

Status: Point in time view as at 03/04/2006.

Changes to legislation: There are currently no known outstanding effects for the Pensions Appeal Tribunals Act 1943. (See end of Document for details)

SCHEDULE

Constitution, Jurisdiction and Procedure of Pensions Appeal Tribunal

- [^{F1} (1) There shall be constituted in England and Wales such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (2) There shall be constituted in Scotland such number of Pensions Appeal Tribunals as the Lord President of the Court of Session may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (3) There shall be constituted in Northern Ireland such number of Pensions Appeal Tribunals as the Lord Chancellor may from time to time determine; and they shall sit at such times and in such places as he may from time to time determine.
- (4) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before exercising any functions under sub-paragraph (1).
- (5) The Lord Chancellor must consult the Lord Chief Justice of Northern Ireland before exercising any functions under sub-paragraph (3).]

Textual Amendments

- F1** Sch. para. 1 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)

Modifications etc. (not altering text)

- C1** Sch. para. 1(1): functions transferred (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), arts. 3(1), 4, 5, {Sch. 1 Table 1} (with Sch. 4)

- [^{F2} (1) The members of the Tribunals shall be [^{F3} appointed—
- (a) in relation to England and Wales, by the Lord Chancellor;
- (b) in relation to Scotland, by the Lord President of the Court of Session;
- (c) in relation to Northern Ireland, by the Lord Chancellor]
- (2) There shall be paid to them such remuneration [^{F4} and allowances] as the Treasury may determine.
- [Subject to [^{F6} sub-paragraphs (3A), (3B)] and (4) below, a member of such a Tribunal ^{F5}(2A) shall hold and vacate his office in accordance with the terms of his appointment, but shall be eligible for reappointment.]
- [^{F7}(3A) The Lord Chancellor may, with the concurrence of the Lord Chief Justice of England and Wales, remove any member of a Tribunal appointed under sub-paragraph (1)(a).
- (3B) The Lord President of the Court of Session may remove any member of a Tribunal appointed under sub-paragraph (1)(b).]

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- (4) Subject to^{F8} sub-paragraphs (3A) and (3B)] above and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), a member of such a Tribunal shall vacate his office on the day on which he attains the age of seventy years.]

Textual Amendments

- F2** Sch. para. 2 substituted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 39**; S.I. 1995/631, **art. 2**
- F3** Words in Sch. para. 2(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F4** Words in Sch. para. 2(2) inserted (9.4.2001) by 2000 c. 19, s. **60(1)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**
- F5** Sch. para. 2(2A) inserted (9.4.2001) by 2000 c. 19, s. **60(2)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**
- F6** Words in Sch. para. 2(2A) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F7** Sch. para. 2(3A)(3B) substituted (3.4.2006) for Sch. para. 2(3) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(c)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)
- F8** Words in Sch. para. 2(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, **Sch. 4 para. 28(3)(d)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(d)

Modifications etc. (not altering text)

- C2** Sch. para. 2: transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7)

- [^{F9}2A (1) [^{F10}Any person making appointments under paragraph 2 shall ensure that the appointments] have the effect, in the case of each of the Tribunals, that the persons holding office as members of that Tribunal at all times include—
- (a) persons who are legally qualified;
 - (b) persons who are medically qualified;
 - (c) persons with knowledge or experience of service in Her Majesty's naval, military or air forces; and
 - (d) other persons.
- (2) For the purposes of this Schedule a person is legally qualified if—
- (a) he has a seven year general qualification within the meaning of section 71 of the ^{M1}Courts and Legal Services Act 1990;
 - (b) he is an advocate or solicitor in Scotland of at least seven years' standing; or
 - (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least seven years' standing.
- (3) For the purposes of this Schedule a person is medically qualified if he is a duly qualified medical practitioner of at least seven years' standing.
- (4) [^{F11}It shall be the duty of any person making an appointment under paragraph 2] to have regard to the desirability of having as members of the Tribunals persons with knowledge or experience of matters relating to the disability of persons.]

Textual Amendments

- F9** Sch. paras. 2A, 2B inserted (9.4.2001) by 2000 c. 19, s. **60(3)** (with s. 83(6)); S.I. 2000/2994, **art. 2(6)**

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F10 Words in Sch. para. 2A(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(4)(a); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)

F11 Words in Sch. para. 2A(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(4)(b); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)

Marginal Citations

M1 1990 c. 41.

- [^{F12}2B (1) A President of Pensions Appeal Tribunals and a Deputy President of Pensions Appeal Tribunals may be appointed for each part of the United Kingdom
- (2) The person entitled to appoint a person under this paragraph to be a President or Deputy President of Pensions Appeal Tribunals shall be—
- (a) in the case of an appointment for England and Wales, the Lord Chancellor;
- (b) in the case of an appointment for Scotland, the Lord President of the Court of Session; and
- (c) in the case of an appointment for Northern Ireland, the [^{F13}Lord Chancellor].
- (3) Only legally qualified members of a Pensions Appeal Tribunal shall be eligible for appointment under this paragraph.
- (4) A person shall cease to be President or Deputy President of Pensions Appeal Tribunals if he ceases to be a member of any such Tribunal.
- (5) The Deputy President of Pensions Appeal Tribunals for any part of the United Kingdom shall carry out such of the functions of the President for that part of the United Kingdom as that President assigns to him.
- (6) If at any time the President of Pensions Appeal Tribunals for any part of the United Kingdom is temporarily unable to carry out his functions under this Schedule, those functions shall be carried out by the Deputy President for that part of the United Kingdom.]

Textual Amendments

F12 Ss. 2A, 2B inserted (9.4.2001) by 2000 c. 19, s. 60(3) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

F13 Words in Sch. para. 2B(2)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(5); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)

- [^{F14}3 The members of the Tribunal hearing a particular appeal shall in every case include a legally qualified member; and only a legally qualified member may preside as chairman for the hearing of any appeal.]

Textual Amendments

F14 Sch. paras. 3-3C substituted (for para. 3) (9.4.2001) by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

- [^{F15}3A (1) The President of Pensions Appeal Tribunals for any part of the United Kingdom may give directions as to—

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- (a) the number of members of the Tribunal who should hear an appeal in that part of the United Kingdom;
- (b) the extent to which the members hearing such an appeal must include—
 - (i) medically qualified persons; and
 - (ii) persons who are neither legally qualified nor medically qualified;
- (c) the extent to which in the case of such an appeal the members hearing it must include persons satisfying other requirements specified by the President;
- (d) the manner of determining the members who are to serve as the chairman and members of the Tribunal for the hearing of such an appeal.]

Textual Amendments

F15 Sch. paras. 3-3C substituted (for para. 3) (9.4.2001) by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

[^{F16}3B The President of Pensions Appeal Tribunals for any part of the United Kingdom may give directions as to the practice and procedure to be followed by such Tribunals in that part of the United Kingdom.]

Textual Amendments

F16 Sch. paras. 3-3C substituted (for para. 3) (9.4.2001) by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

[^{F17}3C (1) The power to give directions under paragraphs 3A and 3B shall be exercisable in relation to a particular appeal, to a category of appeal or to appeals generally.

(2) If at any time there is, in the case of any part of the United Kingdom, neither a President of Pensions Appeal Tribunals nor a Deputy President, the power of the President to give directions under paragraphs 3A and 3B above shall be exercisable—

- (a) in the case of England and Wales, by the Lord Chancellor;
- (b) in the case of Scotland, by the Lord President of the Court of Session; and
- (c) in the case of Northern Ireland, by the Lord Chief Justice of Northern Ireland.

(3) The power to give directions under paragraphs 3A and 3B above includes power to vary or revoke directions previously given.]

Textual Amendments

F17 Sch. paras. 3-3C substituted (9.4.2001) for Sch. para. 3 by 2000 c. 19, s. 60(4) (with s. 83(6)); S.I. 2000/2994, art. 2(6)

4 No court fees shall be charged on the hearing of any case before a Tribunal.

5 (1) Subject as aforesaid, [^{F18}rules may be made] with respect to—

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- (a) the manner of hearing of appeals by Pensions Appeal Tribunals and in particular appeals in cases where the appellant owing to illness or other cause is not present at the hearing;
 - (b) the mode of proof and admissibility of evidence;
 - (c) the representation of the appellant and the Minister at the hearing;
 - (d) the recording and proof of the decisions of the Tribunals;
- and such other matters relating to the practice and procedure of the Tribunals as the [F19] person making them] thinks fit.

[F20](1A) Such rules are to be made by the following person—

- (a) if the rules relate to England and Wales, by the Lord Chancellor;
- (b) if the rules relate to Scotland, by the Lord President of the Court of Session;
- (c) if the rules relate to Northern Ireland, by the Lord Chief Justice of Northern Ireland.]

(2) Such rules shall provide for the disclosure of all such documents (whether in the possession of a government department or not) as are necessary for disposing fairly of the appeal, subject to such exceptions and conditions as the rules may prescribe in the public interest, and shall provide for making available to the appellant copies of all documents produced to the Tribunal in connection with the appeal except where the Tribunal considers it undesirable in the interests of the appellant.

(3) Such rules may provide for the taking of medical and other expert advice by the Tribunals but shall require that such advice shall be disclosed to the appellant except where the Tribunal considers it undesirable in the interests of the appellant.

[F21](3A) Such rules may make provision with respect to—

- (a) the correction of accidental errors in any decision or record of a decision of the Tribunal under this Act; and
- (b) the setting aside of any such decision in a case where it appears just to set the decision aside on the ground that—
 - (i) additional evidence is available;
 - (ii) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or a party's representative or was not received at an appropriate time by the Tribunal; or
 - (iii) a party to the proceedings or a party's representative was not present at a hearing related to the proceedings.

Nothing in this sub-paragraph shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from rules made by virtue of this sub-paragraph.

(3B) Such rules may make provision with respect to the rehearing of an appeal where a decision has been set aside under rules made by virtue of sub-paragraph (3A)(b) above.

(3C) Rules under this Schedule may—

- (a) make provision with respect to the striking out or reinstatement of proceedings before the Tribunal;
- (b) provide that where an appeal to the Tribunal under this Act is struck out in pursuance of such rules no further appeal under this Act shall be brought

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in respect of the matters to which the struck-out appeal related except with leave given in pursuance of such rules.]

- (4) Such rules shall provide for the payment by the Tribunal of:—
 - (a)^{F22}
 - [^{F23}(b) sums, in respect of expenses, allowances and fees connected with appeals to the Tribunal, to such persons and in such circumstances as are specified in the rules and of such amounts as are determined by the Lord Chancellor [^{F24}, or in relation to Scotland by the Lord President of the Court of Session, in either case] with the consent of [^{F25}the Treasury]; ^{F26} . . .
 - (c) ^{F26}
- (5) All such rules shall be laid before Parliament as soon as may be after they are made, and if either House, within the period of forty days beginning with the day on which any such rules are laid before it, resolves that the rules be annulled, they shall thenceforth become void, but without prejudice to the validity of anything previously done thereunder or to the making of new rules.
 - ^{F27}^{F27}]

Textual Amendments

- F18** Words in Sch. para. 5(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(a); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F19** Words in Sch. para. 5 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(b); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F20** Sch. para. 5(1A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(c); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F21** Sch. para. 5(3A)-(3C) inserted (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 5, 8, Sch. 1 para. 10(2); S.I. 2005/356, art. 2(2), Sch. 2
- F22** Para. 5(4)(a) repealed by Administration of Justice Act 1977 (c. 38), Sch. 5 Pt. II
- F23** Sch. para. 5(4)(b) substituted by Social Security Act 1980 (c. 30, SIF 113:1), s. 16(6)
- F24** Words in Sch. para. 5(4)(b) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 15, 148, Sch. 4 para. 28(6)(d); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(d)
- F25** Words substituted by virtue of S.I. 1981/1670, arts. 2(1)(c), 3(5)
- F26** Sch. para. 5(4)(c) and preceding word repealed (6.4.2005) by Armed Forces (Pensions and Compensation) Act 2004 (c. 32), ss. 7, 8, Sch. 3; S.I. 2005/356, art. 2(2), Sch. 2
- F27** Words in Sch. para. 5(5) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), ss. 1(1), 2(1), Sch. 1 Pt. 11

6 Any appeal [^{F28}to the Tribunal] brought by a person who, at the time when the notice of appeal was given, resided in Scotland or in Northern Ireland shall be heard by such one of the Tribunals appointed for Scotland or, as the case may be, for Northern Ireland as may be prescribed by or under rules made for those Tribunals under this Schedule, and [^{F29}, subject to any provision made by virtue of paragraph 6A of this Schedule.] all other appeals shall be heard by such one of the Tribunals appointed for England as may be prescribed by or under rules made for those Tribunals under this Schedule:

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Provided that where an appeal has been determined by a Tribunal, that determination shall not be open to challenge on the ground that the appeal should, by virtue of this paragraph, have been heard by another Tribunal.

Textual Amendments

- F28** Words in [Sch. para. 6](#) inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 10\(3\)](#); S.I. 2005/356, [art. 2\(2\)](#), Sch. 2
- F29** Words inserted by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), [s. 59\(2\)](#)

[^{F30}6A Rules made under this Schedule may make provision for enabling an appeal [^{F31}to the Tribunal] brought by a person who, at the time when the notice of appeal was given, did not reside in any part of the United Kingdom to be heard by one of the Tribunals appointed for Scotland or, as the case may be, for Northern Ireland where, on an application in that behalf by the appellant made in such manner as may be prescribed by the rules to such authority as may be so prescribed, that authority is satisfied—

- (a) that the appellant has a closer connection with Scotland or, as the case may be, with Northern Ireland than with England and Wales; or
- (b) that there is some other good reason for the appeal to be heard in Scotland or, as the case may be, Northern Ireland.]

Textual Amendments

- F30** [Sch. para. 6A](#) inserted by [Administration of Justice Act 1985 \(c. 61, SIF 37\)](#), [s. 59\(3\)](#)
- F31** Words in [Sch. para. 6A](#) inserted (6.4.2005) by [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), ss. 5, 8, [Sch. 1 para. 10\(4\)](#); S.I. 2005/356, [art. 2\(2\)](#), Sch 2

6B Where it appears convenient to do so by reason of a subsequent change of residence by the person who brought the appeal, the Tribunal seised of an appeal may direct that it be transferred to a Tribunal appointed for another part of the United Kingdom.

7^{F32} rules made under this Schedule may provide for the employment of interpreters of the English and Welsh languages for the purpose of any such appeal.

Textual Amendments

- F32** Words repealed by [Welsh Language Act 1967 \(c. 66\)](#), [s. 1\(2\)](#)

^{F33}7A

Textual Amendments

- F33** [Sch. para. 7A](#) repealed by [Social Security Act 1980 \(c. 30, SIF 113:1\)](#), ss. 8, 21, [Sch. 5 Pt. I](#)

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- 7B (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under paragraph 1.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under any of the provisions listed in sub-paragraph (3).
- (3) Those provisions are—
- (a) paragraph 3C(2)(b);
 - (b) paragraph 5(1A)(b).
- (4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under any of the provisions listed in sub-paragraph (5)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (5) Those provisions are—
- (a) paragraph 1;
 - (b) paragraph 3C(2)(c);
 - (c) paragraph 5(1A)(c).
- 8 Any expenses incurred for the purposes of this Schedule, including the remuneration of members of the Tribunals and any expenses which may be incurred by the Tribunals up to an amount sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.

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