
STATUTORY INSTRUMENTS

2002 No. 672

PENSIONS

The Personal Injuries (Civilians) Amendment Scheme 2002

<i>Made</i>	- - - -	<i>11th March 2002</i>
<i>Laid before Parliament</i>		<i>14th March 2002</i>
<i>Coming into force</i>	- -	<i>8th April 2002</i>

The Secretary of State for Defence, with the approval of the Treasury, in exercise of the powers conferred by sections 1 and 2 of the Personal Injuries (Emergency Provisions) Act 1939⁽¹⁾ and now vested in him⁽²⁾, and of all other powers enabling him in that behalf, hereby makes the following Scheme:

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Personal Injuries (Civilians) Amendment Scheme 2002 and shall, subject to article 2(2), come into force on 8th April 2002 (“the commencement date”).

(2) In this Scheme, “the principal Scheme” means the Personal Injuries (Civilians) Scheme 1983⁽³⁾ and, except where the context otherwise requires, a reference to a numbered article, Part, Table or Schedule is to the article, Part, Table or Schedule in the principal Scheme which bears that number.

Amendments to the principal Scheme and application

2.—(1) The amendments to the principal Scheme contained in Schedule 1 to this Scheme shall have effect.

(2) Paragraphs 2, 3 and 6(c) of Schedule 1 to this Scheme (which amend articles 18, 19 and 31 of the principal Scheme) shall apply for the purposes of claims or reviews made on or after 1st August 2002.

(1) 1939 c. 82.

(2) See Transfer of Functions (Ministry of Pensions) Order 1953 (S.I.1953/1198), article 2; Ministry of Social Security Act 1966 (c. 20) section 2; Secretary of State for Social Services Order 1968 (S.I. 1968/1699), article 2; Transfer of Functions (Health & Social Security) Order 1988 (S.I. 1988/1843), article 3 and Transfer of Functions (War Pensions etc.) Order 2001 (S.I. 2001/3506).

(3) S.I. 1983/686; amending instruments are S.I. 1983/1164, 1540, 1984/1289, 1675, 1985/1313, 1986/628, 1987/191, 1988/367, 2260, 1989/415, 1990/535, 1300, 1991/708, 1992/702, 3226, 1993/480, 1994/715, 2021, 1995/445, 1996/502, 1997/812, 1998/278, 1999/262, 2000/301 and 2001/420.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Defence

8th March 2002

Lewis Moonie
Parliamentary Under-Secretary of State Ministry
of Defence

We approve

11th March 2002

Nick Ainger
Tony McNulty
Two of the Lord's Commissioners of Her
Majesty's Treasury

SCHEDULE 1

Article 2

AMENDMENTS TO THE PRINCIPAL SCHEME

Amendment of articles 2 and 32

1. Paragraph (9) of article 2 (definition of “dependent widower”) and article 32 (pensions to dependent widowers) shall be omitted.

Amendment of article 18

2. In article 18 (unemployability allowances)—

(a) in paragraph (1A) after sub-paragraph (b) insert the full-out words “unless paragraph (1B) applies.”; and

(b) after paragraph (1A) insert—

“(1B) If the disabled person—

- (a) was in receipt of unemployability allowance before 7th April 1997;
- (b) became engaged in remunerative work on or after 8th April 2002 and in consequence ceased to be entitled to unemployability allowance;
- (c) had given notice to the Secretary of State that he had become engaged in remunerative work within one week of ceasing to be entitled to unemployability allowance;
- (d) then ceased to be engaged in remunerative work;
- (e) makes a new claim for unemployability allowance within 52 weeks of the termination of the original payment of unemployability allowance; and
- (f) was not engaged in a previous period of remunerative work within 28 weeks of the date sub-paragraph (b) applied to them,

then paragraph (1) shall continue to apply to that new claim subject to the degree of disablement being assessed at not less than 20 per cent.

(1C) For the purposes of paragraph (1B), “remunerative work” means either—

- (a) work for which payment is made or which is done in expectation of payment; or
- (b) attendance at a training course in respect of which the disabled person receives a training allowance in pursuance of arrangements made under section 2(1) of the Employment and Training Act 1973⁽⁴⁾ or section 2(3) of the Enterprise and New Towns (Scotland) Act 1990⁽⁵⁾ or any corresponding provisions in Northern Ireland.”.

Amendment of article 19

3. In paragraph (3) of article 19 (invalidity allowance) after “8 weeks” insert “or the break is by reason of remunerative work where the disabled person is one to whom sub-paragraphs (b) to (f) of article 18(1B) apply”.

(4) 1973 c. 50.

(5) 1990 c. 35.

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Amendment of articles 27, 31, 49, 51 and 60

4. In articles 27 (pensions to widows), 31 (temporary allowances to widows and unmarried dependants who lived as wives of severely disabled persons), 49 (awards in respect of death), 51 (temporary allowances to widows of severely disabled persons) and in paragraph (3)(e)(ii) of article 60 (injuries sustained outside the United Kingdom) for “widow” substitute “widow or widower”.

Amendment of article 27

5. In article 27 (pensions to widows)—

- (a) for “her husband’s death” substitute “their spouse’s death”;
- (b) in paragraphs (b) and (c) for “her husband” substitute “their spouse”;
- (c) in paragraph (c) for “mother” substitute “parent”; and
- (d) the title to the article shall be amended to “pensions to widows and widowers”.

Amendment of article 31

6. In article 31 (temporary allowances to widows and unmarried dependants who lived as wives of severely disabled persons)—

- (a) for “wife” substitute “spouse”;
- (b) for “her husband” substitute “their spouse”; and
- (c) after paragraph (1) add—

“(1A) For the purposes of paragraph (1), a disabled person shall be treated as if they were in receipt of an allowance under article 18(1)(i) if—

- (i) at the time of their death sub-paragraphs (b), (c) and (f) of article 18(1B) applied to them; and
- (ii) the period of remunerative work had not exceeded a period of 52 weeks.”.

Amendment of article 33

7. In paragraph (2) of article 33 (allowances for children under the age of 15) for the words “paragraph 6” substitute “paragraph 5”.

Amendment of article 34

8. In paragraph (2) of article 34 (pensions for children under the age of 15 with no parents living) for the words “paragraph 7” substitute “paragraph 6”.

Amendment of article 35

9. In paragraph (2)(b) of article 35 (awards for children aged 15 or over) for the words “paragraph 8” substitute “paragraph 7”.

Amendment of article 36

10. In paragraph (3) of article 36 (education allowance) for the words “paragraph 9” substitute “paragraph 8”.

Amendment of article 38

11. In paragraph (4) of article 38 (pensions to parents) for the words “paragraph 10(a)” substitute “paragraph 9(a)” for “paragraph 10(b)” substitute “paragraph 9(b)” and for “paragraph 10(c)” substitute “paragraph 9(c)”.

Amendment of article 39

12. In article 39 (pensions to other dependants)—

- (a) in paragraph (4) for the words “paragraph 11(a)” substitute “paragraph 10(a)” and for “paragraph 11(b)” substitute “paragraph 10(b)”; and
- (b) in paragraph (5) for the words “paragraph 11(c)” substitute “paragraph 10(c)”.

Amendment of article 49

13. In article 49 (awards in respect of death)—

- (a) in paragraph (1)(a), after “widow of that person” omit the words following to the end of that paragraph;
- (b) in paragraphs (1)(b), (1)(c), (2) and (3)(c) “dependent widower” shall be omitted; and
- (c) paragraph (3)(b) shall be omitted.

Amendment of article 54

14. In paragraph (3) of article 54 (time limits for applications) omit “32”.

Amendment of article 71

15. In paragraph (4) of article 71 (marriage of female persons) for “man as his wife” substitute “person as their spouse”.

Substitution of Schedules 3, 4 and 7 to the principal Scheme

- (a) (a) For Schedules 3 and 4 to the principal Scheme (rates of pensions and allowances payable in respect of disablement and death) there shall respectively be substituted the Schedules set out in Schedule 2 to this Scheme and numbered 3 and 4.
- (b) For Schedule 7 to the principal Scheme (deductions for the purposes of article 64) there shall be substituted the table set out in Schedule 3 to this Scheme.

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SCHEDULE 2

Schedule 1 paragraph 16

SCHEDULES TO BE SUBSTITUTED IN THE PRINCIPAL SCHEME**“SCHEDULE 3**

Article 11

**RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT
OF DISABLEMENT AND EARNINGS OR INCOME THRESHOLDS**

<i>Description of Pension or Allowance</i>	<i>Rate</i>
1. Pension for 100 per cent. disablement under article 11	£121.80 per week
2. Education allowance under article 13	£120.00 per annum*
3. Constant attendance allowance under article 14	
(A) For decisions made before 9th April 2001	
(a) under the proviso to article 14	£92.00 per week*
(b) in any other case under article 14	£46.00 per week*
(B) For decisions made on or after 9th April 2001	
(a) the part day rate of constant attendance allowance under article 14(2);	£23.00 per week
(b) the full day rate of constant attendance allowance under article 14(3);	£46.00 per week
(c) the intermediate rate of constant attendance allowance under article 14(4);	£69.00 per week
(d) the exceptional rate of constant attendance allowance under article 14(5).	£92.00 per week
4. Exceptionally severe disablement allowance under article 15	£46.00 per week

* Maximum.

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Description of Pension or Allowance	Rate
5. Severe disablement occupational allowance under article 16	£23.00 per week
6. Allowance for wear and tear of clothing under article 17(1)	£157 per annum
7. Unemployability allowances—	
(a) personal allowance under article 18(1)(i)	£75.25 per week
(b) additional allowances for dependants by way of—	
(i) increase of allowance in respect of a wife or a dependent husband under article 18(5)(b)	£42.45 per week*
(ii) increase of allowance under article 18(5)(d)—	
(aa) in respect of the only, elder or eldest child	£9.85 per week
(bb) in respect of each other child	£11.55 per week
(cc) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992(6), or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act.	£11.55 per week
For decisions made on or after, 9th April 2001	
(c) the annual earnings figure for the purposes of article 18(2) is £3,432;	
(d) the weekly income figure for the	
* Maximum.	

(6) 1992 c. 4.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
<p>8. Invalidation allowance payable under article 19—</p>	<p>purposes of article 18(5)(b) is £53.95.</p>
<p>(a) if—</p>	
<p>(i) the relevant date fell before 5th July 1948; or</p>	
<p>(ii) on the relevant date the disabled person was under the age of 35; or</p>	
<p>(iii) on the relevant date the disabled person was under the age of 40 and had not attained the age of 65, in the case of the disabled person being a man, or 60, in the case of that person being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979</p>	<p>£14.90 per week</p>
<p>(b) if—</p>	
<p>(i) on the relevant date the disabled person was under the age of 45; or</p>	
<p>(ii) on the relevant date the disabled person was under the age of 50 and had not attained the age of 65, in the case of the disabled person being a man, or 60, in the case of that person being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979</p>	<p>£9.50 per week</p>
<p>(c) if heads (a) and (b) do not apply and on the relevant date the disabled person</p>	<p>£4.75 per week</p>

* Maximum.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
	was under the age of 60
9.	Comforts allowance—
	(a) under article 20(1)(a) £19.70 per week
	(b) under article 20(1)(b) or 45(1) £9.85 per week
10.	Allowance for lowered standard of occupation under article 21 £45.92 per week*
11.	Age allowance under article 22 where the degree of pensioned disablement is—
	(a) 40 or 50 per cent. £8.15 per week
	(b) 60 or 70 per cent. £12.55 per week
	(c) 80 or 90 per cent. £17.85 per week
	(d) 100 per cent. £25.10 per week
12.	For decisions made before 9th April 2001
	Treatment allowance— increase of personal allowance under article 23(2) £25.10 per week*
13.	Part-time treatment allowance under article 25 £55.83 per day*
14.	Mobility supplement under article 25A £43.85 per week

* Maximum.

SCHEDULE 4

Article 27

RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DEATH

<i>Description of Pension or Allowance</i>	<i>Rate</i>
1.	Pension to widows and widowers—
	(a) under article 27(1) £92.00 per week
	(b) under article 27(2) £22.12 per week

* Maximum.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
(c) under article 27(3)	£59.95 per week
2. Rent allowance under article 28	£34.80 per week*
3. Allowance under article 29 or 50 to an elderly surviving spouse—	
(a) if age 65 but under age 70	£10.55 per week
(b) if age 70 but under age 80	£20.20 per week
(c) if age 80 or over	£30.05 per week
4. Pension under article 30 to unmarried dependant who lived as spouse	£1.00 per week*
5. Allowance under article 33 in respect of each child under the age of 15—	
(a) in respect of the only, elder or eldest child	£14.55 per week
(b) in respect of each other child	£16.20 per week
(c) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992 or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£16.20 per week
6. Pension under article 34(1) where the decision is made before 9th April 2001, to a motherless or fatherless child under the age of 15 and, where the decision is made on or after that date, under article 34(2) to a child under the age of 15 with no parents living—	

* Maximum.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
<ul style="list-style-type: none"> (a) in respect of the only, elder or eldest child (b) in respect of each other child (c) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992 or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act 	<ul style="list-style-type: none"> £16.50 per week £18.15 per week £18.15 per week
<p>7. Pension or allowance where the decision is made before 9th April 2001, under article 35(3) and, where the decision is made on or after that date, under article 35(2) to or in respect of a child aged 15 or over—</p> <ul style="list-style-type: none"> (a) where the child has attained the age of 18 and is incapable of self-support by reason of an infirmity which arose before he attained the age of 15 (b) any other case— <ul style="list-style-type: none"> (i) in respect of the only, elder or eldest child (ii) in respect of each other child (iii) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992, or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act 	<ul style="list-style-type: none"> £70.95 per week* £16.50 per week* £18.15 per week* £18.15 per week*

* Maximum.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
8. Education allowance under article 36	£120.00 per annum*
9. Pensions to parents—	
(a) minimum rate under article 38(4)	£0.25 per week
(b) maximum rate under article 38(4)	
(i) where there is only one eligible parent	£1.00 per week
(ii) where there is more than one eligible parent	£1.38 per week
(c) increase under the proviso to article 38(4)—	
(i) where there is only one eligible parent	£0.38 per week*
(ii) where there is more than one eligible parent	£0.62 per week*
10. Pensions to other dependants—	
(a) for each juvenile dependant under article 39(4)	£0.30 per week*
(b) aggregate rate under article 39(4)	£1.00 per week*
(c) under article 39(5)	£1.00 per week*

* Maximum.

SCHEDULE 3

Schedule 1 paragraph 16

“**SCHEDULE 7**

Article 64

DEDUCTIONS FOR THE PURPOSES OF ARTICLE 64

TABLE

<i>Allowance/Pension</i>	<i>Date of Deduction</i>	<i>Weekly Rate of Deduction</i>
Constant attendance allowance (article 14)	After 4 weeks of falling within article 64 paragraph (1)	Total amount of Constant Attendance Allowance

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<i>Allowance/Pension</i>	<i>Date of Deduction</i>	<i>Weekly Rate of Deduction</i>
Severe disablement occupational allowance (article 16)	After 4 weeks of falling within article 64 paragraph (1)	Total amount of Severe Disablement Occupational Allowance
Unemployability personal allowance (article 18)	After 8 weeks of falling within article 64 paragraph (1)	(i) Where disabled person has no partner, spouse or dependants—£28.70 (ii) Where disabled person has partner, spouse or dependants—£15.10
Unemployability allowance increase for wife, husband, unmarried dependant living as a spouse or adult dependant (article 18)	(i) After 8 weeks of falling within article 64 paragraph (1) (ii) After 104 weeks of falling within article 64 paragraph (1)	(i) £15.10 (ii) £28.70
Invalidity allowance (article 19)	After 52 weeks of falling within article 64 paragraph (1)	(i) Where disabled person has no dependants—total amount of Invalidity Allowance (ii) Where disabled person has dependants—nil
War widows pension or war widowers pension (article 27 or 32) or pension paid to an unmarried dependant who lived as spouse (article 30)	After 52 weeks of falling within article 64 paragraph (1)	£28.70”

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme further amends the Personal Injuries (Civilians) Scheme 1983 (“the principal Scheme”) which makes provision for the payment of pensions and allowances to or in respect of civilians who were killed or injured during the 1939-45 World War. The Scheme has been the responsibility of the Secretary of State for Defence since 3rd December 2001.

The new Schedules 3 and 4 of the principal Scheme increase the amounts of allowances, pensions and awards payable under the principal Scheme and increase the amounts of income to be disregarded for the purposes of certain parts of the Scheme.

Pensions for widows and widowers will, from 8th April 2002, be determined on the same basis and the amendments to the principal Scheme under paragraphs 1 and 4 to 15 of Schedule 1 amend articles 2, 27, 31 to 36, 38, 39, 49, 51, 54, 60 and 71 of the principal Scheme. References to widows will

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include widowers and references to a wife or husband shall be to a spouse. There are consequential amendments to remove references to pensions of dependent widowers.

Paragraphs 2, 3 and 6(c) of Schedule 1 amend articles 18, 19 and 31 of the principal Scheme in order to protect the position of some recipients of unemployability allowance who wish to take up remunerative work, including training.

Under article 18 of the principal Scheme, where a disabled person is in receipt of unemployability allowance and their claim was determined before 7th April 1997, the degree of disablement had to be 20 per cent or greater. If such a person gains remunerative work that is terminated, a new claim for unemployability allowance would have to show a 60 per cent or greater disablement. Therefore the amendments to the principal Scheme provide that where a person's remunerative work terminates within 52 weeks of receiving the original unemployability allowance and there is no previous period of remunerative work in the 26 weeks prior to the loss of entitlement, their new claim will be determined on the basis of a 20 per cent or greater disablement.

Receipt of invalidity allowance under article 19 is dependent upon receipt of unemployability allowance. A disabled person who sought remunerative work which then terminated and who submits a new claim for invalidity allowance more than 8 weeks after previous receipt may only receive invalidity allowance at a rate lower than the earlier level. Article 19(3) of the principal Scheme has been amended so that a period of up to 52 weeks will not be treated as a break for the purposes of eligibility to invalidity allowance, where remunerative work has been terminated and where there is no previous period of remunerative work in the 26 weeks prior to the loss of entitlement.

Article 31 of the principal Scheme has been amended so that if a disabled person dies during a qualifying period of remunerative work, the entitlement to allowances by their dependants will not be affected.

This Scheme does not impose any costs on business.