

SCHEDULES

SCHEDULE 7

HOUSING BENEFIT: REVISIONS AND APPEALS

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- (a) an appeal (“appeal A”) in relation to a relevant decision (whether as originally made or as revised under paragraph 3) is made to an appeal tribunal, or from an appeal tribunal to a Commissioner; and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 considers 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, it may serve notice requiring the tribunal or Commissioner—
- (a) not to determine appeal A but to refer it to that authority; or
 - (b) to deal with the appeal in accordance with sub-paragraph (4).
- (3) Where appeal A is referred to the relevant authority under sub-paragraph (2) (a), following the determination of appeal B and in accordance with that determination, it shall if appropriate—
- (a) in a case where appeal A has not been determined by the tribunal, revise (under paragraph 3) its 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; and
- (c) any reference in head (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 an application for judicial review of the decision under section 18 of the Judicature (Northern Ireland) Act 1978 (c. 23) or for leave to apply for judicial review.

(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.