

2005 No. 108

PENSIONS (NORTHERN IRELAND)

**Pensions Appeal Tribunals (Northern Ireland) (Amendment)
Rules 2005**

Made - - - - - *14th March 2005*

Coming into operation *6th April 2005*

To be laid before Parliament

I, The Right Honourable Sir Brian Francis Kerr, Lord Chief Justice of Northern Ireland, in exercise of the powers conferred on me by section 6 of, and paragraphs 5 and 6 of the Schedule to, the Pensions Appeal Tribunals Act 1943(a) and of all other powers enabling me in this behalf, do hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Pensions Appeal Tribunals (Northern Ireland) (Amendment) Rules 2005 and shall come into operation on 6th April 2005.

(2) In these Rules a reference to a rule or schedule by number is a reference to that Rule or Schedule as numbered in the Pensions Appeal Tribunals (Northern Ireland) Rules 1981(b).

Transitional provisions

2.—(1) These Rules apply to appeals to the Pensions Appeal Tribunal where the decision disposing of the appeal is made on or after the date on which these Rules come into force.

(2) For all other purposes, the Pensions Appeal Tribunals (Northern Ireland) Rules 1981 shall have effect as if these Rules had not been made.

Amendments to the Pensions Appeal Tribunals (Northern Ireland) Rules 1981

3. Rule 2(1) shall be amended as follows:

(a) after the definition of “assessment appeal” and before the definition of “Court of Appeal” there shall be inserted the following definition –

““Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern

(a) 1943 c. 39; Section 6 was amended by the Judicature (Northern Ireland) Act 1978(c. 23), Section 122(1), the Social Security Act 1980 (c. 3), Section 16(4) and the Child Support, Pensions and Social Security Act 2000 (c. 19), Section 57(2); paragraph 5 of the Schedule was amended by Section 32(4) of the Administration of Justice Act 1977 (c. 38), Section 16(6) of the Social Security Act 1980 (c. 30), Part 11 of Schedule 1 to the Statute Law (Repeals) Act 2004 (c. 14) and paragraph 10(1) and (2) of Schedule 1 and Schedule 3 to the Armed Forces (Pension and Compensation) Act 2004 (c. 32); paragraph 6 of the Schedule was amended, and paragraph 6A inserted, by Section 59 of the Administration of Justice Act 1985 (c. 61)

(b) S.R. 1981 No. 231 as previously amended by S.R. 1982 No. 201, S.R. 1983 No. 23, S.R. 1998 No. 265, S.R. 2001 No. 109, S.I. 2001 No. 3506 and S.R. 2003 No. 316

Ireland) Act 1992 and includes a tribunal of Commissioners constituted under section 6D(5) of the Pensions Appeal Tribunals Act 1943.”;

(b) after the definition of “Court of Appeal” and before the definition of “entitlement appeal” there shall be inserted the following definition –

““decision notice” means the record of the decision of the tribunal prepared in accordance with rule 18(1)(a);”

(c) after the definition of “specified decision” and before the definition of “the Chairman” there shall be inserted the following definition –

““statement of reasons” means the record of the reasons for the tribunal’s decision prepared in accordance with rule 18(1)(b);”

(d) in the definition of “the Chairman” delete from “appointed” to “Ireland” and substitute the words “who is the Chairman of, or who constitutes, the tribunal hearing the appeal.”;

(e) delete the definition entitled “the Secretary of State”.

4. After Rule 2(1) insert –

“(1A) For the purposes of these Rules, a Commissioner shall be known as the “Chief Pensions Appeal Commissioner” or a “Pensions Appeal Commissioner” as appropriate when dealing with applications or appeals under the Act.

(1B) Unless the context otherwise requires, where the Secretary of State has made provision under section 1(3) of the Armed Forces (Pension and Compensation) Act 2004(a) for an armed and reserve forces compensation scheme to be administered by another person, reference in these Rules to the Secretary of State shall be construed as if it were a reference to that other person.”.

5.—(1) For Rule 18 substitute –

“**18.—(1)** The Chairman shall record –

(a) a summary of every decision of the tribunal; and

(b) a statement of the reasons for the tribunal’s decision, including any determinations of the tribunal on questions of law or evidence.

(2) The decision notice and statement of reasons specified in paragraph (1) shall be in such written form as shall have been approved by the President and shall be signed by the Chairman.

(3) As soon as may be practicable after an appeal has been decided by a tribunal, a copy of the decision notice shall, and a copy of the statement of reasons may, be sent or given to each party to the proceedings, who shall also be informed of –

(a) where applicable, his right to make an application under paragraph (4); and

(b) the conditions governing appeals to a Commissioner.

(4) If a party to the proceedings has not been sent or given a copy of the statement of reasons in accordance with paragraph (3), he may apply in writing to the Pensions Appeal Office for a copy within six weeks of the date on which the decision notice was sent or given to him.

(5) Following an application under paragraph (4), the statement of reasons shall be sent to each party to the proceedings as soon as may be practicable.”.

6.—(1) In the Arrangement of Rules at rule 19 for the words “Recording and proof of decisions” substitute “Record of tribunal decisions”.

(2) For Rule 19 substitute –

(a) 2004 c. 32

“Record of tribunal decisions

19.—(1) As soon as may be practicable after an appeal has been decided, the Chairman of the tribunal shall make a record of the proceedings (“record of proceedings”) in such written form as shall have been approved by the President, sufficient to indicate –

- (a) any question of law raised at the hearing; and
- (b) the evidence which was adduced at the hearing.

(2) The record of proceedings shall be preserved by the clerk to the tribunal until the period under rule 24(5) for making a late application for leave to appeal against the decision has expired.

(3) Within the period specified in paragraph (2), either party may apply to the Pensions Appeal Office in writing for a copy of the record of proceedings.

(4) Following an application under paragraph (3), a copy of the record of proceedings shall be sent to the applicant as soon as may be practicable.”.

7.—(1) In the Arrangement of Rules at rule 24 for the words “Court of Appeal on point of law” substitute “a Pensions Appeal Commissioner”

(2) For Rule 24 substitute –

“Appeal to a Pensions Appeal Commissioner

24.—(1) An application for leave to appeal to a Commissioner from a decision of the tribunal on an entitlement appeal or a specified decision shall –

- (a) be sent to the Pensions Appeal Office within six weeks of the date the written statement of the reasons for the decision was sent or given to the applicant;
- (b) be in writing and signed by the applicant or, where he has provided written authority to a representative to make the application on his behalf, by that representative;
- (c) contain particulars of the grounds on which the applicant intends to rely;
- (d) contain sufficient particulars of the decision of the tribunal to enable the decision to be identified; and
- (e) if the application is made late, contain the grounds for seeking late acceptance.

(2) Where an application for leave to appeal to a Commissioner is received by the Pensions Appeal Office it shall, as soon as may be practicable, send a copy of the application to the other party or parties to the proceedings.

(3) Any party who is sent a copy of an application for leave to appeal in accordance with paragraph (2) may make representations in writing within one month of the date the application is sent.

(4) A person determining an application for leave to appeal to a Commissioner shall take into account any representations received in accordance with paragraph (3) and shall record his determination in writing and send a copy to each party to the proceedings.

(5) Where an applicant has not applied for leave to appeal within six weeks in accordance with paragraph (1), but makes an application within one year beginning on the day the six weeks ends, the late application may be accepted for special reasons.”.

8. Omit Rules 27 and 28.

9. In Rule 30(1), for “the Court of Appeal” substitute “a Commissioner”.

10. In Rule 31 –

(a) at the beginning insert “(1) Subject to rule 24(5),”;

(b) after paragraph (1) insert –

“(2) Circumstances where the justice of the case may require an extension of time include –

- (a) the applicant or appellant, or a partner or dependant of the applicant or appellant, has died or suffered serious illness;

- (b) the applicant or appellant is not resident in the United Kingdom; or
- (c) normal postal services have been disrupted.”.

Dated this 14th day of March 2005

Brian Kerr
Lord Chief Justice of Northern Ireland

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Rules amend the Pensions Appeal Tribunals (Northern Ireland) Rules 1981 to provide for a new route of appeal from the Pensions Appeal Tribunal to the Social Security Commissioners, who for these purposes are to be known as Pensions Appeal Commissioners.

Rules 3 and 4 provide for new definitions consequential on the amendments to the 1981 Rules.

Rule 5 provides for a notice of the decision to be sent to the parties by the Pensions Appeal Tribunal and for applications for a statement of reasons for the decision.

Rule 6 provides a new procedure for recording and preserving decisions of the Pensions Appeal Tribunal.

Rule 7 provides the procedure for dealing with applications for leave to appeal.

Rule 8 revokes expenses provisions relevant to the previous route of appeal.

Rule 9 makes a consequential amendment.

Rule 10 prescribes circumstances where an extension of a time limit under the Rules may be granted.

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