

**EXPLANATORY MEMORANDUM TO THE
PENSION APPEAL TRIBUNALS (ENGLAND AND WALES) (AMENDMENT)
RULES 2005**

2005 No. 709 (L. 17)

1. This Explanatory Memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The attached Rules amend the Pensions Appeal Tribunals (England and Wales) Rules 1980 (S.I. 1980/1120) to reflect changes made in the Armed Forces (Pensions and Compensation) Act 2004 to the route of onward appeal from the Pensions Appeal Tribunal.

2.2 Appeals on a point of law from the Pensions Appeal Tribunal ('PAT') currently go to the High Court. From 6 April 2005 these appeals will go to the Social Security Commissioners.

2.3 Implementation of the new path of appeal requires changes to the PAT's procedural Rules. For example, the old Rule 25 dealing with appeals to the High Court has been replaced with a Rule governing appeals to a Social Security Commissioner.

2.4 Some changes have been made to help standardise appeals from the PAT with other appeals that currently go to the Commissioners. For example, Rule 18 requires a PAT Chairman to record a statement of reasons for their decision, which is a prerequisite for appeals to a Commissioner.

2.5 Commissioners hearing appeals on decisions of the PAT will be known as 'Pensions Appeal Commissioners' to recognise the special status of armed service appellants and distinguish the appeals from general matters of social security.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Armed Forces (Pensions and Compensation) Act received Royal Assent in November 2004. The Act introduces a new pensions and compensation scheme for the armed forces, and replaces the High Court with the Social Security Commissioners as the onward point of appeal from decisions of the PAT.

4.2 Amendments to the Social Security Commissioners (Procedure) Regulations 1999 and Pensions Appeal Tribunal (Posthumous Appeals) Order 1980 are also required to implement the new path of appeal. An amendment to the latter order has been laid with the Privy Council. Amendments to the Regulations were debated in Commons Committee on 9 March, and are to be debated in the House of Lords on 17 March.

5. Extent

5.1 This instrument applies to England and Wales. Scotland and Northern Ireland are responsible for drafting their own procedural Rules, although it is anticipated they will largely mirror the approach taken here.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Background

7.1 The Government is undertaking a wide-ranging reform of the UK's Tribunal system. The recent White Paper: *Transforming Public Services: Complaints, Redress and Tribunals* sets out an agenda for change.

7.2 One recommendation of the White Paper is appeals from first instance Tribunals (such as the Pensions Appeal Tribunal) should go to an appellate Tribunal (such as the Social Security Commissioners) before recourse to the Courts. This promotes fast and efficient justice in the user-friendly environment of a Tribunal.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. The Cabinet Office did not consider a Regulatory Impact Assessment necessary for introduction of the Armed Forces (Pensions and Compensation) Bill.

9. Contact

9.1 Daniel Brown at the Department for Constitutional Affairs (telephone: 020 7210 8259; email: dan.brown@dca.gsi.gov.uk) can answer any queries about this instrument.