2001 No. 408

PENSIONS

The Pensions Appeal Tribunals (Posthumous Appeals) Amendment Order 2001

Made - - - - -	*14th February 2001*
Laid before Parliament	*26th February 2001*
Coming into force - -	*9th April 2001*

At the Court at Buckingham Palace, the 14th day of February 2001

Present,

The Queen's Most Excellent Majesty in Council

WHEREAS Her Majesty deems it expedient to amend the Pensions Appeal Tribunals (Posthumous Appeals) Order 1980(**a**) by Order in Council under sections 16(1) and (2) of the Social Security Act 1980(**b**):

NOW, THEREFORE, Her Majesty, in exercise of the powers conferred by the said section 16 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Pensions Appeal Tribunals (Posthumous Appeals) Amendment Order 2001 and, subject to article 2, shall come into force on 9th April 2001.

(2) In this Order "the principal Order" means the Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 and, except where the context otherwise requires, a reference to a numbered article is to the article in the principal Order which bears that number.

Amendments to the principal Order

2. The amendments to the principal Order—

(a) in paragraphs 1, 3 and 4 of the Schedule shall have effect from 9th April 2001; and

(b) in paragraph 2 of the Schedule shall have effect for the purposes of decisions made and notified on or after 9th April 2001.

A. K. Galloway
Clerk of the Privy Council

(**a**) 1980/1082.
(**b**) 1980 c. 30.

SCHEDULE

Article 2

Amendment of article 1

1. In paragraph (2) of article 1 (citation, commencement and interpretation)—

(a) for the definition of the Civilians Scheme substitute—

""the Civilians Scheme" means the Personal Injuries (Civilians) Scheme 1983(**a**);";

(b) for the definition of the designated person substitute—

""the designated person" has the meaning assigned to it in article 68 of the Pensions Order or, as the case may be, article 77 of the Civilians Scheme;";

(c) for the definition of the Pensions Order substitute—

""the Pensions Order" means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(**b**);"; and

(d) for the definition of "the Secretary of State" substitute—

""the Secretary of State" means the Secretary of State for Social Security;".

Amendment of article 3

2. In article 3 (posthumous notification of, and appeals to the Pensions Appeal Tribunals against, decisions of the Secretary of State)—

(a) in paragraph (1)—

(i) before "Where" insert "Subject to paragraph (5)";

(ii) for "of a claim" substitute "on a claim";

(iii) for "or 3" substitute " , 3 or 5A";

(iv) in sub-paragraph (b) for "or as the case may be , 3" substitute "3 or, as the case may be, 5A"; and

(v) at the end of sub-paragraph (b) add "within 6 months of the date of notification";

(b) in paragraph (2)—

(i) before "Where" insert "Subject to paragraphs (3) to (5)";

(ii) for "of such a claim" substitute "on such a claim";

(iii) for "or, as the case may be, 3" substitute ",3 or, as the case may be, 5A"; and

(iv) for "67A(5)" substitute "68(5)" and for "76A(5)" substitute "77(5)"; and

(c) after paragraph (2) add—

"(3) An appeal referred to in paragraph (2) shall be made within 6 months from the date of notification to the claimant.

(4) Where the decision by the Secretary of State was notified to the claimant before 9th April 2001, paragraph (3) shall not apply and the designated person may bring an appeal under section 1, 2, or 3 of the Act on or before 8th April 2002.

(5) Where a designated person satisfies the Secretary of State that—

(a) he would have brought an appeal on a date ("the earlier date") earlier than that ("the actual date") on which he actually did so but for the fact that he was incapable of so doing or instructing someone to act on his behalf by reason of—

(i) the death or serious illness of the designated person or a spouse or dependant of that person;

(ii) the disruption of normal postal services;

(iii) failure on the part of the Secretary of State to notify the claimant or the designated person of the decision; or

(iv) exceptional circumstances applying to the designated person which rendered it impracticable for him to bring the appeal or to instruct another person to bring it; and

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(**a**) S.I. 1983/686.
(**b**) S.I. 1983/883.

(b) the appeal was in any event made or brought as soon as was reasonably practicable in the circumstances of the case,

the reference in paragraph (3) to 6 months from the date of notification shall be treated as a reference to not later than 12 months after the expiry of the time limit provided for in that paragraph.".

Amendment of article 5

3. In article 5 (continuation of appeals after death of claimant under this Order) after "5" insert " , 5A".

Omission of articles 8 and 9(2)

4. Omit article 8 (application of provisions of Pensions Order and Civilians Scheme in relation to commencement of awards) and paragraph (2) of article 9 (application of Order and time for appealing).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the Pensions Appeal Tribunals (Posthumous Appeals) Order 1980 ("the principal Order").

Paragraph 1 of the Schedule to this Order amends article 1 of the principal Order to update certain definitions. Paragraph 2 of the Schedule to this Order amends article 3 of the principal Order as regards time limits for appeals. These changes reflect amendments to section 8 of the Pensions Appeal Tribunals Act 1943 (c. 39) made by section 58 of the Child Support, Pensions and Social Security Act 2000 (c. 19).

This Order does not impose any costs on business.

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