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Electronic communications – Attendance Allowance, Disability Living Allowance, Graduated Retirement Benefit, Retirement Pension and Shared Additional Pension

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Introduction

1. This Annex provides guidance on changes in the law relating to the way in which claims can be made and information or evidence given in connection with claims for Attendance Allowance, Disability Living Allowance, Graduated Retirement Benefit, Retirement Pension and Shared Additional Pension. These changes are brought in by the Social Security (Electronic Communications) (Miscellaneous Benefits) Order (Northern Ireland) 2006¹. They take effect from 26.5.06.

Note: This Annex deals with what the law allows rather than the details of the scheme as it will work in practice. Those details will be set out in the Department's website (www.dsdni.gov.uk).

1 S.R. 2006 No.203

Definitions

2. An "electronic communication" is¹ a communication sent whether from one person to another or from one device to another, or from a person to a device or vice versa
 1. by means of a telecommunications system² or
 2. by other means in an electronic form.

1 SS (C&P) Regs (NI), reg 2(1); 2 Electronic Communications Act (NI) 2001

3. “Official computer system” means¹ a computer system maintained by or on behalf of the Department for the sending, receiving, processing or storing of any claim, certificate, notice, information or evidence.

1 SS (C&P) Regs (NI), Sch 8D, para 1

4. “Approved” means¹ approved by means of a direction given by the Department. The relevant directions are at Appendix A for Attendance Allowance, Disability Living Allowance, Retirement Pension, Graduated Retirement Benefit and Shared Additional Pension.

1 SS (C&P) Regs (NI), Sch 8D, para 2(5)

The changes

5. From 26.5.06, the Department may use an electronic communication in connection with claims for and awards of Attendance Allowance, Disability Living Allowance, Graduated Retirement Benefit, Retirement Pension and Shared Additional Pension¹.

1 SS (C&P) Regs (NI), Sch 8D, para 2(1)

6. Paragraph 7 below describes the situations in which electronic communication can be made by persons other than the Department in relation to Attendance Allowance, Disability Living Allowance, Graduated Retirement Benefit, Retirement Pension and Shared Additional Pension with effect from 26.5.06. However an electronic communication can only be made where the conditions in paragraphs 9 to 13 below are satisfied.

Claims for Attendance Allowance, Disability Living Allowance, Graduated Retirement Benefit, Retirement Pension and Shared Additional Pension

7. From 26.5.06 a claim for Attendance Allowance, Disability Living Allowance, Graduated Retirement Benefit, Retirement Pension and Shared Additional Pension may be made by means of an electronic communication¹.

1 SS (C&P) Regs (NI), reg 4ZC

Electronic communications

Conditions for the use of electronic communication

8. Electronic communications may only be made if all of the four conditions described in paragraphs 9 to 13 below are met¹.

1 SS (C&P) Regs (NI), Sch 8D, para 2(2)

9. The first condition is that there is in force an authorisation given by the Department by means of a direction permitting the person concerned to use electronic communication¹. The Department's direction for Attendance Allowance, Disability Living Allowance, Retirement Pension, Graduated Retirement Benefit and Shared Additional Pension is at Appendix B.

1 SS (C&P) Regs (NI), Sch 8D, para 2(3)(a)

10. The second condition is¹ that the person uses an approved method of
1. authenticating the identity of the sender
 2. electronic communication
 3. authenticating any claim, certificate, notice, information or evidence delivered by means of electronic communication
 4. submitting any claim, certificate, notice, information or evidence to the Department.

1 SS (C&P) Regs (NI), Sch 8D, para 2(3)(b)

11. Where a person submits a claim or evidence by a method other than that approved by the Department then that claim or evidence **shall be treated as not having been submitted**¹.

1 SS (C&P) Regs (NI), Sch 8D, para 2(4)

12. The third condition is that any claim, certificate, notice, information or evidence sent by electronic communication is in an approved form¹.

1 SS (C&P) Regs (NI), Sch 8D, para 2(3)(c)

13. The fourth condition is that the person keeps such records in written or electronic form as may be specified by the Department¹ in a direction.

1 SS (C&P) Regs (NI), Sch 8D, para 2(3)(d)

Note : The Department's direction for the initial scheme is at Appendix A below.

Use of intermediaries

14. The Department may use, and may require other persons to use intermediaries in connection with¹
1. the delivery of any claim or evidence by means of an electronic communication

2. the authentication or security of anything transmitted by electronic means.

1 SS (C&P) Regs (NI), Sch 8D, para 3

Effect of delivering information by electronic means

15. Any claim or evidence which is delivered by electronic means shall be treated as having been delivered on the day the conditions

1. in paragraphs 9 to 13 above **and**
2. under any applicable statutory provision

are satisfied¹.

1 SS (C&P) Regs (NI), Sch 8D, para 4(1)

16. The Department may make a direction determining that any claim or evidence is to be treated as delivered on a different day from that set out in paragraph 15 above¹.

1 SS (C&P) Regs (NI), Sch 8D, para 4(3)

17. Information shall not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered¹.

1 SS (C&P) Regs (NI), Sch 8D, para 4(3)

Proving the identity of a sender or recipient

18. If, for the purposes of any legal proceedings, it is necessary to prove the identity of
 1. a person who sent a claim or evidence to an official computer by electronic means **or**
 2. the recipient of a claim or evidence from an official computer system

the sender or recipient shall be presumed to be the person recorded as such on the official computer system¹.

1 SS (C&P) Regs (NI), Sch 8D, para 5

Proof of delivery

19. If, for the purposes of any legal proceedings, it is necessary to prove that a claim or evidence sent by electronic means has been delivered, then successful delivery will be presumed to have taken place where it has been recorded on an official computer system¹.

1 SS (C&P) Regs (NI), Sch 8D, para 6(1)

20. If delivery has not been recorded on an official computer system it will be presumed that it has not taken place¹.

1 SS (C&P) Regs (NI), Sch 8D, para 6(2)

21. The time of receipt of a claim or evidence shall be presumed to be that recorded on an official computer system¹.

1 SS (C&P) Regs (NI), Sch 8D, para 6(3)

Proof of content

22. If, for the purpose of any legal proceedings, it is necessary to prove the content of a claim or evidence sent by electronic means, the content will be presumed to be that recorded on an official computer system¹.

1 SS (C&P) Regs (NI), Sch 8D, para 7

Appendix A

The Department for Social Development (“the Department”), in accordance with paragraph 2 of Schedule 8D to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”), hereby makes the following directions -

1. An individual who, in accordance with the Claims and Payments Regulations makes a claim for an Attendance Allowance, a Disability Living Allowance, a Retirement Pension or a Shared Additional Pension under the Social Security Contribution and Benefits (Northern Ireland) Act 1992 or a Graduated Retirement Benefit, under the National Insurance Act (Northern Ireland) 1966 or who requests a claim form for Attendance Allowance or Disability Living Allowance is authorised to do so by means of an electronic communication, provided that the individual uses the method approved by the Department in relation to the claim or request.
2. The methods and form set out, at the time of, and for the purposes of, the delivery of such a claim or the making of such a request as referred to in paragraph 1., on the Department’s website, or a website that is accessed via the Department’s website, are respectively -
 - (a) the methods approved by the Department for -
 - (i) authenticating the identity of the individual making the claim or request;
 - (ii) submitting the claim or making the request;

- (iii) authenticating the claim delivered or request made; and
 - (iv) electronic communication
- (b) the form approved by the Department in which the claim is to be delivered or the request made.

Sealed with the Official Seal of the Department for Social Development on 2nd May 2006.

John O'Neill

A Senior officer of the Department for Social Development.

Appendix B

The Department for Social Development (“the Department”), in accordance with paragraph 2 of Schedule 8D to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) and regulation 1(3A) of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (“the Jobseeker’s Allowance Regulations”) makes the following directions.

Authorisation

1.(1) A person who, in accordance with paragraph 2 of Schedule 8D to the Claims and Payments Regulations

- (a) makes a claim for Carer’s Allowance or a Jobseeker’s Allowance or provides any certificate, notice, information or evidence in connection with that claim **or**
- (b) gives a notification of a change of circumstances or provides any certificate, notice, information or evidence relating to an award of a relevant benefit,

is authorised to do so by means of an electronic communication, provided that the person uses a method and form approved by the Department for that purpose.

(2) In sub-paragraph (1) “relevant benefit” means

- (a) Attendance Allowance
- (b) Carer’s Allowance
- (c) Disability Living Allowance

- (d) an Employment and Support Allowance
- (e) Income Support
- (f) a Jobseeker's Allowance.

Approved method and form

2. The method and form set out on the NIDirect website at the time of, and for the purposes of, making any claim, giving any notification or providing any certificate, notice, information or evidence referred to in paragraph 1(1) are

- (a) the method approved by the Department for
 - (i) authenticating the identity of the person making the claim, giving the notification or providing the certificate, notice, information or evidence
 - (ii) electronic communication
 - (iii) authenticating the claim, notification, certificate, notice, information or evidence delivered
 - (iv) making the claim, giving the notification or providing the certificate, notice, information or evidence **and**
- (b) the form approved by the Department in which the claim, notification, certificate, notice, information or evidence is to be sent.

Electronic signatures

3. For the purposes of regulation 1(3A) of the Jobseeker's Allowance Regulations, any requirement to provide a signed declaration pursuant to regulation 24(6) of those Regulations may be satisfied by means of an electronic signature provided that the person uses a method established for that purpose by the Department.

Sealed with the Official Seal of the Department for Social Development on 30th August 2011.

Anne McCleary

A Senior officer of the Department for Social Development.

Annex C

Issues for decision by Her Majesty's Revenue and Customs

1. Whether a person is or was an earner, and if so what category¹.
2. Whether a person is or was in employed earner's employment for the purposes of industrial injuries benefit².
3. whether a person is liable to pay contributions, and if so the amount³.
4. Whether a person was entitled to pay contributions that he was not liable to pay, and if so the amount⁴.
5. Whether contributions have been paid in respect of a period⁵.
6. Any issues about statutory sick pay or statutory maternity pay, including entitlement⁶.
7. Liability of directors for company's contributions⁷.
8. Whether
 - 8.1 a person is or was an employee or an employer
 - 8.2 an employer is or was entitled to make deductions from contributions, and if so the amount
 - 8.3 a payment should be made to an employer, and if so the amount
 - 8.4 two or more employers are treated as one
 for the purposes of employment of the long-term unemployed⁸.
9. Whether to give or withdraw approval⁹.
10. Whether a person is liable to a penalty, and if so what the penalty should be¹⁰.
11. Any other contributions issues other than the exceptions below¹¹.
12. The amount of a person's guaranteed minimum pension¹².

1 SSC (ToF) (NI) Order 99, art 7(1)(a); SS C&B (NI) Act 92, Pts I-V; 2 SSC (ToF) (NI) Order 99, art 7(1)(b); SS C&B (NI) Act 92, Pt V; 3 SSC (ToF) (NI) Order 99, art 7(1)(c); 4 art 7(1)(d); 5 art 7(1)(e); 6 art 7(1)(f) & (g); 7 art 7(1)(h); SS A (NI) Act 92, sec 115B; 8 SSC (ToF) (NI) Order 99, art 7(1)(i); JS (NI) Order 95, art 29; 9 SSC (ToF) (NI) Order 99, art 7(1)(j); SS C&B (NI) Act 92, Sch 1 para 3B(1)(b); 10 SSC (ToF) (NI) Order 99, art 7(1)(k) & (l); SS C&B (NI) Act 92, Sch 1, para 7A(2) and 7B(2)(h); 11 SSC (ToF) (NI) Order 99, art 7(1)(m); 12 Pension Schemes (NI) Act 1993, sec 16(1)

Exceptions to paragraphs 3 and 11

Any decision about Class 4 contributions except

1. Whether a person is excepted from or deferred from liability to pay Class 4 contributions¹.
2. Incidental issues relating to calculation of profits and recovery of Class 4 contributions².

1 SSC (ToF) (NI) Order 99, art 7(2)(a); SS C&B (NI) Act 92, sec 17(1);

2 SSC (ToF) (NI) Order 99, art 7(2)(b); SS C&B (NI) Act 92, sec 17(3) & (4) & 18

Annex D

Decisions and determinations that are appealable

Benefit decisions

1. All decisions, other than those in Annex E, made on a claim for or award of a relevant benefit¹ including whether there has been a valid claim² or if the claim is defective.

1 SS (NI) Order 98, art 13(1)(a); 2 SS (C&P) Regs (NI), reg 4

2. Entitlement to and amount of a benefit for which no claim is required¹.

1 SS (NI) Order 98, Sch 3, para 1 & 2; SS & CS (D&A) Regs (NI), reg 26(a); SS (C&P) Regs (NI), reg 3

3. Whether benefit to which a claimant is entitled is not payable because¹

3.1 the claimant is disqualified for receiving benefit²

3.2 the claimant is in certain accommodation for the purposes of care component of Disablement Living Allowance³

3.3 the claimant is in hospital⁴

3.4 a sanction has been imposed⁵.

*1 SS (NI) Order 98, Sch 3, para 3; 2 SS C&B (NI) Act 92; 3 sec 67(2) & 72(8);
4 sec 113(2); 5 JS (NI) Order 95, art 21*

4. Payments to third parties¹ (but see Annex E for exceptions).

1 SS (NI) Order 98, Sch 3, para 4

5. Whether an overpayment of benefit is recoverable, and if so, the amount¹.

1 SS (NI) Order 98, Sch 3, para 5 & 6; SS A (NI) Act 92, sec 69 & 69A

6. Recoverability of excess amounts of Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance or State Pension Credit where a prescribed payment is received after the due date¹.

1 SS A (NI) Act 92, sec 72; R(IS) 14/04

7. Whether an accident was an industrial accident¹.

1 SS (NI) Order 98, Sch 3, para 7

8. Decisions about a proposal to make or vary a Jobseeker's Agreement¹.

1 SS (NI) Order 98, Sch 3, para 8; JS (NI) Order 98, art 9 & 10

9. Decisions about the assessment of extent of disablement¹.

1 SS & CS (D&A) Regs (NI), reg 26(c); SS C&B (NI) Act 92, sec 103 & 108 & Sch 6

10. Where one member of a joint claim couple is working and the decision maker decides that neither claimant is in remunerative work¹.

1 SS & CS (D&A) Regs (NI), reg 26(d); Welfare Reform and Pensions (NI) Order 99, art 56 & Sch 7

11. Whether to specify a period as an assessed income period¹ made in accordance with specific legislation².

1 SS (NI) Order 98, Sch 3, para 8A; 2 SPC Act (NI) 02, sec 6

12. Decisions as to the length of an assessed income period¹.

1 SS (NI) Order 98, Sch 3, para 8B

13. Decisions to end assessed income periods¹ made under specific legislation².

1 SS (NI) Order 98, Sch 3, para 8C; 2 SPC Act (NI) 02, sec 9(4) or (5)

14. Where a decision is made under para 12, a decision as to when the assessed income period ends¹.

1 SS (NI) Order 98, Sch 3, para 8D

15. A decision that State Pension is not payable because a person is a prisoner¹.

1 SS (NI) Order 98, Sch 3, para 6C

16. A decision that a person is not entitled to uprating increases because they are an overseas resident¹.

1 SS (NI) Order 98, Sch 3, para 6D

Contribution decisions

1. Whether a person was precluded from regular employment by home responsibilities¹.

1 SS (NI) Order 98, Sch 3, para 16

2. Whether a person should be credited with earnings or contributions¹.

1 SS (NI) Order 98, Sch 3, para 17; SS C&B (NI) Act 92, sec 22(5)

Annex E**Decisions and determinations that are not appealable**

1. Whether a person aged 16-17 is in severe hardship¹.
1 SS (NI) Order 98, Sch 2, para 1; JS (NI) Order 95, sec 18 & 19(4)
2. Whether a claimant is entitled to a Christmas bonus¹.
1 SS (NI) Order 98, Sch 2, para 2; SS C&B (NI) Act 92, sec 144
3. Priority between claimants entitled to Carer's Allowance¹.
1 SS (NI) Order 98, Sch 2, para 3; SS C&B (NI) Act 92, sec 70(7) & Sch 10, para 5
4. Whether a person is treated as present in Northern Ireland¹.
1 SS (NI) Order 98, Sch 2, para 5; SS C&B (NI) Act 92, sec 64(1), 71(6), 113(1) or 119
5. The rate of benefit provided for by law¹ including the rate of interest used in calculating a lump sum where a person has deferred entitlement to category A or B Retirement Pension, Graduated Retirement Benefit or Shared Additional Pension².
1 SS (NI) Order 98, Sch 2, para 6(a); 2 SS C&B (NI) Act 92, Sch 5, para 3B(3)
6. Uprating of rates of benefit¹.
1 SS (NI) Order 98, Sch 2, para 6(b); SS A (NI) Act 92, sec 139(1)(b)
7. Increases of Income Support or income-based Jobseeker's Allowance due to age changes¹.
1 SS (NI) Order 98, Sch 2, para 7; SS A (NI) Act, sec 140(2) & 140A2
8. Reduction of benefit in accordance with a reduced benefit direction¹.
1 SS (NI) Order 98, Sch 2, para 8; CS (NI) Order 91, art 43
9. Which partner should make a claim for Income Support, Jobseeker's Allowance, income-related Employment and Support Allowance or State Pension Credit where the partners are unable to agree who should be the claimant¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(a) & (bb); SS (C&P) Regs (NI), reg 4(3) & (3B) & 4C(7)
10. Evidence or information required from the claimant/partner¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(d); SS (C&P) Regs (NI), reg 7

- 11.** Decisions that a claim for one benefit is to be treated as a claim for another benefit as an alternative or in addition to the benefit originally claimed¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(e); SS (C&P) Regs (NI), reg 9 & Sch 1
- 12.** A decision to treat a claim for Maternity Allowance as a claim for Incapacity Benefit or Employment and Support Allowance¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(f); SS (C&P) Regs (NI), reg 11
- 13.** Approving the form in which a person may give particulars for the determination of Retirement Pension questions in advance of a claim¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(g); SS (C&P) Regs (NI), reg 15(7)
- 14.** Time and manner of payment of benefit¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(h); SS (C&P) Regs (NI), reg 20-24
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1 SS & CS (D&A) Regs (NI), Sch 1, para 5(i); SS (C&P) Regs (NI), reg 25(1)
- 16.** Time and manner of payment of Income Support¹ (including decisions as to the day on which entitlement to Income Support is to begin).

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(j); SS (C&P) Regs (NI), reg 26
- 17.** Time and manner of payment of Jobseeker's Allowance and Employment and Support Allowance¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(k); SS (C&P) Regs (NI), reg 26A & 26C
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1 SS & CS (D&A) Regs (NI), Sch 1, para 5(kk); SS (C&P) Regs (NI), reg 26B
- 19.** Claims and payments after the death of the claimant¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(l); SS (C&P) Regs (NI), reg 30
- 20.** Payment of arrears of joint-claim Jobseeker's Allowance where the nominated person can no longer be traced¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(m); SS (C&P) Regs (NI), reg 30A
- 21.** Time and manner of payments of Industrial Injuries gratuities¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(n); SS (C&P) Regs (NI), reg 31
- 22.** Information to be given when obtaining payment of benefit¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(o); SS (C&P) Regs (NI), reg 32
- 23.** Decision about appointees¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 5(p); SS (C&P) Regs (NI), reg 33

- 24.** Decisions about payments to third parties in the claimant's interest¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(q); SS (C&P) Regs (NI), reg 34
- 25.** Payments of mortgage interest to qualifying lenders¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(r); SS (C&P) Regs (NI), reg 34ZA
- 26.** Payments to third parties of Social Fund maternity payments and cold weather payments¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(s); SS (C&P) Regs (NI), reg 34A(2)
- 27.** Decisions to pay a partner as an alternative payee¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(t); SS (C&P) Regs (NI), reg 35
- 28.** Extinguishment of the right of payment of benefit¹ **except** a decision to extend the 12 month period where there is good cause².
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(u); SS (C&P) Regs (NI), reg 37; 2 reg 37(2)(A)
- 29.** Decisions¹ about
- 29.1** where the mobility component of Disability Living Allowance is not payable²
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- 29.5** ending of direct payment of Disability Living Allowance where hire purchase vehicle returned to the owner⁶.
*1 SS & CS (D&A) Regs (NI), Sch 1, para 5(v); 2 SS (C&P) Regs (NI), reg 41;
 3 reg 42; 4 reg 43; 5 reg 44; 6 reg 45*
- 30.** Decisions by the Department to require that an instrument of payment be returned¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 5(w); SS (C&P) Regs (NI), reg 46(2) & (3)
- 31.** Staying making a decision¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 7; SS (NI) Order 98, art 25 or 26
- 32.** Authorisation on the application of Social Security schemes to employed and self-employed people and their families moving with the European Community¹.
1 SS & CS (D&A) Regs (NI), Sch 1, para 8; Council Reg (EEC) 1408/71, art 22(1) & 55(1)

33. Whether to pay expenses¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 9; SS A (NI) Act 92, sec 156

34. Notice of liability to surviving parent in prison or legal custody¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 10; SS (GA) Regs (NI), reg 5(8)

35. Adverse assumptions on incomplete evidence for Employment and Support Allowance, Income Support, Jobseeker's Allowance, Social Fund and State Pension Credit¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 11, 11A & 17(3); reg 13 & 15

36. For Industrial Injuries Benefit¹

36.1 whether an award is increased for constant attendance or exceptionally severe disablement and if so, the period and amount payable²

36.2 the length of a period of interruption of education to be disregarded³

36.3 whether to approve a person undertaking work⁴

36.4 how limitations are to be paid⁵.

1 SS & CS (D&A) Regs (NI), Sch 1, paras 12-15; 2 SS C&B (NI) Act 92, sec 104 & 105;

3 SS (II) Misc Prov Regs (NI), reg 2(2); 4 SS (Gen Ben) Regs (NI), reg 15;

5 SS C&B (NI) Act 92, Sch 7, Pt VI

37. Issue of certificate for Invalid Vehicle Scheme¹.

1 SS & CS (D&A) Regs (NI), Sch 1, para 16; SS (DLA) Regs (NI), reg 13 & Sch 2

38. For Jobseeker's Allowance¹

38.1 the day and time a claimant is to attend an office of the Department²

38.2 the day on which a claimant is required to sign a declaration³.

1 SS & CS (D&A) Regs (NI), Sch 1, para 17; 2 JSA Regs (NI), Pt II Chap IV; 3 reg 24(10)

39. Any decision on payments on account, overpayments and recovery **except¹**

39.1 offset of interim payments²

39.2 overpayment of interim payment³

39.3 offset of prior payment against later award⁴

39.4 whether excess payment credited to bank account⁵

39.5 deductions when calculating recoverable amount⁶

39.6 treatment of capital to be reduced⁷

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39.8 revision or supersession of determination of protected earnings⁹.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 18*; 2 *SS (POR) Regs (NI), reg 3*; 3 *reg 4(1)*; 4 *reg 5*;
5 *reg 11(1)*; 6 *reg 13*; 7 *reg 14(1)*; 8 *reg 19*; 9 *reg 24*

40. Whether disqualifications should apply for persons abroad¹.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 19*; *SS C&B (NI) Act 92, sec 113(1)*;
SS Ben (PA) Regs (NI), reg 2(1)(a) & 9(4) & (5)

41. Reciprocal agreements with countries outside the UK¹.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 20*; *SS A (NI) Act 92, sec 155*

42. Recovery of Social Fund awards¹.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 21*; *SS A (NI) Act 92, sec 74*

43. Suspension of payment of benefit¹.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 22*; *Pt III*

44. Whether to waive or defer a work-focused interview¹.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 24*; *SS (WfI) Regs (NI), reg 3*

45. [See DMG Memo Vol 1/92, 3/82, 4/106, 9/18 & 13/47] Sanctionable benefit not payable or reduced following convictions for benefits offences where the only ground of appeal is that any of the convictions was wrong or that the offender did not commit the benefit offence in respect of which there has been an agreement to pay an administrative penalty or a caution has been accepted.

1 *SS & CS (D&A) Regs (NI), Sch 1, para 25*; *SS (Loss of Benefit) Regs (NI), reg 21*

Annex F - Spare

Annex G

EXTRACTS FROM THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

PART 1

Rights and Freedoms

Article 2

Right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is prescribed by law.
2. Deprivation of human life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
 - (a) in defence of any person from unlawful violence;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Article 3

Prohibition of torture

No one shall be subjected to torture or to inhumane or degrading treatment or punishment.

Article 4

Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term "forced or compulsory labour" shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;

- (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
- (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
- (d) any work or service which forms part of normal civic obligations.

Article 5

Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
 - (a) the lawful detention of a person after conviction by a competent court;
 - (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
 - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics, drug addicts or vagrants;
 - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer

authorised by law to exercise judicial power and shall be entitled to trial within reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

Article 6

Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interest of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in the court.

Article 7

No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Article 8

Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9

Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10

Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11

Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12

Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 14**Prohibition of discrimination**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 16**Restrictions on political activity of aliens**

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17**Prohibition of abuse of rights**

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18**Limitation on use of restrictions on rights**

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

PART II**The First Protocol****Article 1****Protection of property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance

with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2

Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 3

Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

PART III

The Sixth Protocol

Article 1

Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2

Death penalty in time of war

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

Annex H - Spare

Annex I - Spare

Annex J - Spare

Annex K

Neutral citation

Background

1. Since the introduction of the new appeal tribunal structure in GB on 3.11.08, the Administrative Appeals Chamber (AAC) has changed the way that it reports its decisions. They have decided that the series of reported decisions selected by the Administrative Appeals Chamber which replace the reported Commissioners' decisions, will now be known as the Administrative Appeals Chamber Reports (AACR). These are the decisions of the Upper Tribunal Judges. For Northern Ireland these will be the decisions of the Northern Ireland Commissioners.
2. The method of selection for reporting Commissioner's decisions will remain as it is now and decisions will only be reported if they have the broad consent of the Administrative Appeals Chamber as a whole. Reported decisions will therefore continue to carry greater weight than unreported.

Neutral citation

3. The new way of numbering Upper Tribunal decisions in GB is called neutral citation and is the format already used by the higher courts, so bringing Upper Tribunal decisions in line with other courts of equal standing.
4. It has been agreed by the Northern Ireland Commissioners' office that from 1.1.2010, Northern Ireland Commissioner decisions will follow the new neutral citation number format. Examples of how these new numbers will appear on decisions made from 1.1.2010 are shown in the following paragraphs.

Unreported Commissioner Decisions

5. An example of a GB neutral citation number for their unreported Upper Tribunal decisions is

"KS v Secretary of State for Work and Pensions (JSA) [2009] UKUT 122 (AAC)"
6. From 1.1.2010, when the Northern Ireland Commissioners' office issues a decision, it will be given a neutral citation number which will be structured in the same format as GB (but initially without the addition of "AAC" at the end). This number will be found at the top right corner of the decision and below that, the original Commissioner reference number (for example C1/09-10(IS)) will be recorded as well. An example of a neutral citation number for Northern Ireland is

“SG v Department for Social Development (IS) [2010] NICom 17”

7. To explain the composition of the citation, it is broken down below into its component parts
 1. “SG v Department for Social Development (IS)” - refers to the parties to the appeal and the benefit involved. This part should be in italic font
 2. “[2010] NICom 17” - refers to the year the decision was made, the Northern Ireland Commissioner and the neutral citation number, i.e. the consecutive number of the case within that year’s series.

Reported Commissioner Decisions

8. When an Upper Tribunal decision is decided as suitable for reporting in GB, then the Administrative Appeals Chamber will add the year of reporting to the neutral citation number followed by the reference “AACR” and the consecutive reporting number within that year’s series. To illustrate, if the example used in paragraph 6 was reported in 2010, its new reference would be

“KS v Secretary of State for Work and Pensions (JSA) [2009] UKUT 122 (AAC); [2010] AACR 3”

(where “3” for the purpose of this example is the next consecutive number for reporting in that year).

9. Similarly if a Northern Ireland Commissioner decision is decided as suitable for reporting in GB, the Administrative Appeals Chamber will add the year of reporting to the neutral citation number followed by the reference “AACR” and the consecutive reporting number for that year. So, the unreported example referred to in paragraph 7, if reported in 2010, would become

“SG v Department for Social Development (IS) [2010] NICom 17; [2010] AACR 4”

(where “4” for the purpose of this example is the next consecutive number for reporting in that year).

10. The Administrative Appeals Chamber have indicated that names in the citation can be abbreviated, so again using the reported Northern Ireland example in paragraph 10, “SG v DSD (IS) [2010] NICom 17; [2010] AACR 4” is acceptable. This format should always be used the first time reference is made in an appeal response to a decision with a neutral citation. Any subsequent references can be in the abbreviated format “SG v DSD (IS)”.

11. This format will be used on all decisions reported from 1.1.2010 onwards. Reported decisions numbered under the old “R” format can continue to be cited as before. A typical example for GB would be R(IS) 1/08 and for Northern Ireland R 2/01(IS).

Referring to unreported decisions

12. As advised at paragraph 7, unreported decisions will also have a neutral citation number. This is where the decision has not been reported but it has nonetheless been thought to be of interest to potential parties. The only difference to the form of the citation in an unreported decision is that it will not contain the final segment of the citation and so would just be “SG v DSD (IS) [2010] NlCom 17”.
13. There will be other unreported decisions both in Northern Ireland and GB that will not be allocated a neutral citation number. This is because certain decisions of the Commissioners and Upper Tribunals may be determinations that refuse leave to appeal. Such decisions will retain their old number format - for example “CIS/123/2010” in GB and “A 44/09-10(IS)” in Northern Ireland.

Annex L**Abbreviations used in Reported Commissioners' decisions in Northern Ireland**

Note: This was the style for reporting decisions prior to 2010 - see Annex K for current version.

	Reported as
Attendance Allowance	R / (A)
Child Benefit/One Parent Benefit	R / (CB)
Compensation Recovery Scheme	R / (CRS)
Child Support	R / (CS)
Death Grant	R / (DG)
Disability Living Allowance	R / (DLA)
Disability Working Allowance	R / (DWA)
Family Allowance	R / (FA)
Family Credit	R / (FC)
Guardian's Allowance	R / (GA)
Incapacity Benefit/National Insurance Credits	R / (IB)
Carer's Allowance (formerly Invalid Care Allowance)/ Child Special Allowance	R / (ICA)
Industrial Injuries/Disablement Benefit/Special Hardship Allowance	R / (II)
Income Support	R / (IS)
Invalidity Benefit	R / (IVB)
Jobseeker's Allowance	R / (JSA)
Maternity Benefit	R / (MB)
Mobility Allowance	R / (MOB)
Non Contributory Invalidity Pension	R / (NCIP)
Retirement Pension	R / (P)
Reduced Earnings Allowance	R / (REA)
Sickness Benefit	R / (SB)
Severe Disablement Allowance	R / (SDA)
Social Fund	R / (SF)
State Pension Credit	R / (SPC)
Statutory Sick Pay	R / (SSP)
Supplementary Benefit	R / (Supp Ben)
Tax Credits	R / (TC)

Unemployment Benefit	R / (UB)
Widow's Benefit	R / (WB)

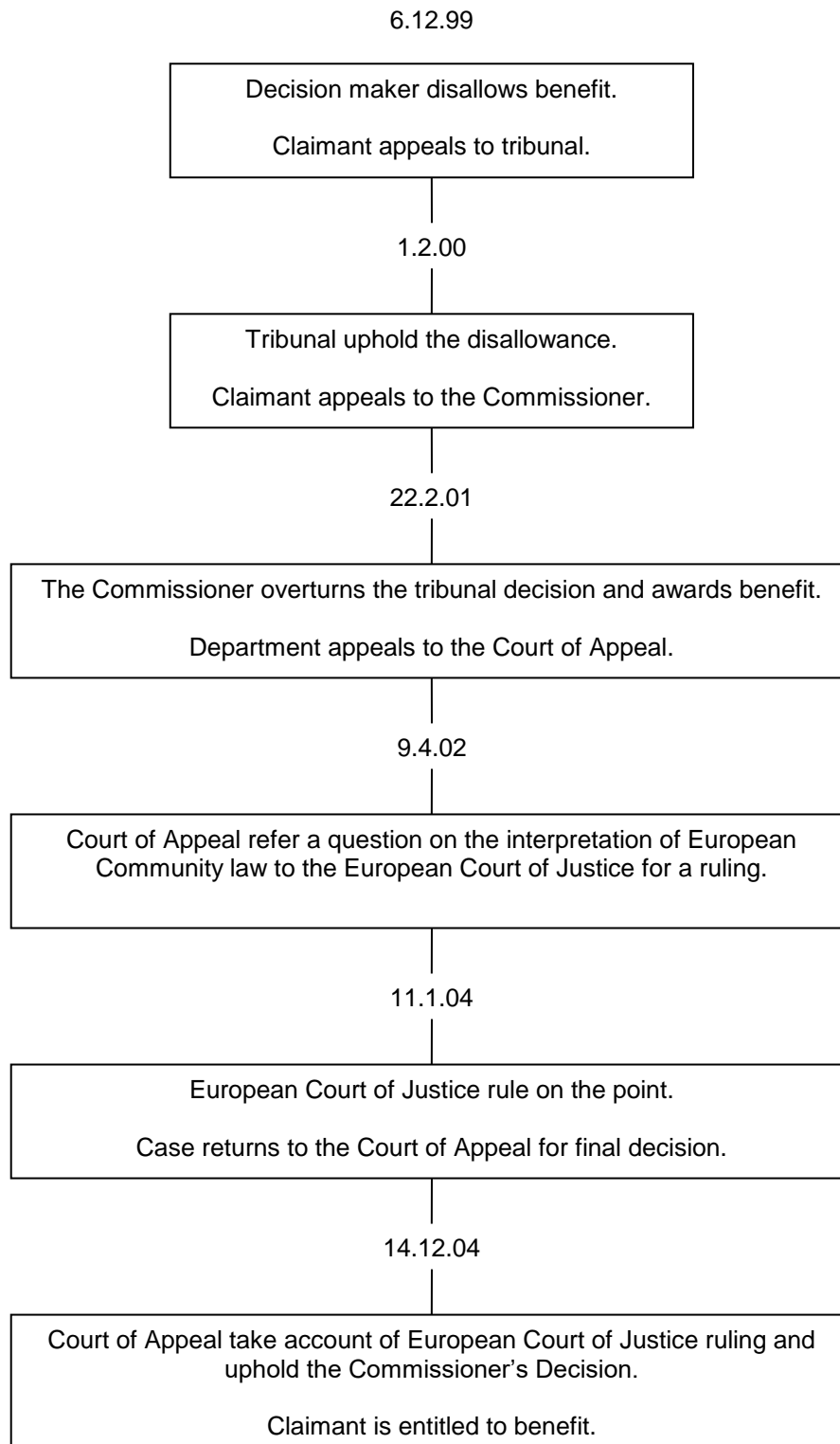
Abbreviations used in Reported Commissioners' decisions in Great Britain

	Reported as
Attendance Allowance	R(A)
Compensation Recovery	R(CR)
Child Support	R(CS)
Disability Living Allowance	R(DLA)
Disability Working Allowance	R(DWA)
Child Benefit (formerly Family Allowance)	R(F)
Family Credit	R(FC)
Forfeiture - General (Bereavement Benefit and Widow's Benefit)	R(FG)
Family Income Supplement	R(FIS)
Forfeiture – Pension (Retirement Pension)	R(FP)
General – (Bereavement Benefit, Carer's Allowance (formerly Invalid Care Allowance), Child's Special Allowance, Death Grant, Guardian's Allowance, Maternity Allowance, Widow's Benefit, including Forfeiture cases before 2003)	R(G)
Housing Benefit and Council Tax Benefit	R(H)
Home Responsibilities Protection	R(HR)
Industrial Injuries Scheme Benefits	R(I)
Incapacity Benefit and National Insurance Credits	R(IB)
Income Support and Social Fund	R(IS)
Jobseeker's Allowance	R(JSA)
Mobility Allowance	R(M)
Pension (Retirement Pension, including Forfeiture cases before 2003)	R(P)
Pension Credit	R(PC)
Sickness Benefit, Invalidity Benefit, Severe Disablement Allowance and non-contributory Invalidity Pension	R(S)
Supplementary Benefit	R(SB)
Tax Credits	R(TC)
Unemployment Benefit	R(UB)

Annex M

Annex N

Annex O

Annex P**Example of application of article 27 of SS (NI)
Order 1998**

The relevant determination is that of the Commissioner dated 22.2.01.