
STATUTORY INSTRUMENTS

1994 No. 715

The Personal Injuries (Civilians) Amendment Scheme 1994

Insertion of articles 76A, 76B and 76C into the principal Scheme

4. After article 76 of the principal Scheme (review of decisions, assessments and awards) there shall be inserted the following articles—

“Suspension in individual cases — Pensions Appeal Tribunal

76A.—(1) Where it appears to the Secretary of State that a question arises whether an appeal ought to be brought against the decision of a Pensions Appeal Tribunal, he may, subject to paragraph (2), direct that payment of a pension or gratuity in accordance with that decision be suspended, in whole or in part, pending the determination of that question on appeal.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1), he may only give directions that payment of the pension or gratuity in accordance with that decision be suspended within the relevant period.

(3) A suspension under paragraph (1) shall cease unless, within the relevant period, the person awarded the pension or gratuity by virtue of the decision (“the pensioner”) is given notice in writing that an application for leave to appeal has been made against that decision.

(4) Subject to paragraph (5), where the pensioner has been given notice within the relevant period that an application for leave to appeal against a decision of a Pensions Appeal Tribunal has been made, the suspension may continue until that application for leave to appeal and, where leave has been granted, any subsequent appeal is determined.

(5) Where an application for leave to appeal against a decision of a Pensions Appeal Tribunal is made to a Pensions Appeal Tribunal and that application is refused, the suspension shall cease unless the Secretary of State, within a period of 28 days beginning with the date on which notice in writing of the decision of the Pensions Appeal Tribunal refusing leave to appeal is received by him, makes a further application for leave to appeal, and, if he has so applied, the suspension may continue until that application for leave to appeal and any subsequent appeal is determined.

(6) Where, on an appeal against a decision of a Pensions Appeal Tribunal, the court remits the matter for rehearing and determination by a Pensions Appeal Tribunal, the appeal is not determined for the purposes of paragraphs (4) and (5) until the matter remitted for rehearing has been determined.

(7) A pensioner is to be treated as having been given the notice required by paragraph (3) on the date that it is posted to him at his last known address.

(8) In this article—

(a) “appeal” means an appeal under section 6(2) of the Pensions Appeal Tribunals Act 1943(1);

(1) 1943 c. 39. Section 6(2) has been amended as it applies to Northern Ireland by the Judicature (Northern Ireland) Act 1978 (c. 23), section 122(1), Schedule 5, Part II.

- (b) “application for leave to appeal” means an application for leave to appeal in the proceedings referred to in sub-paragraph (a) above, and, in England and Wales, an application for leave to appeal under Order 101, rule 3 of the Rules of the Supreme Court 1965(2), in Scotland under rule 285 of the Act of Sederunt (Rules of Court, consolidation and amendment) 1965(3) or, in Northern Ireland, under Order 101, rule 2 of the Rules of the Supreme Court (Northern Ireland) 1980(4);
- (c) “relevant period” means the period of one month beginning with the date on which notice in writing of the decision in question and of the reasons for it is received by the Secretary of State.

Suspension in individual cases — courts

76B.—(1) Where it appears to the Secretary of State that a question arises whether an appeal ought to be brought against the decision of a court, he may, subject to paragraph (2), direct that payment of the pension or gratuity in accordance with that decision be suspended, in whole or in part, pending the determination of that question on appeal.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1), he may only give directions that payment of the pension or gratuity in accordance with that decision be suspended within the relevant period.

(3) A suspension under paragraph (1) shall cease unless, within the relevant period, the person awarded the pension or gratuity by virtue of the decision (“the pensioner”) is given notice in writing that an application for leave to appeal has been made against that decision.

(4) Where the pensioner has been given notice within the relevant period that an application for leave to appeal has been made, the suspension may continue until that application for leave to appeal and any subsequent appeal is determined.

(5) A pensioner is to be treated as having been given the notice required by paragraph (3) on the date that it is posted to him at his last known address.

(6) In this article—

(a) “appeal” means—

- (i) in England, Wales and Northern Ireland an appeal to the Court of Appeal or, in Scotland, a reclaiming motion to the Inner House of the Court of Session, against the determination of an application for judicial review;
- (ii) in England, Wales and Northern Ireland an appeal to the House of Lords against a decision of the Court of Appeal in an application referred to in head (i) above, or in Scotland, an appeal to the House of Lords against a decision of the Inner House of the Court of Session in a reclaiming motion in an application referred to in head (i) above;

(b) “application for leave to appeal” means an application or petition for leave to appeal as the case may be in the proceedings referred to in heads (i) and (ii) of sub-paragraph (a) above;

(c) “relevant period” means the period of three months beginning with the date on which notice in writing of the decision in question and of the reasons for it is received by the Secretary of State.

(2) S.I. 1965/1776.

(3) S.I. 1965/321.

(4) S.R. 1980 No. 346.

Suspension in other cases

76C.—(1) Where it appears to the Secretary of State that—

- (a) an appeal has been brought or a question arises whether an appeal ought to be brought against a decision of a court in relation to a case (“the primary case”); and
- (b) if such an appeal were to be allowed a question would arise in relation to another case (“the secondary case”) whether the award of a pension or gratuity in that case ought to be reviewed,

he may direct that payment of the pension or gratuity under the award in the secondary case be suspended, in whole or in part—

- (i) until the time limit for making an application for leave to appeal in the primary case has expired; or
- (ii) if such an application is made, until such time as that application and any subsequent appeal has been determined, whichever is the later.

(2) In this article the expressions “appeal” and “application for leave to appeal” have the same meanings as they have in article 76B.”.