
STATUTORY INSTRUMENTS

1983 No. 686

The Personal Injuries (Civilians) Scheme 1983

PART III

AWARDS IN RESPECT OF DISABLEMENT OF GAINFULLY OCCUPIED PERSONS AND CIVIL DEFENCE VOLUNTEERS

Application and interpretation of Part III

8.—(1) Under this Part of this Scheme awards may be made in respect of disablement caused by war injuries to gainfully occupied persons and war service injuries to civil defence volunteers:

Provided that an award under this Part of this Scheme in respect of a person's disablement shall not be made unless the disablement is serious and prolonged.

(2) In this Part of this Scheme, unless the context otherwise requires—

- (a) “disablement”, in relation to a gainfully occupied person who has sustained a war injury, or a civil defence volunteer who has sustained a war service injury, means physical or mental injury or damage, or loss of physical or mental capacity, caused by that injury, and “disabled” shall be construed accordingly;
- (b) “degree”, in relation to disablement, means the degree of that disablement as assessed under Article 10.

General conditions applicable to awards under Part III

9.—(1) An award under this Part of this Scheme of a pension in respect of a person's disablement shall not be made unless his disablement is of a degree of not less than 20 per cent., and may be made provisionally or upon any other basis.

(2) No award of an allowance under Article 13 or 18(5)(d) (education and unemployability allowances in respect of a dependent child) shall be made or continued or shall continue to have effect in respect of a child who has attained the age of 15 unless he is—

- (a) a student or an apprentice; or
- (b) incapable of self-support by reason of an infirmity which arose before he attained the age of 15;

and in either case the circumstances are, in the opinion of the Secretary of State, such as to justify the award or its continuance.

(3) For the purposes of Articles 13 and 18(5)(d) an award, continuance and amount of any allowance under those Articles in respect of a child who is living apart from the disabled member shall be at the discretion of the Secretary of State.

Determination of degree of disablement

10.—(1) The following provisions of this Article shall apply for the purposes of the assessment of the degree of a person's disablement.

(2) Subject to the following provisions of this Article—

- (a) the degree of a person's disablement shall be assessed by making a comparison between the condition of the person as so disabled and the condition of a normal healthy person of the same age and sex, without taking into account the earning capacity of the disabled person in his own or any other specific trade or occupation, and without taking into account the effect of any individual factors or extraneous circumstances:

Provided that where the qualifying injury is the aggravation of an injury or disease which existed before the material date—

- (i) in assessing the degree of disablement existing immediately after the material date, account shall be taken of the total disablement due to that injury or disease and existing immediately after that date; and
- (ii) in assessing the degree of disablement existing at any subsequent date, account shall be taken of any increase in the degree of disablement which has occurred since the material date only in so far as that increase is due to the qualifying injury;
- (b) where such disablement has been caused by more than one qualifying injury, a composite assessment of the degree of disablement shall be made by reference to the combined effect of all such qualifying injuries;
- (c) the degree of disablement shall be assessed on an interim basis unless the person's condition permits a final assessment of the extent, if any, of that disablement.

(3) The degree of disablement assessed as aforesaid shall be expressed in the form of a percentage, total disablement being expressed as 100 per cent. (which shall be the maximum assessment) and a lesser degree of disablement being expressed as 90, 80, 70, 60, 50, 40, 30 or 20 per cent., or less than 20 per cent., as may be appropriate having regard to the proportion which that lesser degree of disablement bears to total disablement.

(4) Where the disablement has been caused by an injury specified in Schedule 2 or is a disablement so specified and, in either case, has reached a settled condition, the degree of the disablement shall, in the absence of any special features, be assessed at the percentage specified in that Schedule as appropriate to that injury or to that disablement.

(5) Where disablement which falls to be assessed under this Article (hereinafter in this Article referred to as “the relevant disablement”) is disablement of a person who has been awarded a pension or other grant payable out of public funds (otherwise than under this Scheme) in respect of some other disablement however caused, the degree of the relevant disablement shall not exceed the difference between—

- (a) the degree of the other disablement determined by reference to the assessment on which payment of the said pension or other grant is being made or, where that payment is not based on any specific assessment, the assessment which, in the opinion of the Secretary of State, having regard to the regulations under which that payment is made, is appropriate to that other disablement; and
- (b) the degree at which the relevant disablement and the other disablement, determined as aforesaid, would together have been assessed on a composite assessment if both disablements had fallen to be assessed under this Article:

Provided that, where an award may be made under this Scheme in respect of a member of the disabled person's family in respect of whom an award is not comprised in the said pension or other grant, the provisions of this paragraph shall not apply in relation to that award.

(6) The provisions of paragraph (5) of this Article shall not apply where the disabled person to whom an award in respect of the relevant disablement may be made has been awarded a pension or other grant payable, in respect of some other disablement however caused, under Chapters IV and V of Part II of the Social Security Act 1975, the corresponding provisions of the Social Security

(Northern Ireland) Act 1975, or under the law of any place outside the United Kingdom which in the opinion of the Secretary of State is analogous to the first-mentioned Act of 1975.

Pension for disablement

11. A disabled person may be awarded a pension in respect of his disablement at the appropriate rate specified in Schedule 3, paragraph 1, where the degree of his disablement is 100 per cent. or, where the degree of his disablement is less than 100 per cent., at the rate which bears to the rate specified as aforesaid the same proportion as the degree of his disablement bears to 100 per cent.

Allowances for eligible members of the family

12.—(1) Where a pension under Article 11 is awarded to a disabled person, allowances in respect of the eligible members of the family of that person may be awarded in accordance with the following provisions of this Article.

(2) Subject to the following provisions of this Article, an allowance under this Article in respect of an eligible member of the family shall be at such proportion of the weekly rates set out in the following Table as corresponds to the degree of disablement in relation to which that member is an eligible member of the family:

TABLE

<i>Eligible member of the family</i>	<i>Maximum weekly rate</i>
(a) wife or dependent husband	<i>p.</i> 60
(b) the first dependent child where an allowance under (a) is not being paid	60

(3) Subject to the following provision of this Article, the award, continuance and amount of any allowance under this Article in respect of an eligible member of the family who is living apart from the disabled person shall be at the discretion of the Secretary of State, so, however, that the amount of the allowance shall not exceed the amount which would have been appropriate in respect of that member under paragraph (2) of this Article if he had not been living apart from the disabled person.

(4) Where the disabled person is a married woman residing with her husband, an allowance shall not be awarded under this Article in respect of a dependent child of hers unless her husband is in need and incapable of self-support.

(5) Subject to paragraph (6), no award of an allowance under this Article shall be made, continued or continue to have effect in respect of a child who has attained the age of 15 unless he is undergoing full-time education and is under the age of 19 years.

(6) Subject to the condition that no allowance under this Article may be continued or may continue to have effect in respect of a child in respect of any period after that child has attained the age of 19, such allowance may be continued or may continue to have effect in respect of a period not exceeding 13 weeks after the child ceases to undergo full-time education as aforesaid as the Secretary of State may in any particular case determine.

(7) For the purposes of item (b) of the Table in paragraph (2) of this Article the expression “the first dependent child” means the eldest dependent child of the disabled person after disregarding any child in respect of whom, by virtue of paragraph (5) of this Article no award of an allowance, otherwise than by virtue of the last foregoing paragraph, may be made, continued, or continue to have effect.

Education allowance

13.—(1) A disabled person who is in receipt of a pension under Article 11 may be awarded an allowance in respect of a child for the purpose of his education if—

- (a) the child is a dependent child of the disabled person or by virtue of article 18(5)(e) is treated as a child of that person and is dependent on him; and
- (b) the child has attained the age of 5; and
- (c) the circumstances of the family are such as to require it; and
- (d) the Secretary of State is satisfied that the type of education which the child is receiving, or is to receive, is suitable for the child.

(2) Notwithstanding the foregoing provisions of this Article, where the child begins school before the age of 5 years an allowance under this Article may be awarded from the beginning of the school term in the course of which the child attains the age of 5 years.

(3) The amount of an allowance under this Article shall be determined by the Secretary of State, but the total payments made in respect of any period of 12 months for any one child shall not exceed the amount specified in Schedule 3, paragraph 2.

Constant attendance allowance

14. Where a disabled person is in receipt of a pension under Article 11 in respect of disablement the degree of which is not less than 80 per cent., and it is shown to the satisfaction of the Secretary of State that constant attendance on the disabled person is necessary on account of the disablement, he may be awarded an allowance at a rate not exceeding the rate specified in Schedule 3, paragraph 3(b):

Provided that in an exceptional case of very severe disablement the allowance may, subject to such conditions as the Secretary of State may determine, be increased to a rate not exceeding the rate specified in paragraph 3(a) of the said Schedule.

Exceptionally severe disablement allowance

15. Where a person's disablement is, and in the opinion of the Secretary of State is likely permanently to remain, such that he is, or if he were not in a hospital or other institution would be, in receipt of an allowance for constant attendance at a rate increased under the proviso to Article 14, he may be awarded an allowance at the appropriate rate specified in Schedule 3, paragraph 4.

Severe disablement occupational allowance

16. Where a disabled person is in receipt of an allowance for constant attendance at a rate increased under the proviso to Article 14, he may be awarded an allowance at the rate specified in Schedule 3, paragraph 5, for any period during which he is, in the opinion of the Secretary of State, ordinarily employed in a gainful occupation, not being a period in respect of which he is eligible for an award under Article 18(1)(i) or is in receipt of any personal benefit under Chapters I to III of Part II of the Social Security Act 1975 or the corresponding provisions of the Social Security (Northern Ireland) Act 1975, by way of retirement pension, invalidity pension and allowance, non-contributory invalidity pension, invalid care allowance, or Category A or B retirement pension as provided for by regulation 18 of the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 or by corresponding regulations made in Northern Ireland, or any benefits similar to the aforesaid benefits under the law of any place outside the United Kingdom which in the opinion of the Secretary of State is analogous to the first-mentioned Act of 1975.

Allowance for wear and tear of clothing

17.—(1) Where a disabled person who is in receipt of a pension under Article 11 in respect of an amputation regularly wears an artificial limb, he may be awarded an allowance in respect of wear and tear of clothing—

- (a) where he wears a single artificial limb (other than a tilting-table limb), at the rate specified in Schedule 3, paragraph 6(a); or
- (b) where he wears a tilting-table limb or more than one artificial limb, at the rate specified in paragraph 6(b) of the said Schedule.

(2) In any other case in which the Secretary of State is satisfied that as a result of a pensioned disablement there is exceptional wear and tear of the disabled person's clothing, an allowance not exceeding the rate specified in paragraph 6(b) of the said Schedule may be awarded to that person.

Unemployability allowances

18.—(1) Subject to the provisions of this Article, where a disabled person is in receipt of a pension under Article 11 in respect of disablement so serious as to make him unemployable, he may be awarded—

- (i) a personal allowance by way of supplement to his pension at the rate specified in Schedule 3, paragraph 7(a); and
- (ii) additional allowances for dependants in accordance with such of the provisions of paragraph (5) of this Article as may be appropriate in his case.

(2) For the purposes of this Article a disabled person may be deemed to be unemployable although in receipt of earnings which are, in the opinion of the Secretary of State, unlikely to exceed £1040 a year.

(3) Subject to the provisions of paragraph (4) below, a disabled person shall not be eligible for any award under this article if he is in receipt of a retirement pension under Chapter I or Chapter II of Part II of the Social Security Act 1975 except in so far as that retirement pension consists of—

- (a) an increase of such pension by way of—
 - (i) age addition under section 40 of that Act; or
 - (ii) graduated retirement benefit under the National Insurance Act 1965(1); or
- (b) an additional component within the meaning of section 6(1)(b) of the Social Security Pensions Act 1975; or
- (c) a category A or B retirement pension as provided by regulation 18 of the Social Security (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) Regulations 1979.

(4) The last foregoing paragraph shall apply to Northern Ireland as if the references therein to the Social Security Act 1975, the Social Security Pensions Act 1975, the Social Security (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) Regulations 1979 and the National Insurance Act 1965 were references to the corresponding provisions of or under the legislation of Northern Ireland.

(5) Where a disabled person is awarded an allowance under paragraph (1)(i) of this Article, he may also be awarded additional allowances for dependents in accordance with the following provisions of this paragraph—

- (a) where the disabled person is a married woman, an allowance may be awarded in respect of a husband (being a husband who would be a dependent husband if, for the references in Article 2(8) to the material date, there were substituted references to the date on which

(1) (as modified by the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393)).

the disabled person became unemployable) at the rate and subject to the conditions which would be appropriate under Article 12 if the husband were an eligible member of the family;

- (b) where an allowance has been awarded under Article 12 in respect of a wife or dependent husband, or where an allowance for a dependent husband has been awarded under sub-paragraph (a) of this paragraph the rate of the allowance may be increased by an amount not exceeding the appropriate amount in Schedule 3, paragraph 7(b)(i), if the Secretary of State thinks fit having regard to the financial circumstances of the wife or dependent husband in respect of whom the allowance has been granted;
- (c) where the disabled person is not in receipt of an allowance under Article 12 or under sub-paragraph (a) of this paragraph in respect of a wife or husband, an allowance may be awarded in respect of an adult dependant at a rate not exceeding the appropriate rate specified in Schedule 3, paragraph 7(b)(ii), if the Secretary of State thinks fit having regard to the financial circumstances of the adult dependant in respect of whom the allowance is claimed:

Provided that an allowance shall not be awarded in respect of more than one adult dependant;

- (d) an allowance may be awarded in respect of any child who is an eligible member of the disabled person's family at the appropriate rate specified in paragraph 7(b)(iii) of Schedule 3 to this Scheme;
- (e) where a child is not an eligible member of the disabled person's family but, in the opinion of the Secretary of State, having regard to the child's relationship to or connection with that person and the other circumstances of the case, the child should be so treated for the purposes of the last preceding subparagraph, that child shall be so treated for those purposes.

(6) Where a disabled person to whom a personal allowance may be or has been awarded under the foregoing provisions of this Article is eligible for a category A or B retirement pension, as provided for by regulation 18 of the Social Security (Widow's Benefit, Retirement Pension and Other Benefits) (Transitional) Regulations 1979, or by corresponding regulations made in Northern Ireland, or a widow's pension under Chapter I or Chapter II of Part II of the Social Security Act 1975 or the corresponding provisions of the Social Security (Northern Ireland) Act 1975, or where a person to or in respect of whom a personal allowance or an additional allowance may be or has been so awarded is eligible for benefit payable out of public funds under the law of any place outside the United Kingdom being benefit which, in the opinion of the Secretary of State, is analogous to benefit under Chapter I or Chapter II of Part II of the Social Security Act 1975, the Secretary of State may take into account any such pension against the personal allowance and any such benefit against the person allowance and the additional allowance in such manner and to such extent as he may think appropriate having regard, in the case of any such benefit, to any adjustment which would be made if the person were eligible for the analogous benefit under the said Act.

Invalidity allowance

19.—(1) Where a disabled person is awarded an allowance under Article 18(1)(i) in respect of unemployability and has not on the relevant date attained the age of 60 or, in the case of a woman, the age of 55, he may be awarded an additional allowance at the appropriate rate specified in Schedule 3, paragraph 8.

(2) Subject to the following provisions of this Article, the relevant date for the purposes of paragraph (1) of this Article shall be the commencing date of the period in respect of which an allowance under Article 18(1)(i) is awarded, and if there have been two or more such periods the commencing date of the later or last of them.

(3) For the purposes of paragraph (2) of this Article, where a break between two periods in respect of which an allowance under Article 18(1)(i) has been awarded does not exceed 8 weeks, those periods shall not be treated as separate periods.

(4) If the unemployability in respect of which an allowance is awarded forms part of a period of interruption of employment for the purposes of Chapter I of Part II of the Social Security Act 1975 or the corresponding provisions of the Social Security (Northern Ireland) Act 1975 which has continued without a break from a date earlier than the date fixed under paragraphs (2) and (3) of this Article, the relevant date shall be the first day of incapacity for work for those purposes in that period.

(5) Notwithstanding anything in the foregoing provisions of this Article, the relevant date may be such other date as the Secretary of State may determine if in his opinion the circumstances of any particular case so require.

(6) This Article shall not apply if on 20th September 1971 the disabled person was a man over the age of 65 or a woman over the age of 60.

(7) The provisions of paragraph (6) of Article 18, in so far as they provide for taking into account any benefit payable out of public funds under the law of any place outside the United Kingdom, shall apply to an allowance awarded under this Article as they apply to a personal allowance awarded under that Article.

Comforts allowance

20.—(1) A disabled person in receipt of a pension under Article 11 may be awarded an allowance for the provision of comforts—

- (a) at the rate specified in Schedule 3, paragraph 9(a), where that person is in receipt of an allowance under Article 14 and is—
 - (i) in receipt of an allowance under Article 18; or
 - (ii) in receipt of a pension in respect of disablement the degree of which is 100 per cent. resulting from multiple injuries which, in the opinion of the Secretary of State, render his disablement so severe as to justify an award under this sub-paragraph; or
- (b) at the rate specified in paragraph 9(b) of the said Schedule if he does not qualify for an award under sub-paragraph (a) of this paragraph but is in receipt of an allowance under Article 14 or Article 18.

(2) For the purposes of this Article a disabled person who would be in receipt of an allowance under Article 14 if he were not in a hospital or other institution shall be deemed to be in receipt of an allowance under that Article.

Allowance for lowered standard of occupation

21.—(1) Where a disabled person is in receipt of a pension under Article 11 in respect of disablement the degree of which is less than 100 per cent., or has been awarded a lump sum under Article 72, and in either case the disablement is such as to render him incapable, and likely to remain permanently incapable, of following the occupation which was his regular occupation—

- (a) in the case of a whole-time paid member of a civil defence organisation; before becoming such a member of such an organisation; or
- (b) in any other case, before the material date;

and incapable of following any other occupation which is of an equivalent standard and is suitable in his case, he may be awarded an allowance at a rate not exceeding the rate specified in Schedule 3, paragraph 10, so however that the aggregate rate of his pension under Article 11 together with the allowance under this Article shall not exceed the rate of pension which would have been appropriate in his case if the degree of his disablement had been 100 per cent.

(2) Subject to the provisions of paragraph (3), an allowance under this Article shall not be payable to a disabled person for any period in respect of which an allowance under Article 18(1)(i) is payable to him.

(3) Where a disabled person is in receipt of an allowance under this Article he may continue to receive such allowance if he becomes eligible subsequently for an allowance under Article 18(1)(i).

Age allowance

22.—(1) Where a disabled person who is in receipt of a pension under Article 11 in respect of disablement the degree of which is 40 per cent. or over has attained the age of 65, he may be awarded an allowance at the appropriate rate specified in Schedule 3, paragraph 11.

(2) Where a disabled person who is in receipt of a pension under Article 11 is also in receipt of retired pay or pension payable out of moneys provided by Parliament under any Scheme, other than this Scheme, or under any Royal Warrant, Order in Council or Order by Her Majesty administered by the Secretary of State, or of any payment analogous thereto made by him with the consent of the Treasury, an allowance under this Article may, if it is to the disabled person's advantage, be awarded at the rate appropriate to the degree of disablement which, in the opinion of the Secretary of State, represents the combined effect of his pensioned disablements:

Provided that an allowance awarded by virtue of this paragraph and an age allowance awarded under any other Scheme or any Royal Warrant, Order in Council or Order by Her Majesty shall not be payable for the same period.

Treatment allowances

23.—(1) Subject to the provisions of this Article, a disabled person may be awarded, in respect of any period during which he receives treatment, a treatment allowance consisting of—

- (i) a personal allowance at the rate of pension which would be payable if the degree of his disablement were 100 per cent., increased, where appropriate, in accordance with paragraph (2) of this Article;
- (ii) an additional allowance for a dependant in accordance with paragraph (3) of this Article:

Provided that—

- (a) a treatment allowance shall be subject to such deductions or adjustments as the Secretary of State may think appropriate having regard to all the circumstances of the case;
- (b) where a disabled person is in receipt of a treatment allowance under this Article in respect of any period, no payment shall be made in respect of that period of any other award under the foregoing provisions of this Part of this Scheme except—
 - (i) an award under Article 13, 15, 17, 18(1)(i), 19 or 20; or
 - (ii) an award under Article 14 but, in the case of treatment in a hospital or similar institution the whole or part of the cost of which is paid out of public funds, for the first four weeks thereof only; or
 - (iii) an award under Article 16.

(2) Where a disabled person has attained the age of 65, he may be awarded an increase of his personal allowance under paragraph (1)(i) of this Article—

- (a) at a rate equal to that of the allowance which he would be receiving under Article 22 but for paragraph (b) of the proviso to paragraph (1) of this Article or at such higher rate as the Secretary of State may determine having regard to the circumstances of the case; or

- (b) at such rate as the Secretary of State may determine if in his opinion an award should be made to a person who is not eligible for an award under the preceding sub-paragraph:

Provided that the rate of any increase under this paragraph shall not exceed the rate specified in Schedule 3, paragraph 12.

(3) An additional allowance may be awarded in respect of an eligible dependant at the rate and subject to the conditions which would be appropriate under Article 12 if that dependant were an eligible member of the family and the degree of the disabled person's disablement were 100 per cent.

(4) For the purposes of Article 13, 14, 17, 18(1)(i) or 20, personal allowance shall be deemed to be pension under Article 11.

(5) In this Article "treatment" means —

(a) any treatment as an in-patient of a hospital or similar institution; or

(b) a course of medical, surgical or rehabilitative treatment of a remedial nature;

which in either case the Secretary of State is satisfied that a disabled person should receive in consequence of a qualifying injury, but does not include any treatment which involves no or only occasional interruptions of the disabled person's normal employment.

Allowance where abstention from work is necessary following treatment in a hospital or similar institution

24.—(1) Where the Secretary of State is satisfied that a disabled person should on completion of a course of treatment as defined in Article 23(5) in a hospital or similar institution abstain from work in consequence of the condition which necessitated that treatment, he may be treated as if he were eligible for such period as the Secretary of State may think fit for a treatment allowance under Article 23.

(2) This Article shall not apply to a disabled person who is in receipt of an allowance under Article 18(1)(i).

Allowance for part-time treatment

25. A disabled person who receives treatment which would be treatment as defined in Article 23(5) but for the fact that it involves only occasional interruptions of the person's normal employment may be awarded an allowance at such rate, not exceeding the rate specified in Schedule 3, paragraph 13, as the Secretary of State may think fit having regard to any loss of remunerative time by that person as a result of those interruptions:

Provided that the amount of an allowance awarded to a disabled person under this Article in respect of any period of a week shall not exceed 3 times the said specified rate.