



# Social Security Act 1998

## 1998 CHAPTER 14

### PART I

#### DECISIONS AND APPEALS

### CHAPTER II

#### SOCIAL SECURITY DECISIONS AND APPEALS

#### *Appeals*

#### 12 Appeal to [<sup>F1</sup>First-tier Tribunal]

- (1) This section applies to any decision of the Secretary of State under section 8 or 10 above (whether as originally made or as revised under section 9 above) which—
- (a) is made on a claim for, or on an award of, a relevant benefit, and does not fall within Schedule 2 to this Act; [<sup>F2</sup>or]
  - (b) is made otherwise than on such a claim or award, and falls within Schedule 3 to this Act; <sup>F3</sup>...
  - <sup>F3</sup>(c) .....

[<sup>F4</sup>(2) In the case of a decision to which this section applies, the claimant and such other person as may be prescribed shall have a right to appeal to [<sup>F5</sup>the First-tier Tribunal], but nothing in this subsection shall confer a right of appeal—

- [<sup>F6</sup>(a)] in relation to a prescribed decision, or a prescribed determination embodied in or necessary to a decision [<sup>F7</sup>, or
- (b) where regulations under subsection (3A) so provide.]

(3) Regulations under subsection (2) above shall not prescribe any decision or determination that relates to the conditions of entitlement to a relevant benefit for which a claim has been validly made or for which no claim is required.

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- [<sup>F8</sup>(3A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal under subsection (2) in relation to a decision only if the Secretary of State has considered whether to revise the decision under section 9.
- (3B) The regulations may in particular provide that that condition is met only where—
- (a) the consideration by the Secretary of State was on an application,
  - (b) the Secretary of State considered issues of a specified description, or
  - (c) the consideration by the Secretary of State satisfied any other condition specified in the regulations.
- (3C) The references in subsections (3A) and (3B) to regulations and to the Secretary of State are subject to any enactment under or by virtue of which the functions under this Chapter are transferred to or otherwise made exercisable by a person other than the Secretary of State.]
- [<sup>F9</sup>(3D) In the case of a decision relating to child benefit or guardian’s allowance, the making of any appeal under this section against the decision as originally made must follow the Commissioners for Her Majesty’s Revenue and Customs first deciding, on an application made for revision of that decision under section 9, not to revise the decision.]
- (4) Where the Secretary of State has determined that any amount is recoverable under or by virtue of section 71 [<sup>F10</sup>, 71ZB, 71ZG, 71ZH,] or 74 of the Administration Act, any person from whom he has determined that it is recoverable shall have the same right of appeal to [<sup>F11</sup>the First-tier Tribunal] as a claimant.
- (5) In any case where—
- (a) the Secretary of State has made a decision in relation to a claim under Part V of the Contributions and Benefits Act; and
  - (b) the entitlement to benefit under that Part of that Act of any person other than the claimant is or may be, under Part VI of Schedule 7 to that Act, affected by that decision,
- that other person shall have the same right of appeal to [<sup>F12</sup>the First-tier Tribunal] as the claimant.
- (6) A person with a right of appeal under this section shall be given such notice of a decision to which this section applies and of that right as may be prescribed.
- (7) Regulations may—
- [<sup>F13</sup>(a)] make provision as to the manner in which, and the time within which, appeals are to be brought;
  - [<sup>F14</sup>(b)] provide that, where in accordance with regulations under subsection (3A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under section 9.]
- (8) In deciding an appeal under this section, [<sup>F15</sup>the First-tier Tribunal]—
- (a) need not consider any issue that is not raised by the appeal; and
  - (b) shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.
- (9) The reference in subsection (1) above to a decision under section 10 above is a reference to a decision superseding any such decision as is mentioned in paragraph (a) or (b) of subsection (1) of that section.

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### Textual Amendments

- F1** Words in s. 12 heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 149\(a\)](#)
- F2** Word in s. 12(1) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), [Sch. 7 para. 25\(2\)\(a\)](#) (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F3** S. 12(1)(c) and preceding word repealed (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), Sch. 7 para. 25(2)(b), [Sch. 10 Pt. I](#) (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F4** S. 12(2) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), [Sch. 7 para. 25\(3\)](#) (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F5** Words in s. 12(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 149\(b\)](#)
- F6** Words in s. 12(2) renumbered as s. 12(2)(a) (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 102\(2\)\(a\)](#), 150(3); S.I. 2013/358, art. 2(2), Sch. 2 para. 37
- F7** S. 12(2)(b) and preceding word inserted (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 102\(2\)\(b\)](#), 150(3); S.I. 2013/358, art. 2(2), Sch. 2 para. 37
- F8** S. 12(3A)-(3C) inserted (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 102\(3\)](#), 150(3); S.I. 2013/358, art. 2(2), Sch. 2 para. 37
- F9** S. 12(3D) inserted (6.4.2014) by [The Tax Credits, Child Benefit and Guardian's Allowance Reviews and Appeals Order 2014 \(S.I. 2014/886\)](#), arts. 1(1), [4\(1\)](#) (with art. 1(5))
- F10** Words in s. 12(4) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 105\(6\)](#), 150(3); S.I. 2013/358, art. 5(2)(3)(b)
- F11** Words in s. 12(4) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 149\(b\)](#)
- F12** Words in s. 12(5) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 149\(b\)](#)
- F13** Words in s. 12(7) renumbered as s. 12(7)(a) (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 102\(4\)\(a\)](#), 150(3); S.I. 2013/358, art. 2(2), Sch. 2 para. 37
- F14** S. 12(7)(b) inserted (25.2.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 102\(4\)\(b\)](#), 150(3); S.I. 2013/358, art. 2(2), Sch. 2 para. 37
- F15** Words in s. 12(8) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 149\(b\)](#)

### Modifications etc. (not altering text)

- C1** S. 12 applied (with modifications) by 1993 c. 48, s. 170(6) (as substituted (14.6.1999 for specified purposes) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), [ss. 16\(2\)](#), 28(3) (with Sch. 8); S.I. 1999/1662, art 2, Sch. (with art. 4))
- C2** Ss. 12-15 applied (5.10.1999) by [Tax Credits Act 1999 \(c. 10\)](#), s. 20(2), [Sch. 4 para. 3\(2\)\(a\)](#) (with s. 19)
- C3** S. 12 applied (with application in accordance with reg. 1(3)(d)(e)(f) of the amending S.I.) by [The Social Security \(Work-focused Interviews for Lone Parents\) and Miscellaneous Amendments Regulations 2000 \(S.I. 2000/1926\)](#), regs. 1(3), [9](#)
- C4** S. 12 applied (22.10.2001) by [The Social Security \(Jobcentre Plus Interviews\) Regulations 2001 \(S.I. 2001/3210\)](#), regs. 1, [14\(3\)](#)
- C5** S. 12 applied (with modifications) (temp.) (17.12.2002) by [The Tax Credits \(Appeals\) Regulations 2002 \(S.I. 2002/2926\)](#), regs. 1(1)(2), [4](#)
- C6** S. 12 applied (with modifications) (25.2.2005) by [The Child Trust Funds \(Non-tax Appeals\) Regulations 2005 \(S.I. 2005/191\)](#), regs. 1(1), [6](#)
- C7** S. 12 applied (with modifications) (6.4.2010) by [The National Insurance Contribution Credits \(Transfer of Functions\) Order 2009 \(S.I. 2009/1377\)](#), arts. 1(1), [3\(2\)\(d\)](#), [4](#)

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#### Commencement Information

- I1** S. 12 in force at 29.11.1999 for specified purposes by S.I. 1999/3178, art. 2(1)(a)(2), **Sch. 1** (with art. 4, Schs. 21-23)
- I2** S. 12(1) in force at 4.3.1999 for specified purposes by S.I. 1999/528, art. 2(a), **Sch.**
- I3** S. 12(1)(a)(b)(2)-(9) in force at 5.7.1999 for specified purposes by S.I. 1999/1958, art. 2(1)(b), **Sch. 1** (with art. 5, Sch. 12)
- I4** S. 12(1)(a)(b)(2)-(4)(6)-(9) in force at 6.9.1999 for specified purposes by S.I. 1999/2422, art. 2(c), **Sch. 1** (with art. 4, Sch. 14)
- I5** S. 12(1)(a)(b)(2)-(4)(6)-(9) in force at 5.10.1999 for specified purposes by S.I. 1999/2739, art. 2, **Sch. 1** (with art. 3, Sch. 2)
- I6** S. 12(1)(a)(b)(2)-(4)(6)-(9) in force at 18.10.1999 for specified purposes by S.I. 1999/2860, art. 2(c), **Sch. 1** (with art. 4, Schs. 16-18)
- I7** S. 12(2)(3)(6)(7) in force at 4.3.1999 for specified purposes by S.I. 1999/528, art. 2(a), **Sch.**

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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 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](#)