STATUTORY INSTRUMENTS

1971 No. 2124 (S.223)

PENSIONS

The Pensions Appeal Tribunals (Scotland) Rules 1971

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The Lord President of the Court of Session, in exercise of the powers conferred on him by paragraph 5 of the Schedule to, and read along with section 13 of, the Pensions Appeal Tribunals Act 1943(a) and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Pensions Appeal Tribunals (Scotland) Rules 1971 and shall come into operation on 17th January 1972.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires,

(*a*) "the Act" means the Pensions Appeal Tribunals Act 1943(a) as amended by the Pensions Appeal Tribunals Act 1949(c) and by section 23 of the Chronically Sick and Disabled Persons Act 1970(d);

(*b*) "appeal" means an appeal which lies under section 1, 2, 3, 4 or 5 of the Act;

(*c*) "appellant" means the person by whom or on whose behalf the appeal is brought;

(*d*) "assessment appeal" means an appeal brought under section 5 of the Act;

(*e*) "entitlement appeal" means an appeal brought under section 1, 2, 3 or 4 of the Act;

(*f*) "incapax" means a person who by reason of mental disorder within the meaning of the Mental Health (Scotland) Act 1960(e), is incapable of managing his own affairs;

(*g*) "notice of appeal" means notice of an appeal given to the Secretary of State in manner prescribed by these Rules;

(*h*) "Pensions Appeal Office" means the office of the Pensions Appeal Tribunals for Scotland, 20 Walker Street, Edinburgh, EH3 7HS;

(*i*) "the President" means the person appointed by the Lord President of the Court of Session to be President of the Pensions Appeal Tribunals;

(*j*) "the Secretary of State" means the Secretary of State for Social Services;

(*k*) "tribunal" means a Pensions Appeal Tribunal.

(2) The Interpretation Act 1889(f) applies to the interpretation of these

(a) 1943 c. 39.
(b) 1971 c. 62.
(c) 1949 c. 12.
(d) 1970 c. 44.
(e) 1960 c. 61.
(f) 1889 c. 63.

Rules as it applies to the interpretation of an Act of Parliament.

(3) Unless the context otherwise requires, reference in these Rules to a numbered rule or schedule is a reference to the rule or schedule so numbered in these Rules.

(4) In these Rules a form referred to by number means the form so numbered in Schedule 1 or a form as near thereto as the circumstances permit.

Persons by whom appeals may be brought

3.—(1) Subject to the provision of this rule—

(*a*) an entitlement appeal shall be brought by the person in respect of whose claim the Secretary of State has given the decision against which the appeal lies; and

(*b*) an assessment appeal shall be brought by the person in respect of whose claim the Secretary of State has made the interim assessment, final decision, or final assessment against which the appeal lies.

(2) Where the person by whom an appeal may be brought is under the age of 16, or is prevented by mental or physical infirmity from acting on his own behalf, the appeal shall be brought by some other person acting for him.

(3) Where an appeal is brought by a person acting on behalf of another, that person may take all such steps and do all such things for the purposes of the appeal as an appellant is by these Rules required or authorised to take or do.

(4) An appeal on behalf of, or in respect of the estate of a minor or pupil or of an incapax may be brought, and an appeal in respect of the estate of a deceased person may be carried on by virtue of directions given by the President under rule 24(2), notwithstanding that no curator or tutor has been appointed or is acting or, as the case may be, that confirmation has not been issued in respect of the deceased's estate.

Method of appealing

4.—(1) An appeal to a tribunal shall be commenced by a notice of appeal given to the Secretary of State on whichever form of notice of appeal set out in Schedule 1 is appropriate:

Provided that where a person who is desirous of commencing an assessment appeal has signified to the Secretary of State his intention to appeal by a prepaid letter sent to the Secretary of State before the time for commencing the appeal has expired, and the appropriate form of notice of appeal is sent to the Secretary of State within six weeks after the form was sent by the Secretary of State to the appellant for completion, the appeal shall be deemed to have been commenced on the date on which the letter was so sent.

(2) The appropriate form of notice of appeal shall be supplied by the Secretary of State on request.

(3) A notice of appeal in Form 1, 3 or 5 shall be signed by the appellant, and a notice of appeal in Form 2, 4 or 6 shall be signed by the person acting on behalf of the appellant, and in each case shall bear the date on which it was signed, and shall be sent by post addressed to "The Secretary of State for Social Services".

Statement of Case and answer

5.—(1) Subject to the provisions of rules 6, 9 and 22, the Secretary of State shall, on receipt by him of a notice of appeal, prepare a document (to be called

a Statement of Case) containing the following information—

(*a*) the relevant facts relating to the appellant's case as known to the Secretary of State, including the relevant medical history of the appellant; and

(*b*) in the case of an entitlement appeal, the Secretary of State's reasons for making the decision against which the appeal is brought.

(2) When the Statement of Case has been prepared, the Secretary of State shall send two copies to the appellant and shall inform him that he may, if he so desires, submit (on a form to be supplied by the Secretary of State) an answer to the statement indicating—

(*a*) whether, and in what respects, the facts in the Statement of Case are disputed;

(*b*) any further facts which, in his opinion, are relevant to the appeal; and

(*c*) his reasons for thinking that the decision of the Secretary of State, or the interim assessment, final decision or final assessment, as the case may be, made by the Secretary of State, was wrong.

(3) Where the appellant submits an answer disputing any of the facts in the Statement of Case or putting forward further facts, he shall attach to his answer such documentary evidence in support of his case as is in his possession or as he can reasonably obtain.

(4) The appellant shall send his answer, and any documents submitted therewith, to the Secretary of State within 28 days from the date on which the Statement of Case was sent to him.

(5) The Secretary of State may, if he so desires, comment in writing on the appellant's answer and, if he does so, the Secretary of State shall send a copy of his comments to the appellant.

(6) As soon as may be after the receipt of the answer or, if the appellant does not send an answer, on the expiration of the said 28 days, the Secretary of State shall, subject to the provisions of rule 9, send to the Pensions Appeal Office—

(*a*) three copies of the Statement of Case;

(*b*) three copies of the appellant's answer (if any);

(*c*) any documents submitted by the appellant; and

(*d*) three copies of any comments made by the Secretary of State on the Appellant's answer.

Disclosure of official documents and information

6.—(1) Where for the purposes of his appeal an appellant desires to have disclosed any document, or part of any document, which he has reason to believe is in the possession of a government department, he may, at any time not later than six weeks after the Statement of Case was sent to him, apply to the President for the disclosures of the document or part, and, if the President considers that the document or part is likely to be relevant to any issue to be determined on the appeal, he may give a direction to the department concerned requiring its disclosure (if in the possession of the department) in such manner and upon such terms and conditions as the President may think fit:

Provided that directions given under this rule shall not require the disclosure of—

(i) documents in the nature of departmental minutes or reports; or

(ii) the name of any person in the service of Her Majesty who has given a report or medical certificate relating to the appellant or to the person in respect of whose death the appeal is brought.

For the purposes of this paragraph a certificate given by an officer of the government department concerned (being an officer authorised in that behalf by the Secretary of State or Minister in charge of the department) that a document or name is such a document or name as is described in sub-paragraph (i) or sub-paragraph (ii) shall be final and conclusive.

(2) On receipt of a direction given by the President under this rule, the Secretary of State or Minister in charge of the government department concerned, or any person authorised by him in that behalf, may certify to the President—

(*a*) that it would be contrary to the public interest for the whole or part of the document to which the direction relates to be disclosed publicly; or

(*b*) that the whole or part of the document ought not, for reasons of security, to be disclosed in any manner whatsoever:

and where a certificate is given under sub-paragraph (*a*), the President shall give such directions to the tribunal as may be requisite for prohibiting or restricting the disclosure in public of the document, or part thereof, as the case may be, and where a certificate is given under sub-paragraph (*b*) the President shall direct the tribunal to consider whether the appellant's case will be prejudiced if the appeal proceeds without such disclosure, and, where the tribunal are of opinion that the appellant would be prejudiced if the appeal were to proceed without such disclosure, they shall adjourn the hearing of the appeal until such time as the necessity for non-disclosure on the ground of security no longer exists.

(3) At the hearing the appellant may apply to the tribunal for the disclosure of such a document as is mentioned in this rule, and, where it appears to the tribunal that the document is likely to be relevant to any issue to be determined on the appeal and that the appellant has reasonable excuse for having failed to make the application for disclosure to the President under paragraph (1) before the hearing, the tribunal may, unless the document is produced by the Secretary of State's representative, adjourn the case for an application to the President to be made by the appellant.

(4) It shall be a sufficient compliance with a direction given for the disclosure of a document, or part of a document, under this rule, if there is produced a copy of the document or the part thereof, certified as a true copy by an officer of the department concerned authorised in that behalf by the Secretary of State or Minister in charge of the department.

List of cases for hearing

7. A list of cases for hearing shall be prepared in the Pensions Appeal Office, and on receipt in that office of the documents mentioned in rule 5(6) the case shall be entered in that list.

Date of hearing

8.—(1) Not less than 10 clear days before the date fixed for the hearing, a notice of hearing in Form 7 shall be sent from the Pensions Appeal Office to the appellant, and the Secretary of State shall be informed of the date so fixed.

(2) If, at any time before the date fixed for the hearing, the appellant becomes aware of any circumstances which will prevent him from attending the tribunal

on the date so fixed, he shall (unless the appeal is to be heard in his absence under rule 20) immediately notify the Pensions Appeal Office of his inability to appear, stating the reasons:

Provided that, where the appellant is prevented from attending by reason of circumstances arising within 24 hours of the time of the hearing, the appellant shall, in addition to notifying the Pensions Appeal Office, use his best endeavours to inform the clerk to the tribunal at the place where the appeal is to be heard of his inability to appear.

Withdrawal of appeal

9.—(1) An appellant may at any time before the hearing give notice to the Pensions Appeal Office that he desires to withdraw his appeal, and thereupon the appeal shall be struck out.

(2) Where, after a notice of appeal has been given, the Secretary of State decides the issue arising on the appeal in favour of the appellant, the Secretary of State shall give notice of his decision to the Pensions Appeal Office and to the appellant, and the appeal shall be struck out.

Appeal not prosecuted

10. Subject to the provisions of rule 20, if the appellant fails to prosecute the appeal and does not satisfy the President that he had sufficient reason for his failure to do so, the President may direct the case to be placed in the deferred list.

Representation of the appellant and the Secretary of State

11.—(1) An appellant may conduct his case himself or may be represented by any person (whether holding any legal or other qualification or being a member of any war pensions committee, association of ex-servicemen, trade union or other body or not) whom he may appoint to assist him for the purpose.

(2) The Secretary of State may be represented by any person whom he may appoint for the purpose.

(3) It shall be the duty of the tribunal to assist any appellant who appears to them to be unable to make the best of his case.

Evidence

12.—(1) The appellant may give evidence in support of his appeal and the appellant and the Secretary of State may, subject to the provision of the next following paragraph, call a doctor or any other witness, and may produce at the hearing any further documentary evidence not already in the possession of the tribunal.

(2) Where the appellant or the Secretary of State intends to call a doctor as a witness at the hearing, he shall, unless he has already notified the Pensions Appeal Office of his intention to call the witness, send notice of his intention to the Pensions Appeal Office not less than seven days before the date fixed for the hearing and the Pensions Appeal Office shall notify the Secretary of State or, as the case may be, the appellant who shall then be entitled to call a doctor at the hearing without giving notice.

(3) The tribunal may require the appellant to furnish such evidence of his identity as they may think fit, and, where the appeal is brought by a person acting on behalf of the appellant, the tribunal may require him to satisfy them as to his qualifications for so acting.

(4) The tribunal may summon before it expert or other witnesses.

(5) The tribunal shall not refuse evidence tendered to them on the ground only that such evidence would be inadmissible in a court of law.

(6) Subject to rule 22 and to any direction given by the President under rule 6 or by the chairman under rule 15, every document tendered in evidence or considered by the tribunal for the purposes of the appeal shall be made available to the appellant or his representative (if any) and to the Secretary of State or his representative in such manner as the tribunal may direct.

Procedure at hearing

13.—(1) At the hearing the tribunal shall give an opportunity to the appellant or his representative to address the tribunal and call witnesses and, if the appellant is not represented, the examination of the appellant's witnesses may, if the appellant so desires, be conducted by the chairman of the tribunal on behalf of the appellant. The representative of the Secretary of State may put questions to any witness called by or on behalf of the appellant.

(2) The tribunal shall give the representative of the Secretary of State an opportunity to address the tribunal and call witnesses. The appellant or his representative may put questions to any witness called by or on behalf of the Secretary of State.

Adjournment for further information or evidence

14.—(1) Where during the hearing of an appeal it appears to the tribunal that it is necessary to obtain further information on any point, or that the appellant or the Secretary of State should be allowed or required to procure or produce further evidence, the appeal shall be adjourned for such further information to be obtained in such manner as the tribunal may direct or for the appellant or the Secretary of State to procure or produce such further evidence.

(2) Where the tribunal adjourns the hearing for further information to be obtained, the information, if and when obtained, shall, subject to any direction given by the President under rule 6, be communicated to the appellant and the Secretary of State, together with a statement that the appellant and the Secretary of State may comment thereon in writing if they so desire, or may address the tribunal thereon at a further hearing of the case.

(3) Where the hearing is adjourned for the appellant or the Secretary of State to procure or produce further written evidence, the evidence shall, subject to any directions given by the President under rule 6, be communicated to the Pensions Appeal Office, together with a statement indicating whether or not the appellant or the Secretary of State wishes to address the tribunal on the evidence at a further hearing of the case, and a copy of the evidence shall be sent from the Pensions Appeal Office to the Secretary of State, or, as the case may be, to the appellant, together with a statement that the Secretary of State or, as the case may be, the appellant, may comment thereon in writing if he so desires, or may address the tribunal thereon at a further hearing of the case.

(4) Where the appellant or the Secretary of State informs the Pensions Appeal Office of his desire to address the tribunal on the further information, or on further written evidence, a notice of hearing shall be sent to the appellant and to the Secretary of State not less than 10 days before the date fixed for the case to be further heard.

(5) Where neither the appellant nor the Secretary of State wishes to address the tribunal on the further information or further written evidence, the tribunal may give their decision without a further hearing of the case after taking into

consideration any comments in writing made by the appellant or by the Secretary of State on the further information or evidence.

(6) Where the hearing is adjounred for the appellant or the Secretary of State to procure or produce further oral evidence, a notice of hearing shall be sent to the appellant and to the Secretary of State not less than 10 days before the date fixed for the case to be further heard if a date for the further hearing was not fixed at the adjournment or the date then fixed has to be altered.

(7) Where the appellant fails to procure or produce further evidence which he has been required by the tribunal to procure or produce, and the tribunal is satisfied that the failure was due to the wilful default of the appellant, the case shall be placed on the deferred list.

Power of tribunal to take expert advice.

15.—(1) Where in the case of any appeal the tribunal are of opinion that a difficult medical or other technical question arises, the tribunal may, before giving their decision, take the opinion of a medical specialist or other technical expert in such manner as may appear to them to be convenient.

(2) Where the question is a medical question, the tribunal may arrange for the appellant to be examined by a medical specialist for a report on his condition.

(3) The tribunal shall direct the specialist or other technical expert to send his opinion or report to the Pensions Appeal Office, and copies thereof and of the terms of reference to the specialist or technical expert shall be sent from the Pensions Appeal Office to the appellant and to the Secretary of State together with a statement that the appellant or the Secretary of State may comment on the opinion or report in writing, if he so desires, or may address the tribunal thereon at a further hearing of the case:

Provided that where it appears to the chairman that it would not be in the best interests of the appellant for the opinion or report of a medical specialist to be communicated to him, the chairman may direct that, instead of being sent to the appellant, the opinion or report shall be sent to the appellant's medical adviser (if known to the tribunal) and, if the appellant was represented at the hearing, to his representative.

(4) Where the Pensions Appeal Office is notified by, or on behalf of, the appellant or the Secretary of State that a further hearing is desired on the opinion or report, a notice of hearing shall be sent to the appellant and to the Secretary of State not less than 10 days before the date fixed for the case to be further heard.

(5) Where neither the appellant nor the Secretary of State desires to address the tribunal further, the tribunal may give their decision without a further hearing of the case, after taking into consideration any comments in writing made by the appellant or by the Secretary of State on the opinion or report.

Adjourned hearings

16. Where an appeal has been adjourned by a tribunal or has been remitted back to the tribunal by the Court of Session and the President is of the opinion that it is not practicable, or that it is not possible, without undue delay, for the hearing of the appeal or consideration of the remit to be continued by the same tribunal, he may direct that the appeal be re-heard or the remit considered by another tribunal.

Medical examination of appellant

17. In a case where the appellant is present in person at the hearing and is

the person in respect of whose incapacity for work or disablement the appeal is brought, the medical member or members of the tribunal may, with the assent of the appellant, make a medical examination of the appellant.

Decision of the tribunal

18. The decision of the tribunal may, at the discretion of the tribunal, be announced by the chairman immediately after the hearing of the case, or may be communicated in writing to the appellant and the Secretary of State within seven days after the tribunal have reached their decision, and in either case the chairman shall indicate shortly the tribunal's reasons for their decision.

Recording and proof of decisions

19.—(1) The clerk to the tribunal shall enter, in a book to be kept by him for the purpose, a minute of every decision of the tribunal.

(2) The chairman of the tribunal shall sign a document (to be called a "Form of Decision") recording the decision on the appeal and it shall be the duty of the clerk to the tribunal to transmit the Form of Decision to the Pensions Appeal Office.

(3) Copies of the Form of Decision shall be prepared in the Pensions Appeal Office, and shall be certified under the hand of an officer authorised in that behalf by the President, and a copy so certified shall be sent to the appellant and to the Secretary of State.

(4) A copy of a Form of Decision purporting to have been certified as aforesaid shall be conclusive evidence of the decision of the tribunal on the appeal to which that form of decision relates.

Appeal in absence of appellant

20. Subject to any arrangement made by the President under rule 21, an appeal shall not be heard in the absence of the appellant unless he has sent to to the Pensions Appeal Office, or to the tribunal a request that his appeal should be heard in his absence, or the tribunal are satisfied on representation made on behalf of the appellant that he desires that his appeal should be heard in his absence;

Provided that, notwithstanding that such a request or representation has been made, the tribunal may, if they think that the presence of the appellant is necessary for the due determination of the appeal, give directions that the appeal shall not be heard in his absence.

Appellant unable to attend tribunal through infirmity

21. Where the President is satisfied that any appellant is unable, through physical or mental infirmity, to attend the tribunal and that his incapacity is likely to continue for a prolonged period, the President may make such arrangements as may appear to him best suited, in all the circumstances of the case, for disposing fairly of the appeal, and in particular may arrange—

(*a*) for the appellant to be visited at some convenient place by one or more members of the tribunal, or by other person or persons appointed in that behalf by the President, for the purpose of recording the appellant's evidence and any statement which he may wish to make, and for the appellant to be medically examined, so however that in an assessment appeal the visit shall be made by one or both of the medical members of the tribunal or by another duly qualified medical practitioner, as may be appointed by the President;

(*b*) for taking, whether before the tribunal or otherwise, the evidence of medical or other witnesses on behalf of the appellant and the Secretary of State, and in particular the evidence of the near relatives, guardian or other representative of the appellant;

(*c*) for enabling the appellant's representative and the Secretary of State to comment, whether at a hearing of the tribunal or in writing, on the evidence so taken and to make a statement in writing or to address the tribunal;

(*d*) for the determination of the appeal in the absence of the appellant:

Provided that any arrangement made under paragraph (*a*) or (*b*) shall make provision for enabling the representative of the Secretary of State if he so desires, to be present while the evidence of the appellant and other witnesses, is taken and to ask questions of the appellant and other witnesses.

Medical evidence injurious to the appellant

22.—(1) This rule shall apply to any case where the medical history of the appellant or of the person in respect of whose death an appeal is brought comprises material which, in the opinion of the Secretary of State, it would be undesirable in the interests of the appellant to disclose to him.

(2) Where in any case to which this rule applies it comes to the knowledge of the Secretary of State, before the Statement of Case is sent to the appellant under rule 5 that the appellant is to be represented at the hearing of the appeal, the representative shall for the purposes of the provision of that rule relating to the transmission of the statement of the case, the submission of an answer and the transmission of any comments thereon, be treated as the appellant.

(3) If in any case to which this rule applies it appears to the Secretary of State that the appellant does not intend to be represented at the hearing of the appeal, the Secretary of State shall omit from the copies of the Statement of Case sent by him to the appellant under rule 5 those portions which in the opinion of the Secretary of State it would be undesirable in the interest of the appellant to disclose to him, so, however, that the copies of the Statement of Case sent by the Secretary of State to the Pensions Appeal Office under rule 5(6) shall contain the omitted portions and shall be accompanied by a notice stating the fact of the omission and the reasons therefor.

(4) On the receipt of copies of a Statement of Case and a notice under paragraph (3), the President shall use his best endeavours to assist the appellant to obtain a suitable person or organisation to represent him at the hearing of the appeal, and where such a representative is obtained the Secretary of State shall, on being notified to that effect, send to the representative two copies of the omitted portions of the Statement of Case, together with a statement that the omissions were made pursuant to this rule.

(5) In any case to which this rule applies the President shall indicate to the tribunal before the hearing of the appeal which portions of the Statement of Case have not been disclosed to the appellant, and the tribunal shall decide whether, in the interests of the appellant, those portions should or should not be disclosed to him, and accordingly the tribunal may order that all or any of those portions shall be communicated to the appellant forthwith, or may hear the appeal without all or any of those protions being so communicated, so, however, that the tribunal shall take the omitted portions into consideration before deciding the appeal.

Death of appellant before hearing

23.—(1) Where the pensions appeal office is notified that an appellant has died before the appeal is decided—

(*a*) in the case of an entitlement appeal, the case shall be placed in the deferred list;

(*b*) in the case of an assessment appeal, the appeal shall be struck out.

(2) Where the appellant in an entitlement appeal has died before the appeal is decided, the President may, on application made to him under rule 25 by the widow or other dependant of the deceased appellant or by his personal representative, give directions that the appeal shall proceed, so far as may be, as if the widow, dependant or personal representative, as the case may be, had brought the appeal on behalf of the appellant in the first instance and the appellant had not died, and that it shall be heard with any appeal brought by the widow or other dependant in respect of the appellant's death.

Appeal to Court of Session on point of law

24.—(1) Where the appellant or the Secretary of State is dissatisfied with the decision of the tribunal on an entitlement appeal as being erroneous in point of law, he may apply to the tribunal, in manner prescribed by this rule, for leave to appeal to the Court of Session.

(2) An application for leave to appeal may be made—

(*a*) at the hearing of the appeal, immediately after the decision of the tribunal is announced; or

(*b*) by notice in writing sent to the Pensions Appeal Office within six weeks of the communication to the appellant of the decision of the tribunal;

and in making his application the applicant shall state in writing the point of law in respect of which he claims that the decision of the tribunal is erroneous and on which he wishes to appeal.

(3) On receipt of an application in writing for leave to appeal, a copy thereof shall be sent from the Pensions Appeal Office to the Secretary of State or, as the case may be, to the appellant, and a notice shall be sent to the appellant and to the Secretary of State stating that the application will, unless the Secretary of State or the appellant desires to address the tribunal thereon, be determined by the tribunal without a hearing, and, unless within fifteen days of the sending to him of the notice the Secretary of State or the appellant notifies the Pensions Appeal Office that he desires to address the tribunal, the application may be so determined.

(4) Where the appellant or the Secretary of State notifies the Pensions Appeal Office that he desires to address the tribunal a notice of hearing shall be sent to the appellant and to the Secretary of State not less than 10 days before the date fixed for the hearing of the application.

(5) Where the tribunal decide to give leave to appeal to the Court of Session, the chairman shall, within such time and in such manner as may be determined by rules of court, state a case for the opinion of the Court.

(6) At the hearing of an appeal, or of an application for leave to appeal to the Court of Session, the chairman shall, at the request of the appellant or the Secretary of State, take a note—

(*a*) of any question of law raised at the hearing;

(*b*) of the facts in evidence in relation thereto; and

(*c*) of the decision of the tribunal thereon;

and, where such a note has been taken, the chairman shall (whether an application for leave to appeal is made or not) on the application of the appellant or the Secretary of State, furnish him with a copy of the note, and shall sign the copy.

Deferred list cases

25.—(1) Where a case is placed in the deferred list, notice of the fact shall be sent from the Pensions Appeal Office to the Secretary of State and to the appellant or, where an entitlement appeal has been placed in the deferred list because the appellant has died before the appeal was decided, to his widow or other dependant or personal representative.

(2) An appellant whose case has been placed in the deferred list or, where an entitlement appeal has been placed in the deferred list because the appellant has died before the appeal was decided, the widow or other dependant or personal representative of the appellant, may at any time within 12 months after notice of the fact has been given apply to the President for an order that the case be restored to the list of cases for hearing.

(3) An order under the last foregoing paragraph of this rule may be made unconditionally or subject to such terms and conditions as the President thinks just:

Provided that, where the case has been placed in the deferred list pursuant to a direction given by the President under rule 10, the case shall, on the application of the appellant, be restored unconditionally to the list of cases for hearing unless the President is satisfied that the appellant's failure to prosecute the appeal was due to his wilful default.

(4) Where no application to restore the case to the list of cases for hearing has been made within the time prescribed by paragraph (2), or where any such application has been made and has been refused by the President, the appeal shall be struck out.

Expenses of appellant

26.—(1) There may be allowed—

(*a*) to an appellant who attends the hearing;

(*b*) to a relative, guardian or other representative attending the hearing on behalf of an appellant by virtue of arrangements made by the President under rule 21;

(*c*) to a person who accompanies an appellant at the hearing where the President or the chairman of the tribunal certified that it is necessary for the appellant, by reason of his health, to be accompanied by an attendant;

(*d*) to an appellant who is examined by a medical specialist pursuant to arrangements made by the tribunal under rule 15(2); and

(*e*) 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;

the travelling expenses actually and reasonably incurred by him for the purpose of attending the tribunal or of undergoing the medical examination, as the case may be, and an allowance in respect of subsistence, not exceeding in amount

whichever of the allowances specified in Part I of Schedule 2 is appropriate to his case.

(2) Where it is necessary for the appellant or other person to travel by railway train to and from the tribunal, or, as the case may be, the place where the medical examination is held, a railway warrant shall be sent to him from the Pensions Appeal Office.

(3) Where the appeal is successful, and where the appeal was not successful but the chairman certifies that there were reasonable grounds for the appeal, there may be allowed to the appellant or to any such person as is referred to in paragraph (1)(*b*), (*c*) or (*e*) in addition to the allowances mentioned in that paragraph, such sum as compensation for loss of time as the chairman thinks reasonable, not exceeding the sum of £2.37½ per half day or £4.75 per day.

(4) Where an appellant brings a medical witness to the hearing or, for the purposes of the appeal, has obtained from a medical adviser, or from a hospital, nursing home or other institution in which he has received treatment, a report, certificate or other document and the chairman of the tribunal or the President certifies that the attendance of the medical witness, or the production of the report, certificate or other document, was reasonably necessary for the purposes of the appeal, the appellant may be allowed such sum in respect of the expenses incurred by him in securing such attendance or in obtaining such report, certificate or document as the President thinks reasonable, not exceeding the sum specified in Part II of Schedule 2.

Expenses of appeals to the Court of Session.

27.—(1) Where leave to appeal to the Court of Session on a point of law is given, whether to the appellant or to the Secretary of State, the appellant shall be entitled to be paid the expenses of prosecuting or defending the appeal in the Court of Session and in addition—

(*a*) if the leave is given by the tribunal, the expenses (if any) certified by the President to have been reasonably incurred by the appellant for the purpose of making or opposing an application for the leave of the tribunal;

(*b*) if the leave is given by the Court of Session, the expense of making or opposing an application for the leave of the Court and, where an application has been made to the tribunal and has been refused, the expenses (if any) certified by the President to have been reasonably incurred by the appellant for the purpose of making or opposing the application to the tribunal.

(2) Where leave to appeal to the Court of Session on a point of law is applied for by the Secretary of State and refused, the appellant shall be entitled to be paid—

(*a*) where the leave is refused by the tribunal, the expenses (if any) certified by the President to have been reasonably incurred by the appellant for the purpose of opposing the application; or

(*b*) where the leave is refused by the Court of Session, the expenses of opposing the application to the Court and, where an application for leave has been made to the tribunal and has been refused, the expenses (if any) certified by the President to have been reasonably incurred by the appellant for the purpose of opposing the application to the tribunal.

(3) Where an application for leave to appeal to the Court of Session has been delivered to the Pensions Appeal Office, and the Secretary of State, before such application is heard by a tribunal, decides the issue arising on the application in

favour of the appellant, the Secretary of State shall give notice of his decision to the Pensions Appeal Office and to the appellant and the application shall be struck out and the appellant may be allowed the expenses certified by the President to have been reasonably incurred in making the application up to the date of notification of his decision by the Secretary of State.

(4) An application for expenses payable to an appellant under this rule shall be made in writing to the Pensions Appeal Office within one month after the termination of the proceedings in the Court of Session, or, as the case may be, the refusal of leave to appeal, and for the purpose of ascertaining the sum due to the appellant he shall furnish to the Pensions Appeal Office such certificates or other documents as he may be directed to furnish.

(5) For the purposes of exercising his jurisdiction as to expenses under paragraphs (1), (2) or (3), the President may apply or adapt the regulations and tables of fees and charges applicable to similar proceedings in the Court of Session.

Expenses of applications under section 6(2A) *of the Act*

28.—(1) When an application has been made under section 6(2A) of the Act (which provides for a joint application by an appellant and the Secretary of State to set aside a decision of a tribunal and rehear the appeal) the appellant shall be entitled to be paid the expenses (if any) certified by the President to have been reasonably incurred by the appellant in connection with such application.

(2) An application for expenses payable to an appellant under this rule shall be made in writing to the Pensions Appeal Office, and for the purpose of ascertaining the sum due to the appellant and he shall furnish to the Pensions Appeal Office such certificates or other documents as he may be directed to furnish.

(3) For the purposes of exercising his jurisdiction as to expenses under paragraph (1), the President may apply or adapt the regulations and tables of fees and charges applicable to similar proceedings in the Court of Session.

Other expenses of the tribunal

29.—(1) Where under rule 15 the tribunal take the opinion of a medical specialist or other technical expert, or send the appellant to be examined by a medical specialist, the tribunal may direct the payment to the specialist or expert of a fee of £5.25 or such greater fee not exceeding £17.25 as the President may in special cases direct.

(2) Where the tribunal summon an expert or other witness or obtain from a medical practitioner, hospital or other institution documentary information relating to an appeal, the tribunal may direct the payment to such witness of a fee of £5.25 or such greater fee not exceeding £15.75 as the President may direct or to the medical practitioner, hospital or institution such sums, not exceeding £0.75 in respect of each document or set of documents, as the tribunal may think reasonable.

Claims for expenses

30. An application for any expenses payable to an appellant or other person under rules 26, 27, 28 or 29 shall be made in writing to the clerk to the tribunal or the Pensions Appeal Office.

Applications to the President for directions

31.—(1) The appellant or the Secretary of State may at any time apply to the president for directions on any matter arising in connection with the appeal, or with an application to the tribunal for leave to appeal to the Court of Session.

(2) An application for directions shall state the matter on which the directions are required.

(3) The President shall communicate the nature of the application to the Secretary of State or, as the case may be, to the appellant, together with a statement that the Secretary of State or the appellant may comment thereon in writing if he so desires, and before giving his directions the President shall consider any comments furnished to him.

(4) Any directions given by the President under this rule shall be communicated to the appellant and the Secretary of State.

(5) If an appellant fails to comply with a direction given to him by the President under this rule, the President may direct the case to be placed in the deferred list.

Extension of time

32. The time appointed by these rules for doing any act or taking any step in connection with an appeal may be extended by the tribunal or by the President upon such terms (if any) as the justice of the case may require, and such extension may be ordered although the application therefore is not made until after the expiration of the time appointed.

Notices, etc.

33.—(1) Any notice, document or other communication required or authorised by these rules to be given or sent to the Pensions Appeal Office shall be delivered to, or sent by post addressed to, the Pensions Appeal Office at 20 Walker Street, Edinburgh, EH3 7HS.

(2) Any notice, request, direction, document or other communication required or authorised by these rules to be given or sent to an appellant may be given or sent by sending it by post to the address given by the appellant in his notice of appeal or, where notice of appeal is given on behalf of an appellant, to the address of the person acting on his behalf, or to such other address as may be subsequently notified in writing to the Pensions Appeal Office by the appellant or by the person acting on his behalf.

(3) Any application to be made to the President under these rules may be made by post addressed to the President at the Pensions Appeal Office.

(4) Where under these rules any notice, certificate, request, direction, application or communication is to be given or made, it shall be given or made in writing.

Sittings of the tribunal

34.—(1) Subject to the provisions of this rule, the sittings of the tribunal shall be held in public.

(2) A sitting of the tribunal shall be held in private to such extent as may be necessary to enable the tribunal to comply with a direction given by the President under rule 6.

(3) Where a request is made to a tribunal by or on behalf of the appellant that the appeal, or some part of it, should be heard in private, the tribunal may, if they think that the presentation of the appellant's case will be prejudiced by a public sitting, sit in private to such extent as they think just.

(4) Nothing in this rule shall prevent a member of the Council on Tribunals or a member of the Scottish Committee of the Council on Tribunals from attending the hearing in his capacity as such.

Evidence on oath

35. The tribunal may, if they think fit, take the evidence of the appellant or any other witness on oath and for that purpose the chairman may administer an oath.

Irregularities

36. Non-compliance with any of these Rules shall not render the proceedings on the appeal void unless the tribunal or the President shall so direct, but the tribunal or the President may give such directions for the purpose of mitigating the consequences of the irregularity as the justice of the case may require.

Acting President

37. The functions of the President under these Rules may, if he is for any reason unable to act or during a vacancy in his office, be discharged by a person nominated for that purpose by the Lord President of the Court of Session.

Revocations

38. The rules specified in Schedule 3 to these Rules are hereby revoked.

Dated 17th December 1971.

J. L. Clyde.

SCHEDULE 1

Form 1 Rule 4(3)

NOTICE OF ENTITLEMENT APPEAL

PENSIONS APPEAL TRIBUNALS ACTS 1943 AND 1949

Department Ref:

I, (1).....

(1) Full name(s) of appellant

of (2).....

(2) Address of appellant

hereby give notice that I appeal under the Pensions Appeal Tribunal Acts 1943 and 1949 against the decision of the Secretary of State for Social Services notified to me by letter dated.....

Dated.....Signed....., Appellant

Note:—This form when completed must be sent to the Department of Health and Social Security.

Rule 4(3) Form 2

NOTICE OF ENTITLEMENT APPEAL ON BEHALF OF APPELLANT
PENSIONS APPEAL TRIBUNALS ACTS 1943 AND 1949

Department Ref:

I, (1).....
(1) Full name(s) of person acting on behalf of appellant

of (2).....
(2) Address of person acting on behalf of appellant

acting on behalf of (3).....
(3) Full name(s) of appellant

of (4).....
(4) Address of appellant

as (5).....
(5) State your qualification for acting on behalf of appellant

hereby give notice of appeal under the Pensions Appeal Tribunals Acts 1943 and 1949 against the decision of the Secretary of State notified to (specify person to whom decision was notified) by letter dated.....

Dated..... Signed.....

Note:—
(1) This form is only to be used where the appellant is under the age of 16 years or is prevented by physical or mental infirmity from acting on his own behalf.
(2) This form when completed must be sent to the Department of Health and Social Security.

Rule 4(3) Form 3

NOTICE OF APPEAL AGAINST INTERIM ASSESSMENT
PENSIONS APPEAL TRIBUNALS ACTS 1943 AND 1949

Department Ref:

I, (1).....
(1) Full name(s) of appellant

of (2).....
(2) Address of appellant

hereby give notice that I appeal under the Pensions Appeal Tribunals Acts 1943 and 1949 against the Assessment made by the Secretary of State for Social Services and notified to me by letter dated.....

Dated..... Signed.....Appellant

Note:—This form when completed must be sent to the Department of Health and Social Security.

Form 4 Rule 4(3)

NOTICE OF APPEAL AGAINST INTERIM ASSESSMENT ON BEHALF OF APPELLANT
PENSIONS APPEAL TRIBUNALS ACTS 1943 AND 1949

Department Ref:

I, (1).....
(1) Full name(s) of person acting on behalf of appellant

of (2).....
(2) Address of person acting on behalf of appellant

acting on behalf of (3).....
(3) Full name(s) of appellant

of (4).....
(4) Address of appellant

as (5).....
(5) State your qualification for acting on behalf of appellant

hereby give notice of appeal under the Pensions Appeal Tribunals Acts 1943 and 1949 against the Assessment(s) made by the Secretary of State for Social Services and notified to (6).....
(6) Specify person to whom the assessment was notified

by letter dated.....

Dated..... Signed.....

Note:—

(1) This form is only to be used where the appellant is under the age of 16 years or is prevented by physical or mental infirmity from acting on his own behalf.

(2) This form when completed must be sent to the Department of Health and Social Security.

Form 5

Rule 4(3)

NOTICE OF APPEAL AGAINST FINAL DECISION OR FINAL ASSESSMENT
PENSIONS APPEAL TRIBUNALS ACTS 1943 AND 1949

Department Ref:

I, (1).....
(1) Full name(s) of appellant

of (2).....
(2) Address of appellant

hereby give notice that I appeal under the Pensions Appeal Tribunals Acts 1943 and 1949 against—

(*a*) the decision of the Secretary of State that the circumstances of my case permit a final settlement of the question to what extent, if any, I am disabled;

(*b*) *the final assessment made by the Secretary of State of the degree or nature of my disablement,
*the final decision made by the Secretary of State that on account of
.....
.....

†Delete whichever of these is not applicable

(1) there is no disablement;
or (2) the disablement has come to an end;
or (3) the disablement is not serious and prolonged;
or (4) the disablement is no longer serious and prolonged.
and notified to me by letter dated.....
Dated..... Signed.....Appellant

Note:—This form, when completed, must be sent to the Department of Health and Social Security.

Form 6

Rule 4(3)

NOTICE OF APPEAL AGAINST FINAL DECISION OR FINAL ASSESSMENT ON BEHALF OF APPELLANT

PENSIONS APPEAL TRIBUNALS ACTS 1943 AND 1949

Department Ref:

I, (1).....

(1) Full name(s) of person acting on behalf of appellant

of (2).....

(2) Address of person acting on behalf of appellant

acting on behalf of (3).....

(3) Full name(s) of appellant

of (4).....

(4) Address of appellant

as (5).....

(5) State your qualification for acting on behalf of appellant

hereby give notice of appeal under the Pensions Appeal Tribunals Acts 1943 and 1949 against—

(*a*) the decision of the Secretary of State that the circumstances of the appellant's case permit a final settlement of the question to what extent, if any, he is disabled;

†Delete whichever of these is not applicable

(*b*) *the final assessment made by the Secretary of State of the degree or nature of his disablement.

*The final decision made by the Secretary of State that on account

.....

.....

(1) there is no disablement;

or (2) the disablement has come to an end;

or (3) the disablement is not serious and prolonged;

or (4) the disablement is no longer serious and prolonged.

and notified to (6).....

by letter dated.....

Dated..... Signed.....

(6) specify person etc. to whom final decision or final assessment was notified.

Note:—

(1) This form is only to be used where the appellant is under the age of 16 years or is prevented by physical or mental infirmity from acting on his own behalf.

(2) This form when completed must be sent to the Department of Health and Social Security.

Form 7

Rule 8

NOTICE OF HEARING

(This Notice to be produced at the hearing)

PENSIONS APPEAL TRIBUNALS FOR SCOTLAND

Case No.

Pensions Appeal Office
20 Walker Street
EDINBURGH EH3 7HS

To.....
.....
.....

.....19.....

NOTICE OF HEARING

Sir/Madam

1. Your appeal will be considered by the Tribunal appointed by the Lord President of the Court of Session at.....
on.....the .....of.....
at.....o'oclock.

2. A return warrant (No.....) for your railway journey is enclosed.

If it is more convenient to travel by bus, please do so and hand the Railway Warrant to the Clerk of the Tribunal from whom you should claim the actual and necessary expense you have incurred.

3. If for any reason you are unable to attend or are not ready to proceed with your appeal on the date stated, you must immediately inform me in writing, stating the reasons for your inability to appear.

Should you wish your appeal to be disposed of in your absence you must so notify me not later than seven days before the date fixed for the hearing.

In the above circumstances the Rail Warrant issued for your attendance at the hearing must be returned to me without delay.

4. If you intend to call a doctor as a witness you must so notify me not later than seven days before the date fixed for the hearing.

5. You should bring with you the Statement of Case, and, if you are represented by any organisation, **it is suggested that you attend 30 minutes before the appointed time,** in order to discuss the appeal with the representative.

6. If you change your address please inform me immediately.

Yours faithfully

Secretary.

SCHEDULE 2

Rule 26.

SUBSISTENCE ALLOWANCES AND EXPENSES

PART I

SUBSISTENCE ALLOWANCES TO APPELLANTS, ETC

1. The maximum allowance payable under paragraph (1) of Rule 27 to an appellant or other person absent from home for the purpose of attending the tribunal or undergoing a medical examination shall be—

(*a*) for a period of two and a half hours or more but not less than five hours consecutively, £0.15, or for a period of five hours or more but less than ten hours consecutively, £0.27½, or for a period of ten hours or more consecutively, £0.57½;

(*b*) for a night, £1.80 in addition to any sum payable under paragraph (*a*).

2. When the appellant or other person is absent from home for more than twenty-four hours he shall be entitled to a further allowance calculated in accordance with the foregoing provisions for periods of absence during each successive period of twenty-four hours.

PART II

EXPENSES OF MEDICAL EVIDENCE

1. The expenses allowed to the appellant for securing the attendance of a medical witness before the tribunal shall not exceed the aggregate sum of

(*a*) £7.35 or with the leave of the President in special cases £17.25; and

(*b*) the amount of the expenses actually and reasonably incurred by the witness in travelling to and from the tribunal.

2. The expenses allowed to the appellant for obtaining a report, certificate or other document shall not exceed £15.75 in respect of each document or set of documents.

SCHEDULE 3

RULES REVOKED

Title	*Reference*
The Pensions Appeal Tribunals (Scotland) Rules 1946	S.R. & O. 1946/1709 (Rev. XVII, p. 752).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1949	S.I. 1949/2239 (1949 I, p. 3010).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1957	S.I. 1957/1972 (1957 II, p. 1834).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1959	S.I. 1959/2067 (1959 II, p. 2069).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1962	S.I. 1962/2522 (1962 III, p. 3400).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1965	S.I. 1965/2017 (1965 III, p. 5946).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1967	S.I. 1967/27 (1967 I, p. 78).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1969	S.I. 1969/1585 (1969 III, p. 5058).
The Pensions Appeal Tribunals (Scotland) (Amendment) Rules 1970	S.I. 1970/448 (1970 I, p. 1521).

EXPLANATORY NOTE

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

These Rules supersede the Pensions Appeal Tribunals (Scotland) Rules 1946, as amended.

They consolidate the existing rules with amendments of a minor nature, and the addition of Rule 28 which deals with the expenses of a joint application by the appellant and Secretary of State for a rehearing.