
STATUTORY INSTRUMENTS

1964 No. 2058

The War Pensions (Mercantile Marine) Scheme 1964

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. This Scheme may be cited as the War Pensions (Mercantile Marine) Scheme 1964, and shall come into operation on 1st January 1965.

Definitions

2. In this Scheme, unless the context otherwise requires—

(1) “the Act” means the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, as amended by the Pensions (Mercantile Marine) Act 1942:

(2) “the British Islands” means Great Britain, Northern Ireland, the Channel Islands and the Isle of Man:

(3) “British ship” does not include a ship forming part of Her Majesty's Navy but includes—

(a) a ship not forming part of Her Majesty's Navy which belongs to Her Majesty or is held by any person on behalf of or for the benefit of the Crown;

(b) in relation to an injury sustained or detention suffered by a British subject or a British protected person, a ship (other than a ship covered by subparagraph (a) of this definition) chartered on behalf of Her Majesty's Government in the United Kingdom:

(4) “cable ship” means a British ship engaged in the laying, installing or repairing of submarine cables:

(5) “capture” includes seizure, arrest or other restraint:

(6) “detention”, in relation to any person, means detention which is consequent on the capture of that person or of his ship effected by reason of the existence of a state of war:

(7) “fishing boat” means a British ship which is ordinarily employed in sea fishing or in the sea fishing service:

(8) “harbour” means any harbour, whether natural or artificial, and any port, dock, haven, estuary, tidal or other river, canal or inland navigation to which seagoing ships have access:

(9) “home trade cargo ship” means a British ship (other than a passenger ship) employed in trading or going within the following limits, that is to say, the British Islands, the Irish Republic and the continent of Europe between the river Elbe and Brest inclusive, and “home trade passenger ship” means a British ship which is a passenger ship and is employed in trading or going within the said limits:

(10) “lighthouse tender” means a tender to a lighthouse belonging to any local or general lighthouse authority within the meaning of the Merchant Shipping Act 1894:

(11) “lightship” means a lightship belonging to a local or general lighthouse authority within the meaning of the Merchant Shipping Act 1894:

(12) “lightship tender” means a tender to a lightship:

(13) “mariner”, in relation to a ship, means the master or a member of the crew of the ship, being a person employed or engaged in sea-going service in that ship, and not being a member of Her Majesty's naval forces or a person employed or engaged in a ship forming part of Her Majesty's Navy or a member of the pilotage or light vessel service:

(14) “material date”, in relation to any claim to an award under this Scheme, means the date of the qualifying injury, or of the commencement of the detention, on which the claim to the award is based:

(15) “member of the light vessel service” means a master or a member of the crew of a lightship, a lighthouse tender or a lightship tender:

(16) “member of the Merchant Navy” means a person who is or has been employed or engaged as, or for service as, a mariner in a British ship and includes a person covered by any directions given by the Minister under Article 4(3) of this Scheme and a person who, by virtue of Part I of Schedule 2 to this Scheme, is to be treated as having sustained a qualifying injury or suffered detention by reason of his service as a mariner in a British ship, but does not include—

- (a) a member of the sea fishing service;
- (b) a person to whom any scheme made by the Minister under section 3(3) of the Act applies;
- (c) a person who is employed or engaged as a member of the crew of a ship (otherwise than as a radio officer, apprentice or cadet) for no remuneration or nominal remuneration only:

(17) “member of the pilotage service” means a pilot or apprentice pilot, or a master or a member of the crew of a pilot boat:

(18) “member of the sea fishing service” means a person who is or has been employed or engaged as, or for service as, a mariner in a fishing boat, and includes a person who, by virtue of Part I of Schedule 2 to this Scheme, is to be treated as having sustained a qualifying injury, or suffered detention, by reason of his service as a mariner in a fishing boat:

(19) “the Minister” means the Minister of Pensions and National Insurance :

(20) “the Naval Order” means the Order in Council dated 25th September 1964 concerning pensions and other grants in respect of disablement or death due to service in the naval forces during the 1914 World War and after 2nd September 1939, as for the time being in force, or any Order in Council substituted therefor:

(21) “passenger ship” means a ship in respect of which there is, at the material date, in force—

- (a) a passenger steamer's certificate issued under Part III of the Merchant Shipping Act 1894; or
- (b) a certificate which, by virtue of section 284 of that Act, has the same force as if it had been granted under that Act; or
- (c) a certificate issued under Regulation 47BB of the Defence (General) Regulations 1939;

(22) “pilot” and “apprentice pilot” means any pilot (other than a senior pilot in an Admiralty Yard craft) and any person (whether an apprentice or not) training as a pilot, whose normal occupation as such is carried on in or from the British Islands and is that of acting as pilot or apprentice pilot in ships at sea or ships proceeding to or from sea from or to ports or pilotage districts in the British Islands which are at sea at some time while he is so acting:

(23) “pilot boat” has the meaning assigned to it by section 38 of the Pilotage Act 1913, save that it includes any vessel which for the time being is being used in the pilotage service of any pilotage district in the British Islands:

(24) “place” includes any point on land, in the air, or on or in the water:

(25) “port” includes any dock, harbour, pier, quay, wharf, mooring, anchorage or other similar place:

(26) “public funds” means moneys provided by Parliament or the Parliament of Northern Ireland, moneys the payment whereof is a charge on the Consolidated Fund of the United Kingdom or of Northern Ireland, moneys provided by any general or local rate or by a fund established under or by virtue of any public, general or local Act, and moneys payable under any enactment, ordinance, regulation or other instrument forming part of the law of any place outside the United Kingdom:

(27) “qualifying injury” means a war injury or a war risk injury:

(28) “rank” includes rating:

(29) “salvage” means the preservation or recovery of vessels wrecked, stranded or in distress, or their cargo or apparel, or the recovery of any other property from the water and includes the removal of wrecks, and “salvage operations” and “salvage purposes” shall be construed accordingly:

(30) “salvage vessel” means a ship regularly employed, or chartered for the purpose of being employed, in salvage operations:

(31) “salvage worker” means any person, other than a member of Her Majesty's naval forces, who, not being the master or a member of the crew of a ship, is regularly employed in salvage operations in or from the British Islands :

(32) “ship” has the same meaning as in the Merchant Shipping Act 1894:

(33) “tidal water” means any part of the sea, and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour :

(34) “tons” and “tonnage” mean respectively gross tons and gross tonnage:

(35) “war injury” and “war risk injury” have the meanings respectively assigned thereto in Schedule 1 to this Scheme.

Interpretation

3.—(1) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply in relation to this Scheme and in relation to the revocations effected by it as if this Scheme and the Schemes revoked by it were Acts of Parliament, and as if each revocation were a repeal.

(2) References in this Scheme to any enactment, Order or Regulation shall, unless the context otherwise requires, be construed as references to that enactment, Order or Regulation as amended by or under any other enactment, Order or Regulation or to any other enactment, Order or Regulation substituted therefor.

(3) References in this Scheme to Her Majesty shall, unless the context otherwise requires, be construed as references to the Sovereign reigning at any relevant time.

(4) Where a claim under this Scheme other than one specified in the following paragraph of this Article is made, there shall be no onus on the claimant to prove that disablement or death is directly attributable to the relevant qualifying injury or detention and the benefit of any reasonable doubt on those questions shall be given to the claimant.

(5) Where a claim under this Scheme—

- (a) in respect of disablement is made more than 7 years after the date of the relevant qualifying injury or end of detention; or
- (b) is made in respect of the death of a person, such death having occurred more than 7 years after the date of the relevant qualifying injury or end of detention;

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and, upon reliable evidence, a reasonable doubt exists whether the disablement is, or the death was, directly attributable to the relevant qualifying injury or detention, the benefit of that reasonable doubt shall be given to the claimant.

(6) For the purposes of this Scheme, the detention of a person may be treated as continuing until whichever is the earlier of the two following dates—

- (a) the date of his death; or
- (b) the date on which it is first practicable for him to arrive back in the country to which he belongs;

or until such other date as the Minister may direct in relation to that person or to any class of such persons.