

SCHEDULES

SCHEDULE 7

Section 73

COSTS RECOVERY: PROCEDURE, APPEALS AND RECOVERY ETC

Introduction

- 1 This Schedule applies in relation to the imposition by the OfS of a requirement to pay costs on the governing body of a provider under section 73.

Procedure

- 2 (1) The notice which the OfS gives the governing body under section 73(1) must specify—
- (a) the amount required to be paid, and
 - (b) the period within which payment is required to be made (which must not be less than 28 days).
- (2) The notice must also contain information as to—
- (a) how payment may be made,
 - (b) rights of appeal,
 - (c) the period within which an appeal may be made, and
 - (d) the consequences of non-payment.
- (3) The governing body may require the OfS to provide a detailed breakdown of the amount specified in the notice.
- (4) The requirement to pay the costs is suspended at any time when—
- (a) an appeal under paragraph 3(1)(a) or (b), or a further appeal, could be brought in respect of the requirement to pay the costs, or
 - (b) such an appeal is pending.
- (5) But that does not prevent the requirement to pay the costs taking effect if the governing body notifies the OfS that it does not intend to appeal.

Appeals

- 3 (1) The governing body of a provider may appeal to the First-tier Tribunal against—
- (a) a decision under section 73 to require it to pay costs;
 - (b) a decision as to the amount of those costs.
- (2) An appeal under this paragraph may be made on the grounds—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.
- (3) On an appeal under this paragraph the Tribunal may—

Status: This is the original version (as it was originally enacted).

- (a) withdraw the requirement to pay the costs;
- (b) confirm that requirement;
- (c) vary that requirement;
- (d) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to the OfS.

Interest and recovery

- 4 (1) This paragraph applies if all or part of an amount of costs that a governing body is required to pay under section 73 is unpaid by the time when it is required to be paid.
- (2) The unpaid amount of the costs for the time being—
- (a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838, and
 - (b) does not also carry interest as a judgment debt under that section.
- (3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the costs.
- (4) The OfS may recover from the governing body, as a civil debt due to it, the unpaid amount of the costs and any unpaid interest.

Retention of sums received

- 5 (1) The OfS must pay the sums received by it by way of a requirement to pay costs under section 73 to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.
- (2) The OfS must pay the sums received by it by way of interest under paragraph 4 to the Secretary of State.