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*Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943, Cross Heading: Constitution, Jurisdiction and Procedure of Pensions Appeal Tribunal. (See end of Document for details)*

## SCHEDULE

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

- 1 Such number of Pensions Appeal Tribunals shall be constituted 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 The members of the Tribunals shall be appointed by the Lord Chancellor, and there shall be paid to them such remuneration as the Treasury may determine and the Lord Chancellor may, if he thinks fit, remove any member of such a Tribunal.

VALID FROM 09/04/2001

- [<sup>F1</sup>2A (1) The Lord Chancellor shall ensure that the appointments made by him under paragraph 2 above 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—
- (a) he has a seven year general qualification within the meaning of section 71 of the <sup>M1</sup>Courts and Legal Services Act 1990;
  - (b) he is an advocate or solicitor in Scotland of at least seven 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 seven 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) In making any appointment under paragraph 2 it shall be the duty of the Lord Chancellor 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

**F1** 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)

#### Marginal Citations

**M1** 1990 c. 41.

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VALID FROM 09/04/2001

- [<sup>F2</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 Lord Chief Justice of Northern Ireland.
- (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

**F2** 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)

- 3 (1) The number of members of the Tribunal to hear any particular appeal shall be three and, in the case of an appeal under section one, section two, section three or section four of this Act, shall consist of—
- [<sup>F3</sup>(a) a person who—
- (i) has a 7 year general qualification, within the meaning of section 71 of the <sup>M2</sup>199 Courts and Legal Services Act; or
  - (ii) is an advocate or solicitor in Scotland of at least 7 years' standing;
  - (iii) is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 7 years' standing;]
  - (b) a duly qualified medical practitioner of not less than seven years' standing;
  - (c) a person who satisfies the conditions specified in the next following paragraph;
- and, in the case of an appeal under section five of this Act, shall consist of two duly qualified medical practitioners of not less than seven years' standing and a person who satisfies the conditions specified in the next following paragraph, and the chairman of the Tribunal shall, in cases where there is a legal member, be

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that member, and in other cases shall be such one of the duly qualified medical practitioners as may be appointed to be chairman by the Lord Chancellor.

- (2) The conditions referred to in the last foregoing paragraph are that the member shall be of the same sex as the person in respect of whose incapacity for work, disablement or death the claim to which the appeal relates was made and—
- (a) if the claim was made in respect of an officer of His Majesty's naval, military or air forces under any such Royal Warrant, Order in Council or Order of His Majesty as is referred to in section one of this Act, shall be a retired or demobilised officer of any of the said forces;
  - (b) if the claim was made in respect of a member of any of the said forces, other than an officer, under any such Royal Warrant, Order in Council or Order of His Majesty as aforesaid, shall be a discharged or demobilised member of any of the said forces who was not at the time of his discharge or demobilisation an officer;
  - (c) if the claim was made under any such scheme as is referred to in section two of this Act, shall be a person who is or has been a master or member of the crew of a British ship;
  - (d) if the claim was made under any such scheme as is referred to in section three of this Act in respect of a war service injury sustained by a civil defence volunteer, shall be a person who is or has been a member of a civil defence organisation;
  - (e) if the claim was made under any such scheme as is referred to in the said section three, not being a claim in respect of a war service injury sustained by a civil defence volunteer, shall be any person other than a member of His Majesty's naval, military or air forces.

#### Textual Amendments

**F3** Sch. para. 3(1)(a) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), **Sch. 10 para. 5**

#### Marginal Citations

**M2** [1990 c. 41 \(37\)](#).

VALID FROM 09/04/2001

- [<sup>F4</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;

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- (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

- F4** 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)

VALID FROM 09/04/2001

- [<sup>F5</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

- F5** 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)

VALID FROM 09/04/2001

- [<sup>F6</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

- F6** 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.

5 (1) Subject as aforesaid, the Lord Chancellor may make rules with respect to—

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- (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 Lord Chancellor thinks fit.
- (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.
- (4) Such rules shall provide for the payment by the Tribunal of:—
- (a) .....<sup>F7</sup>
- [<sup>F8</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 with the consent of [<sup>F9</sup>the Treasury]; and]
- (c) in a case where leave is obtained (whether by the appellants or the Minister) to appeal to [<sup>F10</sup>a judge of the High Court][<sup>F10</sup>the Court of Appeal], the costs incurred by the appellant in connection with that appeal.
- (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.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

#### Textual Amendments

**F7** Para. 5(4)(a) repealed by [Administration of Justice Act 1977 \(c. 38\)](#), [Sch. 5 Pt. II](#)

**F8** Sch. para. 5(4)(b) substituted by [Social Security Act 1980 \(c. 30, SIF 113:1\)](#), [s. 16\(6\)](#)

**F9** Words substituted by virtue of [S.I. 1981/1670](#), [arts. 2\(1\)\(c\)](#), 3(5)

**F10** Words substituted (N.I.) by [Judicature \(Northern Ireland\) Act 1978 \(c. 23, SIF 38\)](#), [s.122\(1\)](#), [Sch. 5](#)

- 6 Any appeal 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

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[<sup>F11</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:

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**

**F11** Words inserted by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), **s. 59(2)**

[<sup>F12</sup>6A Rules made under this Schedule may make provision for enabling an appeal 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**

**F12** [Sch. para. 6A](#) inserted by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), **s. 59(3)**

VALID FROM 06/04/2005

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>F13</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**

**F13** Words repealed by [Welsh Language Act 1967 \(c. 66\)](#), **s. 1(2)**

<sup>F14</sup>7A .....

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### Textual Amendments

**F14** Sch. para. 7A repealed by Social Security Act 1980 (c. 30, SIF 113:1), ss. 8, 21, Sch. 5 Pt. I

VALID FROM 03/04/2006

- 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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