



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 1

#### TRIBUNALS AND INQUIRIES

### CHAPTER 2

#### FIRST-TIER TRIBUNAL AND UPPER TRIBUNAL

#### *Review of decisions and appeals*

### 9 Review of decision of First-tier Tribunal

- (1) The First-tier Tribunal may review a decision made by it on a matter in a case, other than a decision that is an excluded decision for the purposes of section 11(1) (but see subsection (9)).
- (2) The First-tier Tribunal's power under subsection (1) in relation to a decision is exercisable—
  - (a) of its own initiative, or
  - (b) on application by a person who for the purposes of section 11(2) has a right of appeal in respect of the decision.
- (3) Tribunal Procedure Rules may—
  - (a) provide that the First-tier Tribunal may not under subsection (1) review (whether of its own initiative or on application under subsection (2)(b)) a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules;

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- (b) provide that the First-tier Tribunal's power under subsection (1) to review a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules is exercisable only of the tribunal's own initiative;
  - (c) provide that an application under subsection (2)(b) that is of a description specified for the purposes of this paragraph in Tribunal Procedure Rules may be made only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules;
  - (d) provide, in relation to a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules, that the First-tier Tribunal's power under subsection (1) to review the decision of its own initiative is exercisable only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules.
- (4) Where the First-tier Tribunal has under subsection (1) reviewed a decision, the First-tier Tribunal may in the light of the review do any of the following—
- (a) correct accidental errors in the decision or in a record of the decision;
  - (b) amend reasons given for the decision;
  - (c) set the decision aside.
- (5) Where under subsection (4)(c) the First-tier Tribunal sets a decision aside, the First-tier Tribunal must either—
- (a) re-decide the matter concerned, or
  - (b) refer that matter to the Upper Tribunal.
- (6) Where a matter is referred to the Upper Tribunal under subsection (5)(b), the Upper Tribunal must re-decide the matter.
- (7) Where the Upper Tribunal is under subsection (6) re-deciding a matter, it may make any decision which the First-tier Tribunal could make if the First-tier Tribunal were re-deciding the matter.
- (8) Where a tribunal is acting under subsection (5)(a) or (6), it may make such findings of fact as it considers appropriate.
- (9) This section has effect as if a decision under subsection (4)(c) to set aside an earlier decision were not an excluded decision for the purposes of section 11(1), but the First-tier Tribunal's only power in the light of a review under subsection (1) of a decision under subsection (4)(c) is the power under subsection (4)(a).
- (10) A decision of the First-tier Tribunal may not be reviewed under subsection (1) more than once, and once the First-tier Tribunal has decided that an earlier decision should not be reviewed under subsection (1) it may not then decide to review that earlier decision under that subsection.
- (11) Where under this section a decision is set aside and the matter concerned is then re-decided, the decision set aside and the decision made in re-deciding the matter are for the purposes of subsection (10) to be taken to be different decisions.

#### Commencement Information

- II** S. 9 wholly in force at 3.11.2008; s. 9 not in force at Royal Assent see s. 148; s. 9(3) in force at 19.9.2007 by [S.I. 2007/2709](#), [art. 2\(a\)](#); s. 9(1)(2)(4)-(11) in force at 3.11.2008 by [S.I. 2008/2696](#), [art. 5\(a\)](#)

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## **10 Review of decision of Upper Tribunal**

- (1) The Upper Tribunal may review a decision made by it on a matter in a case, other than a decision that is an excluded decision for the purposes of section 13(1) (but see subsection (7)).
- (2) The Upper Tribunal's power under subsection (1) in relation to a decision is exercisable—
  - (a) of its own initiative, or
  - (b) on application by a person who for the purposes of section 13(2) has a right of appeal in respect of the decision.
- (3) Tribunal Procedure Rules may—
  - (a) provide that the Upper Tribunal may not under subsection (1) review (whether of its own initiative or on application under subsection (2)(b)) a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules;
  - (b) provide that the Upper Tribunal's power under subsection (1) to review a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules is exercisable only of the tribunal's own initiative;
  - (c) provide that an application under subsection (2)(b) that is of a description specified for the purposes of this paragraph in Tribunal Procedure Rules may be made only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules;
  - (d) provide, in relation to a decision of a description specified for the purposes of this paragraph in Tribunal Procedure Rules, that the Upper Tribunal's power under subsection (1) to review the decision of its own initiative is exercisable only on grounds specified for the purposes of this paragraph in Tribunal Procedure Rules.
- (4) Where the Upper Tribunal has under subsection (1) reviewed a decision, the Upper Tribunal may in the light of the review do any of the following—
  - (a) correct accidental errors in the decision or in a record of the decision;
  - (b) amend reasons given for the decision;
  - (c) set the decision aside.
- (5) Where under subsection (4)(c) the Upper Tribunal sets a decision aside, the Upper Tribunal must re-decide the matter concerned.
- (6) Where the Upper Tribunal is acting under subsection (5), it may make such findings of fact as it considers appropriate.
- (7) This section has effect as if a decision under subsection (4)(c) to set aside an earlier decision were not an excluded decision for the purposes of section 13(1), but the Upper Tribunal's only power in the light of a review under subsection (1) of a decision under subsection (4)(c) is the power under subsection (4)(a).
- (8) A decision of the Upper Tribunal may not be reviewed under subsection (1) more than once, and once the Upper Tribunal has decided that an earlier decision should not be reviewed under subsection (1) it may not then decide to review that earlier decision under that subsection.

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- (9) Where under this section a decision is set aside and the matter concerned is then re-decided, the decision set aside and the decision made in re-deciding the matter are for the purposes of subsection (8) to be taken to be different decisions.

#### Commencement Information

- I2** S. 10 wholly in force at 3.11.2008; s. 10 not in force at Royal Assent see s. 148; s. 10(3) in force at 19.9.2007 by [S.I. 2007/2709](#), [art. 2\(a\)](#); s. 10(1)(2)(4)-(9) in force at 3.11.2008 by [S.I. 2008/2696](#), {art. 5(a)}

## 11 Right to appeal to Upper Tribunal

- (1) For the purposes of subsection (2), the reference to a right of appeal is to a right to appeal to the Upper Tribunal on any point of law arising from a decision made by the First-tier Tribunal other than an excluded decision.
- (2) Any party to a case has a right of appeal, subject to subsection (8).
- (3) That right may be exercised only with permission (or, in Northern Ireland, leave).
- (4) Permission (or leave) may be given by—
- (a) the First-tier Tribunal, or
  - (b) the Upper Tribunal,
- on an application by the party.
- (5) For the purposes of subsection (1), an “excluded decision” is—
- (a) any decision of the First-tier Tribunal on an appeal made in exercise of a right conferred by the Criminal Injuries Compensation Scheme in compliance with section 5(1)(a) of the Criminal Injuries Compensation Act 1995 (c. 53) (appeals against decisions on reviews),
  - [<sup>F1</sup>(aa) any decision of the First-tier Tribunal on an appeal made in exercise of a right conferred by the Victims of Overseas Terrorism Compensation Scheme in compliance with section 52(3) of the Crime and Security Act 2010,]
  - (b) any decision of the First-tier Tribunal on an appeal under section 28(4) or (6) of the Data Protection Act 1998 (c. 29) (appeals against national security certificate),
  - (c) any decision of the First-tier Tribunal on an appeal under section 60(1) or (4) of the Freedom of Information Act 2000 (c. 36) (appeals against national security certificate),
  - (d) a decision of the First-tier Tribunal under section 9—
    - (i) to review, or not to review, an earlier decision of the tribunal,
    - (ii) to take no action, or not to take any particular action, in the light of a review of an earlier decision of the tribunal,
    - (iii) to set aside an earlier decision of the tribunal, or
    - (iv) to refer, or not to refer, a matter to the Upper Tribunal,
  - (e) a decision of the First-tier Tribunal that is set aside under section 9 (including a decision set aside after proceedings on an appeal under this section have been begun), or
  - (f) any decision of the First-tier Tribunal that is of a description specified in an order made by the Lord Chancellor.

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- (6) A description may be specified under subsection (5)(f) only if—
- (a) in the case of a decision of that description, there is a right to appeal to a court, the Upper Tribunal or any other tribunal from the decision and that right is, or includes, something other than a right (however expressed) to appeal on any point of law arising from the decision, or
  - (b) decisions of that description are made in carrying out a function transferred under section 30 and prior to the transfer of the function under section 30(1) there was no right to appeal from decisions of that description.
- (7) Where—
- (a) an order under subsection (5)(f) specifies a description of decisions, and
  - (b) decisions of that description are made in carrying out a function transferred under section 30,
- the order must be framed so as to come into force no later than the time when the transfer under section 30 of the function takes effect (but power to revoke the order continues to be exercisable after that time, and power to amend the order continues to be exercisable after that time for the purpose of narrowing the description for the time being specified).
- (8) The Lord Chancellor may by order make provision for a person to be treated as being, or to be treated as not being, a party to a case for the purposes of subsection (2).

#### Textual Amendments

**F1** S. 11(5)(aa) inserted (8.4.2010) by [Crime and Security Act 2010 \(c. 17\)](#), s. 59(2)(b), [Sch. 2 para. 5](#)

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

- C1** S.11 applied (1.9.2009) by [The Transfer of Functions \(Transport Tribunal and Appeal Panel\) Order 2009 \(S.I. 2009/1885\)](#), art. 4(4), [Sch. 4 para. 3](#)
- C2** S. 11 excluded (1.4.2009) by [1970 c. 9, s. 19A\(11\)](#) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 8\(5\)\(b\)](#))  
S. 11 excluded (1.4.2009) by [1970 c. 9, s. 55\(6A\)](#) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 34\(8\)](#))  
S. 11 excluded (1.4.2009) by [1988 c. 39, s. 130\(4\)](#) (as amended by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 164\(b\)](#))  
S. 11 excluded (1.4.2009) by [1994 c. 9, s. 60\(4B\)](#) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 207\(6\)](#))  
S. 11 excluded (1.4.2009) by [1994 c. 23, s. 84\(3C\)](#) (as inserted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 221\(5\)](#))  
S. 11 excluded (1.4.2009) by [1996 c. 8, s. 55\(3B\)](#) (as inserted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 236\(6\)](#))  
S. 11 excluded (1.4.2009) by [2000 c. 17, Sch. 6 para. 122\(2B\)](#) (as inserted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 290\(5\)](#))  
S. 11 excluded (1.4.2009) by [2001 c. 9, s. 41\(2B\)](#) (as inserted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 305\(5\)](#))  
S. 11 excluded (1.4.2009) by [2003 c. 14, Sch. 10 para. 15\(6\)](#) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 377\(5\)](#))  
S. 11 excluded (1.4.2009) by [2003 c. 14, Sch. 11A para. 9\(6\)](#) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, [Sch. 1 para. 397\(5\)](#))

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- S. 11 excluded (1.4.2009) by 2004 c. 12, s. 253(10) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 426(5)**)
- S. 11 excluded (1.4.2009) by 2005 c. 5, s. 646(7) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 441**)
- S. 11 excluded (1.4.2009) by 2008 c. 9, **Sch. 36 para. 32(5)** (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), **art. 3**, {Sch. 1 para. 471(10(c))})
- S. 11 excluded (1.4.2009) by S.I. 2003/96, reg. 16(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 83(4)**)
- S. 11 excluded (1.4.2009) by S.I. 2004/2622, reg. 9(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 130(4)**)
- S. 11 excluded (1.4.2009) by S.I. 2007/1509, reg. 7(2) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 167**)
- C3** S. 11 excluded (21.7.2009) by 2008 c. 9, Sch. 36 para. 6(4) (as inserted by Finance Act 2009 (c. 10), s. 95, **Sch. 47 para. 4**)
- S. 11 excluded (21.7.2009) by 2008 c. 9 Sch. 36 para. 8(3) (as inserted by Finance Act 2009 (c. 10), ss. 95, **Sch. 47 para. 8(3)**)
- C4** S. 11 modified (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(2), **Sch. 4 para. 4**
- C5** S. 11 modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), **Sch. 5 para. 5(a)**
- C6** S. 11 excluded (with effect as stated in Sch. 23 para. 65) by Finance Act 2011 (c. 11), s. 86(1), {Sch. 23, para. 29(5)}
- C7** S. 11 excluded (1.4.2012) (with effect in accordance with Sch. 23 para. 65 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 23 paras. 29(5)**, 65(1)(a) (with Sch. 23 paras. 50, 65(1)(b))
- C8** S. 11 excluded (1.4.2013) by Finance Act 2012 (c. 14), s. 223, Sch. 38 paras. 13(3), **20(6)** (with Sch. 38 para. 43); S.I. 2013/279, art. 2
- C9** S.11(2): power to apply (with modifications) conferred (1.4.2009) by 1999 c. 2, s. 13(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 3**)
- S.11(2): power to apply (with modifications) conferred (1.4.2009) by S.I. 1999/671, art. 12(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 5**)
- S. 11(2) modified (1.4.2009) by S.I. 1999/1027, reg. 12(2) (as substituted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 6**)
- C10** S. 11(2) modified (14.3.2012) by Charities Act 2011 (c. 25), **ss. 317(1)**, 355 (with s. 20(2), Sch. 8)
- C11** S. 11(3)(4) applied (1.4.2009) by 1891 c. 39, s. 13A(7A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 3(6)**)
- S. 11(3)(4) applied (1.4.2009) by 1970 c. 9, s. 100B(3A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 45(4)**)
- S. 11(3)(4) applied (1.4.2009) by 1970 c. 9, s. 100B(4A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 46(7)**)
- S. 11(3)(4) applied (1.4.2009) by 1984 c. 51, s. 249(3A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 122(3)**)
- S. 11(3)(4) applied (1.4.2009) by 1999 c. 16, Sch. 17 para. 12(2A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 283(3)**)
- S. 11(3)(4) applied (1.4.2009) by 2002 c. 21, Sch. 2 para. 2(2A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 318(3)**)
- S. 11(3)(4) applied (1.4.2009) by 2002 c. 21, Sch. 2 para. 4(1A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 320(2)**)

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S. 11(3)(4) applied (1.4.2009) by 2002 c. 22, Sch. 1 para. 3(4A) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, **Sch. 1 para. 322(4)**)

S. 11(3)(4) applied (1.4.2009) by 2002 c. 22, Sch. 1 para. 4(4A) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, **Sch. 1 para. 323(4)**)

S. 11(3)(4) applied (1.4.2009) by 2003 c. 14, Sch. 14 para. 6(1A) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, **Sch. 1 para. 412(2)**)

S. 11(3)(4) applied (1.4.2009) by 2004 c. 6, s. 21(10A) (as substituted by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3, **Sch. 1 para. 415(3)**)

#### Commencement Information

- I3** S. 11 wholly in force at 3.11.2008; s. 11 not in force at Royal Assent see s. 148; s. 11(5)(f)(6)-(8) in force at 19.9.2007 by [S.I. 2007/2709](#), **art. 2(a)**; s. 11(1)-(4)(5)(a)-(e) in force at 3.11.2008 by [S.I. 2008/2696](#), **art. 5(a)**

## 12 Proceedings on appeal to Upper Tribunal

- (1) Subsection (2) applies if the Upper Tribunal, in deciding an appeal under section 11, finds that the making of the decision concerned involved the making of an error on a point of law.
- (2) The Upper Tribunal—
  - (a) may (but need not) set aside the decision of the First-tier Tribunal, and
  - (b) if it does, must either—
    - (i) remit the case to the First-tier Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (3) In acting under subsection (2)(b)(i), the Upper Tribunal may also—
  - (a) direct that the members of the First-tier Tribunal who are chosen to reconsider the case are not to be the same as those who made the decision that has been set aside;
  - (b) give procedural directions in connection with the reconsideration of the case by the First-tier Tribunal.
- (4) In acting under subsection (2)(b)(ii), the Upper Tribunal—
  - (a) may make any decision which the First-tier Tribunal could make if the First-tier Tribunal were re-making the decision, and
  - (b) may make such findings of fact as it considers appropriate.

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

- C12** S. 12 applied (with modifications) (3.11.2008) by 1996 c. 56, s. 336ZB(3) (as inserted by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 135**)
- C13** S. 12 applied (with modifications) (3.11.2008) by 1965 c. 50, s. 28JA(3) (as inserted by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 9(1), **Sch. 3 para. 118**)
- C14** S. 12(2)-(4) applied by 2002 c. 15, s. 176B(5) (as inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 144** (with Sch. 3))

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- C15** S. 12(2)-(4) applied by 2002 c. 9, s. 111(4) (as inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 231(c)** (with Sch. 3))
- C16** S. 12(2)-(4) applied by 2004 c. 34, s. 231C(5) (as inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 176** (with Sch. 3))

### 13 Right to appeal to Court of Appeal etc.

- (1) For the purposes of subsection (2), the reference to a right of appeal is to a right to appeal to the relevant appellate court on any point of law arising from a decision made by the Upper Tribunal other than an excluded decision.
- (2) Any party to a case has a right of appeal, subject to subsection (14).
- (3) That right may be exercised only with permission (or, in Northern Ireland, leave).
- (4) Permission (or leave) may be given by—
  - (a) the Upper Tribunal, or
  - (b) the relevant appellate court,
 on an application by the party.
- (5) An application may be made under subsection (4) to the relevant appellate court only if permission (or leave) has been refused by the Upper Tribunal.
- (6) The Lord Chancellor may, as respects an application under subsection (4) that falls within subsection (7) and for which the relevant appellate court is the Court of Appeal in England and Wales or the Court of Appeal in Northern Ireland, by order make provision for permission (or leave) not to be granted on the application unless the Upper Tribunal or (as the case may be) the relevant appellate court considers—
  - (a) that the proposed appeal would raise some important point of principle or practice, or
  - (b) that there is some other compelling reason for the relevant appellate court to hear the appeal.
- (7) An application falls within this subsection if the application is for permission (or leave) to appeal from any decision of the Upper Tribunal on an appeal under section 11.
- (8) For the purposes of subsection (1), an “excluded decision” is—
  - (a) any decision of the Upper Tribunal on an appeal under section 28(4) or (6) of the Data Protection Act 1998 (c. 29) (appeals against national security certificate),
  - (b) any decision of the Upper Tribunal on an appeal under section 60(1) or (4) of the Freedom of Information Act 2000 (c. 36) (appeals against national security certificate),
  - (c) any decision of the Upper Tribunal on an application under section 11(4)(b) (application for permission or leave to appeal),
  - (d) a decision of the Upper Tribunal under section 10—
    - (i) to review, or not to review, an earlier decision of the tribunal,
    - (ii) to take no action, or not to take any particular action, in the light of a review of an earlier decision of the tribunal, or
    - (iii) to set aside an earlier decision of the tribunal,



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- (e) a decision of the Upper Tribunal that is set aside under section 10 (including a decision set aside after proceedings on an appeal under this section have been begun), or
  - (f) any decision of the Upper Tribunal that is of a description specified in an order made by the Lord Chancellor.
- (9) A description may be specified under subsection (8)(f) only if—
- (a) in the case of a decision of that description, there is a right to appeal to a court from the decision and that right is, or includes, something other than a right (however expressed) to appeal on any point of law arising from the decision, or
  - (b) decisions of that description are made in carrying out a function transferred under section 30 and prior to the transfer of the function under section 30(1) there was no right to appeal from decisions of that description.
- (10) Where—
- (a) an order under subsection (8)(f) specifies a description of decisions, and
  - (b) decisions of that description are made in carrying out a function transferred under section 30,
- the order must be framed so as to come into force no later than the time when the transfer under section 30 of the function takes effect (but power to revoke the order continues to be exercisable after that time, and power to amend the order continues to be exercisable after that time for the purpose of narrowing the description for the time being specified).
- (11) Before the Upper Tribunal decides an application made to it under subsection (4), the Upper Tribunal must specify the court that is to be the relevant appellate court as respects the proposed appeal.
- (12) The court to be specified under subsection (11) in relation to a proposed appeal is whichever of the following courts appears to the Upper Tribunal to be the most appropriate—
- (a) the Court of Appeal in England and Wales;
  - (b) the Court of Session;
  - (c) the Court of Appeal in Northern Ireland.
- (13) In this section except subsection (11), “the relevant appellate court”, as respects an appeal, means the court specified as respects that appeal by the Upper Tribunal under subsection (11).
- (14) The Lord Chancellor may by order make provision for a person to be treated as being, or to be treated as not being, a party to a case for the purposes of subsection (2).
- (15) Rules of court may make provision as to the time within which an application under subsection (4) to the relevant appellate court must be made.

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

- C17** S. 13 applied (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(6), **Sch. 5 para. 3**
- S. 13 applied (1.9.2009) by [The Transfer of Functions \(Transport Tribunal and Appeal Panel\) Order 2009 \(S.I. 2009/1885\)](#), art. 4(4), **Sch. 4 para. 4**

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- C18** S. 13 excluded (1.4.2009) by 1970 c. 9, s. 19A(11) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 8(5)(b)**)
- S. 13 excluded (1.4.2009) by 1970 c. 9, s. 55(6A) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 34(8)**)
- S. 13 excluded (1.4.2009) by 1988 c. 39, s. 130(4) (as amended by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 164(b)**)
- S. 13 excluded (1.4.2009) by 1994 c. 9, s. 60(4B) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 207(6)**)
- S. 13 excluded (1.4.2009) by 1994 c. 23, s. 84(3C) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 221(5)**)
- S. 13 excluded (1.4.2009) by 1996 c. 8, s. 55(3B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 236(6)**)
- S. 13 excluded (1.4.2009) by 2000 c. 17, Sch. 6 para. 122(2B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 290(5)**)
- S. 13 excluded (1.4.2009) by 2001 c. 9, s. 41(2B) (as inserted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 305(5)**)
- S. 13 excluded (1.4.2009) by 2003 c. 14, Sch. 10 para. 15(6) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 377(5)**)
- S. 13 excluded (1.4.2009) by 2003 c. 14, Sch. 11A para. 9(6) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 397(5)**)
- S. 13 excluded (1.4.2009) by 2004 c. 12, s. 253(10) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 426(5)**)
- S. 13 excluded (1.4.2009) by 2005 c. 5, s. 646(7) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 441**)
- S. 13 excluded (1.4.2009) by 2008 c. 9, Sch. 36 para. 32(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 1 para. 471(10)(c)**)
- S. 13 excluded (1.4.2009) by S.I. 2003/96, reg. 16(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 83(4)**)
- S. 13 excluded (1.4.2009) by S.I. 2004/2622, reg. 9(5) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 130(4)**)
- S. 13 excluded (1.4.2009) by S.I. 2007/1509, reg. 7(2) (as substituted by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3, **Sch. 2 para. 167**)
- C19** S. 13 excluded (21.7.2009) by 2008 c. 9, Sch. 36 para. 6(4) (as inserted by Finance Act 2009 (c. 10), s. 95, **Sch. 47 para. 4**)
- S. 13 excluded (21.7.2009) by 2008 c. 9, Sch. 36 para. 8(3) (as inserted by Finance Act 2009 (c. 10), s. 95, **Sch. 47 para. 8(3)**)
- C20** S. 13 modified (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(2), **Sch. 4 para. 5**
- C21** S. 13 modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), **Sch. 5 para. 5(b)**
- C22** S. 13 applied (N.I.) (6.4.2010) by Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4), ss. 3(3), 5(2), **Sch. 2 para. 3** (with Sch. 2); S.R. 2010/101, **art. 2**
- C23** S. 13 excluded (with effect as stated in Sch. 23 para. 65) by Finance Act 2011 (c. 11), s. 86(1), {Sch. 23, para. 29(5)}
- C24** S. 13 excluded (1.4.2012) (with effect in accordance with Sch. 23 para. 65 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 23 paras. 29(5), 65(1)(a)** (with Sch. 23 paras. 50, 65(1)(b))
- C25** S. 13 excluded (1.4.2013) by Finance Act 2012 (c. 14), s. 223, Sch. 38 paras. 13(3), **20(6)** (with Sch. 38 para. 43); S.I. 2013/279, art. 2
- C26** S. 13(2): power to apply (with modifications) conferred (1.4.2009) by 1999 c. 2, s. 13(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), **art. 3**)

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S. 13(2): power to apply (with modifications) conferred (1.4.2009) by S.I. 1999/761, art. 12(2A) (as inserted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), art. 5)

S. 13(2) modified (1.4.2009) by S.I. 1999/1027 reg. 12(2) (as substituted by The Revenue and Customs Appeals Order 2009 (S.I. 2009/777), art. 6)

**C27** S. 13(2) modified (14.3.2012) by Charities Act 2011 (c. 25), ss. 317(1), 355 (with s. 20(2), Sch. 8)

#### Commencement Information

**I4** S. 13 wholly in force at 3.11.2008; s. 13 not in force at Royal Assent see s. 148; s. 13(6)(8)(f)(9)(10)(14)(15) in force at 19.9.2007 by S.I. 2007/2709, art. 2(a); s. 13(1)-(5)(7)(8)(a)-(e)(11)-(13) in force at 3.11.2008 by S.I. 2008/2696, art. 5(a)

## 14 Proceedings on appeal to Court of Appeal etc.

- (1) Subsection (2) applies if the relevant appellate court, in deciding an appeal under section 13, finds that the making of the decision concerned involved the making of an error on a point of law.
- (2) The relevant appellate court—
  - (a) may (but need not) set aside the decision of the Upper Tribunal, and
  - (b) if it does, must either—
    - (i) remit the case to the Upper Tribunal or, where the decision of the Upper Tribunal was on an appeal or reference from another tribunal or some other person, to the Upper Tribunal or that other tribunal or person, with directions for its reconsideration, or
    - (ii) re-make the decision.
- (3) In acting under subsection (2)(b)(i), the relevant appellate court may also—
  - (a) direct that the persons who are chosen to reconsider the case are not to be the same as those who—
    - (i) where the case is remitted to the Upper Tribunal, made the decision of the Upper Tribunal that has been set aside, or
    - (ii) where the case is remitted to another tribunal or person, made the decision in respect of which the appeal or reference to the Upper Tribunal was made;
  - (b) give procedural directions in connection with the reconsideration of the case by the Upper Tribunal or other tribunal or person.
- (4) In acting under subsection (2)(b)(ii), the relevant appellate court—
  - (a) may make any decision which the Upper Tribunal could make if the Upper Tribunal were re-making the decision or (as the case may be) which the other tribunal or person could make if that other tribunal or person were re-making the decision, and
  - (b) may make such findings of fact as it considers appropriate.
- (5) Where—
  - (a) under subsection (2)(b)(i) the relevant appellate court remits a case to the Upper Tribunal, and
  - (b) the decision set aside under subsection (2)(a) was made by the Upper Tribunal on an appeal or reference from another tribunal or some other person,

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the Upper Tribunal may (instead of reconsidering the case itself) remit the case to that other tribunal or person, with the directions given by the relevant appellate court for its reconsideration.

- (6) In acting under subsection (5), the Upper Tribunal may also—
- (a) direct that the persons who are chosen to reconsider the case are not to be the same as those who made the decision in respect of which the appeal or reference to the Upper Tribunal was made;
  - (b) give procedural directions in connection with the reconsideration of the case by the other tribunal or person.
- (7) In this section “the relevant appellate court”, as respects an appeal under section 13, means the court specified as respects that appeal by the Upper Tribunal under section 13(11).

**Status:**

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**Changes to legislation:**

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