
STATUTORY INSTRUMENTS

2006 No. 606

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 and shall come into operation on 10th April 2006.

(2) In this Order, unless the context otherwise requires and except where otherwise provided in the Order, an expression for which there is an entry in the second column of Schedule 6 shall have the meaning given against it in the third column of that Schedule or, as the case may be, shall be construed in accordance with the instructions given against it in that column.

Interpretation – further provision

2.—(1) In this Order, a person shall be treated as being in receipt of any retired pay, pension, allowance or other continuing benefit awarded to him under this Order notwithstanding that the retired pay, pension, allowance or other benefit, or any part of it, is, by virtue of any provision of this Order, being administered or otherwise applied for any purpose or paid to some other person.

(2) Where an allowance awarded under this Order in respect of a child of a deceased member of the armed forces is withheld or reduced under article 55, the member's surviving spouse, surviving civil partner ^[^{F1}] or dependant who lived as a spouse or] civil partner who has the child under his or her control or in his or her charge shall be treated as being in receipt of the allowance notwithstanding that it is so withheld or reduced.

(3) A condition for the award of any pension, allowance or grant under this Order that a person is, or as the case may be, was, in receipt of retired pay, pension, allowance or other award under this Order or under a 1919 to 1921 instrument, shall be treated as satisfied if that person is, or as the case may be, was, in receipt of any payment made by the Secretary of State with the consent of the Treasury which is analogous to that retired pay, pension, allowance or other award.

(4) In this Order, any question as to whether a person—

- (a) is an adopted child, or is a parent by virtue of having adopted a child, shall be determined as if any adoption effected by a person who at the date of the adoption had a spouse or civil partner and was not separated from that spouse or civil partner, had been effected by those 2 spouses or civil partners jointly;
- (b) is a grandparent, step-parent, brother, sister, half-brother, half-sister, stepbrother, stepsister or grandchild, shall be determined as if—
 - (i) any child adopted jointly by 2 persons who at the date of adoption were spouses or civil partners, or by a person who at that date had a spouse or civil partner and

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was not separated from that spouse or civil partner, was the legitimate child of those spouses or civil partners,

- (ii) any child adopted by a person who at the date of adoption had no spouse or civil partner or was separated from his spouse or civil partner, was the legitimate child of that person,
- (iii) any child born illegitimate had been born the legitimate child of his father and mother.

(5) Subject to article 44(7), any condition or requirement laid down in this Order for an award, or the continuance of an award, or relating to the rate or amount of an award, shall, except where the context otherwise requires, be construed as a continuing condition or requirement, and accordingly the award, rate or amount shall cease to have effect if and when the condition or requirement ceases to be fulfilled.

Textual Amendments

- F1** Words in [art. 2\(2\)](#) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), [Sch. 3 para. 110\(2\)](#)

Rank or status

3.—(1) Where, for the purposes of any award under Part II or III or this Order in respect of the disablement or death of a member of the armed forces, the member's rank has to be determined, it shall be determined by reference to the relevant rank of the member as set out in Part I of Schedule 1 or Part I of Schedule 2 respectively.

(2) Subject to the following provisions of this article, the relevant rank of a member shall be whichever is the highest of the following ranks, namely—

- (a) the substantive rank held by him on the date on which he was last on full pay prior to the termination of his service;
- (b) where on that date he held war substantive rank, or paid temporary or paid acting rank which would then have been allowed to reckon for the purpose of calculating service retired pay or the rank element of a service pension if he were eligible for such retired pay or pension, that war substantive rank, or paid temporary or paid acting rank, as the case may be;
- (c) the substantive, war substantive, paid temporary or paid acting rank held by the member on any of the following dates, namely—
 - (i) the date on which he sustained the wound or injury, or was first removed from duty on account of the disease, on which the claim to the award is based,
 - (ii) where the member suffered aggravation of the injury on which the claim to the award is based (being aggravation which, in the case of death, persisted until death) as a result of service after the date mentioned in subparagraph (c)(i) of this paragraph, the date of the removal from duty on account of the aggravation, or, if there was no such removal from duty, the date of the termination of his service;
- (d) in the case of an award in respect the death of a member of the military forces who held brevet rank, that rank, so however that the brevet rank of colonel shall be treated as being the equivalent rank of lieutenant-colonel;
- (e) in the case of an officer in the air forces transferred from a non-flying branch to the general duties branch for aircrew duties, or of an airman re-mustered to an aircrew category, the

substantive, war substantive or paid temporary rank held immediately before his transfer or re-mustering;

- (f) in the case of a member of the air forces who, immediately before becoming such a member, was a member of the military forces, and who was transferred to the Royal Air Force for aircrew duties in the general duties branch or for duties in an aircrew category or to the Royal Air Force Regiment, the rank which is equivalent to the substantive or war substantive rank in the military forces which he held immediately before his transfer.
- (3) In the case of a member of the Reserve or Auxiliary Forces, the relevant rank shall be—
- (a) the paid rank held by him or, where pay was not in issue, the rank for which pay would have been in issue if he had been entitled to receive pay, on the date on which he sustained the wound or injury, or on which he was first removed from duty on account of the disease, on which the claim to the award is based; or
- (b) if there was no such occurrence, the highest rank (ascertained in accordance with the provisions of subparagraph (a) of this paragraph) held by him during the relevant period of service; or
- (c) where the member suffered aggravation of the injury on which the claim to the award is based (being aggravation which, in the case of death, persisted until death) as a result of service after the date or period mentioned in subparagraphs (a) and (b) of this paragraph, the date of the removal from duty on account of the aggravation, or, if there was no such removal from duty, the highest rank (ascertained in accordance with the provisions of subparagraph (a) of this paragraph) held by him during such service.
- (4) Where death is the result of, or is hastened by, more than one injury and different ranks were held when some or all of the injuries were sustained, an award under Part III shall be at a rate calculated by reference only to the higher or highest of those different ranks.
- (5) For the purposes of an award in respect of the death of a retired officer who has been recalled to service or otherwise taken into employment as a commissioned officer, the relevant rank shall be the rank in which he was employed, or the rank appropriate to the appointment in which he was employed, at the date on which he was last on full pay prior to the termination of his service, or at any of the dates mentioned in paragraph (2)(c), whichever is most favourable.
- (6) As regards members of the naval forces, the provisions contained in the principal Naval Regulations as to equivalent ranks of officers and ratings for the purposes of retired pay, pension or like grant thereunder, and as to the classification of different categories of ratings, shall have effect for the purposes of this Order.
- (7) As regards members of the military forces, the classification of the ranks of soldiers set out in the Pension Warrant shall have effect for the purposes of this Order.
- (8) As regards members of the air forces, any references in this Order to a warrant officer shall be treated as excluding a reference to a warrant officer, 2nd class, and any reference to an aircraftman shall be treated as including a reference to an aircraft apprentice, an apprentice clerk and a boy entrant.
- (9) For the purposes of any award under this Order, a Chaplain to the military forces shall be treated as holding the rank which is laid down as appropriate in his case in the Pay Warrant and a Chaplain to the naval or air forces shall be treated as holding such rank as is, in the opinion of the Secretary of State, appropriate in his case having regard to the length of his service, and the provisions made in the principal Naval Regulations or, as the case may be, the principal Air Force Regulations, as to the grant of retired pay, pension, allowances or gratuities to or in respect of Chaplains with that length of service.
- (10) Where the relevant rank held by the member is not one mentioned in Schedule 2, for the purposes of this Order his relevant rank shall be such as the Secretary of State shall determine in the light of the available evidence.

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(11) The foregoing provisions of this article shall, where appropriate, apply in relation to women members, any reference to a rank being treated where necessary as a reference to a status equivalent to that rank.

PART II

AWARDS IN RESPECT OF DISABLEMENT

Interpretation of Part II

4. In this Part—

(a) in articles 8, 11, 14 and 16—

- (i) “retired pay” includes wounds pension under the Regulations in respect of the naval forces in force before 4th August 1914, or under the Royal Warrant of 1st December 1914, for the Pay, Appointment, Promotion and Non-Effective pay of the Army and wounds pension received in lieu of retired pay under article 1 of the 1921 Order, retired pay at the half-pay rate under paragraph (1)(a)(iii) of the provision to article 1 of the 1921 (Officers) Order and under article 1(1)(a) of the 1920 Warrant and alternative retired pay under article 3 of the 1921 (Officers) Order, of the 1921 (Warrant Officers) Order, of the 1920 Warrant or of the 1921 Order,
- (ii) “pension” in relation to a nurse, includes an alternative pension under article 23C of the 1921 (Officers) Order, of the 1920 Warrant or of the 1921 Order, and
- (iii) “pension” in relation to a rating, soldier or airman, includes an alternative pension under the 1919 to 1920 instruments;

(b) a claim is a new claim where—

- (i) the date of the claim occurs on or after 7th April 1997; and
- (ii) on the day which immediately precedes the date of the claim the member or, where the member has died, the person by or in respect of whom the claim is made does not have an award of the allowance in question.

General conditions for Part II

5.—(1) Under this Part, awards may be made in accordance with this Order in respect of the disablement of a member of the armed forces which is due to service before 6th April 2005 and may be made provisionally or upon any other basis.

(2) An award in respect of the disablement of a member shall not be made to take effect before the termination of his service or, in the case of an officer, while he is an officer on the Active List.

(3) Except where paragraph (4) applies, an award under this Part of this Order shall not be made in respect of—

- (a) noise-induced sensorineural hearing loss; or
- (b) a related condition or symptom if it is accompanied by noise-induced sensorineural hearing loss

unless the degree of disablement from that loss alone is assessed as being at least 20 per cent.

(4) Where the degree of the disablement in respect of noise-induced sensorineural hearing loss, or in respect of such hearing loss and a related condition or symptom, is assessed at less than 20 per cent, and a claim for an award in respect of that disablement was made prior to 7th January 1993, payment of any award resulting from that claim shall be made as though paragraph (3) were omitted.

Retired pay or pension for disablement

6. A member of the armed forces the degree of whose disablement due to service before 6th April 2005 is not less than 20 per cent may be awarded retired pay or a pension at whichever of the rates set out in the Table in Part II of Schedule 1 is appropriate to his rank or status and the degree of his disablement.

Gratuity for minor disablement

7.—(1) ^{F2} . . . a member of the armed forces the degree of whose disablement due to service before 6th April 2005 is less than 20 per cent may be awarded a gratuity in accordance with the appropriate table in Part III of Schedule 1 in force at the time of the award.

(2) ^{F3}

Textual Amendments

- F2** Words in art. 7(1) omitted (6.4.2009) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **2(a)** (with art. 18)
- F3** Art. 7(2) omitted (6.4.2009) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **2(b)** (with art. 18)

Constant attendance allowance

8.—(1) [^{F4}Subject to paragraph (6) and article 71(4)], where—

- (a) a member of the armed forces is in receipt of retired pay or a pension in respect of disablement the degree of which is not less than 80 per cent; and
- (b) it is shown to the satisfaction of the Secretary of State that constant attendance on the member is necessary on account of the disablement

the member shall be awarded an allowance in accordance with the following paragraphs of this article.

(2) Where the necessary attendance consists of frequent or regular attendance for periods during the daytime which total not less than four and not more than eight hours per day, the rate of the allowance shall be the part day rate specified in paragraph 1(a)(i) of Part IV of Schedule 1.

(3) Where the necessary attendance consists of—

- (a) frequent or regular attendance for periods during the daytime which total not less than eight and not more than sixteen hours per day; or
- (b) frequent or regular attendance for periods during the daytime which total less than eight hours per day and attendance on two or more occasions per night

the rate of the allowance shall be the full day rate specified in paragraph 1(a)(ii) of Part IV of Schedule 1

(4) Where the necessary attendance consists of—

- (a) frequent or regular attendance for periods during the daytime which total not less than eight hours per day and attendance on two or more occasions per night; or
- (b) frequent or regular attendance for periods at night which total not less than eight hours and during the daytime for periods which total not less than four hours per day

the rate of the allowance shall be the intermediate rate specified in paragraph 1(a)(iii) of Part IV of Schedule 1.

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(5) Where the necessary attendance consists of continual attendance throughout the day and night, the rate of the allowance shall be the exceptional rate specified in paragraph 1(a)(iv) of Part IV of Schedule 1.

[^{F5}(6) Where—

- (a) a member of the armed forces is in receipt of retired pay or pension in respect of disablement, due to one or more injuries, the degree of which is not less than 80%, and
- (b) one of those injuries is a terminal illness,

the member shall be taken to satisfy or likely to satisfy the necessary attendance specified in paragraph (4) for so much of the period for which he is terminally ill as does not fall before the date of claim, and the rate of the allowance shall be the intermediate rate specified in paragraph 1(a)(iii) of Part IV of Schedule 1.]

Textual Amendments

- F4** Words in art. 8(1) substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **3(a)** (with art. 18)
- F5** Art. 8(6) added (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **3(b)** (with art. 18)

Exceptionally severe disablement allowance

9. Where the disablement of a member of the armed forces is, and in the opinion of the Secretary of State is likely permanently to remain, such that he is, or if he were not in a hospital or other institution would be, in receipt of an allowance for constant attendance at a rate payable under article 8(4) or (5), he shall be awarded an allowance at the appropriate rate specified in paragraph 2 of Part IV of Schedule 1.

Severe disablement occupational allowance

10.—(1) Except as provided in paragraph (2), where a member of the armed forces is in receipt of an allowance for constant attendance at a rate payable under article 8(4) or (5), he shall be awarded an allowance at the appropriate rate specified in paragraph 3 of Part IV of Schedule 1 for any period during which he is, in the opinion of the Secretary of State, ordinarily employed in a gainful occupation.

[^{F6}(2) Paragraph (1) does not apply during any period in respect of which the member of the armed forces is—

- (a) eligible for an award under article 12(1)(a);
- (b) in receipt of any personal benefit under Part 2 or Part 3 of the Social Security Contributions and Benefits Act 1992^{M1} or the corresponding provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992^{M2};

[^{F7}(ba) in receipt of a state pension under Part 1 of the Pensions Act 2014;]

- (c) in receipt of employment and support contributory allowance ^{F8} ..., ^{F9} ...

[^{F10}(ca) in receipt of carer support payment under the Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023; or]

- (d) in receipt of any benefits similar to a personal benefit under the law of any place outside the United Kingdom which in the opinion of the Secretary of State is analogous to a personal benefit.]

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- (3) In this article, “personal benefit” means—
- (a) retirement pension;
 - (b) incapacity benefit;
 - (c) severe disablement allowance;
 - (d) carers allowance;
 - (e) category A or B retirement pension as provided for by regulation 18 of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979^{M3} or any corresponding regulations made in Northern Ireland.
- [^{F11}(f) employment and support contributory allowance.]
- [^{F12}(4) In this article, “employment and support contributory allowance” means—
- (a) an allowance under Part 1 of the Welfare Reform Act 2007 (“ the 2007 Act ”) as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the Welfare Reform Act 2012 that remove references to an income-related allowance, and a contributory allowance under Part 1 of the 2007 Act as that Part has effect apart from those provisions; or
- [^{F13}(b) an allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 as amended by the provisions of Schedule 3, and Part 1 of Schedule 12, to the Welfare Reform (Northern Ireland) Order 2015 that remove references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 as that Part has effect apart from those provisions.]]

Textual Amendments

- F6** Art. 10(2) substituted (27.10.2008 with application in accordance with art. 2(4) of the amending S.I.) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(b)(6), **Sch. 1 Pt. 2 para. 10**
- F7** Art. 10(2)(ba) inserted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **2**
- F8** Words in art. 10(2)(c) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **49(2)(a)**
- F9** Word in art. 10(2)(c) omitted (16.11.2023) by virtue of [The Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023 \(Consequential Modifications\) Order 2023 \(S.I. 2023/1214\)](#), art. 1(2), **reg. 11(2)(a)**
- F10** Art. 10(2)(ca) inserted (16.11.2023) by [The Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023 \(Consequential Modifications\) Order 2023 \(S.I. 2023/1214\)](#), art. 1(2), **reg. 11(2)(b)**
- F11** Art. 10(3)(f) inserted (27.10.2008 with application in accordance with art. 2(4) of the amending S.I.) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(b)(6), **Sch. 1 Pt. 2 para. 11**
- F12** Art. 10(4) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **49(2)(b)**
- F13** Art. 10(4)(b) substituted (coming into force in accordance with reg. 1(1) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **16(2)**

Marginal Citations

- M1** 1992 c.4.
M2 1992 c.7 (N.I.).
M3 S.I.1979/643.

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Clothing allowance

11. A member of the armed forces who is in receipt of retired pay or a pension may be awarded a clothing allowance at the rate specified in paragraph 4 of Part IV of Schedule 1, where either—

- (a) he is in receipt of retired pay or pension in respect of an amputation and regularly wears an artificial limb; or
- (b) the Secretary of State is satisfied that as a result of the disablement which gives rise to an award under this Order there is exceptional wear and tear of the member's clothing.

Unemployability allowances

12.—(1) Subject to the provisions of this article, where a member of the armed forces is in receipt of retired pay or a pension in respect of disablement so serious as to make him unemployable, he shall be awarded unemployability allowances, being—

- (a) a personal unemployability allowance at the appropriate rate specified in paragraph 5(a) of Part IV of Schedule 1; and
- (b) additional unemployability allowances for dependants in accordance with such of the provisions of paragraph (6) as may be appropriate in his case.

(2) Paragraph (1) shall not apply in the case of a member who submits a new claim for an allowance under this article—

- (a) on or after the date on which he attains the age of 65; or
- (b) where the degree of disablement is assessed at less than 60 per cent.

unless paragraph (3) applies.

(3) If the member—

- (a) was in receipt of a personal 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 a personal 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 that allowance;
- (d) then ceased to be engaged in remunerative work;
- (e) makes a new claim for a personal unemployability allowance within [F14104] weeks of the termination of the original payment of that allowance; and
- (f) was not engaged in a previous period of remunerative work within 28 weeks of the date subparagraph (b) applied to him

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.

(4) For the purposes of this article, subject to paragraph (5), a member may be treated as unemployable although in receipt of therapeutic earnings which are, in the opinion of the Secretary of State, unlikely to exceed per year the figure specified in paragraph 5 (c) of Part IV of Schedule 1.

(5) Where, before 9th April 2001, a member was in receipt of therapeutic earnings immediately before that date, any such earnings he receives on and after that date shall constitute therapeutic earnings for the purpose of paragraph (4) until the member ceases permanently to do the work in respect of which they are received.

(6) Where a member is awarded a personal unemployability allowance, he may also be awarded additional unemployability allowances for dependants as follows—

- (a) subject to paragraph (7), an additional unemployability allowance [^{F15}in respect of a spouse, civil partner, adult dependant [^{F16}or dependant living as a spouse or] civil partner] at a rate not exceeding the appropriate rate specified in paragraph 5(b)(i) of Part IV of Schedule 1 if—
 - (i) the person in respect of whom the allowance is claimed has a weekly income which does not exceed the figure specified in paragraph 5(d) of Part IV of Schedule 1, and
 - (ii) the Secretary of State thinks fit to award the allowance, having regard to that person's financial circumstances (including any earnings, occupational pension and social security benefits the person receives);
 - (b) subject to paragraphs (8) and (9), an additional allowance in respect of any child of the member at the appropriate rate specified in paragraph 5(b)(ii) of Part IV of Schedule 1;
 - (c) where a child is not a child of the member, but in the opinion of the Secretary of State, having regard to the child's relationship to or connection with the member and the other circumstances of the case, the child should be treated as his child for the purposes of subparagraph (b), that child shall be so treated for those purposes.
- (7) An additional allowance shall not be awarded in respect of more than one adult dependant.
- (8) No award of an additional allowance shall be made or continued or shall continue to have effect in respect of a child who has attained the child's age limit, unless he is—
- (a) a student or an apprentice; or
 - (b) incapable of self-support by reason of an infirmity which arose before he attained the child's age limit
- and in either case the circumstances are, in the opinion of the Secretary of State, such as to justify the award or its continuance.
- (9) For the purposes of paragraph (6)(b) and (c), an award, continuance and amount of an additional allowance under that paragraph in respect of a child who is living apart from the member shall be at the discretion of the Secretary of State.
- (10) Where—
- (a) a person to whom a personal allowance may be or has been awarded under the foregoing provisions of this article is eligible for—
 - (i) a category A or B retirement pension, as provided for by regulation 18 of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) Transitional Regulations 1979, or by corresponding regulations made in Northern Ireland, or
 - (ii) a widow's pension under Part II of the Social Security Contributions and Benefits Act 1992, or the corresponding provisions of the Social Security (Northern Ireland) Contributions and Benefits Act 1992; or
 - [^{F17}(iii) a state pension under Part 1 of the Pensions Act 2014; or]
 - (b) a person to or in respect of whom a personal allowance or an additional allowance may be or has been so awarded is eligible for benefit payable out of public funds under the law of any place outside the United Kingdom being benefit which, in the opinion of the Secretary of State, is analogous to benefit under Chapters I or II of Part II of the Social Security Act 1975

the Secretary of State may take into account any pension referred to in subparagraph (a) against the personal allowance and any benefit referred to in subparagraph (b) against the personal allowance and the additional allowance in such manner and to such extent as he may think appropriate having regard, in the case of such benefit, to any adjustment which would be made if the person were eligible for the analogous benefit under Chapters I or II of Part II of the Social Security Act 1975.

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Textual Amendments

- F14** Words in art. 12(3)(e) substituted (9.4.2007) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2007 \(S.I. 2007/909\)](#), arts. 1(1), 2, **Sch. 1 para. 1**
- F15** Words in art. 12(6)(a) substituted (9.4.2012) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2012 \(S.I. 2012/359\)](#), arts. 1, 3
- F16** Words in art. 12(6)(a) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 110(3)**
- F17** Art. 12(10)(a)(iii) inserted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), **arts. 1(1), 3**

Invalidity allowance

13.—(1) Where a member of the armed forces is awarded an allowance under article 12(1)(a) in respect of unemployability and has not on the relevant date attained the age of 60, he shall be awarded an invalidity allowance at the appropriate rate specified in paragraph 6 of Part IV of Schedule 1.

(2) Subject to the following provisions of this article, the relevant date for the purposes of paragraph (1) shall be the commencing date of the period in respect of which an allowance under article 12(1)(a) is awarded and, if there have been 2 or more such periods, the commencing date of the later or last of them.

(3) For the purposes of paragraph (2), where a break between 2 periods in respect of which an allowance under article 12(1)(a) has been awarded does not exceed 8 weeks or the break is by reason of remunerative work where the member of the armed forces is one to whom subparagraphs (b) to (f) of article 12(3) apply, those periods shall not be treated as separate periods.

(4) If the unemployability in respect of which the allowance is awarded forms part of a period of interruption of employment for the purposes of Chapter 1 of Part II of the Social Security Act 1975 or the corresponding provisions of the Social Security (Northern Ireland) Act 1975 which has continued without a break from a date earlier than the date fixed under paragraphs (2) and (3), the relevant date shall be the first day of incapacity for work for those purposes in that period.

(5) The provisions of article 12(10), in so far as they provide for taking into account any benefit payable out of public funds under the law of any place outside the United Kingdom, shall apply to an allowance awarded under this article as they apply to a personal allowance awarded under that article.

Comforts allowance

14.—(1) A member of the armed forces in receipt of retired pay or a pension shall be awarded a comforts allowance for the provision of comforts—

^{F18}(a) where subparagraph (a)(i) or (ii) or both apply, an allowance shall be payable at the appropriate rate specified in paragraph 7(a) of Part IV of Schedule 1—

- (i) this subparagraph applies where the member is in receipt of an allowance under article 8 at any rate, and an allowance under article 12,
- (ii) this subparagraph applies where the member is in receipt of an allowance under article 8 at the rates specified in either paragraph 1(a)(iii) or (iv) of Part IV of Schedule 1, and in receipt of retired pay or a pension in respect of disablement the degree of which is 100 per cent;]

(b) at the appropriate rate specified in paragraph 7(b) of Part IV of Schedule 1 if he does not qualify for an award under subparagraph (a) of this paragraph but is in receipt of an allowance under article 8 ^{F19}at any rate] or under article 12.

(2) In this article, a member who would be in receipt of an allowance under article 8 if he were not in a hospital or other institution shall be treated as being in receipt of an allowance under that article.

Textual Amendments

- F18** Art. 14(1)(a) substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **5(a)** (with art. 18)
- F19** Words in art. 14(1)(b) inserted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **5(b)** (with art. 18)

Allowance for lowered standard of occupation

15.—(1) [^{F20}Subject to] paragraph (2), where a member of the armed forces is—

- (a) in receipt of retired pay or a pension in respect of disablement the degree of which is less than 100 per cent; and
- (b) the disablement is such as to render him incapable, and likely to remain permanently incapable, of following his regular occupation and incapable of following any other occupation with equivalent gross income which is suitable in his case taking into account his education, training and experience

he shall, subject to paragraph (3), be awarded an allowance for lowered standard of occupation at [^{F21}a rate not exceeding] the appropriate rate specified in paragraph 8 of Part IV of Schedule 1.

[^{F22}(2) No award of an allowance under this article shall be made where subparagraphs (a) or (b) or both apply—

- (a) this subparagraph applies where a member submits a new claim (as defined in article 4(b))
 -
 - (i) on or after the date he attained the age of 65, or
 - (ii) where the degree of disablement is assessed at less than 40 per cent;
- (b) this subparagraph applies where—
 - (i) a member submits a claim on or after 6th April 2009,
 - (ii) on the day which immediately precedes the date of claim the member or, where the member has died, the person by or in respect of whom a claim is made does not have an award of the allowance, and
 - (iii) the member is in receipt of—
 - (aa) incapacity benefit under Part II of the Social Security Contributions and Benefits Act 1992 ^{M4} or the corresponding provisions of the Social Security Contributions and Benefits Act (Northern Ireland) 1992 ^{M5},
 - (bb) employment and support allowance under Part 1 of the Welfare Reform Act 2007 ^{M6} or the corresponding provisions of the Welfare Reform Act (Northern Ireland) 2007, [^{F23}which includes a work-related activity component or a support component (within the meaning of the applicable Act)]^{F24} . . .
 - (cc) any benefit or allowance under the law of any place outside the United Kingdom which in the opinion of the Secretary of State is analogous to incapacity benefit or employment and support allowance.][^{F25}, [^{F26}or]
 - (dd) an award of universal credit under Part 1 of the Welfare Reform Act 2012, the calculation of which includes an amount under regulation 27(1) of the

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Universal Credit Regulations 2013 in respect of the fact that the member has limited capability for work or limited capability for work and work-related activity, or would include such an amount but for regulation 27(4) or 29(4) of those Regulations]]^{F27}or]

^{F28}(ee) an award of universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015, the calculation of which includes an amount under regulation 28(1) of the Universal Credit Regulations (Northern Ireland) 2016 in respect of the fact that the member has limited capability for work or limited capability for work and work-related activity, or would include such an amount but for regulation 28(4) or 30(4) of those Regulations.]

(3) The aggregate rate of the member's retired pay or pension together with the allowance under this article shall not exceed the rate of retired pay or pension which would have been appropriate in his case if the degree of his disablement had been 100 per cent.

(4) Subject to the provisions of paragraph (5), an allowance under this article shall not be payable to a member for any period in respect of which an allowance under article 12(1)(a) or article 17 is payable to him.

(5) Where a member is in receipt of an allowance under this article he may continue to receive such allowance if he becomes eligible subsequently for an allowance under article 12(1)(a).

(6) In this article “regular occupation” means—

- (a) where the member's disablement is due to service between 2nd September 1939 and 1st August 1973, the occupation which was his regular occupation before his service; or
- (b) where there was no such regular occupation, or where the member's disablement is due to service after 31st July 1973, his trade or profession as a member of the armed forces on the date that he sustained the wound or injury, or was first removed from duty on account of the disease on which his award is based, or if there was no such occurrence, the date of the termination of his service.

Textual Amendments

- F20** Words in art. 15(1) substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **6(a)** (with art. 18)
- F21** Words in art. 15(1) inserted (9.4.2007) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2007 \(S.I. 2007/909\)](#), arts. 1(1), 2, **Sch. 1 para. 2**
- F22** Art. 15(2) substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **6(b)** (with art. 18)
- F23** Words in art. 15(2)(b)(iii)(bb) inserted (9.4.2018) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2018 \(S.I. 2018/176\)](#), arts. 1, **3**
- F24** Word in art. 15(2)(b)(iii)(bb) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **49(3)**
- F25** Art. 15(2)(b)(iii)(dd) and preceding word inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **49(3)**
- F26** Word in art. 15(2)(b)(iii)(cc) omitted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **16(3)(a)**
- F27** Word in art. 15(2)(b)(iii)(dd) inserted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **16(3)(b)**

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F28 [Art. 15\(2\)\(b\)\(iii\)\(ee\)](#) inserted (N.I) (coming into force in accordance with reg. 1(1) of the amending S.R.) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R 2016/236), regs. 1(1), 16(3)(c)

Marginal Citations

M4 [1992 c. 4.](#)

M5 [1992 c. 7.](#) (N.I.).

M6 [2007 c. 5.](#)

Age allowance

16.—(1) Where a member of the armed forces who is in receipt of retired pay or a pension in respect of disablement the degree of which is 40 per cent or over has attained the age of 65 years, he shall be awarded an age allowance at the appropriate rate specified in paragraph 9 of Part IV of Schedule 1.

(2) Where a member who is in receipt of retired pay or a pension under this Order is also in receipt of—

- (a) retired pay or a pension payable out of monies provided by Parliament under any other Order in Council or any Royal Warrant, Order or Scheme administered by the Secretary of State; or
- (b) any payment analogous to the retired pay or pension referred to in paragraph(a) made by the Secretary of State with the consent of the Treasury

an allowance under this Order may, subject to paragraph (3), be awarded at a rate appropriate to the degree of disablement which, in the opinion of the Secretary of State, represents the combined effect of all the disablements for which a payment or pension referred to in this paragraph are payable.

(3) Paragraph (2) does not apply unless—

- (a) it is to the member's advantage; and
- (b) it does not result in an allowance awarded by virtue of this paragraph and an age allowance awarded under any other Order in Council, Royal Warrant, Order or Scheme being payable for the same period.

Treatment allowance

17.—(1) Subject to the provisions of this article, a member of the armed forces may be awarded, in respect of any period during which he receives treatment and as a result of such treatment he incurs a loss of earnings, a treatment allowance at the rate of retired pay or pension which would be payable if the degree of his disablement were 100 per cent.

(2) A member who is not normally in employment or who is retired from employment, shall not be entitled to a treatment allowance in respect of treatment which, if he were normally in employment, would in the opinion of the Secretary of State involve no or only occasional interruptions of that employment.

Abstention from work following treatment in a hospital or similar institution

18.—(1) Where the Secretary of State is satisfied that a member of the armed forces should on completion of a course of treatment abstain from work in consequence of the condition which necessitated that treatment and as a result of abstention from work he incurs a loss of earnings, he may be treated as if he were eligible for such period as the Secretary of State may think fit for a treatment allowance under article 17.

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(2) This article shall not apply to a member who is in receipt of a personal unemployment allowance under article 12(1)(a).

Part-time treatment allowance

19.—(1) A member of the armed forces who receives treatment which would be treatment as defined in item 61 of Schedule 6 but for the fact that it involves only occasional interruptions of the member's normal employment and as a result of such treatment he incurs a loss of earnings, may, subject to the provisions of paragraph (2), be awarded a part-time treatment allowance at such rate, not exceeding the appropriate rate specified in paragraph 10 of Part IV of Schedule 1, as the Secretary of State may think fit having regard to any loss of remunerative time by the member as a result of those interruptions.

(2) The amount of an allowance awarded to a member under this article in respect of any period of a week shall not exceed 3 times the appropriate rate.

Mobility Supplement

20.—(1) Subject to the provisions of this article, a mobility supplement shall be awarded at the rate specified in paragraph 11 of Part IV of Schedule 1 to a member of the armed forces who is in receipt of retired pay or a pension in respect of—

- (a) disablement as a result of the amputation of both legs, at levels which are either through or above the ankle; or
- (b) disablement, where the degree of disablement is assessed at 40 per cent or more, due to any other injury which is, and is likely to remain for at least 6 months from the date on which the question of eligibility for a supplement under this article is considered by the Secretary of State (either at first instance or on review), wholly or mainly responsible for—
 - (i) rendering him unable to walk (including with any suitable prosthesis or artificial aid which he habitually wears or uses, or which he might reasonably be expected to wear or use),
 - (ii) restricting his leg movements to such an extent that his ability to walk (with any such prosthesis or artificial aid) without severe discomfort is of little or no practical use to him,
 - (iii) restricting by physical pain or breathlessness his ability to walk to such an extent that it is of little or no practical use to him, or
 - (iv) rendering the exertion required to walk a danger to his life or a likely cause of serious deterioration in his health; or
- (c) disablement by reason of which, immediately prior to the date on which the question of his eligibility for a supplement under this article is first considered by the Secretary of State, on or after 9th April 2001 he—
 - (i) has had the use of an invalid carriage or other vehicle provided by the Secretary of State under section 5(2) of, and Schedule 2 to, the National Health Service Act 1977^{M7} or section 46 of the National Health Service (Scotland) Act 1978^{M8}, or by the Department of Health and Social Services for Northern Ireland under article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972^{M9}, which is a vehicle propelled by petrol engine or by electric power for use on the road and to be controlled by the occupant,
 - (ii) has received any payment by way of grant under any of the provisions referred to in subparagraph (c)(i) towards the cost of running a private car, or any payment out of public funds which the Secretary of State is satisfied is analogous thereto, or

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- (iii) has been in receipt of the mobility component of a disability living allowance under section 73 of either the Social Security Contributions and Benefits Act 1992^{M10} or the Social Security Contributions and Benefits (Northern Ireland) Act 1992^{M11} having been deemed, by virtue of section 74(1) of the relevant Act, to be suffering from such disablement as is mentioned in subsection (1)(a) of section 73 of the relevant Act and to satisfy the requirements of subsection (9) of that section; or
- [^{F29}(iv) has been in receipt of the mobility component of personal independence payment at the enhanced rate under section 79(2) of the Welfare Reform Act 2012 [^{F30}or Article 84(2) of the Welfare Reform (Northern Ireland) Order 2015]; or]
- [^{F31}(v) has been in receipt of the mobility component of adult disability payment at the enhanced rate given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018; or]
- (d) disablement as a result of his being both blind (with a loss of vision certified in accordance with article 42 as amounting to more than 80 per cent) and deaf (with a loss of hearing so certified as amounting to not less than 80 per cent) where by reason of the effects of those conditions in combination with each other he is unable, without the assistance of another person, to walk to any intended or required destination while out of doors.
- (2) Subject to paragraph (3), a mobility supplement under this article shall not be payable to a member for any period in respect of which he has the use of an invalid carriage or other vehicle provided under any of the statutory provisions referred to in paragraph (1)(c)(i).
- (3) In a case where the Secretary of State is satisfied—
- (a) that a member has purchased or taken on hire, hire purchase or lease a private car or similar vehicle (in this paragraph called “the car”) for a consideration which is more than nominal;
 - (b) that the member intends to retain possession of the car in order to learn to drive it; and
 - (c) that the member will use a mobility supplement under this article in whole or in part towards meeting the expenses of acquiring the car

paragraph (2) shall not apply during such period as the Secretary of State may consider reasonable, beginning on the date of his acquisition of the car.

Textual Amendments

- F29** Art. 20(1)(c)(iv) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), regs. 2, 8, **Sch. para. 38(2)**
- F30** Words in art. 20(1)(c)(iv) inserted (N.I.) (20.6.2016) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/228\)](#), regs. 1, **32(2)**
- F31** Art. 20(1)(c)(v) inserted (11.4.2022) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2022 \(S.I. 2022/147\)](#), arts. 1, **3**
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Marginal Citations

- M7** 1977 c. 49.
- M8** 1978 c. 29.
- M9** [S.I. 1972/1265 \(N.I. 14\)](#), as amended by section 40 of, and paragraph 8 of Schedule 5 to, the [Northern Ireland Constitution Act 1973 \(c. 36\)](#).
- M10** 1992 c. 4.
- M11** 1992 c. 7 (N.I.).

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Medical expenses

21.—(1) Subject to paragraph (2), any necessary expenses in respect of—

- (a) the medical, surgical or rehabilitative treatment of a member of the armed forces; or
- (b) appropriate aids and adaptations for disabled living; in both cases
- (c) arising [^{F32}wholly or mainly] as a result of disablement due to service before 6th April 2005

may be defrayed by the Secretary of State under such conditions and up to such amounts as he may determine.

(2) No expenses shall be defrayed under paragraph (1) in respect of treatment, aids or adaptations provided for, otherwise than on payment of a charge by the member, under legislation of the United Kingdom.

Textual Amendments

F32 Words in art. 21(1)(c) inserted (21.6.2006) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) \(No. 2\) Order 2006 \(S.I. 2006/1455\)](#), arts. 1(3), 4

[^{F33}PART 2A

ENTITLEMENT OF RECIPIENTS OF DIFFUSE MESOTHELIOMA LUMP SUMS

Textual Amendments

F33 Pt. 2A inserted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), 4

Entitlement of recipients of diffuse mesothelioma lump sums to other awards

21A.—(1) Schedule 1A (diffuse mesothelioma lump sums) has effect and applies in determining the entitlement of a member of the armed forces to a diffuse mesothelioma lump sum.

(2) Where a member of the armed forces is entitled to a diffuse mesothelioma lump sum by virtue of paragraph 2 of Schedule 1A—

- (a) any award in payment under Part 2 in respect of the disablement of the member must stop;
- (b) no award may be paid under Part 3 in respect of the death of the member, except for funeral expenses in accordance with article 32; and
- (c) in addition to Schedule 1A, only the provisions of the Order specified in paragraph (3) apply to the member.

(3) The provisions referred to in paragraph (2)(c) are—

- (a) Part 2A (entitlement of recipients of diffuse mesothelioma lump sums);
- (b) in Part 3 (awards in respect of death), article 32;
- (c) Part 4 (claims), except for article 35;
- (d) Part 5 (adjudication), except for article 44;
- (e) Part 6 (payment);
- (f) in Part 7 (reduction and cancellations of awards), articles 51, 52, 57 and 59;
- (g) Part 8 (miscellaneous provisions);

- (h) Schedule 3; and
- (i) Schedule 6.

(4) Paragraphs (2) and (3) apply on and after the date on which the Secretary of State pays the diffuse mesothelioma lump sum in accordance with the Order.]

PART III

AWARDS IN RESPECT OF DEATH

General conditions for Part III

22.—(1) Under this Part, awards may be made in accordance with this Order in respect of the death of a member of the armed forces which is due to service before 6th April 2005.

(2) For the purposes of the following provisions of this Part, any death in respect of which a claim to an award has been accepted under or by virtue of article 17A of a 1919 to 1920 other rank instrument or article 16A of a 1920 to 1921 officers instrument (widows of pensioners and others who, before the 1964 instruments came into operation, died from disablement or disease due to service during the 1914 World War) shall be treated as death due to service.

(3) The death of a member occurring after 22nd November 1916 at a time when an allowance in respect of constant attendance was payable to him in respect of a period ending with his death, or would have been so payable if he had not been in hospital or other institution, shall be treated as due to service for the purposes of this Part.

(4) The death of a member—

- (a) whose degree of disablement was assessed at not less than 80 per cent; and
- (b) to whom, in respect of the period ending with his death, an allowance under article 12 was payable

shall be treated as due to service for the purposes of this Part.

(5) For the purposes of paragraph (4), a member of the armed forces shall be treated as if he was in receipt of an allowance under article 12 if—

- (a) at the time of his death subparagraphs (b), (c) and (f) of article 12(3) applied to him; and
- (b) the period of remunerative work had not exceeded a period of [^{F34}104] weeks.

(6) Subject to paragraph (7), where, after the death of a member of the armed forces, any allowance, grant or other payment out of public funds is paid for any period to or in respect of any person in continuation of any payment made during the member's lifetime in respect of his service as a member, no pension, allowance or other grant under this Part of this Order shall be paid for that period to or in respect of that person.

(7) Where the aggregate amount of any pension, allowance or other grant which might, but for this article, have been paid under this Part is in excess of the aggregate amount of the payments made out of public funds, an amount equal to that excess may be paid.

Textual Amendments

- F34** Words in art. 22(5)(a) substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), 7 (with art. 18)

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Pensions to surviving spouses and surviving civil partners

23.—(1) The surviving spouse or surviving civil partner of a member of the armed forces whose death is due to service may be awarded a pension—

- (a) at whichever of the rates specified in column (2) of Tables 1, 2 and 3 in Part II of Schedule 2 is appropriate in the case where—
 - (i) the person has attained the age of 40 years or is the surviving spouse or surviving civil partner of an officer who was a member of the armed forces between 14th August 1914 and 30th September 1921, or
 - (ii) the person is in receipt of an allowance awarded in respect of a child under article 28, 30 or 31, or
 - (iii) the person was in receipt of an allowance awarded under article 28 in respect of a child of whom that person is the parent until the date upon which the child attained the age of 16 years, or where, in the opinion of the Secretary of State in any other case, that person should be treated as having been in receipt of such an allowance until that date, or
 - (iv) a child in respect of whom the person was awarded an allowance under article 28 or 31 dies before attaining the age of 16 years, for a period of 13 weeks beginning with the date of the child's death, or
 - (v) the person is incapable of self-support;
- (b) in any other case, at whichever of the rates specified in column (2) of Tables 4 and 5 in Part II of Schedule 2 is appropriate in the case.

(2) A supplementary pension payable at [^{F35}whichever of the rates specified in column (2) of Tables 6 and 7 in Part II of Schedule 2 as is appropriate in the case] per week shall be awarded to a surviving spouse or surviving civil partner of a member of the armed forces where—

- (a) the surviving spouse or surviving civil partner is entitled to a pension under paragraph (1) above; and
- (b) the service of that member terminated before 31st March 1973.

Textual Amendments

F35 Words in art. 23(2) substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **8** (with art. 18)

Pensions to dependants who lived as spouses [^{F36}or] civil partners

24.—(1) A dependant who lived as a spouse or ^{F37}... civil partner of a member of the armed forces whose death is due to service (“dependant”) may be awarded a pension in accordance with the following provisions of this article.

(2) Where the child of a member of the armed forces whose death is due to service is in his dependant's charge and the dependant is in receipt of an allowance awarded in respect of that child under the following provisions of this Part of this Order, a pension may, subject to the provisions of paragraph (3), be paid to the dependant until the allowance ceases to be paid or the child ceases to be in the dependant's charge.

(3) For the purposes of paragraph (2), where the child dies before attaining the child's age limit, the dependant shall be treated for the period of 13 weeks from the date of the child's death as if the allowance were still being paid and the child was still in the dependant's charge.

(4) The rate of a pension awarded to a dependant under this article shall be at the discretion of the Secretary of State, but shall not exceed the appropriate rate specified in paragraph 1 of Part III of Schedule 2.

Textual Amendments

- F36** Word in [art. 24](#) heading substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), [reg. 1\(2\)](#), [Sch. 3 para. 110\(4\)\(a\)](#)
- F37** Words in [art. 24\(1\)](#) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), [reg. 1\(2\)](#), [Sch. 3 para. 110\(4\)\(b\)](#)

Rent allowance to surviving spouses, surviving civil partners [^{F38} and dependants who lived as spouses or] civil partners, who have children

25.—(1) Where a surviving spouse or surviving civil partner of a member of the armed forces is in receipt of a pension under article 11 of a 1919 to 1921 instrument or under article 23 of this Order, or a dependant who lived as a spouse or ^{F39}... civil partner of a member (“dependant”) is in receipt of a pension under article 24 and—

- (a) in the case of a surviving spouse or surviving civil partner, the household of the spouse or civil partner includes a child; or
- (b) in the case of a dependant, the household includes a child of the member

the surviving spouse, surviving civil partner or dependant may be awarded a rent allowance at such weekly rate, not exceeding the appropriate rate specified in paragraph 2 of Part III of Schedule 2, as the Secretary of State may think fit having regard to the weekly rent and rates and to any council tax payable by the spouse or dependant.

(2) Subject to paragraph (3), where, but for this provision, an allowance under this article would cease by reason of the household ceasing to include a child, the allowance may be continued for the period of 26 weeks from the date on which the household ceases to include that child, even if the surviving spouse or surviving civil partner or dependant is no longer in receipt of a pension referred to in paragraph(1) for the whole or any part of that period.

(3) Paragraph (2) shall not apply where the pension has ceased by virtue of article 33.

(4) In this article—

- (a) “child” means a child who has not attained the child's age limit, or who, having attained the age limit, is a student or an apprentice or is incapable of self-support by reason of an infirmity which arose before he attained the age limit, and includes any person fulfilling those conditions who should, in the opinion of the Secretary of State, having regard to his relationship or to connection with the member and the other circumstances of the case, be treated as covered by the provisions of this article;
- (b) “weekly rent and rates” means such sum as the Secretary of State may, after taking into account all relevant factors and making all necessary apportionments, consider to be the weekly amount in respect of rent, or the equivalent of rent, and rates which the surviving spouse, surviving civil partner or dependant is paying or providing either directly or indirectly for accommodation for the benefit of himself or herself as the case may be and the child;
- (c) “accommodation” means living accommodation without any service or benefit not ordinarily provided by the landlord to the tenant of an unfurnished dwelling house, but may include accommodation reasonably required for the storage of furniture.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F38** Words in art. 25 heading substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 110(5)(a)**
- F39** Words in art. 25(1) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 110(5)(b)**

Elderly persons allowance

26. Where a person—

- (a) is in receipt of a pension awarded—
 - (i) under or by virtue of a 1919 to 1921 instrument as the surviving spouse or surviving civil partner of a member of the armed forces or as a person who had lived with him as his spouse or civil partner, or
 - (ii) under article 23 or 24 of, or paragraph 2 or 3 of Schedule 4 to, this Order; and
- (b) has attained the age of 65, 70 or, as the case may be, 80

that person shall be awarded an elderly persons allowance at whichever of the rates specified in paragraph 3 of Part III of Schedule 2 is appropriate in the case.

Temporary allowances

27.—(1) Notwithstanding anything in the foregoing provisions of this Order, where a member of the armed forces died or dies on or after 2nd December 1963 and—

- (a) ^{F40}
- (b) in respect of any period ending with his death there was payable to him either—
 - (i) an allowance under article 8 or 12(1)(a), or
 - (ii) although concurrently eligible for an allowance under article 12(1)(a), an allowance under article 15; or
- (c) an allowance under article 8 ceased to be payable within 13 weeks of his death following his entry as an inpatient into a hospital or other institution

his surviving spouse or surviving civil partner or dependant who lived as his spouse or ^{F41}... civil partner (“dependant”) may be awarded a personal allowance and, in respect of children, additional allowances in accordance with the following provisions of this article.

(2) For the purposes of paragraph (1), a member of the armed forces shall be treated as if he was in receipt of an allowance under article 12(1)(a) if—

- (a) at the time of his death subparagraphs (b), (c) and (f) of article 12(3) applied to him; and
- (b) the period of remunerative work had not exceeded a period of 52 weeks.

(3) A personal allowance awarded under this article to a surviving spouse or surviving civil partner shall be payable—

- ^{F42}(a) for the period of 26 weeks commencing on the relevant day; and]
- (b) at a weekly rate equal to the total amount of the retired pay, pension, alternative retired pay or pension or treatment allowances and any other allowances payable to the member under this Order or by virtue of a grant under a 1919 to 1921 instrument in respect of the 7 days next preceding the day of his death, with the exception of allowances under article 11 or 12(6) (a) or a mobility supplement under article 20 or any allowance in respect of a child; but

- (c) a personal allowance under this paragraph shall be subject to article 33(1) as if it were a pension under article 23 and shall not be payable for any period after the death of the surviving spouse or surviving civil partner; and
 - (d) in calculating the weekly rate of retired pay, pension or allowances for the purposes of the foregoing provisions of this article—
 - (i) a member who was in receipt of an award under Part V of the Service Pensions Order 1983 which was treated by article 33(2)(d)(i) of that Order as being made under article 10 of that Order shall be treated instead to have been in receipt of an award under article 6 of this Order,
 - (ii) an officer who was in receipt of an award under any paragraph of the proviso to article 1 of a 1920 to 1921 instrument shall be treated instead to have been in receipt of an award under article 1 of that instrument without reference to that proviso,
 - (iii) as regards a member (whether or not an officer), no account shall be taken of any pension awarded in respect of service or rank (or both) for which the member was eligible under the principal Naval Regulations, the Pensions Warrant or the principal Air Force Regulations or under any Order in Council, Royal Warrant or Order relating to service before 3rd September 1939, and
 - (iv) a member who, being concurrently eligible for an allowance under article 12(1)(a), was in receipt of an allowance under article 15 shall be treated instead to have been in receipt of an allowance under article 12(1)(a).
- (4) A dependant of a member whose death is due to service and who, at the date of his death, had a child of his in charge may be awarded a personal allowance under this article as if he or, as the case may be, she were the surviving spouse or surviving civil partner of the member, but such an award shall be subject to the following conditions—
- (a) the rate of the allowance payable to the dependant—
 - (i) shall be at the discretion of the Secretary of State, but
 - (ii) shall not in any case exceed the rate which, if the dependant were the member's surviving spouse or surviving civil partner, would be appropriate under paragraph (3); and
 - (b) the allowance shall not be payable for any period after the child ceases to be in the dependant's charge.
- (5) Where the surviving spouse, surviving civil partner or dependant is awarded a personal allowance under this article, an additional allowance may be awarded in respect of any child for whom an allowance was payable to the member immediately before his death, and any such additional allowance shall be payable at the weekly rate at which the allowance or allowances for that child was or were payable to the member in respect of the 7 days next preceding the day of his death—
- (a) for so long as the personal allowance is payable and the child is alive and has not attained the child's age limit; or
 - (b) if he has attained that limit, is a student or an apprentice; or
 - (c) is incapable of self-support by reason of an infirmity which arose before he attained that limit; and
- in each case the circumstances are such as to justify the continuance of the award.
- (6) As respect any payments made to a person under this article for any period for which any pension or allowance (other than an allowance under this article) or grant might, but for the provisions of this paragraph, be awarded to that person under this Part of this Order—

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- (a) where the aggregate amount of such payments is equal to, or exceeds, the aggregate amount of such pension, allowance or grant, no award of such pension allowance or grant shall be made;
 - (b) where the aggregate amount of such payments is less than the aggregate amount of such pension, allowance or grant, the pension, allowance or grant may be awarded and the payments shall be treated as paid on account thereof.
- (7) Notwithstanding anything in the foregoing provisions of this article, the Secretary of State may, if in his opinion the exceptional circumstances of any particular case so require, at his discretion—
- (a) vary the conditions for the award of a personal allowance in so far as they related to a period in respect of which an allowance under article 8 or article 12(1)(a) is required to have been payable;
 - (b) award a personal allowance or an additional allowance for any week at a weekly rate other than that prescribed in paragraph (3)(b) or, as the case may be, paragraph (5), but not exceeding the maximum rate which would have been payable in accordance with that subparagraph had the member died at any time not earlier than 13 weeks before the date of his death.
- [^{F43}(8) In this article, “relevant day” means—
- (a) in the case of the surviving spouse or surviving civil partner of an officer, the day after the day of the officer’s death;
 - (b) in the case of the surviving spouse or surviving civil partner of any other member—
 - (i) where the member died before 8th April 2019, the Wednesday next following the day of the member’s death;
 - (ii) where the member died on or after 8th April 2019, the day after the day of the member’s death.]

Textual Amendments

- F40** Art. 27(1)(a) omitted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 3**
- F41** Words in art. 27(1) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 110(6)**
- F42** Art. 27(3)(a) substituted (8.4.2019) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2019 \(S.I. 2019/186\)](#), arts. 1, **3(a)**
- F43** Art. 27(8) inserted (8.4.2019) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2019 \(S.I. 2019/186\)](#), arts. 1, **3(b)**

Allowances for children under the child's age limit

- 28.—**(1) A children's allowance shall be awarded in respect of a child of a member of the armed forces whose death is due to service where the child—
- (a) has not attained the child's age limit; and
 - (b) is not eligible for an award of pension under article 29.
- (2) A children's allowance shall be—
- (a) at the appropriate rate specified in paragraph 4(a) of Part III of Schedule 2 where the child lives with a parent; or

- (b) at a rate not exceeding the appropriate rate specified in paragraph 4(b) of Part III of Schedule 2 where the child does not live with a parent or with a person who is or has been in receipt of a pension awarded under articles 23, 24 or 31 in respect of the death of that member.

Pensions for orphans under the child's age limit

29.—(1) An orphan's pension shall be awarded in respect of a child of a member of the armed forces whose death is due to service where the child—

- (a) has not attained the child's age limit; and
- (b) has no parents living.

(2) A pension awarded under this article shall be at the appropriate rate specified in paragraph 5 of Part III of Schedule 2.

Award for children who have attained the child's age limit

30.—(1) A children's allowance or an orphan's pension may be awarded or continued in respect of a child of a member of the armed forces whose death is due to service where the child has attained the child's age limit and who is—

- (a) a student or apprentice; or
- (b) incapable of self-support by reason of an infirmity which arose before he attained the child's age limit

and where the Secretary of State considers the making or continuing of the award is justified in all the circumstances of the case.

(2) An allowance or pension awarded or continued under this article—

- (a) shall be at the rate, and subject to the conditions in, articles 28(1)(b) or 29(1)(b) as appropriate; or
- (b) where a child in respect of whom an award was made under article 28 or 29 has attained the age of 18 years and is incapable of self-support by reason of an infirmity which arose before he attained the child's age limit, shall be at a rate not exceeding the rate specified in paragraph 6 of Part III of Schedule 2.

Awards to or in respect of ineligible members of the families of unemployable pensioners

31. Where a member of the armed forces was at the date of his death in receipt of an allowance in respect of a child under article 12(6)(b) by virtue of article 12(6)(c), a pension to, or an allowance in respect of, the child may be awarded at the rate, and subject to the conditions, which would have been appropriate under the foregoing provisions of this Part of this Order if the child had been an eligible member of the family.

[^{F44}Funeral expenses

32.—(1) Where paragraph (2) applies the Secretary of State shall make an award for funeral expenses of £2,200.

(2) This paragraph applies where—

- (a) a member of the armed forces dies on or after 6th April 2009;
- (b) the death of the member was due to service before 6th April 2005;
- (c) the funeral of that member has taken place; and
- (d) within three months of the funeral of the deceased member, either—

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- (i) a claim is made for funeral expenses, or
- (ii) an enquiry is made in person, in writing or orally to the Secretary of State or to an authorised agent, about claiming funeral expenses and a claim is made for such expenses within three months of the date the claim form is sent in response to the enquiry.]

Textual Amendments

F44 Art. 32 substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **9** (with art. 18)

Relationships subsequent to the award of a pension

33.—(1) Subject to the following provisions of this article, any pension or allowance awarded under this Part of this Order or under Part II of a 1919 to 1921 instrument to a person other than a parent shall cease if that person [^{F45}marries or forms a civil partnership with another person, or lives with another person as the spouse or civil partner of that person, before the 1st April 2015.]

[^{F46}(2) Where—

- (a) in accordance with paragraph (1), an award to a person ceased, and
- (b) that person [^{F47}makes a claim for the restoration of] the award in respect of a period which begins after the end of the relationship that led to the cessation of the award,

the claim shall be determined as though the relationship had never existed.]

(3) A pension or allowance awarded under articles 23 to 26 (inclusive) to a person in respect of a member of the armed forces who died or whose service terminated ^{F48} . . . before 31st March 1973 shall not cease if that person [^{F49}marries or forms a civil partnership with another person, or begins to live with another person as the spouse or civil partner of that person, on or after the 6th April 2005.]

(4) In determining whether a pension is payable to a person as a surviving spouse in respect of any period beginning on or after 19th July 1995, no account may be taken of the fact that [^{F50}the person has married another] if, before the beginning of that period, the marriage has been terminated or the parties have been judicially separated.

(5) A pension or allowance awarded to or in respect of a person under article 28, 29 or 30 shall not cease on the marriage of that person if, having regard to the special circumstances of the case, the Secretary of State so directs.

(6) An allowance awarded in respect of a child shall not be affected by the cessation under this article of a pension awarded to any other person.

(7) For the purposes of paragraph (4)—

- (a) the reference to the termination of a marriage is to the termination of the marriage by death, dissolution or annulment; and
- (b) the reference to judicial separation includes any legal separation obtained in a country or territory outside the British Islands and recognised in the United Kingdom

and for those purposes a divorce, annulment or legal separation obtained in a country or territory outside the British Islands must, if the Secretary of State so determines, be treated as recognised in the United Kingdom even though no declaration as to its validity has been made by any court in the United Kingdom.

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Textual Amendments

- F45** Words in art. 33(1) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 110(7)(a)**
- F46** Art. 33(2) substituted (6.4.2015) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2015 (S.I. 2015/208), arts. 1(1), **2(b)**
- F47** Words in art. 33(2)(b) substituted (9.4.2018) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2018 (S.I. 2018/176), arts. 1, **4**
- F48** Words in art. 33(3) omitted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by virtue of The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2008 (S.I. 2008/679), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 4**
- F49** Words in art. 33(3) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 110(7)(b)**
- F50** Words in art. 33(4) substituted (8.4.2013) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2013 (S.I. 2013/241), arts. 1, **3**

PART IV

CLAIMS

Making of claims

34.—(1) Subject to [^{F51}paragraphs (2A), (4)] and article 35, it shall be a condition precedent to the making of any award of any pension, [^{F52}allowance, supplement or lump sum payment] mentioned in paragraph (2) (including any such award which follows an earlier award [^{F53}and an award which is the restoration of an award referred to in article 33]) that the person making the claim shall have—

- (a) completed and signed a form approved by the Secretary of State for the purpose of claiming [^{F54}an award] payable under this Order; and
- (b) delivered that form either to an appropriate office of the Secretary of State or to an office of an authorised agent.

(2) The pensions, [^{F55}allowances, supplement and lump sum payment] to which paragraph (1) applies are—

- (a) retired pay or a pension payable under article 6;
- (b) a gratuity under article 7;
- (c) a constant attendance allowance payable under article 8;
- (d) a clothing allowance payable under article 11;
- (e) an unemployability allowance payable under article 12;
- (f) an allowance for lowered standard of occupation payable under article 15;
- (g) a treatment allowance payable under article 17;
- (h) an allowance where abstinence from work is necessary following treatment in a hospital or similar institution under article 18;
- (i) an allowance for part-time treatment under article 19;
- (j) a mobility supplement payable under article 20;
- (k) a surviving spouse's or surviving civil partner's pension payable under article 23;

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- (l) a pension payable to a dependant who lived as a spouse or ^{F56}... civil partner under article 24;
- (m) a rent allowance payable to a surviving spouse, surviving civil partner [^{F57}or dependant who lived as a spouse or] civil partner under article 25;
- (n) a children's allowance payable under article 28;
- (o) a children's allowance or an orphan's pension payable under article 30;
- (p) an award of funeral expenses under article 32^{F58};
- ^{F59}(q) a diffuse mesothelioma lump sum under Schedule 1A.]

^{F60}(2A) A claim for constant attendance allowance under article 8(6) (on the grounds that a member of the armed forces has a terminal illness) may be made on behalf of the member, and shall be regarded as having been made by the member, notwithstanding that it is made without his knowledge or authority.]

(3) A claim for a pension for a child under article 29 or article 31 shall be made by the child's guardian or by any other person having parental responsibility (within the meaning of the Children Act 1989 ^{M12} for the child).

(4) Subject to paragraph (5), where a claim for injury or death benefit made by or in respect of a member of the armed forces has been refused under the 2005 Order, the Secretary of State may treat the claim under that Order as a claim under this Order.

(5) Paragraph (4) shall not apply to a claim made under the 2005 Order during the claimant's service.

Textual Amendments

- F51** Words in art. 34(1) substituted (6.4.2009) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **10(a)** (with art. 18)
- F52** Words in art. 34(1) substituted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(2)(a)**
- F53** Words in art. 34(1) substituted (9.4.2018) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2018 (S.I. 2018/176), arts. 1, **5**
- F54** Words in art. 34(1)(a) substituted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(2)(b)**
- F55** Words in art. 34(2) substituted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(3)(a)**
- F56** Words in art. 34(2)(l) omitted (2.12.2019) by virtue of The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 110(8)(a)**
- F57** Words in art. 34(2)(m) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 110(8)(b)**
- F58** Art. 34(2)(p): semi-colon substituted for full stop (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(3)(b)**
- F59** Art. 34(2)(q) inserted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(3)(c)**
- F60** Art. 34(2A) inserted (6.4.2009) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **10(b)** (with art. 18)

Marginal Citations

- M12** 1989 c. 41.

Cases where claims are not required

35.—(1) A claim for the pensions, allowances and supplements mentioned in the following paragraphs of this article shall not be required if the conditions set out in the relevant paragraph are satisfied.

(2) A claim for retired pay or a disablement pension under article 6 or a gratuity under article 7 is not required to be made by the former member of the armed forces if—

- (a) he is discharged from the armed forces on medical grounds; and
- (b) copies of that member's medical and service records are delivered to ^{F61}Veterans UK].

(3) ^{F62}Subject to paragraph (3A),] A claim for a surviving spouse's or surviving civil partner's pension under article 23 is not required if—

- (a) the member of the armed forces by reference to whose death the pension would be payable died whilst serving in the armed forces; and
- (b) copies of that member's medical and service records are delivered to ^{F63}Veterans UK].

^{F64}(3A) Paragraph (3) does not apply to restorations of awards referred to in article 33(2).]

(4) A separate claim is not required for an award under this Order for—

- (a) comforts allowance payable under article 14(1)(a)(ii); or
- (b) age allowance payable under article 16

where a pensioner is in receipt of retired pay or a disablement pension under article 6.

(5) A separate claim is not required for an award under this Order of the allowance payable under article 26 where a person is in receipt of a pension under article 23 or article 24.

(6) Where a claim has been made for retired pay or a disablement pension under article 6 on the basis of a particular disablement which is alleged to have been due to an injury which is attributable to or aggravated by service, no separate claim shall be required in respect of any other disablement which appears, upon an examination which is conducted by a medical practitioner before the claim is determined, to have been so attributable or so aggravated, whether due to that or another injury.

(7) Where a claim for a constant attendance allowance has been made in respect of a former member of the armed forces under article 8, no separate claim shall be required for—

- (a) an exceptionally severe disablement allowance under article 9;
- (b) a severe disablement occupational allowance under article 10;
- (c) a comforts allowance under article 14; or
- (d) a temporary allowance payable under article 27.

(8) Where a claim for an unemployability allowance under article 12 has been made, no separate claim shall be required for—

- (a) an invalidity allowance under article 13;
- (b) a comforts allowance under article 14; or
- (c) a temporary allowance payable under article 27.

(9) Where a claim has been made for—

- (a) a surviving spouse's or surviving civil partner's pension under article 23; or
- (b) a pension payable to a dependant living as a spouse or ^{F65}... civil partner under article 24;

no separate claim for the award of an allowance under article 28 or article 30 shall be required if the claim for that pension provides sufficient information for the making of the award.

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Textual Amendments

- F61** Words in art. 35(2)(b) substituted (9.4.2018) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2018 (S.I. 2018/176), arts. 1, **6(a)**
- F62** Words in art. 35(3) inserted (9.4.2018) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2018 (S.I. 2018/176), arts. 1, **6(b)(i)**
- F63** Words in art. 35(3)(b) substituted (9.4.2018) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2018 (S.I. 2018/176), arts. 1, **6(b)(ii)**
- F64** Art. 35(3A) inserted (9.4.2018) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2018 (S.I. 2018/176), arts. 1, **6(c)**
- F65** Words in art. 35(9)(b) omitted (2.12.2019) by virtue of The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 110(9)**

Withdrawal of Claims

- 36.—**(1) Where a claim [^{F66}under article 34] has been made [^{F67}or where article 35 applies] and—
- (a) the Secretary of State makes a request in writing for further information which is reasonably required for the determination of that claim, and that information is not provided within three months of the date on which the request is given or sent to the person making the claim; or
- (b) the person in respect of whom the claim is made has been requested to attend for a medical examination at a time and place specified in a notice given or sent to him not less than ten days before the date of the examination and he fails without providing, within three months of the date on which he was requested to attend, a satisfactory explanation for that failure

the claim shall be treated as having been withdrawn.

(2) Where a person who has made a claim [^{F66}under article 34], and that claim has not been determined, gives written notice to the Secretary of State or, where the claim was made by delivering the claim to an authorised agent, gives written notice to either the Secretary of State or that authorised agent, that he wishes to withdraw the claim, the claim shall thereafter be treated for all purposes of this Order as having been withdrawn.

(3) The treating of a claim as having been withdrawn under this article shall not prejudice the making of a further claim for the [^{F68}award] to which the earlier claim related.

Textual Amendments

- F66** Words in art. 36(1)(2) substituted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(4)(a)**
- F67** Words in art. 36(1) inserted (9.4.2012) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2012 (S.I. 2012/359), arts. 1, **4**
- F68** Word in art. 36(3) substituted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), **5(4)(b)**

Date of claim

37.—(1) In this Order “date of claim” means, subject to the following paragraphs of this article, the date on which a claim is received by the Secretary of State or by an authorised agent.

(2) Where—

- (a) not more than 3 months earlier than the date referred to in paragraph (1), an enquiry is made in person, in writing or orally to the Secretary of State or to an authorised agent about claiming any pension, retired pay, [F69]allowance, supplement or lump sum payment] for a named person; and
- (b) that enquiry is made by the person who subsequently makes the claim or by a relative of his or by a representative of a charitable organisation

then “date of claim” means the date on which the enquiry is received by the Secretary of State or, as the case may be, the authorised agent.

(3) Where—

- (a) a person is awarded a disablement pension or retired pay under article 6; and
- (b) within three months of the notification of that award being given or sent to him;
- (c) he makes a claim for an allowance specified in article 34 or a mobility supplement under article 20

then “date of claim” for the purposes of determining entitlement to that allowance or supplement, means the date of claim for the disablement pension or retired pay.

(4) Where—

- (a) a person is awarded a disablement pension or retired pay under article 6; and
- (b) subsequently he makes a claim for an allowance under article 34 or a mobility supplement under article 20;
- (c) but not within three months of the notification of that award being given or sent to him

then “date of claim” for the purpose of determining entitlement to that allowance or supplement means, subject to paragraph (5), the date on which the claim for the allowance or supplement is received by the Secretary of State or, as the case may be, the authorised agent.

(5) Where—

- (a) not more than 3 months earlier than the date referred to in paragraph (4), an enquiry is made in person, in writing or orally to the Secretary of State or to an authorised agent about claiming an allowance specified in article 34 or a mobility supplement under article 20; and
- (b) that enquiry is made by the person who subsequently makes the claim or by a relative of his or by a representative of a charitable organisation

then “date of claim” means the date on which the enquiry is received by the Secretary of State or, as the case may be, the authorised agent.

(6) Where a claim or an enquiry referred to in this article is made by post in the United Kingdom and the arrival of that claim or enquiry at the appropriate office of the Secretary of State or the authorised agent is delayed by postal disruption caused by industrial action, whether within the postal service or elsewhere, the claim shall be treated as having been received on the day on which it would have been received if it has been delivered in the ordinary course of the post.

(7) In this article “charitable organisation” includes a company limited by guarantee with charitable objects.

Textual Amendments

- F69** Words in art. 37(2)(a) substituted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **5(5)**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PART V

ADJUDICATION

Interpretation of Part V

38. In this Part—

- (a) “pension” includes any retired pay, pension, [^{F70}allowance, other continuing benefit or lump sum payment] under this Order; and
- (b) “gratuity” includes any gratuity under this Order.

Textual Amendments

F70 Words in art. 38(a) substituted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), 6

Administration of this Order

39. This Order shall be administered by the Secretary of State or, as to any particular provision of the Order which he may select, by such other person or body acting under his directions as he may direct, and, except as otherwise provided by statute, the Secretary of State shall be the sole interpreter of this Order and may issue such instructions with reference to the Order as he may from time to time consider necessary.

Entitlement where a claim is made in respect of a disablement, or death occurs, not later than 7 years after the termination of service

40.—(1) Except where paragraph (2) applies, where, not later than 7 years after the termination of the service of a member of the armed forces, a claim is made in respect of a disablement of that member, or the death occurs of that member and a claim is made (at any time) in respect of that death, such disablement or death, as the case may be, shall be accepted as due to service for the purposes of this Order provided it is certified that—

- (a) the disablement is due to an injury which—
 - (i) is attributable to service, or
 - (ii) existed before or arose during service and has been and remains aggravated thereby;
 or
- (b) the death was due to or hastened by—
 - (i) an injury which was attributable to service, or
 - (ii) the aggravation by service of an injury which existed before or arose during service.

(2) Where a person is entitled to benefit under the 2005 Order in respect of an injury or death, that injury or death shall not be accepted as due to service for the purposes of this Order.

(3) Subject to the following [^{F71}provisions] of this article, in no case shall there be an onus on any claimant under this article to prove the fulfilment of the conditions set out in paragraph (1) and the benefit of any reasonable doubt shall be given to the claimant.

(4) Subject to the following provisions of this article, where an injury which has led to a member's discharge or death during service was not noted in a medical report made on that member on the commencement of his service, a certificate under paragraph (1) shall be given unless the evidence shows that the conditions set out in that paragraph are not fulfilled.

(5) The provisions of paragraphs (3) and (4) shall not apply to a claim in respect of the disablement or death of a member of the Reserve or Auxiliary Forces where that disablement is due to, or that death is due to or hastened by, a disease other than a disease caused or aggravated by an accident but—

- (a) such disablement or death shall be certified in accordance with paragraph (1) if it is shown that the conditions set out in this article and applicable thereto are fulfilled;
- (b) where, upon reliable evidence, a reasonable doubt exists where the conditions set out in paragraph (1) are fulfilled, the benefit of that reasonable doubt shall be given to the claimant.

(6) Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

Textual Amendments

F71 Words in art. 40(3) substituted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 5**

Entitlement where a claim is made in respect of a disablement, or death occurs, more than 7 years after the termination of service

41.—(1) Except where paragraph (2) applies, where, after the expiration of the period of 7 years beginning with the termination of the service of a member of the armed forces, a claim is made in respect of a disablement of that member, or in respect of the death of that member (being a death occurring after the expiration of the said period), such disablement or death, as the case may be, shall be accepted as due to service for the purpose of this Order provided it is certified that—

- (a) the disablement is due to an injury which—
 - (i) is attributable to service before 6th April 2005, or
 - (ii) existed before or arose during such service and has been and remains aggravated thereby; or
- (b) the death was due to or substantially hastened by
 - (i) an injury which was attributable to service, or
 - (ii) the aggravation by service of an injury which existed before or arose during service.

(2) Where a person is entitled to benefit under the 2005 Order in respect of an injury or death, that injury or death shall not be accepted as due to service for the purposes of this Order.

(3) A disablement or death shall be certified in accordance with paragraph (1) if it is shown that the conditions set out in this article and applicable thereto are fulfilled.

(4) The condition set out in paragraph (1)(a)(ii), namely, that the injury on which the claim is based remains aggravated by service before 6th April 2005 shall not be treated as fulfilled unless the injury remains so aggravated at the time when the claim is made, but this paragraph shall be without prejudice, in a case where an award is made, to the subsequent operation of article 2(5) in relation to that condition.

(5) Where, upon reliable evidence, a reasonable doubt exists whether the conditions set out in paragraph (1) are fulfilled, the benefit of that reasonable doubt shall be given to the claimant.

(6) Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

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Determination of degree of disablement

42.—(1) The following provisions of this article shall apply for the purposes of the assessment of the degree of the disablement of a member of the armed forces due to service before 6th April 2005.

(2) Subject to the following provisions of this article—

- (a) the degree of the disablement due to service of a member of the armed forces shall be assessed by making a comparison between the condition of the member as so disabled and the condition of a normal healthy person of the same age and sex, without taking into account the earning capacity of the member in his disabled condition in his own or any other specific trade or occupation, and without taking into account the effect of any individual factors or extraneous circumstances;
- (b) for the purpose of assessing the degree of disablement due to an injury which existed before or arose during service and has been and remains aggravated thereby—
 - (i) in assessing the degree of disablement existing at the date of the termination of the service of the member, account shall be taken of the total disablement due to that injury and existing at that date, and
 - (ii) in assessing the degree of disablement existing at any date subsequent to the date of the termination of his service, any increase in the degree of disablement which has occurred since the said date of termination shall only be taken into account in so far as that increase is due to the aggravation by service of that injury;
- (c) where such disablement is due to more than one injury, a composite assessment of the degree of disablement shall be made by reference to the combined effect of all such injuries;
- (d) the degree of disablement shall be assessed on an interim basis unless the member's condition permits a final assessment of the extent, if any, of that disablement.

(3) Where the average hearing loss at frequencies of 1, 2 and 3 kHz is not 50 dB or more in each ear, the degree of disablement in respect of that loss shall be assessed at less than 20 per cent.

(4) Neither noise-induced sensorineural hearing loss nor a related condition or symptom shall be taken into account in determining a member's total degree of disablement if the degree of disablement in respect of that loss alone is less than 20 per cent.

(5) The degree of disablement assessed under the foregoing provisions of this article shall be certified by way of a percentage, total disablement being represented by 100 per cent (which shall be the maximum assessment) and a lesser degree being represented by such percentage as bears to 100 per cent the same proportion as the lesser degree of disablement bears to total disablement, so however that a degree of disablement of 20 per cent or more shall be certified at a percentage which is a multiple of 10, and a degree of disablement which is less than 20 per cent shall, except in a case to which Table 1 of Part III of Schedule 1 applies, be certified in a manner suitable for the purposes of Table 2 of Part III of that Schedule.

(6) Where a disablement is due to an injury specified in Part V of Schedule 1 or is a disablement so specified, and, in either case, has reached a settled condition, the degree of that disablement shall, in the absence of any special features, be certified for the purposes of this article at the percentage specified in that Part as appropriate to that injury or to that disablement.

(7) An assessment of the degree of disablement due to service in respect of noise-induced sensorineural hearing loss shall be based solely on hearing loss due to service and shall not include any hearing loss due to age or other factors which are not related to service as a member of the armed forces and which arise after service.

(8) Noise-induced sensorineural hearing loss shall be measured by reference to audiometric tests, where available, conducted at or about the termination of the member's service and the degree of disablement due to service shall be assessed in accordance with paragraph (10).

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(9) Where no such tests were conducted or are available, the assessment of the degree of disablement due to service shall be informed by the earliest available evidence, whether in terms of audiometric tests or other evidence relevant to the level of hearing loss that existed at termination of service and the assessment shall have regard to the relative percentages of degrees of disablement and measured hearing loss specified in Table 1 of Part VI of Schedule 1 but any hearing loss arising after termination of service shall not be included in the assessment.

(10) Subject to paragraphs (7), (8), (9) and (11), the degree of disablement in respect of noise-induced sensorineural hearing loss which is due to service shall be assessed by—

- (a) determining the average total hearing loss for each ear at 1, 2 and 3kHz frequencies; and then by
- (b) determining the percentage degree of disablement for each ear in accordance with Table 1 of Part VI of Schedule 1; and then by
- (c) determining the average percentage degree of binaural disablement in accordance with the following formula: $\lceil^{F72}((\text{degree of disablement of better ear} \times 4) + (\text{degree of disablement of worst ear})) \text{ divided by } 5]$; and
- (d) in subparagraph (c) “better ear” means that ear in which the claimant's hearing loss is the less and “worse ear” means that ear in which the claimant's hearing loss is the more.

(11) Paragraphs (8), (9) and (10) shall not be applied so as to reduce any award made prior to 12th April 2004.

(12) For the purpose of determining the percentage degree of disablement in Table 1 of Part VI of Schedule 1, any fraction of an average hearing loss shall, where the average hearing loss is over 50dB, be rounded down to the next whole figure.

(13) Where—

- (a) a member has sustained a minor injury specified in Table 1 of Part III of Schedule 1 as well as some other disablement due to service the degree of which is less than 100 per cent; and
- (b) a composite assessment of the degree of the disablement from both causes is no higher than the assessment for the other disablement alone

this article shall have effect so as to authorise an award under article 7 in respect of the minor injury as well as an award under article 6 or 7 in respect of the other disablement.

(14) The degree of disablement certified under this article shall be the degree of disablement for the purposes of any award made under this Order.

Textual Amendments

F72 Words in art. 42(10)(c) substituted (8.4.2013) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2013 \(S.I. 2013/241\)](#), arts. 1, 4

Certification

43. Where any matter is required by this Order to be certified, that matter shall be determined—

- (a) where a Tribunal constituted under the War Pensions (Administrative Provisions) Act 1919^{M13} or the Pensions Appeal Tribunals Act 1943^{F73} or established under the Tribunals, Courts and Enforcement Act 2007 (c.15)^{M14} has given a decision on that matter under those Acts, in accordance with that decision, or, if an appeal from that decision is brought under those Acts, in accordance with the decision on that appeal;
- (b) where no such decision has been given and the matter involves a medical question—

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- (i) in accordance with a certificate on that question of a medical officer or board of medical officers appointed or recognised by the Secretary of State,
- (ii) in a case where a pension or retired pay was payable in respect of disablement or death due to service before the commencement of the 1914 World War or after 30th September 1921 but before 3rd September 1939, if a certificate on that question has been given before 29th July 1996 by a medical officer or a board of medical officers appointed by the Secretary of State for Defence, in accordance with that certificate, or
- (iii) where it appears to the Secretary of State that the medical question raises a serious doubt or difficulty and he so desires, in accordance with the opinion thereon obtained from one or more of a panel of independent medical experts nominated by the President of the Royal College of Physicians of London, the Royal College of Surgeons of England or the Royal College of Obstetricians and Gynaecologists.

Textual Amendments

F73 Words in art. 43(a) inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 310**

Marginal Citations

M13 1919 c. 53.

M14 1943 c. 39; this Act was amended and modified by the [Pensions Appeal Tribunals Act 1949 \(c. 12\)](#); sub-section (3A) was added to section 1 by the [Pensions Appeal Tribunals Act \(Modification\) Order 1947 \(S.I. 1947/1143\)](#) and sections 5 and 6 were amended by section 23 of the [Chronically Sick and Disabled Persons Act 1970 \(c. 44\)](#). Sections 5 and 6 were also amended by section 16 of the [Social Security Act 1980 \(c. 30\)](#), and section 6 was also amended by section 43 of the [Social Security and Housing Benefits Act 1982 \(c. 24\)](#) and by the [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#).

Review of decisions, assessments and awards

44.—(1) Subject to the provisions of paragraphs (3), (4) and (5) and to the provisions of paragraph (8)^{F74} . . . —

- (a) [^{F75}any decision] accepting or rejecting a claim for pension; or
 - (b) any assessment of the degree of disablement of a member of the armed forces; or
 - (c) any final decision that there is no disablement or that the disablement has come to an end
- may be reviewed by the Secretary of State at any time on any ground.

(2) Subject to the provisions of paragraphs (4), (5), (8) and (9), any award under this Order may be reviewed by the Secretary of State at any time if the Secretary of State is satisfied that—

- (a) the award was made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law;
- (b) there has been any relevant change of circumstances since the award was made;
- (c) the award was based on a decision or assessment to which paragraph (1) of this article applies, and that decision or assessment has been revised.

(3) Any assessment or decision made, given or upheld by the Pensions Appeal Tribunal under section 8 of the War Pensions (Administrative Provisions) Act 1919 or the Pensions Appeal Tribunals

Act 1943 [^{F76}or the First-tier Tribunal] may be reviewed by the Secretary of State at any time if the Secretary of State is satisfied that there has been a relevant change of circumstances since the assessment or decision was made, including any improvement or deterioration in the disablement in respect of which the assessment was made.

(4) Subject to the provisions of paragraph (9), following a review under paragraph (1) of any decision accepting a claim for pension or any assessment of the degree of disablement of a member of the armed forces, that decision or assessment may be revised by the Secretary of State to the detriment of a member of the armed forces only where the Secretary of State is satisfied that—

- (a) the decision or assessment was given or made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law; or
- (b) in the case of a decision accepting a claim for pension—
 - (i) the decision was given after it had been certified pursuant to article 43(b)(i) that the member of the armed forces was suffering from a specified disablement (“the certified condition”) which was attributable to, or aggravated by, his service, and
 - (ii) since the date of the decision it has been further certified, pursuant to article 43(b)(i), that the claimant was not, at the date of the earlier certification, suffering from the certified condition; or
- (c) there has been a change in the degree of disablement due to service since the assessment was made.

(5) An award under this Order may be revised by the Secretary of State to the detriment of a member of the armed forces only where the Secretary of State is satisfied that—

- (a) the award was made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law; or
- (b) there has been any relevant change of circumstances since the award was made; or
- (c) the decision or assessment upon which the award was based has been revised under paragraph (4).

(6) Subject to the provisions of paragraphs (4) and (5), on a review under this article, the Secretary of State may maintain or continue, vary or cancel the decision, assessment or award and any revised decision, assessment or award shall be such as may be appropriate having regard to the provisions of this Order.

(7) Notwithstanding the provisions of paragraph (4), (5) and (6), where a decision accepting a claim for pension is revised, the Secretary of State may, if in any case he sees fit, continue any award based on that decision at a rate not exceeding that which may from time to time be appropriate to the assessment of the degree of disablement existing immediately before the date of the revision.

(8) Where a member has attained the age of 65, paragraph (2)(b) shall not apply so as to enable an award of an allowance under article 15 to be reviewed on the ground that the rate of the member's earnings has, or would, in his regular occupation, have changed since the date of the award.

(9) Subject to paragraphs (10), (11) and (12), paragraphs (1) to (7) shall not apply to any decision, assessment or award made in respect of or relating to the rate of pension or retired pay for the disablement or death of a member which is due to service before or during the 1914 World War.

(10) A permanent pension or permanent retired pay granted under this Order in respect of service before the 1914 World War or under a 1919 to 1921 instrument may be reviewed by the Secretary of State where the person to whom the pension or retired pay has been granted claims that there has been a substantial increase in the extent of the disablement due to the original cause.

(11) In respect of any disablement pension or retired pay under this Order in respect of service before the 1914 World War or under a 1919 to 1921 instrument the Secretary of State may at any time order a review of that pension or retired pay in any case where—

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- (a) the pension or retired pay has, by error in interpretation or fact, been granted to a disabled member of the armed forces in excess of the amount appropriate to the degree of his disablement;
- (b) the Secretary of State has reason to believe that the pension or retired pay has been obtained by an improper means; or
- (c) the pension or retired pay has been granted by error.

(12) Any decision rejecting a claim for a pension in respect of the death of a member which is due to service before or during the 1914 World War may be reviewed by the Secretary of State at any time on any ground and may be revised by him as may be appropriate having regard to the provisions of this Order.

Textual Amendments

- F74** Words in art. 44(1) omitted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 6(a)**
- F75** Words in art. 44(1)(a) inserted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 6(b)**
- F76** Words in art. 44(3) inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 311**

PART VI

PAYMENT

Interpretation of Part VI

45.—(1) In articles 48 and 49—

- (a) “pension” includes any retired pay, pension, allowance, [^{F77}grant, other continuing benefit or lump sum payment] payable under this Order or a 1919 to 1921 instrument; and
- (b) “gratuity” includes any gratuity payable under any of the instruments referred to in subparagraph (a).

(2) In articles 47 and 50—

- (a) “pension” includes any retired pay, pension, [^{F78}allowance, other continuing benefit or lump sum payment] payable under this Order; and
- (b) “gratuity” means any gratuity payable under this Order.

Textual Amendments

- F77** Words in art. 45(1)(a) substituted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **7(a)**
- F78** Words in art. 45(2)(a) substituted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **7(b)**

Commencing dates of awards

46. Schedule 3 has effect with respect to commencing dates of awards under this Order.

Payment of Pensions

47.—(1) The provisions of this article, other than paragraph (2), are subject to the provisions of article 48.

(2) Payment of a pension may be made provisionally or upon any other basis.

(3) Subject to paragraph (4), pension awarded in terms of a weekly amount may be paid weekly in advance and pension not awarded in such terms may be paid quarterly or monthly in arrears.

(4) The Secretary of State may in any particular case or class of case determine that pension shall be paid in advance or in arrears or partly in advance and partly in arrears, and for a period different from that specified in paragraph (3).

(5) Pension shall be paid by such means as appears to the Secretary of State to be appropriate in the circumstances of the case or class of case.

(6) The Secretary of State may require such declaration from a person to whom payment of a pension or gratuity is to be made as he may from time to time consider necessary.

(7) Where, by reason of any provision in any instrument which amends a provision of this Order—

- (a) a change falls to be made in the rate of any pension which, by virtue of the preceding provisions of this article, is payable weekly; and
- (b) the date on which that change would, but for this paragraph, fall to be made (“the prescribed date”) is not the day of the week on which payment of pension is normally made (“the weekly pay day”)

that change shall have effect only as from the first weekly pay day immediately following the prescribed date.

Direct credit transfer

48.—(1) The Secretary of State may direct in relation to any particular case or class of case that a pension shall be paid by way of automated or other direct credit transfer into a bank or other account—

- (a) in the name of the person entitled to the pension or a person acting on his behalf; or
- (b) in the joint names of the person entitled to the pension and his spouse or civil partner or the person entitled to the pension and a person acting on his behalf.

(2) Pension paid in accordance with paragraph (1) shall be paid—

- (a) for periods of 4 weeks, or for such other periods as the Secretary of State may in any particular case or class of case determine;
- (b) within 7 days of the last day of each successive period determined in accordance with subparagraph(a); and
- (c) in advance, or in arrears, or partly in advance and partly in arrears, as the Secretary of State may in any particular case or class of case determine.

(3) Where pension is payable in accordance with this article, the Secretary of State may make a particular payment by credit transfer otherwise than as provided in paragraph (2) if it appears to him to be appropriate to do so for the purpose of—

- (a) paying any arrears of pension; or
- (b) making a payment of pension at the termination of an award.

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(4) Payment of pension in accordance with this article may be terminated by the Secretary of State if the arrangement seems to him to be no longer appropriate to the particular case or class of case.

Administration of pensions etc.

49.—(1) A pension or gratuity awarded to or in respect of any person may be administered by the Secretary of State if that person—

- (a) has not attained the age of 18 years; or
- (b) is, in the opinion of the Secretary of State, incapable of managing his own affairs by reason of mental infirmity; or
- (c) is being maintained in an institution or hospital to which article 53 applies; or
- (d) is a person in whose case the award can be forfeited under article 57

or if, in any other case, the Secretary of State considers that it is in the interests of that person that it should be so administered.

(2) A pension or gratuity which is being administered under this article may, in whole or in part as the Secretary of State thinks fit and at such times as he thinks fit—

- (a) be applied for the benefit of the person to or in respect of whom it has been awarded (“the beneficiary”); or
- (b) be paid to any person whom the Secretary of State considers a fit and proper person to apply the pension or gratuity for the benefit of the beneficiary.

Payment of public claims out of pensions

50.—(1) Where the Secretary of State is satisfied that—

- (a) a sum is due to the Crown, a Secretary of State, Minister or Government Department from a person to or in respect of whom a pension or gratuity may be or has been awarded; or
- (b) that an overpayment has been made to or in respect of any such person by the Crown, a Secretary of State, Minister or Government Department

the Secretary of State may deduct from the pension or gratuity such amounts not exceeding the amount of the sum or overpayment as he thinks fit and at such times as he thinks fit.

(2) Where the Secretary of State deducts an amount from a pension or gratuity under paragraph (1), he shall apply the amount in or towards paying or repaying that sum or overpayment.

(3) Where payment in respect of a pension payable under this Order or the Service Pensions Order 1983 is in arrears for any period and any one or more of the following, that is to say—

- (a) income support under the Social Security Contributions and Benefits Act 1992^{M15} or under the Income Support (Transitional) Regulations 1987^{M16, F79} . . .

[^{F80}(aa) employment and support income-related allowance under Part 1 of the Welfare Reform Act 2007; ^{F81} . . .]

[^{F82}(ab) universal credit under Part 1 of the Welfare Reform Act 2012; [^{F83}or]]

[^{F84}(ac) universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015; or]

- (b) any amount payable under any legislation having effect in Northern Ireland or the Isle of Man which corresponds to income support under the 1992 Act, ^{F85} . . . the Income Support (Transitional) Regulations 1987 [^{F86}, or the Welfare Reform Act 2007]

has been paid for that period to the person to whom the payment is due, the amount by which the amount of benefit or income support paid (including any corresponding amount mentioned in subparagraph (c)), or both if both have been paid, exceeds what would have been paid had the said

payment not fallen into arrears shall be deemed to have been an overpayment for the purposes of paragraph (1), and in the case where benefit or income support or both has been paid under legislation in force in Northern Ireland or the Isle of Man it shall for the purpose of that paragraph be repayable to the authority administering the benefit or as the case may be income support.

Textual Amendments

- F79** Word in art. 50(3)(a) omitted (27.10.2008 with application in accordance with art. 2(5) of the amending S.I.) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(b)(6), **Sch. 1 Pt. 2 para. 12(a)**
- F80** Art. 50(3)(aa) inserted (27.10.2008 with application in accordance with art. 2(5) of the amending S.I.) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(b)(6), **Sch. 1 Pt. 2 para. 12(b)**
- F81** Word in art. 50(3) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **49(4)**
- F82** Art. 50(3)(ab) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **49(4)**
- F83** Word in art. 50(3)(ab) omitted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **16(4)(a)**
- F84** Art. 50(3)(ac) inserted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **16(4)(b)**
- F85** Word in art. 50(3)(b) omitted (6.4.2009) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), **arts. 1(1), {11(a)}** (with art. 18)
- F86** Words in art. 50(3)(b) inserted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **11(b)** (with art. 18)

Marginal Citations

- M15** 1992 c. 4.
M16 S.I. 1987/1969.

PART VII

REDUCTION AND CANCELLATION OF AWARDS

Interpretation of Part VII

- 51.—(1)** In articles 52, 56, 57 and 60—
- (a) “pension” means any retired pay, pension, allowance, grant or other continuing benefit under this Order or a 1919 to 1921 instrument; and
 - (b) “gratuity” includes any gratuity payable under any of the instruments referred to in subparagraph(a).
- (2) In articles 54, 55, 61, 62, 63, 64, 65 and 66—
- (a) “pension” means any retired pay, pension, allowance or other continuing benefit under this Order; and
 - (b) “gratuity” means any gratuity under this Order.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F87}(3) In articles 52, 57 and 59, “pension” includes a lump sum payment under this Order.]

Textual Amendments

F87 Art. 51(3) inserted (11.4.2016) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 (S.I. 2016/374), arts. 1(1), 8

Adjustment of awards in respect of other compensation

52.—(1) Where the Secretary of State is satisfied that—

- (a) compensation has been or will be paid to or in respect of a person to or in respect of whom a pension or gratuity is being or may be paid; or
- (b) that any compensation which has been or will be paid will benefit such a person

the Secretary of State may take the compensation into account against the pension or gratuity in such manner and to such extent as he thinks fit and may withhold or reduce the pension or gratuity accordingly.

(2) Where the Secretary of State considers that it is by reason of some act or omission by or on behalf of a person to or in respect of whom a pension or gratuity is being or may be paid that—

- (a) there is no compensation to be taken into account against that pension or gratuity under paragraph (1); or
- (b) the amount of compensation to be taken into account against that pension or gratuity is less than it would otherwise have been; and
- (c) the Secretary of State is of the opinion that such act or omission was unreasonable

the Secretary of State may assess the amount of the compensation which, in his opinion, would have fallen to be taken into account but for such act or omission, and may, for the purpose of paragraph (1), treat that amount as if it were compensation which could be taken into account under that paragraph.

(3) In this article “compensation” means—

- (a) any periodical or lump sum payment in respect of the disablement or death of any person, or in respect of any injury, disease or incapacity sustained or suffered by any person, being a payment—
 - (i) for which provision is made by or under any enactment, Order in Council (including this Order), Warrant, Order, scheme, ordinance, regulation or other instrument; or
 - (ii) which is recoverable as damages at common law; or
- (b) any periodical or lump sum payment which, in the opinion of the Secretary of State, is recoverable or payable—
 - (i) under any enactment, scheme, ordinance, regulation or other instrument whatsoever promulgated or made in any place outside the United Kingdom, or
 - (ii) under the law of any such place

and is analogous to any payment falling within subparagraph (a) of this paragraph; or

- (c) any periodical or lump sum payment made in settlement or composition of, or to avoid the making of, any claim to any payment falling within subparagraph (a) or (b) of this paragraph, whether liability on any such claim is or is not admitted.

Maintenance in hospital or an institution

53.—(1) Subject to paragraph (3), the Secretary of State shall withhold constant attendance allowance and severe disablement occupational allowance 4 weeks after the date on which the person to whom either allowance is awarded becomes a person described in paragraph (2).

(2) Paragraph (1) applies to a person who—

- (a) is receiving or has received or is regarded as receiving or having received free in-patient treatment; or
- (b) is being or has been maintained in an institution—
 - (i) which is supported wholly or partly out of public funds, or
 - (ii) in which he is being maintained pursuant to arrangements made by the Secretary of State

otherwise than for the purpose of undergoing medical or other treatment.

(3) For the purposes of paragraph (2), any separate periods of time spent as set out in paragraph (2) shall be treated as a continuous period of time where there is less than 28 days between each such period and for this purpose periods of time spent as set out in paragraph (2) before 9th April 2001 may be aggregated with periods so spent after that date.

(4) In this article, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

- (a) in a hospital or similar institution under the National Health Service Act 1977, the National Health Service (Scotland) Act 1978, the National Health Service and Community Care Act 1990, or any corresponding enactment having effect in Northern Ireland; or
- (b) in a hospital or similar institution maintained or administered by the Defence Council.

(5) In this article a person shall be regarded as being maintained free of charge in a hospital or similar institution unless—

- (a) his accommodation and services are provided under—
 - (i) section 65 of the National Health Service Act 1977 ^{M17},
 - (ii) section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978 ^{M18}
 - (iii) paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990 ^{M19}, or
 - (iv) any corresponding enactment having effect in Northern Ireland; or
- (b) unless he is paying or has paid for any period, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period.

Marginal Citations

M17 1977 c. 49; section 65 was substituted by section 7(10) of the [Health and Medicines Act 1988 \(c. 49\)](#) and amended by sections 25 and 66(1) of, and paragraph 18(4) of Schedule 9 to, the National Health Service and Community Care Act 1990, and section 2(1) of, and paragraph 38 of Schedule 1, to the [Health Authorities Act 1995 \(c. 17\)](#).

M18 1978 c. 29; Schedule 7A was amended by Schedule 1 to the Health Authorities Act 1995 and sections 46 and 49 of, and Schedules 4 and 5 to, the [Health Act 1999 \(c. 8\)](#) and section 58(3) was repealed by Schedule 7 to the [Health Services Act 1980 \(c. 53\)](#).

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M19 1990 c. 19.

Chelsea pensioners

54. Where a member of the armed forces is, in the case of members of the Naval or Air Forces by virtue of previous service in the military forces, admitted to Chelsea Hospital as an in-pensioner, his pension shall cease but may be restored in the event of his leaving that Hospital.

Children whose maintenance is otherwise provided for

55. ^{F88}

Textual Amendments

F88 Art. 55 revoked (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **12** (with art. 18)

Abatement of awards [^{F89}in respect] of social security benefits

56.—(1) Where a pension is awarded to or in respect of a person for any past period for which benefit under an Act referred to in paragraph (3) has also been paid to or in respect of that person (“the relevant period”), the amount of pension awarded may be abated by an amount calculated in accordance with paragraph (2).

(2) The amount referred to in paragraph (1) is the amount by which the amount of benefit paid during the relevant period exceeds the amount of benefit which would have been payable if the pension had been paid at the same time as the benefit.

(3) The Acts referred to in paragraph (1) are—

- (a) the National Insurance Act 1965^{M20};
- (b) any legislation in Northern Ireland corresponding to that Act;
- (c) Parts II to VII of the Social Security Contributions and Benefits Act 1992^{M21};
- (d) the corresponding provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992^{M22};
- (e) Part I of the Jobseekers Act 1995^{M23}
- ^{F90}(f) Part 1 of the Welfare Reform Act 2007.]
- ^{F91}(g) the corresponding provisions of the Welfare Reform Act (Northern Ireland) 2007.]
- ^{F92}(h) Part 4 of the Welfare Reform Act 2012][^{F93};
- ^{F94}(ha) the corresponding provisions of the Welfare Reform (Northern Ireland) Order 2015;]
- ^{F93}(i) Part 1 of the Welfare Reform Act 2012][^{F95};
- ^{F96}(j) the corresponding provisions of the Welfare Reform (Northern Ireland) Order 2015.]

Textual Amendments

F89 Words in art. 56 heading inserted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **13(a)** (with art. 18)

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- F90** Art. 56(3)(f) inserted (27.10.2008 with application in accordance with art. 2(5) of the amending S.I.) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2008 (S.I. 2008/679), art. 2(1)(2)(b)(6), **Sch. 1 Pt. 2 para. 13**
- F91** Art. 56(3)(g) added (6.4.2009) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **13(b)** (with art. 18)
- F92** Art. 56(3)(h) inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), regs. 2, 8, **Sch. para. 38(3)**
- F93** Art. 56(3)(i) and preceding semicolon inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **49(5)**
- F94** Art. 56(3)(ha) inserted (N.I.) (20.6.2016) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations (Northern Ireland) 2016 (S.R. 2016/228), regs. 1, **32(3)**
- F95** Art. 56(3)(i): semi-colon added (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **16(5)(a)**
- F96** Art. 56(3)(j) added (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations (Northern Ireland) 2016 (S.R. 2016/236), regs. 1(1), **16(5)(b)**

Marginal Citations

- M20** 1965 c. 51.
M21 1992 c. 4.
M22 1992 c. 7 (N.I.).
M23 1995 c. 18.

Forfeiture of pensions etc.

57.—(1) Where a person to or in respect of whom a pension or gratuity may be or has been awarded in respect of death or disablement due to service—

- (a) is, in pursuance of a sentence or order of a Court upon his being found guilty of an offence, serving a term of imprisonment or detention or is detained in a young offender institution or, in Scotland, a young offenders institution or, in Northern Ireland, a young offenders centre; or
- (b) is, under any enactment deported from, required to leave, or prohibited from entering the United Kingdom or the Isle of Man, or is a person whose certificate of naturalisation has been revoked

the Secretary of State may withhold the award of the pension or gratuity or, if it has been awarded, may direct that it shall be forfeited as from such date (including past date) as he may think fit.

(2) Where the Secretary of State is satisfied that a dependant will suffer hardship where a pension is withheld or forfeited under paragraph (1), the Secretary of State may pay, with the pensioner's consent, up to half of the pension awarded under article 6 to the pensioner's spouse, the pensioner's civil partner, an unmarried dependant of the pensioner, a dependant of the pensioner who has not formed a civil partnership or to anyone lawfully entitled to give a good receipt in respect of monies payable to the pensioner's dependant.

(3) When paragraph (1) ceases to apply, the Secretary of State may award to the pensioner a sum not exceeding an amount calculated by reference to the number of weeks for which the pension was withheld or forfeited under paragraph (1), or 52 weeks, whichever is the lesser, and after the deduction of any amount paid under paragraph (2).

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Refusal of treatment

58.—(1) Where—

- (a) the Secretary of State is satisfied that a member of the armed forces should in his own interests receive medical, surgical or rehabilitative treatment for a disablement which is due to service and in respect of which a pension may be or has been awarded to him; and
- (b) the member refuses or neglects to receive the treatment

the Secretary of State may, if he considers that such refusal or neglect is unreasonable, reduce any pension in respect of the member's disablement by such an amount, not exceeding one-half of any such pension, as he thinks fit.

(2) For the purpose of this article—

- (a) any misconduct on the part of the member which, in the opinion of the Secretary of State, renders it necessary for any treatment which he is receiving to be discontinued, may be treated as a refusal of the member to receive the treatment;
- (b) “pension” means retired pay or pension under article 14 of this Order, under Article 1 or 3 of the 1920 Order in Council, of the 1921 (Warrant Officers) Order, of the 1919 Warrant or of the 1920 Order, or under article 1, 3, 23 or 23C of the 1921 (Officers) Order, of the 1920 Warrant or of the 1921 Order.

Serious negligence or misconduct

59. The Secretary of State may withhold, cancel or reduce any award which may be or has been made under this Order in respect of the disablement or death of a member of the armed forces in any case in which the injury or the death on which the claim to the award is based was caused or contributed to by the serious negligence or misconduct of the member.

Failure to draw pension

60.—(1) Where a person fails to draw his pension for a continuous period of not less than 12 months the award shall be cancelled and payment of any arrears shall be withheld.

(2) The Secretary of State may, in any particular case, make such further award as may be appropriate, and may pay the arrears in whole or in part.

Suspension in individual cases – ^{F97} . . . [^{F98} an appropriate tribunal]

61.—(1) Where it appears to the Secretary of State that a question arises whether an appeal ought to be brought against the decision of [^{F99}an appropriate tribunal], he may, subject to paragraph (2), direct that payment of a pension or gratuity in accordance with that decision be suspended, in whole or in part, pending the determination of the appeal.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1), he may only give directions that payment of the pension or gratuity in accordance with that decision be suspended within the relevant period.

(3) A suspension under paragraph (1) shall cease unless, within the relevant period, the person awarded the pension or gratuity by virtue of the decision (“the pensioner”) is given notice in writing that an application for leave to appeal has been made against that decision.

(4) Subject to paragraph (5), where the pensioner has been given notice within the relevant period that an application for leave to appeal against a decision of [^{F99}an appropriate tribunal] has been made, the suspension may continue until that application for leave to appeal and, where leave has been granted, any subsequent appeal is determined.

(5) Where an application for leave to appeal against a decision of [F99an appropriate tribunal] is made to [F99an appropriate tribunal] and that application is refused, the suspension shall cease unless the Secretary of State, within a period of 28 days beginning with the date on which notice in writing of the decision of [F100the appropriate tribunal] refusing leave to appeal is received by him, makes a further application for leave to appeal, and, if he has so applied, the suspension may continue until that application for leave to appeal and any subsequent appeal is determined.

(6) Where, on an appeal against a decision of [F101an appropriate tribunal], [F102a Commissioner or the Upper Tribunal, as the case may be] remits the matter for rehearing and determination by [F101an appropriate tribunal], the appeal is not determined for the purposes of paragraphs (4) and (5) until the matter remitted for rehearing has been determined.

(7) A pensioner is to be treated as having been given the notice required by paragraph (3) on the date that it is posted to him at his last known address.

(8) In this article—

(a) “appeal” means an appeal under [F103 section 6A]M24 of the Pensions Appeal Tribunals Act 1943 [F104or, as the case may be, [F105 section 11]M25 of the Tribunals, Courts and Enforcement Act 2007 (c.15)]M26;

[F106(b) “ application for leave to appeal ” means an application for leave under section 6A(6) of the Pensions Appeal Tribunals Act 1943 or, as the case may be, section 11 of the Tribunals, Courts and Enforcement Act 2007;]

[F107(ba) “ appropriate tribunal ” means the appropriate tribunal as defined in section 12(1) of the Pensions Appeal Tribunals Act 1943;]

(c) “[F108a] Commissioner” means F109 . . . a Northern Ireland Social Security Commissioner and includes a tribunal of Commissioners constituted under section 6D(5) of the Pensions Appeal Tribunals Act 1943 M27

(d) “relevant period” means the period of [F110six weeks] beginning with the date on which notice in writing of the decision in question and of the reasons for it is received by the Secretary of State.

Textual Amendments

F97 Words in art. 61 heading omitted (3.11.2008) by virtue of [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 312(2)**

F98 Words in art. 61 heading substituted (6.4.2009) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2009 \(S.I. 2009/706\)](#), arts. 1(1), **14(a)** (with art. 18)

F99 Words in art. 61(1)(4)(5) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 312(3)**

F100 Words in art. 61(5) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 312(4)**

F101 Words in art. 61(6) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 312(5)(a)**

F102 Words in art. 61(6) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 312(5)(b)**

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- F103** Words in art. 61(8)(a) substituted (6.4.2009) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **14(b)** (with art. 18)
- F104** Words in art. 61(8)(a) inserted (3.11.2008) by The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), arts. 1, 6(1), **Sch. 1 para. 312(6)(a)**
- F105** Words in art. 61(8)(b) substituted (6.4.2009) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **14(c)** (with art. 18)
- F106** Words in art. 61(8)(b) substituted (6.4.2009) by virtue of The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **14(c)** (with art. 18)
- F107** Art. 61(8)(ba) inserted (3.11.2008) by The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), arts. 1, 6(1), **Sch. 1 para. 312(6)(c)**
- F108** Words in art. 61(8)(c) substituted (3.11.2008) by The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), arts. 1, 6(1), **Sch. 1 para. 312(6)(d)(i)**
- F109** Words in art. 61(8)(c) omitted (3.11.2008) by virtue of The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), arts. 1, 6(1), **Sch. 1 para. 312(6)(d)(ii)**
- F110** Words in art. 61(8)(d) substituted (6.4.2009) by The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2009 (S.I. 2009/706), arts. 1(1), **14(d)** (with art. 18)

Marginal Citations

- M24** Section 6A of the Pensions Appeal Tribunals Act 1943 (c. 39); section 6A was inserted by the Armed Forces (Pensions and Compensation) Act 2004 (c. 32), and amended by the Transfer of Tribunal Functions Order 2008 S.I. 2008/2833, **article 9** and Schedule 3, paragraph 13.
- M25** Section 11 of the Tribunals, Courts and Enforcement Act 2007 (c.15) provides for the right of appeal from the First-tier Tribunal to the Upper Tribunal.
- M26** 1943 c. 39. Section 6(A) has been inserted by the Armed Forces (Pensions and Compensation Act 2004 (c. 32), **section 5** and Schedule 1, paragraph 4.
- M27** Section 6D(5) was inserted by the Armed Forces (Pensions and Compensation) Act 2004 (c. 32), **section 5** and Schedule 1, paragraph 4.

Suspension – Social Security Commissioner [^{F111} and Upper Tribunal]

62.—(1) Where it appears to the Secretary of State that a question arises whether an appeal ought to be brought against the decision of [^{F112}a] Commissioner under section 6C of the Pensions Appeal Tribunals Act 1943 [^{F113}or, as the case may be, the Upper Tribunal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (c.15)]^{M28}, he may, subject to paragraph (2), direct that payment of the pension or gratuity in accordance with that decision be suspended, in whole or in part, pending the determination of the appeal.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1), he may only give directions that payment of the pension or gratuity in accordance with that decision be suspended within the relevant period.

(3) A suspension under paragraph (1) shall cease unless, within the relevant period, the person awarded the pension or gratuity by virtue of the decision (“the pensioner”) is given or sent notice in writing that an application for leave to appeal has been made against that decision.

(4) Where the pensioner has been given or sent notice within the relevant period that an application for leave to appeal has been made, the suspension may continue until that application for leave to appeal and any subsequent appeal is determined.

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(5) Where an application for leave to appeal against a decision of [F112a] Commissioner is made under section 6C of the Pensions Appeal Tribunals Act 1943 [F113 or, as the case may be, the Upper Tribunal under section 13 of the Tribunals, Courts and Enforcement Act 2007 (c.15)] and that application is refused, the suspension shall cease unless the Secretary of State, within the period of 28 days beginning with the date on which notice in writing of the decision under that section refusing leave to appeal is received by him, applies to the appropriate court for leave to appeal, and, if he has so applied, the suspension may continue until that application for leave to appeal and any subsequent appeal has been determined.

(6) In this article—

- (a) “appeal” means an appeal under section 6C of the Pensions Appeal Tribunals Act 1943 [F114 or, as the case may be, section 13 of the Tribunals, Courts and Enforcement Act 2007 (c.15)];
- (b) “application for leave to appeal” means an application for leave to appeal under section 6C(2) of [F115 the Pensions Appeal Tribunals Act 1943 or an application for permission to appeal under section 13(4) of the Tribunals, Courts and Enforcement Act 2007 (c.15)];
- (c) “appropriate court” means—
 - (i) in England, Wales and Northern Ireland, the Court of Appeal or, in Scotland, the Inner House of the Court of Session,
 - (ii) the House of Lords;
- (d) “relevant period” means the period of 6 weeks beginning with the date on which notice in writing of the decision in question and of the reasons for it is received by the Secretary of State;
- (e) “[F116a] Commissioner” has the same meaning as in article 61.

Textual Amendments

- F111** Words in art. 62 heading inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 313(a)**
- F112** Words in art. 62(1)(5) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 313(b)(i)**
- F113** Words in art. 62(1)(5) inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 313(b)(ii)**
- F114** Words in art. 62(6)(a) inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 313(c)(i)**
- F115** Words in art. 62(6)(b) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 313(c)(ii)**
- F116** Words in art. 62(6)(e) substituted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 313(c)(iii)**

Marginal Citations

- M28** Section 6C was inserted by the [Armed Forces \(Pensions and Compensation\) Act 2004 \(c. 32\)](#), **section 5** and Schedule 1, paragraph 4.

Suspension in individual cases – courts

63.—(1) Where it appears to the Secretary of State that a question arises whether an appeal ought to be brought against the decision of a court, he may, subject to paragraph (2), direct that payment of the pension or gratuity in accordance with that decision be suspended, in whole or in part, pending the determination of the appeal.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1), he may only give directions that payment of the pension or gratuity in accordance with that decision be suspended within the relevant period.

(3) A suspension under paragraph (1) shall cease unless, within the relevant period, the person awarded the pension or gratuity by virtue of the decision (“the pensioner”) is given notice in writing that an application for permission to appeal has been made against that decision.

(4) Where the pensioner has been given notice within the relevant period that an application for permission to appeal has been made, the suspension may continue until that application for permission to appeal and any subsequent appeal is determined.

(5) A pensioner is to be treated as having been given the notice required by paragraph (3) on the date that it is posted to him at his last known address.

(6) In this article—

(a) “appeal” means

- (i) in England, Wales and Northern Ireland an appeal to the Court of Appeal or, in Scotland, a reclaiming motion to the Inner House of the Court of Session, against the determination of an application for judicial review,
- (ii) in England, Wales and Northern Ireland an appeal to the House of Lords against a decision of the Court of Appeal in an application referred to in head (i) above, or in Scotland, an appeal to the House of Lords against a decision of the Inner House of the Court of Session in a reclaiming motion in an application referred to in head (i) above;

(b) “application for permission to appeal” means an application or petition for permission to appeal as the case may be in the proceedings referred to in heads (i) and (ii) of subparagraph (a) above;

(c) “relevant period” means the period of three months beginning with the date on which notice in writing of the decision in question and of the reasons for it is received by the Secretary of State.

Suspension in other cases

64.—(1) Where it appears to the Secretary of State that—

(a) an appeal has been brought or a question arises whether an appeal ought to be brought against a decision of a court in relation to a case (“the primary case”); and

(b) if such an appeal were to be allowed a question would arise in relation to another case (“the secondary case”) whether the award of pension or gratuity in that case ought to be reviewed

he may direct that payment of the pension or gratuity under the award in the secondary case be suspended, in whole or in part—

(i) until the time limit for making an application for permission to appeal in the primary case has expired, or

(ii) if such an application is made, until such time as that application and any subsequent appeal has been determined, whichever is the later.

(2) In this article the expressions “appeal” and “application for leave to appeal” have the same meanings as they have in article 61.

Suspension – failure to comply with request or pensioner not at last known address

65.—(1) Where it appears to the Secretary of State that a decision on an award of a pension, gratuity or supplement (“the award”) should be reviewed under article 44, he may, by notice in writing—

- (a) require the person awarded the pension, gratuity or supplement (“the pensioner”) to provide, within the period of 3 months starting with the date on which the notice is given or sent to the pensioner, such information or evidence which is reasonably required to determine whether the award should be revised; or
- (b) advise the pensioner that he will be required to attend for a medical examination at a time and place to be appointed.

(2) Where it appears to the Secretary of State that a pensioner may no longer be resident at the last address notified to him, he may, by notice in writing, require the pensioner to provide satisfactory evidence of his current residential address and to do so within the period of 3 months starting with the date on which the notice is given or sent to the pensioner.

(3) The Secretary of State may suspend payment of the award if the pensioner fails—

- (a) to provide the information or evidence required under paragraph (1)(a) within the time specified in that subparagraph;
- (b) to attend for a medical examination at the appointed time and place pursuant to paragraph (1)(b); or
- (c) to provide the information or evidence required under paragraph (2) within the time specified in that paragraph

in all cases without supplying a satisfactory explanation for the failure and such suspension shall take effect from the date on which the notice referred to in paragraph (4) is given or sent.

(4) If the Secretary of State suspends payment of the award, he shall notify the pensioner in writing of the decision to suspend, which notification shall inform the pensioner—

- (a) that the award has been suspended;
- (b) of the reasons for the decision to suspend; and
- (c) that his award may be cancelled in the circumstances described in article 66.

(5) Where, within the period of 12 months beginning with the date on which a notice such as is referred to in paragraph (1) or paragraph (2) was given or sent—

- (a) the pensioner complies with the requirements contained in any such notice; or
- (b) the Secretary of State, by notice in writing, informs the pensioner that it is no longer necessary for him to provide the information or to attend the medical examination

the suspension shall cease with effect from the date specified in paragraph (6).

(6) The date of cessation of suspension shall be the date on which—

- (a) the pensioner complies with the requirement (or where there is more than one requirement the date on which the pensioner has complied with the last outstanding requirement); or
- (b) the date on which the notice referred to at paragraph (5)(b) was given or sent.

(7) On cessation of the suspension, the award shall be paid in accordance with paragraph 1(8) of Schedule 3.

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Cancellation – failure to comply with request

66.—(1) Where a pensioner whose award has been suspended under article 65(3) does not, within the period of 12 months beginning with date on which the notice referred to in article 65(1) or (2) is given or sent to him, comply with a requirement to supply information or evidence or to attend for a medical examination the Secretary of State shall cancel that award.

(2) A pensioner whose award has been cancelled under paragraph (1) may make a further claim in respect of the matters which gave rise to that award.

(3) The Secretary of State shall send written notification of the cancellation of the award, which shall inform the pensioner—

- (a) that the award has been cancelled;
- (b) of the reasons for such cancellation; and
- (c) that he may make a further claim for the award in question in accordance with paragraph (2).

(4) Where a pensioner makes a further claim under paragraph (2), the award shall, if the conditions specified in paragraph (5) are satisfied, be paid in accordance with paragraph 1(9) of Schedule 3.

(5) The conditions referred to in paragraph (4) are that—

- (a) the pensioner has supplied the information or evidence required in a notice given or sent under article 65(1)(a) or article 65(2); or
- (b) the pensioner has attended for a medical examination as required by the Secretary of State; or
- (c) the Secretary of State, by notice in writing, has informed the pensioner that it is no longer necessary for him to supply the information or evidence referred to in subparagraph (a) above, or to attend the medical examination referred to in subparagraph (b) above.

PART VIII

MISCELLANEOUS PROVISIONS

Invalidity of assignments

67. Any assignment or charge, and any agreement to assign or charge any pension, retired pay, [^{F117}allowance, gratuity or lump sum payment] which may be or has been awarded under this Order shall be void, and, on the bankruptcy of any person to whom such a payment has been awarded, the payment shall not pass to any trustee or person acting on behalf of the creditors.

Textual Amendments

F117 Words in [art. 67](#) substituted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **9(2)**

Posthumous awards

68.—(1) Where, after making a claim for an award of retired pay or a pension under Part II or Part III of this Order, the claimant dies either—

- (a) before an award has been made; or
- (b) where an appeal has been made under the Pensions Appeal Tribunal Act 1943, before the appeal has been determined

the Secretary of State may, notwithstanding the claimant's death, make an award in accordance with the provisions of this Order.

[^{F118}(1A) Where the claimant has made an election for an award of a diffuse mesothelioma lump sum and dies before the lump sum is paid, the Secretary of State may, notwithstanding the claimant's death, make the payment in accordance with the provisions of this Order.]

(2) Any such award shall be made to the designated person whose receipt shall be a good discharge to the Secretary of State for any [^{F119}award or payment] so made in respect of that claim.

(3) No such award shall be made in respect of any period after the claimant's death.

(4) For the purposes of this article, where there is no grant of probate or letters of administration or other proof of title in respect of a deceased claimant's estate, the expression "personal representatives" means the person or persons appearing to the Secretary of State to be beneficially entitled to the estate of the deceased claimant.

(5) In this article—

- (a) "claimant" means a person who has made a claim for a pension [^{F120}or an election for an award of a diffuse mesothelioma lump sum] under the Order;
- (b) "designated person" means the person who, after due enquiry, appears to the Secretary of State to be—
 - (i) the claimant's surviving spouse or surviving civil partner, or if it appears to the Secretary of State that there is no such person,
 - (ii) the claimant's dependant who lived as a spouse or ^{F121}... civil partner, or if it so appears that there are no such persons,
 - (iii) the claimant's children, or if it so appears that there are no such persons,
 - (iv) the claimant's parents, or if it so appears that there are no such persons,
 - (v) the claimant's other dependants, or if it so appears that there are no such persons,
 - (vi) the claimant's personal representatives;
- (c) "pension" means any retired pay, pension, allowance or other continuing benefit under this Order.

Textual Amendments

F118 Art. 68(1A) inserted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **9(3)**

F119 Words in art. 68(2) substituted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **9(4)**

F120 Words in art. 68(5)(a) inserted (11.4.2016) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2016 \(S.I. 2016/374\)](#), arts. 1(1), **9(5)**

F121 Words in art. 68(5)(b)(ii) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 110(10)**

Power to dispense with probate

69.—(1) Where a person to whom any payment referred to in paragraph (2) could have been made before his death, dies before the payment is made, the amount unpaid may—

- (a) be paid to the personal representative or, in Scotland, the executor of the deceased person, without probate, confirmation or other proof of title; or

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- (b) may be paid or distributed to or among the persons appearing to the Secretary of State to be the persons beneficially entitled to the personal estate of the deceased person; or
 - (c) in Scotland may be paid or distributed to or among the persons entitled to the moveable estate of the deceased person; or
 - (d) to or among any one or more of those persons.
- (2) The payments referred to in paragraph (1) are payments under—
- (a) this Order;
 - (b) a 1919 to 1921 instrument;
 - (c) the Naval and Marine (Widows Attributable Awards) Order 1994;
 - (d) the Naval and Marine Pay and Pensions (Disablement Awards) Order 1994;
 - (e) Appendix VII to the Army Pay Warrant; or
 - (f) Appendix 34 to the Queen's Regulations for the Royal Air Force.
- (3) In determining the persons to whom and the proportions in which the amount unpaid shall be paid or distributed under paragraph (1), the Secretary of State may have regard to any payments made or expenses incurred by any such person for or on account of the funeral of the deceased person.
- (4) Paragraph (1) does not apply if the amount unpaid exceeds £5,000.
- (5) Where a deceased person has died intestate and he was, or any child of his was or is, illegitimate, the deceased person and any such child shall, for the purposes of this article, be treated as legitimate.

Transferred powers

70. Nothing contained in this Order shall prejudice or affect any power transferred to the Secretary of State^{M29} under section 1 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939^{M30}.

Marginal Citations

M29 See Transfer of Function (Ministry of Pensions) Order 1953 (S.I. 1953/1198), **article 2**; Ministry of Social Security Act 1966 (c. 20), **section 2**; and Secretary of State for Social Services Order 1968 (S.I. 1968/1699), **article 2**.

M30 1939 c. 83.

Revocations, general and transitory provisions

- 71.**—(1) Schedule 4 (which contains transitory provisions) shall have effect.
- (2) Subject to the provisions of Schedule 4 and of the following provisions of this article the instruments specified in Schedule 5 are hereby revoked.
- (3) Where, immediately before the date on which this Order comes into force—
- (a) a person is entitled to receive retired pay, a pension, an allowance, a supplement or an addition under a 1919 to 1921 instrument or an instrument revoked by a 1964 instrument (“the relevant benefit”); and
 - (b) the relevant benefit is, by virtue of article 72(2) of the Service Pensions Order 1983, paid at the rate specified in a provision of Schedule 1 or Schedule 2 to that Order which corresponds to a provision of Schedule 2, 4 or 6 to that 1964 instrument

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the relevant benefit shall, after the coming into force of this Order, be paid at the rate specified in a provision of Schedule 1 or Schedule 2 to this Order which corresponds to a provision of Schedule 2, 4 or 6 to that 1964 instrument.

(4) Where, immediately before this Order comes into force, a person is entitled to receive constant attendance allowance under article 14 of the Service Pensions Order 1983 as a result of a decision to award that allowance made before 9th April 2001, the allowance shall, after the coming into force of this Order, be paid at the rate specified in—

- (a) paragraph 1(b)(i) of Part IV of Schedule 1 where the allowance had, immediately before the coming into force of this Order, been paid under article 14(1)(a) of the Service Pensions Order 1983; and
- (b) paragraph 1(b)(ii) of Part IV of Schedule 1 where the allowance had, immediately before the coming into force of this Order, been paid under article 14(1)(b) of the Service Pensions Order 1983.

(5) Anything done or begun under a provision of the Service Pensions Order 1983 which has been re-enacted under this Order shall be treated as having been done or begun under the corresponding provision of this Order.

(6) No award already made to or in respect of any person under any previous Order or Warrant concerning pensions or other benefit in respect of disablement or death due to service shall, by virtue only of the coming into force of this Order, be re-assessed to that person's disadvantage.

(7) The provisions of this Order are subject to the provisions of the Order in Council of 19th December 1881, the Royal Warrant of 27th October 1884 and the Order by His Majesty of 13th June 1922 and each of those instruments shall have effect as though this Order were specified in it.

(8) Any relevant provision of this Order shall apply to any case where the disablement or death of a member of the armed forces was due to service before 6th April 2005 whether or not an award has been made under the Service Pensions Order 1983 or any instrument preceding that Order concerning pensions or other benefits in respect of disablement or death due to service.

(9) Any reference in a certificate issued under section 10 of the Crown Proceedings Act 1947^{M31} (provisions relating to the armed forces) to an instrument revoked by the Service Pensions Order 1978 or by the Service Pensions Order 1983 shall be construed as including, in so far as appropriate in any particular case, a reference to this Order.

Marginal Citations

M31 1947 c. 44.

A.K. Galloway
Clerk of the Privy Council

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 1 Pt. 3 table 1 substituted by [S.I. 2024/191 Sch. 2 table 1](#)
- Sch. 1 Pt. 3 table 2 substituted by [S.I. 2024/191 Sch. 2 table 2](#)
- Sch. 1 Pt. 2 table substituted by [S.I. 2024/191 Sch. 1 table](#)
- Sch. 1 Pt. 4 table substituted by [S.I. 2024/191 Sch. 3 table](#)
- Sch. 2 Pt. 3 table substituted by [S.I. 2024/191 Sch. 5 table](#)
- Sch. 2 Pt. 2 table 1 substituted by [S.I. 2024/191 Sch. 4 table 1](#)
- Sch. 2 Pt. 2 table 2 substituted by [S.I. 2024/191 Sch. 4 table 2](#)
- Sch. 2 Pt. 2 table 3 substituted by [S.I. 2024/191 Sch. 4 table 3](#)
- Sch. 2 Pt. 2 table 4 substituted by [S.I. 2024/191 Sch. 4 table 4](#)
- Sch. 2 Pt. 2 table 5 substituted by [S.I. 2024/191 Sch. 4 table 5](#)
- Sch. 2 Pt. 2 table 6 substituted by [S.I. 2024/191 Sch. 4 table 6](#)
- Sch. 2 Pt. 2 table 7 substituted by [S.I. 2024/191 Sch. 4 table 7](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 56(3)(k) inserted by [S.I. 2024/191 art. 3](#)