



# Social Security (Recovery of Benefits) Act 1997

## 1997 CHAPTER 27

### *Reviews and appeals*

#### **10 Review of certificates of recoverable benefits.**

- [<sup>F1</sup>(1) Any certificate of recoverable benefits may be reviewed by the Secretary of State—
- (a) either within the prescribed period or in prescribed cases or circumstances; and
  - (b) either on an application made for the purpose or on his own initiative.]
- (2) On a review under this section the Secretary of State may either—
- (a) confirm the certificate, or
  - (b) (subject to subsection (3)) issue a fresh certificate containing such variations as he considers appropriate [<sup>F2</sup>or.
  - (c) revoke the certificate.]
- (3) The Secretary of State may not vary the certificate so as to increase the total amount of the recoverable benefits unless it appears to him that the variation is required as a result of the person who applied for the certificate supplying him with incorrect or insufficient information.
- [<sup>F3</sup>(4) The scheme administrator of the Diffuse Mesothelioma Payment Scheme may not apply for a review under this section.]

#### **Textual Amendments**

- F1** S. 10(1) substituted (4.3.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 149(1)**; S.I. 1999/528, art. 2(1) (a), **Sch.**
- F2** S. 10(2)(c) and preceding word inserted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 149(2)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F3** S. 10(4) inserted (31.3.2014) by **Mesothelioma Act 2014 (c. 1)**, s. 19(1), **Sch. 1 para. 4**; S.I. 2014/459, art. 3(c)

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**Changes to legislation:** There are currently no known outstanding effects for the Social Security (Recovery of Benefits) Act 1997, Cross Heading: Reviews and appeals. (See end of Document for details)

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

- C1** S. 10 extended (29.11.1999) by S.I. 1999/991, **reg. 29(6)**
- C2** Ss. 10-14 applied (with modifications) (1.10.2008) by Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596), regs. 1(1), 2, **Sch. 1** (with reg. 6)

**11 Appeals against certificates of recoverable benefits.**

- (1) An appeal against a certificate of recoverable benefits may be made on the ground—
- (a) that any amount, rate or period specified in the certificate is incorrect, or
  - (b) that listed benefits which have been, or are likely to be, paid otherwise than in respect of the accident, injury or disease in question have been brought into account [<sup>F4</sup>or.
  - (c) that listed benefits which have not been, and are not likely to be, paid to the injured person during the relevant period have been brought into account, or
  - (d) that the payment on the basis of which the certificate was issued is not a payment within section 1(1)(a)]

- (2) An appeal under this section may be made by—
- (a) the person who applied for the certificate of recoverable benefits, or
  - [<sup>F5</sup>(aa) (in a case where that certificate was issued under section 7(2)(a)) the person to whom it was so issued, or]
  - (b) (in a case where the amount of the compensation payment has been calculated under section 8 [<sup>F6</sup>or 8A]) the injured person or other person to whom the payment is made.

[<sup>F7</sup>but the scheme administrator of the Diffuse Mesothelioma Payment Scheme may not appeal under this section.]

[<sup>F8</sup>(2A) Regulations may provide that, in such cases or circumstances as may be prescribed, an appeal may be made under this section only if the Secretary of State has reviewed the certificate under section 10.]

[<sup>F8</sup>(2B) The regulations may in particular provide that that condition is met only where—

- (a) the review by the Secretary of State was on an application,
- (b) the Secretary of State considered issues of a specified description, or
- (c) the review by the Secretary of State satisfied any other condition specified in the regulations.]

- (3) No appeal may be made under this section until—
- (a) the claim giving rise to the compensation payment has been finally disposed of, and
  - (b) the liability under section 6 has been discharged.

- (4) For the purposes of subsection (3)(a), if an award of damages in respect of a claim has been made under or by virtue of—
- (a) section 32A(2)(a) of the <sup>M1</sup>[<sup>F9</sup>Senior Courts Act 1981],
  - (b) section 12(2)(a) of the <sup>M2</sup>Administration of Justice Act 1982, or
  - (c) section 51(2)(a) of the <sup>M3</sup>County Courts Act 1984,
- (orders for provisional damages in personal injury cases), the claim is to be treated as having been finally disposed of.

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- (5) Regulations may make provision—
- (a) as to the manner in which, and the time within which, appeals under this section may be made,
  - <sup>F10</sup>(b) .....
  - (c) for the purpose of enabling any such appeal [<sup>F11</sup>(or, where in accordance with regulations under subsection (2A) there is no right of appeal, any purported appeal)] to be treated as an application for review under section 10.
- <sup>F12</sup>(6) .....

#### Textual Amendments

- F4** s. 11(1)(c)(d) and preceding word inserted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 150(1)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F5** S. 11(2)(aa) inserted (29.11.1999) in s. 11 by 1998 c. 14, ss. 86(1), **Sch. 7 para. 150(2)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F6** Words in s. 11(2)(b) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), **Sch. 1 para. 8**; S.I. 2014/459, art. 3(c)
- F7** Words in s. 11(2) inserted (31.3.2014) by Mesothelioma Act 2014 (c. 1), s. 19(1), **Sch. 1 para. 5**; S.I. 2014/459, art. 3(c)
- F8** S. 11(2A)(2B) inserted (25.2.2013 for specified purposes, 29.4.2013 in so far as not already in force) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 11 para. 10(2)** (with s. 102(7)-(9)); S.I. 2013/358, art. 2(1), Sch. 1 paras. 18, 24; S.I. 2013/983, art. 8
- F9** Words in Blanket Amendment substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)
- F10** S. 11(5)(b) omitted (3.11.2008) by virtue of The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 1(1), **Sch. 3 para. 139**
- F11** Words in s. 11(5)(c) inserted (25.2.2013 for specified purposes, 29.4.2013 in so far as not already in force) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 11 para. 10(3)**; S.I. 2013/358, art. 2(1), Sch. 1 paras. 18, 24; S.I. 2013/983, art. 8
- F12** S. 11(6) repealed (29.11.1999) by 1998 c. 14, ss. 86(1)(2), Sch. 7 para. 150(3), **Sch. 8**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)

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

- C2** Ss. 10-14 applied (with modifications) (1.10.2008) by Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596), regs. 1(1), 2, **Sch. 1** (with reg. 6)

#### Commencement Information

- I1** S. 11 wholly in force at 6.10.1997; s. 11 not in force at Royal Assent see s. 34(2); s. 11(5)(6) in force at 3.9.1997 for specified purposes by S.I. 1997/2085, art. 2(1); s. 11 in force at 6.10.1997 insofar as not already in force by S.I. 1997/2085, art. 2(2)

#### Marginal Citations

- M1** 1981 c. 54.
- M2** 1982 c. 53.
- M3** 1984 c. 28.

## 12 Reference of questions to [<sup>F13</sup>First-tier Tribunal].

[<sup>F14</sup>(1) The Secretary of State must refer an appeal under section 11 to [<sup>F15</sup>the First-tier Tribunal].]

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- (3) In determining [<sup>F16</sup>any appeal under section 11], the tribunal must take into account any decision of a court relating to the same, or any similar, issue arising in connection with the accident, injury or disease in question.
- (4) On [<sup>F17</sup>an appeal under section 11 [<sup>F18</sup>the First-tier Tribunal]] may either—
- (a) confirm the amounts, rates and periods specified in the certificate of recoverable benefits, or
  - (b) specify any variations which are to be made on the issue of a fresh certificate under subsection (5) [<sup>F19</sup>or.
  - (c) declare that the certificate of recoverable benefits is to be revoked.]
- (5) When the Secretary of State has received [<sup>F20</sup>the decision of the tribunal on the appeal under section 11, he must in accordance with that decision] either—
- (a) confirm the certificate against which the appeal was brought, or
  - (b) issue a fresh certificate [<sup>F21</sup>or.
  - (c) revoke the certificate.]
- <sup>F22</sup>(6) . . . . .
- (7) Regulations <sup>F23</sup>. . . may (among other things) provide for the non-disclosure of medical advice or medical evidence given or submitted following a reference under subsection (1).
- <sup>F24</sup>(8) . . . . .

#### Textual Amendments

- F13** Words in cross-heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 140(a)**
- F14** S. 12(1) substituted for s. 12(1)(2) (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 151(1)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F15** Words in s. 12(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 140(b)**
- F16** Words in s. 12(3) substituted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 151(2)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F17** Words in s. 12(4) substituted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 151(3)(a)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F18** 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. 140(b)**
- F19** S. 12(4)(c) and preceding word inserted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 151(3)(b)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F20** Words in s. 12(5) substituted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 151(4)(a)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F21** S. 12(5)(c) and preceding word inserted (29.11.1999) by 1998 c. 14, ss. 86(1), **Sch. 7 para. 151(4)(b)**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F22** S. 12(6) repealed (29.11.1999) by 1998 c. 14, ss. 86(1)(2), Sch. 7 para. 151(5)(a), **Sch. 8**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F23** Words in s. 12(7) repealed (29.11.1999) by 1998 c. 14, ss. 86(1)(2), Sch. 7 para. 151(5)(b), **Sch. 8**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F24** S. 12(8) repealed (29.11.1999) by 1998 c. 14, ss. 86(1)(2), Sch. 7 para. 151(5)(c), **Sch. 8**; S.I. 1999/3178, art. 2(1)(a), **Sch. 1** (subject to transitional provisions in Schs. 21-23)

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

- C2** Ss. 10-14 applied (with modifications) (1.10.2008) by [Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) Regulations 2008 \(S.I. 2008/1596\)](#), regs. 1(1), 2, **Sch. 1** (with reg. 6)
- C3** S. 12 amended (25.11.1999) by [S.I. 1999/3178](#), art. 4, **Sch. 21 para. 7(1)**

**Commencement Information**

- I2** S. 12 wholly in force at 6.10.1997; s.12 not in force at Royal Assent, see s. 34(2); s. 12(6)(7) in force for specified purposes at 3.9.1997 by [S.I. 1997/2085](#), **art. 2(1)**; s. 12 in force 6.10.1997 insofar as not already in force by [S.I. 1997/2085](#), **art. 2(2)**

**13 Appeal to [<sup>F25</sup>Upper Tribunal].**

<sup>F26</sup>(1) . . . . .

(2) An appeal [<sup>F27</sup>to the Upper Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007 which arises from any decision of the First-Tier Tribunal made under section 12 of this Act] may be made by—

- (a) the Secretary of State,
- (b) the person who applied for the certificate of recoverable benefits, <sup>F28</sup> . . .

[<sup>F29</sup>(bb) (in a case where that certificate was issued under section 7(2)(a)) the person to whom it was so issued, or]

- (c) (in a case where the amount of the compensation payment has been calculated in accordance with section 8 [<sup>F30</sup>or 8A]) the injured person or other person to whom the payment is made.

[<sup>F31</sup>but the scheme administrator of the Diffuse Mesothelioma Payment Scheme may not appeal under this section.]

<sup>F32</sup>(3) . . . . .

<sup>F33</sup>(4) . . . . .

**Textual Amendments**

- F25** Words in cross-heading substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 141(a)**
- F26** S. 13(1) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 141(b)**
- F27** Words in s. 13(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 141(c)**
- F28** Word at the end of s. 13(2)(b) repealed (29.11.1999) by [1998 c. 14](#), ss. 86(1)(2), [Sch. 7 para. 152\(2\)\(a\)](#), **Sch. 8**; [S.I. 1999/3178](#), art. 2(1)(a), **Sch. 1** (subject to transitional provisions in [Schs. 21-23](#))
- F29** S. 13(2)(bb) inserted (29.11.1999) by [1998 c. 14](#), ss. 86(1), **Sch. 7 para. 152(2)(b)**; [S.I. 1999/3178](#), art. 2(1)(a), **Sch. 1** (subject to transitional provisions in [Schs. 21-23](#))
- F30** Words in s. 13(2)(c) inserted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), **Sch. 1 para. 8**; [S.I. 2014/459](#), art. 3(c)
- F31** Words in s. 13(2) inserted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), **Sch. 1 para. 6**; [S.I. 2014/459](#), art. 3(c)
- F32** S. 13(3) omitted (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 141(d)**
- F33** S. 13(4) repealed (29.11.1999) by [1998 c. 14](#), ss. 86(1)(2), [Sch. 7 para. 152\(4\)](#), **Sch. 8**; [S.I. 1999/3178](#), art. 2(1)(a), **Sch. 1** (subject to transitional provisions in [Schs. 21-23](#))

*Changes to legislation: There are currently no known outstanding effects for the Social Security (Recovery of Benefits) Act 1997, Cross Heading: Reviews and appeals. (See end of Document for details)*

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

- C2** Ss. 10-14 applied (with modifications) (1.10.2008) by [Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) Regulations 2008 \(S.I. 2008/1596\)](#), regs. 1(1), 2, [Sch. 1](#) (with reg. 6)

#### Commencement Information

- I3** S. 13 wholly in force at 6.10.1997; s. 13 not in force at Royal Assent, see s. 34(2); s. 13(3) in force for specified purposes at 3.9.1997 by [S.I. 1997/2085](#), [art. 2\(1\)](#); s. 13 in force 6.10.1997 insofar as not already in force by [S.I. 1997/2085](#), [art. 2\(1\)](#)

## 14 Reviews and appeals: supplementary.

- (1) This section applies in cases where a fresh certificate of recoverable benefits is issued as a result of a review under section 10 or an appeal under section 11.
- (2) If—
- a person has made one or more payments to the Secretary of State under section 6, and
  - in consequence of the review or appeal, it appears that the total amount paid is more than the amount that ought to have been paid,
- regulations may provide for the Secretary of State to pay the difference to that person, or to the person to whom the compensation payment is made, or partly to one and partly to the other.
- (3) If—
- a person has made one or more payments to the Secretary of State under section 6, and
  - in consequence of the review or appeal, it appears that the total amount paid is less than the amount that ought to have been paid,
- regulations may provide for that person to pay the difference to the Secretary of State.
- (4) Regulations under this section may provide—
- for the re-calculation in accordance with section 8 [<sup>F34</sup>or 8A] of the amount of any compensation payment,
  - for giving credit for amounts already paid, and
  - for the payment by any person of any balance or the recovery from any person of any excess,
- and may provide for any matter by modifying this Act.

#### Textual Amendments

- F34** Words in s. 14(4)(a) inserted (31.3.2014) by [Mesothelioma Act 2014 \(c. 1\)](#), s. 19(1), [Sch. 1 para. 8](#); [S.I. 2014/459](#), art. 3(c)

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

- C2** Ss. 10-14 applied (with modifications) (1.10.2008) by [Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) Regulations 2008 \(S.I. 2008/1596\)](#), regs. 1(1), 2, [Sch. 1](#) (with reg. 6)

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**Changes to legislation:** There are currently no known outstanding effects for the Social Security (Recovery of Benefits) Act 1997, Cross Heading: Reviews and appeals. (See end of Document for details)

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**Commencement Information**

- I4** S. 14 wholly in force at 6.10.1997; S. 14 not in force at Royal Assent see s. 34(2); s. 14(2)(3) and (4) in force for specified purposes at 3.9.1997 by [S.I. 1997/2085](#), [art. 2\(1\)](#); s. 14 in force at 6.10.1997 insofar as not already in force by [S.I. 1997/2085](#), [art. 2\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Social Security (Recovery of Benefits) Act 1997, Cross Heading: Reviews and appeals.