
STATUTORY INSTRUMENTS

1997 No. 286

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Amendment Order 1997

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Amendment Order 1997 and shall come into force on 7th April 1997.

(2) In this Order “the principal Order” means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 and, except where the context otherwise requires, a reference to a numbered article, Part, Table or Schedule is to the article Part, Table or Schedule in the principal Order which bears that number.

Amendment of article 3A

2. In article 3A(1) (making of claims)

(a) in paragraph (1), after the words “or supplement” where they first occur there shall be inserted the words “(including any such award which follows an earlier award or which follows a period which, had there been an award for that period, would have ended in accordance with article 42(1)(2))”;

(b) at the end of paragraph (2) there shall be added—

“(p) an award of funeral expenses under article 42A (funeral expenses).”.

Amendment of article 17

3. In article 17 (allowance for wear and tear of clothing), for paragraphs (1) and (2) there shall be substituted the following paragraph —

“(1) A member of the armed forces who is in receipt of retired pay or a pension may be awarded an allowance in respect of wear and tear of clothing at the rate specified in paragraph 5 of Part IV of Schedule 1, where either —

(a) he is in receipt of retired pay or pension in respect of an amputation and regularly wears an artificial limb; or

(b) the Secretary of State is satisfied that as a result of the disablement which gives rise to an award under this Order there is exceptional wear and tear of the member’s clothing.”.

Amendments of articles 18, 21 and 26A

4.—(1) In the amendments to the principal Order made in paragraphs (2) to (4) below, a claim is a new claim where —

(a) the date of the claim occurs on or after 7th April 1997; and

(1) Article 3A was inserted by S.I.1996/2882.

(2) Article 42(1) has been amended by S.I. 1984/1154.

- (b) on the day which immediately precedes the date of the claim the member or, where the member has died, the person by or in respect of whom the claim is made does not have an award of the allowance or, as the case may be, the supplement in question.
- (2) In article 18 (unemployability allowances) —
 - (a) after paragraph (1) there shall be inserted the following paragraph —
 - “(1A) Paragraph (1) shall not apply in the case of a member who submits a new claim for an allowance under this article —
 - (a) on or after the date he attains the age of 65; or
 - (b) where the degree of disablement is assessed at less than 60 per cent.”;
 - (b) in paragraph (2) for the amount “£2,366”(3) there shall be substituted the amount “£2,418”.
- (3) In article 21 (allowance for lowered standard of occupation) —
 - (a) in paragraph (1) at the beginning there shall be inserted the words —
 - “Except in the case of a member to whom paragraph (1B) applies,”; and
 - (b) after paragraph (1A)(4) there shall be inserted the following paragraph —
 - “(1B) This paragraph applies in the case of a member who submits a new claim for an allowance under this article —
 - (a) on or after the date he attained the age of 65; or
 - (b) where the degree of disablement is assessed at less than 40 per cent.”.
- (4) In article 26A(5) (mobility supplement), after paragraph (1) there shall be inserted the following paragraph —
 - “(1A) This article shall not apply in the case of a member who submits a new claim where the degree of disablement is assessed at less than 40 per cent.”.

Amendment of article 27

- 5. In article 27(6) (awards in respect of death) —
 - (a) In paragraph (1), after the words “due to service” there shall be inserted the words “or to which article 42A(2)(b) applies”;
 - (b) in paragraph (3), the words from “so however” to the end of the paragraph shall be deleted;
 - (c) at the end, there shall be added the following paragraph —
 - “(4) The death of a member —
 - (a) whose degree of disablement was assessed at not less than 80 per cent; and
 - (b) to whom, in respect of the period ending with his death, an allowance under article 18 (unemployability allowances) was payable,
 shall be regarded as due to service for the purposes of the provisions of this Part.”.

Amendment of article 29

- 6. In article 29(7) (pensions to widows) in —

(3) The sum £2,366 was substituted by S.I. 1996/732.
 (4) Paragraph (1A) was inserted by S.I. 1985/1201.
 (5) Article 26A was inserted by S.I. 1983/1116; such amendments as have been made to article 26A are not relevant to this Order.
 (6) Article 27 has been amended by S.I. 1986/592 and 1996/2882.
 (7) Article 29 has been amended: relevant amending instruments are S.I. 1993/598, 1994/1906 and 1996/732.

- (a) paragraph (1)(a)(i) after the words “40 years” there shall be inserted “or is the widow of an officer who was a member of the armed forces between 14th August 1914 and 30th September 1921”;
- (b) paragraph (1A) for the amount “£51.71” there shall be substituted the amount “£52.80”.

Amendment of article 42

7. In article 42(8) (marriage of female persons) —

- (a) after paragraph (1) there shall be inserted the following paragraph —

“(1A) Where —

- (a) in accordance with paragraph (1) an award ceased because the person had another person living with her as her spouse; and
- (b) that person claims an award under this Part in respect of a period which begins after the end of that relationship,

the claim shall be determined as though the relationship had never existed.”;

- (b) paragraphs (3), (6) and (7) shall be omitted.

Funeral expenses

8. In Part IV, at the end, there shall be added —

“Funeral expenses

42A.—(1) Where a member of the armed forces dies on or after 7th April 1997 and —

- (a) the funeral took place in the British Islands or the Republic of Ireland,
- (b) within three months of the funeral of the deceased member, either
 - (i) a claim is made for funeral expenses, or
 - (ii) an enquiry is made in person, in writing or orally to the Secretary of State or to an authorised agent about claiming funeral expenses and a claim is made for such expenses within three months of the date the claim form is sent in response to that enquiry; and
- (c) one of the conditions specified in paragraph (2) is satisfied,

the Secretary of State may defray so much of any reasonable funeral expenses as he may determine, including the cost of transporting the body of the deceased member but only within the area of the British Islands and the Republic of Ireland.

(2) The conditions specified in this paragraph are —

- (a) the death of the member was due to service;
- (b) the death of the member occurred whilst, in respect of the disablement which gives rise to an award under this Order, he was—
 - (i) receiving free in-patient treatment within the meaning of regulation 2(2) of the Social Security (Hospital In-Patient Regulations) 1975(9) or of any corresponding enactment having effect in Northern Ireland; or
 - (ii) provided with accommodation and services under section 65 of the National Health Service Act 1977(10), section 58 of, or paragraph 14 of Schedule 7A

(8) Article 42 has been amended: the relevant amending instruments are S.I. 1993/598 and 1996/732.

(9) S.I. 1975/555; regulation 2(2) was substituted by S.I. 1992/2595.

(10) 1977 c. 49.

to, the National Health Service (Scotland) Act 1978(11) or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990(12) or under any corresponding enactment having effect in Northern Ireland.”

Substitution of article 65

9. For article 65(13) there shall be substituted —

“Commencing dates of awards under this Order

65. Schedule 3 has effect with respect to commencing dates of awards under this Order.”.

Amendment of Schedules

10.—(1) In Schedule 1 (rates of retired pay, pensions, gratuities and allowances) —

- (a) for the Table in Part II there shall be substituted the Table set out in Schedule 1 to this Order;
- (b) for Tables 1 and 2 of Part III there shall respectively be substituted the Tables set out in Schedules 2 and 3 to this Order; and
- (c) for Part IV there shall be substituted the Part set out in Schedule 4 to this Order.

(2) In Schedule 2 (rates of pensions and allowances in respect of death) —

- (a) for Tables 1, 2, 3, 4 and 5 of Part II there shall be substituted the Tables set out in Schedule 5 to this Order;
- (b) for Part III there shall be substituted the Part set out in Schedule 6 to this Order.

(3) For Schedule 3 (commencing dates of awards of pensions) there shall be substituted the Schedule set out in Schedule 7 to this Order.

Revocations

11.—(1) Article 65ZA(14) (commencing date of award of widow’s pension where section 168 of the Pensions Act 1995(15) applies) is hereby revoked.

(2) Article 10 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Amendment (No.3) Order 1996(16) (which inserted article 65ZA) is also revoked.

N.H. Nicholls
Clerk of the Privy Council

(11) 1978 c. 29.

(12) 1990 c. 19.

(13) Article 65 was substituted by article 10 of S.I. 1996/2882.

(14) Article 65ZA was substituted by article 10 of S.I. 1996/2882.

(15) 1995 c. 26.

(16) S.I. 1996/2882.