

SCHEDULES

SCHEDULE 11

Article 107(6)

Power to require consideration of revision before appeal

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

1. The Child Support (Northern Ireland) Order 1991 is amended as follows.

2. In Article 22 (appeals to appeal tribunals), as substituted by section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (and subsequently amended), after paragraph (2) insert—

“(2A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal against a decision mentioned in paragraph (1)(a) or (b) only if the Department has considered whether to revise the decision under Article 18.

(2B) The regulations may in particular provide that that condition is met only where—

- (a) the consideration by the Department was on an application,
- (b) the Department considered issues of a specified description, or
- (c) the consideration by the Department satisfied any other condition specified in the regulations.

(2C) Regulations may make provision that, where in accordance with regulations under paragraph (2A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under Article 18.”

3. In Article 22 (appeals to appeal tribunals), as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, after paragraph (3) insert—

“(3A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal against a decision only if the Department has considered whether to revise the decision under Article 18.

(3B) The regulations may in particular provide that that condition is met only where—

- (a) the consideration by the Department was on an application,
- (b) the Department considered issues of a specified description, or
- (c) the consideration by the Department satisfied any other condition specified in the regulations.

(3C) Regulations may make provision that, where in accordance with regulations under paragraph (3A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under Article 18.”

4. In Article 47A (pilot schemes) (as inserted by section 32 of the Child Maintenance Act (Northern Ireland) 2008) at the end insert—

“(6) This Article does not apply to regulations under—

- (a) paragraph (2A) of Article 22 as substituted by section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, No. 2006

(b) paragraph (3A) of Article 22 as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000.”

5. In Article 48 (regulations and orders), in paragraph (2)(a), after “Article 14(5)(b),” insert “22(2A), 22(3A)”.

The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (NI 12)

6. The Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 is amended as follows.

7.—(1) Article 13 (appeals against certificates) is amended as follows.

(2) After paragraph (2) insert—

“(2A) Regulations may provide that, in such cases or circumstances as may be prescribed, an appeal may be made under this Article only if the Department has reviewed the certificate under Article 12.

(2B) The regulations may in particular provide that that condition is met only where—

- (a) the review by the Department was on an application,
- (b) the Department considered issues of a specified description, or
- (c) the review by the Department satisfied any other condition specified in the regulations.”

(3) In paragraph (5)(c) after “any such appeal” insert “(or, where in accordance with regulations under paragraph (2A) there is no right of appeal, any purported appeal)”.

8.—(1) Article 28 (regulations and orders) is amended as follows.

(2) In paragraph (1) after “regulations made under Article” insert “13(2A) or”.

(3) After that paragraph insert—

“(1A) Regulations under Article 13(2A) must be laid before the Assembly after being made and 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 are approved by a resolution of the Assembly.”

The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

9. The Child Support, Pensions and Social Security Act (Northern Ireland) 2000 is amended as follows.

10.—(1) Paragraph 6 of Schedule 7 (housing benefit: appeal to appeal tribunal) is amended as follows.

(2) In sub-paragraph (4), after paragraph (b) insert—

“or where regulations under sub-paragraph (5A) so provide.”

(3) After sub-paragraph (5) insert—

“(5A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal in relation to a decision only if the relevant authority which made the decision has considered whether to revise the decision under paragraph 3.

(5B) The regulations may in particular provide that that condition is met only where—

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, No. 2006

- (a) the consideration by the relevant authority was on an application,
- (b) the relevant authority considered issues of a specified description, or
- (c) the consideration by the relevant authority satisfied any other condition specified in the regulations.

(5C) Regulations may provide that, where in accordance with regulations under subparagraph (5A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under paragraph 3.”

11. In paragraph 20(4) of Schedule 7 (regulations subject to confirmatory procedure) for “or (4)” substitute “, (4) or (5A)”.

The Mesothelioma, etc., Act (Northern Ireland) 2008 (c. 9)

12. The Mesothelioma, etc., Act (Northern Ireland) 2008 is amended as follows.

13. In section 4(2) (regulations regarding reconsideration) after “and” insert “may prescribe”.

14.—(1) Section 5 (appeals to appeal tribunal) is amended as follows.

(2) After subsection (1) insert—

“(1A) Regulations may provide that, in such cases or circumstances as may be prescribed, a person may appeal against a determination made on a claim only if the Department has decided whether to reconsider the determination under section 4.

(1B) The regulations may in particular provide that that condition is met only where—

- (a) the decision of the Department was on an application,
- (b) the Department considered issues of a specified description, or
- (c) the decision of the Department satisfied any other condition specified in the regulations.”

(3) In subsection (4)(c) after “an appeal under subsection (1)(a)” insert “(or, where in accordance with regulations under subsection (1A) there is no right of appeal, any purported appeal)”.

15. In section 10(2) (Assembly control) after “section 1” insert “or 5(1A)”.