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STATUTORY INSTRUMENTS

1983 No. 686

The Personal Injuries (Civilians) Scheme 1983

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. This Scheme may be cited as the Personal Injuries (Civilians) Scheme 1983, and shall come into operation on 21st July 1983.

Definitions

2. In this Scheme, unless the context otherwise requires—

(1) "the Act" means the Personal Injuries (Emergency Provisions) Act 1939;

(2) "adopted" means adopted in pursuance of—

(a) an adoption order made under the Adoption Act 1958, any previous enactment relating to the adoption of children, the Adoption Act 1968, the Children Act 1975, any corresponding legislation in Northern Ireland, or the Adoption (Scotland) Act 1978; or

(b) an adoption order made in the Isle of Man or any of the Channel Islands; or

(c) an overseas adoption within the meaning of section 4 of the Adoption Act 1968; or

(d) any other adoption order made under any law in force outside the United Kingdom which, in the opinion of the Secretary of State, is analogous to any of the aforesaid enactments;

and "adoption" shall be construed accordingly;

(3) "adult dependant" in relation to a person who has sustained a qualifying injury, for the purposes of Article 18 means—

(a) a person who resides in the injured person's home and who is his—

(i) grandfather or father (including stepfather) and is incapable of self-support;

(ii) grandmother or mother (including stepmother) and is a widow or has never been married or is married to a husband who is incapable of self-support;

(iii) son (including stepson, adopted son or illegitimate son) or brother (including half-brother or stepbrother) and has attained the age of 18 and is incapable of self-support;

(iv) daughter (including stepdaughter, adopted daughter or illegitimate daughter) or sister (including half-sister or stepsister) and has attained the age of 18 and has never been married or is a widow or is married to a husband who is incapable of self-support; or

(b) a female person who has attained the age of 18 and who, in the injured person's home, looks after any dependent child of the injured person in respect of whom an allowance under Article 12 or 18 is being paid;

being, in each case, a person who is in receipt of regular and substantial support or benefit from the injured person;

(4) "apprentice" means a person undergoing full-time training for any trade, business, profession, office, employment or vocation, and receiving not more than nominal wages;

(5) "civil defence organisation" means an organisation which is declared by Article 4 to be a civil defence organisation for the purposes of the Act and this Scheme;

(6) "civil defence volunteer", in relation to an injury, means a person certified by a responsible officer of a civil defence organisation to have been a member of that organisation at the time when the injury was sustained;

(7) "dependent child", in relation to a person who has sustained a qualifying injury, means his—

(a) legitimate or legitimated child;

(b) stepchild;

(c) adopted child;

(d) illegitimate child, who was not legitimated upon the marriage of the injured person to the child's mother or father;

(e) illegitimate child, whose mother is, or was at the date of her marriage to the injured person or of her death, an unmarried dependant living as a wife of that person;

being a child who, if the injured person is alive, is dependent on that person or, if the injured person is dead, was so dependent at the date of his death, or is a legitimate child coming within sub-paragraph (a) of this definition and was born after the injured person's death;

(f) illegitimate child, not being a child who comes within sub-paragraphs (d) or (e) of this definition, who was born not later than 9 months after the material date and who—

(i) having been born before the material date, was dependent on the injured person on that date and, if the injured person is alive, remains so dependent or, if the injured person is dead, was so dependent at the date of his death;

(ii) was born on or after the material date and, if the injured person is alive, is dependent on that person or, if the injured person is dead, either was dependent on him at the date of his death or was born after his death;

(g) foster-child, that is to say, a child who—

(i) was, throughout the period of 6 months (or such lesser period as the Secretary of State may determine in the exceptional circumstances of any case) expiring on the material date, being brought up and wholly or mainly maintained by that person as his child; and

(ii) where the injured person is alive, is being so brought up and maintained by him or, where the injured person is dead, was up to the date of his death being so brought up and maintained by him;

(8) "dependent husband", in relation to a female person who has sustained a qualifying injury, means a husband who was married to the injured person not later than the material date and is not separated from her, and who was in receipt of regular and substantial support or benefit from her throughout the period beginning (unless the Secretary of State otherwise determines in the exceptional circumstances of any case) not less than 6 months before the material date, and who continues to receive such support or benefit from her and is incapable of self-support and in need;

(9) "dependent widower", in relation to a deceased female person who sustained a qualifying injury, means a person who was married to the injured person at the date of her death and whose

marriage to the injured person took place not later than the material date, and who is incapable of self-support and in need;

(10) "eligible member of the family", in relation to a person who has sustained a qualifying injury, means a person who is the wife, dependent husband or dependent child of that person, and "eligible dependant", in relation to treatment as defined in Article 23(5) means a person who is an eligible member of the family or who would be an eligible member of the family if, for the references in paragraphs (7) and (8) of this Article to the material date, there were substituted references to the date of the commencement of the treatment;

(11) "father", in relation to a dependent child of a female person, means a male person of whom the child is a legitimate, legitimated, illegitimate or adopted child or a stepchild, and includes, where the female person is alive and has an illegitimate child, a male person who, not being such a person as aforesaid, is married to the female person, and "fatherless" shall be construed accordingly;

(12) "gainfully occupied", in relation to a person who has sustained a qualifying injury, means engaged on the material date in any trade, business profession, office, employment or vocation and wholly or substantially dependent thereon for a livelihood, or, though temporarily unemployed on that date, normally so engaged and dependent;

(13) "incapable of self-support", in relation to any person, means incapable of supporting himself solely by reason of physical or mental infirmity of a permanent or prolonged nature or of old age;

(14) "material date", in relation to any claim to an award under this Scheme in respect of a qualifying injury, means the date of the qualifying injury on which the claim to the award is based;

(15) "other dependant", means a grandparent, step-parent, brother, sister, half-brother, half-sister, stepbrother, stepsister or grandchild;

(16) "parent", in relation to a deceased person, means—

(a) a person of whom the deceased person was a legitimate, legitimated or illegitimate child; or

(b) a person who had adopted the deceased person; or

(c) a person who for a period of 5 years (or such lesser period as the Secretary of State may determine in the exceptional circumstances of any case) during the minority of the deceased person brought up and wholly or mainly maintained the deceased person as his child; or

(d) a person who, for such period as is mentioned in sub-paragraph (c) of this definition, was the spouse (not being a separated spouse) of a person fulfilling the conditions set out in that sub-paragraph;

(17) "period of the emergency" means the period beginning with 3rd September 1939 and ending with 19th March 1946; Provided that, in relation to war service injuries sustained—

(a) by members of the National Fire Service of England and Wales, it means the period beginning with 3rd September 1939 and ending with 31st March 1948;

(b) by members of the National Fire Service of Scotland, it means the period beginning with 3rd September 1939 and ending with 15 May 1948;

(18) "physical injury" includes tuberculosis and any other organic disease, and the aggravation thereof;

(19) "public funds" means moneys provided by Parliament or appropriated by a Measure of the Northern Ireland Assembly, moneys the payment whereof is a charge on the Consolidated Fund of the United Kingdom or of Northern Ireland, moneys provided by any general or local rate or by a fund established under or by virtue of any public, general or local Act, and moneys payable under any enactment, ordinance, regulation or other instrument forming part of the law of any place outside the United Kingdom;

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(20) "qualifying injury" means a war injury or a war service injury;

(21) "student" means a person who is receiving full-time instruction at a university, college, secondary school or technical school, or at any other establishment which, in the opinion of the Secretary of State, is a comparable educational establishment, and for the purposes of this Scheme a person may continue to be a student for such period (being a period not exceeding 13 weeks) after he ceases to receive full-time instruction as aforesaid and before he attains the age of 19 as the Secretary of State may in any particular case determine;

(22) "unmarried dependent living as a wife", in relation to a person who has sustained a qualifying injury, means—

(a) where the injured person is alive, a female person who, 6 months before the material date, was being wholly or substantially maintained by him on a permanent bona fide domestic basis and who has been continuously thereafter and is still being maintained by him on such a basis;

(b) where the injured person is dead, a female person who was wholly or substantially maintained by him on a permanent bona fide domestic basis continuously throughout the period beginning 6 months before the material date and ending with the date of his death;

and "unmarried dependant who lived as a wife" shall be construed accordingly;

(23) "war injury" means a physical injury—

(a) caused by

(i) the discharge of any missile (including liquids and gas); or

(ii) the use of any weapon, explosive or other noxious thing;

(iii) the doing of any other injurious act;

either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(b) caused by the impact or any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of or for the benefit of, His Majesty or any allied power or any part of, or anything dropped from, any such aircraft;

(24) "war service injury", in relation to a civil defence volunteer, means a physical injury which is, or, by virtue of section 3(2) of the Pensions Appeal Tribunals Act 1943(**1**), is to be deemed to have been, certified by the Secretary of State to have been shown to his satisfaction to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time when the injury was sustained and (except in the case of a war injury) not to have arisen out of and in the course of his employment in any other capacity.

Interpretation

3.—(1) The provisions of sections 17(2) and 20(2) of the Interpretation Act 1978 shall not apply to Article 62(4).

(2) Subject to Article 76(6), any condition or requirement laid down in this Scheme for an award, or the continuance of an award, or relating to the rate or amount of an award, shall, unless the context otherwise requires, be construed as a continuing condition or requirement, and accordingly the award, rate or amount shall cease to have effect if and when the condition or requirement ceases

(**1**) This Act was amended and modified by the Pensions Appeal Tribunals Act 1949 (c. 12); sections 5 and 6 were amended by section 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), and section 6 was also amended by section 43 of the Social Security and Housing Benefits Act 1982 (c. 24).

to be fulfilled and shall be subject to variation from time to time in accordance with the condition or requirement.

(3) Any reference in this Scheme to an award in respect of a person's disablement or death shall be construed as a reference to an award in respect of the qualifying injury which has caused his disablement or of which his death is the direct result.

(4) Any reference in this Scheme to a child shall, unless the context otherwise requires, be construed as connoting relationship, whether natural or assumed, without any implication as to age.

(5) Any reference in this Scheme to a member of the armed forces of the Crown shall be construed as including a reference to a person employed in the nursing service or any other auxiliary service of any of those forces, and any reference to service as a member of the armed forces of the Crown shall be construed accordingly.

(6) Any condition or requirement in this Scheme that a child shall have been dependent on another person on a date specified in the condition or requirement shall be construed as a condition or requirement that the child shall, throughout such period expiring on that date as the Secretary of State may consider appropriate, have been regularly maintained by that other person or have had regular support or benefit provided for him by that other person:

Provided that if the child was on that date residing with that other person, the condition or requirement may be treated as being fulfilled in relation to that child.

(7) For the purposes of this Scheme, a person shall be treated as having attained the age of 15 at the commencement of the fifteenth anniversary of the day of his birth and similarly with respect to any other age.

(8) For the purposes of this Scheme—

(a) a person may be treated as being in receipt of a pension, allowance or other continuing benefit awarded to him under this Scheme notwithstanding that the pension, allowance or other benefit, or any part thereof, is by virtue of any provision of this Scheme being administered or otherwise applied for any purpose or paid to some other person;

(b) where an allowance under this Scheme awarded in respect of a child is withheld or reduced under Article 70, a widow who has the child residing with her or under her control may be treated as being in receipt of the allowance notwithstanding that it is so withheld or reduced;

(c) a condition for the award of any pension, allowance or grant under this Scheme that a person is, or, as the case may be, was, in receipt of pension, allowance or other award under this Scheme may be treated as satisfied if that person is, or, as the case may be, was, in receipt of any payment, made by the Secretary of State with the consent of the Treasury, which is analogous to that pension, allowance or other award.

(9) For the purposes of this Scheme, any question as to whether a person—

(a) is an adopted child, or is a parent by virtue of having adopted a child, shall be determined as if any adoption effected by a person who at the date of the adoption had a spouse and was not separated from that spouse, had been effected by those two spouses, jointly; or

(b) is a grandparent, step-parent, brother, sister, half-sister, stepbrother, stepsister or grandchild shall be determine as if—

(i) any person adopted jointly by two persons who at the date of the adoption were spouses, or by a person who at that date had a spouse and was not separated from that spouse, were the legitimate child of those spouses;

(ii) any person adopted by a person who at the date of the adoption had no spouse or was separated from his spouse were the legitimate child of that person;

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(iii) any person born illegitimate had been born the legitimate child of his father and mother.

Declaration of civil defence organisations

4. It is hereby declared that any organisation established in the United Kingdom for civil defence purposes which is described or named in Schedule 1 shall be a civil defence organisation for the purpose of the Act and this Scheme:

Provided that this Article shall not apply as regards the Auxiliary Fire Service, the Police War Reserve and the Women's Auxiliary Police Corps beyond the period specified in relation thereto in Schedule 1, paragraph 17.