
STATUTORY INSTRUMENTS

2013 No. 381

**The Universal Credit, Personal Independence Payment,
Jobseeker's Allowance and Employment and Support
Allowance (Decisions and Appeals) Regulations 2013**

PART 4

OTHER MATTERS RELATING TO DECISION- MAKING

Issues for HMRC

42.—(1) Where, on consideration of any claim or other matter, it appears to the Secretary of State that an issue arises which, by virtue of section 8 of the Transfer Act, falls to be decided by an officer of HMRC, the Secretary of State must refer that issue to HMRC.

(2) Where—

- (a) the Secretary of State has decided any claim or other matter on an assumption of facts—
 - (i) which appeared to the Secretary of State not to be in dispute, but
 - (ii) concerning which, had an issue arisen, that issue would have fallen, by virtue of section 8 of the Transfer Act, to be decided by HMRC;
- (b) an application for a revision or supersession is made, or an appeal is brought, in relation to that claim or other matter; and
- (c) it appears to the Secretary of State on receipt of that application or appeal that such an issue arises,

the Secretary of State must refer that issue to HMRC.

(3) Pending the final decision of any issue which has been referred to HMRC in accordance with paragraph (1) or (2), the Secretary of State may—

- (a) determine any other issue arising on consideration of the claim, application or other matter,
- (b) seek a preliminary opinion from HMRC on the issue referred and decide the claim, application or other matter in accordance with that opinion; or
- (c) defer making any decision on the claim, application or other matter.

(4) On receipt by the Secretary of State of the final decision of an issue which has been referred to HMRC under paragraph (1) or (2), the Secretary of State must—

- (a) in a case where the Secretary of State made a decision under paragraph (3)(b), decide whether to revise the decision under section 9 of the 1998 Act or to supersede it under section 10 of that Act;
- (b) in a case to which paragraph (3)(a) or (c) applies, decide the claim, application or other matter in accordance with the final decision of the issue so referred.

(5) In this regulation—

- (a) “final decision” means the decision of HMRC under section 8 (decisions by officers of Board) of the Transfer Act or the determination of any appeal in relation to that decision; and
- (b) “the Transfer Act” means the Social Security Contributions (Transfer of Functions, etc.) Act 1999⁽¹⁾.

⁽¹⁾ 1999 c. 2. Section 8(1) was amended by the Employment Act 2002 (c. 22) (“the Employment Act”), section 9(1) and (2), the Work and Families Act 2006 (c. 18) (“the 2006 Act”), section 11 and Schedule 1, paragraph 46, by the Child Support, Pensions and Social Security Act 2000 (c. 19), sections 77(5), 76(6) and 85 and Schedule 9, Part 8(1). Subsection (3) was amended by section 9 of the Employment Act and by section 11 of, and paragraph 46 of Schedule 1 to, the 2006 Act. Subsection (4) was repealed by the Welfare Reform and Pensions Act 1999 (c. 30), section 88 and Schedule 13, Part 6.