

## SCHEDULE 4

Article 6

### Transitional provisions

#### Transitional provisions

1. Subject to article 3(3)(a) any proceedings before a tribunal listed in Table 1 of Schedule 1 which are pending immediately before 3rd November 2008 shall continue on and after 3rd November 2008 as proceedings before the First-tier Tribunal.

2. Subject to article 3(3)(b) any proceedings before a tribunal listed in Table 2 of Schedule 1 which are pending immediately before 3rd November 2008 shall continue on and after 3rd November 2008 as proceedings before the Upper Tribunal.

3.—(1) The following sub-paragraphs apply where proceedings are continued in the First-tier Tribunal or Upper Tribunal by virtue of paragraph 1 or 2.

(2) Where a hearing began before 3rd November 2008 but was not completed by that date, the First-tier Tribunal or the Upper Tribunal, as the case may be, must be comprised for the continuation of that hearing of the person or persons who began it.

(3) The First-tier Tribunal or Upper Tribunal, as the case may be, may give any direction to ensure that proceedings are dealt with fairly and, in particular, may—

(a) apply any provision in procedural rules which applied to the proceedings before 3rd November 2008; or

(b) disapply provisions of Tribunal Procedure Rules.

(4) In sub-paragraph (3) “procedural rules” means provision (whether called rules or not) regulating practice or procedure before a tribunal.

(5) Any direction or order given or made in proceedings which is in force immediately before 3rd November 2008 remains in force on and after that date as if it were a direction or order of the First-tier Tribunal or Upper Tribunal, as the case may be.

(6) A time period which has started to run before 3rd November 2008 and which has not expired shall continue to apply.

(7) An order for costs may only be made if, and to the extent that, an order could have been made before 3rd November 2008.

4. Subject to article 3(3)(a) and (b) where an appeal lies to a Child Support or Social Security Commissioner from any decision made before 3rd November 2008 by a tribunal listed in Table 1 of Schedule 1, section 11 of the 2007 Act (right to appeal to Upper Tribunal) shall apply as if the decision were a decision made on or after 3rd November 2008 by the First-tier Tribunal.

5. Subject to article 3(3)(b) where an appeal lies to a court from any decision made before 3rd November 2008 by a Child Support or Social Security Commissioner, section 13 of the 2007 Act (right to appeal to Court of Appeal etc.) shall apply as if the decision were a decision made on or after 3rd November 2008 by the Upper Tribunal.

6. Subject to article 3(3)(a) and (b) any case to be remitted by a court on or after 3rd November 2008 in relation to a tribunal listed in Schedule 1 shall be remitted to the First-tier Tribunal or Upper Tribunal as the case may be.

## Savings provisions

7.—(1) Section 78(8) of the Mental Health Act 1983(1) shall continue to apply to any decision given by a Mental Health Review Tribunal before 3rd November 2008 as if the amendments to it in Schedule 3 had not been made.

(2) Section 11(1) of the Tribunals and Inquiries Act 1992(2) shall continue to apply to any decision given by the Special Educational Needs and Disability Tribunal or the Special Educational Needs Tribunal for Wales before 3rd November 2008 as if the amendments to it in Schedule 3 had not been made.

(3) Section 9(6) of the Protection of Children Act 1999(3) shall continue to apply to any decision given by the tribunal under section 9(1) of that Act before 3rd November 2008 as if the amendments to it in Schedule 3 had not been made.

---

(1) 1983 c. 20.

(2) 1992 c. 53; the relevant amendment is made by paragraphs 19 and 20(b) of Schedule 8 to the Special Educational Needs and Disability Act 2001 (c. 10).

(3) 1999 c. 14.