Draft Regulations laid before Parliament under section 11A(5) of the Pensions Appeal Tribunal Act 1943 and section 80(1) of the Social Security Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No

SOCIAL SECURITY PENSIONS

The Social Security Commissioners (Procedure) (Amendment) Regulations 2005

Made - - - -	*2005*
Coming into force - -	*6th April 2005*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 6A(6)(c) and (7), 6C(2)(a) and (4), 6D(1), (2) and (6), and 11A(1) of the Pensions Appeal Tribunals Act 1943(**1**), sections 14 to 16, 28, 79(2) and 84 of, and Schedules 4 and 5 to, the Social Security Act 1998(**2**), paragraphs 8 to 10, 19, 20(1) and (3) and 23(1) and (2) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(**3**), and in exercise of powers conferred by section 4(2) of the Forfeiture Act 1982(**4**) and now vested in him(**5**), after consultation with the Scottish Ministers in accordance with section 11A(2) of the Pensions Appeal Tribunals Act 1943, section 79(2) of, and paragraph 8 of Schedule 4 to, the Social Security Act 1998(**6**) and paragraph 20(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000, and after consultation with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(**7**), makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:

(**1**) 1943 c.39; amended by the Armed Forces (Pension and Compensation) Act 2004 (c.32).
(**2**) 1998 c.14. Section 84 is an interpretation provision and is cited because of the meaning assigned to the word "prescribe".
(**3**) 2000 c.19. Paragraph 23(1) is an interpretation provision and is cited because of the meaning assigned to the word "prescribed".
(**4**) 1982 c.34.
(**5**) The functions of the Secretary of State under section 4(2) were transferred to the Lord Chancellor by the Transfer of Functions (Social Security Commissioners) Order 1984 (S.I.1984/1818), Article 2(c) and Schedule.
(**6**) The functions of the Lord Advocate under section 79(2) and paragraph 8 of Schedule 4 were transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I.1999/678), Article 2(1) and the Schedule. Those functions were then treated as being exercisable in or as regards Scotland, for the purposes of section 63 of the Scotland Act 1998 (c. 46), by the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I.1999/1748), Article 3 and paragraph 19 of Schedule 1, and transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I.1999/1750), Article 2 and Schedule 1.
(**7**) 1992 c.53.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Commissioners (Procedure) (Amendment) Regulations 2005 and shall come into force on 6th April 2005.

(2) In these Regulations a reference to a regulation by number alone means the regulation so numbered in the Social Security Commissioners (Procedure) Regulations 1999(**8**).

Amendment to the Social Security Commissioners (Procedure) Regulations 1999

2. In regulation 4(1)—

(a) before the definition of "the 1998 Act", insert—

""the 1943 Act" means the Pensions Appeal Tribunals Act 1943(**9**);";

(b) for the definition of "appeal tribunal" substitute—

""appeal tribunal" means—

(i) an appeal tribunal constituted under Chapter 1 of Part 1 of the 1998 Act; or

(ii) a Pensions Appeal Tribunal;";

(c) in the definition of "authorised officer", after "the 1998 Act" insert "or section 6D(2) of the 1943 Act";

(d) in paragraph (ii) of the definition of "the chairman", after "the 1998 Act" insert ", section 6A of the 1943 Act";

(e) for the definition of "Commissioner" substitute—

""Commissioner" means the Chief Social Security Commissioner or any other Social Security Commissioner appointed under the 1998 Act, and includes a tribunal of:

(i) three or more Commissioners constituted under section 16(7) of the 1998 Act or paragraph 10(5) of Schedule 7 to the 2000 Act; and

(ii) two or more Commissioners constituted under section 6D(5) of the 1943 Act or section 16(7) of the 1998 Act;";

(f) in the definition of "respondent", at the end of paragraph (iii) insert—

",

(iv) in the case of an application or appeal under the 1943 Act, the person with a right to appeal under section 6A(2) of that Act other than the applicant or appellant";

(g) after paragraph (2) insert—

"(3) A Commissioner is to be known as a "Pensions Appeal Commissioner"—

(a) where an application or appeal is made to a Commissioner under the 1943 Act;

(b) in respect of the determination of a forfeiture rule question, where the relevant enactment for the purposes of section 4(5) of the Forfeiture Act 1982 is—

(i) the Personal Injuries (Emergency Provisions) Act 1939(**10**);

(ii) the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**11**);

(**8**) S.I.1999/1495; amended by S.I.2000/2854, S.I.2001/1095, and S.I.2005/207.
(**9**) 1943 c.39; amended by the Armed Forces (Pension and Compensation) Act 2004 (c.32).
(**10**) 1939 c.82.
(**11**) 1939 c.83.