STATUTORY INSTRUMENTS

1998 No. 1506

The Social Security (Northern Ireland) Order 1998

PART II

DECISIONS AND APPEALS

CHAPTER I

GENERAL

Decisions

Transfer of functions to the Department

3 [F1]**.** 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.

F1 functions transf. by 1999 c. 10

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;[F2]. . .

(h) the Recovery of Benefits Order**[**[F3]; [F4]. . . **]**

[[F3](i) the State Pension Credit Act (Northern Ireland) 2002**][**[F5]; or

(j) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.**]**

F2 2002 c. 14 (NI)
F3 2002 c. 14 (NI)
F4 Word in art. 4(2)(h) repealed (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 58, 60(1), **Sch. 8**; S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2
F5 Art. 4(2)(j) and preceding word added (27.7.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(2)**; S.R. 2008/276, **art. 2(2)(b)**

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**[**[F6]Northern Ireland Judicial Appointments Commission**]** 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.

F6 Words in art. 6(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 29** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

Panel for appointment to appeal tribunals

7.—(1) The**[**[F7]Northern Ireland Judicial Appointments Commission**]** 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**[**[F8] persons appointed by the **[**[F7]Northern Ireland Judicial Appointments Commission**]]**.

(3) The panel shall include persons possessing such qualifications as may be prescribed by regulations made with the concurrence of the **[**[F9]**[**[F10]Department of Justice**]]**[F11]; and such concurrence may be given only after consultation with the Lord Chief Justice**]**.

[[F12](3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).”

(3B) As part of the selection process for the appointment of a medical practitioner as a member of the panel, the Northern Ireland Judicial Appointments Commission shall consult the Chief Medical Officer of the Department.**]**

(4) The **[**[F13]terms and conditions of appointments to the panel**]** shall be determined by the**[**[F7]Northern Ireland Judicial Appointments Commission**]** with the consent of the Department.

(5) [F14]. . . . . .

F7 Words in art. 7(1)(2)(4) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 30(2)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F8 Words in art. 7(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 113(2); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)

F9 Words in art. 7(3) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 30(3)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F10 Words in art. 7(3) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), **Sch. para. 13**; S.R. 2010/147, **art. 2(2)**

F11 Words in art. 7(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 113(3); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)

F12 Art. 7(3A)(3B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 113(4); S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 10, 12(b)

F13 Words in art. 7(4) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 30(4)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F14 Art. 7(5) repealed (3.4.2006) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 86, 87, Sch. 13; S.R. 2006/124, **art. 2**, Sch. paras. 9, 11(k)

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

Modifications etc. (not altering text)

C1 Pt. 2 Ch. 2 (arts. 9-39) applied (1.7.2008 for certain purposes, otherwise 27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), **ss. 18(2)**, 60(1); S.R. 2008/276, art. 2(2)(c), **Sch. Pt. 1**

C2 Pt. 2 Ch. 2 (arts. 9-39) modified (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 135(8)**, 170(3); S.I. 2008/3137, **art. 2**

C3 Pt. 2 Ch. 2 (arts. 9-39) modified by 1992 c. 7, **Sch. 4C para. 4** (as inserted (prosp.) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), ss. 81(5), 118(1), **Sch. 2**)

C4 Pt. 2 Ch. 2 (arts. 9-39) applied (1.10.2010) by Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (S.R. 2010/312), regs. 1, 6, **Sch. 1**

C5 Pt. 2 Ch. 2 (arts. 9-39) applied (with modifications) (1.10.2010) by Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010 (S.R. 2010/312), regs. 1, 16, **Sch. 2**

Decisions

Decisions by the Department

[F15][F16][F17]**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;**[**[F18] and**]**

(c) subject to paragraph (5), to make any decision that falls to be made under any relevant statutory provision;[F18]. . .

Sub#para. (d) rep. by SI 1999/671

(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",[F19]. . . , means any of the following, namely—

(a) benefit under Parts II to V of the Contributions and Benefits Act;

(b) a jobseeker's allowance;

[[F20](ba) an employment and support allowance;**]**

[[F21](bb) state pension credit;**]**

(c) income support;

Sub#paras. (d) and (e) rep. by 2002 c. 21

(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**[**[F22], the Jobseekers Order **[**[F23], the State Pension Credit Act (Northern Ireland) 2002 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007.**]]**, 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).

[[F18](5) Paragraph (1)(c) does not include any decision which under Article 7 of the Social Security Contributions (Transfer of Functions, etc.)(Northern Ireland) Order 1999 falls to be made by an officer of the Inland Revenue.**]**

F15 functions transf. by 1999 c. 10
F16 mod. by SR 1999/349, 350
F17 prosp. in pt. certain functions transf. by 2002 c. 21
F18 SI 1999/671
F19 1999 c. 30
F20 Art. 9(3)(ba) inserted (1.7.2008 for certain purposes, otherwise 27.7.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(3)(a)**; S.R. 2008/276, **art. 2(2)(a)**
F21 2002 c. 14 (NI)
F22 2002 c. 14 (NI)
F23 Words in art. 9(4) substituted (1.7.2008 for certain purposes, otherwise 27.7.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(3)(b)**; S.R. 2008/276, **art. 2(2)(a)**

Modifications etc. (not altering text)
C6 Art. 9 applied (10.4.2006) by S.I. 2006/1034, **reg. 2**

Revision of decisions

10 [F24]**.—**[F25F26](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.

F24 mod. by SR 1999/349, 350
F25 mod. by SR 1999/225
F26 prosp. in pt. certain functions transf. by 2002 c. 21

Decisions superseding earlier decisions

11 [F27]**.**—[F28F29](1) Subject to**[**[F30] paragraph (3)**]** 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.

(Para)

(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.

F27 mod. by SR 1999/349, 350
F28 mod. by SR 1999/225
F29 prosp. in pt. certain functions transf. by 2002 c. 21
F30 SI 1999/671

[[F31]References of issues by the Department to Inland Revenue

F31 SI 1999/671

Reference of issues by the Department to Inland Revenue

11A [F32]**.**—(1) Regulations may make provision requiring the Department, where on considertaion of any claim or other matter it is of the opinion that there arises any issues which under Article 7 of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 falls to be decided by an officer of the Inland Revenue, to refer the issue to the Inland Revenue.

(2) Regulations under this Article may#

(a) provide for the Inland Revenue to give the Department a prelimary opinion on any issue referred to them,

(b) Specify the circumstances in which an officer of the Inland Revenue is to make a decision under Article 7 of the Social Security Contributions (Transfer of Functions, etc.)(Northern Ireland) Order 1999 on a reference by the department,

(c) enable or require the Department, in specified circumstances, to deal with any other issue arising on consideration of the claim or other matter pending the decision on the referred issue, and

(d) require the Department to decide the claim or other matter in accordance with the decision of an officer of the Inland Revenue on the issue referred to them, or in accordance with any determination of the **[**[F33]First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal**]** made on appeal from their decision.**]**

F32 prosp. in pt. certain functions transf. by 2002 c. 21

F33 Words in art. 11A(2)(d) substituted (1.4.2009) by Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(2), **Sch. 2 para. 42**

Regulations with respect to decisions

12 [F34]**.**—[F35F36](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**[**[F37], the Recovery of Benefits Order **[**[F38], the State Pension Credit Act (Northern Ireland) 2002 and Part 1 of the Welfare Reform Act (Northern Ireland) 2007.**]]**;

"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.

F34 functions transf. by 1999 c. 10

F35 mod. by SR 1999/349, 350

F36 prosp. in pt. certain functions transf. by 2002 c. 21

F37 2002 c. 14 (NI)

F38 Art. 12(3): words in the definition of "the current legislation" substituted (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(4)**; S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2

Appeals

Appeal to appeal tribunal

13 [F39]**.—**[F40F41](1 [F42] 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;**[**[F43] or**]**

(b) is made otherwise than on such a claim or award, and falls within Schedule 3;[F44]. . .

Sub.#para. (c) rep. by SI 1999/671

[[F43](2)[F42] In the case of a decision to which this Article applies, the claimant and such other person as may be prescribed shall have a right to an appeal tribunal, 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.**]**

[[F45](2A) In the case of a decision relating to child benefit or guardian's allowance, the making of any appeal under this section against the decision as originally made must follow the Commissioners for Her Majesty's Revenue and Customs first deciding, on an application made for revision of that decision under Article 10, not to revise the decision.**]**

(3 [F42] 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 [F42] 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 [F42] 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 [F42] 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 [F42] In deciding an appeal under this Article, an appeal tribunal—

(a [F42] 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 [F42] 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.

F39 mod. by SR 1999/349, 350
F40 temp. mod. by SI 2002/2926
F41 prosp. in pt. certain functions transf. by 2002 c. 21
F42 mod. by SI 2005/191
F43 SI 1999/671
F44 SI 1999/671
F45 Art. 13(2A) inserted (6.4.2014) by The Tax Credits, Child Benefit and Guardian's Allowance Reviews and Appeals Order 2014 (S.I. 2014/886), arts. 1(1), **4(2)** (with art. 1(5))

Redetermination, etc. of appeals by tribunal

14 [F46]**.**—[F47F48](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 [F49] 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.

[[F50](4 [F49] In this Article and Article 15 "the principal parties" means—

(a) the persons mentioned in paragraph (3)(a) and (b) of that Article, and

(b) where applicable, the person mentioned in paragraph (3)(d) and such a person as is first mentioned in paragraph (4) of that Article.**]**

F46 mod. by SR 1999/349, 350
F47 temp. mod. by SI 2002/2926
F48 prosp. in pt. certain functions transf. by 2002 c. 21
F49 mod. by SI 2005/191
F50 SI 1999/671

Appeal from tribunal to Commissioner

15 [F51]**.**—[F52F53](1 [F54] 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.

(Para)

(3) [F55]. . . an appeal lies under this Article at the instance of any of the following—

(a [F54] the Department;

(b [F54] the claimant and such other person as may be prescribed;

(c [F54] in any of the cases mentioned in paragraph (5), a trade union; and

(d [F54] a person from whom it is determined that any amount is recoverable under section 69 or 72 of the Administration Act.

(4 [F54] 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 [F54] 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 [F54] Paragraphs[F55]. . . , (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.

[F54](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.

[F54](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**[**[F56] or under paragraph 8 of Schedule 7 to Child Support, Pensions and Social Security Act (Northern Ireland) 2000**]** 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 bemadeby Commissioners;

(b) for the procedure to befollowed by such officers in making such determinations;

(c) for the manner in which such determinations by such officers may be called in question.

F51 mod. by SR 1999/349, 350
F52 temp. mod. by SI 2002/2926
F53 prosp. in pt. certain functions transf. by 2002 c. 21
F54 mod. by SI 2005/191
F55 SI 1999/671

F56 2000 c. 4 (NI)

Modifications etc. (not altering text)

C7 Art. 15 modified (1.1.2010 for certain purposes otherwise prosp.) by Saving Gateway Accounts Act 2009 (c. 8), **ss. 25(5)**, 31; S.I. 2009/3332, **art. 2(e)**; S.I. 2010/921, **art. 2(1)** which was revoked by S.I. 2010/1640, **art. 2**

C8 Art. 15(7)-(13) applied (4.12.2006 for certain purposes, 29.1.2007 for all other purposes) by Recovery of Health Services Charges (Northern Ireland) Order 2006 (S.I. 2006/1944 (N.I. 13)), arts. 1(2), **11(3)** (with art. 18); S.R. 2006/484, **art. 2**

C9 Art. 15(7)-(13) applied (1.10.2008) by Mesothelioma, etc., Act (Northern Ireland) 2008 (c. 9), **ss. 6(3)**, 12(1); S.R. 2008/351, **art. 2(2)**

Procedure, etc.

Procedure

16 [F57]**.**—[F58F59](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 [F60] 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 [F60] 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.

[F61](4 [F60] 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.

[F61](5 [F60] 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.

F57 mod. by SR 1999/349, 350
F58 temp. mod. by SI 2002/2926
F59 prosp. in pt. certain functions transf. by 2002 c. 21
F60 mod. by SI 2005/191
F61 prosp. rep. by SI 1999/671

Finality of decisions

17 [F62]**.**—[F63F64](1 [F65] 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 [F65] decisions made under the Child Support Order; and

(c [F65] decisions made under the Vaccine Damage Payments Act.

F62 mod. by SR 1999/349, 350
F63 temp. mod. by SI 2002/2926
F64 prosp. in pt. certain functions transf. by 2002 c. 21
F65 mod. by SI 2005/191

Matters arising as respects decisions

18 [F66]**.**—[F67](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;**[**[F68] or**]**

(ii) any person's entitlement to such a benefit or its receipt;**[**[F68] or**]**
Heads (iii), (iv) rep. by SI 1999/671

(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**[**[F69] or qualifying young person**]** in a case where, before the benefit was awarded to that person, child benefit in respect of the child**[**[F69] or qualifying young person**]** was awarded to another person.

F66 mod. by SR 1999/349, 350
F67 prosp. in pt. certain functions transf. by 2002 c. 21
F68 SI 1999/671
F69 Words in art. 18(2) inserted (24.3.2005 for certain purposes, otherwise 10.4.2006) by Child Benefit Act 2005 (c. 6), ss. 2(3), 6, **Sch. 1 para. 52**

Medical examinations

Medical examination required by the Department

19 [F70]**.—**[F71F72](1) Before making a decision on a claim for a relevant benefit, or as to a person's entitlement to such a benefit[F73]. . . , the Department may refer the person—

(a) in respect of whom the claim is made; or

(b) whose entitlement is at issue,

to a **[**[F74]health care professional approved by the Department**]** 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 **[**[F75]health care professional approved by the Department**]** 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.

F70 mod. by SR 1999/349, 350
F71 mod. by SR 1999/246
F72 prosp. in pt. certain functions transf. by 2002 c. 21
F73 SI 1999/671
F74 Words in art. 19(1) substituted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), **ss. 55(3)**, 60(2)(a)
F75 Words in art. 19(2)(b) substituted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), **ss. 55(3)**, 60(2)(a)

Medical examination required by appeal tribunal

20 [F76]**.—**[F77](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[F78]. . . .

(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 **[**[F79]health care professional approved by the Department**]** 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.

[[F80](2A) The power under paragraph (2) to refer a person to a health care professional approved by the Department includes power to specify the description of health care professional to whom the person is to be referred.**]**

(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.

F76 mod. by SR 1999/349, 350
F77 prosp. in pt. certain functions transf. by 2002 c. 21
F78 SI 1999/671
F79 Words in art. 20(2) substituted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), **ss. 55(4)**, 60(2)(a)
F80 Art. 20(2A) inserted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), **ss. 55(5)**, 60(2)(a)

Suspension and termination of benefit

Suspension in prescribed circumstances

21 [F81]**.**—[F82](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.

(Para)

F81 mod. by SR 1999/349, 350
F82 prosp. in pt. certain functions transf. by 2002 c. 21

Suspension and termination for failure to furnish information, etc.

22 [F83]**.**—[F84](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.

[[F85](4) Subsection (2A) of section 5 of the Administration Act shall apply in relation to paragraph (3) as it applies in relation to paragraph (hh) of subsection (1) of that section.**]**

F83 mod. by SR 1999/349, 350
F84 prosp. in pt. certain functions transf. by 2002 c. 21
F85 2002 c. 14 (NI)

Termination in cases of failure to furnish information

23 [F86]**.** [F87]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.

F86 mod. by SR 1999/349, 350
F87 prosp. in pt. certain functions transf. by 2002 c. 21

Suspension and termination for failure to submit to medical examination

24 [F88]**.** [F89]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.

F88 mod. by SR 1999/349, 350
F89 prosp. in pt. certain functions transf. by 2002 c. 21

[F90 Appeals dependent on issues falling to be decided by Inland Revenue

F90 SI 1999/671

Appeals dependent on issues falling to be decided by Inland Revenue

24A F91**.**—(1) Regulations may make provision for an appeal tribunal or Commissioner, where on any appeal there arises any issue which under Article 7 of the Social Security Contributions (Transfer of functions, etc.) (Northern Ireland) Order 1999 falls to be decided by the Inland Revenue.

(2) Regulations under this Article may #

(a) provide for the appeal to be referred to the Department pending the decision by an officer of the Inland Revenue,

(b) enable or require the Department, in specified circumstances, to deal with any other issue arising on the appeal pending the decision on the referred issue, and

(c) enable the Department, on receiving the decision of an officer of the Inland Revenue, or any determination of the **[**F92First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal**]** made on an appeal from his decsion#

(i) to revise his decision

(ii) to make a decision superseding his decision, or

(iii) to refer the appeal to the appeal tribunal or Commissioner to determination**]**

F91 prosp. in pt. certain functions transf. by 2002 c. 21
F92 Words in art. 24A(2)(c) substituted (1.4.2009) by Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(2), **Sch. 2 para. 43**

Decisions and appeals dependent on other cases

Decisions involving issues that arise on appeal in other cases

25 F93**.**—F94(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.

F93 mod. by SR 1999/349, 350
F94 prosp. in pt. certain functions transf. by 2002 c. 21

Appeals involving issues that arise on appeal in other cases

26 [F95]**.**—[F96](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.

F95 mod. by SR 1999/349, 350
F96 prosp. in pt. certain functions transf. by 2002 c. 21

Cases of error

Restrictions on entitlement to benefit in certain cases of error

27 [F97]**.**—[F98](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;

(dd) **[**[F99]state pension credit;**]**

(de) **[**[F100]an employment and support allowance;**]**

(e) any benefit corresponding to a benefit mentioned in**[**[F101] paragraphs (a) **[**[F102]to (de)**]]**; 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**[**[F103]Supreme Court**]** 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.

F97 mod. by SR 1999/349, 350
F98 prosp. in pt. certain functions transf. by 2002 c. 21
F99 2002 c. 14 (NI)
F100 Art. 27(7): words in the definition of "benefit" inserted (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(5)(a)**; S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2
F101 2002 c. 14 (NI)
F102 Art. 27(7): words in the definition of "benefit" substituted (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(5)(b)**; S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2
F103 Art. 27(7): words in the definition of "the court" substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40(4), 148(1), Sch. 9 para. 67; S.I. 2009/1604, **art. 2(a)(d)**

Correction of errors and setting aside of decisions

28 [F104]**.**—[F105F106](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.

[[F107](1A [F108] In paragraph (1) "decision" does not include any decision made by an officer of the Inland Revenue, other than a decision under or by virtue of Part III of the Pension Schemes (Northern Ireland) Act 1993.**]**

(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 [F108] 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;[F109]. . .

(e) the Recovery of Benefits Order**[**[F110]; [F111]. . . **]**

[[F110](f) the State Pension Credit Act (Northern Ireland) 2002**][**[F112]; or

(g) Part 1 of the Welfare Reform Act (Northern Ireland) 2007.**]**

F104 mod. by SR 1999/349, 350
F105 temp. mod. by SI 2002/2926
F106 prosp. in pt. certain functions transf. by 2002 c. 21
F107 SI 1999/671
F108 mod. by SI 2005/191
F109 2002 c. 14 (NI)
F110 2002 c. 14 (NI)
F111 Word in art. 28(3)(e) repealed (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 58, 60(1), **Sch. 8**; S.R. 2008/276, **art. 2(2)(d)**, Sch. Pt. 2
F112 Art. 28(3)(g) and preceding word added (1.7.2008 for certain purposes, otherwise 27.7.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(6)**; S.R. 2008/276, **art. 2(2)(a)**

Industrial accidents

Decision that accident is an industrial accident

29 [F113]**.—**[F114](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.

F113 mod. by SR 1999/349, 350
F114 prosp. in pt. certain functions transf. by 2002 c. 21

Effect of decision

30 [F115]**.—**[F116](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.

F115 mod. by SR 1999/349, 350
F116 prosp. in pt. certain functions transf. by 2002 c. 21

Other special cases

Incapacity for work

31 [F117]**.**—[F118](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.

[[F119](1A) Regulations may provide that a determination that a person is disqualified for any period in accordance with regulations under section 18(1) to (3) of the Welfare Reform Act (Northern Ireland) 2007 shall have effect for such purposes as may be prescribed as a determination that he is to be treated as not having limited capability for 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).

F117 mod. by SR 1999/349, 350
F118 prosp. in pt. certain functions transf. by 2002 c. 21
F119 Art. 31(1A) inserted (1.7.2008 for certain purposes, otherwise 27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 28(1), 60(1), **Sch. 3 para. 10(7)**; S.R. 2008/276, **art. 2(2)(c)**, Sch. Pt. 1

Industrial diseases

32 [F120]**.** [F121]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.

F120 mod. by SR 1999/349, 350
F121 prosp. in pt. certain functions transf. by 2002 c. 21

Christmas bonus

33 [F122]**.**—[F123](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.

F122 mod. by SR 1999/349, 350
F123 prosp. in pt. certain functions transf. by 2002 c. 21

Housing benefit

Determination of claims and reviews

34 [F124]**.—**[F125](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**[**[F126], income support or state pension credit**]**, regulations may require priority to be given, in prescribed circumstances, to those claims over other claims for housing benefit.

Para. (4) rep. with saving by 2000 c. 4 (NI)

Para. (5) rep. with saving by 2000 c. 4 (NI)

F124 mod. by SR 1999/349, 350
F125 prosp. in pt. certain functions transf. by 2002 c. 21
F126 2002 c. 14 (NI)

Art. 35 rep. by 2000 c. 4 (NI)

Social fund payments

Appropriate officers

36 [F127]**.—**[F128](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.

F127 mod. by SR 1999/349, 350
F128 prosp. in pt. certain functions transf. by 2002 c. 21

The social fund Commissioner and inspectors

37 [F129]**.—**[F130](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.

F129 mod. by SR 1999/349, 350
F130 prosp. in pt. certain functions transf. by 2002 c. 21

Reviews of determinations

38 [F131]**.**—[F132](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; **[**[F133]and**]**

(ii) the criteria mentioned in paragraphs (a) and (b) of subsection (1A) of that section; [F134]. . .

(iii) [F134]. . . . . .

(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.

F131 mod. by SR 1999/349, 350
F132 prosp. in pt. certain functions transf. by 2002 c. 21
F133 Word in art. 38(7)(a)(i) inserted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 56, 60(2)(c), **Sch. 7 para. 4**
F134 Art. 38(7)(a)(iii) and preceding word repealed (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 58, 60(2)(d)(iii), **Sch. 8**

Supplemental

Interpretation, etc. of Chapter II

39 [F135]**.—**[F136F137](1 [F138] In this Chapter—

"appeal tribunal" means an appeal tribunal constituted under Chapter I;

[[F139]"claimant", in relation to a joint#claim couple claiming a joint#claim jobseeker's allowance (within the meaning of Jobseekers Order), means the couple or either member of the couple;**]**

[[F140]"Inland Revenue" means the Commissioners of Inland Revenue;**]**

"relevant benefit" has the meaning given by Article 9(3).

[F141] . . . . . .

(2 [F138] 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 [F138] 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.

F135 mod. by SR 1999/349, 350
F136 temp. mod. by SI 2002/2926
F137 prosp. in pt. certain functions transf. by 2002 c. 21
F138 mod. by SI 2005/191
F139 1999 NI 11
F140 SI 1999/671
F141 Art. 39(1): definition of "tax appeal Commissioners" omitted (1.4.2009) by virtue of Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(2), **Sch. 2 para. 44**

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

[[F142]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.”**]**.

F142 Art. 42 repealed (3.3.2003 for certain purposes, otherwise prosp.) by Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), ss. 67, 68(2), **Sch. 9 Pt. I**; S.R. 2003/53, art. 3(1), **Sch.**

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,orto an application forleaveto 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.".

Status:
Point in time view as at 06/04/2014.

Changes to legislation:
The Social Security (Northern Ireland) Order 1998, PART II is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.