
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.

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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](#)