

*Status: Point in time view as at 03/11/2008.*

**Changes to legislation:** Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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 1

Section 1.

#### SUBSTITUTED PART I OF SCHEDULE 1 TO THE CHILD SUPPORT ACT 1991

##### Commencement Information

- II** Sch. 1 partly in force; Sch. 1 not in force at Royal Assent, see s. 86(2); Sch. 1 in force for certain purposes at 10.11.2000 by S.I. 2000/2994, art. 2; Sch. 1 in force for certain further purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

#### “PART I

##### CALCULATION OF WEEKLY AMOUNT OF CHILD SUPPORT MAINTENANCE

###### *General rule*

- 1 (1) The weekly rate of child support maintenance is the basic rate unless a reduced rate, a flat rate or the nil rate applies.
- (2) Unless the nil rate applies, the amount payable weekly to a person with care is—
- the applicable rate, if paragraph 6 does not apply; or
  - if paragraph 6 does apply, that rate as apportioned between the persons with care in accordance with paragraph 6,
- as adjusted, in either case, by applying the rules about shared care in paragraph 7 or 8.

###### *Basic rate*

- 2 (1) The basic rate is the following percentage of the non-resident parent’s net weekly income—
- 15% where he has one qualifying child;
  - 20% where he has two qualifying children;
  - 25% where he has three or more qualifying children.
- (2) If the non-resident parent also has one or more relevant other children, the appropriate percentage referred to in sub-paragraph (1) is to be applied instead to his net weekly income less—
- 15% where he has one relevant other child;
  - 20% where he has two relevant other children;
  - 25% where he has three or more relevant other children.

###### *Reduced rate*

- 3 (1) A reduced rate is payable if—

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- (a) neither a flat rate nor the nil rate applies; and
  - (b) the non-resident parent's net weekly income is less than £200 but more than £100.
- (2) The reduced rate payable shall be prescribed in, or determined in accordance with, regulations.
- (3) The regulations may not prescribe, or result in, a rate of less than £5.

*Flat rate*

- 4 (1) Except in a case falling within sub-paragraph (2), a flat rate of £5 is payable if the nil rate does not apply and—
- (a) the non-resident parent's net weekly income is £100 or less; or
  - (b) he receives any benefit, pension or allowance prescribed for the purposes of this paragraph of this sub-paragraph; or
  - (c) he or his partner (if any) receives any benefit prescribed for the purposes of this paragraph of this sub-paragraph.
- (2) A flat rate of a prescribed amount is payable if the nil rate does not apply and—
- (a) the non-resident parent has a partner who is also a non-resident parent;
  - (b) the partner is a person with respect to whom a maintenance calculation is in force; and
  - (c) the non-resident parent or his partner receives any benefit prescribed under sub-paragraph (1)(c).
- (3) The benefits, pensions and allowances which may be prescribed for the purposes of sub-paragraph (1)(b) include ones paid to the non-resident parent under the law of a place outside the United Kingdom.

*Nil rate*

- 5 The rate payable is nil if the non-resident parent—
- (a) is of a prescribed description; or
  - (b) has a net weekly income of below £5.

*Apportionment*

- 6 (1) If the non-resident parent has more than one qualifying child and in relation to them there is more than one person with care, the amount of child support maintenance payable is (subject to paragraph 7 or 8) to be determined by apportioning the rate between the persons with care.
- (2) The rate of maintenance liability is to be divided by the number of qualifying children, and shared among the persons with care according to the number of qualifying children in relation to whom each is a person with care.

*Shared care—basic and reduced rate*

- 7 (1) This paragraph applies only if the rate of child support maintenance payable is the basic rate or a reduced rate.

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- (2) If the care of a qualifying child is shared between the non-resident parent and the person with care, so that the non-resident parent from time to time has care of the child overnight, the amount of child support maintenance which he would otherwise have been liable to pay the person with care, as calculated in accordance with the preceding paragraphs of this Part of this Schedule, is to be decreased in accordance with this paragraph.
- (3) First, there is to be a decrease according to the number of such nights which the Secretary of State determines there to have been, or expects there to be, or both during a prescribed twelve-month period.
- (4) The amount of that decrease for one child is set out in the following Table—

<b>Number of nights</b>	<b>Fraction to subtract</b>
52 to 103	One-seventh
104 to 155	Two-sevenths
156 to 174	Three-sevenths
175 or more	One-half

- (5) If the person with care is caring for more than one qualifying child of the non-resident parent, the applicable decrease is the sum of the appropriate fractions in the Table divided by the number of such qualifying children.
- (6) If the applicable fraction is one-half in relation to any qualifying child in the care of the person with care, the total amount payable to the person with care is then to be further decreased by £7 for each such child.
- (7) If the application of the preceding provisions of this paragraph would decrease the weekly amount of child support maintenance (or the aggregate of all such amounts) payable by the non-resident parent to the person with care (or all of them) to less than £5, he is instead liable to pay child support maintenance at the rate of £5 a week, apportioned (if appropriate) in accordance with paragraph 6.

*Shared care—flat rate*

- 8 (1) This paragraph applies only if—
  - (a) the rate of child support maintenance payable is a flat rate; and
  - (b) that rate applies because the non-resident parent falls within paragraph 4(1)(b) or (c) or 4(2).
- (2) If the care of a qualifying child is shared as mentioned in paragraph 7(2) for at least 52 nights during a prescribed 12-month period, the amount of child support maintenance payable by the non-resident parent to the person with care of that child is nil.

*Regulations about shared care*

- 9 The Secretary of State may by regulations provide—
  - (a) for which nights are to count for the purposes of shared care under paragraphs 7 and 8, or for how it is to be determined whether a night counts;
  - (b) for what counts, or does not count, as “care” for those purposes; and

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- (c) for paragraph 7(3) or 8(2) to have effect, in prescribed circumstances, as if the period mentioned there were other than 12 months, and in such circumstances for the Table in paragraph 7(4) (or that Table as modified pursuant to regulations made under paragraph 10A(2)(a)), or the period mentioned in paragraph 8(2), to have effect with prescribed adjustments.

*Net weekly income*

- 10 (1) For the purposes of this Schedule, net weekly income is to be determined in such manner as is provided for in regulations.
- (2) The regulations may, in particular, provide for the Secretary of State to estimate any income or make an assumption as to any fact where, in his view, the information at his disposal is unreliable, insufficient, or relates to an atypical period in the life of the non-resident parent.
- (3) Any amount of net weekly income (calculated as above) over £2,000 is to be ignored for the purposes of this Schedule.

*Regulations about rates, figures, etc.*

- 10A(1) The Secretary of State may by regulations provide that—
- (a) paragraph 2 is to have effect as if different percentages were substituted for those set out there;
- (b) paragraph 3(1) or (3), 4(1), 5, 7(7) or 10(3) is to have effect as if different amounts were substituted for those set out there.
- (2) The Secretary of State may by regulations provide that—
- (a) the Table in paragraph 7(4) is to have effect as if different numbers of nights were set out in the first column and different fractions were substituted for those set out in the second column;
- (b) paragraph 7(6) is to have effect as if a different amount were substituted for that mentioned there, or as if the amount were an aggregate amount and not an amount for each qualifying child, or both.

*Regulations about income*

- 10B The Secretary of State may by regulations provide that, in such circumstances and to such extent as may be prescribed—
- (a) where the Secretary of State is satisfied that a person has intentionally deprived himself of a source of income with a view to reducing the amount of his net weekly income, his net weekly income shall be taken to include income from that source of an amount estimated by the Secretary of State;
- (b) a person is to be treated as possessing income which he does not possess;
- (c) income which a person does possess is to be disregarded.

*References to various terms*

- 10C (1) References in this Part of this Schedule to “qualifying children” are to those qualifying children with respect to whom the maintenance calculation falls to be made.
- (2) References in this Part of this Schedule to “relevant other children” are to—

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- (a) children other than qualifying children in respect of whom the non-resident parent or his partner receives child benefit under Part IX of the <sup>M1</sup>Social Security Contributions and Benefits Act 1992; and
  - (b) such other description of children as may be prescribed.
- (3) In this Part of this Schedule, a person “receives” a benefit, pension, or allowance for any week if it is paid or due to be paid to him in respect of that week.
- (4) In this Part of this Schedule, a person’s “partner” is—
- (a) if they are a couple, the other member of that couple;
  - (b) if the person is a husband or wife by virtue of a marriage entered into under a law which permits polygamy, another party to the marriage who is of the opposite sex and is a member of the same household.
- (5) In sub-paragraph (4)(a), “couple” means a man and a woman who are—
- (a) married to each other and are members of the same household; or
  - (b) not married to each other but are living together as husband and wife.”.

**Marginal Citations**

**M1** 1992 c. 4.

**Marginal Citations**

**M1** 1992 c. 4.

SCHEDULE 2

Section 6.

SUBSTITUTED SCHEDULES 4A AND 4B TO THE 1991 ACT

PROSPECTIVE

**PART I**

SUBSTITUTED SCHEDULE 4A

**Commencement Information**

**I2** Sch. 2 Pt. 1 partly in force; Sch. 2 Pt. 1 not in force at Royal Assent, see s. 86(2); Sch. 2 Pt. 1 in force for certain purposes at 10.11.2000 by S.I. 2000/2994 {art. 2}; Sch. 2 Pt. 1 in force for certain further purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

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## “SCHEDULE 4A

### APPLICATIONS FOR A VARIATION

#### *Interpretation*

- 1 In this Schedule, “regulations” means regulations made by the Secretary of State.

#### *Applications for a variation*

- 2 Regulations may make provision—
- (a) as to the procedure to be followed in considering an application for a variation;
  - (b) as to the procedure to be followed when an application for a variation is referred to an appeal tribunal under section 28D(1)(b).

#### *Completion of preliminary consideration*

- 3 Regulations may provide for determining when the preliminary consideration of an application for a variation is to be taken to have been completed.

#### *Information*

- 4 If any information which is required (by regulations under this Act) to be furnished to the Secretary of State in connection with an application for a variation has not been furnished within such period as may be prescribed, the Secretary of State may nevertheless proceed to consider the application.

#### *Joint consideration of applications for a variation and appeals*

- 5 (1) Regulations may provide for two or more applications for a variation with respect to the same application for a maintenance calculation to be considered together.
- (2) In sub-paragraph (1), the reference to an application for a maintenance calculation includes an application treated as having been made under section 6.
- (3) An appeal tribunal considering an application for a variation under section 28D(1)(b) may consider it at the same time as an appeal under section 20 in connection with an interim maintenance decision, if it considers that to be appropriate.”

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PROSPECTIVE

## PART II

### SUBSTITUTED SCHEDULE 4B

#### Commencement Information

- I3** Sch. 2 Pt. 2 partly in force; Sch. 2 pt. 2 not in force at Royal Assent, see s. 86(2); Sch. 2 Pt. 2 in force for certain purposes at 10.11.2000 by S.I. 2000/2994 {art. 2}; Sch. 2 in force for certain further purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

#### “SCHEDULE 4B

#### APPLICATIONS FOR A VARIATION: THE CASES AND CONTROLS

### PART I

#### THE CASES

##### *General*

- 1 (1) The cases in which a variation may be agreed are those set out in this Part of this Schedule or in regulations made under this Part.
- (2) In this Schedule “applicant” means the person whose application for a variation is being considered.

##### *Special expenses*

- 2 (1) A variation applied for by a non-resident parent may be agreed with respect to his special expenses.
- (2) In this paragraph “special expenses” means the whole, or any amount above a prescribed amount, or any prescribed part, of expenses which fall within a prescribed description of expenses.
- (3) In prescribing descriptions of expenses for the purposes of this paragraph, the Secretary of State may, in particular, make provision with respect to—
  - (a) costs incurred by a non-resident parent in maintaining contact with the child, or with any of the children, with respect to whom the application for a maintenance calculation has been made (or treated as made);
  - (b) costs attributable to a long-term illness or disability of a relevant other child (within the meaning of paragraph 10C(2) of Schedule 1);
  - (c) debts of a prescribed description incurred, before the non-resident parent became a non-resident parent in relation to a child with respect to whom the maintenance calculation has been applied for (or treated as having been applied for)—
    - (i) for the joint benefit of both parents;

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- (ii) for the benefit of any such child; or
  - (iii) for the benefit of any other child falling within a prescribed category;
  - (d) boarding school fees for a child in relation to whom the application for a maintenance calculation has been made (or treated as made);
  - (e) the cost to the non-resident parent of making payments in relation to a mortgage on the home he and the person with care shared, if he no longer has an interest in it, and she and a child in relation to whom the application for a maintenance calculation has been made (or treated as made) still live there.
- (4) For the purposes of sub-paragraph (3)(b)—
- (a) “disability” and “illness” have such meaning as may be prescribed; and
  - (b) the question whether an illness or disability is long-term shall be determined in accordance with regulations made by the Secretary of State.
- (5) For the purposes of sub-paragraph (3)(d), the Secretary of State may prescribe—
- (a) the meaning of “boarding school fees”; and
  - (b) components of such fees (whether or not itemised as such) which are, or are not, to be taken into account,
- and may provide for estimating any such component.

#### *Property or capital transfers*

- 3 (1) A variation may be agreed in the circumstances set out in sub-paragraph (2) if before 5th April 1993—
- (a) a court order of a prescribed kind was in force with respect to the non-resident parent and either the person with care with respect to the application for the maintenance calculation or the child, or any of the children, with respect to whom that application was made; or
  - (b) an agreement of a prescribed kind between the non-resident parent and any of those persons was in force.
- (2) The circumstances are that in consequence of one or more transfers of property of a prescribed kind and exceeding (singly or in aggregate) a prescribed minimum value—
- (a) the amount payable by the non-resident parent by way of maintenance was less than would have been the case had that transfer or those transfers not been made; or
  - (b) no amount was payable by the non-resident parent by way of maintenance.
- (3) For the purposes of sub-paragraph (2), “maintenance” means periodical payments of maintenance made (otherwise than under this Act) with respect to the child, or any of the children, with respect to whom the application for a maintenance calculation has been made.

#### *Additional cases*

- 4 (1) The Secretary of State may by regulations prescribe other cases in which a variation may be agreed.
- (2) Regulations under this paragraph may, for example, make provision with respect to cases where—
- (a) the non-resident parent has assets which exceed a prescribed value;



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- (b) a person's lifestyle is inconsistent with his income for the purposes of a calculation made under Part I of Schedule 1;
- (c) a person has income which is not taken into account in such a calculation;
- (d) a person has unreasonably reduced the income which is taken into account in such a calculation.

## PART II

### REGULATORY CONTROLS

- 5 (1) The Secretary of State may by regulations make provision with respect to the variations from the usual rules for calculating maintenance which may be allowed when a variation is agreed.
- (2) No variations may be made other than those which are permitted by the regulations.
- (3) Regulations under this paragraph may, in particular, make provision for a variation to result in—
- (a) a person's being treated as having more, or less, income than would be taken into account without the variation in a calculation under Part I of Schedule 1;
  - (b) a person's being treated as liable to pay a higher, or a lower, amount of child support maintenance than would result without the variation from a calculation under that Part.
- (4) Regulations may provide for the amount of any special expenses to be taken into account in a case falling within paragraph 2, for the purposes of a variation, not to exceed such amount as may be prescribed or as may be determined in accordance with the regulations.
- (5) Any regulations under this paragraph may in particular make different provision with respect to different levels of income.
- 6 The Secretary of State may by regulations provide for the application, in connection with child support maintenance payable following a variation, of paragraph 7(2) to (7) of Schedule 1 (subject to any prescribed modifications)."

## SCHEDULE 3

Section 26.

### AMENDMENT OF ENACTMENTS RELATING TO CHILD SUPPORT

*The Army Act 1955 (3 & 4 Eliz. 2 c.18)*

- 1 (1) Section 150A of the Army Act 1955 (enforcement of maintenance assessment by deductions from pay) shall be amended as follows.
- (2) In subsections (1), (2)(a), (3)(a) (twice) and (4), for "maintenance assessment" there shall be substituted " maintenance calculation ".
- (3) In subsection (3) (twice), for "the assessment" there shall be substituted " the calculation ".

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**Commencement Information**

- I4** Sch. 3 para. 1 partly in force; Sch. 3 para. 1 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 1 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Air Force Act 1955 (3 & 4 Eliz. 2 c.19)*

- 2 (1) Section 150A of the Air Force Act 1955 (enforcement of maintenance assessment by deductions from pay) shall be amended as follows.
- (2) In subsections (1), (2)(a), (3)(a) (twice) and (4), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.
- (3) In subsection (3) (twice), for “the assessment” there shall be substituted “ the calculation ”.

**Commencement Information**

- I5** Sch. 3 para. 2 partly in force; Sch. 3 para. 2 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 2 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Matrimonial Causes Act 1973 (c.18)*

- 3 (1) The Matrimonial Causes Act 1973 shall be amended as follows.
- (2) In section 29 (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour)—
- (a) in subsections (5)(a), (7) (three times) and (8)(a), for “maintenance assessment” there shall be substituted “ maintenance calculation ”;
- (b) in subsections (5)(a) and (b)(ii) and (6)(b), for “current assessment” there shall be substituted “ current calculation ”;
- (c) in subsection (6)(b), for “maintenance assessments” there shall be substituted “ maintenance calculations ”; and
- (d) in subsection (6)(b), for “those assessments” there shall be substituted “ those calculations ”.
- (3) In section 31 (variation, discharge, etc, of certain orders for financial relief)—
- (a) in subsections (11)(c) and (12)(a) and (c), for “maintenance assessment” there shall be substituted “ maintenance calculation ”; and
- (b) in subsection (11) (twice), for “the assessment” there shall be substituted “ the calculation ”.
- (4) In section 52 (interpretation), in subsection (1), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

**Commencement Information**

- I6** Sch. 3 para. 3 partly in force; Sch. 3 para. 3 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 3 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

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*The Domestic Proceedings and Magistrates Courts Act 1978 (c.22)*

- 4 (1) The Domestic Proceedings and Magistrates Courts Act 1978 shall be amended as follows.
- (2) In section 5 (age limit on making orders for financial provision for children and duration of such orders)—
- (a) in subsections (5)(a), (7) (three times) and (8)(a), for “maintenance assessment” there shall be substituted “ maintenance calculation ”;
  - (b) in subsections (5)(a) and (b)(ii) and (6)(b), for “current assessment” there shall be substituted “ current calculation ”; and
  - (c) in subsection (6)(b), for “those assessments” there shall be substituted “ those calculations ”.
- (3) In section 20 (variation, revival and revocation of orders for periodical payments)—
- (a) in subsections (9A)(c) and (9B)(a) and (c), for “maintenance assessment” there shall be substituted “ maintenance calculation ”; and
  - (b) in subsection (9A) (three times), for “the assessment” there shall be substituted “ the calculation ”.
- (4) In section 88 (interpretation), in subsection (1), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

**Commencement Information**

- 17** [Sch. 3 para. 4](#) partly in force; [Sch. 3 para. 4](#) not in force at Royal Assent, see [s. 86\(2\)](#); [Sch. 3 para. 4](#) in force for certain purposes at 3.3.2003 by [S.I. 2003/192](#), [art. 3](#), [Sch.](#)

*The Family Law (Scotland) Act 1985 (c.37)*

- 5 (1) The Family Law (Scotland) Act 1985 shall be amended as follows.
- (2) In section 5 (variation and recall of decrees of aliment), in subsection (1A), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.
- (3) In section 7 (agreements about aliment), in subsection (2A), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.
- (4) In section 13 (orders for periodical allowance), in subsection (4A), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.
- (5) In section 16 (agreements about financial provision), in subsection (3)(d), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.
- (6) In section 27 (interpretation), in subsection (1), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

**Commencement Information**

- 18** [Sch. 3 para. 5](#) partly in force; [Sch. 3 para. 5](#) not in force at Royal Assent, see [s. 86\(2\)](#); [Sch. 3 para. 5](#) in force for certain purposes at 3.3.2003 by [S.I. 2003/192](#), [art. 3](#), [Sch.](#)

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*The Insolvency Act 1986 (c.45)*

- 6 In section 281 of the Insolvency Act 1986 (effect of discharge on a bankrupt), in subsection (5)(b), for “maintenance assessment” there shall be substituted “maintenance calculation”.

**Commencement Information**

- I9** Sch. 3 para. 6 partly in force; Sch. 3 para. 6 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 6 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Debtors (Scotland) Act 1987 (c.18)*

- 7 (1) The Debtors (Scotland) Act 1987 shall be amended as follows.
- (2) In section 72 (effect of sequestration on diligence against earnings), in subsection (4A), for “maintenance assessment” there shall be substituted “maintenance calculation”.
- (3) In section 106 (interpretation), in the definition of “maintenance order”, in paragraph (j), for “maintenance assessment” there shall be substituted “maintenance calculation”.

**Commencement Information**

- I10** Sch. 3 para. 7 partly in force; Sch. 3 para. 7 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 7 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Income and Corporation Taxes Act 1988 (c.1)*

- 8 (1) The Income and Corporation Taxes Act 1988 shall be amended as follows.
- (2) <sup>F1</sup> .....
- (3) In section 617 (social security benefits and contributions), in subsection (2)(ae), for “section 24 of the Child Support Act 1995 or under any corresponding enactment” there shall be substituted “any enactment corresponding to section 24 of the Child Support Act 1995”.

**Textual Amendments**

- F1** Sch. 3 para. 8(2) repealed (with effect as mentioned in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), s. 1031, Sch. 3 Pt. 1 (with Sch. 2)

**Commencement Information**

- I11** Sch. 3 para. 8 partly in force; Sch. 3 para. 8 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 8 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Finance Act 1988 (c.39)*

- 9 In the Finance Act 1988, in each of subsection (5A) of section 36 (annual payments) and subsection (8A) of section 38 (maintenance payments under existing

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obligations: 1989-90 onwards), for “maintenance assessment made” there shall be substituted “ maintenance calculation or maintenance assessment made respectively ”.

**Commencement Information**

**I12** Sch. 3 para. 9 partly in force; Sch. 3 para. 9 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 9 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Children Act 1989 (c.41)*

10 (1) Schedule 1 to the Children Act 1989 (financial provision for children) shall be amended as follows.

(2) In paragraph 3—

- (a) in sub-paragraph (5)(a), (7) (three times) and (8)(a), for “maintenance assessment” there shall be substituted “ maintenance calculation ”;
- (b) in sub-paragraph (5)(a) and (b)(ii) and (6)(b), for “current assessment” there shall be substituted “ current calculation ”;
- (c) in sub-paragraph (6)(b), for “maintenance assessments” there shall be substituted “ maintenance calculations ”; and
- (d) in sub-paragraph (6)(b), for “those assessments” there shall be substituted “ those calculations ”.

(3) In paragraph 6—

- (a) in sub-paragraph (9) (three times), for “the assessment” there shall be substituted “ the calculation ”; and
- (b) in sub-paragraph (9)(c), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

(4) In paragraph 16(3), for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

**Commencement Information**

**I13** Sch. 3 para. 10 partly in force; Sch. 3 para. 10 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 10 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Child Support Act 1991 (c.48)*

11 (1) The 1991 Act shall be amended as follows.

(2) For “absent parent” (or any variant of that expression), wherever it occurs, there shall be substituted “ non-resident parent ” (or the corresponding variant) preceded, where appropriate, by “a” instead of “an”.

(3) In section 4 (child support maintenance)—

- (a) in subsection (4)(a), after “be” there shall be inserted “ identified or ”; and
- (b) <sup>F2</sup> .....

(4) In section 7 (right of a child in Scotland to apply for assessment)—

*Status: Point in time view as at 03/11/2008.*

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- (a) <sup>F3</sup> .....
- (b) in subsection (10)—
  - (i) after “qualifying child if” there shall be inserted “ (a) ”;
  - (ii) after “maintenance order” there shall be inserted “ made before a prescribed date ”; and
  - (iii) at the end there shall be inserted “or
    - (b) a maintenance order made on or after the date prescribed for the purposes of paragraph (a) is in force in respect of them, but has been so for less than the period of one year beginning with the date on which it was made.”.

(5) In section 8 (role of the courts with respect to maintenance for children)—

- (a) <sup>F4</sup> .....
- (b) in subsection (3), at the beginning insert “ Except as provided in subsection (3A), ”;
- (c) for subsection (3A) there shall be substituted—

“(3A) Unless a maintenance calculation has been made with respect to the child concerned, subsection (3) does not prevent a court from varying a maintenance order in relation to that child and the non-resident parent concerned—

- (a) if the maintenance order was made on or after the date prescribed for the purposes of section 4(10)(a) or 7(10)(a); or
- (b) where the order was made before then, in any case in which section 4(10) or 7(10) prevents the making of an application for a maintenance calculation with respect to or by that child.”;

and

- (d) in subsection (6), for paragraph (b) there shall be substituted—
  - “(b) the non-resident parent’s net weekly income exceeds the figure referred to in paragraph 10(3) of Schedule 1 (as it has effect from time to time pursuant to regulations made under paragraph 10A(1)(b)); and”.

(6) <sup>F5</sup> .....

(7) In section 14 (information required by Secretary of State), in subsection (1), after “any application” there shall be inserted “ made or treated as made ”.

(8) <sup>F6</sup> .....

(9) <sup>F7</sup> .....

(10) In section 28 (power of the Secretary of State to bring or defend actions of declarator), in subsection (1)(a)—

- (a) <sup>F8</sup> .....
- (b) for “or assessment was made” there shall be substituted “ was made or treated as made or the calculation was made ”.

*Status: Point in time view as at 03/11/2008.*

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(11) In section 28ZA (decisions involving issues that arise on appeal in other cases), in subsection (1)—

(a) <sup>F9</sup> .....

(b) for paragraph (b) there shall be substituted—

“(b) an appeal is pending against a decision given in relation to a different matter by a Child Support Commissioner or a court.”

(12) In section 28ZB (appeals involving issues that arise on appeal in other cases)—

(a) in subsection (1), for paragraph (a) there shall be substituted—

“(a) an appeal (“appeal A”) in relation to a decision or the imposition of a requirement falling within section 20(1) is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner;”;

and

(b) in subsection (4), for the words “or assessment” there shall be substituted “or the imposition of the requirement”.

(13) In section 28ZC (restrictions on liability in certain cases of error)—

(a) <sup>F10</sup> .....

(b) in subsection (1)(b)(ii), for the words from “a decision” to the end there shall be substituted “any decision (made after the commencement date) referred to in section 16(1A)”;

(c) in subsection (1)(b)(iii), for the words from “a decision” to the end there shall be substituted “any decision (made after the commencement date) referred to in section 17(1)”;

(d) <sup>F9</sup> .....

(e) in subsection (6), in the definition of “adjudicating authority”, at the end there shall be inserted “or, in the case of a decision made on a referral under section 28D(1)(b), an appeal tribunal”.

(14) Sections 28H (departure directions: decisions and appeals) and 28I (transitional provisions relating to departure directions) shall cease to have effect.

(15) In section 30 (collection and enforcement of certain forms of maintenance), for subsection (2) there shall be substituted—

“(2) The Secretary of State may, except in prescribed cases, arrange for the collection of any periodical payments, or secured periodical payments, of a prescribed kind which are payable for the benefit of a child even though he is not arranging for the collection of child support maintenance with respect to that child.”.

(16) In section 32 (regulations about deduction from earnings orders), in subsection (2), after paragraph (b) there shall be inserted—

“(bb) for the amount or amounts which are to be deducted from the liable person’s earnings not to exceed a prescribed proportion of his earnings (as determined by the employer);”.

(17) In section 33 (liability orders), after subsection (5) there shall be inserted—

“(6) Where regulations have been made under section 29(3)(a)—

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- (a) the liable person fails to make a payment (for the purposes of subsection (1)(a) of this section); and
  - (b) a payment is not paid (for the purposes of subsection (3)), unless the payment is made to, or through, the person specified in or by virtue of those regulations for the case of the liable person in question.”
- (18) In section 47 (fees), after subsection (3) there shall be inserted—
- “(4) The provisions of this Act with respect to—
- (a) the collection of child support maintenance;
  - (b) the enforcement of any obligation to pay child support maintenance,
- shall apply equally (with any necessary modifications) to fees payable by virtue of regulations made under this section.”
- (19) In section 51 (supplementary power to make regulations), in subsection (2)—
- (a) for paragraph (a)(ii) and (iii) there shall be substituted—
    - “(ii) the making of decisions under section 11;
    - (iii) the making of decisions under section 16 or 17;”;
  - and
  - (b) for paragraph (b) there shall be substituted—
    - “(b) extending the categories of case to which section 16, 17 or 20 applies;”.
- (20) In section 54 (interpretation)—
- (a) in the definition of “application for a departure direction”, for “departure direction” there shall be substituted “variation”, and after “28A” there shall be inserted “ or 28G ”;
  - (b) after the definition of “deduction from earnings order” there shall be inserted—
    - ““default maintenance decision” has the meaning given in section 12;”;
  - (c) in the definition of “interim maintenance assessment”, for the word “assessment” there shall be substituted the word “decision”;
  - (d) for the definition of “maintenance assessment” there shall be substituted—
    - ““maintenance calculation” means a calculation of maintenance made under this Act and, except in prescribed circumstances, includes a default maintenance decision and an interim maintenance decision;”;
  - (e) the definitions of “assessable income”, “current assessment”, “departure direction” and “maintenance requirement” shall be omitted; and
  - (f) after the definition of “qualifying child” there shall be inserted—
    - ““voluntary payment” has the meaning given in section 28J.”.
- (21) In section 58 (short title, commencement and extent)—
- (a) in subsection (9), after “35” there shall be inserted “, 40 ”; and
  - (b) in subsection (10), after “28” there shall be inserted “, 40A ”.
- (22) In Schedule 1 (maintenance assessments)—



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- (a) paragraph 13 (which relates to assessments under which the amount payable is nil) shall cease to have effect;
- (b) <sup>F11</sup> .....
- (c) in paragraph 16 (which is about the termination of assessments)—
  - (i) in sub-paragraph (1), paragraphs (d) and (e) shall cease to have effect,
  - (ii) sub-paragraphs (2) to (9) shall cease to have effect; and
  - (iii) in sub-paragraph (10), the words “, or should be cancelled” shall cease to have effect.

#### Extent Information

- E1** Sch. 3 para. 11 partly extends to Northern Ireland see s. 87(2)(e)

#### Textual Amendments

- F2** Sch. 3 para. 11(3)(b) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F3** Sch. 3 para. 11(4)(a) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F4** Sch. 3 para. 11(5)(a) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F5** Sch. 3 para. 11(6) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F6** Sch. 3 para. 11(6) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F7** Sch. 3 para. 11(9) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F8** Sch. 3 para. 11(10)(a) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F9** Sch. 3 para. 11(11)(a)(13)(d) repealed (14.7.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/1476, art. 2(2)(c)(iii)
- F10** Sch. 3 para. 11(13)(a) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)
- F11** Sch. 3 para. 11(22)(b) repealed (27.10.2008) by Child Maintenance and Other Payments Act 2008 (c. 6), ss. 58, 62, Sch. 8; S.I. 2008/2548, art. 3(d)(iii)

#### Commencement Information

- I14** Sch. 3 para. 11 partly in force; Sch. 3 para. 11 not in force at Royal Assent see s. 86(2); Sch. 3 para. 11(18) in force for certain purposes at 10.11.2000 by S.I. 2000/2994 art. 2(1), Sch. Pt. I; Sch. 3 para. 11(17) in force at 1.1.2001 by S.I. 2000/2994, art. 2; Sch. 3 para. 11(2) in force for certain purposes at 31.1.2001 by S.I. 2000/3354, art. 2; Sch. 3 para. 11(4)(b)(i)(ii) in force for certain purposes at 4.2.2003 and Sch. 3 para. 11, save para. 11(15) which is fully in force at 3.3.2003, in force for certain further purposes at 3.3.2003 by S.I. 2003/192, arts. 2, 3, 7, Sch.; Sch. 11(16) in force for certain further purposes at 26.9.2008 and 27.10.2008 insofar as not already in force by S.I. 2008/2545, art. 3

#### *The Social Security Administration Act 1992 (c.5)*

- 12 In section 7A of the Social Security Administration Act 1992 (sharing of functions as regards certain claims and information), in subsection (6)(a)—
  - (a) after “application” there shall be inserted “ (or an application treated as having been made) ”; and

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- (b) for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

**Commencement Information**

**I15** Sch. 3 para. 12 partly in force; Sch. 3 para. 12 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 12 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Child Support Act 1995 (c.34)*

- 13 (1) The Child Support Act 1995 shall be amended as follows.
- (2) In section 18 (deferral of right to apply for maintenance assessment), subsection (5) (which enables the Secretary of State by order to repeal any of the provisions of section 18) shall cease to have effect.
- (3) Section 24 (which provides for the making of regulations under which compensation could be paid for a reduction in child support maintenance attributable to changes in child support legislation, and which is now spent) shall cease to have effect.

**Commencement Information**

**I16** Sch. 3 para. 13 partly in force; Sch. 3 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 13(1)(3) in force for certain purposes at 2.4.2001 by S.I. 2001/1252, art. 2(1)(a); Sch. 3 para. 13 in force for certain further purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*Prisoners’ Earnings Act 1996 (c.33)*

- 14 In section 1 of the Prisoners’ Earnings Act 1996 (power to make deductions and impose levies), in subsection (4), in paragraph (d) of the definition of “net weekly earnings”, for “maintenance assessment” there shall be substituted “ maintenance calculation ”.

**Commencement Information**

**I17** Sch. 3 para. 14 partly in force; Sch. 3 para. 14 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 14 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

*The Social Security Act 1998 (c.14)*

- 15 (1) The Social Security Act 1998 shall be amended as follows.
- (2) In Schedule 2 (decisions against which no appeal lies), for paragraph 8 and the heading preceding it there shall be substituted—

*“ Reduction in accordance with reduced benefit decision*

- 8 A decision to reduce the amount of a person’s benefit in accordance with a reduced benefit decision (within the meaning of section 46 of the Child Support Act).”.

*Status: Point in time view as at 03/11/2008.*

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#### Commencement Information

**I18** Sch. 3 para. 15 partly in force; Sch. 3 para. 15 not in force at Royal Assent, see s. 86(2); Sch. 3 para. 15 in force for certain purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

## SCHEDULE 4

Section 31.

### ADDITIONAL PENSION

The Schedule to be inserted after Schedule 4 to the <sup>M2</sup>Social Security Contributions and Benefits Act 1992 is as follows—

#### “SCHEDULE 4A

### ADDITIONAL PENSION

#### PART I

##### THE AMOUNT

- 1 (1) The amount referred to in section 45(2)(c) above is to be calculated as follows—
  - (a) take for each tax year concerned the amount for the year which is found under the following provisions of this Schedule;
  - (b) add the amounts together;
  - (c) divide the sum of the amounts by the number of relevant years;
  - (d) the resulting amount is the amount referred to in section 45(2)(c) above, except that if the resulting amount is a negative one the amount so referred to is nil.
- (2) For the purpose of applying sub-paragraph (1) above in the determination of the rate of any additional pension by virtue of section 39(1), 39C(1), 48A(4) or 48B(2) above, in a case where the deceased spouse died under pensionable age, the divisor used for the purposes of sub-paragraph (1)(c) above shall be whichever is the smaller of the alternative numbers referred to below (instead of the number of relevant years).
- (3) The first alternative number is the number of tax years which begin after 5th April 1978 and end before the date when the entitlement to the additional pension commences.
- (4) The second alternative number is the number of tax years in the period—
  - (a) beginning with the tax year in which the deceased spouse attained the age of 16 or, if later, 1978-79; and
  - (b) ending immediately before the tax year in which the deceased spouse would have attained pensionable age if he had not died earlier.
- (5) For the purpose of applying sub-paragraph (1) above in the determination of the rate of any additional pension by virtue of section 48BB(5) above, in a case where the deceased spouse died under pensionable age, the divisor used for the purposes of sub-paragraph (1)(c) above shall be whichever is the smaller of the alternative numbers referred to below (instead of the number of relevant years).

*Status: Point in time view as at 03/11/2008.*

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- (6) The first alternative number is the number of tax years which begin after 5th April 1978 and end before the date when the deceased spouse dies.
- (7) The second alternative number is the number of tax years in the period—
- (a) beginning with the tax year in which the deceased spouse attained the age of 16 or, if later, 1978-79; and
  - (b) ending immediately before the tax year in which the deceased spouse would have attained pensionable age if he had not died earlier.
- (8) In this paragraph “relevant year” has the same meaning as in section 44 above.

## PART II

### SURPLUS EARNINGS FACTOR

- 2 (1) This Part of this Schedule applies if for the tax year concerned there is a surplus in the pensioner’s earnings factor.
- (2) The amount for the year is to be found as follows—
- (a) calculate the part of the surplus for that year falling into each of the bands specified in the appropriate table below;
  - (b) multiply the amount of each such part in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
  - (c) multiply each amount found under paragraph (b) above by the percentage specified in the appropriate table in relation to the appropriate band;
  - (d) add together the amounts calculated under paragraph (c) above.
- (3) The appropriate table for persons attaining pensionable age after the end of the first appointed year but before 6th April 2009 is as follows—

Table 1

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	$40 + 2N$
Band 2.	Exceeding LET but not exceeding $3LET - 2QEF$	$10 + N/2$
Band 3.	Exceeding $3LET - 2QEF$	$20 + N$

- (4) The appropriate table for persons attaining pensionable age on or after 6th April 2009 is as follows—

Table 2

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding $3LET - 2QEF$	10

*Status: Point in time view as at 03/11/2008.*

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Band 3.	Exceeding 3LET - 2QEF	20
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- (5) Regulations may provide, in relation to persons attaining pensionable age after such date as may be prescribed, that the amount found under this Part of this Schedule for the second appointed year or any subsequent tax year is to be calculated using only so much of the surplus in the pensioner's earnings factor for that year as falls into Band 1 in the table in sub-paragraph (4) above.
- (6) For the purposes of the tables in this paragraph—
- (a) the value of N is 0.5 for each tax year by which the tax year in which the pensioner attained pensionable age precedes 2009-10;
  - (b) "LET" means the low earnings threshold for that year as specified in section 44A above;
  - (c) "QEF" means the qualifying earnings factor for the tax year concerned.
- (7) In the calculation of "2QEF" the amount produced by doubling QEF shall be rounded to the nearest whole £100 (taking any amount of £50 as nearest to the previous whole £100).
- (8) In this paragraph "final relevant year" has the same meaning as in section 44 above.

### PART III

#### CONTRACTED-OUT EMPLOYMENT ETC

##### *Introduction*

- 3 (1) This Part of this Schedule applies if the following condition is satisfied in relation to each tax week in the tax year concerned.
- (2) The condition is that any earnings paid to or for the benefit of the pensioner in the tax week in respect of employment were in respect of employment qualifying him for a pension provided by a salary related contracted-out scheme or by a money purchase contracted-out scheme or by an appropriate personal pension scheme.
- (3) If the condition is satisfied in relation to one or more tax weeks in the tax year concerned, Part II of this Schedule does not apply in relation to the year.

##### *The amount*

- 4 The amount for the year is amount C where—
- (a) amount C is equal to amount A minus amount B, and
  - (b) amounts A and B are calculated as follows.

##### *Amount A*

- 5 (1) Amount A is to be calculated as follows.
- (2) If there is an assumed surplus in the pensioner's earnings factor for the year—
- (a) calculate the part of the surplus for that year falling into each of the bands specified in the appropriate table below;

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- (b) multiply the amount of each such part in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
  - (c) multiply each amount found under paragraph (b) above by the percentage specified in the appropriate table in relation to the appropriate band;
  - (d) add together the amounts calculated under paragraph (c) above.
- (3) The appropriate table for persons attaining pensionable age after the end of the first appointed year but before 6th April 2009 is as follows—

Table 3

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40 + 2N
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10 + N/2
Band 3.	Exceeding 3LET - 2QEF	20 + N

- (4) The appropriate table for persons attaining pensionable age on or after 6th April 2009 is as follows—

Table 4

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10
Band 3.	Exceeding 3LET - 2QEF	20

*Amount B (first case)*

- 6 (1) Amount B is to be calculated in accordance with this paragraph if the pensioner's employment was entirely employment qualifying him for a pension provided by a salary related contracted-out scheme or by a money purchase contracted-out scheme.
- (2) If there is an assumed surplus in the pensioner's earnings factor for the year—
- (a) multiply the amount of the assumed surplus in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
  - (b) multiply the amount found under paragraph (a) above by the percentage specified in sub-paragraph (3) below.
- (3) The percentage is—
- (a) 20 + N if the person attained pensionable age after the end of the first appointed year but before 6th April 2009;
  - (b) 20 if the person attained pensionable age on or after 6th April 2009.

*Status: Point in time view as at 03/11/2008.*

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*Amount B (second case)*

- 7 (1) Amount B is to be calculated in accordance with this paragraph if the pensioner's employment was entirely employment qualifying him for a pension provided by an appropriate personal pension scheme.
- (2) If there is an assumed surplus in the pensioner's earnings factor for the year—
- (a) calculate the part of the surplus for that year falling into each of the bands specified in the appropriate table below;
  - (b) multiply the amount of each such part in accordance with the last order under section 148 of the Administration Act to come into force before the end of the final relevant year;
  - (c) multiply each amount found under paragraph (b) above by the percentage specified in the appropriate table in relation to the appropriate band;
  - (d) add together the amounts calculated under paragraph (c) above.
- (3) The appropriate table for persons attaining pensionable age after the end of the first appointed year but before 6th April 2009 is as follows—

Table 5

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40 + 2N
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10 + N/2
Band 3.	Exceeding 3LET - 2QEF	20 + N

- (4) The appropriate table for persons attaining pensionable age on or after 6th April 2009 is as follows—

Table 6

<i>Amount of surplus</i>		<i>Percentage</i>
Band 1.	Not exceeding LET	40
Band 2.	Exceeding LET but not exceeding 3LET - 2QEF	10
Band 3.	Exceeding 3LET - 2QEF	20

*Interpretation*

- 8 (1) In this Part of this Schedule “salary related contracted-out scheme”, “money purchase contracted-out scheme” and “appropriate personal pension scheme” have the same meanings as in the Pension Schemes Act 1993.
- (2) For the purposes of this Part of this Schedule the assumed surplus in the pensioner's earnings factor for the year is the surplus there would be in that factor for the year if section 48A(1) of the Pension Schemes Act 1993 (no primary Class 1 contributions deemed to be paid) did not apply in relation to any tax week falling in the year.

*Status: Point in time view as at 03/11/2008.*

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- (3) Section 44A above shall be ignored in applying section 44(6) above for the purpose of calculating amount B.
- (4) For the purposes of this Part of this Schedule—
- (a) the value of N is 0.5 for each tax year by which the tax year in which the pensioner attained pensionable age precedes 2009-10;
  - (b) “LET” means the low earnings threshold for that year as specified in section 44A above;
  - (c) “QEF” is the qualifying earnings factor for the tax year concerned.
- (5) In the calculation of “2QEF” the amount produced by doubling QEF shall be rounded to the nearest whole £100 (taking any amount of £50 as nearest to the previous whole £100).
- (6) In this Part of this Schedule “final relevant year” has the same meaning as in section 44 above.

## PART IV

### OTHER CASES

- 9 The Secretary of State may make regulations containing provisions for finding the amount for a tax year in—
- (a) cases where the circumstances relating to the pensioner change in the course of the year;
  - (b) such other cases as the Secretary of State thinks fit.”

#### Commencement Information

**I19** Sch. 4 wholly in force at 6.4.2002; Sch. 4 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 4 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); Sch. 4 in force for certain further purposes at 25.1.2001 and at 6.4.2002 for all remaining purposes by S.I. 2001/153, art. 2(a)

#### Marginal Citations

**M2** 1992 c. 4.

#### Commencement Information

**I19** Sch. 4 wholly in force at 6.4.2002; Sch. 4 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 4 in force for certain purposes at 8.1.2001 by S.I. 2000/2950, art. 6 (as amended by S.I. 2000/3166, art. 3); Sch. 4 in force for certain further purposes at 25.1.2001 and at 6.4.2002 for all remaining purposes by S.I. 2001/153, art. 2(a)

#### Marginal Citations

**M2** 1992 c. 4.



*Status: Point in time view as at 03/11/2008.*

**Changes to legislation:** Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)

## SCHEDULE 5

Section 56.

### PENSIONS: MISCELLANEOUS AMENDMENTS AND ALTERNATIVE TO ANTI-FRANKING RULES

#### PART I

##### MISCELLANEOUS AMENDMENTS

###### *Guaranteed minimum for widows and widowers*

- 1 (1) In section 17 of the 1993 Act (guaranteed minimum for widow or widower), after subsection (4) there shall be inserted—
- “(4A) The scheme must provide for the widow or widower’s pension to be payable to the widow or widower—
- (a) for any period for which a Category B retirement pension is payable to the widow or widower by virtue of the earner’s contributions or would be so payable but for section 43(1) of the <sup>M3</sup>Social Security Contributions and Benefits Act 1992 (persons entitled to more than one retirement pension);
  - (b) for any period for which widowed parent’s allowance or bereavement allowance is payable to the widow or widower by virtue of the earner’s contributions; and
  - (c) in the case of a widow or widower whose entitlement by virtue of the earner’s contributions to a widowed parent’s allowance or bereavement allowance has come to an end at a time after the widow or widower attained the age of 45, for so much of the period beginning with the time when the entitlement came to an end as neither—
    - (i) comprises a period during which the widow or widower and a person of the opposite sex are living together as husband and wife; nor
    - (ii) falls after the time of any remarriage by the widow or widower.”
- (2) In subsection (5) of that section—
- (a) for “must provide” there shall be substituted “must also make provision”;
  - (b) the words “Category B retirement pension,” in the first place where they occur, and the words from “or for which” onwards shall be omitted.
- (3) In subsection (6) of that section, for “must provide” there shall be substituted “must also make provision”.

#### Marginal Citations

M3 1992 c. 4.

*Status: Point in time view as at 03/11/2008.*

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*Transfer of rights to overseas personal pension schemes*

- 2 (1) In section 20(1) of the 1993 Act (power to make provision for transfer of rights relating to guaranteed minimum pensions to an occupational or a personal pension scheme)—
  - (a) in paragraph (a), for “or to a personal pension scheme” there shall be substituted “, to a personal pension scheme or to an overseas arrangement”; and
  - (b) in paragraph (b), for “or a personal pension scheme” there shall be substituted “, a personal pension scheme or an overseas arrangement”.
- (2) In section 28(2)(b) of that Act (effect may be given to protected rights by a transfer to an occupational or personal pension scheme)—
  - (a) in sub-paragraph (i), for “or to a personal pension scheme” there shall be substituted “, to a personal pension scheme or to an overseas arrangement”; and
  - (b) in sub-paragraph (ii), for “or to an occupational pension scheme” there shall be substituted “, to an occupational pension scheme or to an overseas arrangement”.
- (3) In section 181(1) of that Act (interpretation), there shall be inserted, at the appropriate place in the alphabetical order—
  - ““overseas arrangement” means a scheme or arrangement which—
    - (a) has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement to or in respect of earners;
    - (b) is administered wholly or primarily outside Great Britain;
    - (c) is not an appropriate scheme; and
    - (d) is not an occupational pension scheme;”.

*Protected rights*

- 3 (1) Section 28 of the 1993 Act (ways of giving effect to protected rights) shall be amended as follows.
- (2) In subsection (4) (giving effect to protected rights at or after retirement age), for paragraph (d) there shall be substituted—
  - “(d) the amount of the lump sum is equal to the value on that date of the protected rights to which effect is being given.”
- (3) <sup>F12</sup> .....
- (4) <sup>F12</sup> .....

**Textual Amendments**

**F12** Sch. 5 para. 3(3)(4) repealed (1.9.2005) by [Pensions Act 2004 \(c. 35\)](#), ss. 320, 322, [Sch. 13](#); S.I. 2005/2447, [art. 2\(4\)](#), Sch. Pt. 1

*Status: Point in time view as at 03/11/2008.*

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*Review and alteration of rates of contribution*

- 4 In section 42(1)(a)(i) and (3) of the 1993 Act (review of percentages mentioned in section 41), for “41(1A)(a) and (b)” there shall be substituted “41(1A) and (1B)”.

*Contributions equivalent premiums: Great Britain*

- 5 (1) For subsection (4) of section 58 of the 1993 Act (calculation of contributions equivalent premiums) there shall be substituted—

“(4) Subject to subsection (4A), the amount of the contributions equivalent premium shall be equal to the sum of the following amounts—

- (a) the amount of every reduction made under section 41 (as from time to time in force) in the amount of Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme; and
- (b) the total amount by which the reductions falling within paragraph (a) would have been larger if the amount of the contributions falling to be reduced had in each case been at least equal to the amount of the reduction of those contributions provided for by section 41.

(4A) The amounts brought into account in accordance with subsection (4)(b) shall not include any amount which, by virtue of regulations made under section 41(1D) so as to avoid the payment of trivial or fractional amounts, is an amount that was not payable by the Inland Revenue to the secondary contributor.”

- (2) In section 61(2) of that Act (recovery of amount of premium attributable to primary Class 1 contributions), after “attributable to” there shall be inserted “any actual reductions of”.

- (3) In section 63(1) of that Act (amounts to be certified by the Inland Revenue), for paragraph (b) there shall be substituted—

“(b) the sum of the amounts specified in section 58(4);”.

- (4) This paragraph shall have effect, and be deemed to have had effect, in relation to any contributions equivalent premium payable on or after 6th April 1999.

*Contributions equivalent premiums: Northern Ireland*

- 6 (1) For subsection (4) of section 54 of the <sup>M4</sup>Pension Schemes (Northern Ireland) Act 1993 (calculation of contributions equivalent premiums) there shall be substituted—

“(4) Subject to subsection (4A), the amount of the contributions equivalent premium shall be equal to the sum of the following amounts—

- (a) the amount of every reduction made under section 37 (as from time to time in force) in the amount of Class 1 contributions payable in respect of the earner’s employment in employment which was contracted-out by reference to the scheme; and
- (b) the total amount by which the reductions falling within paragraph (a) would have been larger if the amount of the contributions falling to be reduced had in each case been at least equal to the amount of the reduction of those contributions provided for by section 37.

*Status: Point in time view as at 03/11/2008.*

**Changes to legislation:** *Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)*

- (4A) The amounts brought into account in accordance with subsection (4)(b) shall not include any amount which, by virtue of regulations made under section 37(1D) so as to avoid the payment of trivial or fractional amounts, is an amount that was not payable by the Inland Revenue to the secondary contributor.”
- (2) In section 57(2) of that Act (recovery of amount of premium attributable to primary Class 1 contributions), after “attributable to” there shall be inserted “any actual reductions of”.
- (3) In section 59(1) of that Act (amounts to be certified by the Inland Revenue), for paragraph (b) there shall be substituted—  
“(b) the sum of the amounts specified in section 54(4);”.
- (4) This paragraph shall have effect, and be deemed to have had effect, in relation to any contributions equivalent premium payable on or after 6th April 1999.

**Marginal Citations**

**M4** 1993 c. 49.

*Use of cash equivalent for annuity*

- 7 Section 95(4) of the 1993 Act (cash equivalent of rights under a money purchase contracted-out scheme not to be used for purchase of annuity) shall cease to have effect.

*Transfer values where pension in payment*

- 8 (1) In section 97(2) of the 1993 Act (regulations about calculation of cash equivalents), for the “and” at the end of paragraph (a) there shall be substituted—  
“(aa) for a cash equivalent, including a guaranteed cash equivalent, to be reduced so as to take account of the extent (if any) to which an entitlement has arisen under the scheme to the present payment of the whole or any part of—  
(i) any pension; or  
(ii) any benefit in lieu of pension;  
and”.
- (2) In section 98(7) of that Act (loss of right to cash equivalent)—  
(a) after “right” there shall be inserted “if”; and  
(b) paragraph (a) (loss of right on the whole or any part of a pension becoming payable) shall cease to have effect.
- (3) In section 124(1) of the 1995 Act (interpretation), in the definition of “pensioner member”, after “other benefits” there shall be inserted “and who is not an active member of the scheme”.
- (4) Sub-paragraph (2) has effect in relation to any case in which the whole or any part of a pension or other benefit becomes payable on or after the coming into force of that sub-paragraph.

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)*

#### Commencement Information

**I20** Sch. 5 wholly in force at 1.1.2001; Sch. 5 para. 8(1)(3)(4) in force at 28.7.2000 see s. 86(1)(b); Sch. 5 para. 8(2) in force at 1.1.2001 by S.I. 2000/3166, art. 2(3)(v)

PROSPECTIVE

#### *Information about contracting-out*

9 For section 156 of the 1993 Act (provision of information as to guaranteed minimum pensions) there shall be substituted—

#### “156 Information for purposes of contracting-out.

- (1) The Secretary of State or the Inland Revenue may give to the trustees or managers of an occupational pension scheme or appropriate scheme such information as appears to the Secretary of State or Inland Revenue appropriate to give to them for the purpose of enabling them to comply with their obligations under Part III.
- (2) The Secretary of State or Inland Revenue may also give to such persons as may be prescribed any information that they could give under subsection (1) to trustees or managers of a scheme.”

#### *Register of disqualified trustees*

10 <sup>F13</sup> .....

#### Textual Amendments

**F13** Sch. 5 para. 10 repealed (6.4.2005) by Pensions Act 2004 (c. 35), ss. 320, 322, Sch. 13; S.I. 2005/1108, art. 2(2), Sch.

#### *Conditions of payment of surplus to employer*

11 <sup>F14</sup> .....

#### Textual Amendments

**F14** Sch. 5 para. 11 repealed (6.4.2006) by Pensions Act 2004 (c. 35), ss. 320, 322, Sch. 13; S.I. 2006/560, art. 2(3), Sch. Pt. 3

#### *Duties relating to statements of contributions*

12 (1) In section 41 of the 1995 Act (provision of documents for members), for subsection (5) there shall be substituted—

- “(5) Regulations may in the case of occupational pension schemes provide for—
- (a) prescribed persons,

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(b) persons with prescribed qualifications or experience, or  
(c) persons approved by the Secretary of State,  
to act for the purposes of subsection (2) instead of scheme auditors or actuaries.

(5A) Regulations may impose duties on the trustees or managers of an occupational pension scheme to disclose information to, and make documents available to, a person acting under subsection (5).

(5B) If any duty imposed under subsection (5A) is not complied with, sections 3 and 10 apply to any trustee, and section 10 applies to any manager, who has failed to take all such steps as are reasonable to secure compliance.”

(2) <sup>F15</sup> .....

(3) <sup>F15</sup> .....

(4) <sup>F15</sup> .....

#### Textual Amendments

**F15** Sch. 5 para. 12(2)(3)(4) repealed (6.4.2006) by Pensions Act 2004 (c. 35), ss. 320, 322, Sch. 13; S.I. 2006/560, art. 2(3), Sch.

#### Commencement Information

**I21** Sch. 5 para. 12 partly in force; Sch. 5 para. 12 not in force at Royal Assent see s. 86(2); Sch. 5 para. 12(1) in force at 1.1.2001 by S.I. 2000/3166, art. 2(3)(vii)

#### *Interpretation of Part I*

- 13 In this Part of this Schedule—  
“the 1993 Act” means the <sup>M5</sup>Pension Schemes Act 1993; and  
“the 1995 Act” means the <sup>M6</sup>Pensions Act 1995.

#### Marginal Citations

**M5** 1993 c. 48.

**M6** 1995 c. 26.

## PART II

### ALTERNATIVE TO ANTI-FRANKING RULES

#### *Cases in which alternative applies*

- 14 (1) Subject to the following provisions of this paragraph, this Part of this Schedule applies, instead of Chapter III of Part IV of the 1993 Act (anti-franking rules), in the case of a person (“the pensioner”) who is entitled to benefits under any occupational pension scheme if the benefits to which he is entitled under the scheme include a guaranteed minimum pension.

*Status: Point in time view as at 03/11/2008.*

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- (2) This Part of this Schedule does not apply in the pensioner's case, instead of Chapter III of Part IV of the 1993 Act, unless—
- (a) the pensioner is a member of the scheme who, in relation to that scheme, left pensionable service after the coming into force of this Part of this Schedule;
  - (b) the pensioner is the widow or widower of a member of the scheme whose pensionable service ended (by death or otherwise) after the coming into force of this Part of this Schedule; or
  - (c) sub-paragraph (3) applies to the benefits to which the pensioner is entitled under the scheme.
- (3) This sub-paragraph applies to the benefits to which the pensioner is entitled under the scheme if—
- (a) the time at which the benefits first become payable is after the coming into force of this Part of this Schedule;
  - (b) the benefits do not first become payable in respect of the death of a member of the scheme to whom benefits had already become payable under the scheme before the coming into force of this Part of this Schedule; and
  - (c) the trustees or managers of the scheme have elected, in the prescribed manner, that this Part of this Schedule should apply to benefits first becoming payable under the scheme after the coming into force of this Part of this Schedule.
- (4) This Part of this Schedule does not apply in the pensioner's case (and, accordingly, Chapter III of Part IV of the 1993 Act does) if the scheme is a scheme of a prescribed description, unless the trustees or managers of the scheme have elected, in the prescribed manner, that this Part of this Schedule should apply in the case of the scheme.
- (5) An election for the purposes of any provision of this paragraph—
- (a) shall not be exercisable differently in relation to different members of the scheme; and
  - (b) once exercised, shall be irrevocable.

#### Commencement Information

**I22** Sch. 5 Pt. II partly in force at 12.2.2001; Sch. 5 Pt II not in force at Royal Assent see s. 86(2); Sch. 5 Pt. II in force for certain purposes at 12.2.2001 by S.I. 2000/3166, art. 2(5) (as amended by S.I. 2001/252, art. 3); Sch. 5 Pt. II in force insofar as not already in force at 6.4.2002 by S.I. 2001/2295, art. 2(b) (which was omitted by virtue of S.I. 2002/473, art. 2)

#### Alternative rules

- 15 (1) Where this Part of this Schedule applies in the pensioner's case, the amount of the benefits to which he is entitled under the scheme shall not be less than the amount of the benefits to which he would have been entitled under the scheme if his entitlement fell to be calculated by the method set out in sub-paragraph (2).
- (2) That method is as follows—
- Step 1: compute the amount of any benefits consisting in the guaranteed minimum pension to which the pensioner is entitled;

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Step 2: compute what would have been the amount of those benefits on the assumptions set out in sub-paragraph (3);

Step 3: determine the extent (if any) to which attributing an amount of benefits equal to the amount computed in accordance with Step 2 to rights accruing before 6th April 1997 would leave any such rights unused;

Step 4: compute, in accordance with sub-paragraph (4), the amount of such of the benefits to which the pensioner is entitled under the scheme as are attributable to rights accruing before 6th April 1997 (if any) which, applying the determination in Step 3, would be left unused after the attribution of the amount mentioned in that Step to rights so accruing;

Step 5: compute the amount resulting, on the required assumption, from the application of the statutory revaluations and increases in the case of the benefits computed in accordance with Step 4;

Step 6: compute, in accordance with sub-paragraph (4), the amount of such of the benefits to which the pensioner is entitled under the scheme as are attributable to rights accruing on or after 6th April 1997;

Step 7: compute the amount resulting, on the required assumption, from the application of the statutory revaluations and increases in the case of the benefits computed in accordance with Step 6;

Step 8: aggregate the results of Steps 1, 5 and 7 to give the minimum benefits required by sub-paragraph (1).

- (3) The assumptions referred to in Step 2 in sub-paragraph (2) are—
- (a) that no increases are required to be made in accordance with section 15 or 109 of the 1993 Act (deferment increases and indexation);
  - (b) that increases in accordance with section 16(1) of that Act (revaluation of earnings factors for early leavers) of any earner's earnings factors are to be calculated as if references to the final relevant year were references to whichever is the earlier of—
    - (i) the final relevant tax year; and
    - (ii) the tax year immediately preceding that in which the member in question left service that qualified him for salary-related benefits under the scheme; and
  - (c) that no increases in accordance with any provision included in the scheme by virtue of section 16(3) of that Act (increases of weekly equivalent for person leaving contracted-out service before final relevant year) are to be made for any year after the tax year immediately preceding that in which the member in question left service that qualified him for salary-related benefits under the scheme.
- (4) For the purposes of Steps 4 and 6 in sub-paragraph (2)—
- (a) if (apart from this sub-paragraph) there would be a difference between the two Steps in the level of salary taken as the level by reference to which any salary-related benefits are to be computed, the level used for Step 4 must be no lower than that used for Step 6; and
  - (b) statutory revaluations and increases shall not be attributed to rights accruing at any time.
- (5) For the purposes of Steps 5 and 7 in sub-paragraph (2), the required assumption is that the benefits in whose case the statutory revaluations and increases are applied



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comprise a whole pension deriving from the rights to which they are taken to be attributable for the purposes of Step 4 or, as the case may be, Step 6.

- (6) Subject to sub-paragraph (7), references in this paragraph to the statutory revaluations and increases are references to—
- (a) the revaluations required to be made in accordance with Chapter II of Part IV of the 1993 Act (revaluation of accrued benefits); and
  - (b) the increases required to be made by virtue of section 51 of the 1995 Act (indexation).
- (7) For the purpose of applying the statutory revaluations and increases for the purposes of Steps 5 and 7 in sub-paragraph (2)—
- (a) money may be used in a way allowed by section 110(1) of the 1993 Act (use of money to pay guaranteed minimum pension increase for subsequent year); and
  - (b) any deductions authorised by section 53(1) or (2) of the 1995 Act (permitted deductions from statutory increases) may be made.
- (8) In this paragraph “the pensioner” has the meaning given by paragraph 14.
- (9) Any reference in this paragraph to a provision of the 1993 Act includes a reference to any enactment re-enacted in that provision.

#### Commencement Information

**I23** Sch. 5 Pt. II partly in force at 12.2.2001; Sch. 5 Pt II not in force at Royal Assent see s. 86(2); Sch. 5 Pt. II in force for certain purposes at 12.2.2001 by S.I. 2000/3166, art. 2(5) (as amended by S.I. 2001/252, art. 3); Sch. 5 Pt. II in force insofar as not already in force at 6.4.2002 by S.I. 2001/2295, art. 2(b) (which was omitted by virtue of S.I. 2002/473, art. 2)

#### *Relationship between alternative rules and other rules*

- 16 (1) Paragraph 15 shall not apply to benefits consisting in an alternative to a short service benefit provided for under section 73(2)(b) of the 1993 Act, except to the extent that—
- (a) that paragraph would apply for the computation of the short service benefit to which those benefits are an alternative; and
  - (b) the amount of any of the alternative benefits falls to be computed wholly or partly by reference to the value of what would have been the short service benefit.
- (2) Section 94 of the 1993 Act (right to cash equivalent) shall have effect as if the provisions of this Part of this Schedule were included for the purposes of that section in the applicable rules.
- (3) Subject to sub-paragraph (4), the preceding provisions of this Part of this Schedule override any provision of an occupational pension scheme with which they are inconsistent except a provision which, under subsection (3) of section 129 of the 1993 Act, is a protected provision for the purposes of subsection (2) of that section.
- (4) The preceding provisions of this Part of this Schedule shall be without prejudice to any person’s entitlement to exercise—

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- (a) any right of commutation, forfeiture or surrender of the whole or any part of any benefits computed in accordance with this Part of this Schedule;
  - (b) any charge or lien on the whole or any part of any such benefits; or
  - (c) any right of set-off against the whole or any part of any such benefits;
- and, accordingly, the computations to be done under paragraph 15 shall be done disregarding anything falling within any of paragraphs (a) to (c).

#### **Commencement Information**

**I24** Sch. 5 Pt. II partly in force at 12.2.2001; Sch. 5 Pt II not in force at Royal Assent see s. 86(2); Sch. 5 Pt. II in force for certain purposes at 12.2.2001 by S.I. 2000/3166, art. 2(5) (as amended by S.I. 2001/252, art. 3); Sch. 5 Pt. II in force insofar as not already in force at 6.4.2002 by S.I. 2001/2295, art. 2(b) (which was omitted by virtue of S.I. 2002/473, art. 2)

#### *Supplemental*

- 17 (1) In this Part of this Schedule references to rights accruing to a member of a scheme before 6th April 1997 include references—
- (a) in relation to salary-related benefits, to rights accruing at any time in respect of service before that date; and
  - (b) in relation to benefits of any description, to rights that derive from any transfer of accrued rights or transfer payment and represent rights accruing under any other scheme before that date;
- and a reference in this Part of this Schedule to rights accruing on or after that date shall be construed accordingly.
- (2) For the purposes of this Part of this Schedule rights to money purchase benefits that are attributable to payments in respect of employment are rights accruing before 6th April 1997 in so far only as that employment was employment carried on before that date; and a reference in this Part of this Schedule to rights accruing on or after that date shall be construed accordingly.
- (3) In this Part of this Schedule—
- “the 1993 Act” means the <sup>M7</sup>Pension Schemes Act 1993;
  - “the 1995 Act” means the <sup>M8</sup>Pensions Act 1995; and
  - “salary-related benefits” means benefits that are not money purchase benefits.
- (4) Expressions defined for the purposes of the 1993 Act have the same meanings in this Part of this Schedule as they have in that Act.
- (5) Any power of the Secretary of State to make regulations under this Part of this Schedule shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The Secretary of State may by order make such modifications of paragraphs 14 to 16 as he considers appropriate.
- (7) An order under sub-paragraph (6) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 03/11/2008.*

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- (8) Subsections (2) to (5) of section 182 of the 1993 Act (supplemental provision in connection with powers to make subordinate legislation under that Act) shall apply—
- (a) to any power of the Secretary of State to make regulations under this Part of this Schedule, and
  - (b) to the power of the Secretary of State to make an order under subparagraph (6),
- as they apply to his powers to make regulations and orders under that Act.
- (9) In section 178(a) of the 1993 Act (regulations providing for who is to be treated as a manager of a scheme), for the words from “or Part III” to “1999” there shall be substituted “, Part III or IV of the Welfare Reform and Pensions Act 1999 or Part II of Schedule 5 to the Child Support, Pensions and Social Security Act 2000”.

#### Commencement Information

**I25** Sch. 5 Pt. II partly in force at 12.2.2001; Sch. 5 Pt II not in force at Royal Assent see s. 86(2); Sch. 5 Pt. II in force for certain purposes at 12.2.2001 by S.I. 2000/3166, art. 2(5) (as amended by S.I. 2001/252, art. 3); Sch. 5 Pt. II in force insofar as not already in force at 6.4.2002 by S.I. 2001/2295, art. 2(b) (which was omitted by virtue of S.I. 2002/473, art. 2)

#### Marginal Citations

**M7** 1993 c. 48.  
**M8** 1995 c. 26.

## SCHEDULE 6

Section 67.

### SOCIAL SECURITY INVESTIGATION POWERS

#### *Preliminary*

- 1 Part VI of the <sup>M9</sup>Social Security Administration Act 1992 (enforcement) shall be amended as follows.

#### Commencement Information

**I26** Sch. 6 para. 1 wholly in force at 2.4.2001; Sch. 6 para. 1 not in force at Royal Assent see s. 86(2)(3)(a); Sch. 6 para. 1 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 2; Sch. 6 para. 1 in force at 2.4.2001 by S.I. 2001/1252, art. 2(1)(a)

#### Marginal Citations

**M9** 1992 c. 5.

#### *Replacement for inspector's powers*

- 2 The following sections shall be substituted for section 110 (appointment and powers of inspectors)—

*Status: Point in time view as at 03/11/2008.*

*Changes to legislation: Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)*

### “109A Authorisations for investigators.

- (1) An individual who for the time being has the Secretary of State’s authorisation for the purposes of this Part shall be entitled, for any one or more of the purposes mentioned in subsection (2) below, to exercise any of the powers which are conferred on an authorised officer by sections 109B and 109C below.
- (2) Those purposes are—
  - (a) ascertaining in relation to any case whether a benefit is or was payable in that case in accordance with any provision of the relevant social security legislation;
  - (b) investigating the circumstances in which any accident, injury or disease which has given rise, or may give rise, to a claim for—
    - (i) industrial injuries benefit, or
    - (ii) any benefit under any provision of the relevant social security legislation,
 

occurred or may have occurred, or was or may have been received or contracted;
  - (c) ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally);
  - (d) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences.
- (3) An individual has the Secretary of State’s authorisation for the purposes of this Part if, and only if, the Secretary of State has granted him an authorisation for those purposes and he is—
  - (a) an official of a Government department;
  - (b) an individual employed by an authority administering housing benefit or council tax benefit;
  - (c) an individual employed by an authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of the authority administering that benefit; or
  - (d) an individual employed by a person authorised by or on behalf of any such authority or joint committee as is mentioned in paragraph (b) or (c) above to carry out functions relating to housing benefit or council tax benefit for that authority or committee.
- (4) An authorisation granted for the purposes of this Part to an individual of any of the descriptions mentioned in subsection (3) above—
  - (a) must be contained in a certificate provided to that individual as evidence of his entitlement to exercise powers conferred by this Part;
  - (b) may contain provision as to the period for which the authorisation is to have effect; and
  - (c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes, in particular circumstances or in relation to particular benefits or particular provisions of the relevant social security legislation.

*Status: Point in time view as at 03/11/2008.*

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- (5) An authorisation granted under this section may be withdrawn at any time by the Secretary of State.
- (6) Where the Secretary of State grants an authorisation for the purposes of this Part to an individual employed by a local authority, or to an individual employed by a person who carries out functions relating to housing benefit or council tax benefit on behalf of a local authority—
  - (a) the Secretary of State and the local authority shall enter into such arrangements (if any) as they consider appropriate with respect to the carrying out of functions conferred on that individual by or in connection with the authorisation granted to him; and
  - (b) the Secretary of State may make to the local authority such payments (if any) as he thinks fit in respect of the carrying out by that individual of any such functions.
- (7) The matters on which a person may be authorised to consider and report to the Secretary of State under section 139A below shall be taken to include the carrying out by any such individual as is mentioned in subsection (3)(b) to (d) above of any functions conferred on that individual by virtue of any grant by the Secretary of State of an authorisation for the purposes of this Part.
- (8) The powers conferred by sections 109B and 109C below shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, and in relation to premises owned or occupied by the Crown, as they are exercisable in relation to other persons and premises.

#### **109B Power to require information.**

- (1) An authorised officer who has reasonable grounds for suspecting that a person—
  - (a) is a person falling within subsection (2) below, and
  - (b) has or may have possession of or access to any information about any matter that is relevant for any one or more of the purposes mentioned in section 109A(2) above,may, by written notice, require that person to provide all such information described in the notice as is information of which he has possession, or to which he has access, and which it is reasonable for the authorised officer to require for a purpose so mentioned.
- (2) The persons who fall within this subsection are—
  - (a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Contributions and Benefits Act;
  - (b) any person who is or has been a self-employed earner within the meaning of any such provision;
  - (c) any person who by virtue of any provision made by or under that Act falls, or has fallen, to be treated for the purposes of any such provision as a person within paragraph (a) or (b) above;
  - (d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;

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- (e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;
  - (f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;
  - (g) any local authority acting in their capacity as an authority responsible for the granting of any licence;
  - (h) any person who is or has been a trustee or manager of a personal or occupational pension scheme;
  - (i) any person who is or has been liable to make a compensation payment or a payment to the Secretary of State under section 6 of the <sup>M10</sup>Social Security (Recovery of Benefits) Act 1997 (payments in respect of recoverable benefits); and
  - (j) the servants and agents of any such person as is specified in any of paragraphs (a) to (i) above.
- (3) The obligation of a person to provide information in accordance with a notice under this section shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—
- (a) is identified by or in accordance with the terms of the notice; or
  - (b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.
- (4) The power of an authorised officer under this section to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of, or of copies of or extracts from, any such documents containing the information as may be specified or described in the notice imposing the requirement.
- (5) No one shall be required under this section to provide any information (whether in documentary form or otherwise) that tends to incriminate either himself or, in the case of a person who is married, his spouse.

### **109C Powers of entry.**

- (1) An authorised officer shall be entitled, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—
- (a) are liable to inspection under this section; and
  - (b) are premises to which it is reasonable for him to require entry in order to exercise the powers conferred by this section.
- (2) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) make such an examination of those premises, and
  - (b) conduct any such inquiry there,
- as appears to him appropriate for any one or more of the purposes mentioned in section 109A(2) above.

*Status: Point in time view as at 03/11/2008.*

**Changes to legislation:** *Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)*

- (3) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) question any person whom he finds there;
  - (b) require any person whom he finds there to do any one or more of the following—
    - (i) to provide him with such information,
    - (ii) to produce and deliver up and (if necessary) create such documents or such copies of, or extracts from, documents, as he may reasonably require for any one or more of the purposes mentioned in section 109A(2) above; and
  - (c) take possession of and either remove or make his own copies of any such documents as appear to him to contain information that is relevant for any of those purposes.
- (4) The premises liable to inspection under this section are any premises (including premises consisting in the whole or a part of a dwelling house) which an authorised officer has reasonable grounds for suspecting are—
- (a) premises which are a person’s place of employment;
  - (b) premises from which a trade or business is being carried on or where documents relating to a trade or business are kept by the person carrying it on or by another person on his behalf;
  - (c) premises from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are kept by the person administering the scheme or by another person on his behalf;
  - (d) premises where a person who is the compensator in relation to any such accident, injury or disease as is referred to in section 109A(2) (b) above is to be found;
  - (e) premises where a person on whose behalf any such compensator has made, may have made or may make a compensation payment is to be found.
- (5) An authorised officer applying for admission to any premises in accordance with this section shall, if required to do so, produce the certificate containing his authorisation for the purposes of this Part.
- (6) Subsection (5) of section 109B applies for the purposes of this section as it applies for the purposes of that section.”

**Marginal Citations**

**M10** 1997 c. 27.

*Exercise of powers on behalf of local authorities*

- 3 For sections 110A and 110B (inspectors appointed by local authorities etc. for the purposes of housing benefit or council tax benefit), there shall be substituted—

*Status: Point in time view as at 03/11/2008.*

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### **“110A Authorisations by local authorities.**

- (1) An individual who for the time being has the authorisation for the purposes of this Part of an authority administering housing benefit or council tax benefit (“a local authority authorisation”) shall be entitled, for any one or more of the purposes mentioned in subsection (2) below, to exercise any of the powers which, subject to subsection (8) below, are conferred on an authorised officer by sections 109B and 109C above.
- (2) Those purposes are—
  - (a) ascertaining in relation to any case whether housing benefit or council tax benefit is or was payable in that case;
  - (b) ascertaining whether provisions of the relevant social security legislation that relate to housing benefit or council tax benefit are being, have been or are likely to be contravened (whether by particular persons or more generally);
  - (c) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences relating to housing benefit or council tax benefit.
- (3) An individual has the authorisation for the purposes of this Part of an authority administering housing benefit or council tax benefit if, and only if, that authority have granted him an authorisation for those purposes and he is—
  - (a) an individual employed by that authority;
  - (b) an individual employed by another authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of that authority;
  - (c) an individual employed by a person authorised by or on behalf of—
    - (i) the authority in question,
    - (ii) any such authority or joint committee as is mentioned in paragraph (b) above,
 to carry out functions relating to housing benefit or council tax benefit for that authority or committee;
  - (d) an official of a Government department.
- (4) Subsection (4) of section 109A above shall apply in relation to a local authority authorisation as it applies in relation to an authorisation under that section.
- (5) A local authority authorisation may be withdrawn at any time by the authority that granted it or by the Secretary of State.
- (6) The certificate or other instrument containing the grant or withdrawal by any local authority of any local authority authorisation must be issued under the hand of either—
  - (a) the officer designated under section 4 of the <sup>M11</sup>Local Government and Housing Act 1989 as the head of the authority’s paid service; or
  - (b) the officer who is the authority’s chief finance officer (within the meaning of section 5 of that Act).



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- (7) It shall be the duty of any authority with power to grant local authority authorisations to comply with any directions of the Secretary of State as to—
- (a) whether or not such authorisations are to be granted by that authority;
  - (b) the period for which authorisations granted by that authority are to have effect;
  - (c) the number of persons who may be granted authorisations by that authority at any one time; and
  - (d) the restrictions to be contained by virtue of subsection (4) above in the authorisations granted by that authority for those purposes.
- (8) The powers conferred by sections 109B and 109C above shall have effect in the case of an individual who is an authorised officer by virtue of this section as if those sections had effect—
- (a) with the substitution for every reference to the purposes mentioned in section 109A(2) above of a reference to the purposes mentioned in subsection (2) above; and
  - (b) with the substitution for every reference to the relevant social security legislation of a reference to so much of it as relates to housing benefit or council tax benefit.
- (9) Nothing in this section conferring any power on an authorised officer in relation to housing benefit or council tax benefit shall require that power to be exercised only in relation to cases in which the authority administering the benefit is the authority by whom that officer’s authorisation was granted.”

**Marginal Citations**

**M11** 1989 c. 42.

*Consequential amendments*

- 4 In section 111 (delay and obstruction of inspector)—
- (a) in subsection (3), for “section 110(5)” there shall be substituted “an authorisation granted under section 109A or 110A”; and
  - (b) <sup>F16</sup> .....

**Textual Amendments**

**F16** Sch. 6 para. 4(b) repealed (6.4.2005) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), ss. 12, 13, Sch. 2 Pt. 1; S.I. 2004/1943, art. 6(b)

- 5 In section 111A(1) (dishonest representations), before “social security legislation” there shall be inserted “relevant”.
- 6 In section 112(1) (false representations), before “social security legislation” there shall be inserted “relevant”.
- 7 (1) In subsection (1) of section 113 (breach of regulations)—
- (a) for “Acts to which section 110 above applies” there shall be substituted “legislation to which this section applies”;

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- (b) for the words “that Act”, in the first place where they occur, there shall be substituted “that legislation”; and
- (c) for the words “that Act”, where they occur in paragraph (b), there shall be substituted “any enactment contained in the legislation in question”.

(2) After that subsection there shall be inserted—

“(1A) The legislation to which this section applies is—

- (a) the relevant social security legislation; and
- (b) the enactments specified in section 121DA(1) so far as relating to contributions, statutory sick pay or statutory maternity pay.”

8 After section 121D (but still in Part VI) there shall be inserted—

**“121DA Interpretation of Part VI.**

(1) In this Part “the relevant social security legislation” means the provisions of any of the following, except so far as relating to contributions, working families’ tax credit, disabled person’s tax credit, statutory sick pay or statutory maternity pay, that is to say—

- (a) the Contributions and Benefits Act;
- (b) this Act;
- (c) the Pensions Act, except Part III;
- (d) section 4 of the <sup>M12</sup>Social Security (Incapacity for Work) Act 1994;
- (e) the <sup>M13</sup>Jobseekers Act 1995;
- (f) the <sup>M14</sup>Social Security (Recovery of Benefits) Act 1997;
- (g) Parts I and IV of the <sup>M15</sup>Social Security Act 1998;
- (h) Part V of the <sup>M16</sup>Welfare Reform and Pensions Act 1999;
- (i) the <sup>M17</sup>Social Security Pensions Act 1975;
- (j) the <sup>M18</sup>Social Security Act 1973;
- (k) any subordinate legislation made, or having effect as if made, under any enactment specified in paragraphs (a) to (j) above.

(2) In this Part “authorised officer” means a person acting in accordance with any authorisation for the purposes of this Part which is for the time being in force in relation to him.

(3) For the purposes of this Part—

- (a) references to a document include references to anything in which information is recorded in electronic or any other form;
- (b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—
  - (i) are transmitted to the recipient of the notice by electronic means; and
  - (ii) are received by him in a form that is legible and capable of being recorded for future reference.

(4) In this Part “premises” includes—

- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;

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- (b) installations that are offshore installations for the purposes of the <sup>M19</sup>Mineral Workings (Offshore Installations) Act 1971; and
- (c) places of all other descriptions whether or not occupied as land or otherwise;

and references in this Part to the occupier of any premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.

(5) In this Part—

“benefit” includes any allowance, payment, credit or loan;

“benefit offence” means a criminal offence committed in connection with a claim for benefit under a provision of the relevant social security legislation, or in connection with the receipt or payment of such a benefit; and

“compensation payment” has the same meaning as in the <sup>M20</sup>Social Security (Recovery of Benefits) Act 1997.

(6) In this Part—

- (a) any reference to a person authorised to carry out any function relating to housing benefit or council tax benefit shall include a reference to a person providing services relating to the benefit directly or indirectly to an authority administering it; and
- (b) any reference to the carrying out of a function relating to such a benefit shall include a reference to the provision of any services relating to it.

(7) In this section “subordinate legislation” has the same meaning as in the <sup>M21</sup>Interpretation Act 1978.”

#### Commencement Information

**I27** Sch. 6 para. 8 wholly in force at 2.4.2001; Sch. 6 para. 8 not in force at Royal Assent see s. 86(2)(3) (a); Sch. 6 para. 8 in force for certain purposes at 1.11.2000 by S.I. 2000/2950, art. 2; Sch. 6 para. 8 in force at 2.4.2001 by S.I. 2001/1252, art. 2(1)(a)

#### Marginal Citations

**M12** 1994 c. 18.  
**M13** 1995 c. 18.  
**M14** 1997 c. 27.  
**M15** 1998 c. 14.  
**M16** 1999 c. 30.  
**M17** 1975 c. 60.  
**M18** 1973 c. 38.  
**M19** 1971 c. 61.  
**M20** 1997 c. 27.  
**M21** 1978 c. 30.

9

In paragraph 5 of Schedule 10 to the <sup>M22</sup>Social Security Administration Act 1992 (transitional provisions for supplementary benefit), for the words before subparagraph (a) there shall be substituted “Part VI of this Act shall have effect as if the

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following Acts were included in the Acts comprised in the relevant social security legislation”.

**Marginal Citations**

**M22** 1992 c. 5.

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**

**I28** 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;

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and regulations may prescribe the procedure by which a decision of a relevant authority may be so revised.

- (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

- I29** 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 [<sup>F17</sup>sub-paragraphs (4) and (4A)], the following, namely—
- (a) any relevant decision (whether as originally made or as revised under paragraph 3), and
  - (b) any decision under this Schedule [<sup>F18</sup>of the First-tier Tribunal or any decision of the Upper Tribunal which relates to any such decision],
- 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 [<sup>F19</sup>First-tier Tribunal] or, as the case may be, the decision to which the decision being appealed against to the [<sup>F20</sup>Upper Tribunal] 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.
- [<sup>F21</sup>(4A) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision relating to housing benefit must be made by the appropriate relevant authority.]

*Status: Point in time view as at 03/11/2008.*

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- (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.
- (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.

#### Textual Amendments

- F17** Words in Sch. 7 para. 4(1) substituted (1.10.2007 for certain purposes and 7.4.2008 otherwise) by Welfare Reform Act 2007 (c. 5), ss. 30(3)(a), 70; S.I. 2007/2872, art. 2(2)(3) (subject to arts. 3-5)
- F18** Words in Sch. 7 para. 4(1)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 190(2)(a)
- F19** Words in Sch. 7 para. 4(2) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 190(2)(b)(i)
- F20** Words in Sch. 7 para. 4(2) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 190(2)(b)(ii)
- F21** Sch. 7 para. 4(4A) inserted (1.10.2007 for certain purposes and 7.4.2008 otherwise) by Welfare Reform Act 2007 (c. 5), ss. 30(3)(b), 70; S.I. 2007/2872, art. 2(2)(3) (subject to arts. 3-5)

#### Commencement Information

- I30** 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 [F<sup>22</sup>First-tier Tribunal]*

#### Textual Amendments

- F22** Sch. 7 para. 6: words in heading substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 190(3)(a)

- 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

*Status: Point in time view as at 03/11/2008.*

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- 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 <sup>M23</sup>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 [<sup>F23</sup>the First-tier 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.
- (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 [<sup>F23</sup>the First-tier 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 [<sup>F23</sup>the First-tier 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.

#### Textual Amendments

- F23** Words in [Sch. 7 para. 6\(3\)\(6\)\(9\)](#) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 9\(1\)](#), [Sch. 3 para. 190\(3\)\(b\)](#)

#### Commencement Information

- I31** [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\(2\)\(a\)\(i\)](#)

*Status: Point in time view as at 03/11/2008.*

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### Marginal Citations

**M23** 1996 c. 52.

### *Redetermination etc. of appeals by tribunal*

- 7 (1) This paragraph applies where an application is made [<sup>F24</sup>to the First-tier Tribunal for permission to appeal to the Upper Tribunal from any decision of the First-tier Tribunal under paragraph 6].
- (2) <sup>F25</sup> .....
- (3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, [<sup>F26</sup>the First-tier Tribunal] shall set aside the decision and refer the case for determination by a differently constituted [<sup>F27</sup>First-tier 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.

### Textual Amendments

- F24** Words in Sch. 7 para. 7(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(4)(a)**
- F25** Sch. 7 para. 7(2) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(4)(b)**
- F26** Words in Sch. 7 para. 7(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(4)(c)(i)**
- F27** Words in Sch. 7 para. 7(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(4)(c)(ii)**

### *Appeal from [<sup>F28</sup>First-tier Tribunal to Upper Tribunal]*

### Textual Amendments

- F28** Sch. 7 para. 8: words in heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(5)(a)**

- 8 (1) <sup>F29</sup> .....
- (2) An appeal [<sup>F30</sup>to the Upper Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007 from any decision of the First-tier Tribunal under paragraph 6 or 7 lies] 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;



*Status: Point in time view as at 03/11/2008.*

**Changes to legislation:** *Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)*

(c) any person affected by the decision against which the appeal to the [F31 First-tier Tribunal] was brought or by the tribunal's decision on that appeal.

- (3) F32 .....
- (4) F32 .....
- (5) F32 .....
- (6) F32 .....
- (7) F32 .....
- (8) F32 .....

**Textual Amendments**

- F29** Sch. 7 para. 8(1) omitted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(5)(b)**
- F30** Words in Sch. 7 para. 8(2) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(5)(c)(i)**
- F31** Words in Sch. 7 para. 8(2)(c) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(5)(c)(ii)**
- F32** Sch. 7 para. 8(3)-(8) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(5)(d)**

**Commencement Information**

- I32** 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)**

*[F33 Applications for permission to appeal against a decision of the Upper Tribunal]*

**Textual Amendments**

- F33** Sch. 7 para. 9: heading substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(a)**

- 9 (1) F34 .....
- (2) F34 .....
- (3) [F35 An application for permission to appeal from a decision of the Upper Tribunal in respect of a decision of the First-tier Tribunal under paragraph 6 or 7] may only be made by—
  - (a) a person who, before the proceedings before the [F36 Upper Tribunal] were begun, was entitled to appeal to the [F36 Upper Tribunal] from the decision to which the [F37 Upper Tribunal's] decision relates;
  - (b) any other person who was a party to the proceedings in which the decision to which the [F37 Upper Tribunal's] decision relates was given;

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(c) any other person who is authorised by regulations to apply for  
 [<sup>F38</sup>permission];

<sup>F39</sup> . . . .

(4) <sup>F40</sup> . . . . .

(5) <sup>F40</sup> . . . . .

**Textual Amendments**

- F34** Sch. 7 para. 9(1)(2) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(b)**
- F35** Words in Sch. 7 para. 9(3) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(c)(i)**
- F36** Words in Sch. 7 para. 9(3)(a) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(c)(ii)**
- F37** Words in Sch. 7 para. 9(3)(a)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(c)(iii)**
- F38** Word in Sch. 7 para. 9(3)(c) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(c)(iv)**
- F39** Words in Sch. 7 para. 9(3) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(c)(v)**
- F40** Sch. 7 para. 9(4)(5) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(6)(d)**

**Commencement Information**

- I33** 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(c)**; Sch. 7 para. 9 in force at 2.7.2001 by S.I. 2001/1252, **art. 2(2)(a)(i)**

*Procedure*

10 (1) Regulations may make for the purposes of this Schedule any such provision as is specified in Schedule 5 to the <sup>M24</sup>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) <sup>F41</sup> . . . . .

(3) <sup>F41</sup> . . . . .

(4) <sup>F41</sup> . . . . .

(5) <sup>F41</sup> . . . . .

(6) <sup>F41</sup> . . . . .

(7) <sup>F41</sup> . . . . .

(8) <sup>F41</sup> . . . . .

*Status: Point in time view as at 03/11/2008.*

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#### Textual Amendments

**F41** Sch. 7 para. 10(2)-(8) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008](#) (S.I. 2008/2833), art. 9(1), [Sch. 3 para. 190\(7\)](#)

#### Commencement Information

**I34** 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

**M24** 1998 c. 14.

### *Finality of decisions*

- 11 Subject to the provisions of this Schedule [<sup>F42</sup>and to any provision made by or under Chapter 2 of Part 1 of the Tribunals, Courts and Enforcement Act 2007], any decision made in accordance with the preceding provisions of this Schedule shall be final.

#### Textual Amendments

**F42** Words in Sch. 7 para. 11 inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008](#) (S.I. 2008/2833), art. 9(1), [Sch. 3 para. 190\(8\)](#)

### *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 [<sup>F43</sup>or the First-tier Tribunal, or any decision of the Upper Tribunal which relates to any decision under this Schedule of the First-Tier Tribunal,] 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.

#### Textual Amendments

**F43** Words in Sch. 7 para. 12(a) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008](#) (S.I. 2008/2833), art. 9(1), [Sch. 3 para. 190\(9\)](#)

#### Commencement Information

**I35** 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\(2\)\(a\)\(i\)](#)

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*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 [<sup>F44</sup>the First-tier Tribunal, the Upper Tribunal] or a court; or
  - (d) it appears to the relevant authority, where an appeal is pending against the decision given by [<sup>F45</sup>the Upper Tribunal] or a court in a different case, that if 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 [<sup>F46</sup>permission] to appeal against the decision has been made but not determined; or
  - (c) the time within which—
    - (i) an application for [<sup>F46</sup>permission] 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.

**Textual Amendments**

- F44** Words in Sch. 7 para. 13(2)(c) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(10)(a)(i)**
- F45** Words in Sch. 7 para. 13(2)(d) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(10)(a)(ii)**
- F46** Word in Sch. 7 para. 13(3)(b)(c) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(10)(b)**

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#### Commencement Information

**I36** 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.

#### Commencement Information

**I37** 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.

*Status: Point in time view as at 03/11/2008.*

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#### **Commencement Information**

**I38** 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 [<sup>F47</sup>the Upper Tribunal] 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.
- (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 <sup>M25</sup>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—

*Status: Point in time view as at 03/11/2008.*

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- (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.

#### Textual Amendments

**F47** Words in Sch. 7 para. 16(1)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 190(11)

#### Commencement Information

**I39** 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

**M25** 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 [<sup>F48</sup>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 [<sup>F49</sup>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 [<sup>F50</sup>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).
- (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 [<sup>F51</sup>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 [<sup>F51</sup>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 [<sup>F52</sup>First-tier Tribunal or Upper Tribunal] shall either—
- (a) stay appeal A until appeal B is determined; or

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- (b) if the [<sup>F53</sup>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 [<sup>F54</sup>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 [<sup>F55</sup>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 [<sup>F56</sup>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 <sup>M26</sup>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.
- (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.]

#### Textual Amendments

- F48** Words in [Sch. 7 para. 17\(1\)\(a\)](#) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), [Sch. 3 para. 190\(12\)\(a\)\(i\)](#)
- F49** Words in [Sch. 7 para. 17\(1\)\(b\)](#) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), [Sch. 3 para. 190\(12\)\(a\)\(ii\)](#)



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- F50** Words in Sch. 7 para. 17(2) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(b)**
- F51** Words in Sch. 7 para. 17(3)(a)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(c)**
- F52** Words in Sch. 7 para. 17(4) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(d)(i)**
- F53** Words in Sch. 7 para. 17(4)(b) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(d)(ii)**
- F54** Words in Sch. 7 para. 17(5) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(e)(i)**
- F55** Words in Sch. 7 para. 17(5) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(e)(ii)**
- F56** Words in Sch. 7 para. 17(7)(a) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 190(12)(f)**

#### Marginal Citations

**M26** 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 [<sup>F57</sup>to the Upper Tribunal] 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 [<sup>F58</sup>the Upper Tribunal] 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

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- (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;
  - (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 [<sup>F59</sup>the Upper Tribunal]; or
  - (b) for a determination of a lower court or of [<sup>F59</sup>the Upper Tribunal] to be treated as if it had been made on the date of a determination by a higher court.

#### Textual Amendments

- F57** Words in Sch. 7 para. 18(1)(a) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(13)(a)**
- F58** Words in Sch. 7 para. 18(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(13)(b)**
- F59** Words in Sch. 7 para. 18(9)(a)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(13)(c)**

#### Commencement Information

- I40** 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—

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- (a) the correction of accidental errors in any decision or record of a decision made [<sup>F60</sup>by the relevant authority] under or by virtue of any relevant provision; and
  - (b) <sup>F61</sup> .....
- (2) Nothing in sub-paragraph (1) shall be construed as derogating from any power to correct errors <sup>F62</sup> . . . which is exercisable apart from regulations made by virtue of that sub-paragraph.
- (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 <sup>M27</sup>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 <sup>M28</sup>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.

**Textual Amendments**

- F60** Words in Sch. 7 para. 19(1)(a) inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(14)(a)(i)**
- F61** Sch. 7 para. 19(1)(b) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(14)(a)(ii)**
- F62** Words in Sch. 7 para. 19(2) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 190(14)(b)**

**Commencement Information**

- I41** 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**

- M27** 1992 c. 4.
- M28** 1992 c. 4.

*Regulations*

- 20 (1) The power to make regulations under this Schedule shall be<sup>F63</sup> exercisable by the Secretary of State]
- (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 <sup>M29</sup>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

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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.

(6) <sup>F64</sup> .....

#### Textual Amendments

- F63** Words in *Sch. 7 para. 20(1)* substituted (3.11.2008) by *The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833)*, art. 9(1), **Sch. 3 para. 190(15)(a)**
- F64** *Sch. 7 para. 20(6)* omitted (3.11.2008) by virtue of *The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833)*, art. 9(1), **Sch. 3 para. 190(15)(b)**

#### Commencement Information

- I42** *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

- M29** 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;”.

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**Commencement Information**

**I43** 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 <sup>M30</sup>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) <sup>F65</sup> .....
- (3) <sup>F65</sup> .....

**Textual Amendments**

**F65** Words in Sch. 7 para. 22(2)(3) repealed (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), Sch. 3 para. 228(h)

**Commencement Information**

**I44** 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**

**M30** 1998 c. 14.

*Interpretation*

- 23 (1) In this Schedule—
- “the Administration Act” means the <sup>M31</sup>Social Security Administration Act 1992;
- “affected” shall be construed subject to any regulations under sub-paragraph (2);
- <sup>F66</sup> .....
- <sup>F66</sup> .....
- <sup>F66</sup> .....
- “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—

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- (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.

#### Textual Amendments

**F66** Sch. 7 para. 23: definitions omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), [Sch. 3 para. 190\(16\)](#)

#### Commencement Information

**I45** 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

**M31** 1992 c. 5.

## SCHEDULE 8

Section 83.

### DECLARATIONS OF STATUS: CONSEQUENTIAL AMENDMENTS

#### *The Births and Deaths Registration Act 1953 (c.20)*

- 1 In section 14A(1)(a) of the Births and Deaths Registration Act 1953 (re-registration of birth where notification of declaration of parentage given under section 56(4) of the <sup>M32</sup>Family Law Act 1986), for “56(4)” there shall be substituted “55A(7) or 56(4)”.

#### Marginal Citations

**M32** 1986 c. 55.

#### *The Magistrates’ Courts Act 1980 (c.43)*

- 2 (1) Section 65 of the Magistrates’ Courts Act 1980 (meaning of family proceedings) shall be amended as follows.
- (2) In subsection (1) (proceedings which are family proceedings), after paragraph (m) there shall be inserted—
- “(mm) section 55A of the <sup>M33</sup>Family Law Act 1986;”.
- (3) In subsection (2) (power of court to treat combined proceedings as family proceedings), in paragraph (e), before “section 20” there shall be inserted “proceedings under”.

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**Marginal Citations**

**M33** 1986 c. 55.

*The Family Law Act 1986 (c.55)*

- 3 The Family Law Act 1986 shall be amended as follows.
- 4 In section 55 (declarations as to marital status)—
- (a) in subsection (1), for “the court” there shall be substituted “the High Court or a county court”, and
  - (b) in subsection (3), after “made” there shall be inserted “to a court”.
- 5 In section 56 (declarations as to legitimacy or legitimation)—
- (a) in subsections (1) and (2), for “the court” there shall be substituted “the High Court or a county court”, and
  - (b) in subsection (4), after “made” there shall be inserted “by a court”.
- 6 In section 57(1) (application to the court for declaration as to overseas adoption), for “the court” there shall be substituted “the High Court or a county court”.
- 7 In section 58 (general provisions)—
- (a) in subsection (1), after “application” there shall be inserted “to a court”, and
  - (b) in subsection (3), for “The” there shall be substituted “A”.
- 8 In section 59 (provisions relating to the Attorney-General)—
- (a) in subsections (1) and (2), after “an application” there shall be inserted “to a court”, and
  - (b) in subsection (3), after “any application” there shall be inserted “to a court”.

*The Family Law Reform Act 1987 (c.42)*

- 9 In section 23(1) of the Family Law Reform Act 1987—
- (a) in subsection (2) to be substituted for section 20(2) of the <sup>M34</sup>Family Law Reform Act 1969 (report to court about scientific tests), for “person responsible for” there shall be substituted “individual”; and
  - (b) in subsection (2A) to be inserted in section 20 of that Act (blood tests in proceedings under section 56 of the <sup>M35</sup>Family Law Act 1986), for “56” there shall be substituted “55A or 56”.

**Marginal Citations**

**M34** 1969 c. 46.

**M35** 1986 c. 55.

*The Children Act 1989 (c.41)*

- 10 (1) Part I of Schedule 11 to the Children Act 1989 (jurisdiction) shall be amended as follows.
- (2) In paragraph 1(2A) (additional proceedings which may be required to be commenced in a particular court)—

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- (a) for paragraph (a) there shall be substituted—
- “(a) under section 55A of the <sup>M36</sup>Family Law Act 1986 (declarations of parentage); or”,
- and
- (b) in paragraph (b), for “of that Act” there shall be substituted “of the Child Support Act 1991”.
- (3) In paragraph 2(3) (power to transfer certain proceedings)—
- (a) after paragraph (b) there shall be inserted—
- “(ba) any proceedings under section 55A of the <sup>M37</sup>Family Law Act 1986”,
- and
- (b) in paragraph (bb), before “section 20” there shall be inserted “any proceedings under”.

**Marginal Citations**

**M36** 1986 c. 55.

**M37** 1986 c. 55.

*The Child Support Act 1991 (c.48)*

- 11 The Child Support Act 1991 shall be amended as follows.
- 12 In section 26(2) (cases where Secretary of State may make maintenance calculation despite denial of parentage), in Case C (where there has been a declaration under section 56 of the <sup>M38</sup>Family Law Act 1986), after “section” there shall be inserted “55A or”.

**Marginal Citations**

**M38** 1986 c. 55.

- 13 For section 27 (declarations of parentage) there shall be substituted—

**“27 Applications for declaration of parentage under Family Law Act 1986.**

- (1) This section applies where—
- (a) an application for a maintenance calculation has been made (or is treated as having been made), or a maintenance calculation is in force, with respect to a person (“the alleged parent”) who denies that he is a parent of a child with respect to whom the application or calculation was made or treated as made;
- (b) the Secretary of State is not satisfied that the case falls within one of those set out in section 26(2); and
- (c) the Secretary of State or the person with care makes an application for a declaration under section 55A of the <sup>M39</sup>Family Law Act 1986 as to whether or not the alleged parent is one of the child’s parents.



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- (2) Where this section applies—
- (a) if it is the person with care who makes the application, she shall be treated as having a sufficient personal interest for the purposes of subsection (3) of that section; and
  - (b) if it is the Secretary of State who makes the application, that subsection shall not apply.
- (3) This section does not apply to Scotland.”

#### Marginal Citations

M39 1986 c. 55.

- 14 In section 27A(2)(b) (Secretary of State to recover fees for scientific tests if a court has made a declaration of parentage under section 27), for “section 27” there shall be substituted “section 55A of the Family Law Act 1986”.

*The Access to Justice Act 1999 (c.22)*

- 15 In Schedule 2 to the Access to Justice Act 1999 (services which are not to be funded as part of community legal services), in paragraph 2(3), after paragraph (d) there shall be inserted—
- “(da) under section 55A of the Family Law Act 1986 (declarations of parentage),”.

## SCHEDULE 9

Section 85.

### REPEALS AND REVOCATIONS

#### PART I

##### CHILD SUPPORT

#### Extent Information

E2 Sch. 9 Pt. 1 partly extends to Northern Ireland see s. 87(3)(a)

#### Commencement Information

I46 Sch. 9 Pt. 1 partly in force; Sch. 9 Pt. 1 not in force at Royal Assent see s. 86(2); Sch. 9 Pt. 1 in force for certain purposes at 2.4.2001 by S.I. 2001/1252, art. 2(1)(d); Sch. 9 Pt. 1 in force for certain further purposes at 3.3.2003 by S.I. 2003/192, art. 3, Sch.

Chapter or number	Citation	Extent of repeal or revocation
10 & 11 Geo. 6 c. 24.	The Naval Forces (Enforcement of Maintenance Liabilities) Act 1947.	In section 1(1), paragraph (aaa).

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3 & 4 Eliz. 2 c. 18.	The Army Act 1955.	In section 150A, in subsection (2), paragraph (b) and the word “or” preceding it, and in subsection (3), the words “or cancels” and “or (as the case may be) that it has been cancelled”.
3 & 4 Eliz. 2 c. 19.	The Air Force Act 1955.	In section 150A, in subsection (2), paragraph (b) and the word “or” preceding it, and in subsection (3), the words “or cancels” and “or (as the case may be) that it has been cancelled”.
1973 c. 18.	The Matrimonial Causes Act 1973.	In section 29, in subsection (7), the words “or is cancelled”, “or was cancelled” and “or, as the case may be, the date with effect from which it was cancelled”; and in subsection (8), paragraph (b) and the word “and” preceding it.
1978 c. 22.	The Domestic Proceedings and Magistrates’ Courts Act 1978.	In section 5, in subsection (7), the words “or is cancelled”, “or was cancelled” and “or, as the case may be, the date with effect from which it was cancelled”; and in subsection (8), paragraph (b) and the word “and” preceding it.
1989 c. 41.	The Children Act 1989.	In Schedule 1, in paragraph 3(7), the words “or is cancelled”, “or was cancelled” and “or, as the case may be, the date with effect from which it was cancelled”; and in paragraph 3(8), paragraph (b) and the word “and” preceding it.
1991 c. 48.	The Child Support Act 1991.	In section 15(10), the definition of “specified” and the preceding word “and”.  In section 17(1), the word “and” after paragraph (b).

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		In section 28D(2)(a), “lapsed or”.
		Sections 28H and 28I.
		Section 40(1) and (2).
		Section 41(3) to (5).
		Section 44(3).
		Section 46B(3).
		In section 54, the definitions of “assessable income”, “current assessment”, “departure direction” and “maintenance requirement”.
		In Schedule 1, paragraph 13, and in paragraph 16, sub-paragraph (1)(d) and (e), sub-paragraphs (2) to (9), and in sub-paragraph (10) the words “, or should be cancelled”.
		Schedule 4C.
1992 c. 5.	The Social Security Administration Act 1992.	In section 170(5), in the definition of “the relevant enactments”, paragraph (ab).
1992 c. 6.	The Social Security (Consequential Provisions) Act 1992.	In Schedule 2, paragraph 113.
1995 c. 18.	The Jobseekers Act 1995.	In Schedule 2, paragraph 20(2), (4) and (7).
1995 c. 34.	The Child Support Act 1995.	Sections 1, 2 and 3. Sections 6, 7, 8, 9, 10 and 11. Section 14(2) and (3). Section 18(3) and (5). Section 19. Section 22. Section 24. Section 26(4)(c). Schedules 1 and 2. In Schedule 3, paragraphs 12, 15 and 20(a).
1998 c. 14.	The Social Security Act 1998.	Section 42.

*Status: Point in time view as at 03/11/2008.*

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		In Schedule 7, paragraphs 20, 24, 25, 28, 34, and 35; in paragraph 36, the words “(1) and”; and paragraphs 37, 38, 39, 40, 43, 46, 48(1), (2), (3) and (5)(a), (b) and (c), 53 and 54.
S.I. 1998/2780 (C.66).	The Social Security Act 1998 (Commencement No. 2) Order 1998.	Article 3(4).
1999 c. 10.	The Tax Credits Act 1999.	In Schedule 1, paragraph 6(i). In Schedule 2, paragraph 17(a).

## PART II

### STATE PENSIONS

Chapter	Short title	Extent of repeal
1999 c. 30.	The Welfare Reform and Pensions Act 1999.	In Schedule 8, paragraph 5(b) and the word “and” immediately preceding it.

## PART III

### OCCUPATIONAL AND PERSONAL PENSION SCHEMES

#### Extent Information

**E3** [Sch. 9 Pt. III](#) partly extends to Northern Ireland see [s. 87\(3\)\(b\)](#)

#### Commencement Information

**I47** [Sch. 9 Pt. III](#) partly in force; [Sch. 9 Pt. III](#) not in force at Royal Assent see [s. 86\(2\)](#); [Sch. 9 Pt. III](#) section (3) in force for certain purposes at 1.12.2000 by [S.I. 2000/3166, art. 2\(2\)\(e\)](#); [Sch. 9 Pt. III](#) sections (4)-(9) in force at 1.1.2001 by [S.I. 2000/3166, art. 2\(3\)\(c\)](#); [Sch. 9 Pt. III](#) s. (2) in force at 1.3.2002 for the purposes of making regulations and rules and at 1.4.2002 for all purposes other than the purpose of making regulations by [S.I. 2002/437, art. 3\(1\)\(h\)\(2\)](#); [Sch. 9 Pt. III](#) s. (11) in force at 6.4.2002 by [S.I. 2002/437, art. 3\(3\)](#)

(1)

#### Member-nominated trustees and directors

Chapter	Short title	Extent of repeal
1995 c. 26.	The Pensions Act 1995.	In section 16(1), the words “(subject to section 17)” and

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in paragraph (b), the words “,  
and the appropriate rules,”.

Section 17.

In section 18(1), the words “,  
subject to section 19,” and in  
paragraph (b), the words “,  
and the appropriate rules,”.

Sections 19 and 20.

In section 21—

(a) in subsections (1) and  
(2), the words “, or the  
appropriate rules,”;

(b) in subsection (3), the  
words “or rules”;

(c) in subsection (4),  
the words “(or further  
arrangements)” in  
paragraph (a), and  
paragraph (b) and the word  
“and” immediately preceding  
it;

(d) subsection (5);

(e) in subsection (7), the  
words “and this section”,  
paragraph (b) and the word  
“and” immediately preceding  
paragraph (b); and

(f) in subsection (8),  
paragraph (b) and the word  
“and” immediately preceding  
it.

1999 c. 30.

The Welfare Reform and  
Pensions Act 1999.

In Schedule 12, paragraphs  
46 and 48 and in paragraph  
49, sub-paragraph (b) and  
the word “and” immediately  
preceding it.

## (2) Information to be given to the authority

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993.	In section 178(a), the words “sections 22 to 26 of the Pensions Act 1995”.
1995 c. 26.	The Pensions Act 1995.	In Schedule 3, paragraph 43.

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### (3) The Pensions Ombudsman

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993.	In section 146—  (a) in subsection (1)(c), the words “which arises” and the words from “and which” to “beneficiary, and”;  (b) in subsection (1)(d), the words “which arises”; and  (c) subsection (3A).
1995 c. 26.	The Pensions Act 1995.	Section 157(7).

### (4) Guaranteed minimum for widows and widowers

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993.	In section 17(5), the words “Category B retirement pension,”, in the first place where they occur, and the words from “or for which” onwards.

### (5) Protected rights

Chapter	Short title	Extent of repeal
1995 c. 26.	The Pensions Act 1995.	In Schedule 5, paragraph 34(a).

### (6) Contributions equivalent premiums

Chapter or number	Citation	Extent of repeal or revocation
1995 c. 26.	The Pensions Act 1995.	In Schedule 5, paragraph 57(a)(ii).
S.I. 1995/3213 (N.I. 22).	The Pensions (Northern Ireland) Order 1995.	In Schedule 3, paragraph 49(a)(ii).

### (7) Use of cash equivalent

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993.	Section 95(4).

*Status: Point in time view as at 03/11/2008.*

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(8) Transfer values

Chapter	Short title	Extent of repeal
1993. c. 48.	The Pension Schemes Act 1993.	Section 98(7)(a).

Sub-paragraph (4) of paragraph 8 of Schedule 5 to this Act has effect in relation to this repeal as it has effect in relation to sub-paragraph (2) of that paragraph.

(9) Information about contracting-out

Chapter	Short title	Extent of repeal
1999 c. 2.	The Social Security Contributions (Transfer of Functions, etc.) Act 1999.	In Schedule 1, paragraph 60.

F67

**Textual Amendments**

**F67** Sch. 9 Pt. 3(10) repealed (6.4.2006) by Pensions Act 2004 (c. 35), ss. 320, 322, Sch. 13 Pt. 1; S.I. 2006/560, art. 2(3), Sch. Pt. 3

(11) Spent provisions;

Chapter	Short title	Extent of repeal
1993 c. 48.	The Pension Schemes Act 1993.	Section 56(5).
1993 c. 49.	The Pension Schemes (Northern Ireland) Act 1993.	Section 52(5).

**PART IV**

WAR PENSIONS

**Extent Information**

**E4** Sch. 9 Pt. IV partly extends to Northern Ireland see s. 87(3)(c)

Chapter	Short title	Extent of repeal
6 & 7 Geo. 6. c. 39.	The Pensions Appeal Tribunals Act 1943.	In section 8, in subsection (1), the words from “Provided” to the end, subsection (2) and, in

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12, 13 & 14 Geo. 6. c. 12.	The Pensions Appeal Tribunals Act 1949.	subsection (3), the words from “Provided” to the end. Section 1(2).
1990 c. 41.	The Courts and Legal Services Act 1990.	Section 2. In Schedule 10, paragraph 5.
1995 c. 26.	The Pensions Act 1995.	Section 169(6).

PROSPECTIVE

**PART V**

LOSS OF BENEFIT

Chapter	Short title	Extent of repeal
1998 c. 14.	The Social Security Act 1998.	In Schedule 3, in paragraph 3, the word “or” at the end of sub-paragraph (c).

**PART VI**

INVESTIGATION POWERS

Chapter	Short title	Extent of repeal
1992 c. 5.	The Social Security Administration Act 1992.	Section 111A(2). Section 112(3).
1993 c. 48.	The Pension Schemes Act 1993.	In Schedule 8, paragraph 26.
1995 c. 18.	The Jobseekers Act 1995.	Section 33. Section 34(2), (3) and (5) to (7). In Schedule 2, paragraph 54.
1995 c. 26.	The Pensions Act 1995.	In Schedule 5, paragraph 15(2).
1997 c. 27.	The Social Security (Recovery of Benefits) Act 1997.	In Schedule 3, paragraph 4.



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1997 c. 47.	The Social Security Administration (Fraud) Act 1997.	Section 12.  In Schedule 1, paragraph 4(4).
1999 c. 2.	The Social Security Contributions (Transfer of Functions, etc.) Act 1999.	In Schedule 5, paragraph 2.
1999 c. 10.	The Tax Credits Act 1999.	In Schedule 2, paragraphs 11(a), 13(a) and 14(a).
1999 c. 30.	The Welfare Reform and Pensions Act 1999.	In Schedule 8, paragraph 34(2)(a).

## PART VII

### HOUSING BENEFIT AND COUNCIL TAX BENEFIT

#### Commencement Information

**I48** Sch. 9 Pt. VII partly in force; Sch. 9 Pt. VII not in force at Royal Assent see s. 86(2); Sch. 9 Pt. VII in force for certain purposes at 2.7.2001 by S.I. 2001/1252, art. 2(2)(c)(3)

Chapter	Short title	Extent of repeal
1998 c. 14.	The Social Security Act 1998.	In section 34, subsections (4) and (5).  Section 35.

## PART VIII

### NICS IN RESPECT OF BENEFITS IN KIND

PROSPECTIVE

#### (1) GREAT BRITAIN

Chapter	Short title	Extent of repeal
1992 c. 4.	The Social Security Contributions and Benefits Act 1992.	In section 1(2)(b), the words “in respect of cars made available for private use and car fuel”.  In Schedule 1, paragraphs 3(2) and 8(1)(i).

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**Changes to legislation:** Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)

1998 c. 14.	The Social Security Act 1998.	Section 50(2).  Section 52. In Schedule 7, paragraph 58.
1999 c. 2.	The Social Security Contributions (Transfer of Functions, etc.) Act 1999.	In section 8(1), paragraph (j), and in paragraph (l), the words “amount of interest or”.  In Schedule 1, paragraph 19(2).  In Schedule 3, paragraph 10.

(2) NORTHERN IRELAND

Chapter or number	Citation	Extent of repeal or revocation
1992 c. 7.	The Social Security Contributions and Benefits (Northern Ireland) Act 1992.	In section 1(2)(b), the words “in respect of cars made available for private use and car fuel”.  In Schedule 1, paragraphs 3(2) and 8(1)(i).
S.I. 1998/1506 (N.I. 10).	The Social Security (Northern Ireland) Order 1998.	Article 47(2).  Article 49. In Schedule 6, paragraph 40.
S.I. 1999/671.	The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.	In Article 7(1), subparagraph (j), and in subparagraph (l), the words “amount of interest or”.  In Schedule 1, paragraph 22(2).  In Schedule 3, paragraph 11.

- 1 These repeals (except the repeals in Article 7(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999) have effect in relation to the tax year beginning with 6th April 2000 and subsequent tax years.
- 2 The repeals in Article 7(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 have effect in accordance with section 80(7) of this Act.

*Status: Point in time view as at 03/11/2008.*

**Changes to legislation:** Child Support, Pensions and Social Security Act 2000 is up to date with all changes known to be in force on or before 10 June 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)

## PART IX

### TESTS FOR DETERMINING PARENTAGE AND DECLARATIONS OF STATUS

Chapter	Short title	Extent of repeal
1968 c. 63.	The Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968.	In section 2, subsection (1) (e) and, in subsection (3), the words “or (e)”.
1968 c. 64.	The Civil Evidence Act 1968.	In section 12(5), in the definition of “relevant proceedings”, paragraph (d).
1980 c. 43.	The Magistrates’ Courts Act 1980.	In section 65(1)(o) and (2)(e), the words “or section 27”.
1986 c. 55.	The Family Law Act 1986.	Section 56(1)(a). Section 58(5)(b). Section 63.
1987 c. 42.	The Family Law Reform Act 1987.	In paragraph 19(a) of Schedule 2, the words from “and there” to the end.
1989 c. 41.	The Children Act 1989.	Section 89. In Schedule 11, in paragraphs 1(3)(bb) and 2(3)(bb), the words from “or 27” to “parentage”.
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 16, paragraph 3.
1991 c. 48.	The Child Support Act 1991.	In section 26(2), Case D.
1995 c. 34.	The Child Support Act 1995.	In section 20, subsections (1) to (4).
1998 c. 14.	The Social Security Act 1998.	In Schedule 7, paragraph 32.
1999 c. 22.	The Access to Justice Act 1999.	In Schedule 2, in paragraph 2(3)(g), the words “or 27”.

**Status:**

Point in time view as at 03/11/2008.

**Changes to legislation:**

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