



Social Security Act 1998

1998 CHAPTER 14

PART I

DECISIONS AND APPEALS

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Social fund payments

36 Appropriate officers

- (1) In this section and section 38 below, “appropriate officer” means an officer of the Secretary of State who, acting under his authority, is exercising functions of the Secretary of State in relation to such payments out of the social fund as are mentioned in section 138(1)(b) of the Contributions and Benefits Act.
- (2) The Secretary of State may nominate for an area an appropriate officer who shall issue general guidance to other such officers in the area about such matters relating to the social fund as the Secretary of State may specify.
- (3) In relation to any decision of an appropriate officer, section 38 below shall apply in substitution for sections 9 and 10 above.

37 The social fund Commissioner and inspectors

- (1) There shall continue to be an officer known as “the social fund Commissioner”.
- (2) The social fund Commissioner shall be appointed by the Secretary of State.
- (3) The social fund Commissioner—
 - (a) shall appoint such social fund inspectors; and

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- (b) may appoint such officers and staff for himself and for social fund inspectors, as he thinks fit, but with the consent of the Secretary of State as to numbers.
- (4) Appointments under subsection (3) above shall be made from persons made available to the social fund Commissioner by the Secretary of State.
- (5) It shall be the duty of the social fund Commissioner—
 - (a) to monitor the quality of decisions of social fund inspectors and give them such advice and assistance as he thinks fit to improve the standard of their decisions;
 - (b) to arrange such training of social fund inspectors as he considers appropriate; and
 - (c) to carry out such other functions in connection with the work of social fund inspectors as the Secretary of State may direct.
- (6) The social fund Commissioner shall report annually in writing to the Secretary of State on the standards of reviews by social fund inspectors, and the Secretary of State shall publish his report.

38 Reviews of determinations

- (1) An appropriate officer—
 - (a) shall review a social fund determination, if an application for a review is made, within such time and in such form and manner as may be prescribed, by or on behalf of the person who applied for the payment to which the determination relates;
 - (b) may review such a determination on the ground that the person who applied for the payment to which the determination relates misrepresented, or failed to disclose, any material fact; and
 - (c) may review such a determination in such other circumstances as he thinks fit.
- (2) The power to review a social fund determination conferred by subsection (1) above includes power to review a determination made on a previous review.
- (3) A social fund determination which has been reviewed under subsection (1) above shall be further reviewed by a social fund inspector if an application is made, within such time and in such form and manner as may be prescribed, by or on behalf of the person who applied for the payment to which the determination relates.
- (4) On a review under subsection (3) above a social fund inspector shall have the following powers—
 - (a) power to confirm the determination made by the appropriate officer;
 - (b) power to make any determination which an appropriate officer could have made;
 - (c) power to refer the matter to such an officer for determination.
- (5) A social fund inspector may review a determination under subsection (3) above made by himself or some other social fund inspector.
- (6) In making a determination on a review an appropriate officer or a social fund inspector need not consider—
 - (a) in the case of a determination on a review under subsection (1)(a) above, any issue that is not raised by the application;

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- (b) in the case of a determination on a review under subsection (1)(b) above, any issue that is not raised by the material fact;
 - (c) in the case of a determination on a review under subsection (1)(c) above, any issue that did not cause him to carry out the review.
- (7) In making a determination on a review under subsection (1)(a) or (c) above an appropriate officer or a social fund inspector shall—
- (a) subject to paragraphs (b) and (c) below, have regard to whichever of the following are applicable, namely—
 - (i) all the circumstances of the case and, in particular, the criteria specified in paragraphs (a) to (e) of subsection (1) of section 140 of the Contributions and Benefits Act;
 - (ii) the criteria mentioned in paragraphs (a) and (b) of subsection (1A) of that section; and
 - (iii) the criterion specified in directions issued by the Secretary of State under that subsection and the criteria mentioned in paragraph (b) of that subsection;
 - (b) act in accordance with any general directions issued by the Secretary of State under subsection (2) of that section, and any general directions issued by him with regard to reviews; and
 - (c) take account of any general guidance issued by the Secretary of State under that subsection or with regard to reviews.
- (8) In making a determination on a review under subsection (1)(b) above an appropriate officer or a social fund inspector shall—
- (a) act in accordance with any general directions issued by the Secretary of State; and
 - (b) take account of any general guidance issued by the Secretary of State.
- (9) Any reference in subsection (6), (7) or (8) above to a determination on a review under a particular provision of subsection (1) above shall be construed, in relation to a social fund inspector, as a reference to a determination on a further review of a determination which has been reviewed under that provision.
- (10) Directions under this section may specify—
- (a) the circumstances in which a social fund determination is to be reviewed; and
 - (b) the manner in which a review is to be conducted.
- (11) In making a determination on a review under subsection (1)(a) or (c) above an appropriate officer shall take account (subject to any directions or guidance issued by the Secretary of State under this section) of any guidance issued by the appropriate officer nominated for his area under section 36(2) above.
- (12) A social fund inspector reviewing a social fund determination which has been reviewed under subsection (1)(a) or (c) above shall be under the same duties in relation to such guidance as the appropriate officer or social fund inspector who made the determination.
- (13) In this section “social fund determination” means a determination made under the Contributions and Benefits Act by an appropriate officer.