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STATUTORY INSTRUMENTS

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**1983 No. 686**

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

**PART V**

**AWARDS TO OR IN RESPECT OF PERSONS NOT GAINFULLY OCCUPIED**

**Application and interpretation of Part V**

**41.**—(1) Under this Part of this Scheme awards may be made in respect of disablement caused by war injuries (not being war service injuries) to persons not gainfully occupied, other than persons to whom Article 7 applies, or in respect of the death of such persons where death is the direct result of such injuries:

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) An award under this Part of this Scheme in respect of a war injury (not being a war service injury) sustained by a person who has not attained the age of 15 shall not be made in respect of any period before he has attained that age and shall only be made on his attaining that age if the conditions governing the making of the award are then fulfilled.

(3) The provisions of Article 9 shall apply to an award in respect of a person's disablement under this Part of this Scheme in like manner as they apply to such an award under Part III of this Scheme.

(4) In this Part of this Scheme, unless the context otherwise requires, the expressions “disablement” and “disabled”, in relation to a person not gainfully occupied, have the like meaning as they have in relation to gainfully occupied persons by virtue of Article 8(2), and “degree”, in relation to disablement, has the meaning assigned to it in Article 8(2).

**Pension for disablement**

**42.** A disabled person may be awarded a pension in respect of his disablement at the rate and subject to the conditions which would have been appropriate in his case under Article 11 if he had been a gainfully occupied person.

**Constant attendance allowance**

**43.** The provisions of Article 14 shall apply to a person in receipt of a pension under Article 42 in all respects as if he were in receipt of a pension under Article 11.

**Exceptionally severe disablement allowance**

**44.** The provisions of Article 15 shall apply to a person in receipt of a pension under Article 42 in all respects as if he were in receipt of a pension under Article 11.

### **Comforts allowance**

**45.**—(1) A person in receipt of a pension under Article 42 in respect of disablement the degree of which is not less than 80 per cent. and an allowance under Article 43 may be awarded an allowance for the provision of comforts at the rate specified in Schedule 3, paragraph 9(b).

(2) An allowance awarded under this Article may be paid in addition to any allowance awarded under Article 48.

### **Allowance for wear and tear of clothing**

**46.** The provisions of Article 17 shall apply to a person in receipt of a pension under Article 42 in all respects as if he were in receipt of a pension under Article 11.

### **Age allowance**

**47.** The provisions of Article 22 shall apply to a person in receipt of a pension under Article 42 in all respects as if he were in receipt of a pension under Article 11.

### **Treatment allowances**

**48.**—(1) A disabled person may be awarded a treatment allowance in accordance with the following provisions of this Article.

(2) In the case of a person who, if he had sustained the qualifying injury immediately before the date of the commencement of the treatment, would have been a gainfully occupied person, a treatment allowance may be awarded at the rate and subject to the conditions which would have been appropriate in his case under Article 23, 24 or 25 if he had been a gainfully occupied person.

(3) In the case of a person who does not come within paragraph (2) of this Article, a treatment allowance may be awarded in respect of any period during which he receives treatment as defined in Article 23(5) in a hospital or similar institution, which allowance shall consist of a personal allowance at the rate and subject to the conditions which would have been appropriate in his case under Article 23 if he had been a gainfully occupied person, increased by an amount equal to the increase (if any) for which he would, in those circumstances, have been eligible under paragraph (2) of that Article.

### **Awards in respect of death**

**49.**—(1) Subject to the following provisions of this Article, a pension based on pecuniary need may be awarded under this Article in respect of the death of a person—

- (a) to a widow of that person or, as the case may be, to a dependent widower of that person;
- (b) where there is no such widow or dependent widower, to a dependent child of that person;
- (c) where there is no such widow, dependent widower or dependent child and the Secretary of State in the exceptional circumstances of any case so directs, to a parent of that person to whose support that person had regularly contributed 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.

(2) A pension under this Article shall only be awarded if the pecuniary need of the widow, dependent widower, dependent child or parent of the deceased person arises because, by reason of the death of that person, a pension, superannuation allowance, annuity or other income of which that person was in receipt at the date of his death is not available (otherwise than by virtue of a disposition made by that person) for the support of the widow, dependent widower, dependent child or parent.

(3) A pension under this Article shall be at such a rate as may appear to the Secretary of State to be justified by the circumstances of the case, but shall not exceed—

- (a) in the case of a pension to a widow, the aggregate rate of the widow's pension, any allowances in respect of dependent children of her husband, and any other benefits in respect of her husband's death; and
- (b) in the case of a pension to a dependent widower, the aggregate rate of the pension and any allowances in respect of dependent children of the deceased person; and
- (c) in any other case, the rate of the pension;

which could have been awarded under Part IV of this Scheme (otherwise than under Article 36) to the widow, dependent widower, dependent child or parent, as the case may be, if the deceased person had been a gainfully occupied person.

(4) Subject to the foregoing provisions of this Article, a pension under this Article shall be subject to the conditions which would have been appropriate under Part IV of this Scheme if the deceased person had been a gainfully occupied person.

#### **Allowance to elderly widows**

**50.** Where a widow who is in receipt of a pension awarded under Article 49 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.

#### **Temporary allowances to widows of severely disabled persons**

**51.** The provisions of Article 31 shall apply in relation to the widow of a disabled person in all respects as if he had been a gainfully occupied person subject to the modifications that any reference in that Article to a pension, allowance or grant payable under any provision of Part III or Part IV of this Scheme shall be construed as a reference to the pension, allowance or grant, if any, payable under that provision as applied by a provision of this Part of this Scheme, and that any reference to Article 27 or 36 shall be construed as a reference to Article 49 or 52 respectively.

#### **Education allowance**

**52.—**(1) Where there is a dependent child of a deceased person and, by reason of the death of that person, a pension, superannuation allowance, annuity or other income of which that person was in receipt at the date of his death is not available (otherwise than by virtue of a disposition made by that person) to provide for the education of the child, an allowance in respect of the child may be awarded for the purpose of the child's education.

(2) Subject to paragraph (1) of this Article, an allowance under this Article shall be subject to the conditions which would have been appropriate under Article 36 if the deceased person had been a gainfully occupied person.