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STATUTORY INSTRUMENTS

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**1983 No. 686**

**The Personal Injuries (Civilians) Scheme 1983**

**PART IV**

**AWARDS IN RESPECT OF THE DEATH OF GAINFULLY  
OCCUPIED PERSONS AND CIVIL DEFENCE VOLUNTEERS**

**Application of Part IV**

**26.** Under this Part of this Scheme awards may be made in respect of the death of gainfully occupied persons where death is the direct result of war injuries, and in respect of the death of civil defence volunteers where death is the direct result of war service injuries.

**Pensions to widows**

**27.** A widow may be awarded a pension in respect of her husband's death—

- (1) at the rate specified in Schedule 4, paragraph 1(a), in any of the following cases, namely—
  - (a) where she has attained the age of 40; or
  - (b) where she is in receipt of an allowance awarded in respect of a child of her husband under Article 33, 35 or 37; or
  - (c) where she was in receipt of an allowance awarded in respect of a child of her husband under Article 33 of whom she is the mother—or was being treated under Article 3(9)(b) as if she were in receipt of such an allowance for such a child—until the date, in either case, upon which the child attained the age of 15, or where, in the opinion of the Secretary of State in any other case, she should be so treated; or
  - (d) where the child in respect of whom she was awarded an allowance under Article 33 or 37 dies before attaining the age of 15, for a period of 13 weeks beginning with the date of the child's death; or
  - (e) where she is incapable of self-support;
- (2) at the rate specified in paragraph 1(b) of said Schedule in any other case.

**Rent allowance to widows who have children**

**28.—(1)** Where a widow is in receipt of a pension under Article 27 and the household of the widow includes a child, the widow may be awarded an allowance in accordance with the following provisions of this Article at such rate, not exceeding the rate specified in Schedule 4, paragraph 2, as the Secretary of State may consider appropriate having regard to her weekly rent and rates.

(2) Where, but for this provision, an allowance under this article would cease by reason of the household ceasing to include a child, the allowance may be continued for the period of 26 weeks from the date on which the household so ceases to include that child, notwithstanding that the widow is no longer in receipt of a pension under the said Article 27 for the whole or any part of that period unless that pension has ceased by virtue of the provisions of Article 71 hereof.

(3) In this Article—

- (a) “child” means a child who has not attained the age of 15 or who, having attained that age, is a student or an apprentice or is incapable of self-support by reason of an infirmity which arose before he attained that age and who is—
  - (i) a dependent child of the widow's deceased husband; or
  - (ii) a child who should, in the opinion of the Secretary of State, having regard to the child's relationship to or connection with the widow's deceased husband and the other circumstances of the case, be treated as included in this sub-paragraph;
- (b) “weekly rent and rates” means such sum as the Secretary of State may, after taking into account all relevant factors and making all necessary apportionments, consider to be the weekly amount in respect of rent, or the equivalent thereof, and rates which the widow is paying or providing either directly or indirectly for accommodation for the benefit of herself and the child;
- (c) “accommodation” means living accommodation without any service or benefit not ordinarily provided by the landlord to the tenant of an unfurnished dwelling house, but may, if the Secretary of State thinks fit, include accommodation reasonably required for the storage of furniture.

**Allowance to elderly widows**

29. Where a widow who is in receipt of a pension awarded under Article 27 has attained the age of 65 years or the age of 70 years, as the case may be, she may be awarded an allowance at whichever of the rates specified in Schedule 4, paragraph 3, is appropriate.

**Pensions to unmarried dependents who lived as wives**

30.—(1) An unmarried dependant living as a wife of a person at the date of his death may be awarded a pension in accordance with the following provisions of this Article.

(2) Where an unmarried dependant of a deceased person has in her charge a child of the deceased person and is in receipt of an allowance awarded in respect of that child under the following provisions of this Part of this Scheme, a pension may be paid to her until she ceases to have the child in her charge or to be in receipt of such allowance:

Provided that, where the child dies before attaining the age of 15, the unmarried dependant may be treated for the period of 13 weeks from the date of the child's death as if she still had that child in her charge and were still in receipt of an allowance in respect of him.

(3) The rate of a pension to the unmarried dependant of a deceased person shall be at the discretion of the Secretary of State but shall not exceed the rate specified in Schedule 4, paragraph 4.

**Temporary allowances to widows and unmarried dependants who lived as wives of severely disabled persons**

31.—(1) Where a disabled person dies on or after 2nd December 1963 and an allowance under Article 14 or Article 18(1)(i) or, in the case of a disabled person who was concurrently eligible for an allowance under Article 18(1)(i), Article 21 was payable to him in respect of any period ending with his death, or an allowance under Article 14 ceased to be payable within 13 weeks of his death following his entry as an in-patient into a hospital or other institution, his widow or unmarried dependant who lived as his wife may be awarded a personal allowance and additional allowances in respect of children in accordance with the following provisions of this Article.

(2) A personal allowance awarded under this Article to a widow shall be payable—

- (a) for the period of 26 weeks commencing with the Wednesday next following the day of her husband's death; and
- (b) at a weekly rate equal to the total amount of the pension or treatment allowances and any other allowances payable to her husband under this Scheme in respect of the 7 days next preceding the day of his death, with the exception of allowances under Article 17 or 18(5) (c) or any allowance in respect of a child:

Provided that—

- (i) a personal allowance shall not be payable for any period after the death of the widow;
- (ii) in calculating the weekly rate of allowances for the purposes of the foregoing provisions of this Article, a disabled person who, being concurrently eligible for an allowance under Article 18(1)(i), was in receipt of an allowance under Article 21 shall be deemed in lieu thereof to have been in receipt of an allowance under Article 18(1)(i).

(3) An unmarried dependant who lived as the wife of the person and who had at the date of his death a child of his in her charge may be awarded a personal allowance under this Article as if she were the widow of the person:

Provided that the rate of the allowance payable to her shall be at the discretion of the Secretary of State, but shall not in any case exceed the rate which, if she were the person's widow, would be appropriate in her case under paragraph (2) of this Article, and the allowance shall not be payable for any period after she ceases to have that child in her charge.

(4) Where the widow of a person or an unmarried dependant who lived as the wife of a person is awarded a personal allowance under this Article, she may be awarded an additional allowance in respect of any child for whom an allowance was payable to that person immediately before his death, and any such additional allowance shall be payable—

- (a) for so long as the personal allowance is payable and the child is alive and has not attained the age of 15, or, if he has attained that age, is a student or an apprentice or is incapable of self-support by reason of an infirmity which arose before he attained that age and the circumstances are such, in the opinion of the Secretary of State, as to justify the continuance of the award; and
- (b) at the weekly rate at which the allowance or allowances, other than an allowance under Article 13, for that child was or were payable to the person in respect of the 7 days next preceding the day of his death.

(5) Where the aggregate amount of any payments made to a person under this Article for any period is equal to or exceeds the aggregate amount of any pension, allowance (other than an allowance under this Article or Article 36) or grant which, apart from the provisions of this paragraph, might be awarded to that person for that period under this Part of this Scheme, no award of such pension, allowance or grant shall be made for that period; but where the aggregate amount of any such payments is less than the aggregate amount of any such pension, allowance or grant, the said pension, allowance or grant may be awarded for that period and the said payments shall be treated as paid on account thereof:

Provided that where a widow who, but for the provisions of this paragraph, would have been eligible for a pension under Article 27 re-marries, the provisions of Article 71(3) shall apply in her case as if that pension had been awarded to her.

### **Pensions to dependent widowers**

**32.** A dependent widower may be awarded a pension at such rate, not exceeding the rate specified in Schedule 4, paragraph 5, as the Secretary of State may consider appropriate in the circumstances of the case.

### **Allowances in respect of children under the age of 15**

**33.** Where a dependent child of a deceased person has not attained the age of 15 and is not eligible for an award of pension under Article 34, an allowance may be awarded in respect of that child, subject to the provisions of this Article, at the rate specified in Schedule 4, paragraph 6:

Provided that where a dependent child of a deceased male person is a child to whom Article 2(7)(f) applies, or was living apart from the deceased person on the material date, an allowance under this Article in respect of that child shall be at such rate as the Secretary of State may consider appropriate in the circumstances of the case, but shall not exceed the rate specified in the said paragraph 6.

### **Pensions to motherless or fatherless children under the age of 15**

**34.—(1)** Where a dependent child of a deceased male person is or becomes motherless, or a dependent child of a deceased female person is or becomes fatherless, and in either case the child has not attained the age of 15, a pension may be awarded to the child at the rate, subject to the following provisions of this Article, specified in Schedule 4, paragraph 7.

(2) Where a dependent child of a deceased male person—

- (a) is a child to whom Article 2(7)(f) applies; or
- (b) was living apart from the deceased person on the date of the death of that person;

the pension awarded to that child shall be at such rate, not exceeding the rate specified in the said paragraph 7, as the Secretary of State may consider appropriate in the circumstances of the case.

### **Awards to or in respect of children over the age of 15**

**35.—(1)** An allowance in respect of, or a pension to, a dependent child of a deceased person may be awarded, or an award of such an allowance or pension may be continued, after the child has attained the age of 15 where the child—

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

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

(2) Subject to paragraph (3) of this Article, an allowance or pension so awarded or continued shall be at the rate and subject to the conditions which would have been appropriate under the foregoing provisions of this Part of this Scheme if the child had not attained the age of 15.

(3) Where—

- (a) in the case of a deceased male person, a dependent child of his is not under the control of the child's mother or of a person who is or has been in receipt of a pension under Article 27 or 30 in respect of the death of that person; or
- (b) in the case of a deceased female person, a dependent child of hers is not under the control of the child's father; or
- (c) the conditions of Article 34(1) are fulfilled in respect of a child;

the allowance in respect of or the pension to the child may be awarded at, or, if already awarded, increased to, such rate as the Secretary of State may consider appropriate in the circumstances of the case not exceeding the appropriate rate specified in Schedule 4, paragraph 8.

## **Education allowance**

**36.**—(1) An allowance in respect of a child to or in respect of whom an award has, or but for the provisions of Article 31 would have, been made under Article 33, 34, 35 or 37 may be awarded for the purpose of that child's education if—

- (a) the child has attained the age of 5; and
- (b) the circumstances of the family are such as to require it; and
- (c) 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 education allowance 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 4, paragraph 9.

## **Awards to or in respect of ineligible members of the families of unemployable pensioners**

**37.** Where a deceased person was at the date of his death in receipt of an allowance in respect of a child under Article 18(5)(d) by virtue of Article 18(5)(e) or in respect of a husband under Article 18(5)(a), a pension to or an allowance in respect of the child and a pension to the husband may be awarded at the rate and subject to the conditions which would have been appropriate under the foregoing provisions of this Part if the child or husband had been an eligible member of the family.

## **Pensions to parents**

**38.**—(1) A pension may be awarded to a parent of a deceased person in accordance with the following provisions of this Article where—

- (a) the parent is in pecuniary need by reason of having reached the age of not less than 65 in the case of a man, or 60 in the case of a woman, or infirmity or other adverse condition which is not merely of a temporary character; and
- (b) the deceased person had, throughout the period of 6 months expiring on the date of his death or throughout such other period as the Secretary of State may determine in the exceptional circumstances of any case, regularly contributed to the support of the parent.

(2) Where there is no widow, unmarried dependant who lived as a wife, or widower of the deceased person in receipt of a pension under this Part of this Scheme in respect of his death and the Secretary of State considers it likely that the deceased person would, if he had not died, have contributed to the support of a parent, an award may be made to that parent under this Article notwithstanding that the condition contained in paragraph (1)(b) of this Article is not fulfilled:

Provided that this paragraph shall not, unless the Secretary of State in the exceptional circumstances of any case otherwise directs, have effect in any case where the deceased person was a person to whom Article 7 applies.

(3) In determining whether and to what extent a parent is in pecuniary need, the Secretary of State shall take into account the extent to which the deceased person had been contributing to the support of the parent before his death and the extent to which that person, if he had not died, would have been likely, in the opinion of the Secretary of State, to support the parent.

(4) A pension awarded under this Article shall be at such rate as the Secretary of State may consider appropriate in the circumstances of the case, being a rate which is not less than the rate specified in Schedule 4, paragraph 10(a), and is not more than the appropriate rate specified in paragraph 10(b) of the said Schedule:

Provided that, where by reason of exceptional circumstances the Secretary of State thinks fit, the rate of a pension under this Article may be increased by a sum not exceeding the appropriate amount specified in paragraph 10(c) of the said Schedule.

(5) A pension to the parent of a deceased person under this Article shall not be paid in respect of any period where the Secretary of State does not consider it likely that the deceased person would have contributed to the support of that parent during that period.

(6) Where an award to a parent may be made under this Article in respect of the death of two or more persons—

- (a) one pension only may be awarded under this Article in respect of the death of those persons; and
- (b) paragraph (3) of this Article shall have effect as if it referred to the contributions of all those persons.

(7) Where the conditions for the award of a pension under this Article are fulfilled in the case of more than one parent of a deceased person, a pension may be awarded to whichever parent the Secretary of State may select and, so long as the award to that parent is in force, a pension shall not be awarded to any other parent of that person:

Provided that, where the parents of the deceased person are living apart from each other, a pension may be awarded to each of them, so, however, that the aggregate rate of the pensions awarded to the parents shall not exceed the maximum rate at which a pension under this Article could be awarded if those parents were not living apart from each other.

### **Pensions to other dependants**

**39.**—(1) Subject to the following provisions of this Article, any other dependant of a deceased person may be awarded a pension if he was, throughout the period beginning 6 months prior to the material date and ending with the death of the deceased person or throughout such other period as the Secretary of State may determine in the exceptional circumstances of any case, dependent on the deceased person and is in pecuniary need and is either incapable of self-support or is a juvenile dependant of that person.

(2) Not more than one dependant shall be awarded a pension under this Article in respect of the death of a person except in the case of juvenile dependants, and where an award under this Article to any dependant ceases for any reason to have effect no award shall be made under this Article to any other person unless that person is the wife or husband of that dependant.

(3) The decision of the Secretary of State shall be final on any question as to which of two or more eligible dependants should receive a pension under this Article.

(4) A pension awarded under this Article to a juvenile dependant shall be at such rate as the Secretary of State may determine, but shall not exceed the rate specified in Schedule 4, paragraph 11(a), for each juvenile dependant, so, however, that the aggregate rate of the pensions shall not exceed the rate specified in paragraph 11(b) of the said Schedule and shall not, in a case where a pension under Article 38 is in payment in respect of one eligible parent of the deceased person, exceed the maximum which, by virtue of paragraph (6) of this Article, is appropriate in such a case.

(5) A pension awarded under this Article to another dependant who is not a juvenile dependant shall be at such rate as the Secretary of State may determine, but shall not exceed the rate specified in Schedule 4, paragraph 11(c), and shall not, in a case where a pension under Article 38 is in payment in respect of one eligible parent of the deceased person, exceed the maximum which, by virtue of paragraph (6) of this Article, is appropriate in such a case.

(6) Where a pension under Article 38 is in payment in respect of one eligible parent of the deceased person, the rate of a pension under this Article to another dependant of the deceased person, or, as the case may be, the aggregate rate of the pensions to the other dependants of that person, shall

not exceed the difference between the rate of the pension of which the parent is in receipt and the maximum rate which would be appropriate in that case under paragraph (4) of Article 38 if there were two eligible parents and the case were treated as an exceptional case under the proviso to that paragraph.

(7) In this Article, “juvenile dependant” means another dependant of the deceased person who is a brother, sister, half-brother, half-sister, stepbrother, stepsister or grandchild of that person and who has not attained the age of 15: Provided that a juvenile dependant who has attained the age of 15 and was when he attained that age a student may be treated, for the purposes of this paragraph, as if he did not attain that age until whichever is the earlier of the following dates, namely—

- (a) the date on which he ceases to be a student; or
- (b) the 31st July which next follows the day on which he attains the age of 16, or, as the case may be, which is the day on which he attains that age.

### **Funeral grants**

**40.**—(1) Subject to the following provisions of this Article, where a civil defence volunteer has died as the direct result of a war service injury and his funeral is carried out privately at the expense of any person, a funeral grant not exceeding the amount specified in Schedule 4, paragraph 12, may be awarded in respect of the expense incurred by that person.

(2) Subject to the following provisions of this Article, where a gainfully occupied person has died as a direct result of a war injury and his funeral is carried out privately at the expense of the widow or dependant widower of that person, or of a relative of that person who at the date of his death was wholly or mainly maintained by him in his home, a funeral grant not exceeding the amount specified as aforesaid may be awarded in respect of the expense incurred by the widow, dependent widower or relative,

(3) A funeral grant under this Article shall be reduced by the amount of any payment out of public funds which has been or will be made in respect of the expenses incurred in connection with the funeral.

(4) In this Article, “dependent widower” includes a person who would be a dependent widower if, for the references in Article 2(9) to the material date, there were substituted references to the date of the injured person's death.