



Social Security Act 1998

1998 CHAPTER 14

PART I

DECISIONS AND APPEALS

CHAPTER II

SOCIAL SECURITY DECISIONS AND APPEALS

Procedure etc.

16 Procedure

- (1) Regulations (“procedure regulations”) may make any such provision as is specified in Schedule 5 to this Act.
- [^{F1}(2) Procedure regulations prescribing the procedure to be followed in cases before a Commissioner shall provide that any hearing shall be in public except in so far as the Commissioner for special reasons otherwise directs.]
- (3) It is hereby declared—
 - [^{F2}(a) that the power to prescribe procedure includes power to make provision as to the representation of one person, at any hearing of a case, by another person whether having professional qualifications or not; and]
 - (b) that the power to provide for the procedure to be followed in connection with the making of decisions by the Secretary of State includes power to make provision with respect to the formulation of the matters to be decided, whether on a reference under section 117 of the Administration Act or otherwise.
- (4) Subsection (5) below applies to any issue—
 - (a) as to whether a Class 1A contribution is payable, or otherwise relating to a Class 1A contribution; or

Status: Point in time view as at 06/04/2010.

Changes to legislation: Social Security Act 1998, Section 16 is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) relating to emoluments in respect of which a Class 1A contribution would be payable but for section 10(8A) of the Contributions and Benefits Act; and in that subsection, in relation to such an issue, “the relevant person” means the person who is liable or alleged to be liable, or (as the case may be) who would be liable or who it is alleged would be liable, to pay the Class 1A contribution in question.
- (5) In proceedings for the determination of an issue to which this subsection applies—
- (a) in England and Wales, there shall be available to a witness (other than the relevant person) any privilege against self-incrimination or incrimination of a spouse which is available to a witness in legal proceedings; and
- (b) in Scotland, section 3 of the Evidence (Scotland) Act 1853 (competence and compellability of witnesses) shall apply as it applies to civil proceedings except that the relevant person shall have no privilege against self-incrimination.
- [^{F3}(6) If it appears to a Commissioner that a matter before him involves a question of fact of special difficulty, he may direct that in dealing with that matter he shall have the assistance of one or more experts.
- In this subsection “expert” means a person appearing to the Commissioner to have knowledge or experience which would be relevant in determining the question of fact of special difficulty.
- (7) If it appears to the Chief Commissioner (or, in the case of his inability to act, to such other of the Commissioners as he may have nominated to act for the purpose) that—
- (a) an application for leave under section 14(10)(b) above; or
- (b) an appeal,
- falling to be heard by one of the Commissioners involves a question of law of special difficulty, he may direct that the application or appeal be dealt with, not by that Commissioner alone, but by a tribunal consisting of any three or more of the Commissioners.
- If the decision of the tribunal is not unanimous, the decision of the majority shall be the decision of the tribunal; and the presiding Commissioner shall have a casting vote if the votes are equally divided.
- (8) Where a direction is given under subsection (7)(a) above, section 14(10)(b) above shall have effect as if the reference to a Commissioner were a reference to such a tribunal as is mentioned in subsection (7) above.
- (9) Except so far as it may be applied in relation to England and Wales by procedure regulations, Part I of the Arbitration Act 1996 shall not apply to any proceedings under this Chapter.]

Textual Amendments

- F1** S. 16(2) omitted except in relation to S. for specified purposes (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1)(5), **Sch. 3 para. 154**
- F2** S. 16(3)(a) and following word omitted except in relation to S. for specified purposes (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1)(5), **Sch. 3 para. 154**
- F3** S. 16(6)-(9) omitted except in relation to S. for specified purposes (3.11.2008) by virtue of [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1)(5), **Sch. 3 para. 154**

Status: Point in time view as at 06/04/2010.

Changes to legislation: Social Security Act 1998, Section 16 is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C1** Ss. 13-18 applied (with modifications) by [Pension Schemes Act 1993 \(c. 48\), s. 170\(7\)](#) (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))
- C2** S. 16 applied (with modifications) (temp.) (17.12.2002) by [The Tax Credits \(Appeals\) Regulations 2002 \(S.I. 2002/2926\), regs. 1\(1\)\(2\), 9](#)
- C3** S. 16 applied (with modifications) (25.2.2005) by [The Child Trust Funds \(Non-tax Appeals\) Regulations 2005 \(S.I. 2005/191\), regs. 1\(1\), 11](#)
- C4** S. 16 applied (with modifications) (6.4.2010) by [The National Insurance Contribution Credits \(Transfer of Functions\) Order 2009 \(S.I. 2009/1377\), arts. 1\(1\), 3\(2\)\(i\), 4](#)

Commencement Information

- I1** S. 16 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)
- I2** S. 16 in force at 6.9.1999 for specified purposes by [S.I. 1999/2422, art. 2\(c\), Sch. 1](#) (with art. 4, Sch. 14)
- I3** S. 16 in force at 5.10.1999 for specified purposes by [S.I. 1999/2739, art. 2, Sch. 1](#) (with art. 3, Sch. 2)
- I4** S. 16 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)
- I5** S. 16 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)
- I6** S. 16(1)-(3)(9) in force at 4.3.1999 for specified purposes by [S.I. 1999/528, art. 2\(a\), Sch.](#)
- I7** S. 16(4) in force at 8.9.1998 for specified purposes and 6.4.1999 in so far as not already in force by [S.I. 1998/2209, art. 2\(a\)\(c\), Sch. Pts. I, III](#)
- I8** S. 16(5) in force at 8.9.1998 by [S.I. 1998/2209, art. 2\(a\), Sch. Pt. I](#)

Status:

Point in time view as at 06/04/2010.

Changes to legislation:

Social Security Act 1998, Section 16 is up to date with all changes known to be in force on or before 07 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.