

SCHEDULES

SCHEDULE 6

Section 83.

TRANSITORY PROVISIONS

Constitution of appeal tribunals

- 1 In relation to any time before the commencement of section 7 of this Act so far as it relates to appeals under section 12 of this Act, section 41 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 (6) there were substituted the following subsection—

“(6) 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 commencement of section 8(2) of this Act, section 21 of the Administration Act (decision of adjudication officer) shall have effect as if after subsection (6) there were inserted the following subsection—
- “(7) Where at any time a claim for a benefit to which section 20 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 passing of this Act and any time before the commencement of section 12(8)(b) of this Act, section 22 of the Administration Act (appeal to social security appeal tribunal) shall have effect as if after subsection (7) there were inserted 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.”

Status: This is the original version (as it was originally enacted).

- (2) In relation to such appeals and any such time, section 33 of that Act (appeals following reviews) shall have effect as if after subsection (6) there were inserted 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 commencement of section 14(7) of this Act, section 23 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) and such a person as is first mentioned in subsection (4) of that section.”; 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 34 of that Act (appeal from social security appeal tribunals or disability appeal tribunals to Commissioners etc.) shall have effect as if, in subsection (4), for the words “(7) to (10) of section 23” there were substituted the words “(6A) to (10) of section 23”.

- (3) In relation to any such time, section 48 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), (b) and (d) above.”; and

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

Status: This is the original version (as it was originally enacted).

Suspension of benefit in prescribed circumstances

- 5 (1) In relation to any time before the commencement of section 21(2)(d) of this Act, section 5(1) of the Administration Act (regulations about claims for and payments of benefits) shall have effect as if after paragraph (n) there were inserted the following paragraph—
- “(nn) 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 Secretary of State 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 Act (supplementary provisions) shall have effect as if for the words “section 5(1)(n)” there were substituted the words “section 5(1)(n) or (nn)”.

Restrictions on entitlement in certain cases of error

- 6 In relation to applications under section 26(1) or 30 of the Administration Act made after the passing of this Act and any time before the commencement of section 27 above, section 69 of that Act shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) Where the review under section 25(2) or 30 above was carried out on an application under section 26(1) or (as the case may be) section 30, 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 commencement of section 38 of this Act, section 66 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—

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

- “(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 140 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 Secretary of State 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 Secretary of State; and
 - (b) take account of any general guidance issued by the Secretary of State.
- (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 social fund

- 8 In relation to any time before the commencement of sections 9, 10 and 38 of this Act, section 71ZA of the Administration Act (overpayments out of social fund) shall have effect as if for subsection (2) there were substituted the following subsection—

- “(2) Section 71 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), (10A) and (10B).”

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

Child support: appeals to tribunals

- 9 In relation to appeals brought after the passing of this Act and any time before the commencement of section 42 of this Act, section 20 of the Child Support Act (appeals) shall have effect as if after subsection (4) there were inserted the following subsection—

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