



# Pensions Appeal Tribunals Act 1943

1943 CHAPTER 39 6 and 7 Geo 6

An Act to provide for the bringing of appeals against the rejection by the Minister of Pensions on certain grounds of claims in respect of incapacity for work, disablement or death arising out of the war and against certain other decisions of the Minister of Pensions affecting awards in respect of such claims; to give a statutory right to sums payable under such awards; and for purposes connected with the matters aforesaid. [5th August 1943]

## Modifications etc. (not altering text)

- C1 Power to amend Act conferred by [Social Security Act 1980 \(c. 30, SIF 113:1\)](#), [s. 16\(1\)](#) and [Social Security Act 1981 \(c. 33, SIF 113:1\)](#), [s. 7](#)
- C2 Act amended by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), [s. 20](#), [Sch. 3 para. 1](#)
- C3 Act extended by [S.I. 1980/1082](#), [art. 2](#)
- C4 The functions of the Secretary of State for Social Services under this Act now exercisable by the Secretary of State for Social Security by [S.I. 1988/1843](#), [art. 3](#), [Sch. 2 Pt. II](#)  
Act: functions transferred to the Secretary of State (3.12.2001) by [S.I. 2001/3506](#), [art. 2\(a\)](#)
- C5 Act: functions transferred (3.11.2008) by The First-tier Tribunal and Upper Tribunal (Chambers) Order ([S.I. 2008/2684](#)), {art. 4};

## 1 Appeals against rejection of war pension claims made in respect of members of the naval, military or air forces.

- (1) Where any claim in respect of the disablement of any person made under any such Royal Warrant, Order in Council or Order of His Majesty as is administered by the Minister [<sup>F1</sup>or under a scheme made under section 1 of the Polish Resettlement Act 1947] is rejected by the Minister on the ground that the injury on which the claim is based—
- (a) is not attributable to [<sup>F2</sup>any relevant service]; and
  - (b) does not fulfil the following conditions, namely, that it existed before or arose during [<sup>F2</sup>any relevant service] and has been and remains aggravated thereby;
- the Minister shall notify the claimant of his decision, specifying that it is made on that ground, and thereupon an appeal shall lie to a Pensions Appeal Tribunal constituted

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under this Act (hereafter in this Act referred to as “the Tribunal”) on the issue whether the claim was rightly rejected on that ground.

- (2) Where, for the purposes of any such claim as aforesaid, the injury on which the claim is based is accepted by the Minister as fulfilling the conditions specified in paragraph (b) of the last foregoing subsection but not as attributable to [F<sup>2</sup>any relevant service], the Minister shall notify the claimant of his decision, specifying that the injury is so accepted, and thereupon an appeal shall lie to the Tribunal on the issue whether the injury was attributable to such service.
- (3) Where any claim in respect of the death of any person made under any such Royal Warrant, Order in Council [F<sup>3</sup>, Order of Her Majesty or scheme] as aforesaid is rejected by the Minister on the ground that neither of the following conditions is fulfilled, namely—
- (a) that the death of that person was due to or hastened by an injury which was attributable to [F<sup>2</sup>any relevant service];
  - (b) that the death was due to or hastened by the aggravation by [F<sup>2</sup>any relevant service] of an injury which existed before or arose during [F<sup>2</sup>any relevant service];

the Minister shall notify the claimant of his decision, specifying that it is made on that ground, and thereupon an appeal shall lie to the Tribunal on the issue whether the claim was rightly rejected on that ground.

- [F<sup>4</sup>(3A) The last foregoing subsection shall not apply to any claim made under any such Royal Warrant, Order in Council [F<sup>3</sup>, Order of Her Majesty or scheme] as aforesaid in respect of the death of a person who dies after the expiration of the period of seven years beginning with the end of F<sup>5</sup>. . . [F<sup>6</sup>any relevant service] of that person, but where any such claim is rejected by the Minister on the ground that neither of the following conditions is fulfilled, namely—
- (a) that the death of that person was due to or substantially hastened by an injury which was attributable to [F<sup>6</sup>any relevant service];
  - (b) that the death was due to or substantially hastened by the aggravation by [F<sup>6</sup>any relevant service] of an injury which existed before or arose during [F<sup>6</sup>any relevant service];

the Minister shall notify the claimant of his decision, specifying that it is made on that ground, and thereupon an appeal shall lie to the Tribunal on the issue whether the claim was rightly rejected on that ground.]

- (4) Where, in connection with the determination, for the purposes of any such claim as if referred to in the foregoing provisions of this section, of—
- (i) the date by reference to which the rank of the disabled or deceased person is to be determined, or
  - (ii) in the case of a claim by or in respect of a widow, widower [F<sup>7</sup>surviving civil partner,], wife, [F<sup>8</sup>husband, civil partner] or child, the date before which any marriage [F<sup>9</sup>or civil partnership] or any birth, legitimation or adoption of a child must have taken place [F<sup>10</sup>or been formed],

it is contended that, as the result of a particular period of [F<sup>2</sup>any relevant service], the disabled or deceased person suffered aggravation of the injury on which the claim is based, being aggravation which in the case of death persisted until death, the Minister shall, if he rejects the said contention, notify the claimant of his decision, and thereupon an appeal shall lie to the Tribunal on the issue whether, as a result of such service during that period, the disabled or deceased person suffered such aggravation.

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### Textual Amendments

- F1** Words in s. 1(1) inserted (E.W.S.) (2.10.1995) by 1995 c. 26, s. 169(2)(a); S.I. 1995/2548, art. 2
- F2** Words substituted by Pensions Appeal Tribunals Act 1949 (c. 12), s. 1(1)
- F3** Words in s. 1(3)(3A) substituted (E.W.S.) (2.10.1995) by 1995 c. 26, s. 169(2)(b); S.I. 1995/2548, art. 2
- F4** S. 1(3A) inserted after subsection (3) by S.R. & O. 1947/1143, art. 1 and as amended as indicated
- F5** Word in s. 1(3A) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), ss. 1(1), 2(1), Sch. 1 Pt. 11
- F6** Words substituted by Pension Appeals Tribunals Act 1949 (c. 12, SIF 101A:3), s. 1(1)
- F7** Words in s. 1(4)(ii) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 257, 263, Sch. 26 para. 15(a); S.I. 2005/1375, art. 2(1), Sch. 1
- F8** Words in s. 1(4)(ii) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 257, 263, Sch. 26 para. 15(b); S.I. 2005/1375, art. 2(1), Sch. 1
- F9** Words in s. 1(4)(ii) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 257, 263, Sch. 26 para. 15(c); S.I. 2005/1375, art. 2(1), Sch. 1
- F10** Words in s. 1(4)(ii) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 257, 263, Sch. 26 para. 15(d); S.I. 2005/1375, art. 2(1), Sch. 1

### Modifications etc. (not altering text)

- C6** S. 1 restricted by Pensions Appeal Tribunals Act 1949 (c. 12), s. 1(2); extended by *ibid.*, s. 2
- C7** S. 1 amended by S.I. 1980/1082, arts. 3, 5

## 2 Appeals against rejection of war pension claims made in respect of mariners, pilots, etc.

- (1) Where any claim in respect of the disablement or death of any person made under any scheme made under section three, section four or section five of the <sup>M1</sup>Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, as amended by the <sup>M2</sup>Pensions (Mercantile Marine) Act 1942, is rejected by the Minister on either or both of the following grounds, namely—
- (a) that the disablement or death of the said person is not directly attributable to a war injury, war risk injury or detention;
  - (b) that the case is not one in which—
    - (i) the said person is to be treated for the purpose of the said section three as having sustained the injury or suffered the detention by reason of his service as a mariner in a British ship; or
    - (ii) the said person is to be treated for the purpose of the said section four as having sustained the injury or suffered the detention by reason of his service; or
    - (iii) the injury was sustained in the circumstances specified in a scheme made under the said section five or the detention was caused by reason of his service in a ship forming part of His Majesty's navy;
- the Minister shall notify the claimant of his decision, specifying the ground or grounds of the rejection, and thereupon an appeal shall lie to the Tribunal on the issue whether the claim was rightly rejected on that ground or those grounds.
- (2) Where the Minister rejects any such claim as aforesaid on one of the grounds specified in the last foregoing subsection and an appeal is brought from his decision,—

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- (a) the Minister may notify the appellant before the hearing of the appeal that he also rejects the said claim on the other ground so specified, and thereupon the Tribunal shall treat the appeal as an appeal on the issue whether the claim was rightly rejected on both the said grounds;
- (b) unless the Minister notifies the appellant as aforesaid, he shall not be entitled, if the appeal is allowed, subsequently to reject the said claim on the said other ground.

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

**C8** Ss. 2–3 amended by S.I. 1980/1082, arts. 3, 5

**Marginal Citations**

**M1** 1939 c. 83.

**M2** 1942 c. 26.

**3 Appeals against rejection of war pension claims made in respect of civil defence volunteers and other civilians.**

- (1) Where any claim in respect of the incapacity for work, disablement or death of any person made under any scheme made under section one of the <sup>M3</sup>Personal Injuries (Emergency Provisions) Act 1939 is rejected by the Minister on the ground that the incapacity for work or the disablement was not caused by, or the death was not the direct result of, a war injury, or, in the case of a civil defence volunteer, a war service injury, the Minister shall notify the claimant of his decision, specifying that it is made on that ground, and thereupon an appeal shall lie to the Tribunal on the issue whether the claim was rightly rejected on that ground.
- (2) Where an appeal is brought under the last foregoing subsection in any case where the Minister has refused to certify an injury sustained by a civil defence volunteer as a war service injury or has revoked such a certificate, the Tribunal shall consider whether it is a physical injury (as defined by section five of the <sup>M4</sup>Pensions (Mercantile Marine) Act 1942) which arose out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time when the injury was sustained, and (except in the case of a war injury), did not arise out of and in the course of his employment in any other capacity, and if they decide that question in the affirmative, the injury shall be deemed for the purposes of the Personal Injuries (Emergency Provisions) Act 1939 and any scheme made thereunder to have been certified by the Minister as a war service injury.

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

**C9** Ss. 2–3 amended by S.I. 1980/1082, arts. 3, 5

**Marginal Citations**

**M3** 1939 c. 82.

**M4** 1942 c. 26.

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#### **4 Appeals in cases where award is withheld or reduced on ground of serious negligence or misconduct.**

- (1) Where, in the case of any such claim as is referred to in section one, section two or section three of this Act in respect of the incapacity for work, disablement or death of any person, the Minister withholds or reduces the award on the ground that the injury or detention on which the claim is based was caused or contributed to by the serious negligence or misconduct of the said person or, as the case may be, that his death was so caused or contributed to, the Minister shall notify the claimant of his decision, specifying that it is made on that ground, and thereupon an appeal shall lie to the Tribunal on the issue whether the injury or detention or, as the case may be, the death was so caused or contributed to.
- (2) Where an appeal is brought under this Act on any of the issues specified in section one, section two or section three, and the Minister notifies the appellant before the hearing of the appeal that, if the appeal is allowed, he intends to withhold or reduce the award on the ground specified in the last foregoing subsection, the Tribunal shall, if they allow the appeal, determine the issue specified in that subsection, and unless the Minister notifies the appellant as aforesaid, he shall not be entitled, if the appeal is allowed, to withhold or reduce the award on the said ground.

#### **5 Appeals against assessment of extent of disablement.**

- (1) Where, in the case of any such claim as is referred to in section one, section two or section three of this Act in respect of the disablement of any person, the Minister makes an interim assessment of the degree of the disablement, he shall notify the claimant thereof and . . . . .<sup>F11</sup> an appeal shall lie to the Tribunal from the interim assessment . . .<sup>F11</sup> and from any subsequent interim assessment, and the Tribunal on any such appeal may uphold the Minister's assessment or may [<sup>F12</sup>alter the assessment in one or both of the following ways, namely—
  - (a) by increasing or reducing the degree of disablement it specifies; and
  - (b) by reducing the period for which the assessment is to be in force.]

In [<sup>F13</sup>this section] the expression “interim assessment” means any assessment other than such a final assessment as is referred to in the next following subsection.

- (2) Where, in the case of any such claim as is referred to in section one, section two or section three of this Act in respect of the disablement of any person, it appears to the Minister that the circumstances of the case permit a final settlement of the question to what extent, if any, the said person is disabled, and accordingly—
  - (a) he decides that there is no disablement or that the disablement has come to an end or, in the case of any such claim as is referred to in section three of this Act, that the disablement is not or is no longer serious and prolonged; or
  - (b) he makes a final assessment of the degree or nature of the disablement;he shall notify the claimant of the decision or assessment, stating that it is a final one, and thereupon an appeal shall lie to the Tribunal on the following issues, namely—
  - (i) whether the circumstances of the case permit a final settlement of the question aforesaid;
  - (ii) whether the Minister's decision referred to in paragraph (a) hereof or, as the case may be, the final assessment of the degree or nature of the disablement, was right;

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and the Tribunal on any such appeal may set aside the said decision or assessment on the ground that the circumstances of the case do not permit of such a final settlement, or may uphold that decision or assessment, or may make such final assessment of the degree or nature of the disablement as they think proper, which may be either higher or lower than the Minister's assessment, if any [<sup>F14</sup>and if the Tribunal so set aside the Minister's decision or assessment they may, if they think fit, make such interim assessment of the degree or nature of the disablement, to be in force until such date not later than two years after the making of the Tribunal's assessment, as they think proper].

(3) ..... <sup>F15</sup>

#### Textual Amendments

- F11** Words repealed by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(a\)](#)  
**F12** Words substituted by [Social Security Act 1980 \(c. 30, SIF 113:1\), s. 16\(3\)](#)  
**F13** Words substituted by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(b\)](#)  
**F14** Words added by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(c\)](#)  
**F15** [S. 5\(3\)](#) repealed by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(d\)](#)

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

- C10** [S. 5](#) extended by [Pensions Appeal Tribunals Act 1949 \(c. 12\), s. 2](#)  
**C11** [S. 5](#) amended by [S.I. 1980/1082, arts. 5, 6](#)

#### [<sup>F16</sup>5A Appeals in other cases.

- (1) Where, in the case of [<sup>F17</sup>a claim to which this section applies], the Minister makes a specified decision—
- (a) he shall notify the claimant of the decision, specifying the ground on which it is made, and
  - (b) thereupon an appeal against the decision shall lie to the Tribunal on the issue whether the decision was rightly made on that ground.

[ This section applies to—

- <sup>F18</sup>(1A) (a) any such claim as is referred to in section 1, 2 or 3 of this Act;  
 (b) a claim under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (compensation schemes for armed and reserve forces).]

- (2) For the purposes of subsection (1), a “specified decision” is a decision (other than a decision which is capable of being the subject of an appeal under any other provision of this Act) which is of a kind specified by the Minister in regulations <sup>F19</sup> . . . .

(3) <sup>F20</sup> ..... ]

#### Textual Amendments

- F16** [S. 5A](#) inserted (15.11.2000 for specified purposes otherwise 9.4.2001) by [2000 c. 19, s. 57\(1\)](#) (with [s. 83\(6\)](#)); [S.I. 2000/2994, art. 2\(4\)\(a\)\(b\)](#)  
**F17** Words in [s. 5A\(1\)](#) substituted (21.1.2005 ) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\), ss. 5, 8, Sch. 1 para. 2\(2\)](#); [S.I. 2005/116, art. 2, Sch.](#)

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- F18** S. 5A(1A) inserted (21.1.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), **Sch. 1 para. 2(3)**; S.I. 2005/116, **art. 2**, Sch.
- F19** Words in s. 5A(2) repealed (21.1.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 7, 8, **Sch. 3**; S.I. 2005/116, **art. 2**, Sch.
- F20** S. 5A(3) repealed (21.1.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 7(4), 8, **Sch. 3**; S.I. 2005/116, **art. 2**, Sch.

**[<sup>F21</sup>5B Matters relevant on appeal.**

In deciding any appeal, a Pensions Appeal Tribunal—

- (a) need not consider any issue that is not raised by the appellant or the Minister in relation to the appeal; and
- (b) shall not take into account any circumstances not obtaining at the time when the decision appealed against was made.]

**Textual Amendments**

- F21** S. 5B inserted (1.1.2001) by 2000 c. 19, s. 59 (with s. 83(6)); S.I. 2000/2994, **art. 2(5)**

**6 Constitution jurisdiction and procedure of Pensions Appeal Tribunals.**

(1) The provisions of the Schedule to this Act shall have effect with respect to the constitution, jurisdiction and procedure of Pensions Appeal Tribunals.

<sup>F22</sup>(2) .....

<sup>F22</sup>(2A) .....

<sup>F22</sup>(2B) .....

[<sup>F23</sup>(2C) [<sup>F24</sup> Where—

- (a) a case is referred under section 6B of this Act for redetermination, or determination by a differently constituted Tribunal, or
- (b) a direction for a rehearing is given under rules made by virtue of paragraph 5(3B) of the Schedule to this Act,]

the Minister may, before the expiry of the period of two months beginning with the date of the [<sup>F25</sup>reference or] direction, review the original decision.

(2D) If, on any such review, the Minister is of the opinion that there are grounds for revising the original decision he shall—

- (a) notify the appellant of his opinion and of the revision which he proposes to make; and
- (b) if the appellant withdraws his appeal against the original decision, revise it accordingly.]

(3) [<sup>F26</sup>Subject to—

- (a) sections 6A and 6B of this Act, and
- (b) rules made by virtue of paragraph 5(3A) of the Schedule to this Act,]

the decision of the Tribunal on any issue on which an appeal is brought under this Act shall be final and conclusive.

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- (4) In determining an appeal under this Act in respect of any claim or award, the Tribunal shall be bound by the terms of the Royal Warrant, Order in Council, Order of His Majesty or scheme under which the claim or award purports to be made and of any enactment under which any such scheme is made, being terms relating to the issue before the Tribunal.

#### Textual Amendments

- F22** S. 6(2)-(2B) repealed (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 7, 8, [Sch. 1 para. 3\(2\), 3](#) (with transitional provisions in [S.I. 2005/660, art. 2](#)); [S.I. 2005/356, art. 2](#), [Sch. 2](#)
- F23** S. 6(2C)(2D) inserted by [Social Security and Housing Benefits Act 1982 \(c. 24, SIF 113:1\)](#), [s. 43\(1\)](#)
- F24** Words in s. 6(2C) substituted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 3\(3\)](#) (with transitional provisions in [S.I. 2005/660, art. 2](#)); [S.I. 2005/356, art. 2\(2\)](#), [Sch. 2](#)
- F25** Words in s. 6(2C) inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 3\(3\)](#) (with transitional provisions in [S.I. 2005/660, art. 2](#)); [S.I. 2005/356, art. 2, Sch. 2](#)
- F26** Words in s. 6(3) substituted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 3\(4\)](#) (with transitional provisions in [S.I. 2005/660, art. 2](#)); [S.I. 2005/356, art. 2\(2\)](#), [Sch. 2](#)

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

- C12** S. 6 amended by [S.I. 1980/1082, arts. 4, 5, 7](#)

### 6A Appeals from Tribunal to Social Security Commissioner

- (1) Subject to the provisions of this section, an appeal shall lie to an appropriate Social Security Commissioner from any decision of the Tribunal under section 1, 2, 3, 4 or 5A of this Act on the ground that the decision was erroneous in point of law.
- (2) An appeal shall lie under this section at the instance of the person who appealed to the Tribunal or of the Minister.
- (3) If each of the parties to the appeal expresses the view that the decision appealed against was erroneous in point of law, the Commissioner may set aside the decision and refer the case to the Tribunal with directions for its determination.
- (4) Where the Commissioner holds that the decision appealed against was erroneous in point of law, he shall set it aside and—
- (a) he shall have power—
    - (i) to give the decision which he considers the Tribunal should have given, if he can do so without making fresh or further findings of fact; or
    - (ii) if he considers it expedient, to make such findings and give such decision as he considers appropriate in the light of them;
  - and
  - (b) in any other case he shall refer the case to the Tribunal with directions for its determination.



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- (5) Subject to any direction of the Commissioner, a reference under subsection (3) or (4) (b) above shall be to a differently constituted Tribunal.
- (6) No appeal lies under this section without the leave—
  - (a) of the person who constituted, or was the chairman of, the Tribunal when the decision was given;
  - (b) of the President or Deputy President of Pensions Appeal Tribunals for the part of the United Kingdom for which the Tribunal was appointed; or
  - (c) subject to and in accordance with regulations, of an appropriate Social Security Commissioner.
- (7) Regulations may make provision as to the manner in which, and the time within which, appeals are to be brought and applications made for leave to appeal.
- (8) Subject to section 6C of this Act, a decision of a Commissioner under this Act shall be final and conclusive.
- (9) In this section “appropriate Social Security Commissioner” means—
  - (a) if the appeal tribunal which made the decision was appointed for Northern Ireland, a Northern Ireland Social Security Commissioner;
  - (b) otherwise, a Great Britain Social Security Commissioner.
- (10) Where it appears convenient to do so by reason of a subsequent change of residence by the person who appealed to the Tribunal, a Great Britain Social Security Commissioner may direct that an application or appeal to him under this section be transferred to a Northern Ireland Social Security Commissioner; and vice versa.

## **6B Redetermination etc of appeals by Pensions Appeal Tribunal**

- (1) This section applies where an application is made to a person under section 6A(6)(a) of this Act for leave to appeal from a decision of the Tribunal.
- (2) If the person considers that the decision was erroneous in point of law, he may set aside the decision and refer the case either for redetermination by the Tribunal or for determination by a differently constituted Tribunal.
- (3) If each of those who would be parties to the appeal if leave were granted expresses the view that the decision was erroneous in point of law, the person shall set aside the decision and refer the case for determination by a differently constituted Tribunal.

## **6C Appeals from Commissioner**

- (1) Subject to subsection (2) below, a party to an appeal under section 6A of this Act may appeal on a question of law to the appropriate court from a decision of a Commissioner under that section.
- (2) No appeal under this section shall lie from a decision except—
  - (a) with the leave of the Commissioner who gave the decision or, in a case prescribed by regulations, a Commissioner selected in accordance with regulations; or
  - (b) if he refuses leave, with the leave of the appropriate court.
- (3) On an application to a Commissioner for leave under this section it shall be the duty of the Commissioner to specify as the appropriate court—

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- (a) the Court of Session if it appears to him that the person who appealed to the Tribunal is ordinarily resident in Scotland;
- (b) the Court of Appeal in Northern Ireland if it appears to him that that person is ordinarily resident in Northern Ireland;
- (c) the Court of Appeal if it appears to him that that person is ordinarily resident elsewhere.

But if it appears to the Commissioner, having regard to the circumstances of the case and in particular to the convenience of the persons who may be parties to the proposed appeal, that he should specify a different court mentioned in paragraphs (a) to (c) above as the appropriate court, it shall be his duty to specify that court as the appropriate court.

- (4) Regulations may make provision as to—
  - (a) the manner in which, and the time within which, applications to a Commissioner for leave to appeal under this section must be made;
  - (b) the procedure for dealing with such applications.

## **6D Procedure in proceedings before Commissioner**

- (1) Regulations may make, for the purposes of proceedings under this Act before a Commissioner, any provision which may be made by procedure regulations under section 16 of the Social Security Act 1998 for the purposes of proceedings under that Act before a Commissioner.
- (2) The Lord Chancellor may by regulations provide—
  - (a) for officers authorised by the Lord Chancellor or, in Scotland, by the Secretary of State to make any determinations which fall to be made by Commissioners;
  - (b) for the procedure to be followed by such officers in making such determinations;
  - (c) for the manner in which such determinations by such officers may be called in question.
- (3) 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.
- (4) 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.

- (5) 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 that purpose) that—
  - (a) an application for leave under section 6A(6)(c) of this Act, 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 two or more Commissioners.

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*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

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.

- (6) Regulations may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision of a Commissioner under this Act; and
  - (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
    - (i) additional evidence is available;
    - (ii) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative or was not received at an appropriate time by the Commissioner; or
    - (iii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.
- (7) Nothing in subsection (6) above shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from regulations made by virtue of that subsection.
- (8) Except so far as it may be applied in relation to England and Wales or Northern Ireland by regulations, Part 1 of the Arbitration Act 1996 shall not apply to any proceedings under this Act.
- [<sup>F27</sup>(9) In the application of this section to Northern Ireland—
- (a) for any reference to the Social Security Act 1998 there shall be substituted a reference to the Social Security (Northern Ireland) Order 1998;
  - (b) for any reference to section 16 of that Act there shall be substituted a reference to Article 16 of that Order.]

#### Textual Amendments

**F27** S. 6D(9) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15, 148, [Sch. 4 para. 25](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 11\(d\)](#)

## 7 Application of Act to past decisions and assessments.

- (1) This Act shall apply in cases where any such decision of the Minister as is referred to in section one, section two, section three or section four of this Act has been made before the passing of this Act, and in cases where any such decision or assessment as is referred to in section five of this Act has been made before that section comes into operation, and no further notification of any such decision or assessment as is referred to in any of the said sections shall be necessary in any such case, but the Minister shall take such steps as he considers necessary to bring the rights of appeal conferred by this Act to the notice of persons affected by any such decision or assessment.
- (2) [<sup>F28</sup>Subject to subsection (2A) of this section,]any decision of the Minister given before the passing of this Act which corresponds, apart from any difference arising from the terms of the Royal Warrant, Order in Council or Order of His Majesty, as the case may be, in force when the decision was made, with such a decision as is referred to

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

in section one of this Act, shall be deemed, for the purposes of this Act, to be such a decision, and an appeal shall lie therefrom accordingly.

[<sup>F29</sup>(2A) Subsection (2) of this section shall not apply in relation to any decision given by the Minister before the passing of this Act which corresponds, apart from any difference of the kind referred to in that subsection, with such a decision as is referred to in section 1 of this Act in respect of claims made under the scheme referred to in that section.]

**Textual Amendments**

- F28** Words in s. 7(2) inserted (E.W.S.) (2.10.1995) by 1995 c. 26, s. 169(3)(a); S.I. 1995/2548, art. 2
- F29** S. 7(2A) inserted (E.W.S.) (2.10.1995) by 1995 c. 26, s. 169(3)(b); S.I. 1995/2548, art. 2

**8 Time limit for appeals.**

(1) No appeal shall be brought [<sup>F30</sup>to the Tribunal] under any provision of this Act except subsection (1) of section five unless notice of that appeal is given, in such manner as may be prescribed by rules made under the Schedule to this Act, not later than [<sup>F31</sup>six months after] the date on which the decision or assessment is notified to the claimant:

<sup>F32</sup> . . . .

<sup>F33</sup>(2) . . . . .

(3) No appeal shall be brought [<sup>F30</sup>to the Tribunal] under subsection (1) of section five of this Act unless notice of that appeal is given in such manner as may be prescribed by rules made under the Schedule to this Act not later than three months after,—

- (a) . . . . .<sup>F34</sup>
- (b) the date on which the said subsection comes into operation in relation to the assessment from which the appeal is brought; or
- (c) the date on which the said assessment is notified; whichever is the latest of those dates:

<sup>F32</sup> . . . .

[<sup>F35</sup>(4) The Minister may by regulations <sup>F36</sup> . . . amend subsections (1) and (3) so as to substitute a different number of months for any number of months specified there.

(5) The Minister may by regulations <sup>F36</sup> . . . provide that the Tribunal may, in circumstances prescribed in the regulations, allow an appeal to be brought not later than twelve months after the end of any period limited by this section.

(6) <sup>F37</sup> . . . . .]

**Textual Amendments**

- F30** Words in s. 8(1)(3) inserted (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, Sch. 1 para. 5; S.I. 2005/356, art. 2(2), Sch. 2
- F31** Words in s. 8(1) substituted (15.11.2000 for specified purposes otherwise 9.4.2001) for s. 8(1)(a)-(c) by 2000 c. 19, s. 58(1) (with ss. 58(3), 83(6)); S.I. 2000/2994, art. 2(4)(a)(b)
- F32** The provisos to s. 8(1)(3) repealed (9.4.2001) by 2000 c. 19, s. 85, Sch. 9 Pt. IV (with s. 83(6)); S.I. 2000/2994, art. 2(6)
- F33** S. 8(2) repealed (9.4.2001) by 2000 c. 19, s. 85, Sch. 9 Pt. IV (with s. 83(6)); S.I. 2000/2994, art. 2(6)
- F34** S. 8(3)(a) repealed by Social Security Act 1980 (c. 30, SIF 113:1), ss. 8, 21, Sch. 5 Pt. I

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

- F35** S. 8(4)-(6) inserted (15.11.2000 for specified purposes otherwise 9.4.2001) by 2000 c. 19, s. 58(2) (with s. 83(6)); S.I. 2000/2994, art. 2(4)(a)(b)
- F36** Words in s. 8(4)(5) repealed (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 7, 8, Sch. 3; S.I. 2005/356, art. 2(2), Sch. 2
- F37** S. 8(6) repealed (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 7, 8, Sch. 3; S.I. 2005/356, art. 2(2), Sch. 2

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

- C13** S. 8(1) modified (15.11.2000 for specified purposes otherwise 9.4.2001) by 2000 c. 19, s. 58(4) (with s. 83(6)); S.I. 2000/2994, art. 2(4)(a)(b)

**9 Notices.**

Any notice given by the Minister under this Act shall be in writing and may be sent by post to the last known or usual place of abode of the claimant or any person authorised to act on his behalf in relation to the claim and, in the case of a notice of a decision from which an appeal lies to the Tribunal, shall specify that fact and the time within which and the manner in which notice of such an appeal must be given.

**10 Power to modify ss. 1, 2, 3 and 4 of this Act by Order in Council.**

- (1) Where any such Royal Warrant, Order in Council [<sup>F38</sup>, Order of Her Majesty or scheme] as is referred to in section one of this Act or any such scheme as is referred to in section two or section three of this Act is amended or replaced so as to modify or extend the grounds on which awards may be made and to give rise to any issue on which it appears to His Majesty that an appeal ought to lie under the said sections or section four of this Act but does not lie thereunder, he may by Order in Council make such modifications of the said sections or section four of this Act as appear to him to be necessary for the purpose of granting such a right of appeal.
- (2) Where any Royal Warrant administered by the Minister provides for the awarding of pensions or other grants to any class of persons on grounds similar to those on which awards may be made under any such Royal Warrant, Order in Council [<sup>F38</sup>, Order of Her Majesty or scheme] as is referred to in section one of this Act or any such scheme as is referred to in section two or section three of this Act, His Majesty may by Order in Council make such modifications of this Act as appear to him to be necessary for the purpose of extending the rights of appeal thereunder in relation to claims made in respect of persons of the said class.
- <sup>F39</sup>F39 (3) Every Order in Council made under this section shall be laid before Parliament as soon as may be after it is made, and if an address is presented to His Majesty by either House of Parliament within the period of forty days beginning with the day on which any such Order is laid before it, praying that the Order be annulled, His Majesty in Council may annul the Order and it shall thenceforth become void, but without prejudice to the validity of anything previously done thereunder or to the making of a new Order.
- (4) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council.

**Textual Amendments**

- F38** Words in s. 10(1)(2) substituted (E.W.S.)(2.10.1995) by 1995 c. 26, s. 169(4); S.I. 1995/2548, art. 2

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*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

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**F39** Words in s. 10(3) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), ss. 1(1), 2(1), **Sch. 1 Pt. 11**

## **11 Statutory right to pensions.**

Where the Minister has made an award under any such Royal Warrant, Order in Council, Order of His Majesty or scheme as is referred to in section one, section two or section three of this Act, in respect of the incapacity for work, disablement or death of any person, the person to whom the award has been made shall have a right to receive the sums payable under the award:

Provided that this section shall not affect any condition to which the award or any payment thereunder is subject, or any power of the Minister to vary or revoke the award, or to withhold, reduce or apply any payment thereunder, in accordance with any provision of the Royal Warrant, Order in Council, Order of His Majesty or scheme.

### **11A Regulations**

- (1) Regulations under section 6A, 6C or 6D of this Act shall be made by the Lord Chancellor.
- (2) Where the Lord Chancellor proposes to make regulations under this Act which extend to Scotland, it shall be his duty to consult the Scottish Ministers with respect to the proposal.
- (3) Subsections (4) to (7) of section 79 of the Social Security Act 1998 (supplemental provision in connection with powers to make subordinate legislation) apply to any power to make regulations under this Act as they apply to any such power under that Act.
- (4) Regulations under this Act shall be made by statutory instrument.
- (5) A statutory instrument containing—
  - (a) regulations under section 5A or 8(4) or (5) of this Act, or
  - (b) regulations under section 6D of this Act made by virtue of paragraph 2 of Schedule 5 to the Social Security Act 1998 (striking out or reinstatement of proceedings),
 shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing regulations under this Act (but not containing any such regulations as are referred to in subsection (5) above) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **12 Interpretation.**

- (1) In this Act the following expressions have the meanings hereby respectively assigned to them:—
 

“detention” and “war injuries” have the same meanings as in the<sup>M5</sup>Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, as amended by the<sup>M6</sup>Pensions (Mercantile Marine) Act 1942;

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

[<sup>F40</sup>“Chief Commissioner” means the Chief Social Security Commissioner appointed under the Social Security Act 1998 or the Social Security Administration (Northern Ireland) Act 1992;]

“civil defence organisation” means any organisation established for civil defence purposes which is declared by a scheme made under the <sup>M7</sup>Personal Injuries (Emergency Provisions) Act 1939, to be a civil defence organisation for the purpose of the said Act and the scheme;

“civil defence volunteer” and “war service injury” have the same meanings as in the <sup>M8</sup>Personal Injuries (Emergency Provisions) Act 1939, as amended by the <sup>M9</sup>Pensions (Mercantile Marine) Act 1942;

[<sup>F41</sup>“Commissioner” means a Great Britain Social Security Commissioner or a Northern Ireland Social Security Commissioner, and includes a tribunal of Commissioners constituted under section 6D(5) of this Act;]

[<sup>F42</sup>“Great Britain Social Security Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Act 1998;]

“His Majesty’s naval, military or air forces” include . . . <sup>F43</sup>any . . . <sup>F43</sup>auxiliary service of any of His Majesty’s said forces;

“injury”, in relation to any such claim as is referred to in section one of this Act, includes wound or disease;

[<sup>F44</sup>“Northern Ireland Social Security Commissioner” means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the Social Security Administration (Northern Ireland) Act 1992;]

[<sup>F45</sup>[<sup>F46</sup>“the Minister” means [<sup>F47</sup>(subject to subsection (1A) below)] the Secretary of State;]]

“war risk injury” means an injury falling within section one of the <sup>M10</sup>Pensions (Mercantile Marine) Act 1942, except that, in relation to the persons referred to in subsection (4) of section four of that Act, it means an injury falling within the said section one as amended by the said subsection (4);

[<sup>F48</sup>“relevant service” in relation to any claim made under any such Royal Warrant, Order in Council [<sup>F49</sup>, Order of Her Majesty or scheme] as is referred to in section one of this Act means any service which, under that Royal Warrant, Order in Council [<sup>F49</sup>, Order or scheme], is relevant for the purposes of that claim.]

[<sup>F50</sup>(1A) In relation to a claim under a scheme mentioned in section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (compensation schemes for armed and reserve forces), references in this Act to the Minister shall be read as references to the person administering the scheme.]

(2) References in this Act to the rejection of a claim or the withholding of an award shall be construed as including references to the cancellation of an award made on a claim.

#### Textual Amendments

- F40** S. 12(1): definition of 'Chief Commissioner' inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 7\(2\)\(b\)](#); S.I. 2005/356, [art. 2\(2\)](#), Sch. 2
- F41** S. 12(1): definition of 'Commissioner' inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 7\(2\)\(b\)](#); S.I. 2005/356, [art. 2\(2\)](#), Sch. 2

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

- F42** S. 12(1): definition of 'Great Britain Social Security Commissioner' inserted (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, **Sch. 1 para. 7(2)(b)**; S.I. 2005/356, **art. 2(2)**, Sch. 2
- F43** Words repealed (with saving) by Armed Forces Act 1981 (c. 55, SIF 7:1), s. 28(2), **Sch. 5 Pt. I**
- F44** S. 12(1): definition of 'Northern Ireland Social Security Commissioner' inserted (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, **Sch. 1 para. 7(2)(b)**; S.I. 2005/356, **art. 2(2)**, Sch. 2
- F45** Definition of "the Minister" substituted by S.I. 1981/1541, **art. 2**
- F46** S. 12(1): definition of "the Minister" substituted (3.12.2001) by S.I. 2001/3506, **art. 5, Sch. para. 1**
- F47** S. 12(1): words in definition of 'The Minister' inserted (6.4.2005) by 2004 c. 32, ss. 5, 8, **Sch. 1 para. 7(2)**; S.I. 2005/356, **art. 2(2)**, Sch. 2
- F48** Definition substituted by Pensions Appeal Tribunals Act 1949 (c. 12), **s. 1(1)**
- F49** Words in s. 12 substituted (E.W.S.)(2.10.1995) by 1995 c. 26, **s. 169(5)**; S.I. 1995/2548, **art. 2**
- F50** S. 12(1A) inserted (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, {Sch. 1 para. 7(3)}; S.I. 2005/356, **art. 2(2)**, Sch. 2

#### Marginal Citations

- M5** 1939 c. 83.  
**M6** 1942 c. 26.  
**M7** 1939 c. 82.  
**M8** 1939 c. 82.  
**M9** 1942 c. 26.  
**M10** 1942 c. 26.

### 13 Application to Scotland.

**F51** .....

#### Textual Amendments

- F51** S. 13 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 4 para. 26 {Sch. 18 Pt. 2}; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 11(d), 30(b)

### 14 Application to Northern Ireland.

**F52** .....

#### Textual Amendments

- F52** S. 14 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 4 para. 27 {Sch. 18 Pt. 2}; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 11(d), 30(b)

### 15 Short title and extent.

- (1) This Act may be cited as the Pensions Appeal Tribunals Act 1943.
- (2) It is hereby declared that this Act extends to Northern Ireland.



*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

## SCHEDULE

### *Constitution, Jurisdiction and Procedure of Pensions Appeal Tribunal*

- [<sup>F53</sup>1 (1) There shall be constituted in England and Wales such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (2) There shall be constituted in Scotland such number of Pensions Appeal Tribunals as the Lord President of the Court of Session may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (3) There shall be constituted in Northern Ireland such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (4) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before exercising any functions under sub-paragraph (1).
- (5) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before exercising any functions under sub-paragraph (3).]

#### **Textual Amendments**

**F53** Sch. para. 1 substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 15, 148, [Sch. 4 para. 28\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(d)

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

**C14** Sch. para. 1(1): functions transferred (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [arts. 3\(1\), 4, 5](#), {Sch. 1 Table 1} (with Sch. 4)

- [<sup>F54</sup>2 (1) The members of the Tribunals shall be [<sup>F55</sup> appointed—
- (a) in relation to England and Wales, by the Lord Chancellor;
- (b) in relation to Scotland, by the Lord President of the Court of Session;
- (c) in relation to Northern Ireland, by the Lord Chancellor]
- (2) There shall be paid to them such remuneration [<sup>F56</sup> and allowances] as the Treasury may determine.
- [ Subject to [<sup>F58</sup> sub-paragraphs (3A), (3B)] and (4) below, a member of such a Tribunal
- <sup>F57</sup>(2A) shall hold and vacate his office in accordance with the terms of his appointment, but shall be eligible for reappointment.]
- [<sup>F59</sup>(3A) The Lord Chancellor may, with the concurrence of the Lord Chief Justice of England and Wales, remove any member of a Tribunal appointed under sub-paragraph (1)(a).
- (3B) The Lord President of the Court of Session may remove any member of a Tribunal appointed under sub-paragraph (1)(b).]

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

- (4) Subject to<sup>F60</sup> sub-paragraphs (3A) and (3B)] above and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), a member of such a Tribunal shall vacate his office on the day on which he attains the age of seventy years.]

#### Textual Amendments

- F54** Sch. para. 2 substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 39**; S.I. 1995/631, **art. 2**
- F55** Words in Sch. para. 2(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F56** Words in Sch. para. 2(2) inserted (9.4.2001) by 2000 c. 19, s. **60(1)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**
- F57** Sch. para. 2(2A) inserted (9.4.2001) by 2000 c. 19, s. **60(2)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**
- F58** Words in Sch. para. 2(2A) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F59** Sch. para. 2(3A)(3B) substituted (3.4.2006) for Sch. para. 2(3) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(c)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F60** Words in Sch. para. 2(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(d)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)

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

- C15** Sch. para. 2: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7)

- [<sup>F61</sup>2A(1) [<sup>F62</sup>Any person making appointments under paragraph 2 shall ensure that the appointments] have the effect, in the case of each of the Tribunals, that the persons holding office as members of that Tribunal at all times include—
- (a) persons who are legally qualified;
  - (b) persons who are medically qualified;
  - (c) persons with knowledge or experience of service in Her Majesty's naval, military or air forces; and
  - (d) other persons.
- (2) For the purposes of this Schedule a person is legally qualified if—
- [<sup>F63</sup>(a) he satisfies the judicial-appointment eligibility condition on a 5-year basis;]
  - (b) he is an advocate or solicitor in Scotland of at least [<sup>F64</sup>five] years' standing; or
  - (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least [<sup>F64</sup>five] years' standing.
- (3) For the purposes of this Schedule a person is medically qualified if he is a duly qualified medical practitioner of at least seven years' standing.
- (4) [<sup>F65</sup>It shall be the duty of any person making an appointment under paragraph 2] to have regard to the desirability of having as members of the Tribunals persons with knowledge or experience of matters relating to the disability of persons.]

#### Textual Amendments

- F61** Sch. paras. 2A, 2B inserted (9.4.2001) by 2000 c. 19, s. **60(3)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

- F62** Words in Sch. para. 2A(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(4)(a); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F63** Sch. para. 2A(2)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, Sch. 10 para. 3(2); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F64** Word in Sch. para. 2A(2)(b)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 50, 148, Sch. 10 para. 3(3); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F65** Words in Sch. para. 2A(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(4)(b); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)

- [<sup>F66</sup>2B (1) A President of Pensions Appeal Tribunals and a Deputy President of Pensions Appeal Tribunals may be appointed for each part of the United Kingdom
- (2) The person entitled to appoint a person under this paragraph to be a President or Deputy President of Pensions Appeal Tribunals shall be—
- (a) in the case of an appointment for England and Wales, the Lord Chancellor;
- (b) in the case of an appointment for Scotland, the Lord President of the Court of Session; and
- (c) in the case of an appointment for Northern Ireland, the [<sup>F67</sup>Lord Chancellor].
- (3) Only legally qualified members of a Pensions Appeal Tribunal shall be eligible for appointment under this paragraph.
- (4) A person shall cease to be President or Deputy President of Pensions Appeal Tribunals if he ceases to be a member of any such Tribunal.
- (5) The Deputy President of Pensions Appeal Tribunals for any part of the United Kingdom shall carry out such of the functions of the President for that part of the United Kingdom as that President assigns to him.
- (6) If at any time the President of Pensions Appeal Tribunals for any part of the United Kingdom is temporarily unable to carry out his functions under this Schedule, those functions shall be carried out by the Deputy President for that part of the United Kingdom.]

#### Textual Amendments

- F66** Ss. 2A, 2B inserted (9.4.2001) by 2000 c. 19, s. 60(3) (with s. 83(6)); S.I. 2000/2994, art. 2(6)
- F67** Words in Sch. para. 2B(2)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(5); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)

- [<sup>F68</sup>3 The members of the Tribunal hearing a particular appeal shall in every case include a legally qualified member; and only a legally qualified member may preside as chairman for the hearing of any appeal.]

#### Textual Amendments

- F68** Sch. paras. 3-3C substituted (for para. 3) (9.4.2001) by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

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- [<sup>F69</sup>3A (1) The President of Pensions Appeal Tribunals for any part of the United Kingdom may give directions as to—
- (a) the number of members of the Tribunal who should hear an appeal in that part of the United Kingdom;
  - (b) the extent to which the members hearing such an appeal must include—
    - (i) medically qualified persons; and
    - (ii) persons who are neither legally qualified nor medically qualified;
  - (c) the extent to which in the case of such an appeal the members hearing it must include persons satisfying other requirements specified by the President;
  - (d) the manner of determining the members who are to serve as the chairman and members of the Tribunal for the hearing of such an appeal.]

#### Textual Amendments

**F69** Sch. paras. 3-3C substituted (for para. 3) (9.4.2001) by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

- [<sup>F70</sup>3B The President of Pensions Appeal Tribunals for any part of the United Kingdom may give directions as to the practice and procedure to be followed by such Tribunals in that part of the United Kingdom.]

#### Textual Amendments

**F70** Sch. paras. 3-3C substituted (for para. 3) (9.4.2001) by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

- [<sup>F71</sup>3C (1) The power to give directions under paragraphs 3A and 3B shall be exercisable in relation to a particular appeal, to a category of appeal or to appeals generally.
- (2) If at any time there is, in the case of any part of the United Kingdom, neither a President of Pensions Appeal Tribunals nor a Deputy President, the power of the President to give directions under paragraphs 3A and 3B above shall be exercisable—
    - (a) in the case of England and Wales, by the Lord Chancellor;
    - (b) in the case of Scotland, by the Lord President of the Court of Session; and
    - (c) in the case of Northern Ireland, by the Lord Chief Justice of Northern Ireland.
  - (3) The power to give directions under paragraphs 3A and 3B above includes power to vary or revoke directions previously given.]

#### Textual Amendments

**F71** Sch. paras. 3-3C substituted (9.4.2001) for Sch. para. 3 by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

- 4 No court fees shall be charged on the hearing of any case before a Tribunal.

*Status: Point in time view as at 21/07/2008.*

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- 5 (1) Subject as aforesaid, [<sup>F72</sup>rules may be made] with respect to—
- (a) the manner of hearing of appeals by Pensions Appeal Tribunals and in particular appeals in cases where the appellant owing to illness or other cause is not present at the hearing;
  - (b) the mode of proof and admissibility of evidence;
  - (c) the representation of the appellant and the Minister at the hearing;
  - (d) the recording and proof of the decisions of the Tribunals;
- and such other matters relating to the practice and procedure of the Tribunals as the [<sup>F73</sup>person making them] thinks fit.
- [<sup>F74</sup>(1A) Such rules are to made by the following person—
- (a) if the rules relate to England and Wales, by the Lord Chancellor;
  - (b) if the rules relate to Scotland, by the Lord President of the Court of Session;
  - (c) if the rules relate to Northern Ireland, by the Lord Chief Justice of Northern Ireland.]
- (2) Such rules shall provide for the disclosure of all such documents (whether in the possession of a government department or not) as are necessary for disposing fairly of the appeal, subject to such exceptions and conditions as the rules may prescribe in the public interest, and shall provide for making available to the appellant copies of all documents produced to the Tribunal in connection with the appeal except where the Tribunal considers it undesirable in the interests of the appellant.
- (3) Such rules may provide for the taking of medical and other expert advice by the Tribunals but shall require that such advice shall be disclosed to the appellant except where the Tribunal considers it undesirable in the interests of the appellant.
- [<sup>F75</sup>(3A) Such rules may make provision with respect to—
- (a) the correction of accidental errors in any decision or record of a decision of the Tribunal under this Act; and
  - (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
    - (i) additional evidence is available;
    - (ii) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative or was not received at an appropriate time by the Tribunal; or
    - (iii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.
- Nothing in this sub-paragraph shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from rules made by virtue of this sub-paragraph.
- (3B) Such rules may make provision with respect to the rehearing of an appeal where a decision has been set aside under rules made by virtue of sub-paragraph (3A)(b) above.
- (3C) Rules under this Schedule may—
- (a) make provision with respect to the striking out or reinstatement of proceedings before the Tribunal;

*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)*

- (b) provide that where an appeal to the Tribunal under this Act is struck out in pursuance of such rules no further appeal under this Act shall be brought in respect of the matters to which the struck-out appeal related except with leave given in pursuance of such rules.]
- (4) Such rules shall provide for the payment by the Tribunal of:—
  - (a) .....<sup>F76</sup>
  - [<sup>F77</sup>(b) sums, in respect of expenses, allowances and fees connected with appeals to the Tribunal, to such persons and in such circumstances as are specified in the rules and of such amounts as are determined by the Lord Chancellor [<sup>F78</sup>, or in relation to Scotland by the Lord President of the Court of Session, in either case] with the consent of [<sup>F79</sup>the Treasury]; <sup>F80</sup> . . .
  - (c) <sup>F80</sup> .....
- (5) All such rules shall be laid before Parliament as soon as may be after they are made, and if either House, within the period of forty days beginning with the day on which any such rules are laid before it, resolves that the rules be annulled, they shall thenceforth become void, but without prejudice to the validity of anything previously done thereunder or to the making of new rules.

<sup>F81</sup> .....<sup>F81</sup> .....

**Textual Amendments**

- F72** Words in Sch. para. 5(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(a); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F73** Words in Sch. para. 5 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(b); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F74** Sch. para. 5(1A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(c); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F75** Sch. para. 5(3A)-(3C) inserted (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, Sch. 1 para. 10(2); S.I. 2005/356, art. 2(2), Sch. 2
- F76** Para. 5(4)(a) repealed by Administration of Justice Act 1977 (c. 38), Sch. 5 Pt. II
- F77** Sch. para. 5(4)(b) substituted by Social Security Act 1980 (c. 30, SIF 113:1), s. 16(6)
- F78** Words in Sch. para. 5(4)(b) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(d); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F79** Words substituted by virtue of S.I. 1981/1670, arts. 2(1)(c), 3(5)
- F80** Sch. para. 5(4)(c) and preceding word repealed (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 7, 8, Sch. 3; S.I. 2005/356, art. 2(2), Sch. 2
- F81** Words in Sch. para. 5(5) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), ss. 1(1), 2(1), Sch. 1 Pt. 11

6 Any appeal [<sup>F82</sup>to the Tribunal] brought by a person who, at the time when the notice of appeal was given, resided in Scotland or in Northern Ireland shall be heard by such one of the Tribunals appointed for Scotland or, as the case may be, for Northern Ireland as may be prescribed by or under rules made for those Tribunals under this Schedule, and [<sup>F83</sup>, subject to any provision made by virtue of paragraph 6A of this Schedule.] all other appeals shall be heard by such one of the Tribunals appointed for England as may be prescribed by or under rules made for those Tribunals under this Schedule:

*Status: Point in time view as at 21/07/2008.*

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Provided that where an appeal has been determined by a Tribunal, that determination shall not be open to challenge on the ground that the appeal should, by virtue of this paragraph, have been heard by another Tribunal.

**Textual Amendments**

- F82** Words in [Sch. para. 6](#) inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 10\(3\)](#); S.I. 2005/356, [art. 2\(2\)](#), Sch. 2
- F83** Words inserted by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), [s. 59\(2\)](#)

[<sup>F84</sup>6A Rules made under this Schedule may make provision for enabling an appeal [<sup>F85</sup>to the Tribunal] brought by a person who, at the time when the notice of appeal was given, did not reside in any part of the United Kingdom to be heard by one of the Tribunals appointed for Scotland or, as the case may be, for Northern Ireland where, on an application in that behalf by the appellant made in such manner as may be prescribed by the rules to such authority as may be so prescribed, that authority is satisfied—

- (a) that the appellant has a closer connection with Scotland or, as the case may be, with Northern Ireland than with England and Wales; or
- (b) that there is some other good reason for the appeal to be heard in Scotland or, as the case may be, Northern Ireland.]

**Textual Amendments**

- F84** [Sch. para. 6A](#) inserted by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), [s. 59\(3\)](#)
- F85** Words in [Sch. para. 6A](#) inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 10\(4\)](#); S.I. 2005/356, [art. 2\(2\)](#), Sch 2

6B Where it appears convenient to do so by reason of a subsequent change of residence by the person who brought the appeal, the Tribunal seised of an appeal may direct that it be transferred to a Tribunal appointed for another part of the United Kingdom.

7 . . . . .<sup>F86</sup> rules made under this Schedule may provide for the employment of interpreters of the English and Welsh languages for the purpose of any such appeal.

**Textual Amendments**

- F86** Words repealed by [Welsh Language Act 1967 \(c. 66\)](#), [s. 1\(2\)](#)

<sup>F87</sup>7A . . . . .

**Textual Amendments**

- F87** [Sch. para. 7A](#) repealed by [Social Security Act 1980 \(c. 30, SIF 113:1\)](#), ss. 8, 21, [Sch. 5 Pt. I](#)

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*Status: Point in time view as at 21/07/2008.*

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- 7B (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under paragraph 1.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under any of the provisions listed in sub-paragraph (3).
- (3) Those provisions are—
- (a) paragraph 3C(2)(b);
  - (b) paragraph 5(1A)(b).
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under any of the provisions listed in sub-paragraph (5)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (5) Those provisions are—
- (a) paragraph 1;
  - (b) paragraph 3C(2)(c);
  - (c) paragraph 5(1A)(c).
- 8 Any expenses incurred for the purposes of this Schedule, including the remuneration of members of the Tribunals and any expenses which may be incurred by the Tribunals up to an amount sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.



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