

Status: Point in time view as at 02/07/2001. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: Child Support, Pensions and Social Security Act 2000, SCHEDULE 7 is up to date with all changes known to be in force on or before 25 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. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 68.

HOUSING BENEFIT AND COUNCIL TAX BENEFIT: REVISIONS AND APPEALS

Introductory

- 1 (1) In this Schedule “relevant authority” means an authority administering housing benefit or council tax benefit.
- (2) In this Schedule “relevant decision” means any of the following—
- (a) a decision of a relevant authority on a claim for housing benefit or council tax benefit;
 - (b) any decision under paragraph 4 of this Schedule which supersedes a decision falling within paragraph (a), within this paragraph or within paragraph (b) of sub-paragraph (1) of that paragraph;
- but references in this Schedule to a relevant decision do not include references to a decision under paragraph 3 to revise a relevant decision.

Commencement Information

- II** Sch. 7 para. 1 wholly in force at 2.7.2001; Sch. 7 para. 1 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 7 para. 1 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 1 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Decisions on claims for benefit

- 2 Where at any time a claim for housing benefit or council tax benefit is decided by a relevant authority—
- (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.

Revision of decisions

- 3 (1) Any relevant decision may be revised or further revised by the relevant authority which made the decision—
- (a) either within the prescribed period or in prescribed cases or circumstances; and
 - (b) either on an application made for the purpose by a person affected by the decision or on their own initiative;
- and regulations may prescribe the procedure by which a decision of a relevant authority may be so revised.

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- (2) In making a decision under sub-paragraph (1), the relevant authority need not consider any issue that is not raised by the application or, as the case may be, did not cause them to act on their own initiative.
- (3) Subject to sub-paragraphs (4) and (5) and paragraph 18, a revision under this paragraph 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 paragraph shall take effect as from such other date as may be prescribed.
- (5) Where a decision is revised under this paragraph, for the purposes 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 relevant authority shall lapse if the decision is revised under this paragraph before the appeal is determined.

Commencement Information

- I2** [Sch. 7 para. 3](#) wholly in force at 2.7.2001; [Sch. 7 para. 3](#) not in force at Royal Assent see [s. 86\(2\)\(3\)\(a\)](#); [Sch. 7 para. 3](#) in force for certain purposes at 1.11.2000 by [S.I. 2000/2950](#), [art. 3\(c\)](#); [Sch. 7 para. 3](#) in force at 2.7.2001 by [S.I. 2001/1252](#), [art. 2\(2\)\(a\)\(i\)](#)

Decisions superseding earlier decisions

- 4 (1) Subject to sub-paragraph (4), the following, namely—
 - (a) any relevant decision (whether as originally made or as revised under paragraph 3), and
 - (b) any decision under this Schedule of an appeal tribunal or a Commissioner, may be superseded by a decision made by the appropriate relevant authority, either on an application made for the purpose by a person affected by the decision or on their own initiative.
- (2) In this paragraph “the appropriate relevant authority” means the authority which made the decision being superseded, the decision appealed against to the tribunal or, as the case may be, the decision to which the decision being appealed against to the Commissioner relates.
- (3) In making a decision under sub-paragraph (1), the relevant authority need not consider any issue that is not raised by the application or, as the case may be, did not cause them to act on their own initiative.
- (4) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this paragraph.
- (5) Subject to sub-paragraph (6) and paragraph 18, a decision under this paragraph shall take effect as from the date on which it is made or, where applicable, the date on which the application was made.

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- (6) Regulations may provide that, in prescribed cases or circumstances, a decision under this paragraph shall take effect as from such other date as may be prescribed.

Commencement Information

- I3** Sch. 7 para. 4 wholly in force at 2.7.2001; Sch. 7 para. 4 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 7 para. 4 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 4 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Use of experts by relevant authorities

- 5 Where it appears to a relevant authority that a matter in relation to which a relevant decision falls to be made by them involves a question of fact requiring special expertise, they may direct that, in dealing with that matter, they shall have the assistance of one or more persons appearing to them to have knowledge or experience which would be relevant in determining that question.

Appeal to appeal tribunal

- 6 (1) Subject to sub-paragraph (2), this paragraph applies to any relevant decision (whether as originally made or as revised under paragraph 3) of a relevant authority which—
- (a) is made on a claim for, or on an award of, housing benefit or council tax benefit; or
 - (b) does not fall within paragraph (a) but is of a prescribed description.
- (2) This paragraph does not apply to—
- (a) any decision terminating or reducing the amount of a person's housing benefit or council tax benefit that is made in consequence of any decision made under regulations under section 2A of the Administration Act (work-focused interviews);
 - (b) any decision of a relevant authority as to the application or operation of any modification of a housing benefit scheme or council tax benefit scheme under section 134(8)(a) or section 139(6)(a) of the Administration Act (disregard of war disablement and war widows' pensions);
 - (c) so much of any decision of a relevant authority as adopts a decision of a rent officer under any order made by virtue of section 122 of the^{M1}Housing Act 1996 (decisions of rent officers for the purposes of housing benefit);
 - (d) any decision of a relevant authority as to the amount of benefit to which a person is entitled in a case in which the amount is determined by the rate of benefit provided for by law; or
 - (e) any such other decision as may be prescribed.
- (3) In the case of a decision to which this paragraph applies, any person affected by the decision shall have a right to appeal to an appeal tribunal.
- (4) Nothing in sub-paragraph (3) shall confer a right of appeal in relation to—
- (a) a prescribed decision; or
 - (b) a prescribed determination embodied in or necessary to a decision.

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- (5) Regulations under sub-paragraph (4) shall not prescribe any decision or determination that relates to the conditions of entitlement to housing benefit or council tax benefit for which a claim has been validly made.
- (6) Where any amount of housing benefit or council tax benefit is determined to be recoverable under or by virtue of section 75 or 76 of the Administration Act (overpayments and excess benefits), any person from whom it has been determined that it is so recoverable shall have a right of appeal to an appeal tribunal.
- (7) A person with a right of appeal under this paragraph shall be given such notice of the decision in respect of which he has that right, and of that right, as may be prescribed.
- (8) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.
- (9) In deciding an appeal under this paragraph, 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 appealed against was made.

Commencement Information

I4 Sch. 7 para. 6 wholly in force at 2.7.2001; Sch. 7 para. 6 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 7 para. 6 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 6 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Marginal Citations

M1 1996 c. 52.

Redetermination etc. of appeals by tribunal

- 7 (1) This paragraph applies where an application is made to a person for leave under paragraph 8(7)(a) or (c) 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) 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.
- (4) In this paragraph and paragraph 8 “principal parties” means—
 - (a) where he is the applicant for leave to appeal or the circumstances are otherwise such as may be prescribed, the Secretary of State;
 - (b) the relevant authority against whose decision the appeal to the appeal tribunal was brought; and
 - (c) the person affected by the decision against which the appeal to the appeal tribunal was brought or by the tribunal’s decision on that appeal.

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Appeal from tribunal to Commissioner

- 8 (1) Subject to the provisions of this paragraph, an appeal lies to a Commissioner from any decision of an appeal tribunal under paragraph 6 or 7 on the ground that the decision of the tribunal was erroneous in point of law.
- (2) An appeal lies under this paragraph at the instance of any of the following—
- (a) the Secretary of State;
 - (b) the relevant authority against whose decision the appeal to the appeal tribunal was brought;
 - (c) any person affected by the decision against which the appeal to the appeal tribunal was brought or by the tribunal's decision on that appeal.
- (3) 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.
- (4) Where the Commissioner holds that the decision appealed against was erroneous in point of law, he shall set it aside.
- (5) Where under sub-paragraph (4) the Commissioner sets aside a decision—
- (a) he shall have power, if he can do so without making fresh or further findings of fact, to give the decision which he considers the tribunal should have given;
 - (b) he shall also have power, if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and
 - (c) if he does not exercise the power in paragraph (a) or (b), he shall refer the case to a tribunal with directions for its determination.
- (6) Subject to any direction of the Commissioner, a reference under sub-paragraph (3) or (5)(c) shall be to a differently constituted tribunal.
- (7) No appeal lies under this paragraph without leave; and leave for the purposes of this sub-paragraph may be given—
- (a) by the person who constituted, or was the chairman of, the tribunal when the decision to be appealed against was given;
 - (b) subject to and in accordance with regulations, by a Commissioner; or
 - (c) in a prescribed case, by such person not falling within paragraph (a) or (b) as may be prescribed.
- (8) 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.

Commencement Information

I5 Sch. 7 para. 8 wholly in force at 2.7.2001; Sch. 7 para. 8 not in force at Royal Assent see s. 86(2); Sch. 7 para. 8 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 8 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

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Appeal from Commissioner on point of law

- 9 (1) Subject to sub-paragraphs (2) and (3), an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this paragraph shall lie from a decision except—
- (a) with the leave of the Commissioner who gave the decision or, in a prescribed case, with the leave of a Commissioner selected in accordance with regulations; or
 - (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this paragraph in respect of a Commissioner’s decision may only be made by—
- (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner’s decision relates;
 - (b) any other person who was a party to the proceedings in which the decision to which the Commissioner’s decision relates was given;
 - (c) any other person who is authorised by regulations to apply for leave;
- and regulations may make provision with respect to the manner in which, and the time within which, applications must be made to a Commissioner for leave under this paragraph, and with respect to the procedure for dealing with such applications.
- (4) On an application to a Commissioner for leave under this paragraph, it shall be the duty of the Commissioner to specify as the appropriate court—
- (a) the Court of Appeal if it appears to him that the relevant dwelling is in England or Wales; and
 - (b) the Court of Session if it appears to him that the relevant dwelling is in Scotland;
- except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraph (a) or (b) as the appropriate court, it shall be his duty to specify that court as the appropriate court.
- (5) In this paragraph—
- “the appropriate court”, except in sub-paragraph (4), means the court specified in pursuance of that sub-paragraph;
- “the relevant dwelling”, in relation to any decision, means the dwelling by reference to which any claim or award of housing benefit or council tax benefit to which the decision relates was made.

Commencement Information

I6 Sch. 7 para. 9 wholly in force at 2.7.2001; Sch. 7 para. 9 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 7 para. 9 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(e); Sch. 7 para. 9 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

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Procedure

- 10 (1) Regulations may make for the purposes of this Schedule any such provision as is specified in Schedule 5 to the ^{M2}Social Security Act 1998, or as would be so specified if the references to the Secretary of State in paragraph 1 of that Schedule were references to a relevant authority.
- (2) 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 that the power by regulations to prescribe procedure includes power—
- (a) 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) to confer on the Secretary of State a right to be represented and heard in any proceedings before a Commissioner to which he is not already a party.
- (4) 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 persons appearing to him to have knowledge or experience which would be relevant in determining that question.
- (5) 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 paragraph 8(7)(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 three or more of the Commissioners.
- (6) 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 (including his first vote) are equally divided.
- (7) Where a direction is given under sub-paragraph (5)(a), paragraph 8(7)(b) shall have effect as if the reference to a Commissioner were a reference to such a tribunal as is mentioned in sub-paragraph (5).
- (8) Except so far as it may be applied in relation to England and Wales by regulations, Part I of the ^{M3}Arbitration Act 1996 shall not apply to any proceedings under this Schedule.

Commencement Information

I7 Sch. 7 para. 10 wholly in force at 2.7.2001; Sch. 7 para. 10 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 7 para. 10 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 10 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Marginal Citations

M2 1998 c. 14.

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M3 1996 c. 23.

Finality of decisions

- 11 Subject to the provisions of this Schedule, any decision made in accordance with the preceding provisions of this Schedule shall be final.

Matters arising as respects decisions

- 12 Regulations may make provision as respects matters arising—
- (a) pending any decision under this Schedule of a relevant authority, an appeal tribunal or a Commissioner which relates to—
 - (i) any claim for housing benefit or council tax benefit;
 - (ii) any person’s entitlement to such a benefit or its receipt;
 - or
 - (b) out of the revision under paragraph 3, or on appeal, of any such decision.

Commencement Information

- I8** [Sch. 7 para. 12](#) wholly in force at 2.7.2001; [Sch. 7 para. 12](#) not in force at Royal Assent see [s. 86\(2\)\(3\)\(a\)](#); [Sch. 7 para. 12](#) in force for certain purposes at 1.11.2000 by [S.I. 2000/2950](#), [art. 3\(c\)](#); [Sch. 7 para. 12](#) in force at 2.7.2001 by [S.I. 2001/1252](#), [art. 2\(2\)\(a\)\(i\)](#)

Suspension in prescribed circumstances

- 13 (1) Regulations may provide for—
- (a) suspending, in whole or in part, any payments of housing benefit or council tax benefit;
 - (b) suspending, in whole or in part, any reduction (by way of council tax benefit) in the amount that a person is or will become liable to pay in respect of council tax;
 - (c) the subsequent making, or restoring, in prescribed circumstances of any or all of the payments, or reductions, so suspended.
- (2) Regulations made under sub-paragraph (1) may, in particular, make provision for any case where, in relation to a claim for housing benefit or council tax benefit—
- (a) it appears to the relevant authority that an issue arises whether the conditions for entitlement to such a benefit are or were fulfilled;
 - (b) it appears to the relevant authority that an issue arises whether a decision as to an award of such a benefit should be revised (under paragraph 3) or superseded (under paragraph 4);
 - (c) an appeal is pending against a decision of an appeal tribunal, a Commissioner or a court; or
 - (d) it appears to the relevant authority, where an appeal is pending against the decision given by a Commissioner or a court in a different case, that if

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the appeal were to be determined in a particular way an issue would arise whether the award of housing benefit or council tax benefit in the case itself ought to be revised or superseded.

- (3) For the purposes of sub-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) the time within which—
 - (i) an application for leave to appeal may be made, or
 - (ii) an appeal against the decision may be brought,has not expired and the circumstances are such as may be prescribed.
- (4) In sub-paragraph (2)(d) the reference to a different case—
- (a) includes a reference to a case involving a different relevant authority; but
 - (b) does not include a reference to a case relating to a different benefit unless the different benefit is housing benefit or council tax benefit.

Commencement Information

- 19** Sch. 7 para. 13 wholly in force at 2.7.2001; Sch. 7 para. 13 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 7 para. 13 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 13 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Suspension for failure to furnish information etc.

- 14 (1) The powers conferred by this paragraph are exercisable in relation to persons who fail to comply with information requirements.
- (2) Regulations may provide for—
- (a) suspending, in whole or in part, any payments of housing benefit or council tax benefit;
 - (b) suspending, in whole or in part, any reduction (by way of council tax benefit) in the amount that a person is or will become liable to pay in respect of council tax;
 - (c) the subsequent making, or restoring, in prescribed circumstances of any or all of the payments, or any right, so suspended.
- (3) In this paragraph and paragraph 15 “information requirement” means—
- (a) in the case of housing benefit, a requirement in pursuance of regulations made by virtue of section 5(1)(hh) of the Administration Act to furnish information or evidence needed for a determination whether a decision on an award of that benefit should be revised under paragraph 3 or superseded under paragraph 4 of this Schedule; and
 - (b) in the case of council tax benefit, a requirement made in pursuance of regulations under section 6(1)(hh) of the Administration Act to furnish information or evidence needed for a determination whether a decision on an award of that benefit should be so revised or superseded.

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Commencement Information

- I10** Sch. 7 para. 14 wholly in force at 2.7.2001; Sch. 7 para. 14 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 14 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 14 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Termination in cases of a failure to furnish information

- 15 Regulations may provide that, except in prescribed cases or circumstances—
- (a) a person whose benefit has been suspended in accordance with regulations under paragraph 13 and who subsequently fails to comply with an information requirement, or
 - (b) a person whose benefit has been suspended in accordance with regulations under paragraph 14 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.

Commencement Information

- I11** Sch. 7 para. 15 wholly in force at 2.7.2001; Sch. 7 para. 15 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 15 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 15 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Decisions involving issues that arise on appeal in other cases

- 16 (1) This paragraph applies where—
- (a) a relevant decision, or a decision under paragraph 3 about the revision of an earlier decision, falls to be made in any particular case; and
 - (b) an appeal is pending against the decision given in another case by a Commissioner or a court.
- (2) A relevant authority need not make the decision while the appeal is pending if they consider 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 a relevant authority consider 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) they need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;
 - (b) they may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.
- (4) Where—
- (a) a relevant authority act in accordance with sub-paragraph (3)(b), and
 - (b) following the making of the determination it is appropriate for their decision to be revised,
- they shall then revise their decision (under paragraph 3) in accordance with that determination.

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- (5) For the purposes of this paragraph, 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) the time within which—
 - (i) an application for leave to appeal may be made, or
 - (ii) an appeal against the decision may be brought,has not expired and the circumstances are such as may be prescribed.
- (6) In paragraphs (a), (b) and (c) of sub-paragraph (5), any reference to an appeal against a decision, or to an application for leave to appeal against a decision, includes a reference to—
- (a) an application for judicial review of the decision under section 31 of the ^{M4}Supreme Court Act 1981 or for leave to apply for judicial review; or
 - (b) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.
- (7) In sub-paragraph (1)(b) the reference to another case—
- (a) includes a reference to a case involving a decision made, or falling to be made, by a different relevant authority; but
 - (b) does not include a reference to a case relating to another benefit unless the other benefit is housing benefit or council tax benefit.

Commencement Information

I12 Sch. 7 para. 16 wholly in force at 2.7.2001; Sch. 7 para. 16 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 16 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 16 in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(i)

Marginal Citations

M4 1981 c. 54.

PROSPECTIVE

[Appeals involving issues that arise on appeal in other cases

- 17 (1) This paragraph applies where—
- (a) an appeal (“appeal A”) in relation to a relevant decision (whether as originally made or as revised under paragraph 3) is made to [the First-tier Tribunal, or from the First-tier Tribunal to the Upper Tribunal]; and
 - (b) an appeal (“appeal B”) is pending against a decision given in a different case by [the Upper Tribunal] or a court.
- (2) If the relevant authority whose decision gave rise to appeal A consider 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, they may serve notice requiring the [First-tier Tribunal or Upper Tribunal]—
- (a) not to determine appeal A but to refer it to them; or
 - (b) to deal with the appeal in accordance with sub-paragraph (4).

Status: Point in time view as at 02/07/2001. This version of this schedule contains provisions that are not valid for this point in time.

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- (3) Where appeal A is referred to the authority under sub-paragraph (2)(a), following the determination of appeal B and in accordance with that determination, they shall if appropriate—
- (a) in a case where appeal A has not been determined by the [First-tier Tribunal], revise (under paragraph 3) their decision which gave rise to that appeal; or
 - (b) in a case where appeal A has been determined by the [First-tier Tribunal], make a decision (under paragraph 4) superseding the tribunal's decision.
- (4) Where appeal A is to be dealt with in accordance with this sub-paragraph, the [First-tier Tribunal or Upper Tribunal] shall either—
- (a) stay appeal A until appeal B is determined; or
 - (b) if the [First-tier Tribunal or Upper Tribunal] 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.
- (5) Where the [First-tier Tribunal or Upper Tribunal] acts in accordance with sub-paragraph (4)(b), following the determination of appeal B the relevant authority whose decision gave rise to appeal A shall, if appropriate, make a decision (under paragraph 4) superseding the decision of the [First-tier Tribunal or Upper Tribunal] in accordance with that determination.
- (6) For the purposes of this paragraph, 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) the time within which—
 - (i) an application for leave to appeal may be made, or
 - (ii) an appeal against the decision may be brought,
 has not expired and the circumstances are such as may be prescribed.
- (7) In this paragraph—
- (a) the reference in sub-paragraph (1)(a) to an appeal to [the Upper Tribunal] includes a reference to an application for leave to appeal to a Commissioner;
 - (b) the reference in sub-paragraph (1)(b) to a different case—
 - (i) includes a reference to a case involving a different relevant authority; but
 - (ii) does not include a reference to a case relating to a different benefit unless the different benefit is housing benefit or council tax benefit; and
 - (c) any reference in paragraph (a), (b) or (c) of sub-paragraph (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to—
 - (i) an application for judicial review of the decision under section 31 of the ^{M5}Supreme Court Act 1981 or for leave to apply for judicial review; or
 - (ii) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.

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- (8) In sub-paragraph (4) “the appellant” means the person who appealed or, as the case may be, first appealed against the decision mentioned in sub-paragraph (1)(a).
- (9) Regulations may make provision supplementing the provision made by this paragraph.]

Marginal Citations

M5 1981 c. 54.

Restrictions on entitlement to benefit in certain cases of error

- 18 (1) Subject to sub-paragraph (2), this paragraph applies where—
- (a) the effect of the determination, whenever made, of an appeal by virtue of this Schedule to a Commissioner or the court (“the relevant determination”) is that the relevant 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 that relevant authority or another relevant authority in accordance with that determination (or would, apart from this paragraph, fall to be so made)—
 - (i) in relation to a claim for housing benefit or council tax benefit;
 - (ii) as to whether to revise, under paragraph 3, a decision as to a person’s entitlement to such a benefit; or
 - (iii) on an application made under paragraph 4 for a decision as to a person’s entitlement to such a benefit to be superseded.
- (2) This paragraph does not apply where the decision mentioned in sub-paragraph (1) (b)—
- (a) is one which, but for paragraph 16(2) or (3)(a), would have been made before the date of the relevant determination; or
 - (b) is one made in pursuance of paragraph 17(3) or (5).
- (3) In so far as the decision relates to a person’s entitlement to benefit in respect of a period before the date of the relevant determination, it shall be made as if the relevant authority’s decision had been found by the Commissioner or court not to have been erroneous in point of law.
- (4) Sub-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 relevant 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 sub-paragraph (1)—
- (a) where such a decision as is mentioned in paragraph (b)(i) falls to be made, whether the claim was made before or after the date of the relevant determination;

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- (b) where such a decision as is mentioned in paragraph (b)(ii) or (iii) falls to be made on an application under paragraph 3 or (as the case may be) 4, whether the application was made before or after that date.
- (6) In this paragraph “the court” means—
- (a) the High Court;
 - (b) the Court of Appeal;
 - (c) the Court of Session;
 - (d) the House of Lords; or
 - (e) the Court of Justice of the European Community.
- (7) For the purposes of this paragraph, 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.
- (8) The date of the relevant determination shall, in prescribed cases, be determined for the purposes of this paragraph in accordance with any regulations made for that purpose.
- (9) Regulations made under sub-paragraph (8) 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 by a lower court or by a Commissioner; or
 - (b) for a determination of a lower court or of a Commissioner to be treated as if it had been made on the date of a determination by a higher court.

Commencement Information

I13 Sch. 7 para. 18 partly in force; Sch. 7 para. 18 not in force at Royal Assent see s. 86(2); Sch. 7 para. 18(1)(2)(a)(3)-(9) in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(ii)

Correction of errors and setting aside of decisions

- 19 (1) Regulations may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision made under or by virtue of any relevant 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 body or 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 sub-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 sub-paragraph.

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- (3) In this paragraph “relevant provision” means—
- (a) any of the provisions of this Schedule;
 - (b) any of the provisions of Part VII of the ^{M6}Social Security Contributions and Benefits Act 1992 so far as they relate to housing benefit or council tax benefit; or
 - (c) any of the provisions of Part VIII of the ^{M7}Administration Act or of any regulations under section 2A of that Act, so far as the provisions or regulations relate to, or to arrangements for, housing benefit or council tax benefit.

Commencement Information

I14 Sch. 7 para. 19 wholly in force at 2.7.2001; Sch. 7 para. 19 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 19 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 19 in force in so far as not already in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(iii)

Marginal Citations

M6 1992 c. 4.

M7 1992 c. 4.

Regulations

- 20 (1) The power to make regulations under this Schedule shall be exercisable—
- (a) in the case of regulations with respect to proceedings before the Commissioners, by the Lord Chancellor; and
 - (b) in any other case, by the Secretary of State;
- and the Lord Chancellor shall consult with the Scottish Ministers before making any regulations under this Schedule that apply to Scotland.
- (2) Any power conferred by this Schedule to make regulations shall include power to make different provision for different areas or different relevant authorities.
- (3) Subsections (3) to (7) of section 79 of the ^{M8}Social Security Act 1998 (supplemental provision in connection with powers to make subordinate legislation under that Act) shall apply to any power to make regulations under this Schedule as they apply to any power to make regulations under that Act.
- (4) A statutory instrument containing (whether alone or with other provisions) regulations under paragraph 6(2)(e) or (4) shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.
- (5) A statutory instrument—
- (a) which contains (whether alone or with other provisions) regulations made under this Schedule, and
 - (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (6) In this paragraph the reference to regulations with respect to proceedings before the Commissioners includes a reference to regulations with respect to any such proceedings for the determination of any matter, or for leave to appeal to or from the Commissioners.

Commencement Information

I15 Sch. 7 para. 20 wholly in force at 2.7.2001; Sch. 7 para. 20 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 20 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 20 in force at 2.7.2001 in so far as not already in force by S.I. 2001/1252, art. 2(2)(a)(iii)

Marginal Citations

M8 1998 c. 14.

Consequential amendments of the Administration Act

- 21 (1) In section 5(1)(hh) of the Administration Act (regulations about claims for and payments of benefit)—
- (a) in sub-paragraph (i), after “1998” there shall be inserted “or, as the case may be, under paragraph 3 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000”; and
 - (b) in sub-paragraph (ii), after “Act” there shall be inserted “or, as the case may be, paragraph 4 of that Schedule”.
- (2) In section 6(1) of the Administration Act (regulations about claims for and payments of council tax benefit), after paragraph (h) there shall be inserted—
- “(hh) for requiring such person as may be prescribed in accordance with the regulations to furnish any information or evidence needed for a determination whether a decision on an award of a benefit—
- (i) should be revised under paragraph 3 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000; or
 - (ii) should be superseded under paragraph 4 of that Schedule;”.

Commencement Information

I16 Sch. 7 para. 21 wholly in force at 2.7.2001; Sch. 7 para. 21 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 21 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 21 in force in so far as not already in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(iii)

Consequential amendments of the Social Security Act 1998

- 22 (1) Section 34(4) and (5) and section 35 of the ^{M9}Social Security Act 1998 (regulations for the determination of claims and reviews of housing benefit and council tax benefit and for the suspension of those benefits) shall cease to have effect.
- (2) In paragraph 4(1)(a) of Schedule 1 to that Act (supplementary provisions relating to the appeal tribunals), for “or section 20 of the Child Support Act” there shall be substituted “, section 20 of the Child Support Act or paragraph 6 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000”.

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- (3) In paragraph 3(1) of Schedule 4 to that Act (provisions relating to the Social Security Commissioners), after “section 14 of this Act” there shall be inserted “or under paragraph 8 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000”.

Commencement Information

I17 Sch. 7 para. 22 partly in force; Sch. 7 para. 22 not in force at Royal Assent see s. 86(2); Sch. 7 para. 22(1) in force for certain purposes and Sch. 7 para. 22(2)(3) in force at 2.7.2001 by S.I. 2001/1252, art. 2(2)(a)(iv)(v)

Marginal Citations

M9 1998 c. 14.

Interpretation

- 23 (1) In this Schedule—
- “the Administration Act” means the ^{M10}Social Security Administration Act 1992;
 - “affected” shall be construed subject to any regulations under subparagraph (2);
 - “appeal tribunal” means an appeal tribunal constituted under Chapter I of Part I of the ^{M11}Social Security Act 1998;
 - “the Chief Commissioner” means the Chief Social Security Commissioner;
 - “Commissioner” means the Chief Commissioner or any other Social Security Commissioner, and includes a tribunal of three or more Commissioners constituted under paragraph 10(5);
 - “prescribed” means prescribed by regulations under this Schedule;
 - “relevant authority” has the meaning given by paragraph 1(1);
 - “relevant decision” has the meaning given by paragraph 1(2).
- (2) Regulations may make provision specifying the circumstances in which a person is or is not to be treated for the purposes of this Schedule as a person who is affected by any decision of a relevant authority.
- (3) For the purposes of this Schedule any decision that is made or falls to be made—
- (a) by a person authorised to carry out any function of a relevant authority relating to housing benefit or council tax benefit, or
 - (b) by a person providing services relating to housing benefit or council tax benefit directly or indirectly to a relevant authority,
- shall be treated as a decision of the relevant authority on whose behalf the function is carried out or, as the case may be, to whom those services are provided.

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Commencement Information

I18 Sch. 7 para. 23 wholly in force at 2.7.2001; Sch. 7 para. 23 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 7 para. 23 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 3(c); Sch. 7 para. 23 in force at 2.7.2001 in so far as not already in force by S.I. 2001/1252, art. 2(2)(a)(v)

Marginal Citations

M10 1992 c. 5.
M11 1998 c. 14.

Status:

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Changes to legislation:

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