
STATUTORY INSTRUMENTS

1983 No. 686

The Personal Injuries (Civilians) Scheme 1983

PART VI

GENERAL PROVISIONS

Interpretation of Part VI

53. In this Part of this Scheme, unless the context otherwise requires, the expression “pension” means any pension, allowance or other benefit under this Scheme (other than a funeral grant) and includes a lump sum awarded under Article 72, and the expression “funeral grant” means a funeral grant under Article 40.

Time limits for applications

54.—(1) Except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case, an award under this Scheme shall not be made unless an application for that award is made in such manner and within such period, if any, as may be required by the following provisions of this Article.

(2) An application for an award of a pension under Article 11, 42 or 72 in respect of disablement shall be made within 3 months from whichever is the latest of the following dates:—

- (a) the date on which the qualifying injury causing the disablement was sustained;
- (b) where the application is made in respect of disablement caused by a war injury sustained by a person not gainfully occupied who on the material date had not attained the age of 15, the date on which he attained that age;
- (c) where the disabled person was on the material date a member of the armed forces of the Crown required to give whole-time service as such a member, the date on which he ceased to give such whole-time service.

(3) An application for an award in respect of a person's death of a pension under Article 27, 30, 32, 33, 34, 35 or 37 or of a funeral grant shall be made within 3 months from the date on which the death occurred.

Notice required in the case of injuries sustained by young children

55. Except where the Secretary of State in any special case otherwise directs, an award under this Scheme in respect of a war injury sustained by a person not gainfully occupied who on the material date had not attained the age of 15 shall not be made unless, within 3 months from the date on which the injury was sustained, such notice of the fact that he sustained the injury, and such other particulars with respect thereto, have been given as may be required by the Secretary of State.

Determination of medical questions

56. Any medical question arising under this Scheme shall be determined—

- (a) where a Tribunal constituted under the Pensions Appeal Tribunals Acts 1943 and 1949(1) has given a decision upon that question, in accordance with that decision, or, if an appeal from that decision is brought under those Acts, in accordance with the decision upon that appeal;
- (b) where no such decision has been given and the question does not arise under Article 23, 24, 25 or 69, in accordance with a certificate on that question of a medical officer or board of medical officers appointed or recognised by the Secretary of State for the purpose, so, however, that where that question appears to the Secretary of State to raise a serious doubt or difficulty he may obtain the opinion thereon of one or more of a panel of independent medical experts nominated by the President of the Royal College of Physicians, the Royal College of Surgeons or the Royal College of Obstetricians and Gynaecologists, and in that case that question shall be determined in accordance with that opinion.

Power to relax conditions of Scheme

57.—(1) Any condition or requirement in Article 2(7), 2(8) or 2(10) to the effect that a person who has sustained a qualifying injury must, at any date or throughout any period, have maintained or supported to any extent another person may be waived if the Secretary of State is satisfied that—

- (a) the injured person was prevented for any reason from maintaining or supporting the other person to that extent; and
- (b) the circumstances of the case are such as to justify the waiver of the condition or requirement.

(2) Where a condition or requirement is waived under this Article in any case, such award may be made in that case as the Secretary of State may consider appropriate, so, however, that the rate or amount thereof shall not exceed the rate or amount which would have been appropriate if the condition or requirement had been fulfilled.

Members of the armed forces of the Crown

58.—(1) Where a person to whom or in respect of whose death an award may be made under this Scheme was on the material date a member of the armed forces of the Crown required to give whole-time service as such a member, no pension awarded under this Scheme in respect of his qualifying injury shall be paid—

- (a) where he is disabled, in respect of any period during which he continues to give such whole-time service; or
- (b) where he is dead, in respect of any period during which any service allowances are paid:

Provided that where in respect of the period mentioned in sub-paragraph (b) of this paragraph the aggregate amount of any benefits (other than a funeral grant) under Part IV of this Scheme which might, but for the provisions of this paragraph, have been paid in respect of his death, and, in the case of his widow, any other benefits for which she would have been eligible in respect of his death under Part IV of this Scheme if she had been in receipt of a widow's pension under Article 27, exceeds the aggregate amount of the service allowances, an amount equal to the excess may be paid.

(2) In this Article, “service allowances”, in relation to a deceased person, means any allowance, grant or other payment made out of moneys provided by Parliament at weekly or other periodical intervals to any person after the death of the deceased person in continuation of any payments made

(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).

during the lifetime of the deceased person in respect of his service as a member of the armed forces of the Crown.

Members of visiting and allied forces, etc

- 59.** This Scheme does not apply to any injury sustained by a person who on the material date—
- (a) was a member of a visiting force within the meaning of the Visiting Forces (British Commonwealth) Act 1933; or
 - (b) was, or was to be deemed by virtue of section 2 of the United States of America (Visiting Forces) Act 1942 to have been, a member of the naval, military or air forces of any allied power or foreign authority mentioned in section 1 of the Allied Forces Act 1940; or
 - (c) was a member of the Corps of (Civilian) Canadian Fire Fighters for Service in the United Kingdom.

Injuries sustained outside the United Kingdom

60.—(1) Except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case and subject to the provisions of paragraph (3) of this Article, an award under this Scheme shall not be made in respect of a qualifying injury sustained in the Isle of Man.

(2) Subject to the following provisions of this Article, an award under this Scheme shall not be made in respect of a qualifying injury sustained outside the United Kingdom by—

- (a) a person ordinarily resident outside the United Kingdom; or
- (b) a person ordinarily resident in the United Kingdom while absent from the United Kingdom for personal, domestic or pleasure purposes.

(3) Nothing in the foregoing provisions of this Article shall preclude the making of an award under this Scheme in respect of—

- (a) a war service injury sustained by a civil defence volunteer;
- (b) a war injury sustained by a person ordinarily resident in the United Kingdom while travelling by sea or by air from or to any place in the United Kingdom or from any other place in the United Kingdom or any place in the Irish Republic or in the Isle of Man;
- (c) a war injury sustained outside the United Kingdom and the Isle of Man by an overseas volunteer—
 - (i) in the course of a journey which he made for the purpose of undertaking a war occupation; or
 - (ii) in the course of a journey which he made for the purpose of leaving any place to which he had made any such journey as aforesaid or for the purpose of leaving any country in which he had carried on a war occupation, being a journey made at the expense of public funds;
- (d) a war injury sustained by an overseas volunteer ordinarily resident in the Irish Republic in the course of a journey which he made from or to the said Republic to or from the United Kingdom if he made the journey while he was on leave or holiday from a war occupation in which he was engaged or the journey was the first journey to the said Republic which he had made since he was last engaged in a war occupation;
- (e) a war injury sustained in enemy territory or in territory which was, at the material date, occupied by the enemy—
 - (i) by a British subject who was born in the United Kingdom or by the wife of such a British subject or by a woman who was born in the United Kingdom and would have been a British subject but for her marriage to a person not of British nationality;

- (ii) by a person whose death has occurred as the direct result of the injury if the claimant is either his widow who was born in the United Kingdom and is a British subject or but for her marriage to the deceased person would be a British subject, or, where that widow has also died, is his dependent child:

Provided that an award which can be made only by virtue of this sub-paragraph shall be at the discretion of the Secretary of State and shall not be made unless the person to whom or for whose benefit it may be made is residing in the United Kingdom.

(4) In this Article—

- (a) “overseas volunteer” means a person ordinarily resident outside the United Kingdom who had, in accordance with arrangements made by or on behalf of His Majesty's Government in the United Kingdom, volunteered or been required to undertake a war occupation; and
- (b) “war occupation”, in relation to an overseas volunteer, means service as a member of the armed forces of the Crown raised or established in the United Kingdom, work which might be selected for that volunteer by or on behalf of His Majesty's Government in the United Kingdom, or any other work which the Secretary of State considers it was in the national interest for the volunteer to perform during the period of the emergency.

Persons ordinarily resident outside the United Kingdom

61. Where any person who has sustained a qualifying injury, or any person in respect of whom an award may be or has been made under this Scheme to such a person, or any person to or in respect of whom an award may be or has been made under this Scheme in respect of the death of another person, is or becomes ordinarily resident outside the United Kingdom, the Secretary of State may withhold or cancel any award of a pension under this Scheme to or in respect of that person or may, if he so thinks fit having regard to the circumstances of the case, including the standard of living in the place where that person is or has become ordinarily resident, reduce the amount of the award.

Prevention of double payments

62.—(1) Where the Secretary of State is satisfied that a payment (not being a payment in respect of the expenses incurred in connection with a funeral) has been or will be made under an appropriate provision in respect of an injury (whether resulting in disablement or death), an award of a pension in respect of that injury shall not be made under Part III, IV or V or Article 72 of this Scheme and any such award which has been made shall be cancelled:

Provided that where payments have been or are being made under an appropriate provision specified in sub-paragraph (a) of paragraph (3) of this Article in respect of a qualifying injury sustained in the actual discharge of duty or under an appropriate provision specified in sub-paragraph (e) or (f) of paragraph (3) of this Article in respect of a war injury sustained in the execution of duty, the Secretary of State may make such awards under Part III, IV or V or Article 72 of this Scheme in respect of that injury as he may consider appropriate for the purpose of securing that the aggregate weekly value of—

- (a) the payments made to or for the benefit of any person in respect of the injury under those awards; and
- (b) the payments made under that appropriate provision by reason of the retirement from service or death of the injured person whether made in respect of the injury or not;

is not less than the aggregate weekly value of—

- (i) the payments which would, if the same injury had been sustained otherwise than in the execution of duty, have been made to or for the benefit of the same person in respect of that injury under Part III, IV or V or Article 72 of this Scheme; and

- (ii) the payments, if any, which would in the same event have been made under that appropriate provision by reason of the retirement from service or death of the injured person.
- (2) For the purposes of this Article—
 - (a) any compensation granted in respect of a war injury shall, if granted by an authority responsible for the making of grants under an appropriate provision, be deemed to be granted under that appropriate provision in respect of that injury; and
 - (b) references to a war injury sustained in the execution of duty shall include references to a war injury which is for the purposes of any relevant appropriate provision to be deemed to have been sustained in the execution of duty.
- (3) In this Article, “appropriate provision” means any of the following enactments, provisions or instruments, that is to say—
 - (a) the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 in so far as the same makes provision formerly provided for by section 18 of the Superannuation Act 1965;
 - (b) section 56 of the Superannuation Act 1949;
 - (c) any of the enactments mentioned in the first column of Parts I and II of the Schedule to the Superannuation (Various Services) Act 1938;
 - (d) section 20 of the Greenwich Hospital Act 1865, as extended by section 8 of the Greenwich Hospital Act 1872 and section 1 of the Greenwich Hospital Act 1942;
 - (e) any public or local Act (other than the Local Government Superannuation Act 1937, the Local Government Superannuation (Scotland) Act 1937 and the Local Government Superannuation Act 1953 which, since the commencement of the Superannuation Act 1972, have effect in the manner therein provided), charter or scheme for the grant of pensions, allowances or gratuities for professional firemen and their widows, children and dependants;
 - (f) the Police Pensions Act 1921, the Police Pensions Act 1948, as modified by the Police Act 1964, the Police Pensions Act 1976, section 2 of the Constabulary Act (Northern Ireland) 1922, the Police Act (Northern Ireland) 1970, the Special Constables Order 1923, the Special Constables (Scotland) Order 1923 and the Ulster Special Constabulary Pensions Regulations 1950 or any Orders revoked by those Regulations;
 - (g) any provision contained in any enactment, Warrant, Order in Council or Order, being a provision relating to the death or disablement of members of the armed forces of the Crown, or of persons employed in connection with any of those forces;
 - (h) any Order in Council relating to pensions for men serving on Admiralty Yard craft, or officers of the Royal Fleet Auxiliaries;
 - (i) section 2(1) of the Coastguard Act 1925;
 - (j) any scheme made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, as amended by the Pensions (Mercantile Marine) Act 1942, or under the Injuries in War (Compensation) Act 1914, or under the Injuries in War Compensation Act 1914 (Session 2);
 - (k) any enactment relating to persons in the service of a local lighthouse authority within the meaning of the Merchant Shipping Acts 1894 to 1979;

- (l) any enactment, ordinance, regulation or other instrument whatsoever forming part of the law of any place outside the United Kingdom and analogous, in the opinion of the Secretary of State, to any of the aforesaid provisions.
- (4) In paragraph (3)(e) of this Article, “professional fireman” means a member of the National Fire Service who, immediately prior to his becoming a member of the National Fire Service, was—
 - (a) a professional fireman within the meaning of the Fire Brigade Pensions Act 1925; or
 - (b) a constable to whom the Police Pensions Act 1921, applied; or
 - (c) a person mentioned in section 1 of the Police and Firemen (War Service) Act 1939 (as amended or extended by or under any enactment); or
 - (d) a person mentioned in section 1 of the Local Government Staffs (War Service) Act 1939, if he had since the beginning of September 1939 been a professional fireman within the meaning of the Fire Brigade Pensions Act 1925; or
 - (e) a member of a fire brigade maintained by a fire authority within the meaning of the Fire Brigades Act 1938, or by the London County Council, who previously to joining or rejoining the brigade had been a professional fireman within the meaning of the Fire Brigade Pensions Act 1925, or a member of a police force within the meaning of the Police Pensions Act 1921

Adjustment of awards in respect of other compensation

63.—(1) Where the Secretary of State is satisfied that compensation has been or will be paid to or in respect of a person to or in respect of whom a pension or funeral grant is being or may be paid or that any compensation which has been or will be paid will benefit such a person, the Secretary of State may take the compensation into account against the pension or funeral grant in such manner and to such extent as he may think fit and may withhold or reduce the pension or funeral grant accordingly.

(2) Where the Secretary of State in any case considers that it is by reason of some act or omission by or on behalf of a person to or in respect of whom a pension or funeral grant is being or may be paid that—

- (a) there is no compensation to be taken into account against that pension or funeral grant under paragraph (1) of this Article; or
- (b) the amount of compensation so to be taken into account against that pension or funeral grant is less than it would otherwise have been;

and the Secretary of State is of the opinion that such act or omission was unreasonable, the Secretary of State may assess the amount of the compensation which, in his opinion, would have fallen to be taken into account as aforesaid but for such act or omission, and may, for the purpose of paragraph (1) of this Article, treat the amount so assessed as if it were compensation which could be taken into account under that paragraph against that pension or funeral grant.

(3) In this Article “compensation” means —

- (a) any periodical or lump sum payment in respect of the disablement or death of any person, or in respect of any injury, disease or incapacity sustained or suffered by any person, being a payment—
 - (i) for which provision is made by or under any enactment, Warrant, Order in Council, Order, Scheme (including this Scheme), ordinance, regulation or other instrument; or
 - (ii) which is recoverable as damages at common law; or

- (b) any periodical or lump sum payment which, in the opinion of the Secretary of State, is recoverable or payable—
 - (i) under any enactment, scheme, ordinance, regulation or other instrument whatsoever promulgated or made in any place outside the United Kingdom; or
 - (ii) under the law of any such place;and is analogous to any payment falling within sub-paragraph (a) of this paragraph; or
- (c) any periodical or lump sum payment made in settlement or composition of, or to avoid the making of, any claim to any payment falling within sub-paragraph (a) or (b) of this paragraph, whether liability on any such claim is or is not admitted.

Maintenance in hospital or an institution

64.—(1) Where any person to or in respect of whom a pension or gratuity may be or has been awarded is receiving or has received free in-patient treatment, or is being or has been maintained in an institution (otherwise than for the purpose of undergoing medical or other treatment) which is supported wholly or partly out of public funds, or in which he is being or has been maintained pursuant to arrangements made by the Secretary of State, the Secretary of State may deduct such amount as he may think fit having regard to all the circumstances of the case from the pension or gratuity payable in respect of the period during which such treatment is received or during which the person is being so maintained, as the case may be, and may apply the amount so deducted, or any part thereof, in such proportions and subject to such conditions as he may determine having regard to all the circumstances of the case, in a payment or payments to the person upon his discharge following a period of free in-patient treatment, or in or towards paying or repaying the cost of maintaining the person incurred by any appropriate authority.

(2) For the purposes of 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 maintained or administered under the National Health Service Act 1977, the National Health Service (Scotland) Act 1978 or the Health and Personal Social Services (Northern Ireland) Order 1972, or by or on behalf of the Secretary of State, or by or on behalf of the Defence Council; or
- (b) pursuant to arrangements made by the Secretary of State or by any body in the exercise of functions on behalf of the Secretary of State under the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978, or by a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972 in a hospital or similar institution not so maintained or administered;

and, for this purpose, a person shall only be regarded as not being maintained free of charge in a hospital or similar institution for any period if he is paying or has paid, 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.

Abatement of awards in respect of Social Security Benefits

65. Where a pension is awarded to or in respect of a person for any past period for which benefit under the National Insurance Act 1965 or any legislation in Northern Ireland corresponding thereto or under Chapters I to V of Part II of the Social Security Act 1975, or the corresponding provisions of the Social Security (Northern Ireland) Act 1975 has been paid to or in respect of that person, the total amount of pension so awarded may be abated by the amount by which the amount of benefit so paid exceeds what would have been payable for that period had the pension been concurrently payable.

Payment of public claims out of pensions

66.—(1) Where the Secretary of State is satisfied that a sum is due to the Crown, the Secretary of State, a Minister or a Government Department from a person to or in respect of whom a pension or funeral grant may be or has been awarded, or that an overpayment has been made to or in respect of any such person by the Crown, the Secretary of State, a Minister or a Government Department, the Secretary of State may deduct from the pension or funeral grant in respect of that sum or overpayment such amounts and at such times as he may think fit and may apply the amounts so deducted in or towards paying or repaying that sum or overpayment.

(2) Where payment in respect of a pension is in arrears for any period and benefit under the Supplementary Benefits Act 1976(2) or benefit similar to the aforesaid benefit under any legislation in Northern Ireland or the Isle of Man corresponding to that Act has been paid for that period by reference to the requirements of the person to whom the payment is due, the amount by which the amount of benefit paid exceeds what would have been paid had the said payment not fallen into arrears shall be deemed to have been an overpayment for the purposes of paragraph (1) of this Article, and in the case of benefit paid under legislation in Northern Ireland or the Isle of Man as aforesaid shall for the purposes of that paragraph be repayable to the authority administering that benefit.

Administration of pensions, etc

67.—(1) A pension or funeral grant awarded to or in respect of any person may be administered by the Secretary of State if that person—

- (a) has not attained the age of 18; or
- (b) is, in the opinion of the Secretary of State, incapable of managing his own affairs by reason of mental infirmity; or
- (c) is being maintained in an institution to which Article 64 applies; or
- (d) is a person in whose case the award can be forfeited or has been restored under Article 68;

or if, in any other case, the Secretary of State considers that it is in the interests of that person that it should be so administered.

(2) A pension or funeral grant which is being administered under this Article may, as to the whole or such part thereof as the Secretary of State thinks fit and at such times as he thinks fit, be applied for the benefit of the person to or in respect of whom it has been awarded or be paid to any person whom the Secretary of State considers a fit and proper person so to apply the same.

(3) Where a pension administered under this Article has not, when it ceases to be so administered, been wholly paid or applied, payment in respect of the part not paid or applied may be made either in a lump sum or by instalments of such amount and at such intervals as the Secretary of State thinks fit.

Forfeiture of pensions

68.—(1) Where a person to or in respect of whom, or in respect of whose death, a pension may be or has been awarded, is or at the date of his death was—

- (a) in pursuance of a sentence or order of a Court upon his being found guilty of an offence, serving a term of imprisonment, detention, preventive detention or corrective training, or detained in a Borstal institution, or Young Offenders' Institution; or
- (b) an enemy alien and, as such, interned, detained or expelled from the United Kingdom; or
- (c) under any enactment detained, or deported from, required to leave, or prohibited from entering the United Kingdom, Great Britain or Northern Ireland, or detained under any

(2) , as amended by the Social Security Act 1980 (c. 30).

Defence Regulation made, or continued in force, under any enactment, or a person whose certificate of naturalisation has been revoked;

the Secretary of State may withhold the award of the pension or, if it has been awarded, may direct that it shall be forfeited as from such date (including any past date) as he may think fit.

(2) The Secretary of State may, upon such terms and as from such date (including any past date) as he thinks fit, restore, either in whole or in part, a pension forfeited under this Article or under the provisions relating to unworthiness to receive a grant from public funds of any previous Scheme made under the Act.

Refusal of treatment

69.—(1) Where the Secretary of State is satisfied that a person who has sustained a qualifying injury should in his own interests receive medical, surgical or rehabilitative treatment for that injury, and that person refuses or neglects to receive the treatment, the Secretary of State may, if he considers that such refusal or neglect is unreasonable, withhold or cancel any award of a pension in respect of that injury which may be or has been made or may reduce the amount of any such pension.

(2) For the purpose of this Article any misconduct on the part of a person which, in the opinion of the Secretary of State, renders it necessary for any treatment that he is receiving to be discontinued may be treated as a refusal of the person to receive the treatment.

Provisions with respect to dependent children

70.—(1) A pension which may be or has been awarded to or in respect of a dependent child of a person who has sustained a qualifying injury may be withheld, or reduced to such extent as the Secretary of State may think fit—

- (a) where periodical payments out of public funds are being made to or in respect of the child (not being payments in respect of an injury made under any provision specified in Article 62(3)(e) or (f); or
- (b) where the child is being maintained in the Navy, Army or Air Force or in any institution wholly or mainly supported out of public funds.

(2) A pension which may be or has been awarded to or in respect of a dependent child of a female person may be reduced by an amount equal to the weekly value of any payments for the support of the child which are made by, or which it is reasonably practicable to obtain from, the father of the child.

(3) Where a dependent child is living apart from a person to whom a pension in respect of the child may be or has been awarded, and the weekly value of the contributions which that person is making to the support of the child is less than the amount of the pension, the amount of the pension may be reduced to an amount equal to that weekly value.

(4) In this Article “dependent child” includes any person to or in respect of whom a pension may be or has been awarded as being, for the purposes of any provisions of this Scheme, a child of a person who has sustained a qualifying injury.

Marriage of female persons

71.—(1) An award of a pension under this Scheme to a female person in respect of the death of a person other than a pension to his parent shall not be made or, if made, shall cease to have effect where, after the death of the deceased person, she marries or lives with a man as his wife:

Provided that an allowance awarded under this Scheme in respect of a child of a deceased person shall not be affected by the cessation under this Article of the award of a pension to any other person.

(2) If the Secretary of State having regard to the special circumstances of the case so directs, paragraph (1) of this Article shall not apply to a child of a deceased person who, being in receipt of a pension under Article 35 or 49, marries after 30th September 1961.

(3) On the marriage—

- (a) after 4th July 1948, of a widow in receipt of a pension under Article 27 or 49, or
- (b) after 30th September 1961, of a widow who would have been in receipt of such a pension immediately before that marriage had that pension not ceased or been withheld in consequence of her living with a man as his wife,

she may be awarded a gratuity equal to one year's pension.

(4) An award of a pension which has been withheld or has ceased to have effect under paragraph (1) of this Article in consequence of a person living with a man as his wife may be made or restored by the Secretary of State, either in whole or in part, upon such terms and from such date (not being a date before 1st October 1961, or that on which she ceases so to live with a man as his wife, whichever is the later) as he thinks fit.

(5) The Secretary of State may award or restore, either in whole or in part and in respect of any period after 30th September 1961, any parent's pension which was withheld or ceased, under the provisions of any previous Scheme made under the Act, in consequence of the marriage of the parent or of her living with a man as his wife if the circumstances of the parent are, in the Secretary of State's opinion, such as to justify the making of the award or the restoration.

Power to award lump sums

72. Where the Secretary of State is satisfied, in the case of a person in relation to whose disablement the conditions of Article 8(1) or 41 are fulfilled but whose degree of disablement is assessed at less than 20 per cent., that a payment of a lump sum in respect of his disablement would be appropriate having regard to the nature of his disablement, that person may be awarded in respect of his disablement a lump sum of such an amount as the Secretary of State may think fit.

Failure to draw pension

73.—(1) Where a person fails to draw his pension for a continuous period of not less than 12 months, the award may be cancelled and payment of any arrears may be withheld.

(2) The Secretary of State may, in any particular case, make such further award as may be appropriate, and may pay the arrears in whole or in part.

Commencing dates of awards of pension

74. Schedule 5 has effect with respect to commencing dates of awards of pension.

Payment of pensions

75.—(1) Payment of a pension under this Scheme may be made provisionally or upon any other basis and for such period as the Secretary of State may think fit and, except as the Secretary of State may direct either generally or in any particular case or class of case, a pension may be paid weekly in advance.

(2) Where payment of an amount which includes a fraction of a new penny falls to be made under this Scheme, that amount shall in the case of pension, allowance or other continuing benefit be rounded up to the next new penny, and in any other case shall be rounded to the nearest new penny.

Review of decisions, assessments and awards

76.—(1) Subject to the provisions of paragraphs (3), (4) and (7), any decision accepting or rejecting a claim for pension or any assessment of the degree or nature of the disablement of any person or any final decision that the disablement is not or is no longer serious or prolonged may be reviewed by the Secretary of State at any time on any ground.

(2) Subject as aforesaid, any award under this Scheme 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) applies, and that decision or assessment has been revised.

(3) Subject to the provisions of paragraph (7), following a review under paragraph (1) of any decision accepting a claim for pension or any assessment of the degree or nature of the disablement of any person, that decision or assessment may be revised by the Secretary of State to the detriment of a person 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 an interim assessment there has been a change in the degree of disablement which is due to the qualifying injury since the assessment was made.

(4) An award under this Scheme may be revised by the Secretary of State to the detriment of a person 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 (3).

(5) Subject to the provisions of paragraphs (3) and (4), on a review under this Article the Secretary of State may maintain, 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 Scheme.

(6) Notwithstanding the provisions of paragraphs (3), (4) and (5) 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 be from time to time appropriate to the assessment of the degree of disablement existing immediately before the date of the revision.

(7) Nothing in this Article shall be taken to authorise the review of any assessment or decision made, given or upheld under the Pensions Appeal Tribunals Acts 1943 and 1949.⁽³⁾

Posthumous Awards

77.—(1) In this article—

- (a) “claimant” means a person who has made a claim for an award of pension under this Scheme;

⁽³⁾ 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 43 of the Social Security and Housing Benefits Act 1982 (c.24).

- (b) “designated person” means the person who after due enquiry appears to the Secretary of State to be—
- (i) the claimant's widow or, as the case may be, widower; or if it appears to the Secretary of State that there is no such person,
 - (ii) the claimant's unmarried dependant who lived as a wife; or, if it so appears that there are no such persons as aforesaid,
 - (iii) the claimant's children; or, if it so appears that there are no such persons as aforesaid,
 - (iv) the claimant's parents; or, if it so appears that there are no such persons as aforesaid,
 - (v) the claimant's other dependants; or, if it so appears that there are no such persons as aforesaid,
 - (vi) the claimant's personal representatives.

(2) Where there is no grant of probate or letters of administration or other proof of title in respect of a deceased claimant's estate, the expression “personal representatives” in the last foregoing head means the person or persons appearing to the Secretary of State to be beneficially entitled to the estate of the deceased claimant.

(3) Subject to the following provisions of this article, where after making a claim for an award of pension under this Scheme the claimant dies before an award has been made in the first instance or, as the case may be, consequent upon an appeal under the Pensions Appeal Tribunals Act 1943, the Secretary of State may, notwithstanding the claimant's death, make an award in accordance with the provisions of this Scheme.

(4) Any such award shall be made to the designated person whose receipt shall be a good discharge to the Secretary of State for any award so made in respect of that claim.

(5) No award shall be made in respect of any period after the claimant's death.

Power to dispense with probate

78.—(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 £1,500, the amount so unpaid may be paid to the personal representative of the deceased person without probate 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 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.

(2) Where a deceased person has died intestate and he was, or any child of his was or is, illegitimate, the deceased person and any such child shall, for the purposes of this Article, be treated as legitimate.

Declarations and certificates

79.—(1) Any person to whom a pension or funeral grant under this Scheme has been awarded, and any person to whom payment of that pension or funeral grant is to be made, shall, if and when required by the Secretary of State so to do, subscribe such declaration as the Secretary of State may from time to time direct.

(2) Where a declaration is subscribed under paragraph (1) of this Article by a person who is not the person to whom the pension or funeral grant has been awarded, there shall be furnished, if and

when required by the Secretary of State, such certificate as the Secretary of State may from time to time direct.

(3) If such a declaration or certificate as may have been required by the Secretary of State under this Article to be subscribed or furnished is not subscribed or furnished, payment of the pension or funeral grant shall be withheld until the requirements of the Secretary of State under this Article have been satisfied.

Administration of this Scheme

80.—(1) This Scheme shall be administered by the Secretary of State or, as to any particular part of provision thereof which he may select, by such other person or body as he may direct.

(2) The Secretary of State may make Regulations for giving effect to the purposes of this Scheme.

Revocation of previous Schemes and transitional provisions

81. The Schemes (hereinafter called “the previous Schemes”) specified in Schedule 6 hereto are hereby revoked.