

SCHEDULES

SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS

Child Support Act 1991 (c. 48)

54 After Schedule 4B to that Act there shall be inserted the following Schedule—

“SCHEDULE Section 83.
4C

DECISIONS AND APPEALS: DEPARTURE DIRECTIONS AND REDUCED BENEFIT DIRECTIONS ETC.

Revision of decisions

- 1 Section 16 shall apply in relation to—
- (a) any decision of the Secretary of State with respect to a departure direction, a reduced benefit direction or a person’s liability under section 43;
 - (b) any decision of the Secretary of State under section 17 as extended by paragraph 2; and
 - (c) any decision of an appeal tribunal on a referral under section 28D(1)(b),
- as it applies in relation to any decision of the Secretary of State under section 11, 12 or 17.

Decisions superseding earlier decisions

- 2 (1) Section 17 shall apply in relation to—
- (a) any decision of the Secretary of State with respect to a departure direction, a reduced benefit direction or a person’s liability under section 43;
 - (b) any decision of the Secretary of State under section 17 as extended by this sub-paragraph; and
 - (c) any decision of an appeal tribunal on a referral under section 28D(1)(b),
- whether as originally made or as revised under section 16 as extended by paragraph 1, as it applies in relation to any decision of the Secretary of State under section 11, 12 or 17, whether as originally made or as revised under section 16.
- (2) Section 17 shall apply in relation to any decision of an appeal tribunal under section 20 as extended by paragraph 3 as it applies in relation to any decision of an appeal tribunal under section 20.

Status: This is the original version (as it was originally enacted).

Appeals to appeal tribunals

- 3 (1) Subject to sub-paragraphs (2) and (3), section 20 shall apply—
- (a) in relation to a qualifying person who is aggrieved by any decision of the Secretary of State with respect to a departure direction; and
 - (b) in relation to any person who is aggrieved by a decision of the Secretary of State—
 - (i) with respect to a reduced benefit direction; or
 - (ii) with respect to a person’s liability under section 43, as it applies in relation to a person whose application for a maintenance assessment is refused or to such a person as is mentioned in subsection (2) of section 20.
- (2) On an appeal under section 20 as extended by sub-paragraph (1)(a), the appeal tribunal shall—
- (a) consider the matter—
 - (i) as if it were exercising the powers of the Secretary of State in relation to the application in question; and
 - (ii) as if it were subject to the duties imposed on him in relation to that application;
 - (b) have regard to any representations made to it by the Secretary of State; and
 - (c) confirm the decision or replace it with such decision as the tribunal considers appropriate.
- (3) No appeal shall lie under section 20 as extended by sub-paragraph (1)(b)(i) unless the amount of the person’s benefit is reduced in accordance with the reduced benefit direction; and the time within which such an appeal may be brought shall run from the date of the notification of the reduction.
- (4) In sub-paragraph (1) “qualifying person” means—
- (a) the person with care, or absent parent, with respect to whom the current assessment was made; or
 - (b) where the application for the current assessment was made under section 7, either of those persons or the child concerned.

Decisions and appeals dependent on other cases

- 4 (1) Section 28ZA shall also apply where—
- (a) a decision falls to be made—
 - (i) with respect to a departure direction, a reduced benefit direction or a person’s liability under section 43, by the Secretary of State; or
 - (ii) with respect to a departure direction, by an appeal tribunal on a referral under section 28D(1)(b); and
 - (b) an appeal is pending against a decision given with respect to a different direction by a Child Support Commissioner or a court.

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- (2) Section 28ZA as it applies by virtue of sub-paragraph (1) shall have effect as if the reference in subsection (3) to section 16 were a reference to that section as extended by paragraph 1.
- (3) Section 28ZA as it applies by virtue of sub-paragraph (1)(a)(ii) shall have effect as if—
- (a) in subsection (2)—
 - (i) for the words “the Secretary of State” there were substituted the words “the appeal tribunal”; and
 - (ii) for the word “he”, in both places where it occurs, there were substituted the word “it”; and
 - (b) in subsection (3)—
 - (i) for the words “the Secretary of State” there were substituted the words “the appeal tribunal”;
 - (ii) for the word “he” there were substituted the words “the Secretary of State”; and
 - (iii) for the word “his” there were substituted the words “the tribunal's”.
- 5 (1) Section 28ZB shall also apply where—
- (a) an appeal is made to an appeal tribunal under section 20 as extended by paragraph 3; and
 - (b) an appeal is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) Section 28ZB as it applies by virtue of sub-paragraph (1) shall have effect as if any reference to section 16 or section 17 were a reference to that section as extended by paragraph 1 or, as the case may be, paragraph 2.

Cases of error

- 6 (1) Subject to sub-paragraph (2) below, section 28ZC shall also apply where—
- (a) the effect of the determination, whenever made, of an appeal to a Child Support Commissioner or the court (“the relevant determination”) is that the adjudicating authority’s decision out of which the appeal arose was erroneous in point of law; and
 - (b) after the date of the relevant determination a decision falls to be made by the Secretary of State in accordance with that determination (or would, apart from this paragraph, fall to be so made)—
 - (i) in relation to an application for a departure direction (made after the commencement date);
 - (ii) as to whether to revise, under section 16 as extended by paragraph 1, a decision (made after the commencement date) in relation to a departure direction, a reduced benefit direction or a person’s liability under section 43; or
 - (iii) on an application made under section 17 as extended by paragraph 2 before the date of the relevant

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determination (but after the commencement date) for a decision in relation to a departure direction, a reduced benefit direction or a person's liability under section 43 to be superseded.

- (2) Section 28ZC shall not apply where the decision of the Secretary of State mentioned in sub-paragraph (1)(b) above—
- (a) is one which, but for section 28ZA(2)(a) as it applies by virtue of paragraph 4(1), would have been made before the date of the relevant determination; or
 - (b) is one made in pursuance of section 28ZB(3) or (5) as it applies by virtue of paragraph 5(1).
- (3) Section 28ZC as it applies by virtue of sub-paragraph (1) shall have effect as if in subsection (4), in the definition of “adjudicating authority”, at the end there were inserted the words “or, in the case of a decision made on a referral under section 28D(1)(b), an appeal tribunal”.
- (4) In this paragraph “adjudicating authority”, “the commencement date” and “the court” have the same meanings as in section 28ZC.”