

Child Support, Pensions and Social Security Act 2000

CHAPTER 19.

Note: The material reproduced below is limited to what is relevant to this volume. This includes sections 68 – 71, 84 – 87 and Schedule 7. Other parts of the act are reproduced in other volumes of the Law Relating to Social Security.

An abridged Arrangement of Sections below list the sections and Schedules relevant to this volume

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SOCIAL SECURITY

Housing benefit and council tax benefit etc.

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SCHEDULES

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An Act to amend the law relating to child support; to amend the law relating to occupational and personal pensions and war pensions; to amend the law relating to social security benefits and social security administration; to amend the law relating to national insurance contributions; to amend Part III of the Family Law Reform Act 1969 and Part III of the Family Law Act 1986; and for connected purposes.

[28th July 2000]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

PART III
SOCIAL SECURITY

Housing benefit and council tax benefit etc.

Housing benefit and council tax benefit revisions and appeals.

68. Schedule 7 (which makes provision for the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions) shall have effect.

Discretionary financial assistance with housing.

69.—(1) The Secretary of State may by regulations make provision conferring a power on relevant authorities to make payments by way of financial assistance (“discretionary housing payments”) to persons who—

- (a) are entitled to housing benefit or council tax benefit, or to both; and
- (b) appear to such an authority to require some further financial assistance (in addition to the benefit or benefits to which they are entitled) in order to meet housing costs.

(2) Regulations under this section may include any of the following—

- (a) provision prescribing the circumstances in which discretionary housing payments may be made under the regulations;
- (b) provision conferring (subject to any provision made by virtue of paragraph (c) or (d) of this subsection or an order under section 70) a discretion on a relevant authority—
 - (i) as to whether or not to make discretionary housing payments in a particular case; and
 - (ii) as to the amount of the payments and the period for or in respect of which they are made;
- (c) provision imposing a limit on the amount of the discretionary housing payment that may be made in any particular case;
- (d) provision restricting the period for or in respect of which discretionary housing payments may be made;
- (e) provision about the form and manner in which claims for discretionary housing payments are to be made and about the procedure to be followed by relevant authorities in dealing with and disposing of such claims;
- (f) provision imposing conditions on persons claiming or receiving discretionary housing payments requiring them to provide a relevant authority with such information as may be prescribed;
- (g) provision entitling a relevant authority that are making or have made a discretionary housing payment, in such circumstances as may be prescribed, to cancel the making of further such payments or to recover a payment already made;
- (h) provision requiring or authorising a relevant authority to review decisions made by the authority with respect to the making, cancellation or recovery of discretionary housing payments.

(3) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subsections (4) to (6) of section 189 of the Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make regulations under this section as they apply in relation to the powers to make regulations that are conferred by that Act.

(5) Any power to make regulations under this section shall include power to make different provision for different areas or different relevant authorities.

(6) In section 176(1) of that Act (consultation with representative organisation on subordinate legislation relating to housing benefit or council tax benefit), after paragraph (a) there shall be inserted—

“(aa) regulations under section 69 of the Child Support, Pensions and Social Security Act 2000;”.

(7) In this section—

“prescribed” means prescribed by or determined in accordance with regulations made by the Secretary of State; and

“relevant authority” means an authority administering housing benefit or council tax benefit.

70.—(1) The Secretary of State may, out of money provided by Parliament, make to a relevant authority such payments as he thinks fit in respect of—

Grants towards cost of discretionary housing payments.

(a) the cost to that authority of the making of discretionary housing payments; and

(b) the expenses involved in the administration by that authority of any scheme for the making of discretionary housing payments.

(2) The following provisions, namely—

(a) subsections (1), (3), (4), (5)(b), (7)(b) and (8) of section 140B of the Social Security Administration Act 1992 (calculation of amount of subsidy payable to authorities administering housing benefit or council tax benefit), and

(b) section 140C of that Act (payment of subsidy),

shall apply in relation to payments under this section as they apply in relation to subsidy under section 140A of that Act.

(3) The Secretary of State may by order make provision—

(a) imposing a limit on the total amount of expenditure in any year that may be incurred by a relevant authority in making discretionary housing payments;

(b) imposing subsidiary limits on the expenditure that may be incurred in any year by a relevant authority in making discretionary housing payments in the circumstances specified in the order.

(4) An order imposing a limit by virtue of subsection (3)(a) or (b) may fix that limit either by specifying the amount of the limit or by providing for the means by which it is to be determined.

(5) An order under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subsections (4) to (6) of section 189 of the Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make an order under this section as they apply in relation to the powers to make an order that are conferred by that Act.

(7) Any power to make an order under this section shall include power to make different provision for different areas or different relevant authorities.

(8) In this section—

“discretionary housing payment” means any payment made by virtue of regulations under section 69;

“relevant authority” means an authority administering housing benefit or council tax benefit;

“subsidy” has the same meaning as in sections 140A to 140G of the Social Security Administration Act 1992;

“year” means a financial year within the meaning of the Local Government Finance Act 1992.

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Recovery of housing benefit.

71. For subsection (3) of section 75 of the Social Security Administration Act 1992 (overpayments of housing benefit) there shall be substituted—

“(3) An amount recoverable under this section shall be recoverable—

- (a) except in such circumstances as may be prescribed, from the person to whom it was paid; and
- (b) where regulations so provide, from such other person (as well as, or instead of, the person to whom it was paid) as may be prescribed.”

Supplemental

Expenses.

84. There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State for or in connection with the carrying out of his functions under this Act; and
- (b) any increase attributable to this Act in the sums which are payable out of money so provided under any other Act.

Repeals.

85.—(1) The enactments mentioned in Schedule 9 (which include some spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

(2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained, or referred to, in the notes set out in that Schedule.

Commencement and transitional provisions.

86.—(1) This section applies to the following provisions of this Act—

- (a) Part I (other than section 24);
- (b) Part II (other than sections 38 and 39 and paragraphs 4 to 6, 8(1), (3) and (4) and 13 of Schedule 5);
- (c) Part III;
- (d) sections 82 and 83 and Schedule 8;
- (e) Parts I to VII and IX of Schedule 9.

(2) The provisions of this Act to which this section applies shall come into force on such day as may be appointed by order made by statutory instrument; and different days may be appointed under this section for different purposes.

(3) The power to make an order under subsection (2) shall be exercisable—

- (a) except in a case falling within paragraph (b), by the Secretary of State; and
- (b) in the case of an order bringing into force any of the provisions of sections 82 and 83, Schedule 8 or Part IX of Schedule 9, by the Lord Chancellor.

(4) In the case of Part I (other than section 24) and of sections 62 to 66, the power under subsection (2) to appoint different days for different purposes includes power to appoint different days for different areas.

(5) The Secretary of State may by regulations make such transitional provision as he considers necessary or expedient in connection with the bringing into force of any of the following provisions of this Act—

- (a) sections 43 to 46 and section (1) of Part III of Schedule 9;
- (b) sections 68 to 70 and Schedule 7 and Part VII of Schedule 9.

(6) Regulations under subsection (5) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Section 174(2) to (4) of the Pensions Act 1995 (supplementary provision in relation to powers to make subordinate legislation under that Act) shall apply in relation to the power to make regulations under subsection (5) as it applies to any power to make regulations under that Act.

(8) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

87.—(1) This Act may be cited as the Child Support, Pensions and Social Security Act 2000. Short title and extent.

(2) The following provisions of this Act extend to Northern Ireland—

- (a) so much of section 46 as amends section 21(3) of the Pensions Act 1995;
- (b) sections 57 to 61 (except section 60(5));
- (c) section 73;
- (d) sections 78 to 81;
- (e) in Schedule 3, paragraphs 8 and 9, and in paragraph 11, sub-paragraph (2) (and sub-paragraph (1) so far as it relates to that sub-paragraph);
- (f) paragraph 6 of Schedule 5; and
- (g) this Part, except—
 - (i) sections 82 and 83 and Schedule 8; and
 - (ii) so much of this Part as gives effect to any repeal other than the repeals mentioned in subsection (3).

(3) The repeals mentioned in subsection (2)(g) (which extend to Northern Ireland) are—

- (a) the repeals, in Part I of Schedule 9, that relate to the Tax Credits Act 1999;
- (b) the repeals, in sections (1), (6) and (11) of Part III of that Schedule, that relate to—
 - (i) section 21(3) of the Pensions Act 1995;
 - (ii) paragraph 49(a)(ii) of Schedule 3 to the Pensions (Northern Ireland) Order 1995; and
 - (iii) section 52(5) of the Pension Schemes (Northern Ireland) Act 1993;
- (c) the repeals in Part IV of that Schedule (except so far as relating to the Courts and Legal Services Act 1990); and
- (d) the repeals in section (2) of Part VIII of that Schedule.

(4) Subject to that, this Act does not extend to Northern Ireland.

SCHEDULE 7

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.

Decisions on claims for benefit

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

- (a) the claim shall not be regarded as subsisting after that time; and
- (b) accordingly, the claimant shall not (without making a further claim) be entitled to the benefit on the basis of circumstances not obtaining at that time.

Revision of decisions

3.—(1) Any relevant decision may be revised or further revised by the relevant authority which made the decision—

- (a) either within the prescribed period or in prescribed cases or circumstances; and
- (b) either on an application made for the purpose by a person affected by the decision or on their own initiative;

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

(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.

Decisions superseding earlier decisions

4.—(1) Subject to [¹sub-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 of an appeal tribunal or a Commissioner,

may be superseded by a decision made by the appropriate relevant authority, either on an application made for the purpose by a person affected by the decision or on their own initiative.

(2) In this paragraph “the appropriate relevant authority” means the authority which made the decision being superseded, the decision appealed against to the tribunal or, as the case may be, the decision to which the decision being appealed against to the Commissioner relates.

(3) In making a decision under sub-paragraph (1), the relevant authority need not consider any issue that is not raised by the application or, as the case may be, did not cause them to act on their own initiative.

(4) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this paragraph.

[¹(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.]

(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.

Use of experts by relevant authorities

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

Appeal to appeal tribunal

6.—(1) Subject to sub-paragraph (2), this paragraph applies to any relevant decision (whether as originally made or as revised under paragraph 3) of a relevant authority which—

- (a) is made on a claim for, or on an award of, housing benefit or council tax benefit; or
- (b) does not fall within paragraph (a) but is of a prescribed description.

(2) This paragraph does not apply to—

- (a) any decision terminating or reducing the amount of a person’s housing benefit or council tax benefit that is made in consequence of any decision made under regulations under section 2A of the Administration Act (work-focused interviews);
- (b) any decision of a relevant authority as to the application or operation of any modification of a housing benefit scheme or council tax benefit scheme under section 134(8)(a) or section 139(6)(a) of the Administration Act (disregard of war disablement and war widows’ pensions);

¹ In para. 4 words inserted in sub-para. (1) and sub-para. (4A) inserted (1.10.07) for reg. making purposes and 7.4.08 for all other purposes) by the Welfare Reform Act 2007 (c. 5), s. 30(3).

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- (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 Housing Act 1996 (decisions of rent officers for the purposes of housing benefit);
- (d) any decision of a relevant authority as to the amount of benefit to which a person is entitled in a case in which the amount is determined by the rate of benefit provided for by law; or
- (e) any such other decision as may be prescribed.

(3) In the case of a decision to which this paragraph applies, any person affected by the decision shall have a right to appeal to an appeal tribunal.

(4) Nothing in sub-paragraph (3) shall confer a right of appeal in relation to—

- (a) a prescribed decision; or
- (b) a prescribed determination embodied in or necessary to a decision.

(5) Regulations under sub-paragraph (4) shall not prescribe any decision or determination that relates to the conditions of entitlement to housing benefit or council tax benefit for which a claim has been validly made.

(6) Where any amount of housing benefit or council tax benefit is determined to be recoverable under or by virtue of section 75 or 76 of the Administration Act (overpayments and excess benefits), any person from whom it has been determined that it is so recoverable shall have a right of appeal to an appeal tribunal.

(7) A person with a right of appeal under this paragraph shall be given such notice of the decision in respect of which he has that right, and of that right, as may be prescribed.

(8) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought.

(9) In deciding an appeal under this paragraph, an appeal tribunal—

- (a) need not consider any issue that is not raised by the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.

Redetermination etc. of appeals by tribunal

7.—(1) This paragraph applies where an application is made to a person for leave under paragraph 8(7)(a) or (c) to appeal from a decision of an appeal tribunal.

(2) If the person considers that the decision was erroneous in point of law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.

(3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.

(4) In this paragraph and paragraph 8 “principal parties” means—

- (a) where he is the applicant for leave to appeal or the circumstances are otherwise such as may be prescribed, the Secretary of State;
- (b) the relevant authority against whose decision the appeal to the appeal tribunal was brought; and
- (c) the person affected by the decision against which the appeal to the appeal tribunal was brought or by the tribunal’s decision on that appeal.

Appeal from tribunal to Commissioner

8.—(1) Subject to the provisions of this paragraph, an appeal lies to a Commissioner from any decision of an appeal tribunal under paragraph 6 or 7 on the ground that the decision of the tribunal was erroneous in point of law.

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

Appeal from Commissioner on point of law

- 9.—(1) Subject to sub-paragraphs (2) and (3), an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this paragraph shall lie from a decision except—
- (a) with the leave of the Commissioner who gave the decision or, in a prescribed case, with the leave of a Commissioner selected in accordance with regulations; or
 - (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this paragraph in respect of a Commissioner's decision may only be made by—
- (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner's decision relates;
 - (b) any other person who was a party to the proceedings in which the decision to which the Commissioner's decision relates was given;
 - (c) any other person who is authorised by regulations to apply for leave;

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and regulations may make provision with respect to the manner in which, and the time within which, applications must be made to a Commissioner for leave under this paragraph, and with respect to the procedure for dealing with such applications.

(4) On an application to a Commissioner for leave under this paragraph, it shall be the duty of the Commissioner to specify as the appropriate court—

- (a) the Court of Appeal if it appears to him that the relevant dwelling is in England or Wales; and
- (b) the Court of Session if it appears to him that the relevant dwelling is in Scotland;

except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraph (a) or (b) as the appropriate court, it shall be his duty to specify that court as the appropriate court.

(5) In this paragraph—

“the appropriate court”, except in sub-paragraph (4), means the court specified in pursuance of that sub-paragraph;

“the relevant dwelling”, in relation to any decision, means the dwelling by reference to which any claim or award of housing benefit or council tax benefit to which the decision relates was made.

Procedure

10.—(1) Regulations may make for the purposes of this Schedule any such provision as is specified in Schedule 5 to the Social Security Act 1998, or as would be so specified if the references to the Secretary of State in paragraph 1 of that Schedule were references to a relevant authority.

(2) Regulations prescribing the procedure to be followed in cases before a Commissioner shall provide that any hearing shall be in public except in so far as the Commissioner for special reasons otherwise directs.

(3) It is hereby declared that the power by regulations to prescribe procedure includes power—

- (a) to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and
- (b) to confer on the Secretary of State a right to be represented and heard in any proceedings before a Commissioner to which he is not already a party.

(4) If it appears to a Commissioner that a matter before him involves a question of fact of special difficulty, he may direct that in dealing with that matter he shall have the assistance of one or more persons appearing to him to have knowledge or experience which would be relevant in determining that question.

(5) If it appears to the Chief Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that—

- (a) an application for leave under paragraph 8(7)(b), or
- (b) an appeal,

falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the application or appeal be dealt with, not by that Commissioner alone, but by a tribunal consisting of any three or more of the Commissioners.

(6) If the decision of such a tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal; and the presiding Commissioner shall have a casting vote if the votes (including his first vote) are equally divided.

(7) Where a direction is given under sub-paragraph (5)(a), paragraph 8(7)(b) shall have effect as if the reference to a Commissioner were a reference to such a tribunal as is mentioned in sub-paragraph (5).

(8) Except so far as it may be applied in relation to England and Wales by regulations, Part I of the Arbitration Act 1996 shall not apply to any proceedings under this Schedule.

Finality of decisions

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

Matters arising as respects decisions

12. Regulations may make provision as respects matters arising—

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

Suspension in prescribed circumstances

13.—(1) Regulations may provide for—

- (a) suspending, in whole or in part, any payments of housing benefit or council tax benefit;
- (b) suspending, in whole or in part, any reduction (by way of council tax benefit) in the amount that a person is or will become liable to pay in respect of council tax;
- (c) the subsequent making, or restoring, in prescribed circumstances of any or all of the payments, or reductions, so suspended.

(2) Regulations made under sub-paragraph (1) may, in particular, make provision for any case where, in relation to a claim for housing benefit or council tax benefit—

- (a) it appears to the relevant authority that an issue arises whether the conditions for entitlement to such a benefit are or were fulfilled;
- (b) it appears to the relevant authority that an issue arises whether a decision as to an award of such a benefit should be revised (under paragraph 3) or superseded (under paragraph 4);
- (c) an appeal is pending against a decision of an appeal tribunal, a Commissioner or a court; or
- (d) it appears to the relevant authority, where an appeal is pending against the decision given by a Commissioner or a court in a different case, that if the appeal were to be determined in a particular way an issue would arise whether the award of housing benefit or council tax benefit in the case itself ought to be revised or superseded.

(3) For the purposes of sub-paragraph (2), an appeal against a decision is pending if—

- (a) an appeal against the decision has been brought but not determined;
- (b) an application for leave to appeal against the decision has been made but not determined; or
- (c) the time within which—
 - (i) an application for leave to appeal may be made, or
 - (ii) an appeal against the decision may be brought,

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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.

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.

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.

Decisions involving issues that arise on appeal in other cases

- 16.**—(1) This paragraph applies where—
- (a) a relevant decision, or a decision under paragraph 3 about the revision of an earlier decision, falls to be made in any particular case; and
 - (b) an appeal is pending against the decision given in another case by a Commissioner or a court.

(2) A relevant authority need not make the decision while the appeal is pending if they consider it possible that the result of the appeal will be such that, if it were already determined, there would be no entitlement to benefit.

(3) If a relevant authority consider it possible that the result of the appeal will be such that, if it were already determined, it would affect the decision in some other way—

- (a) they need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;
- (b) they may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.

(4) Where—

- (a) a relevant authority act in accordance with sub-paragraph (3)(b), and
- (b) following the making of the determination it is appropriate for their decision to be revised,

they shall then revise their decision (under paragraph 3) in accordance with that determination.

(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 Supreme Court Act 1981 or for leave to apply for judicial review; or
- (b) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.

(7) In sub-paragraph (1)(b) the reference to another case—

- (a) includes a reference to a case involving a decision made, or falling to be made, by a different relevant authority; but
- (b) does not include a reference to a case relating to another benefit unless the other benefit is housing benefit or council tax benefit.

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 an appeal tribunal, or from an appeal tribunal to a Commissioner; and*
- (b) *an appeal ("appeal B") is pending against a decision given in a different case by a Commissioner or a court.*

(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 tribunal or Commissioner—

- (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—

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- (a) *in a case where appeal A has not been determined by the 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 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 appeal tribunal or Commissioner shall either-*

- (a) *stay appeal A until appeal B is determined; or*
- (b) *if the tribunal or Commissioner considers it to be in the interests of the appellant to do so, determine appeal A as if-*
 - (i) *appeal B had already been determined; and*
 - (ii) *the issues arising on appeal B had been decided in the way that was most unfavourable to the appellant.*

(5) *Where the appeal tribunal or Commissioner 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 tribunal or Commissioner 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 a Commissioner 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 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.*

Restrictions on entitlement to benefit in certain cases of error

18.—(1) Subject to sub-paragraph (2), this paragraph applies where—

- (a) the effect of the determination, whenever made, of an appeal by virtue of this Schedule to a Commissioner or the court (“the relevant determination”) is that the relevant authority’s decision out of which the appeal arose was erroneous in point of law; and
- (b) after the date of the relevant determination a decision falls to be made by that relevant authority or another relevant authority in accordance with that determination (or would, apart from this paragraph, fall to be so made)—
 - (i) in relation to a claim for housing benefit or council tax benefit;
 - (ii) as to whether to revise, under paragraph 3, a decision as to a person’s entitlement to such a benefit; or
 - (iii) on an application made under paragraph 4 for a decision as to a person’s entitlement to such a benefit to be superseded.

(2) This paragraph does not apply where the decision mentioned in sub-paragraph (1)(b)—

- (a) is one which, but for paragraph 16(2) or (3)(a), would have been made before the date of the relevant determination; or
- (b) *is one made in pursuance of paragraph 17(3) or (5).*

(3) In so far as the decision relates to a person’s entitlement to benefit in respect of a period before the date of the relevant determination, it shall be made as if the relevant authority’s decision had been found by the Commissioner or court not to have been erroneous in point of law.

(4) Sub-paragraph (1)(a) shall be read as including a case where—

- (a) the effect of the relevant determination is that part or all of a purported regulation or order is invalid; and
- (b) the error of law made by the relevant authority was to act on the basis that the purported regulation or order (or the part held to be invalid) was valid.

(5) It is immaterial for the purposes of sub-paragraph (1)—

- (a) where such a decision as is mentioned in paragraph (b)(i) falls to be made, whether the claim was made before or after the date of the relevant determination;
- (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.

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- (9) Regulations made under sub-paragraph (8) may include provision—
- (a) for a determination of a higher court to be treated as if it had been made on the date of a determination by a lower court or by a Commissioner; or
 - (b) for a determination of a lower court or of a Commissioner to be treated as if it had been made on the date of a determination by a higher court.

Correction of errors and setting aside of decisions

- 19.—(1) Regulations may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision made under or by virtue of any relevant provision; and
 - (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
 - (i) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative, or was not received at an appropriate time by the body or person who gave the decision; or
 - (ii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.

(2) Nothing in sub-paragraph (1) shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that sub-paragraph.

- (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 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 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.

Regulations

- 20.—(1) The power to make regulations under this Schedule shall be exercisable—
- (a) in the case of regulations with respect to proceedings before the Commissioners, by the Lord Chancellor; and
 - (b) in any other case, by the Secretary of State;

and the Lord Chancellor shall consult with the Scottish Ministers before making any regulations under this Schedule that apply to Scotland.

(2) Any power conferred by this Schedule to make regulations shall include power to make different provision for different areas or different relevant authorities.

(3) Subsections (3) to (7) of section 79 of the Social Security Act 1998 (supplemental provision in connection with powers to make subordinate legislation under that Act) shall apply to any power to make regulations under this Schedule as they apply to any power to make regulations under that Act.

(4) A statutory instrument containing (whether alone or with other provisions) regulations under paragraph 6(2)(e) or (4) shall not be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House.

(5) A statutory instrument—

- (a) which contains (whether alone or with other provisions) regulations made under this Schedule, and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

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;”.

Consequential amendments of the Social Security Act 1998

22.—(1) Section 34(4) and (5) and section 35 of the Social Security Act 1998 (regulations for the determination of claims and reviews of housing benefit and council tax benefit and for the suspension of those benefits) shall cease to have effect.

(2) In paragraph 4(1)(a) of Schedule 1 to that Act (supplementary provisions relating to the appeal tribunals), for “or section 20 of the Child Support Act” there shall be substituted “, section 20 of the Child Support Act or paragraph 6 of Schedule 7 to the Child Support, Pensions and Social Security Act 2000”.

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

Interpretation

23.—(1) In this Schedule—

- “the Administration Act” means the Social Security Administration Act 1992;
- “affected” shall be construed subject to any regulations under sub-paragraph (2);
- “appeal tribunal” means an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998;
- “the Chief Commissioner” means the Chief Social Security Commissioner;
- “Commissioner” means the Chief Commissioner or any other Social Security Commissioner, and includes a tribunal of three or more Commissioners constituted under paragraph 10(5);

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“prescribed” means prescribed by regulations under this Schedule;
“relevant authority” has the meaning given by paragraph 1(1);
“relevant decision” has the meaning given by paragraph 1(2).

(2) Regulations may make provision specifying the circumstances in which a person is or is not to be treated for the purposes of this Schedule as a person who is affected by any decision of a relevant authority.

(3) For the purposes of this Schedule any decision that is made or falls to be made—

- (a) by a person authorised to carry out any function of a relevant authority relating to housing benefit or council tax benefit, or
- (b) by a person providing services relating to housing benefit or council tax benefit directly or indirectly to a relevant authority,

shall be treated as a decision of the relevant authority on whose behalf the function is carried out or, as the case may be, to whom those services are provided.

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SCHEDULE 9

REPEALS AND REVOCATIONS

..... *various repeals*

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ANNEX 1

LIST OF OMISSIONS

The following provisions have been omitted from the text for the reasons stated below:-

Ss. 1 – 29	...	...	...	relates to Child Support outside the scope of these volumes
Ss. 30 – 42	...	...	...	relates to state pensions and included in volume 2 in this series
Ss. 43 – 56	...	...	...	relates to occupational and personal pensions benefit and are included in volume 5 in this series
Ss. 57 – 61	...	...	...	relates to war pensions which are not reproduced in these volumes
Ss. 62 – 67	...	...	...	relates to common provisions and included in volume 1 of this series
Ss. 72 – 77	...	...	...	relates to common provisions and included in volume 1 of this series
Ss. 78 – 81	...	...	...	relates to N. Ireland legislation outside the scope of these volumes
Ss. 82 – 83	...	...	...	relates to legislation outside the scope of these volumes
Schs. 1 – 3	...	...	...	relates to Child Support outside the scope of these volumes
Sch. 4	...	...	...	relates to state pensions and included in volume 2 in this series
Sch. 5	...	...	...	relates to occupational and personal pensions benefit and are included in volume 5 in this series
Sch. 6	...	...	...	relates to common provisions and included in volume 1 of this series
Sch. 8	makes consequential amendments to various acts
Sch. 9	makes repeals in various statutes

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ANNEX 2

COMMENCEMENT DATES

(a) List of Commencement Orders

<i>S.I. no.</i>	<i>Title of Order</i>	<i>Page no. if reproduced in these volumes</i>
2000/2666 (c. 74)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 1) Order 2000	1.5891
2000/2950 (c. 87)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 2) Order 2000	1.5893
2000/2994 (c. 94)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 3) Order 2000	1.5897
2000/3166 (c. 101)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 4) Order 2000	1.5901
2000/3354 (c. 112)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 5) Order 2000	1.5905
2001/153 (c. 8)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 6) Order 2001	1.5907
2001/774 (c. 28)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 7) Order 2001	1.5909
2001/1252 (c. 45)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 8) Order 2001	1.5911
2001/2295 (c. 76)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 9) Order 2001	1.5915
2001/2619 (c. 86)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 10) Order 2001	1.5917
2002/437 (c. 12)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 11) Order 2002	1.5919
2003/192 (c. 11)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003	
2003/346 (c. 21)	The Child Support, Pensions and Social Security Act 2000 (Commencement No. 13) Order 2003	

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Annex 2

(b) Dates on which provisions of the Child Support, Pensions and Social Security Act 2000 came into force. [Note: In the list below only those sections reproduced in this volume and commenced will be included.]

<i>Section (etc) of Child Support, Pensions and Social Security Act 2000</i>	<i>Date of commencement</i>	<i>Commencing authority</i>
Section 68 and 69	1st November 2000	2000/2950
	2nd July 2001	2001/1252
Section 70	26th June 2001	2001/2295
	2nd July 2001	2001/2295
Section 71	1st November 2000	2000/2950
	1st October 2001	2001/2295
Schedule 7 - paragraphs 1, 3, 4, 6, 8 to 10, 12 to 16, 19 to 21 and 23	1st November 2000	2000/2950
	2nd July 2001	2001/1252
paragraphs 1, 2, 5, 7, 11, 17, 18 and 22	2nd July 2001	2001/1252