
STATUTORY INSTRUMENTS

2008 No. 2686

**The Tribunal Procedure (First-tier Tribunal) (War Pensions
and Armed Forces Compensation Chamber) Rules 2008**

PART 3

Proceedings before the Tribunal

CHAPTER 1

Before the hearing

Notice of appeal

21.—(1) An appellant must start proceedings by sending or delivering a notice of appeal to the decision maker so that it is received—

- (a) in proceedings under section 5(1) of the Pensions Appeal Tribunals Act 1943, within 3 months after the date on which written notice of the decision being challenged was sent to the appellant; or
- (b) in other cases under the Pensions Appeal Tribunals Act 1943, within 6 months after the date on which written notice of the decision being challenged was sent to the appellant.

(2) If the appellant provides the notice of appeal to the decision maker later than the time required by paragraph (1) the notice of appeal must include the reason why the notice of appeal was not provided in time.

(3) Subject to paragraph (4), where an appeal is not made within the time specified in paragraph (1), it will be treated as having been made in time if the decision maker does not object.

(4) No appeal may be made more than 12 months after the time specified in paragraph (1).

(5) The notice of appeal must be in English or Welsh, must be signed by the appellant and must state—

- (a) the name and address of the appellant;
- (b) the name and address of the appellant's representative (if any);
- (c) an address where documents for the appellant may be sent or delivered;
- (d) details (including the full reference) of the decision being appealed; and
- (e) the grounds on which the appellant relies.

(6) The decision maker must refer the case to the Tribunal immediately if—

- (a) the appeal has been made after the time specified in paragraph (1) and the decision maker objects to it being treated as having been made in time; or
- (b) the decision maker considers that the appeal has been made more than 12 months after the time specified in paragraph (1).

Lapse of cases

- 22.**—(1) If the decision maker revises the decision challenged—
- (a) the proceedings shall proceed as if they had been brought in relation to the revised decision; and
 - (b) the appellant may make representations in relation to the revised decision within 42 days of the date on which notice of the revised decision was sent to the appellant.
- (2) The appeal will lapse if the appellant—
- (a) does not wish to proceed with the appeal and notifies the Tribunal accordingly; or
 - (b) subject to paragraph (3), does not make representations within the time specified in paragraph (1)(b).
- (3) Paragraph (2)(b) does not apply if the appellant has no representations to make under paragraph (2)(b) and has notified the Tribunal accordingly.

Responses and replies

- 23.**—(1) When a decision maker receives the notice of appeal or a copy of it, the decision maker must send or deliver a response to the Tribunal as soon as reasonably practicable after the decision maker received the notice of appeal.
- (2) The response must state—
- (a) the name and address of the decision maker;
 - (b) the name and address of the decision maker's representative (if any);
 - (c) an address where documents for the decision maker may be sent or delivered;
 - (d) the names and addresses of any other respondents and their representatives (if any);
 - (e) whether the decision maker opposes the appellant's case and, if so, the grounds for such opposition; and
 - (f) any further information or documents required by a practice direction or direction.
- (3) The response may include a submission as to whether it would be appropriate for the case to be dealt with without a hearing.
- (4) The decision maker must provide with the response—
- (a) a copy of any written record of the decision under challenge, and any statement of reasons for that decision;
 - (b) copies of all documents relevant to the case in the decision maker's possession, unless a practice direction or direction states otherwise; and
 - (c) a copy of the notice of appeal, any documents provided by the appellant with the notice of appeal and, unless stated in the notice of appeal, the name and address of the appellant's representative (if any).
- (5) The decision maker must provide a copy of the response and any accompanying documents to each other party at the same time as it provides the response to the Tribunal.
- (6) The appellant and any other respondent may make a written submission and supply further documents in reply to the decision maker's response.
- (7) Any submission or further documents under paragraph (6) must be provided to the Tribunal and to each other party within 1 month after the date on which the decision maker sent the response to the party providing the reply.

Medical examinations and commissioning of medical evidence etc.

24.—(1) An appropriate member of the Tribunal may make a medical examination of the appellant if—

- (a) the proceedings relate to the appellant's disablement or incapacity for work; and
- (b) the appellant consents.

(2) If the appellant lives outside the United Kingdom, the Tribunal may arrange a medical examination of the appellant.

(3) If a medical or other technical question arises in a case the Tribunal may—

- (a) request a medical or other technical specialist to provide a report in relation to the question; and
- (b) if the question is a medical one, arrange for the appellant to be examined for the purposes of the preparation of such a report.

(4) Subject to rule 14(2) (withholding documents or information likely to cause harm) the Tribunal must provide to each party a copy of any report obtained under this rule.

(5) If the Tribunal arranges a medical examination under paragraph (2) or requests a report under paragraph (3) the Tribunal may pay a fee to the medical or other technical specialist.

(6) Any fee paid under paragraph (5) must not exceed the maximum fee determined by the Lord Chancellor from time to time.

CHAPTER 2

Hearings

Decision with or without a hearing

25.—(1) Subject to the following paragraphs, the Tribunal must hold a hearing before making a decision which disposes of proceedings unless—

- (a) each party has consented to, or has not objected to, the matter being decided without a hearing; and
- (b) the Tribunal considers that it is able to decide the matter without a hearing.

(2) This rule does not apply to decisions under Part 4.

(3) The Tribunal may in any event dispose of proceedings without a hearing under rule 8 (striking out a party's case).

Entitlement to attend a hearing

26. Subject to rule 28(4) (exclusion of a person from a hearing), each party to proceedings is entitled to attend a hearing.

Notice of hearings

27.—(1) The Tribunal must give each party entitled to attend a hearing reasonable notice of the time and place of the hearing (including any adjourned or postponed hearing) and any changes to the time and place of the hearing.

(2) The period of notice under paragraph (1) must be at least 14 days except that the Tribunal may give shorter notice—

- (a) with the parties' consent; or
- (b) in urgent or exceptional circumstances.

Public and private hearings

- 28.**—(1) Subject to the following paragraphs, all hearings must be held in public.
- (2) The Tribunal may give a direction that a hearing, or part of it, is to be held in private.
- (3) Where a hearing, or part of it, is to be held in private, the Tribunal may determine who is permitted to attend the hearing or part of it.
- (4) The Tribunal may give a direction excluding from any hearing, or part of it—
- (a) any person whose conduct the Tribunal considers is disrupting or is likely to disrupt the hearing;
 - (b) any person whose presence the Tribunal considers is likely to prevent another person from giving evidence or making submissions freely;
 - (c) any person who the Tribunal considers should be excluded in order to give effect to a direction under rule 14(2) (withholding information likely to cause harm); or
 - (d) any person where the purpose of the hearing would be defeated by the attendance of that person.
- (5) The Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

Hearings in a party's absence

- 29.** If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—
- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
 - (b) considers that it is in the interests of justice to proceed with the hearing.

CHAPTER 3**Decisions****Consent orders**

- 30.**—(1) The Tribunal may, at the request of the parties but only if it considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.
- (2) Notwithstanding any other provision of these Rules, the Tribunal need not hold a hearing before making an order under paragraph (1), or provide reasons for the order.

Notice of decisions

- 31.**—(1) The Tribunal may give a decision orally at a hearing.
- (2) Subject to rule 14(2) (withholding information likely to cause harm), the Tribunal must provide to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings (except a decision under Part 4)—
- (a) a decision notice stating the Tribunal's decision;
 - (b) where appropriate, notification of the right to apply for a written statement of reasons under rule 32(2); and
 - (c) notification of any right of appeal against the decision and the time within which, and the manner in which, such right of appeal may be exercised.

Reasons for decisions

32.—(1) The Tribunal may give reasons for a decision which disposes of proceedings (except a decision under Part 4)—

- (a) orally at a hearing; or
- (b) in a written statement of reasons to each party.

(2) Unless the Tribunal has already provided a written statement of reasons under paragraph (1) (b), a party may make a written application to the Tribunal for such statement following a decision which finally disposes of all issues in the proceedings.

(3) An application under paragraph (2) must be received within 42 days of the date on which the Tribunal sent or otherwise provided to the party a decision notice relating to the decision which finally disposes of all issues in the proceedings.

(4) If a party makes an application in accordance with paragraphs (2) and (3) the Tribunal must, subject to rule 14(2) (withholding information likely to cause harm), send a written statement of reasons to each party within 28 days of the date on which it received the application or as soon as reasonably practicable after the end of that period.

Status:

Point in time view as at 03/11/2008.

Changes to legislation:

There are currently no known outstanding effects for the The Tribunal Procedure (First-tier Tribunal) (War Pensions and Armed Forces Compensation Chamber) Rules 2008, PART 3.