

1979 No. 113

PENSIONS

The Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Amendment Order 1979

Made - - - - - 6th February 1979

Laid before Parliament - - - 14th February 1979

Coming into Operation

articles 1, 3, 4(a), (c) and (d), 5 and 6 2nd April 1979

articles 2 and 4(b) - - - - 6th April 1979

At the Court at Buckingham Palace, the 6th day of February 1979

Present,

The Queen's Most Excellent Majesty in Council

WHEREAS Her Majesty deems it expedient to amend the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978(a) and to do so by Order in Council in pursuance of section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(b):

NOW, THEREFORE, Her Majesty, in the exercise of the powers conferred by the said section 12(1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, interpretation and commencement

1.—(1) This Order, which may be cited as the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Amendment Order 1979 shall, save in so far as the context otherwise requires, be read as one with the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978 (hereinafter referred to as “the principal Order”) and shall, subject to paragraph (2) below, come into operation, as to articles 1, 3, 4(a), (c) and (d), 5 and 6 on 2nd April 1979 and, as to articles 2 and 4(b) on 6th April 1979.

(2) In relation to any award under the principal Order which is payable weekly and to which any provision of this Order relates, the date prescribed in the last foregoing paragraph as the date on which that provision shall come into operation shall, where that date is not the normal weekly pay day for that award, be construed as a reference to the date of the first weekly pay day for that award immediately following the said prescribed date.

(a) S.I. 1978/1525, as amended by S.I. 1978/1902.

(b) 1977 c.5.

Substitution for article 18(3) of the principal Order

2. For paragraph (3) of article 18 of the principal Order (ineligibility for award of unemployability allowance while in receipt of certain statutory retirement pensions) there shall be substituted the following paragraphs:—

“(3) Subject to the provisions of paragraph (3A) below, a member shall not be eligible for any award under this article if he is in receipt of a retirement pension under Chapter I or Chapter II of Part II of the Social Security Act 1975(a) except in so far as that retirement pension consists of—

- (a) an increase of such pension by way of—
 - (i) age addition under section 40 of that Act; or
 - (ii) graduated retirement benefit under the National Insurance Act 1965(b); or
- (b) an additional component within the meaning of section 6(1)(b) of the Social Security Pensions Act 1975(c); or
- (c) a category A or B retirement pension as provided by regulation 14 of the Widow’s Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974(d).

(3A) The last foregoing paragraph shall apply to Northern Ireland as if the references therein to the Social Security Act 1975, the Social Security Pensions Act 1975, the Widow’s Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974 and the National Insurance Act 1965 were references to the corresponding provisions of or under the legislation of Northern Ireland.”

Amendment of article 19(4) of the principal Order

3. In article 19(4) of the principal Order (invalidity allowance) after the words “Social Security Act 1975” there shall be inserted the words “or the corresponding provisions of the Social Security (Northern Ireland) Act 1975(e)”.

Amendment of paragraphs 6(b)(iii), 7(a) and (b) and 11(c), (e) and (g) of Part IV of Schedule 1 to the principal Order

4. In Part IV of Schedule 1 to the principal Order (rates of allowances payable in respect of disablement)—

- (a) in paragraph 6(b)(iii) (unemployability allowance in respect of member’s children) for the amounts “£331·10” and “£6·35” in the second and third columns there shall respectively be substituted the amounts “£278·90” and “£5·35”;
- (b) for subparagraphs (a) and (b) of paragraph 7 (invalidity allowances) and subparagraph (c) of paragraph 11 (personal allowance element of treatment allowances) there shall respectively be substituted the provisions set out in Parts I and II of the Schedule hereto;
- (c) in paragraph 11(e) (additional allowance element of treatment allowance in respect of each child of a member) for the amounts “£96·50” and “£1·85” in the second and third columns there shall respectively be substituted the amounts “£44·30” and “£0·85”;
- (d) in head (ii) of paragraph 11(g) (treatment allowance, higher rate of additional allowance or of an increase thereof in respect of member’s

(a) 1975 c. 14.

(b) 1965 c. 51; as modified by the Social Security (Graduated Retirement Benefit) (No.2) Regulations 1978 (S.I. 1978/393).

(c) 1975 c. 60.

(d) S.I. 1974/1757.

(e) 1975 c. 15 (N 1).

children) for the amounts “£331·10” and “£6·35” in the second and third columns there shall respectively be substituted the amounts “£278·90” and “£5·35”.

Amendment of paragraphs 5 and 6 of Part III of Schedule 2 to the principal Order

5. In Part III of Schedule 2 to the principal Order (rates of pensions, other than widows' pensions, and allowances payable in respect of death)—
- (a) in paragraph 5 (allowances for children under the age limit)—
- (i) in heads (i) and (ii) in the second column of subparagraph (a) for the amounts “£421·50” and “£414·50” there shall respectively be substituted the amounts “£424·10” and “£417·10”;
 - (ii) in the third column of subparagraph (a) for the amount “£7·95” there shall be substituted the amount “£8·00”;
 - (iii) in heads (i) and (ii) in the second column of subparagraph (b) for the amounts “£472·20” and “£464·10” there shall respectively be substituted “£474·80” and “£466·70”;
 - (iv) in the third column of subparagraph (b) for the amount “£8·90” there shall be substituted the amount “£8·95”;
- (b) in paragraph 6 (pensions to parentless children under the age limit)—
- (i) in heads (i) and (ii) in the second column for the amounts “£472·20” and “£464·10” there shall respectively be substituted the amounts “£474·80” and “£466·70”;
 - (ii) in the third column for the amount “£8·90” there shall be substituted the amount “£8·95”.

Transitional provisions

6. Where—

- (a) immediately before the date on which substitution is made under article 4 of this Order for paragraphs 6(b)(iii), 11(e) and 11(g)(ii) of Part IV of Schedule 1 to the principal Order a person was qualified to receive an allowance in respect of a child at the rate prescribed immediately before that date by the said paragraph 6(b)(iii), 11(e) or, as the case may be, 11(g)(ii) (hereinafter called “the old rate”); and
 - (b) in respect of any period beginning on that date that person would, but for the said substitution, continue to be so qualified to receive payment of that allowance at the old rate in respect of that child; and
 - (c) there is no entitlement, in respect of that child, to child benefit under the Child Benefit Act 1975(a) or under any legislation in Northern Ireland or in any place outside the United Kingdom corresponding to that Act or, as the case may be, to payment of that benefit;
- that person may, notwithstanding the provisions of article 2 of the principal Order (allowances etc. to be at the rate in force for the period in respect of which the allowance etc. is paid), receive in respect of the aforesaid period payment of the allowance at the old rate.

Clerk of the Privy Council.

SCHEDULE

Article 4(b)

Substitution for subparagraphs (a) and (b) of paragraph 7 and subparagraph (c) of paragraph 11 of Schedule 1, Part IV to the principal Order.

(The headings of the columns below are for identification purposes only.)

PART I

(Substitution for subparagraphs (a) and (b) of paragraph 7)

Description of Allowance	Rate	
	Groups 1-9	Groups 10-15
(a) if— (i) the relevant date fell before 5th July 1948; or (ii) on the relevant date the member was under the age of 35; or (iii) on the relevant date the member was under the age of 40 and had not attained the age of 65, in the case of the member being a man, or 60, in the case of the member being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979	£216·40 per annum	£4·15 per week
(b) if— (i) on the relevant date the member was under the age of 45; or (ii) on the relevant date the member was under the age of 50 and had not attained the age of 65, in the case of the member being a man, or 60, in the case of the member being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979	£135·60 per annum	£2·60 per week

PART II
(Substitution for paragraph 11(c))

<i>Description of Allowance</i>	<i>Rate</i>	
	<i>Groups 1-9</i>	<i>Groups 10-15</i>
(c) increase of personal allowance under article 23(4)(c)—		
(i) if on the relevant date the member was under the age of 35 or if that date fell before 5th July 1948; or	} £216·40 per annum	£4·15 per week
(ii) if head (i) does not apply and on the relevant date the member was under the age of 40 and had not attained the age of 65, in the case of the member being a man, or 60, in the case of the member being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979		
(iii) if heads (i) and (ii) do not apply and on the relevant date the member was under the age of 45; or		
(iv) if heads (i) to (iii) do not apply and on the relevant date the member was under the age of 50 and had not attained the age of 65, in the case of the member being a man, or 60, in the case of the member being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979		
(v) in any other case	} £135·60 per annum	£2·60 per week
	} £67·80 per annum	£1·30 per week

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order further amends the Naval, Military and Air Forces etc. (Disability and Death) Service Pensions Order 1978 ("the principal Order").

The Order provides for the receipt of an additional component within the meaning of section 6(1)(b) of the Social Security Pensions Act 1975 or of a graduated retirement benefit under the National Insurance Act 1965 (or, in either case, the corresponding provisions of or under Northern Ireland legislation) no longer to render a member of the forces ineligible for an award of unemployability allowance under article 18 of the principal Order; and, for the purposes of invalidity allowance under that Order, it modifies, in their application to Northern Ireland, the provisions of article 19(4) of the principal Order relating to periods of interruption of employment.

The Order down-rates in respect of a member's children the increase of unemployability allowance and the additional allowance element of treatment allowances.

Further, the Order rebands the rates of invalidity allowances and the personal allowance element of treatment allowances.

The Order also up-rates allowances payable on the death of a member in respect of the member's children.

Lastly the Order makes transitional provision for persons, who immediately before the above-mentioned down-rating were qualified to receive payment at the old rate and who, but for the down-rating, would thereafter have continued to be entitled to receive payment at that rate and are not entitled to child benefit under the Child Benefit Act 1975 or any legislation corresponding thereto, to be able to continue receiving payment at the old rate.

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