

2006 No. 2892

PENSIONS

The Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Amendment Regulations 2006

Made - - - - *30th October 2006*

Coming into force in accordance with regulation 1(1)

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

In accordance with section 11A(5) of that Act, a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

Citation, Commencement and Interpretation

1.—(1) These Regulations may be cited as the Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Amendment Regulations 2006 and shall come into force on the day after the day on which they are made or on 26th July 2006, whichever is the later.

(2) In these Regulations “the principal Regulations” means the Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005(b).

Amendments to regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations—

(a) after the definition of “specified decision” the word “and” shall be omitted; and

(b) after the definition of “interim award” there shall be added—

““permanent award” means a permanent award of benefit made pursuant to Article 20 (4) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(c); and

(a) 1943 c.39. Section 5A was inserted by section 57 of the Child Support, Pensions and Social Security Act 2000 (c.19). It was later amended by Schedule 1 (paragraph 2) and Schedule 3 to the Armed Forces (Pensions and Compensation) Act 2004 (c.32). Section 12 of the Pensions Appeal Tribunals Act 1943, as amended by article 5 and paragraph 1 of the Schedule to the Transfer of Functions (War Pensions etc.) Order 2001 (S.I. 2001/3506) and as amended by paragraphs 7(2)(a) and 7(3) of the Armed Forces (Pensions and Compensation) Act 2004, has the effect that references in the Pensions Appeal Tribunals Act 1943 to the Minister are references to the Secretary of State.

(b) S.I. 2005/1029.

(c) S.I. 2005/439. Article 20 of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 is amended by the Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2006, S.I. 2006/1438

“temporary award” means a temporary award of benefit made pursuant to Article 20 (1) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.”.

Amendments to regulation 3 of the principal Regulations

3. In regulation 3 of the principal Regulations—

(a) in paragraph (1)—

(i) after subparagraph (a) the word “or” shall be omitted,

(ii) in subparagraph (b), after “benefit,” the word “or” shall be inserted, and

(iii) after subparagraph (b) there shall be inserted —

“(c) whether a permanent award is made,”; and

(b) in paragraph (2)—

(i) after subparagraph (a) the word “or” shall be omitted,

(ii) in subparagraph (b), after “benefit,” the word “or” shall be inserted, and

(iii) after subparagraph (b) there shall be inserted—

“(c) determines whether a temporary award should be made,”.

Signed by the authority of the Secretary of State for Defence

30th October 2006

Derek Twigg
Parliamentary Under Secretary of State
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pensions Appeal Tribunals (Armed Forces and Reserve Forces Compensation Scheme) (Rights of Appeal) Regulations 2005 (“the 2005 Regulations”) in the manner described below.

The Pensions Appeal Tribunals Act 1943 (“the 1943 Act”) permits a claimant to appeal to a Pensions Appeal Tribunal against certain types of decisions made by the Secretary of State relating to war pensions, or to payments made under the compensation scheme established by the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 (“the 2005 Order”). Included within the category of decisions which may be appealed to a Pensions Appeal Tribunal are decisions specified by regulations made under section 5A of the 1943 Act (referred to as “specified decisions”). The 2005 Regulations were made under section 5A of the 1943 Act and define which decisions made under the 2005 Order are “specified decisions” and which are not.

The 2005 Order contains, at Schedule 4, a tariff listing the injuries in respect of which compensation may be awarded. Article 20 of the 2005 Order provides that, where an individual appears to be suffering from an injury which is not listed on the tariff and where certain other conditions are met, the Secretary of State shall make a temporary award in the individual’s favour. If the Secretary of State amends the tariff to include reference to the injury within a certain period then a permanent award will be made. If he does not so amend the tariff then no permanent award will be made.

These Regulations amend the 2005 Regulations so that they provide that a decision by the Secretary of State which determines whether a permanent award of compensation is made is a “specified decision”, which decision consequently attracts a right of appeal. These Regulations also amend the 2005 Regulations so that they provide that a decision by the Secretary of State which determines whether a temporary award should be made is not a “specified decision”, which decision does not therefore attract a right of appeal.

A regulatory impact assessment has not been produced for this instrument as it has no significant impact on the costs of business, charities or voluntary bodies.

2006 No. 2892

PENSIONS

**The Pensions Appeal Tribunals (Armed Forces and Reserve
Forces Compensation Scheme) (Rights of Appeal) Amendment
Regulations 2006**

£3.00

© Crown copyright 2006

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1342 11/2006 161342T 19585