social Security (Incapacity for Work) (Northern Ireland) Order 1994.	In Article 8, paragraphs (2) and (3)(b). In Schedule 1, paragraphs 11, 45, 47 and 52.
1995 NI 13.	The Child Support (Northern Ireland) Order 1995.	Articles 5 to 10. In Schedule 3, paragraphs 3(2), 4 to 6, 7(2) and 14.

Status: This is the original version (as it was originally made).

Chapter or Number	Short title	Extent of repeal
1995 NI 15.	The Jobseekers (Northern Ireland) Order 1995.	<p>In Article 2(2), the definition of “adjudication officer”.</p> <p>In Article 8(6), the words “(“the first determination”)”.</p> <p>In Article 9(7), the words “(“the first determination”)”.</p> <p>Article 11(9).</p> <p>Article 12(8).</p> <p>Article 13.</p> <p>Article 30.</p> <p>In Schedule 2, paragraphs 4(4), 24 to 30 and 39.</p>
1995 NI 22.	The Pensions (Northern Ireland) Order 1995.	In Schedule 3, paragraph 60.
1996 c. 23.	The Arbitration Act 1996.	In Schedule 3, paragraph 55.
1996 NI 8.	The Ombudsman	<p>In Schedule 3, the (Northern Ireland) Order following entries, 1996. namely—</p> <p>“Tribunals constituted in Northern Ireland under regulations made under section 4 of the Vaccine Damage Payments Act 1979.”;</p> <p>“Child support appeal tribunals constituted under Article 23 of the Child Support (Northern Ireland) Order 1991.”;</p> <p>“Social security appeal tribunals constituted under section 39 of the Social Security Administration (Northern Ireland) Act 1992.”;</p> <p>“Disability appeal tribunals constituted under section 41 of that Act.”; and</p> <p>“Medical appeal tribunals constituted under section 48 of that Act.”.</p>
1996 NI 18.	The Industrial Tribunals	<p>In Article 18(4)(a), the (Northern Ireland) Order words “adjudication 1996. officers or”.</p> <p>In Schedule 1, paragraph 8.</p>

Chapter or Number	Short title	Extent of repeal
1997 NI 11.	The Social Security Administration (Fraud) (Northern Ireland) Order 1997.	Articles 16 and 17. In Schedule 1, paragraph 1.
1997 NI 12.	The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997.	In Article 12, in paragraph (2), the word “or” at the end of sub-paragraph (a). In Article 13, in paragraphs (1) and (2), the word “or” at the end of sub-paragraph (a), and paragraph (6). In Article 14, in paragraphs (4) and (5), the word “or” at the end of sub-paragraph (a), paragraph (6), in paragraph (7), the words “under paragraph (6) (b)”, and paragraph (8). In Article 15, in paragraph (2), the word “or” at the end of sub-paragraph (b). In Schedule 3, paragraph 4(b) and the word “and” immediately preceding it.
1998 NI 10.	The Social Security (Northern Ireland) Order 1998.	Article 77 and Schedule 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is made only for purposes corresponding to those of the Social Security Act 1998, replaces the procedures for decision-making and appeals in social security and child support and makes other provisions with respect to contributions and benefits.