

1985 No. 1313

PENSIONS

The Personal Injuries (Civilians) Amendment Scheme 1985

<i>Made</i> - - - - -	15th August 1985
<i>Laid before Parliament</i>	28th August 1985
<i>Coming into Operation</i>	25th November 1985

The Secretary of State for Social Services, with the approval of the Treasury, in exercise of the powers conferred by sections 1 and 2 of the Personal Injuries (Emergency Provisions) Act 1939(a) and now vested in him(b), and of all other powers enabling him in that behalf, hereby makes the following Scheme:—

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Personal Injuries (Civilians) Amendment Scheme 1985 and shall come into operation on 25th November 1985.

(2) In this Scheme the expression “the principal Scheme” means the Personal Injuries (Civilians) Scheme 1983(c).

Amendment of Article 2 of the principal Scheme

2. In paragraph (23) of Article 2 of the principal Scheme (definitions)—

(a) in sub-paragraph (a)(ii) after the word “thing;” there shall be inserted the word “or”;

(b) in sub-paragraph (b) for the words “or any person” there shall be substituted the words “on any person”.

Amendment of Article 18 of the principal Scheme

3. In Article 18 of the principal Scheme (unemployability allowances)—

(a) in paragraph (2) for the amount “£1222” there shall be substituted the amount “£1300”;

(a) 1939 c. 82.

(b) See Transfer of Functions (Ministry of Pensions) Order 1953 (S.I. 1953/1198), Article 2; Ministry of Social Security Act 1966 (c. 20), section 2; Secretary of State for Social Services Order 1968 (S.I. 1968/1699), Article 2.

(c) S.I. 1983/686, as amended by S.I. 1983/1164, 1540, 1984/1289, 1675.

(b) after paragraph (2) there shall be inserted the following new paragraph:—

“(2A) A disabled person shall not be eligible for any award under this Article in respect of a period in which he is over pensionable age unless, on the relevant day, he was unemployable by reason of pensioned disablement.”;

(c) after paragraph (6) there shall be added the following new paragraph:—

“(7) In this Article—

(a) “pensionable age” means—

(i) in the case of the disabled person being a man, the age of 65, or

(ii) in the case of the disabled person being a woman, the age of 60;

(b) “pensioned disablement” means disablement in respect of which the disabled person was, or would, if he had claimed it, have been, in receipt of a pension under Article 11 on the relevant day;

(c) “the relevant day” means—

(i) the day immediately preceding that on which the disabled person attained pensionable age, or

(ii) the day immediately following that on which the disabled person was last engaged in work from which he derived earnings in excess of the figure for the time being specified in paragraph (2),

whichever is the later.”.

Amendment of Article 21 of the principal Scheme

4. In Article 21 of the principal Scheme (allowance for lowered standard of occupation) after paragraph (3) there shall be added the following new paragraphs:—

“(4) A disabled person shall not be eligible for an award under this Article in respect of a period in which he is over pensionable age unless, on the relevant day, his pensioned disablement was such as to render him incapable, and likely to remain permanently incapable, of following his regular occupation, and incapable of following any other occupation which was of an equivalent standard and was suitable in his case.

(5) In this Article—

(a) “pensionable age” means—

(i) in the case of the disabled person being a man, the age of 65, or

(ii) in the case of the disabled person being a woman, the age of 60;

(b) “qualifying disablement” means disablement in respect of which the disabled person had, on or before the relevant day, been awarded a pension under Article 11, or would have been awarded such a pension had he claimed it;

(c) “the relevant day” means—

(i) the day immediately preceding that on which the disabled person attained pensionable age, or

(ii) the day immediately following that on which the disabled person was last engaged in remunerative work,

whichever is the later.”.

Amendment of Article 76 of the principal Scheme

5. In Article 76 of the principal Scheme (review of decisions, assessments and awards)—

(a) in paragraph (2) for the words “Subject as aforesaid” there shall be substituted the words “Subject to the provisions of paragraphs (3), (4), (7) and (8)”;

(b) after paragraph (7) there shall be added the following new paragraph:—

“(8) Where a disabled person has attained the age of 65, in the case of that person being a man, or 60, in the case of that person being a woman, paragraph (2)(b) shall not apply so as to enable an award of allowance for lowered standard of occupation under Article 21 to be reviewed on the ground that the rate of the disabled person’s earnings has, or would, in his regular occupation, have, changed since the date of the award.”.

Amendment of Article 78 of the principal Scheme

6. In Article 78(1) of the principal Scheme (power to dispense with probate) for paragraph (1) there shall be substituted the following paragraph:—

“(1) Where a person to whom any payment could have been made under this Scheme before his death dies before the payment is made, and the amount unpaid does not exceed £5,000, the amount so unpaid may be paid to the personal representative or, in Scotland, the executor of the deceased person without probate, confirmation or other proof of title, or 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, in Scotland, the persons entitled to the moveable estate of the deceased person, or to or among any one or more of those persons, and, in determining the persons to whom and the proportions in which the amount so unpaid shall be paid or distributed, 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.”.

Substitution of Schedules 3 and 4 to the principal Scheme

7. For Schedules 3 and 4 to the principal Scheme (rates of pensions and allowances payable in respect of disablement and death) there shall respectively be substituted the Schedules set out in the Schedule hereto and numbered 3 and 4.

Signed by authority of the
Secretary of State for Social Services.

Trumpington,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

1st August 1985.

We approve.

John Major,
Donald Thompson,
Two of the Lords Commissioners of
Her Majesty's Treasury.

15th August 1985.

Article 7

SCHEDULE

Schedules to be substituted in the principal Scheme

"SCHEDULE 3

Article 11

RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DISABLEMENT

<i>Description of Pension or Allowance</i>	<i>Rate</i>
1. Pension for 100 per cent. disablement under Article 11 . . .	£62.50 per week
2. Education allowance under Article 13	£120 per annum*
3. Constant attendance allowance—	
(a) under the proviso to Article 14	£50 per week*
(b) in any other case under that Article	£25 per week*
4. Exceptionally severe disablement allowance under Article 15	£25 per week
5. Severe disablement occupational allowance under Article 16	£12.50 per week
6. Allowance for wear and tear of clothing—	
(a) under Article 17(1)(a)	£54 per annum
(b) under Article 17(1)(b) and 17(2)	£85 per annum
7. Unemployability allowances—	
(a) personal allowance under Article 18(1)(i)	£40.65 per week
(b) additional allowances for dependants by way of—	
(i) increase of allowance in respect of a wife or a husband under Article 18(5)(b)	£23 per week*
(ii) allowance in respect of an adult dependant under Article 18(5)(c)	£23 per week*
(iii) increase of allowance in respect of each child under Article 18(5)(d)	£8.05 per week
8. Invalidity allowance payable under Article 19—	
(a) if—	
(i) the relevant date fell before 5th July 1948; or	} £8.05 per week
(ii) on the relevant date the disabled person was under the age of 35; or	
(iii) on the relevant date the disabled person was under the age of 40 and had not attained the age of 65, in the case of the disabled person being a man, or 60, in the case of that person 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	

<i>Description of Pension or Allowance</i>	<i>Rate</i>
(b) if—	
(i) on the relevant date the disabled person was under the age of 45; or	} £5.10 per week
(ii) on the relevant date the disabled person was under the age of 50 and had not attained the age of 65, in the case of the disabled person being a man, or 60, in the case of that person 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	
(c) if heads (a) and (b) do not apply and on the relevant date the disabled person was a man under the age of 60 or a woman under the age of 55	£2.55 per week
9. Comforts allowance—	
(a) under Article 20(1)(a)	£10.80 per week
(b) under Article 20(1)(b) or 45(1)	£5.40 per week
10. Allowance for lowered standard of occupation under Article 21	£25 per week*
11. Age allowance under Article 22 where the degree of pensioned disablement is—	
(a) 40 or 50 per cent	£4.35 per week
(b) 60 or 70 per cent	£6.80 per week
(c) 80 or 90 per cent	£9.75 per week
(d) 100 per cent	£13.60 per week
12. Treatment allowances—increase of personal allowance under Article 23(2)	£13.60 per week*
13. Part-time treatment allowance under Article 25	£22.50 per day*
14. Mobility supplement under Article 25A	£23.80 per week

* Maximum

Article 27

SCHEDULE 4

RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DEATH

<i>Description of Pension or Allowance</i>	<i>Rate</i>
1. Pension to widow—	
(a) under Article 27(1)	£49.80 per week
(b) under Article 27(2)	£11.49 per week
2. Rent allowance under Article 28	£18.95 per week*
3. Allowance under Article 29 or 50 to an elderly surviving spouse—	
(a) if age 65 but under 70	£5.35 per week
(b) if age 70 but under age 80	£10.70 per week
(c) if age 80 or over	£13.40 per week
4. Pension under Article 30 to unmarried dependant who lived as spouse	£1 per week*
5. Pension to dependent widower under Article 32	£49.80 per week*
6. Allowances under Article 33 in respect of each child under the age of 15	£11.55 per week
7. Pensions under Article 34(1) to motherless or fatherless children under the age of 15	£12.60 per week
8. Pension or allowance under Article 35(3) to or in respect of a child over the age of 15—	
(a) where the child has attained the age of 18 and is incapable of self-support by reason of an infirmity which arose before he attained the age of 15	£38.30 per week*
(b) any other case	£12.60 per week*
9. Education allowance under Article 36	£120 per annum*
10. Pensions to parents—	
(a) minimum rate under Article 38(4)	£0.25 per week
(b) maximum rate under Article 38(4)—	
(i) where there is only one eligible parent	£1 per week
(ii) where there is more than one eligible parent	£1.38 per week
(c) increase under the proviso to Article 38(4)—	
(i) where there is only one eligible parent	£0.38 per week*
(ii) where there is more than one eligible parent	£0.62 per week*
11. Pensions to other dependants—	
(a) for each juvenile dependant under Article 39(4)	£0.30 per week*
(b) aggregate rate under Article 39(4)	£1 per week*
(c) under Article 39(5)	£1 per week*
12. Funeral Grant under Article 40(1)	£30.”

* Maximum

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme further amends the Personal Injuries (Civilians) Scheme 1983 ("the principal Scheme") which makes provision for the payment of pensions and allowances to or in respect of civilians who were killed or injured in the 1939-45 War.

The principal Scheme is amended so as to restrict the circumstances in which disabled persons over the age of 65 (in the case of a man) or 60 (in the case of a woman) may be eligible for unemployability allowance or allowance for lowered standard of occupation (Articles 3 and 4).

This Scheme amends Article 76 of the principal Scheme to preclude a review of an award of allowance for lowered standard of occupation to reflect any subsequent change in the rate of earnings of a disabled person who is over the age of 65 (in the case of a man) or 60 (in the case of a woman) (Article 5).

The provisions of Article 78 of the principal Scheme are amended to increase the maximum amount which the Secretary of State may, without proof of title, pay to the personal representatives of a deceased person, or to persons entitled to his estate, in respect of payments due under the principal Scheme to the deceased person prior to his death. Article 78 is also amended to make further provision for its application to Scotland (Article 6).

This Scheme also raises the maximum amount of annual earnings which may be received by a disabled person while he is deemed to be unemployable for the purposes of unemployability allowances under Article 18 of the principal Scheme, and varies the rates of pensions and allowances in respect of disablement and death in the 1939-45 War (Articles 3(a) and 7, and the Schedule). In addition, minor amendments are made to remove textual errors in the definition of "war injury" in Article 2(23) of the principal Scheme.

SI 1985/1313
ISBN 0-11-057313-7

