

**EXPLANATORY MEMORANDUM TO THE
PENSIONS APPEAL COMMISSIONERS (PROCEDURE) (NORTHERN
IRELAND) REGULATIONS 2005**

2005 No.965

1. This explanatory memorandum has been prepared by Department for Constitutional Affairs (Northern Ireland Court Service) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. The instrument has been prepared to take account of amendments to the Pensions Appeal Tribunals Act 1943, effected by the Armed Forces (Pensions and Compensation) Act 2004, in relation to the route of onward appeal from the Pensions Appeal Tribunal ('the PAT').

2.2. Appeals on a point of law from the PAT currently go to the High Court in England and Wales and in Northern Ireland to the Court of Appeal of Northern Ireland. From 6 April 2005, these appeals will go to the Social Security Commissioners. The 1943 Act provides that where the tribunal which made the decision appealed against was appointed for Northern Ireland, the appeal shall lie to a Northern Ireland Social Security Commissioner and then to the Court of Appeal for Northern Ireland.

2.3. The Regulations provide for the Northern Ireland Social Security Commissioners to deal with applications for leave to appeal and appeals from the PAT in broadly the same way as they deal with current applications and appeals from other appeal tribunals.

2.4. Commissioners hearing appeals from decisions of the PAT will be known as 'Pensions Appeal Commissioners' to recognise the special status of armed service appellants and distinguish the appeals from general matters of social security.

2.5. This instrument is subject to negative Parliamentary procedure as specified in section 11A(6) of the Pensions Appeal Tribunals Act 1943.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Background

4.1. The Armed Forces (Pension and Compensation) Act received Royal Assent in November 2004. The Act introduces a new pensions and compensation scheme for the armed forces and replaces the High Court with the Social

Security Commissioners as the onward point of appeal from decisions of the PAT.

- 4.2. The Social Security (Procedure) (Amendment) Regulations 2005, which were laid on 16th March 2005, will amend the Social Security (Procedure) Regulations 1999 (SI 1999/1495) to provide for the procedure to be followed on appeals from a Pensions Appeal Tribunal appointed for Great Britain, to the Great Britain Social Security Commissioners. Amendments to the Pensions Appeal Tribunal Rules 1980 and Pensions Appeal Tribunal (Posthumous Appeals) Order 1980 are also required to implement the new path of appeal. An amendment to the latter order has been laid with the Privy Council. Amendments to the PAT procedural Rules, subject to negative Parliamentary procedure, were laid before Parliament on 16th March 2005.
- 4.3. Amendments to the Pensions Appeal Tribunals (Northern Ireland) Rules 1981 are also required in order to implement the new path of appeal in Northern Ireland, contained in the Pensions Appeal Tribunals (Northern Ireland) (Amendment) Rules and which are subject to the negative resolution procedure, were laid before Parliament on 15th March 2005.

5. Extent

- 5.1. This instrument applies to Northern Ireland.

6. European Convention on Human Rights

- 6.1. It is considered that the regulations are compatible with the requirements of the ECHR.

7. Policy Background

- 7.1. The Government is undertaking a wide-ranging reform of the Tribunal system in England and Wales. The recent White Paper '*Transforming Public Services: Complaints, Redress and Tribunals*' sets out an agenda for change in England and Wales and in particular, recommended that appeals from first instance tribunals (such as the PAT) should go to an appellate tribunal (such as the Social Security Commissioners) before recourse to the courts. This promotes fast and efficient justice in the user-friendly environment of a tribunal.
- 7.2. While consideration is ongoing in relation to reform of the tribunal system in Northern Ireland, given that the PAT exercises a UK-wide jurisdiction, it was considered appropriate that the amendments to the 1943 Act should extend to Northern Ireland in order to avoid disparity in procedure among the UK jurisdictions.

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. The Cabinet Office did not consider a Regulatory Impact Assessment necessary for introduction of the Armed Forces (Pensions and Compensation) Bill.

9. Contact

9.1. Geraldine Fee at the Northern Ireland Court Service (telephone: 028 9041 2250); e-mail: geraldinefee@courtsni.gov.uk) can answer any queries about this instrument.