

2001 No. 1031

PENSIONS

The Pensions Appeal Tribunals (Additional Rights of Appeal) Regulations 2001

Made - - - - - *15th March 2001*

Coming into force - - - *9th April 2001*

Whereas a draft of this Instrument was laid before Parliament in accordance with section 5A(3) of the Pensions Appeal Tribunals Act 1943(a) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred on him by section 5A(2) of that Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Pensions Appeal Tribunals (Additional Rights of Appeal) Regulations 2001, and shall come into force on 9th April 2001.

2. In these Regulations—

“the Act” means the Pensions Appeal Tribunals Act 1943;

“the Civilians Scheme” means the Personal Injuries (Civilians) Scheme 1983(b);

“the commencement date” means 9th April 2001;

“the Service Pensions Order” means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(c);

“decision” means a decision notified by the Secretary of State on or after the commencement date;

“specified decision” means a decision specified for the purposes of section 5A of the Act; and

any reference to a numbered Schedule is a reference to the Schedule so numbered in these Regulations.

New appeal rights: the Service Pensions Order

3.—(1) Each decision—

(a) which is made in exercise of any provision of the Service Pensions Order listed in Schedule 1; and

(b) which—

(i) refuses or discontinues an award;

(ii) establishes or varies the amount of an award; or

(iii) establishes or varies the date from which an award has effect,

shall be a specified decision.

(a) 1943 c. 39. Section 5A was inserted by section 57 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(b) S.I. 1983/686.

(c) S.I. 1983/883.

(2) Any decision as to the amount to be deducted from an award by virtue of any of the following provisions of the Service Pensions Order—

- (a) article 55 (adjustment of awards in respect of other compensation);
- (b) article 59 (abatement of awards in respect of social security benefits); or
- (c) article 60 (payment of public claims out of pensions),

shall be a specified decision.

New appeal rights: the Civilians Scheme

4.—(1) Each decision:

- (a) which is made in exercise of any provision of the Civilians Scheme listed in Schedule 2; and
- (b) which—
 - (i) refuses or discontinues an award;
 - (ii) establishes or varies the amount of an award; or
 - (iii) establishes or varies the date from which an award has effect,

shall be a specified decision.

(2) Any decision as to the amount to be deducted from an award by virtue of any of the following provisions of the Civilians Scheme—

- (a) article 62 (prevention of double payments);
- (b) article 63 (adjustment of awards in respect of other compensation);
- (c) article 65 (abatement of awards in respect of social security benefits); or
- (d) article 66 (payment of public claims out of pensions),

shall be a specified decision.

Signed by authority of the Secretary of State for Social Security.

15th March 2001

Hugh Bayley
Parliamentary Under-Secretary of State,
Department of Social Security

THE SERVICE PENSIONS ORDER: LIST OF PROVISIONS

Article

- 6 (Serious negligence or misconduct);
 12 (Allowances for eligible members of the family)(a);
 13 (Education allowance)(b);
 14 (Constant attendance allowance);
 15 (Exceptionally severe disablement allowance);
 16 (Severe disablement occupational allowance);
 17 (Allowance for wear and tear of clothing)(c);
 18 (Unemployability allowances)(d);
 19 (Invalidity allowance);
 20 (Comforts allowance);
 21 (Allowance for lowered standard of occupation)(e);
 22 (Age allowance);
 23 (Treatment allowances)(f);
 24 (Allowance where abstention from work is necessary following treatment in a hospital or similar institution)(g);
 25 (Allowance for part-time treatment);
 26A (Mobility supplement)(h);
 29(1A) (Supplementary pension for widow of a member of the armed forces whose service terminated before 31st March 1973)(i);
 30 (Pensions to unmarried dependants who lived as spouses)(j);
 31 (Rent allowance to widows, widowers and unmarried dependants who lived as spouses who have children)(k);
 32 (Allowance to elderly widows, widowers and unmarried dependants who lived as spouses);
 33 (Temporary allowances to widows and unmarried dependants who lived as wives of severely disabled pensioners)(l);
 34 (Pensions to widowers);
 35 (Allowances in respect of children under the age limit)(m);
 36 (Pensions to motherless or fatherless children under the age limit);
 37 (Awards to or in respect of children over the age limit);
 38 (Education allowance)(n);
 39 (Awards to or in respect of ineligible members of the families of unemployable pensioners)(o);
 40 (Pensions to parents)(p);
 41 (Pensions to other dependants);
 42 (Effects of marriage and living together)(q);
 42A (Funeral expenses)(r);

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- (a) Article 12 was omitted by article 2 of S.I. 1992/710 with effect from 6th April 1992 but by virtue of article 8 of that instrument remaining in force for awards payable for a period before that date.
 (b) Article 13 was omitted by article 15 of S.I. 1993/598 with effect from 12th April 1993 but by virtue of article 16 of that instrument remains in force for awards payable for a period before that date.
 (c) Paragraph (1) of article 17 was substituted and paragraph (2) of that article was omitted by article 3 of S.I. 1997/286 with effect from 7th April 1997.
 (d) Paragraph (1A) of article 18 was inserted by article 4 of S.I. 1997/286 with effect from 7th April 1997 and paragraph (2A) of that article was inserted by article 2 of S.I. 1985/1201 with effect from 2nd November 1985. Paragraph (5) of article 18 was amended by S.I. 1984/1154 and 1992/710 and paragraph (7) was added by article 2 of S.I. 1985/1201 with effect from 25th November 1985.
 (e) Paragraphs (1) and (2) of article 21 were amended by S.I. 1997/286. Paragraphs (1A) and (2) were respectively added and substituted by S.I. 1985/1201 with effect from 25th November 1985 and paragraph (1B) was added by S.I. 1997/286 with effect from 7th April 1997.
 (f) Article 23 was amended by S.I. 1992/710 and 1993/598. Paragraph (6A) of that article was added by article 5 of S.I. 1986/592.
 (g) Articles 24 and 25 were amended by S.I. 1993/598.
 (h) Article 26A was inserted by article 4 of S.I. 1997/812 with effect from 7th April 1997.
 (i) Article 29(1A) was inserted by article 2 of S.I. 1994/1906.
 (j) Article 30 was amended by S.I. 1984/1154, and 1996/2882.
 (k) Articles 31 and 32 were amended by S.I. 1984/1154 and 1996/2882.
 (l) Article 33 was amended by S.I. 1983/1521.
 (m) Article 35 was amended by S.I. 1996/1638.
 (n) Article 38 was omitted by article 15 of S.I. 1993/598 with effect from 12th April 1993 but by virtue of article 16 of that instrument remains in force for awards payable for a period before that date.
 (o) Article 39 was substituted by article 7 of S.I. 1984/1154 with effect from 26th November 1984.
 (p) Articles 40 and 41 were revoked by article 15 of S.I. 1993/598 with effect from 12th April 1993 but by virtue of article 16 of that instrument have effect for awards for a period before that date.
 (q) Article 42 was amended by S.I. 1984/1154, 1996/732 and 1997/286. Paragraph (1A) was added by article 7 of S.I. 1997/286.
 (r) Article 42A was inserted by article 8 of S.I. 1997/286 with effect from 7th April 1997.

- 56 (Maintenance in hospital or an institution);
- 57 (Chelsea pensioners);
- 58 (Children whose maintenance is otherwise provided for);
- 62 (Forfeiture of pensions, etc.);
- 63 (Refusal of treatment);
- 64 (Failure to draw pension);
- 65 and Schedule 3 (Commencing dates of awards under this Order)(a); and
- 72(1) and Schedule 5 (Transitory provisions).

SCHEDULE 2

Regulation 4

THE CIVILIANS SCHEME: LIST OF PROVISIONS

Article

- 6 (Serious negligence or misconduct);
- 12 (Allowances for eligible members of the family)(b);
- 13 (Education allowance);
- 14 (Constant attendance allowance);
- 15 (Exceptionally severe disablement allowance);
- 16 (Severe disablement occupational allowance)(c);
- 17 (Allowance for wear and tear of clothing);
- 18 (Unemployability allowances)(d);
- 19 (Invalidity allowance);
- 20 (Comforts allowance);
- 21 (Allowance for lowered standard of occupation)(e);
- 22 (Age allowance);
- 23 (Treatment allowances)(f);
- 24 (Allowance where abstention from work is necessary following treatment in a hospital or similar institution);
- 25 (Allowance for part-time treatment);
- 25A (Mobility supplement)(g);
- 26A (Funeral grant)(h);
- 28 (Rent allowance to widows who have children)(i);
- 29 (Allowance to elderly surviving spouses)(j);
- 30 (Pensions to unmarried dependants who lived as wives);
- 31 (Temporary allowances to widows and unmarried dependants who lived as wives of severely disabled persons)(k);
- 32 (Pensions to dependent widowers);
- 33 (Allowances in respect of children under the age of 15);
- 34 (Pensions to motherless or fatherless children under the age of 15);
- 35 (Awards to or in respect of children over the age of 15);
- 36 (Education allowance);
- 37 (Awards to or in respect of ineligible children of unemployable pensioners)(l);
- 38 (Pensions to parents);
- 39 (Pensions to other dependants);
- 43 (Constant attendance allowance);
- 44 (Exceptionally severe disablement allowance);
- 45 (Comforts allowance);
- 46 (Allowance for wear and tear of clothing);
- 47 (Age allowance);
- 48 (Treatment allowances)(m);

(a) Article 65 was substituted by article 9 of S.I. 1997/286 with effect from 7th April 1997.

(b) Article 12 was amended by S.I. 1984/1289.

(c) Article 16 was amended by S.I. 1984/1675.

(d) Article 18 was amended by S.I. 1984/1289, 1985/1313 and 1992/702 and by section 18(1) of the Social Security Act 1986 c. 50.

(e) Article 21 was amended by S.I. 1985/1313 and 1997/812.

(f) Article 23 was amended by S.I. 1984/1289, 1986/628, 1992/702 and 1993/480.

(g) Article 25A was inserted by article 3 of S.I. 1983/1164 with effect from 21st November 1983 and amended by S.I. 1983/1540, 1986/628, 1990/1300, 1991/708, 1992/702, 1995/445 and 1997/812.

(h) Article 26A was inserted by article 4 of S.I. 1997/812 with effect from 7th April 1997.

(i) Article 28 was amended by S.I. 1984/1289, 1989/415 and 1993/480.

(j) Article 29 was substituted and article 30 was amended by S.I. 1984/1289.

(k) Article 31 was amended by S.I. 1983/1540.

(l) Articles 37, 38 and 71 were amended by S.I. 1984/1289.

(m) Article 48 was amended by S.I. 1986/628.

- 48A (Mobility supplement)(a);
 - 49A (Funeral grant)(b);
 - 50 (Allowance to elderly surviving spouses)(c);
 - 51 (Temporary allowances to widows of severely disabled persons);
 - 52 (Education allowance);
 - 61 (Persons ordinarily resident outside the United Kingdom);
 - 64 (Maintenance in hospital or an institution);
 - 68 (Forfeiture of pensions);
 - 69 (Refusal of treatment);
 - 70 (Provisions with respect to dependent children);
 - 71 (Marriage of female persons);
 - 73 (Failure to draw pension); and
 - 74 and Schedule 5 (Commencing dates of awards of pension).
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply where, on or after 9th April 2001, the Secretary of State notifies a decision on certain war pension matters.

The Pensions Appeal Tribunals Act 1943 (“the 1943 Act”) allows a claimant in particular cases to appeal to the Pensions Appeal Tribunal against a decision of the Secretary of State relating to rejection of a war pension claim, reduction of an award or assessment of the extent of a claimant’s disability.

Following amendment of the 1943 Act by the Child Support, Pensions and Social Security Act 2000, these Regulations extend the scope of appeal rights so that further war pension decisions may be the subject of an appeal. Regulation 3 and Schedule 1 confer these rights in relation to the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983, and regulation 4 and Schedule 2 in relation to the Personal Injuries (Civilians) Scheme 1983.

These Regulations do not impose a charge on business.

(a) Article 48A was inserted by S.I. 1984/1289.
(b) Article 49A was inserted by S.I. 1997/812.
(c) Article 50 was substituted by S.I. 1984/1289.

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**The Pensions Appeal Tribunals (Additional Rights of
Appeal) Regulations 2001**

£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E2402 3/2001 610940 19585

ISBN 0-11-029060-7



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