

*Changes to legislation:* There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part III. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

#### CERTAIN <sup>[F1]</sup>SENIOR COURTS] AND COUNTY COURT OFFICERS, AND PRESIDENT OF TRANSPORT TRIBUNAL

##### Textual Amendments

- F1** Words in Sch 1 heading substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 25(4); S.I. 2009/1604, art. 2(d)

### PART III

#### PERSONS INJURED, OR CONTRACTING DISEASE, IN DISCHARGE OF THEIR DUTIES

- 15 (1) This paragraph applies where an officer to whom this Schedule applies—
- (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, or
  - (b) is injured while in an area outside the United Kingdom for the purposes of his employment, and the injury is directly attributable to the existence in or near that area of a state of war, revolution, or serious and widespread internal disturbance, or is the direct result of deliberate acts of the local population or of sporadic political disturbances, and is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, or
  - (c) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.
- (2) <sup>[F1]</sup>The Treasury] may grant to the officer, and, if he dies as a direct result of the injury or disease, to all or any of the following persons, that is to say—
- (a) his widow <sup>[F2]</sup>or, in the case of a female officer, her widower],
  - <sup>[F3]</sup>(aa) his or her surviving civil partner,]
  - (b) his mother, or, where his mother is dead, his father, if his mother, or, as the case may be, his father, is wholly or mainly dependent on him at the time of his death.
  - (c) his children, and
  - (d) where he has no children who are, under the terms of the warrant hereinafter mentioned, eligible for the grant of a gratuity or allowance under this paragraph, any brother or sister of his who is wholly or mainly dependent on him at the time of his death,

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such gratuity or annual allowance as [<sup>F1</sup>the Treasury] may consider reasonable, and as may be permitted by the terms of a warrant of [<sup>F1</sup>the Treasury] under this paragraph.

(3) <sup>F4</sup> .....

- (4) Where an officer to whom this Schedule applies is employed outside the United Kingdom for the purposes of Her Majesty’s Government in the United Kingdom and suffers an aggravation of a disease from which he is already suffering, being an aggravation to which he is exposed by the nature of his duty outside the United Kingdom and which is not wholly or mainly due to his own serious and culpable negligence or misconduct, this paragraph shall apply in relation to him as if, when he sustained the aggravation, he had contracted such a disease as is mentioned in subparagraph (1)(c) above.
- (5) A warrant under this paragraph may be revoked or varied by a subsequent warrant of [<sup>F1</sup>the Treasury] thereunder.
- (6) In this paragraph, unless the context otherwise requires—  
“brother” includes, in relation to a person, every male child of his father or mother,  
“child”, in relation to a person, includes an illegitimate child, a stepchild and an adopted child,  
“father” includes, in relation to a person, his stepfather and a male person by whom he has been adopted,  
“mother” includes, in relation to a person, his stepmother and a female person by whom he has been adopted,  
“sister” includes, in relation to a person, every female child of his father or mother.
- (7) [<sup>F1</sup>The Treasury] may treat a person for all or any of the purposes of this paragraph as wholly or mainly dependent on another person notwithstanding that for the time being he is not in fact so dependent on him, if [<sup>F5</sup>it is satisfied] that it is reasonable to expect that the first-mentioned person will again become dependent on the second-mentioned person and is further satisfied that the break in dependence ought in all the circumstances to be regarded as a temporary one.

#### Textual Amendments

- F1** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(4)(b)
- F2** Words inserted (1.1.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(3), [Sch. 18 para. 33](#); S.I. 1991/2730, art. 2, [Sch.](#)
- F3** [Sch. 1 para. 15\(2\)\(aa\)](#) inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 65](#)
- F4** [Sch. 1 para. 15\(3\)](#) repealed (1.1.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#); S.I. 1991/2730, art. 2, [Sch.](#)
- F5** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(7)(b)

- 16 (1) Any annual allowance granted under paragraph 15 above to the officer who is injured or contracts the disease shall not, together with—  
(a) any pension under paragraph 4 above, and  
(b) the annuity value of any lump sum under section 17(1) of this Act, or Part II of this Schedule,

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for which he is otherwise eligible, exceed five-sixths of the annual salary of his office.

- (2) In this paragraph “annuity value”, in relation to any lump sum, means its value computed in accordance with the Tables for immediate life annuities framed under Part II of the <sup>M1</sup>Government Annuities Act 1929 which are in force when the officer retires.
- (3) Any reduction which, under section 23 or 24 of this Act, or paragraph 23 of Schedule 2 to this Act, is, or is to be, effected in any lump sum payable under section 17(1) of this Act shall be left out of account for the purposes of this paragraph, and accordingly the annuity value of that lump sum shall be determined as if no such reduction had been made.

#### Marginal Citations

M1 1929 c. 29.

- 17 (1) If a warrant under paragraph 15 above authorises [<sup>F6</sup>the Treasury] to take into account, as against any sums otherwise payable under the warrant, any damages which are recovered or recoverable by or on behalf of the recipient of the payments under that paragraph in respect of the injury, disease or death in consequence of which the payments are made, and [<sup>F6</sup>the Treasury] makes any payments without taking such damages into account, then if and when [<sup>F6</sup>the Treasury] is satisfied that there are any damages to be so taken into account [<sup>F7</sup>it shall] have the right to recover from the recipient—
- (a) where the amount of the payments made by [<sup>F6</sup>the Treasury] is less than the net amount of the damages, the amount of those payments,
  - (b) where the amount of those payments is not less than the net amount of the damages, such part of those payments as is equal to the net amount of the damages.
- (2) So far as any amount recoverable under this paragraph represents a payment made by [<sup>F6</sup>the Treasury] from which income tax has been deducted before payment, the proper allowance shall be made in respect of the amount so deducted, and in this paragraph “the net amount of the damages” means the amount of the damages after deducting any tax payable in the United Kingdom or elsewhere to which the damages are subject.
- (3) No proceeding shall be brought to recover any amount under this paragraph—
- (a) after the death of the recipient of the payments, or
  - (b) after the expiration of two years from the date on which the amount of the damages taken into account in arriving at the amount so recoverable is finally determined (whether in court proceedings or in arbitration proceedings or by agreement between the parties) or from the date on which the final determination of that amount first came to the knowledge of [<sup>F6</sup>the Treasury], whichever date is the later.
- (4) A certificate issued by [<sup>F6</sup>the Treasury] and stating the date on which the final determination of any amount of damages first came to the knowledge of [<sup>F6</sup>the Treasury] shall be admissible in any proceedings as sufficient evidence of that date.

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- (5) The provisions of this paragraph are without prejudice to any right of [<sup>F6</sup>the Treasury] under any such warrant to take damages into account by withholding or reducing any further sums otherwise payable to the recipient of the payment.

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**Textual Amendments**

- F6** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(b)  
**F7** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(7)(c)

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