
STATUTORY INSTRUMENTS

2006 No. 606

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006

PART V

ADJUDICATION

Review of decisions, assessments and awards

44.—(1) Subject to the provisions of paragraphs (3), (4) and (5) and to the provisions of paragraph (8)^{F1} . . . —

- (a) [^{F2}any decision] accepting or rejecting a claim for pension; or
- (b) any assessment of the degree of disablement of a member of the armed forces; or
- (c) any final decision that there is no disablement or that the disablement has come to an end

may be reviewed by the Secretary of State at any time on any ground.

(2) Subject to the provisions of paragraphs (4), (5), (8) and (9), any award under this Order may be reviewed by the Secretary of State at any time if the Secretary of State is satisfied that—

- (a) the award was made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law;
- (b) there has been any relevant change of circumstances since the award was made;
- (c) the award was based on a decision or assessment to which paragraph (1) of this article applies, and that decision or assessment has been revised.

(3) Any assessment or decision made, given or upheld by the Pensions Appeal Tribunal under section 8 of the War Pensions (Administrative Provisions) Act 1919 or the Pensions Appeal Tribunals Act 1943 [^{F3}or the First-tier Tribunal] may be reviewed by the Secretary of State at any time if the Secretary of State is satisfied that there has been a relevant change of circumstances since the assessment or decision was made, including any improvement or deterioration in the disablement in respect of which the assessment was made.

(4) Subject to the provisions of paragraph (9), following a review under paragraph (1) of any decision accepting a claim for pension or any assessment of the degree of disablement of a member of the armed forces, that decision or assessment may be revised by the Secretary of State to the detriment of a member of the armed forces only where the Secretary of State is satisfied that—

- (a) the decision or assessment was given or made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law; or
- (b) in the case of a decision accepting a claim for pension—

- (i) the decision was given after it had been certified pursuant to article 43(b)(i) that the member of the armed forces was suffering from a specified disablement (“the certified condition”) which was attributable to, or aggravated by, his service, and

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(ii) since the date of the decision it has been further certified, pursuant to article 43(b) (i), that the claimant was not, at the date of the earlier certification, suffering from the certified condition; or

(c) there has been a change in the degree of disablement due to service since the assessment was made.

(5) An award under this Order may be revised by the Secretary of State to the detriment of a member of the armed forces only where the Secretary of State is satisfied that—

(a) the award was made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law; or

(b) there has been any relevant change of circumstances since the award was made; or

(c) the decision or assessment upon which the award was based has been revised under paragraph (4).

(6) Subject to the provisions of paragraphs (4) and (5), on a review under this article, the Secretary of State may maintain or continue, vary or cancel the decision, assessment or award and any revised decision, assessment or award shall be such as may be appropriate having regard to the provisions of this Order.

(7) Notwithstanding the provisions of paragraph (4), (5) and (6), where a decision accepting a claim for pension is revised, the Secretary of State may, if in any case he sees fit, continue any award based on that decision at a rate not exceeding that which may from time to time be appropriate to the assessment of the degree of disablement existing immediately before the date of the revision.

(8) Where a member has attained the age of 65, paragraph (2)(b) shall not apply so as to enable an award of an allowance under article 15 to be reviewed on the ground that the rate of the member's earnings has, or would, in his regular occupation, have changed since the date of the award.

(9) Subject to paragraphs (10), (11) and (12), paragraphs (1) to (7) shall not apply to any decision, assessment or award made in respect of or relating to the rate of pension or retired pay for the disablement or death of a member which is due to service before or during the 1914 World War.

(10) A permanent pension or permanent retired pay granted under this Order in respect of service before the 1914 World War or under a 1919 to 1921 instrument may be reviewed by the Secretary of State where the person to whom the pension or retired pay has been granted claims that there has been a substantial increase in the extent of the disablement due to the original cause.

(11) In respect of any disablement pension or retired pay under this Order in respect of service before the 1914 World War or under a 1919 to 1921 instrument the Secretary of State may at any time order a review of that pension or retired pay in any case where—

(a) the pension or retired pay has, by error in interpretation or fact, been granted to a disabled member of the armed forces in excess of the amount appropriate to the degree of his disablement;

(b) the Secretary of State has reason to believe that the pension or retired pay has been obtained by an improper means; or

(c) the pension or retired pay has been granted by error.

(12) Any decision rejecting a claim for a pension in respect of the death of a member which is due to service before or during the 1914 World War may be reviewed by the Secretary of State at any time on any ground and may be revised by him as may be appropriate having regard to the provisions of this Order.

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

- F1** Words in art. 44(1) omitted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by virtue of [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 6(a)**
- F2** Words in art. 44(1)(a) inserted (7.4.2008 with application in accordance with art. 2(3) of the amending S.I.) by [The Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2008 \(S.I. 2008/679\)](#), art. 2(1)(2)(a), **Sch. 1 Pt. 1 para. 6(b)**
- F3** Words in art. 44(3) inserted (3.11.2008) by [The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), arts. 1, 6(1), **Sch. 1 para. 311**

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- [art. 56\(3\)\(k\)](#) inserted by [S.I. 2024/191 art. 3](#)