



Social Security Act 1998

1998 CHAPTER 14

PART I

DECISIONS AND APPEALS

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Appeals

12 Appeal to appeal 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- (1) This section applies to any decision of the Secretary of State under section 8 or 10 above (whether as originally made or as revised under section 9 above) which—
- is made on a claim for, or on an award of, a relevant benefit, and does not fall within Schedule 2 to this Act;
 - is made otherwise than on such a claim or award, and falls within Schedule 3 to this Act; or
 - relates to statutory sick pay or statutory maternity pay.
- (2) In the case of a decision to which this section applies—
- if it relates to statutory sick pay or statutory maternity pay, the employee and employer concerned shall each have a right to appeal to an appeal tribunal; and
 - in any other case, the claimant and such other person as may be prescribed shall have a right to do so;
- but nothing in this subsection shall confer a right of appeal in relation to a prescribed decision, or a prescribed determination embodied in or necessary to a decision.
- (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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- (4) Where the Secretary of State has determined that any amount is recoverable under or by virtue of section 71 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 an appeal 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 an appeal 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 make provision as to the manner in which, and the time within which, appeals are to be brought.
- (8) In deciding an appeal under this section, an appeal 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.

13 Redetermination etc. of appeals by tribunal

- (1) This section applies where an application is made to a person under section 14(10)(a) below for leave to appeal from a decision of an appeal tribunal.
- (2) If the person considers that the decision was erroneous in point of law, he may set aside the decision and refer the case either for redetermination by the tribunal or for determination by a differently constituted tribunal.
- (3) If each of the principal parties to the case expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted tribunal.
- (4) In this section and section 14 below “principal parties” means—
- (a) in a case relating to statutory sick pay or statutory maternity pay, the persons mentioned in subsection (2)(a), (b) and (c) of that section;
 - (b) in any other case—
 - (i) the persons mentioned in subsection (3)(a) and (b) of that section; and
 - (ii) where applicable, the person mentioned in subsection (3)(d) and such a person as is first mentioned in subsection (4) of that section.

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14 Appeal from tribunal to Commissioner

- (1) Subject to the provisions of this section, an appeal lies to a Commissioner from any decision of an appeal tribunal under section 12 or 13 above on the ground that the decision of the tribunal was erroneous in point of law.
- (2) In the case of statutory sick pay or statutory maternity pay an appeal lies under this section at the instance of any of the following—
 - (a) the Secretary of State;
 - (b) the employee concerned;
 - (c) the employer concerned;
 - (d) a trade union, where—
 - (i) the employee is a member of the union at the time of the appeal and was so immediately before the matter in question arose; or
 - (ii) the matter in question concerns the entitlement of a deceased person who was at the time of his death a member of the union; and
 - (e) an association of employers of which the employer is a member at the time of the appeal and was so immediately before the matter in question arose.
- (3) In any other case an appeal lies under this section at the instance of any of the following—
 - (a) the Secretary of State;
 - (b) the claimant and such other person as may be prescribed;
 - (c) in any of the cases mentioned in subsection (5) below, a trade union; and
 - (d) a person from whom it is determined that any amount is recoverable under or by virtue of section 71 or 74 of the Administration Act.
- (4) In a case relating to industrial injuries benefit an appeal lies under this section at the instance of a person whose entitlement to benefit is, or may be, under Part VI of Schedule 7 to the Contributions and Benefits Act, affected by the decision appealed against, as well as at the instance of any person or body such as is mentioned in subsection (3) above.
- (5) The following are the cases in which an appeal lies at the instance of a trade union—
 - (a) where the claimant is a member of the union at the time of the appeal and was so immediately before the matter in question arose;
 - (b) where that matter in any way relates to a deceased person who was a member of the union at the time of his death;
 - (c) where the case relates to industrial injuries benefit and the claimant or, in relation to industrial death benefit, the deceased, was a member of the union at the time of the relevant accident.
- (6) Subsections (2), (3) and (5) above, as they apply to a trade union, apply also to any other association which exists to promote the interests and welfare of its members.
- (7) If each of the principal parties to the appeal expresses the view that the decision appealed against was erroneous in point of law, the Commissioner may set aside the decision and refer the case to a tribunal with directions for its determination.
- (8) Where the Commissioner holds that the decision appealed against was erroneous in point of law, he shall set it aside and—
 - (a) he shall have power—

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- (i) to give the decision which he considers the tribunal should have given, if he can do so without making fresh or further findings of fact; or
 - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; and
 - (b) in any other case he shall refer the case to a tribunal with directions for its determination.
- (9) Subject to any direction of the Commissioner, a reference under subsection (7) or (8) (b) above shall be to a differently constituted tribunal.
- (10) No appeal lies under this section without the leave—
- (a) of the person who constituted, or was the chairman of, the tribunal when the decision was given or, in a prescribed case, the leave of such other person as may be prescribed; or
 - (b) subject to and in accordance with regulations, of a Commissioner.
- (11) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.
- (12) Schedule 4 to this Act shall have effect with respect to the appointment, remuneration and tenure of office of Commissioners and other matters relating to them.

15 Appeal from Commissioner on point of law

- (1) Subject to subsections (2) and (3) below, an appeal on a question of law shall lie to the appropriate court from any decision of a Commissioner.
- (2) No appeal under this section shall lie from a decision except—
- (a) with the leave of the Commissioner who gave the decision or, in a prescribed case, with the leave of a Commissioner selected in accordance with regulations; or
 - (b) if he refuses leave, with the leave of the appropriate court.
- (3) An application for leave under this section in respect of a Commissioner's decision may only be made by—
- (a) a person who, before the proceedings before the Commissioner were begun, was entitled to appeal to the Commissioner from the decision to which the Commissioner's decision relates;
 - (b) any other person who was a party to the proceedings in which the first decision mentioned in paragraph (a) above was given;
 - (c) any other person who is authorised by regulations to apply for leave;
- and regulations may make provision with respect to the manner in which and the time within which applications must be made to a Commissioner for leave under this section and with respect to the procedure for dealing with such applications.
- (4) On an application to a Commissioner for leave under this section it shall be the duty of the Commissioner to specify as the appropriate court—
- (a) the Court of Appeal if it appears to him that the relevant place is in England or Wales;
 - (b) the Court of Session if it appears to him that the relevant place is in Scotland; and
 - (c) the Court of Appeal in Northern Ireland if it appears to him that the relevant place is in Northern Ireland,

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except that if it appears to him, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) to (c) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.

(5) In this section—

“the appropriate court”, except in subsection (4) above, means the court specified in pursuance of that subsection;

“the relevant place”, in relation to an application for leave to appeal from a decision of a Commissioner, means the premises where the person or authority whose decision was the subject of the Commissioner’s decision usually exercises his or its functions.