
STATUTORY INSTRUMENTS

1998 No. 1201

PENSIONS

**The Pensions Appeal Tribunals (England
and Wales) (Amendment) Rules 1998**

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| <i>Made</i> | - - - - | <i>8th May 1998</i> |
| <i>Laid before Parliament</i> | | <i>12th May 1998</i> |
| <i>Coming into force</i> | - - | <i>8th June 1998</i> |

The Lord Chancellor, in exercise of the powers conferred on him by section 6 of, and paragraphs 5 and 6 of the Schedule to, the Pensions Appeal Tribunals Act 1943(1), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(2), hereby makes the following Rules—

1. These Rules may be cited as the Pensions Appeal Tribunals (England and Wales) (Amendment) Rules 1998 and shall come into force on 8th June 1998.

2. The Pensions Appeal Tribunals (England and Wales) Rules 1980(3) shall be amended in accordance with the following provisions of these Rules.

3. In these Rules, a rule referred to by number alone means the rule so numbered in the Pensions Appeal Tribunals (England and Wales) Rules 1980.

4.—(1) In rule 2—

(a) in paragraph (1)(f) there shall be substituted for the words “in the manner prescribed by these Rules”, the words “on an appropriate form”; and

(b) paragraph (3) shall be omitted.

(2) In rule 3(2), for the words “Article 67A(1)(b) and (2) of the Naval, Military and Air Forces, etc. (Disablement and Death) Services Pensions Order 1978(4) and in Article 76A(1)(b) and (2) of the Personal Injuries (Civilians) Scheme 1976(5)”, there shall be substituted the words—

(1) 1943 c. 39; paragraph 6 of the Schedule was amended, and paragraph 6A inserted, by section 59 of the Administration of Justice Act 1985 (c. 61).
(2) 1992 c. 53.
(3) S.I. 1980/1120, as amended by S.I. 1986/366.
(4) S.I. 1978/1525.
(5) S.I. 1976/585.

“Article 68(1)(b) and (2) of the Naval, Military and Air Forces, etc. (Disablement and Death) Service Pensions Order 1983(6) and in Article 77(1)(b) and (2) of the Personal Injuries (Civilians) Scheme 1983(7)

(3) In rule 4—

(a) in paragraph (1) there shall be substituted for the words “on whichever of the forms of notice of appeal set out in Schedule 1 is appropriate”, the words “on an appropriate form”; and

(b) for paragraph (3) there shall be substituted the following new paragraph—

“(3) A notice of appeal shall be signed by the appellant, or as the case may be, by the person acting on behalf of the appellant, and shall bear the date on which it was signed, and shall be sent by post addressed to the Secretary of State for Social Security.”.

(4) In rule 8—

(a) in paragraph (1) the words “to the effect of Form 7” shall be omitted; and

(b) in paragraph (2) the words “(unless the appeal is to be heard in his absence under rule 20)” shall be omitted.

5.—(1) In the Arrangement of Rules, after rule 5, there shall be inserted the words—

“**5A.** Review of appeal documents.”.

(2) After rule 5 there shall be added the following new rule—

“Review of appeal documents

5A.—(1) After receipt by the Pensions Appeal Office of the documents mentioned in rule 5(6), the President, or a member of the tribunal nominated for the purpose by the Lord Chancellor, may review the documents and may, if he thinks fit exercise the powers given to the tribunal—

(a) under rule 14 to require further information to be obtained or further evidence to be procured or produced; or

(b) under rule 15 to take the opinion of a medical specialist or other technical expert, and paragraphs (1) to (3) of rule 14 and paragraphs (1) to (3) of rule 15 shall apply with any necessary modifications.

(2) After reviewing the documents mentioned in paragraph (1) above, the President or the member of the tribunal so nominated, as the case may be, may without prejudice to the application of rule 32 give such directions as he thinks fit on any matter arising in connection with the appeal.”.

6. At the end of rule 19(4), there shall be added the words—

“and shall be available for public inspection.”.

7.—(1) In the Arrangement of Rules, in rule 20, for the words “Appeal in absence of appellant”, there shall be substituted the words—

“Appeal in absence of parties.”.

(2) For rule 20, there shall be substituted the following new rule—

(6) S.I. 1983/883, as amended by S.I. 1984/1154.

(7) S.I. 1983/686, as amended by S.I. 1984/1289.

“Appeal in absence of parties

20.—(1) Subject to any arrangements made by the President under rule 21, to the provisions of rule 23 and to the following provisions of this rule, an appeal may be heard in the absence of the parties or their representatives.

(2) If a party fails to attend or be represented at a hearing of which he has been duly notified, the tribunal may—

(a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in the party’s absence; or

(b) adjourn the hearing.

(3) The tribunal may, if it thinks that the presence of the appellant is necessary for the due determination of the appeal, give directions that the appeal shall not be heard in his absence.

(4) Subject to paragraph (3), the appeal may be heard in the absence of the appellant where he or his representative has requested it.

(5) Where an appeal has been determined under paragraph (2)(a) and the appellant applies to the President, without undue delay, for the decision to be set aside, the President may, if after affording each party a reasonable opportunity to make representations he considers that the interests of justice so require, grant the application and arrange for the appeal to be re-heard before a differently constituted tribunal; and he may make such further order as he thinks fit.”

8. Rule 21 shall stand as paragraph (1) of that rule and the following paragraph shall be inserted after paragraph (1)—

“(2) Where an appeal has been determined under paragraph (1)(d) and the appellant applies to the President, without undue delay, for the decision to be set aside, the President may, if after affording each party a reasonable opportunity to make representations he considers that the interests of justice so require, grant the application and arrange for the appeal to be re-heard before a differently constituted tribunal; and he may make such further order as he thinks fit.”

9.—(1) In rule 24, for paragraph (3), there shall be substituted—

“(3) Where a designated person is proceeding with an entitlement appeal on behalf of an appellant who has died, the appeal shall be heard at the same time and by the same tribunal as any appeal brought by the designated person in respect of the appellant’s death.”

(2) In rule 26—

(a) there shall be added after paragraph (2) the following new paragraph—

“(2A) Upon receipt by the Pensions Appeal Office of a written notification from the designated person or the Secretary of State, within 12 months after notice under paragraph (2) has been given, that the designated person wishes to proceed with the appeal, the case shall be restored to the list of cases for hearing.”;

(b) in paragraph (3), the words “or, as the case may be, the designated person” shall be omitted; and

(c) in paragraph (5), after the word “President”, there shall be added the words “or where no written notification has been received within the time prescribed in paragraph (2A).”.

10. Schedule 1 shall be omitted.

Dated 8th May 1998

Irvine of Lairg, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Pensions Appeal Tribunals (England and Wales) Rules 1980 so as to:

- (a) remove the provision for prescribed forms for giving notice of appeal and notice of hearing (*rules 4(1), (3), (4) and 10*);
- (b) enable the President of the Pensions Appeal Tribunal (“the President”) or a member of the tribunal nominated by the Lord Chancellor, on reviewing the appeal documents before the hearing, to require further information to be obtained or further evidence to be produced, and to take the opinion of a medical specialist or other technical expert and to give directions (*rule 5*);
- (c) make fresh provision for appeals to be heard in the absence of the parties (*rule 7*);
- (d) enable a designated person (normally a relative or a personal representative of a deceased appellant) to pursue an appeal which is not yet decided by notifying the Pensions Appeal Office in place of the requirement to make an application to the President (*rule 9*); and
- (e) to make other minor amendments (*rules 4(2), 6 and 8*).