



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 1

#### TRIBUNALS AND INQUIRIES

#### CHAPTER 2

#### FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

#### *Review of decisions and appeals*

### **12 Proceedings on appeal to Upper Tribunal**

- (1) Subsection (2) applies if the Upper Tribunal, in deciding an appeal under section 11, finds that the making of the decision concerned involved the making of an error on a point of law.
- (2) The Upper Tribunal—
  - (a) may (but need not) set aside the decision of the First-tier Tribunal, and
  - (b) if it does, must either—
    - (i) remit the case to the First-tier Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (3) In acting under subsection (2)(b)(i), the Upper Tribunal may also—
  - (a) direct that the members of the First-tier Tribunal who are chosen to reconsider the case are not to be the same as those who made the decision that has been set aside;
  - (b) give procedural directions in connection with the reconsideration of the case by the First-tier Tribunal.

**Changes to legislation:** Tribunals, Courts and Enforcement Act 2007, Section 12 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) In acting under subsection (2)(b)(ii), the Upper Tribunal—
- (a) may make any decision which the First-tier Tribunal could make if the First-tier Tribunal were re-making the decision, and
  - (b) may make such findings of fact as it considers appropriate.

**Modifications etc. (not altering text)**

- C1** S. 12 applied (with modifications) (3.11.2008) by 1996 c. 56, s. 336ZB(3) (as inserted by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 135**)
- C2** S. 12 applied (with modifications) (3.11.2008) by 1965 c. 50, s. 28JA(3) (as inserted by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 118**)
- C3** Ss. 9-13 excluded (E.W.) (25.1.2018) by [Tax Collection and Management \(Wales\) Act 2016 \(anaw 6\)](#), **ss. 177(1)(b), 194(2)** (with s. 177(2)); S.I. 2018/33, art. 2(i)
- C4** Ss. 9-13 excluded (E.W.) (25.1.2018) by [Tax Collection and Management \(Wales\) Act 2016 \(anaw 6\)](#), **ss. 184(3), 194(2)**; S.I. 2018/33, art. 2(i)
- C5** S. 12 applied (with modifications) (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), **ss. 81(3), 100(3)**; S.I. 2021/373, art. 8(g)
- C6** S. 12 applied (with modifications) (1.9.2021) by 2010 (c. 15), Sch. 17 para. 6AA (as inserted by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 19(5)(f)**; S.I. 2021/373, art. 8(j)(xxxiii))
- C7** S. 12 excluded (31.12.2023 in relation to accounting periods commencing on or after that date) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), s. 264, **Sch. 14 para. 65(3)**)
- C8** S. 12(2)-(4) applied by 2002 c. 15, s. 176B(5) (as inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 144** (with Sch. 3))
- C9** S. 12(2)-(4) applied by 2002 c. 9, s. 111(4) (as inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 231(c)** (with Sch. 3))
- C10** S. 12(2)-(4) applied by 2004 c. 34, s. 231C(5) (as inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 176** (with Sch. 3))
- C11** S. 12(2)-(4) applied (6.4.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), **ss. 53(5), 216(3)**; S.I. 2017/281, reg. 4(d)

**Changes to legislation:**

Tribunals, Courts and Enforcement Act 2007, Section 12 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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

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

- s. 13(8)(bza) inserted by [2022 c. 36 s. 23\(2\)](#)
- s. 13(8)(bzb) inserted by [2022 c. 36 s. 24\(9\)](#)
- s. 16(3)(a) word inserted by [2015 c. 2 s. 85\(3\)\(a\)](#)
- s. 16(3)(b) and word inserted by [2015 c. 2 s. 85\(3\)\(b\)](#)
- s. 16(3A)(3B) inserted by [2015 c. 2 s. 85\(4\)](#)
- s. 22(6) inserted by [2022 c. 35 Sch. 4 para. 4\(2\)](#)
- s. 23(8) inserted by [2022 c. 35 Sch. 4 para. 4\(3\)](#)
- s. 25A inserted by [2022 c. 36 s. 80\(1\)](#)
- s. 29(3A) inserted by [2022 c. 36 s. 81\(6\)](#)
- Sch. 5 para. 11A and cross-heading inserted by [2022 c. 36 s. 80\(2\)](#)
- Sch. 7 para. 6(1)(e) words substituted by [2013 c. 22 Sch. 14 para. 13\(2\)](#) (Sch. 7 was already repealed when this amendment came into force)
- Sch. 7 para. 6(4)(b) words substituted by [2013 c. 22 Sch. 14 para. 13\(2\)](#) (Sch. 7 was already repealed when this amendment came into force)