

2011 No. 1240

PENSIONS

The Pensions Appeal Tribunals Act 1943 (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2011

Made - - - - *9th May 2011*

Coming into force - - *9th May 2011*

The Secretary of State(**a**), in exercise of the powers conferred by section 5A(2) of the Pensions Appeal Tribunals Act 1943(**b**), makes the following Regulations—

In accordance with section 11A(5)(a) of the Pensions Appeal Tribunals Act 1943(**c**), a draft of this instrument was laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Pensions Appeal Tribunals Act 1943 (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2011 and will come into force on 9th May 2011.

Interpretation

2. In these Regulations—

“2011 Order” means the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(**d**);

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- (a) The functions of the Minister referred to in section 5A of the Pensions Appeal Tribunals Act 1943 were transferred to the Secretary of State for Social Services by the Pensions Appeal Tribunals Act (Modification) Order 1981, S.I. 1981/1541. The functions of the Secretary of State for Social Services were transferred to the Secretary of State for Social Security by the Transfer of Functions (Health and Social Security) Order 1988, S.I. 1988/1843, article 3. The functions of the Secretary of State for Social Security were transferred to the Secretary of State by the Transfer of Functions (War Pensions etc.) Order 2001, S.I. 2001/3506, article 2(a).
- (b) 1943 c. 39. Section 5A was inserted by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 57. The section was amended by the Armed Forces (Pensions and Compensation) Act 2004 (c. 32), section 5, Schedule 1 and section 7, Schedule 3. The section was also amended by the Transfer of Tribunal Functions Order 2008, S.I. 2008/2833, article 9, Schedule 3.
- (c) Section 11A was inserted by the Armed Forces (Pensions and Compensation) Act 2004 (c. 32), section 5, Schedule 1, paragraph 6.
- (d) S.I. 2011/517.

“benefit” means a benefit payable under the 2011 Order(a).

Specified decisions capable of appeal

3.—(1) Subject to paragraph (2), the following decisions are specified for the purposes of section 5A(2) of the Pensions Appeal Tribunals Act 1943, that is a decision which—

- (a) determines whether a benefit is payable;
- (b) determines the amount payable under an award of benefit; and
- (c) is issued under article 26(6) (refusal to make a temporary award permanent etc.) or 26(8) (addition of new descriptor) of the 2011 Order, relating to the making of a permanent award.

(2) The following decisions are not specified decisions, that is a decision which—

- (a) makes or arises from the making of an interim award under article 52(1) of the 2011 Order;
- (b) suspends the payment of an award of benefit;
- (c) makes or arises from the making of a temporary award under article 26(2) of the 2011 Order;
- (d) determines whether a fast payment is made under article 27(1) of the 2011 Order;
- (e) relates to the payment, in whole or in part, of medical expenses under article 28(1) of the 2011 Order.

Revocation

4. The following instruments are revoked—

- (a) The Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005(b);
- (b) The Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Amendment Regulations 2006(c).

9th May 2011

Andrew Robathan
Parliamentary Under Secretary of State
Ministry of Defence

(a) The 2011 Order is established pursuant to section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (c. 32). Section 1(2) provides that the Secretary of State may by order establish schemes which provide for benefits to be paid to or in respect of a person by reason of illness or injury (whether physical or mental), or death, which is attributable (wholly or partly) to their service in the armed forces or the reserve forces.

(b) S.I. 2005/1029.

(c) S.I. 2006/2892.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Pensions Appeal Tribunals Act 1943 (“the 1943 Act”) allows claimants to appeal to an appropriate tribunal in respect of certain types of decisions made by the Secretary of State which relate to war pensions. This includes a “specified decision” arising from a claim made under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (“the 2011 Order”) (S.I. 2011/517). A “specified decision” is a decision specified by regulations made under section 5A of the 1943 Act.

These Regulations specify the types of decisions made under the 2011 Order which are specified for the purposes of section 5A of the 1943 Act. They re-enact, with modifications, the provisions in the Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005 (S.I. 2005/1029) which are revoked by regulation 4.

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