



# Social Security Act 1998

## 1998 CHAPTER 14

### PART I

#### DECISIONS AND APPEALS

### CHAPTER II

#### SOCIAL SECURITY DECISIONS AND APPEALS

##### *Decisions*

#### **8 Decisions by Secretary of State**

- (1) Subject to the provisions of this Chapter, it shall be for the Secretary of State—
  - (a) to decide any claim for a relevant benefit;
  - (b) to decide any claim for a social fund payment mentioned in section 138(1)(b) of the Contributions and Benefits Act; <sup>F1</sup>and]
  - (c) subject to subsection (5) below, to make any decision that falls to be made under or by virtue of a relevant enactment; <sup>F2</sup>...
  - <sup>F2</sup>(d) .....
- (2) Where at any time a claim for a relevant benefit is decided by the Secretary of State—
  - (a) the claim shall not be regarded as subsisting after that time; and
  - (b) accordingly, the claimant shall not (without making a further claim) be entitled to the benefit on the basis of circumstances not obtaining at that time.
- (3) <sup>F3</sup>In this Chapter “relevant benefit” ... means any of the following, namely—
  - (a) benefit under Parts II to V of the Contributions and Benefits Act;
  - (b) a jobseeker’s allowance;
  - <sup>F4</sup>(bb) state pension credit;]
  - (c) income support;

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- <sup>F5</sup>(d) .....
- <sup>F5</sup>(e) .....
- (f) a social fund payment mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;
- (g) child benefit;
- (h) such other benefit as may be prescribed.

(4) In this section “relevant enactment” means any enactment contained in this Chapter, the Contributions and Benefits Act, the Administration Act, the Social Security (Consequential Provisions) Act 1992<sup>F6</sup>, the Jobseekers Act or the State Pension Credit Act 2002], other than one contained in—

- (a) Part VII of the Contributions and Benefits Act so far as relating to housing benefit and council tax benefit;
- (b) Part VIII of the Administration Act (arrangements for housing benefit and council tax benefit and related subsidies).

<sup>F7</sup>(5) Subsection (1)(c) above does not include any decision which under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 falls to be made by an officer of the Inland Revenue.]

#### Textual Amendments

- F1** Word in s. 8(1) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 22\(2\)\(a\)](#) (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F2** S. 8(1)(d) 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. 22\(2\)\(b\), Sch. 10 Pt. I](#) (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F3** Words in s. 8(3) repealed (6.4.2000) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(3\)\(c\), Sch. 13 Pt. VI](#); S.I. 1999/3420, art. 4(c)(e)
- F4** S. 8(3)(bb) inserted (2.7.2002 for specified purposes, 7.4.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\), s. 22\(3\), Sch. 1 para. 6\(2\)](#); S.I. 2002/1691, art. 2(i); S.I. 2003/966, art. 2(a)
- F5** S. 8(3)(d)(e) repealed (8.4.2003) by [Tax Credits Act 2002 \(c. 21\), s. 61, Sch. 6](#); S.I. 2003/962, art. 2(4)(e), Sch. 2
- F6** Words in s. 8(4) substituted (2.7.2002 for specified purposes, 7.4.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\), s. 22\(3\), Sch. 1 para. 6\(3\)](#); S.I. 2002/1691, art. 2(i); S.I. 2003/966, art. 2(a)
- F7** S. 8(5) substituted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 22\(3\)](#) (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

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

- C1** S. 8 modified (E.W.S.) (1.6.1999 for specified purposes, 5.7.1999 for specified purposes, 6.9.1999 for specified purposes, 5.10.1999 for specified purposes, 18.10.1999 for specified purposes, 29.11.1999 so far as not already in force) by [The Social Security and Child Support \(Decisions and Appeals\) Regulations 1999 \(S.I. 1999/991\), regs. 1\(2\), 15](#)
- C2** S. 8(1)(a)(c): transfer of functions (5.10.1999) by [Tax Credits Act 1999 \(c. 10\), ss. 2\(1\)\(b\), 20\(2\), Sch. 2 para. 5\(b\)\(i\)](#) (with s. 19)

#### Commencement Information

- I1** S. 8 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)

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- I2** S. 8(1)(a)(c)(2)(3)(a)(g)(4)(5) 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)
- I3** S. 8(1)(a)(c)(2)(3)(a)(4)(5) in force at 6.9.1999 for specified purposes by S.I. 1999/2422, art. 2(c), **Sch. 1** (with art. 4, Sch. 14)
- I4** S. 8(1)(a)(c)(2)(3)(d)(e)(4)(5) in force at 5.10.1999 for specified purposes by S.I. 1999/2739, art. 2, **Sch. 1** (with art. 3, Sch. 2)
- I5** S. 8(1)(a)(c)(2)(3)(a)(b)(4)(5) 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)

## 9 Revision of decisions

- (1) Subject to section 36(3) below, any decision of the Secretary of State under section 8 above or section 10 below may be revised 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; and regulations may prescribe the procedure by which a decision of the Secretary of State may be so revised.
- (2) In making a decision under subsection (1) above, the Secretary of State need not consider any issue that is not raised by the application or, as the case may be, did not cause him to act on his own initiative.
- (3) Subject to subsections (4) and (5) and section 27 below, a revision under this section shall take effect as from the date on which the original decision took (or was to take) effect.
- (4) Regulations may provide that, in prescribed cases or circumstances, a revision under this section shall take effect as from such other date as may be prescribed.
- (5) Where a decision is revised under this section, for the purpose of any rule as to the time allowed for bringing an appeal, the decision shall be regarded as made on the date on which it is so revised.
- (6) Except in prescribed circumstances, an appeal against a decision of the Secretary of State shall lapse if the decision is revised under this section before the appeal is determined.

### Modifications etc. (not altering text)

- C3** S. 9 applied (with modifications) (E.W.S.) (1.6.1999) by [The Social Security Commissioners \(Procedure\) Regulations 1999](#) (S.I. 1999/1495), regs. 1, **15(2)** (with reg. 3)
- C4** S. 9 applied (with modifications) by [Pension Schemes Act 1993](#) (c. 48), **s. 170(4)** (as substituted (14.6.1999 for specified purposes, 5.7.1999 in so far as not already in force) 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))
- C5** S. 9 applied by [The Social Security \(Claims and Payments\) Regulations 1987](#) (S.I. 1987/1968), **reg. 13D(3)** (as inserted (7.4.2003) by S.I. 2002/3019, regs. 1(2)(a), 6(2))
- C6** S. 9(1): transfer of functions in part (5.10.1999) by [Tax Credits Act 1999](#) (c. 10), ss. 2(1)(b), 20(2), **Sch. 2 para. 5(b)(ii)** (with s. 19)

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### Commencement Information

- I6** S. 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)
- I7** S. 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)
- I8** S. 9 in force at 5.10.1999 for specified purposes by S.I. 1999/2739, art. 2, **Sch. 1** (with art. 3, Sch. 2)
- I9** S. 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)
- I10** S. 9 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)
- I11** S. 9(1)(4)(6) in force at 4.3.1999 for specified purposes by S.I. 1999/528, art. 2(a), **Sch.**

## 10 Decisions superseding earlier decisions

- (1) Subject to <sup>F8</sup>subsection (3)] and section 36(3) below, the following, namely—
  - (a) any decision of the Secretary of State under section 8 above or this section, whether as originally made or as revised under section 9 above; and
  - (b) any decision under this Chapter of an appeal tribunal or a Commissioner, may be superseded by a decision made by the Secretary of State, either on an application made for the purpose or on his own initiative.
- (2) In making a decision under subsection (1) above, the Secretary of State need not consider any issue that is not raised by the application or, as the case may be, did not cause him to act on his own initiative.
- (3) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision may be made under this section.
- <sup>F9</sup>(4) . . . . .
- (5) Subject to subsection (6) and section 27 below, a decision under this section shall take effect as from the date on which it is made or, where applicable, the date on which the application was made.
- (6) Regulations may provide that, in prescribed cases or circumstances, a decision under this section shall take effect as from such other date as may be prescribed.

### Textual Amendments

- F8** Words in s. 10(1) substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 7 para. 23(a)** (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)
- F9** S. 10(4) repealed (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), Sch. 7 para. 23(b), **Sch. 10 Pt. I** (with Sch. 8); S.I. 1999/527, art. 2(b), Sch. 2 (with arts. 3-6)

### Modifications etc. (not altering text)

- C7** S. 10 applied (with modifications) (E.W.S.) (1.6.1999) by The Social Security Commissioners (Procedure) Regulations 1999 (S.I. 1999/1495), regs. 1, **15(2)** (with reg. 3)
- C8** S. 10 extended (E.W.S.) (1.6.1999 for specified purposes, 5.7.1999 for specified purposes, 6.9.1999 for specified purposes, 5.10.1999 for specified purposes, 18.10.1999 for specified purposes, 29.11.1999 so far as not already in force) by The Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991), regs. 1(2), **14(2)(4)**

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- C9** S. 10 modified (E.W.S.) (1.6.1999 for specified purposes, 5.7.1999 for specified purposes, 6.9.1999 for specified purposes, 5.10.1999 for specified purposes, 18.10.1999 for specified purposes, 29.11.1999 so far as not already in force) by [The Social Security and Child Support \(Decisions and Appeals\) Regulations 1999 \(S.I. 1999/991\)](#), regs. 1(2), **15**
- C10** S. 10 applied (with modifications) by [Pension Schemes Act 1993 \(c. 48\)](#), s. **170(4)** (as substituted (14.6.1999 for specified purposes, 5.7.1999 in so far as not already in force) 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))

#### Commencement Information

- I12** S. 10 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)
- I13** S. 10 in force at 6.9.1999 for specified purposes by [S.I. 1999/2422](#), art. 2(c), **Sch. 1** (with art. 4, Sch. 14)
- I14** S. 10 in force at 5.10.1999 for specified purposes by [S.I. 1999/2739](#), art. 2, **Sch. 1** (with art. 3, Sch. 2)
- I15** S. 10 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)
- I16** S. 10 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)
- I17** S. 10(3)(6) in force at 4.3.1999 for specified purposes by [S.I. 1999/528](#), art. 2(a), **Sch.**

**[<sup>F10</sup>Reference of issues by Secretary of State to Inland Revenue**

#### Textual Amendments

- F10** S. 10A and cross-heading inserted (14.6.1999 for specified purposes, 5.7.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), **Sch. 7 para. 24** (with Sch. 8); S.I. 1999/1662, art 2, Sch. (with art. 4)

### **10A Reference of issues by Secretary of State to Inland Revenue.**

- (1) Regulations may make provision requiring the Secretary of State, where on consideration of any claim or other matter he is of the opinion that there arises any issue which under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 falls to be decided by an officer of the Inland Revenue, to refer the issue to the Inland Revenue.
- (2) Regulations under this section may—
- provide for the Inland Revenue to give the Secretary of State a preliminary opinion on any issue referred to them,
  - specify the circumstances in which an officer of the Inland Revenue is to make a decision under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 on a reference by the Secretary of State,
  - enable or require the Secretary of State, in specified circumstances, to deal with any other issue arising on consideration of the claim or other matter pending the decision on the referred issue, and
  - require the Secretary of State to decide the claim or other matter in accordance with the decision of an officer of the Inland Revenue on the issue referred to them, or in accordance with any determination of the tax appeal Commissioners made on appeal from their decision.]

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### Textual Amendments

- F10** S. 10A and cross-heading inserted (14.6.1999 for specified purposes, 5.7.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), [Sch. 7 para. 24](#) (with [Sch. 8](#)); S.I. 1999/1662, art 2, [Sch.](#) (with art. 4)

## 11 Regulations with respect to decisions

- (1) Subject to the provisions of this Chapter and the Administration Act, provision may be made by regulations for the making of any decision by the Secretary of State under or in connection with the current legislation, or the former legislation, including a decision on a claim for benefit.
- (2) Where it appears to the Secretary of State that a matter before him involves a question of fact requiring special expertise, he may direct that in dealing with that matter he shall have the assistance of one or more experts.
- (3) In this section—

“the current legislation” means the Contributions and Benefits Act, the Jobseekers Act <sup>F11</sup>... [<sup>F12</sup>, the Social Security (Recovery of Benefits) Act 1997 and the State Pension Credit Act 2002];

“expert” means a person appearing to the Secretary of State to have knowledge or experience which would be relevant in determining the question of fact requiring special expertise;

“the former legislation” means the National Insurance Acts 1965 to 1974, the National Insurance (Industrial Injuries) Acts 1965 to 1974, the Social Security Act 1975 and Part II of the Social Security Act 1986.

### Textual Amendments

- F11** Word in s. 11(3) repealed (7.4.2003) by [State Pension Credit Act 2002 \(c. 16\)](#), s. 22(3), [Sch. 3](#); S.I. 2003/966, art. 2(b), [Sch.](#)
- F12** Words in s. 11(3) substituted (2.7.2002 for specified purposes, 7.4.2003 so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), s. 22(3), [Sch. 1 para. 7](#); S.I. 2002/1691, art. 2(i); S.I. 2003/966, art. 2(a)

### Modifications etc. (not altering text)

- C11** S. 11(2)(3): transfer of functions (5.10.1999) by [Tax Credits Act 1999 \(c. 10\)](#), ss. 2(1)(b), 20(2), [Sch. 2 para. 5\(b\)\(iii\)](#) (with s. 19)

### Commencement Information

- I18** S. 11 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](#))
- I19** S. 11(1) in force at 4.3.1999 for specified purposes by S.I. 1999/528, art. 2(a), [Sch.](#)
- I20** S. 11(1)(2)(3) 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](#))
- I21** S. 11(1)(2)(3) in force at 6.9.1999 for specified purposes by S.I. 1999/2422, art. 2(c), [Sch. 1](#) (with art. 4, [Sch. 14](#))
- I22** S. 11(1)(2)(3) in force at 5.10.1999 for specified purposes by S.I. 1999/2739, art. 2, [Sch. 1](#) (with art. 3, [Sch. 2](#))

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**I23** S. 11(1)(2)(3) 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](#))

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