STATUTORY INSTRUMENTS

1978 No. 1780

PENSIONS

The Pensions Appeal Tribunals (England and Wales) (Amendment No. 2) Rules 1978

Made - - - -	*5th December* 1978
Laid before Parliament	*15th December* 1978
Coming into Operation	*15th January* 1979

The Lord Chancellor, in exercise of the powers conferred on him by paragraph 5 of the Schedule to the Pensions Appeal Tribunals Act 1943(**a**), as amended by the Administration of Justice Act 1977(**b**), and after consultation with the Council on Tribunals in accordance with Section 10 of the Tribunals and Inquiries Act 1971(**c**), hereby makes the following Rules:—

1. These Rules may be cited as the Pensions Appeal Tribunals (England and Wales) (Amendment No. 2) Rules 1978 and shall come into operation on 15th January 1979.

2. The Pensions Appeal Tribunals (England and Wales) Rules 1971(**d**), as amended(**e**), shall be further amended as follows:—

(1) In rule 9 (which provides for the withdrawal of an appeal) the following paragraph shall be inserted after paragraph (2):

"(3) In an assessment appeal the making of a new increased assessment for the period under appeal (whether covering additional disabilities or not) shall be deemed to be a decision by the Secretary of State in favour of the appellant and, on notice given in accordance with paragraph (2), the appeal shall be struck out, without prejudice to any appeal against that decision."

(2) In rule 23 (which relates to appellants who reside overseas) in paragraph (3) after the word "shall" where it first appears there shall be inserted the words "unless he certifies that it is not practicable to do so,".

(3) In rule 30 (which relates to the expenses of medical and other experts)—

(*a*) For the figure "£34.80" wherever it appears there shall be substituted the figure "£43.50";

(*b*) in paragraph (2) for the figure "£17.40" there shall be substituted the figure "£21.80";

(*c*) in paragraph (3) for the figure "£1.25" there shall be substituted the figure "£1.50".

(**a**) 1943 c. 39. (**b**) 1977 c. 38. (**c**) 1971 c. 62. (**d**) S.I. 1971/769.
(**e**) The relevant amending instruments are S.I. 1972/1466, 1974/1764, 1975/1188, 1782, 1978/607.

(4) In Schedule 2 Part 1 (which relates to subsistence allowances to appellants and witnesses) in paragraph 1(*a*) for the figures "£0.48", "£0.95" and "£2.20" there shall be substituted the figures "£0.53", "£1.05" and "£2.50" respectively, in paragraph 1(*b*)(i) for the figure "£12.40" there shall be substituted the figure "£14.80" and in paragraph 1(*b*)(ii) for the figure "£10.95" there shall be substituted the figure "£13.25".

(5) In Schedule 2 Part II (which relates to expenses of medical evidence) in paragraph 1(*a*) for the figures "£17.40" and "£34.80" there shall be substituted the figures "£21.80" and "£43.50" respectively and in paragraph 2, for the figure "£34.80" there shall be substituted the figure "£43.50".

Elwyn-Jones, C.

Dated 5th December 1978.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules make further amendments to the Pensions Appeal Tribunals (England and Wales) Rules 1971. The alterations are:—

(i) Rule 9 is revised so that an assessment appeal will be struck out automatically where an increased assessment is made. This will simplify administrative procedures whilst not affecting a pensioner's right to appeal against the increased assessment.

(ii) Rule 23 is revised to enable a Tribunal to hear an assessment appeal by an appellant resident abroad without a medical examination in those cases where it proves impracticable to obtain a medical report.

(iii) The fees and expenses which the Tribunal may allow to medical specialists, practitioners and other technical experts and the expenses which may be allowed to appellants in respect of medical witnesses and reports, are increased so that the minimum sum payable is increased from £17.40 to £21.80 and the maximum sum payable is increased from £34.80 to £43.50.

(iv) The day subsistence allowances payable to appellants and witnesses for periods of absence from home are increased from £0.48, £0.95 and £2.20 to £0.53, £1.05 and £2.50 respectively, and the night subsistence allowances are increased from £12.40 to £14.80 for each night spent within five miles of Charing Cross and from £10.95 to £13.25 for each night spent elsewhere.

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