1978 No. 977 (S.91)

PENSIONS

The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1978

Made - - - -	12*th July* 1978
Laid before Parliament	24*th July* 1978
Coming into Operation	14*th August* 1978

The Lord President of the Court of Session, in exercise of the powers conferred on him by paragraph 5 of the Schedule to the Pensions Appeal Tribunals Act 1943**(a)**, and after consultation with the Council on Tribunals, hereby makes the following Rules:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1978 and shall come into operation on 14th August 1978.

(2) The Interpretation Act 1889**(b)** applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules, the expression "the Rules" means the Pensions Appeal Tribunals (Scotland) Rules 1971**(c)**, as amended**(d)**, and "Rule" shall be construed accordingly.

Consequential amendments

2.—(1) In Rule 2 (interpretation), in paragraph 1(*a*), at the end, add the words—"and by section 2(3) of the Administration of Justice Act 1977";

(2) In Rule 26 (payment of allowances)—

(*a*) for paragraph (1) substitute the following paragraph—

"(1) In addition to any expenses and allowances payable by the tribunal in accordance with a determination made under paragraph 7A of the Schedule to the Act, there may be allowed—

(*a*) to the guardian or other representative attending the hearing on behalf of an appellant in accordance with arrangements made by the President under Rule 21;

(*b*) to an appellant who is examined by a medical specialist in accordance with arrangements made by the tribunal under Rule 15(2);

(*c*) to a witness other than a medical witness who attends the hearing, where before the hearing an application is made to the President or Chairman of the tribunal and he certifies that in the exceptional circumstances of the case the attendance of the witness is necessary,

(a) 1943 c. 39. **(b)** 1889 c. 63. **(c)** S.I. 1971/2124.
(d) S.I. 1972/1783, 1973/1714, 1974/1968, 1975/519, 1764, 2198.

the travelling expenses actually and reasonably incurred by him for the purpose of attending the hearing or examination as the case may be, and an allowance in respect of subsistence, not exceeding in amount whichever of the allowances specified in Part 1 of Schedule 2 is appropriate in his case.";

(*b*) for paragraph (3) substitute the following paragraph—

"(3) Where—

(*a*) the appeal is successful, or

(*b*) the appeal is not successful but the Chairman certifies that there were reasonable grounds for the appeal,

there may be allowed to an appellant, or to any person to whom an allowance may be made under paragraph 7A of the Schedule to the Act, or under paragraph (1)(*a*) or (*c*) of this rule, such additional sum as compensation for loss of time as the Chairman thinks reasonable, not exceeding the sum of £10.75 per day, £5.38 per half day, or such other sum as may be determined under paragraph 7A of the Schedule to the Act."

(3) In Rule 29 (expenses of experts), in paragraph (3) at the end add the words—

"provided that the sum payable for providing a copy of a document or set of documents shall not exceed £1.25 in respect of each copy or set of copies.";

(4) In Rule 30 (claims for expenses), after the word "expenses" insert the words "or allowances"; and omit the references to Rules 27 and 28.

(5) In Schedule 2 (level of subsistence allowance), for Part 1 substitute the following words—

"PART 1

1. The maximum subsistence allowance payable to a person under paragraph (1) of Rule 26 shall be—

(*a*) for an absence from home for a period of—

(i) 2½ hours or more but less than 5 hours consecutively, £0.48;

(ii) 5 hours or more but less than 10 hours consecutively, £0.95;

(iii) 10 hours or more consecutively, £2.20;

(*b*) for absence overnight, for each period of twenty-four hours or part thereof, £10.95.

2. The appellant or witness shall be entitled to an allowance at the rates set out in paragraph 1 above in respect of each period of 24 hours or part thereof during which he is absent from home for the purpose of attending the tribunal."

G. C. Emslie,
I.P.D.

Edinburgh.
12th July 1978.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules make further amendments to the Pensions Appeal Tribunals (Scotland) Rules 1971. The principal alterations are

(i) Rule 26 is revised so that in addition to any expenses and allowances payable under the Pensions Appeal Tribunals Act 1943, as amended, allowances for travel, subsistence and loss of time may also be paid to appellants undergoing a medical examination and persons (other than medical witnesses) whose attendance at a hearing is necessary.

(ii) Part 1 of Schedule 2 is revised so as to increase the level of allowances payable under rule 26.

(iii) Rule 29 is modified, so that a maximum fee of £1.25 is payable for a copy document or set of copy documents provided by a medical expert, hospital or other institution.

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