
STATUTORY INSTRUMENTS

2005 No. 1029

PENSIONS

The Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005

Made - - - - *31st March 2005*
Coming into force - - *6th April 2005*

The Secretary of State⁽¹⁾, in exercise of the powers conferred upon him by section 5A of the Pensions Appeal Tribunals Act 1943⁽²⁾ hereby makes the following Regulations, a draft of which was laid before Parliament in accordance with section 11A(5) of that Act⁽³⁾ and approved by resolution of each House of Parliament.

Citation and Commencement

1. These Regulations may be cited as the Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005 and shall come into force on 6th April 2005.

Interpretation

2. In these Regulations—

“benefit” means a benefit payable under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004⁽⁴⁾;

-
- (1) The functions of the Minister were transferred to the Secretary of State for Social Services by virtue of 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. 1998/1843](#), art 3, Schedule 2. 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](#), art 2(a).
- (2) [1943 \(c. 39\)](#). Section 5A was inserted by section 57 of the Child Support, Pensions and Social Security Act 2000 ([c. 19](#)) and amended by sections 5 and 7 of, and paragraph 2 of Schedule 1 to, and Schedule 3 to the Armed Forces (Pensions and Compensation) Act 2004 ([c. 32](#)).
- (3) Section 11A was inserted by Section 5 and paragraph 6 of Schedule 1 to the Armed Forces (Pensions and Compensation) Act 2004 ([c. 32](#)).
- (4) [2004 \(c. 32\)](#). Section 1(2) provides that the Secretary of State may by order establish schemes which provide for benefits to be payable to or in respect of a person by reason of his illness or injury (whether physical or mental), or his death, which is attributable (wholly or partly) to his service in the armed forces or the reserve forces.

“specified decision” means a decision specified for the purposes of section 5A(2) of the Pensions Appeal Tribunals Act 1943; and

“interim award” means a temporary award of benefit payable for a maximum of two years, where the prognosis for an injury is uncertain and therefore the Secretary of State is unable to decide the appropriate level of benefit.

New appeal rights – Armed Forces and Reserve Forces Compensation Scheme

3.—(1) Subject to paragraph (2), a decision which determines—

- (a) whether an award of benefit is payable, or
- (b) the amount payable under an award of benefit,

is a specified decision.

(2) A decision which—

- (a) makes an interim award, or
- (b) suspends payment of benefit,

is not a specified decision.

Ivor Caplin
Parliamentary Under Secretary of State Ministry
of Defence

EXPLANATORY NOTE

(This note is not part of the Regulations.)

The Pensions Appeal Tribunals Act 1943 (“the 1943 Act”) allows a claimant to appeal to the Pensions Appeal Tribunal against certain decisions of the Secretary of State relating to war pensions, including “specified decisions”, which are decisions specified by regulations made under section 5A of the 1943 Act.

The 1943 Act was amended by the Armed Forces (Pensions and Compensation) Act 2004 (“the 2004 Act”) to permit the Secretary of State to include, under the category of specified decisions, decisions relating to compensation schemes for the armed and reserve forces made under section 1(2) of the 2004 Act.

These Regulations extend the category of “specified decisions” (and hence rights of appeal to the Pensions Appeal Tribunal) to decisions which relate to entitlement to benefit, and the amount of benefit payable, under schemes under the 2004 Act.

These Regulations do not impose a charge on business.