



Social Security Act 1998

1998 CHAPTER 14

PART I

DECISIONS AND APPEALS

CHAPTER III

OTHER DECISIONS AND APPEALS

Child support

43 Child support: decisions and appeals dependent on other cases

After section 28 of the Child Support Act there shall be inserted the following sections—

“Decisions and appeals dependent on other cases

28ZA Decisions involving issues that arise on appeal in other cases

- (1) This section applies where—
 - (a) a decision by the Secretary of State falls to be made under section 11, 12, 16 or 17 in relation to a maintenance assessment; and
 - (b) an appeal is pending against a decision given in relation to a different maintenance assessment by a Child Support Commissioner or a court.
- (2) If the Secretary of State considers it possible that the result of the appeal will be such that, if it were already determined, it would affect the decision in some way—
 - (a) he need not, except in such cases or circumstances as may be prescribed, make the decision while the appeal is pending;

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- (b) he may, in such cases or circumstances as may be prescribed, make the decision on such basis as may be prescribed.
- (3) Where the Secretary of State acts in accordance with subsection (2)(b), following the determination of the appeal he shall if appropriate revise his decision (under section 16) in accordance with that determination.
- (4) For the purposes of this section, 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) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (5) In paragraphs (a), (b) and (c) of subsection (4), any reference to an appeal, or an application for leave to appeal, against a decision includes a reference to—
 - (a) an application for, or for leave to apply for, judicial review of the decision under section 31 of the Supreme Court Act 1981; or
 - (b) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.

28ZB Appeals involving issues that arise on appeal in other cases

- (1) This section applies where—
 - (a) an appeal (“appeal A”) in relation to a decision falling within section 20(1) or (3), or an assessment falling within section 20(2), is made to an appeal tribunal, or from an appeal tribunal to a Child Support Commissioner; and
 - (b) an appeal (“appeal B”) is pending against a decision given in a different case by a Child Support Commissioner or a court.
- (2) If the Secretary of State 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, he may serve notice requiring the tribunal or Child Support Commissioner—
 - (a) not to determine appeal A but to refer it to him; or
 - (b) to deal with the appeal in accordance with subsection (4).
- (3) Where appeal A is referred to the Secretary of State under subsection (2) (a), following the determination of appeal B and in accordance with that determination, he shall if appropriate—
 - (a) in a case where appeal A has not been determined by the tribunal, revise (under section 16) his 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 section 17) superseding the tribunal’s decision.
- (4) Where appeal A is to be dealt with in accordance with this subsection, the appeal tribunal or Child Support Commissioner shall either—
 - (a) stay appeal A until appeal B is determined; or

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- (b) if the tribunal or Child Support 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.

In this subsection “the appellant” means the person who appealed or, as the case may be, first appealed against the decision or assessment mentioned in subsection (1)(a).

- (5) Where the appeal tribunal or Child Support Commissioner acts in accordance with subsection (4)(b), following the determination of appeal B the Secretary of State shall, if appropriate, make a decision (under section 17) superseding the decision of the tribunal or Child Support Commissioner in accordance with that determination.
- (6) For the purposes of this section, 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) in such circumstances as may be prescribed, an appeal against the decision has not been brought (or, as the case may be, an application for leave to appeal against the decision has not been made) but the time for doing so has not yet expired.
- (7) In this section—
 - (a) the reference in subsection (1)(a) to an appeal to a Child Support Commissioner includes a reference to an application for leave to appeal to a Child Support Commissioner; and
 - (b) any reference in paragraph (a), (b) or (c) of subsection (6) to an appeal, or to an application for leave to appeal, against a decision includes a reference to—
 - (i) an application for, or for leave to apply for, judicial review of the decision under section 31 of the Supreme Court Act 1981; or
 - (ii) an application to the supervisory jurisdiction of the Court of Session in respect of the decision.
- (8) Regulations may make provision supplementing that made by this section.”

Commencement Information

- I1** S. 43 in force at 4.3.1999 for specified purposes by [S.I. 1999/528](#), art. 2(a), [Sch.](#)
- I2** S. 43 in force at 1.6.1999 in so far as not already in force by [S.I. 1999/1510](#), [art. 2\(d\)](#) (with [arts. 48-51](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2010/1907 reg. 16\(2\)\(c\)Sch. 2](#)
- Act applied (with modifications) by [S.I. 2010/875 reg. 16Sch. 2](#) (This amendment not applied to legislation.gov.uk. S.I. 2010/875 revoked (27.8.2010) before coming into force by S.I. 2010/1906, regs. 1(2), 2)
- Act modified by [S.S.I. 2024/62 art. 2](#)
- Act modified by [S.I. 2024/149 art. 2](#)
- Act power to apply (with modifications) conferred by [2004 c. 6 s. 24\(5\)-\(7\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 38(1A) inserted by [2009 c. 24 s. 20\(2\)](#) (This amendment not applied to legislation.gov.uk. Ss. 16-21 repealed (1.4.2013) by 2012 c. 5, s. 73; S.I. 2012/3090, art. 2(1)(b))
- Sch. 2 para. 7A and cross-head inserted by [2012 c. 5 Sch. 2 para. 50\(3\)](#)
- Sch. 18 functions modified by [S.I. 2000/2853 reg. 3\(1\)Sch. 2 para. 4](#)
- Sch. 24 functions modified by [S.I. 2000/2853 reg. 3\(1\)Sch. 2 para. 5](#)