

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

PART III SOCIAL SECURITY

Housing benefit and council tax benefit etc.

Section

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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 [²of 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 [²First-tier Tribunal] or, as the case may be, the decision to which the decision being appealed against to the [²Upper 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.

[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 [²First-tier 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.

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).

² Words substituted in para. 4(1)(b), 2 & heading to para. 6 (3.11.08) by S.I. 2008/2833, art. 190(2) & (3).

- (2) This paragraph does not apply to—
- (a) any decision terminating or reducing the amount of a person's housing benefit or council tax benefit that is made in consequence of any decision made under regulations under section 2A of the Administration Act (work-focused interviews);
 - (b) any decision of a relevant authority as to the application or operation of any modification of a housing benefit scheme or council tax benefit scheme under section 134(8)(a) or section 139(6)(a) of the Administration Act (disregard of war disablement and war widows' pensions);
 - (c) so much of any decision of a relevant authority as adopts a decision of a rent officer under any order made by virtue of section 122 of the 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 [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 [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, [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.

Redetermination etc. of appeals by tribunal

7.—(1) This paragraph applies where an application is made [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) [...].

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

¹ Words in paras. 6(3), (6), (9), 7(1), (3) substituted & para. 7(2) omitted (3.11.08) by S.I. 2008/2833, art. 190(3) & (4).

(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 [1First-tier Tribunal to Upper Tribunal]

8.—(1) [...¹]

(2) An appeal [1to 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;
- (c) any person affected by the decision against which the appeal to the [1First-tier Tribunal] was brought or by the tribunal’s decision on that appeal.

(3)–(8) [...¹].

[1Applications for permission to appeal against a decision of the Upper Tribunal]

9.—(1)–(2) [...¹].

(3) [1An 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 [1Upper Tribunal] were begun, was entitled to appeal to the [1Upper Tribunal] from the decision to which the [1Upper Tribunal’s] decision relates;
- (b) any other person who was a party to the proceedings in which the decision to which the [1Upper Tribunal’s] decision relates was given;
- (c) any other person who is authorised by regulations to apply for [1permission];

(4)–(5) [...¹]

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)–(8) [...¹].

¹ Heading to para. 9, words in heading to para. 8 & paras. 8(2) & ((3) substituted; & para. 8(1), (3)–(8); 9(1), (4)–(5) & 10(2)–(8) omitted (3.11.08) by S.I. 2008/2833, art. 190(5)–(7).

Finality of decisions

11. Subject to the provisions of this Schedule, [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.

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 [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.

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 [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 [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 [permission] to appeal against the decision has been made but not determined; or
- (c) the time within which—
 - (i) an application for [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.

¹ Words inserted in para. 11 & substituted in paras. 12(a), 13(2)(c) & (d) & (3)(b) & (c) (3.11.08) by S.I. 2008/2833, art. 190(8)-(10).

- (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 [¹the 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—

¹ Words substituted in para. 16(1)(b) (3.11.08) by S.I. 2008/2833, art. 190(11).

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- (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 [¹the 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 [¹the 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 [¹the 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—

¹ Words substituted in para. 17(1) & (2) (3.11.08) by S.I. 2008/2833, art. 190(12)(a) & (b).

- (a) in a case where appeal A has not been determined by the [¹First-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 [¹First-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 [¹First-tier Tribunal or Upper Tribunal] or Commissioner shall either—

- (a) stay appeal A until appeal B is determined; or
- (b) if the [¹First-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 [¹First-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 [¹First-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 [¹the Upper Tribunal] includes a reference to an application for leave to appeal to [¹the Upper Tribunal];
- (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.

¹ Words substituted in paras. 17(3)-(5) & (7)(a) (3.11.08) by S.I. 2008/2833, art. 190(12)(c)-(f).

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 [¹to 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 [¹the 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
 - (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.

¹ Words substituted in paras. 18(1)(a) & (3) by S.I. 2008/2833, arts. 190(13)(a) & (b).

- (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 [¹the Upper Tribunal]; or
 - (b) for a determination of a lower court or of [¹the Upper Tribunal] 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 [by the relevant authority] under or by virtue of any relevant provision;
 - (b) [...¹]

(2) Nothing in sub-paragraph (1) shall be construed as derogating from any power to correct errors [...¹] 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 [¹exercisable by 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 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) [...¹].

¹ Words substituted & inserted in para. 18(9), 19(1)(a) & (2) and paras. 19(1)(b) & words in 20(1) & para. 20(6) omitted (3.11.08) by S.I. 2008/2833, art. 190(13)(c), (14) & (15).

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)–(3) [...¹]

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);
[...¹]

“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.

.....

¹ Defns. in para. 23 omitted & paras. 22(2) & (3) repealed (3.11.08) by S.I. 2008/2833, arts. 190(16) & 228(h)

SCHEDULE 9
REPEALS AND REVOCATIONS

.....*various repeals*

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000 (c. 19)

CHILD SUPPORT, PENSIONS AND
SOCIAL SECURITY ACT 2000

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

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000 (c. 19)
CHILD SUPPORT, PENSIONS AND
SOCIAL SECURITY ACT 2000

Annex 2

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	

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000 (c. 19)

Annex 2