



# Pensions Appeal Tribunals Act 1943

1943 CHAPTER 39 6 and 7 Geo 6

## **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 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 [<sup>F2</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 [<sup>F3</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 [<sup>F2</sup>any relevant service];
  - (b) that the death was due to or hastened by the aggravation by [<sup>F2</sup>any relevant service] of an injury which existed before or arose during [<sup>F2</sup>any relevant service];

*Status: Point in time view as at 21/01/2005.*

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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.

[<sup>F4</sup>(3A) The last foregoing subsection shall not apply to any claim made under any such Royal Warrant, Order in Council [<sup>F3</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 <sup>F5</sup>. . . [<sup>F6</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 [<sup>F6</sup>any relevant service];
- (b) that the death was due to or substantially hastened by the aggravation by [<sup>F6</sup>any relevant service] of an injury which existed before or arose during [<sup>F6</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, wife, husband or child, the date before which any marriage or any birth, legitimation or adoption of a child must have taken place,

it is contended that, as the result of a particular period of [<sup>F2</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.

#### 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)

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

- C1** S. 1 restricted by Pensions Appeal Tribunals Act 1949 (c. 12), s. 1(2); extended by *ibid.*, s. 2
- C2** S. 1 amended by S.I. 1980/1082, arts. 3, 5

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## 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,—

- (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)

C3 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

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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)**

**C4** Ss. 2–3 amended by S.I. 1980/1082, arts. 3, 5

**Marginal Citations**

**M3** 1939 c. 82.

**M4** 1942 c. 26.

**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>F7</sup> an appeal shall lie to the Tribunal from the interim assessment . . .<sup>F7</sup> and from any subsequent interim assessment, and the Tribunal on any such appeal

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may uphold the Minister’s assessment or may [<sup>F8</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>F9</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;

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>F10</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>F11</sup>

**Textual Amendments**

- F7** Words repealed by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(a\)](#)
- F8** Words substituted by [Social Security Act 1980 \(c. 30, SIF 113:1\), s. 16\(3\)](#)
- F9** Words substituted by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(b\)](#)
- F10** Words added by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(c\)](#)
- F11** [S. 5\(3\)](#) repealed by [Chronically Sick and Disabled Persons Act 1970 \(c. 44\), s. 23\(2\)\(d\)](#)

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

- C5** [S. 5](#) extended by [Pensions Appeal Tribunals Act 1949 \(c. 12\), s. 2](#)
- C6** [S. 5](#) amended by [S.I. 1980/1082, arts. 5, 6](#)

**[<sup>F12</sup>5A Appeals in other cases.**

(1) Where, in the case of [<sup>F13</sup>a claim to which this section applies], the Minister makes a specified decision—

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- (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>F14</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>F15</sup> . . . .
- (3) <sup>F16</sup> . . . . . ]

#### Textual Amendments

- F12** 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)
- F13** 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.
- F14** 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.
- F15** 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.
- F16** 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>F17</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

- F17** 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.
- (2) Where, in the case of an appeal to the Tribunal under [<sup>F18</sup>sections 1, 2, 3, 4 or 5A] of this Act, the appellant or the Minister is dissatisfied with the decision of the Tribunal as being erroneous in point of law, he may, with the leave of the Tribunal or of [<sup>F19</sup>a judge of the High Court nominated for the purpose by the Lord Chancellor, appeal therefrom,

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within such time as may be limited by rules of court to the judge so nominated and the decision of that judge shall be final and conclusive][<sup>F19</sup>the Court of Appeal, therefrom, within such time as may be limited by rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978, to the Court of Appeal whose decision shall be final].

Rules of court, may provide that, where an appeal is brought under this subsection, a case shall be stated by the chairman of the Tribunal.

[<sup>F20</sup>(2A) Where, in the case of such a claim as is referred to in section 1, 2, 3 [<sup>F21</sup>, 4 or 5A] of this Act—

- (a) an appeal has been made under that section to the Tribunal and that appeal has been decided (whether with or without an appeal under subsection (2) of this section from the Tribunal's decision); but
- (b) subsequently, on an application for the purpose made (in like manner as an application for leave to appeal under the said subsection (2)) jointly by the appellant and the Minister, it appears to the appropriate authority (that is to say, the person to whom under rules made under the Schedule to this Act any application for directions on any matter arising in connection with the appeal to the Tribunal fell to be made) to be proper so to do—
  - (i) by reason of the availability of additional evidence; or
  - (ii) (except where an appeal from the Tribunal's decision has been made under the said subsection (2)), on the ground of the Tribunal's decision being erroneous in point of law,

the appropriate authority may, if he thinks fit, direct that the decision on the appeal to the Tribunal be treated as set aside and the appeal from the Minister's decision [<sup>F22</sup>(‘the original decision’)] be heard again by the Tribunal.]

[<sup>F23</sup>(2B) Rules made under the Schedule to this Act may provide that where an appeal 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.]

[<sup>F24</sup>(2C) Where a direction for a rehearing is given under subsection (2A) above, the Minister may, before the expiry of the period of two months beginning with the date of the 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>F25</sup>Subject to subsections (2) and (2A) of this section], the decision of the Tribunal on any issue on which an appeal is brought under this Act shall be final and conclusive.

(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.

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### Textual Amendments

- F18** Words in s. 6(2) substituted (15.11.2000 for specified purposes otherwise 9.4.2001) by 2000 c. 19, s. 57(2) (with s. 83(6)); S.I. 2000/2994, art. 2(4)(a)(b)
- F19** Words from “the Court of Appeal”, to “shall be final” substituted (N.I.) for words from “a judge of” to “conclusive” by *Judicature (Northern Ireland) Act 1978* (c. 23, SIF 38), s. 122(1) Sch. 5
- F20** S. 6(2A) inserted by *Chronically Sick and Disabled Persons Act 1970* (c. 44), s. 23(3)
- F21** Words in s. 6(2A) substituted (15.11.2000 for specified purposes otherwise 9.4.2001) by 2000 c. 19, s. 57(3) (with s. 83(6)); S.I. 2000/2994, art. 2(4)(a)(b)
- F22** Words inserted by *Social Security and Housing Benefits Act 1982* (c. 24, SIF 113:1), s. 43(1)
- F23** S. 6(2B) inserted by *Social Security Act 1980* (c. 30, SIF 113:1), s. 16(4)
- F24** S. 6(2C)(2D) inserted by *Social Security and Housing Benefits Act 1982* (c. 24, SIF 113:1), s. 43(1)
- F25** Words substituted by *Chronically Sick and Disabled Persons Act 1970* (c. 44), s. 23(4)

### Modifications etc. (not altering text)

- C7** 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.
- (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.



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- (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—
  - (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

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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.

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;

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- (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.

## 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>F26</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 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>F27</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

- F26** 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
- F27** 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 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>F28</sup>six months after] the date on which the decision or assessment is notified to the claimant:

<sup>F29</sup> . . . .

<sup>F30</sup>(2) . . . . .

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- (3) No appeal shall be brought 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>F31</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:
- F29 . . . .
- [<sup>F32</sup>(4) The Minister may by regulations made by statutory instrument 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 made by statutory instrument 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) Regulations under subsection (4) or (5) shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.]

#### Textual Amendments

- F28** 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)
- F29** 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)
- F30** 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)
- F31** S. 8(3)(a) repealed by Social Security Act 1980 (c. 30, SIF 113:1), ss. 8, 21, Sch. 5 Pt. I
- F32** 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)

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

- C8** 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>F33</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

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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>F33</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>F34</sup>F34 (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

**F33** 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

**F34** 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

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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;

“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;

“His Majesty’s naval, military or air forces” include . . . <sup>F35</sup>any . . . <sup>F35</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>F36</sup>[<sup>F37</sup>“the Minister” means 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>F38</sup>“relevant service” in relation to any claim made under any such Royal Warrant, Order in Council [<sup>F39</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>F39</sup>, Order or scheme], is relevant for the purposes of that claim.]

- (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.

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#### Textual Amendments

- F35** Words repealed (with saving) by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), s. 28(2), [Sch. 5 Pt.I](#)
- F36** Definition of “the Minister” substituted by [S.I. 1981/1541](#), [art. 2](#)
- F37** [S. 12\(1\)](#): definition of “the Minister” substituted (3.12.2001) by [S.I. 2001/3506](#), [art. 5](#), [Sch. para. 1](#)
- F38** Definition substituted by [Pensions Appeal Tribunals Act 1949 \(c. 12\)](#), [s. 1\(1\)](#)
- F39** Words in [s. 12](#) substituted (E.W.S.)(2.10.1995) by [1995 c. 26](#), [s. 169\(5\)](#); [S.I. 1995/2548](#), [art. 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.

This Act in its application to Scotland shall have effect subject to the following modifications:—

- (a) for references to a judge of the High Court nominated by the Lord Chancellor there shall be substituted references to the Court of Session; and
- (b) for references to the Lord Chancellor there shall be substituted references to the Lord President of the Court of Session; and
- (c) .....<sup>F40</sup>

#### Textual Amendments

- F40** [S. 13\(c\)](#) repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#)

### 14 Application to Northern Ireland.

This Act in its application to Northern Ireland shall have effect subject to the modifications that for the references to the [<sup>F41</sup>Lord Chancellor (except the reference in [<sup>F42</sup>paragraph 5(4)(b)] of the Schedule) there shall be substituted references to the Lord Chief Justice of Northern Ireland].

#### Textual Amendments

- F41** Words substituted by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), [Sch. 5](#)
- F42** Words substituted by [Social Security Act 1980 \(c. 30, SIF 113:1\)](#), [s. 16\(6\)](#)

### 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:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943.