
 STATUTORY INSTRUMENTS

1982 No. 1046

PENSIONS

**The War Pensions (Commencing Dates of Past Awards) Order
1982**

<i>Made</i> - - - -	21st July 1982
<i>Laid before Parliament</i>	9th August 1982
<i>Coming into Operation</i>	30th August 1982

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 43(3), (4) and (5) of the Social Security and Housing Benefits Act 1982(a) and in exercise of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order, which may be cited as the War Pensions (Commencing Dates of Past Awards) Order 1982, shall come into operation on 30th August 1982.

(2) In this Order—

“instruments” means the instruments as amended by the amendments appropriate at the date the awards referred to in this Order were made;

“Pensions Appeal Tribunal” means a tribunal constituted under the Pensions Appeal Tribunals Act 1943(b);

“the 1943 Act” means the Pensions Appeal Tribunals Act 1943;

“the Personal Injuries (Civilians) Scheme” means the Personal Injuries (Civilians) Scheme 1976(c);

“the rules” means the rules made under paragraph 5 of the Schedule to the 1943 Act;

(a) 1982 c. 24.

(b) 1943 c. 39; this Act was amended and modified by the Pensions Appeal Tribunals Act 1949 (c. 12); subsection (3A) was added to section 1 by the Pensions Appeal Tribunals Act (Modification) Order 1947 (S.I. 1947/1143) and sections 5, 6 and 12 were amended by s. 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), section 6 was also amended by s. 43 of the Social Security and Housing Benefits Act 1982 and section 12 was also amended by the Pensions Appeal Tribunals Act (Modification) Order 1981 (S.I. 1981/1541).

(c) S.I. 1976/585, as amended by S.I. 1976/1167, 1977/404, 1640, 1978/384, 1426, 1979/270, 1232, 1980/1102, 1103, 1950, 1981/1143, 1678, 1982/810.

“the Service Pensions Order” means the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978(a);

“war pension” means—

- (a) such pensions and other benefits as are referred to in section 12 of the Social Security (Miscellaneous Provisions) Act 1977(b) (exercise by Order in Council of existing powers relating to benefits for death or disablement through service in the armed forces);
- (b) any pension or benefit awarded under the Personal Injuries (Emergency Provisions) Act 1939(c), the Pensions (Naval, Army, Air Force and Mercantile Marine) Act 1939(d) or the Polish Resettlement Act 1947(e);
- (c) any pension or benefit which the Secretary of State considers to be analogous to any such pension or benefit mentioned in the preceding sub-paragraphs of this definition.

Dates awards of war pension taken to have had effect

2. Subject to article 4 of this Order, the date from which any award made before 30th August 1982 under or by application of the provisions of the instruments specified in Schedule 1 to this Order, or instruments considered by the Secretary of State to be analogous thereto, in respect of a claim for war pension now administered by the Secretary of State for Social Services is to be taken to have had effect in a case where—

- (a) at the time when the award was made there was no provision in force for determining that date; or
- (b) the award was made following—
 - (i) an appeal to the High Court, Court of Session or Court of Appeal; or
 - (ii) the rehearing of any appeal;
 and the date from which payment under the award was first made was later than the date from which payment was, by virtue of any provision in force at the time when the award was made, required to be first made,

shall be the date specified in relation to the appropriate class of case referred to in article 3 of this Order.

Classes of case and commencing dates

3. Except in so far as the Secretary of State may direct that an earlier date applies in respect of any particular case or class of case, in relation to each of the classes of case set out in column 2 of Schedule 2 to this Order, the date from which a war pension is awarded or restored is to be taken to have had effect is the date set opposite that class of case in column 3 of that Schedule ascertained in accordance with the provisions of the Service Pensions Order set opposite that class of case in column 4, or as the case may be, the provisions of the

(a) S.I. 1978/1525, as amended by S.I. 1978/1902, 1979/113, 1312, 1980/1080, 1081, 1955, 1981/1110, 1672, 1982/845.

(b) 1977 c. 5.
 (c) 1939 c. 82.
 (d) 1939 c. 83.
 (e) 1947 c. 19.

Personal Injuries (Civilians) Scheme set opposite it in column 5 of that Schedule.

Limitation on arrears

4. Except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case, in any case where the date from which an award is by virtue of this Order to be taken to have had effect is earlier than the date from which payment under the award was first made, any arrears due to a person in respect of the award shall be limited to those payable in respect of a period of 6 years prior to the following dates—

- (a) in the case of an award made following a direction made under the rules in which a rehearing of an appeal by a Pensions Appeal Tribunal has been ordered, whether or not followed by such a rehearing, the date of the application which resulted in such a direction;
- (b) in the case of an award made following an order under section 6(2A) (joint application) of the 1943 Act, whether or not followed by a rehearing of an appeal by a Pensions Appeal Tribunal, the date of the application under Section 6(2A) which resulted in the order;
- (c) in the case of an award made following an appeal under section 6(2) (appeal from Pensions Appeal Tribunal) of the 1943 Act, whether or not followed by a rehearing of an appeal by a Pensions Appeal Tribunal, the date of the successful application for leave to appeal under section 6(2);

Signed by authority of Secretary of State for Social Services.

Hugh Rossi,
Minister for Social Security
Department of Health and Social Security.

21st July 1982.

Article 2 SCHEDULE 1

Column 1	Column 2	Column 3
Item	Instruments	References
	(Orders in Council—Navy)	
1.	Order in Council 21 September 1939	SR & O 1939/1221
2.	Order in Council 7 August 1940	SR & O 1940/1469
3.	Order in Council 10 February 1943	SR & O 1943/204
4.	Order in Council 20 January 1944	SR & O 1944/99
5.	Order in Council 4 June 1946	SR & O 1946/812
6.	Order in Council 29 September 1949	
7.	Order in Council 25 September 1964	
	(Royal Warrants—Army)	
8.	Royal Warrant 15 September 1939	Cmd. 6105
9.	Royal Warrant 29 June 1940	Cmd. 6205
10.	Royal Warrant 12 January 1943	Cmd. 6419
11.	Royal Warrant 4 December 1943	Cmd. 6489
12.	Royal Warrant 12 April 1946	Cmd. 6799
13.	Royal Warrant 24 May 1949	Cmd. 7699
14.	Royal Warrant 19 September 1964	Cmd. 2467
	(Orders by His Majesty, Order by Her Majesty—Air Force)	
15.	Order by His Majesty 22 September 1939	
16.	Order by His Majesty 22 October 1940	
17.	Order by His Majesty 12 February 1943	
18.	Order by His Majesty 25 December 1943	
19.	Order by His Majesty 12 June 1946	
20.	Order by His Majesty 27 September 1949	
21.	Order by Her Majesty 24 September 1964	Cmd. 2472
	(Order in Council—Navy, Army and Air Force)	
22.	Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 24 October 1978	S.I. 1978/1525
	(Civilian Schemes)	
23.	Personal Injuries (Civilians) Scheme 14 September 1939	SR & O 1939/1143
24.	Personal Injuries (Civilians) Scheme 23 July 1940	SR & O 1940/1307
25.	Personal Injuries (Civilians) Scheme 10 April 1941	SR & O 1941/226
26.	Personal Injuries (Civilians) Scheme 31 March 1944	SR & O 1944/369
27.	Personal Injuries (Civilians) Scheme 4 February 1947	SR & O 1947/183
28.	Personal Injuries (Civilians) Scheme 28 October 1949	S.I. 1949/2025
29.	Personal Injuries (Civilians) Scheme 11 April 1962	S.I. 1962/787
30.	Personal Injuries (Civilians) Scheme 23 December 1964	S.I. 1964/2077
31.	Personal Injuries (Civilians) Scheme 12 April 1976	S.I. 1976/585

SCHEDULE 2

Article 3

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Class of Case	Date from which award to be taken to have had effect	Provision of Service Pensions Order (if applicable) by which date to be ascertained	Provision of Personal Injuries (Civilians) Scheme (if applicable) by which date to be ascertained
1.	Cases in which— (a) the Secretary of State reviewed a decision, (b) there was no application for such a review, and (c) as a result of the review a war pension was awarded or restored.	The date appropriate to the date upon which the Secretary of State first decided that there should be a review.	Article 65(1)(b)	Article 74(1)(b)
2.	Cases in which— (a) the Secretary of State reviewed a decision, (b) the review followed an application for review, (c) the review was made, and (d) as a result of the review a war pension was awarded or restored in the period from and including 3 April 1978 to 31 December 1978.	The date appropriate to the date on which the review was applied for.	Article 65(1)(b)	Article 74(1)(b)
3.	Cases in which— (a) an appeal was made under section 8 of the War Pensions (Administrative Provisions) Act 1919(a) (appeal in respect of death or disablement due to service during the 1914–1918 World War), and (b) as a result of the appeal a war pension was awarded or restored in the period from and including 3 April 1978 to 22 December 1981.	The date appropriate of the date of the appeal under the said 1919 Act.	Article 65(1)(b)	

(a) 1919 c. 53.

SCHEDULE 2 (continued)

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Class of Case	Date from which award to be taken to have had effect	Provision of Service Pensions Order (if applicable) by which date to be ascertained	Provision of Personal Injuries (Civilians) Scheme (if applicable) by which date to be ascertained
4.	Cases in which— (a) a direction was made under the rules, (b) a rehearing of an appeal by a Pensions Appeal Tribunal was ordered on such direction, (c) no rehearing took place, (d) the Secretary of State reviewed the decision which was the subject of the appeal, and (e) as a result of the review a war pension was awarded or restored.	The date appropriate to the date of the appeal to the Pensions Appeal Tribunal.	Article 65(1)(b)	Article 74(1)(b)
5.	Cases in which— (a) a direction was under the rules, (b) a rehearing of an appeal by a Pensions Appeal Tribunal was ordered on such direction, (c) a rehearing took place, and (d) as a result of the rehearing a war pension was awarded or restored.	The date appropriate to the date of the original appeal to the Pensions Appeal Tribunal, being the appeal which was subject to the direction.	Article 65(1)(b)	Article 74(1)(b)
6.	Cases in which— (a) an application was made under section 6 (2A) of the 1943 Act (joint application), (b) a rehearing of an appeal by a Pensions Appeal Tribunal was ordered following the application, (c) no rehearing took place,	The date appropriate to the date of the appeal to the Pensions Appeal Tribunal.	Article 65(1)(b)	Article 74(1)(b)

SCHEDULE 2 (continued)

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Class of Case	Date from which award to be taken to have had effect	Provision of Service Pensions Order (if applicable) by which date to be ascertained	Provision of Personal Injuries (Civilians) Scheme (if applicable) by which date to be ascertained
7.	<p>(d) the Secretary of State reviewed the decision which was the subject of the appeal, and</p> <p>(e) as a result of the review a war pension was awarded or restored.</p> <p>Cases in which—</p> <p>(a) an application was made under Section 6 (2A) of the 1943 Act,</p> <p>(b) a rehearing of an appeal by a Pensions Appeal Tribunal was ordered following such application,</p> <p>(c) a rehearing took place, and</p> <p>(d) as a result of the rehearing of the application a war pension was awarded or restored.</p>	The date appropriate to the date of the original appeal to the Pensions Appeal Tribunal, being the appeal which was subject to the application under section 6(2A).	Article 65(1)(b)	Article 74(1)(b)
8.	<p>Cases in which—</p> <p>(a) an appeal was made under section 6(2) of the 1943 Act (appeal from Pensions Appeal Tribunal on a point of law),</p> <p>(b) a decision on entitlement was made on such appeal, and</p> <p>(c) as a result of the decision on appeal a war pension was awarded or restored.</p>	The date appropriate to the date of the appeal to the Pensions Appeal Tribunal from which there was the appeal under section 6(2).	Article 65(2)	Article 74(2)

SCHEDULE 2 (continued)

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Class of Case	Date from which award to be taken to have had effect	Provision of Service Pensions Order (if applicable) by which date to be ascertained	Provision of Personal Injuries (Civilians) Scheme (if applicable) by which date to be ascertained
9.	Cases in which— (a) an appeal was made under section 6(2) of the 1943 Act, (b) a rehearing of an appeal by a Pensions Appeal Tribunal was ordered on such appeal under section 6(2), (c) no rehearing took place, (d) the Secretary of State reviewed the decision which was the subject of the original appeal to the Pensions Appeal Tribunal, and (e) as a result of the review a war pension was awarded or restored.	The date appropriate to the date of the original appeal to the Pensions Appeal Tribunal.	Article 65(1)(b)	Article 74(1)(b)
10.	Cases in which— (a) an appeal was made under section 6(2) of the 1943 Act, (b) a rehearing of the original appeal to the Pensions Appeal Tribunal was ordered, (c) the rehearing took place, and (d) as a result of the rehearing a war pension was awarded or restored.	The date appropriate to the date of the original appeal to the Pensions Appeal Tribunal.	Article 65(1)(b)	Article 74(1)(b)

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for commencing dates of awards of war pension in respect of disablement and death in cases where awards were made prior to the coming into operation of section 43 of the Social Security and Housing Benefits Act 1982 on 30 August 1982. The Order has retrospective effect, the power to make it retrospective being conferred by section 43 of the 1982 Act.

Article 2 makes provision for awards made in specified circumstances under or by application of the instruments specified in Schedule 1 to the Order, or analogous instruments, to be taken to have had effect from the dates specified in relation to the appropriate class of case as referred to in article 3.

Article 3 refers to Schedule 2 to the Order which specifies the classes of case and corresponding dates from which awards are to be taken to have had effect, by reference to the provisions of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978 and the Personal Injuries (Civilians) Scheme 1976 relating to commencing dates of awards of war pension in respect of the disablement or death due to service in the armed forces of the Crown during the 1914–1918 World War and after 2 September 1939 and in respect of civilians injured or killed in the 1939–1945 World War. Under article 3 the Secretary of State may direct that a date earlier than that specified may apply in a particular case or class of case.

Article 4 makes provision for arrears of war pension due by virtue of the application of Schedule 2 to this Order to be limited to 6 years prior to specified dates in classes of case set out in that article subject to exercise of discretion by the Secretary of State to extend that limit.

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