

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Social security: General

Section 103: Supersession of decisions of former appellate bodies

505. In November 2008 the Ministry of Justice legislated to abolish the old social security appeal tribunals, the Child Support and the Social Security Commissioners and transferred their functions to the new appeals system: the First-tier Tribunal and the Upper Tribunal.
506. Under the old system, the Secretary of State, local authorities and the Child Maintenance and Enforcement Commission (“the Commission”) could change (supersede) a decision of an appeal Tribunal or a Commissioner in limited situations set out in legislation. The ability to supersede decisions of the former appeal bodies is crucial so that decision-makers can properly adjust the person's award to take account of a change of circumstances or new facts which come to light after the appeal body's decision – which may be beneficial to the individual as well as disadvantageous.
507. Whilst the legislation ensured that the Secretary of State, local authorities and the Commission could supersede decisions made under the new appeals system, the need to supersede decisions made under the old system was inadvertently overlooked. The legislation changed references to the former appeal bodies in primary and secondary legislation to references to the new appeal bodies, when it should have contained a reference to both.
508. *Section 103* introduces *Schedule 12*. This amends provisions in Acts by inserting references to the old appeals bodies. This, taken together with *subsection (2)(a)* of this section, ensures that the legislation is restored to the position that it should have been when the old appeal bodies were abolished and their functions transferred.
509. A regulation-making power is needed to correct the same errors in subordinate legislation concerning supersession decisions. It is envisaged that the regulations would, for example, insert references to the former appeals bodies in provisions relating to the cases or circumstances in which supersession decisions can be made. *Subsection (2)* enables regulations made possible by virtue of the amendments in *Schedule 12* to take effect as if they too had come into force when the old appeals bodies were abolished.