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## STATUTORY INSTRUMENTS

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### 2006 No. 606

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

### PART VII

#### REDUCTION AND CANCELLATION OF AWARDS

##### **Maintenance in hospital or an institution**

**53.**—(1) Subject to paragraph (3), the Secretary of State shall withhold constant attendance allowance and severe disablement occupational allowance 4 weeks after the date on which the person to whom either allowance is awarded becomes a person described in paragraph (2).

(2) Paragraph (1) applies to a person who—

- (a) is receiving or has received or is regarded as receiving or having received free in-patient treatment; or
- (b) is being or has been maintained in an institution—
  - (i) which is supported wholly or partly out of public funds, or
  - (ii) in which he is being maintained pursuant to arrangements made by the Secretary of State

otherwise than for the purpose of undergoing medical or other treatment.

(3) For the purposes of paragraph (2), any separate periods of time spent as set out in paragraph (2) shall be treated as a continuous period of time where there is less than 28 days between each such period and for this purpose periods of time spent as set out in paragraph (2) before 9th April 2001 may be aggregated with periods so spent after that date.

(4) In this article, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

- (a) in a hospital or similar institution under the National Health Service Act 1977, the National Health Service (Scotland) Act 1978, the National Health Service and Community Care Act 1990, or any corresponding enactment having effect in Northern Ireland; or
- (b) in a hospital or similar institution maintained or administered by the Defence Council.

(5) In this article a person shall be regarded as being maintained free of charge in a hospital or similar institution unless—

- (a) his accommodation and services are provided under—
  - (i) section 65 of the National Health Service Act 1977 <sup>M1</sup>,
  - (ii) section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978 <sup>M2</sup>
  - (iii) paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990 <sup>M3</sup>, or

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**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](#)

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- (iv) any corresponding enactment having effect in Northern Ireland; or
- (b) unless he is paying or has paid for any period, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period.

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**Marginal Citations**

- M1** 1977 c. 49; section 65 was substituted by section 7(10) of the [Health and Medicines Act 1988 \(c. 49\)](#) and amended by sections 25 and 66(1) of, and paragraph 18(4) of Schedule 9 to, the [National Health Service and Community Care Act 1990](#), and section 2(1) of, and paragraph 38 of Schedule 1, to the [Health Authorities Act 1995 \(c. 17\)](#).
- M2** 1978 c. 29; Schedule 7A was amended by Schedule 1 to the [Health Authorities Act 1995](#) and sections 46 and 49 of, and Schedules 4 and 5 to, the [Health Act 1999 \(c. 8\)](#) and section 58(3) was repealed by Schedule 7 to the [Health Services Act 1980 \(c. 53\)](#).
- M3** 1990 c. 19.

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**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](#)