

2006 No. 765

PENSIONS

The Personal Injuries (Civilians) (Amendment) Scheme 2006

Made - - - - *14th March 2006*

Laid before Parliament *17th March 2006*

Coming into force - - *10th April 2006*

The Secretary of State, with the approval of the Treasury, makes the following scheme in exercise of the powers conferred by sections 1 and 2 of the Personal Injuries (Emergency Provisions) Act 1939(a) and now vested in him(b), and of all other powers enabling him in that behalf.

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Personal Injuries (Civilians) (Amendment) Scheme 2006 and shall come into force on 10th April 2006.

(2) In this Scheme, “the principal Scheme” means the Personal Injuries (Civilians) Scheme 1983(c), and, except where the context otherwise requires, a reference to a numbered Article, Part, Table or Schedule, is a reference to the Article, Part, Table or Schedule in the principal Scheme which bears that number.

Amendments to the principal Scheme

2.— The amendments to the principal Scheme contained in Schedule 1 to this Scheme shall have effect.

Signed by the authority of the Secretary of State for Defence

12th March 2006

Don Touhig
Parliamentary Under Secretary of State
Ministry of Defence

We approve

(a) 1939 c.82.

(b) The functions of the Minister of Pensions were transferred to the Minister of Pensions and National Insurance by virtue of the Transfer of Functions (Ministry of Pensions) Order 1953, S.I.1953/1198, Article 2. The functions of the Minister of Pensions and National Insurance were transferred to the Minister of Social Security by virtue of the Ministry of Social Security Act 1966 (c.20) section 2. The functions of the Minister of Social Security were transferred to the Secretary of State for Social Services by virtue of the Secretary of State for Social Services Order 1968, S.I.1968/1699, Article 2. The functions of the Secretary of State for Social Services were transferred to the Secretary of State for Social Security by virtue of the Transfer of Functions (Health and Social Security) Order 1988, S.I. 1988/1843, Article 3. The functions of the Secretary of State for Social Security were transferred to the Secretary of State by the Transfer of Functions (War Pensions etc.) Order 2001, S.I. 2001/3506, Article 2.

(c) S.I. 1983/686; amending instruments are S.I. 1983/1164, 1540, 1984/1289, 1675, 1985/1313, 1986/628, 1987/191, 1988/367, 2260, 1989/415, 1990/535, 1300, 1991/708, 1992/702, 3226, 1993/480, 1994/715, 2021, 1995/445, 1996/502, 1997/812, 1998/278, 1999/262, 2000/301, 2001/420, 2002/672, 2003/637, 2004/717 and 2005/655, 1639, 3031.

SCHEDULE 1

Article 2

AMENDMENTS TO THE PRINCIPAL SCHEME

Amendment to the principal Scheme – Article 18

1. In Article 18 (Unemployability allowances) delete paragraphs (3) and (4).

Amendment to the principal Scheme – Article 64

2. For Article 64 (maintenance in hospital or an institution) substitute—

“64.—(1) Subject to paragraph (3), the Secretary of State shall withhold constant attendance allowance and severe disablement occupational allowance 4 weeks after the date on which the person to whom either allowance is awarded becomes a person described in paragraph (2).

(2) Paragraph (1) applies to a person who—

- (a) is receiving or has received or is regarded as receiving or having received free in-patient treatment; or
- (b) is being or has been maintained in an institution—
 - (i) which is supported wholly or partly out of public funds, or
 - (ii) in which he is being maintained pursuant to arrangements made by the Secretary of State

otherwise than for the purpose of undergoing medical or other treatment.

(3) For the purposes of paragraph (2), any separate periods of time spent as set out in paragraph (2) shall be treated as a continuous period of time where there is less than 28 days between each such period and for this purpose periods of time spent as set out in paragraph (2) before 9th April 2001 may be aggregated with periods so spent after that date.

(4) In 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 under the National Health Service Act 1977, the National Health Service (Scotland) Act 1978, the National Health Service and Community Care Act 1990, or any corresponding enactment having effect in Northern Ireland; or
- (b) in a hospital or similar institution maintained or administered by the Defence Council.

(5) In this Article a person shall be regarded as being maintained free of charge in a hospital or similar institution unless

- (a) his accommodation and services are provided under—
 - (i) section 65 of the National Health Service Act 1977(a),

(a) 1977 c.49. Section 65 was substituted by section 7(10) of the Health and Medicines Act 1988 (1988 c.49). It was subsequently amended by sections 25 and 66(1) of, and paragraph 18(4) of Schedule 9 to, the National Health Service and Community Care Act 1990 (1990 c.19); section 2(1) of, and paragraph 38 of Schedule 1 to, the Health Authorities Act 1995 (1995 c.17); section 1(3) of, and paragraphs 1 and 20 of Schedule 1 to the National Health Service Reform and Health Care

- (ii) section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978(a),
 - (iii) paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990(b), or
 - (iv) any corresponding enactment having effect in Northern Ireland; or
- (b) he is paying or has paid for any period, 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.”

Amendment to the principal Scheme - new Articles 69A and 69B

3. After Article 69 (Refusal of treatment), insert Articles 69A and 69B, as follows—

“Suspension – failure to comply with request or pensioner not at last known address

69A.—(1) Where it appears to the Secretary of State that a decision on an award of a pension, gratuity or supplement (“the award”) should be reviewed under Article 76, he may, by notice in writing —

- (a) require the person awarded the pension, gratuity or supplement (“the pensioner”) to provide, within the period of 3 months starting with the date on which the notice is given or sent to the pensioner, such information or evidence as is reasonably required to determine whether the award should be revised; or
- (b) to attend for a medical examination at a time and place to be appointed.

(2) Where it appears to the Secretary of State that a pensioner may no longer be resident at the last address notified to him, he may, by notice in writing, require the pensioner to provide satisfactory evidence of his current residential address and to do so within the period of 3 months starting with the date on which the notice is given or sent to the pensioner.

(3) The Secretary of State may suspend payment of the award if the pensioner fails—

- (a) to provide the information or evidence required under paragraph (1)(a) within the time specified in that paragraph;
- (b) to attend for a medical examination at the appointed time and place pursuant to paragraph (1)(b); or
- (c) to provide the information or evidence required under paragraph (2) within the time specified in that paragraph

in all cases without supplying a satisfactory explanation for the failure and such suspension shall take effect from the date on which the notice referred to in paragraph (4) is given or sent.

(4) If the Secretary of State suspends payment of the award, he shall notify the pensioner in writing of the decision to suspend, which notification shall inform the pensioner—

- (a) that the award has been suspended;
- (b) of the reasons for the decision to suspend; and
- (c) that his award may be cancelled in the circumstances described in Article 69B.

(5) Where, within the period of 12 months beginning with the date on which a notice such as is referred to in paragraph (1) or paragraph (2) was given or sent—

- (a) the pensioner complies with the requirements contained in any such notice; or

Professions Act 2002 (2002 c.17) and section 34 of, and paragraphs 23 and 29 of Schedule 4 to, the Health and Social Care (Community Health and Standards) Act 2003 (2003 c.43).

(a) Schedule 7A was amended by Schedule 1 to the Health Authorities Act 1995 (1995 c. 17) and sections 46 and 49 of, and Schedules 4 and 5 to, the Health Act 1999 (1999 c.8). Section 58 was amended by section 11 of the Health Services Act 1980 (1980 c.53).

(b) 1990 c.19.

- (b) the Secretary of State, by notice in writing, informs the pensioner that it is no longer necessary for him to provide the information or to attend the medical examination

the suspension shall cease with effect from the date specified in paragraph (6).

(6) The date of cessation of suspension shall be the date on which—

- (a) the pensioner complies with the requirement (or where there is more than one requirement the date on which the pensioner has complied with the last outstanding requirement); or
- (b) the date on which the notice referred to at paragraph (5)(b) was given or sent.

(7) On cessation of the suspension, the award shall be paid in accordance with the provisions of paragraph 1(7)(A) of Schedule 5.

Cancellation - failure to comply with request

69B.—(1) Where a pensioner whose award has been suspended under Article 69A(3) does not, within the period of 12 months beginning with date on which the notice referred to in Article 69A(1) or (2) is given or sent to him, comply with a requirement to supply information or evidence or to attend for a medical examination the Secretary of State shall cancel that award.

(2) A pensioner whose award has been cancelled under paragraph (1) may make a further claim in respect of the matters which gave rise to that award.

(3) The Secretary of State shall send, to the pensioner's last known address, written notification of the cancellation of the award which shall inform the pensioner—

- (a) that the award has been cancelled;
- (b) of the reasons for such cancellation; and
- (c) that he may make a further claim for the award in question in accordance with paragraph (2).

(4) Where a pensioner makes a further claim under paragraph (2), the award shall, if one or more of the conditions specified in paragraph (5) is satisfied, be paid in accordance with paragraph 1(7)(B) of Schedule 5.

(5) The conditions referred to in paragraph (4) are that—

- (a) the pensioner has supplied the information or evidence required in a notice given or sent under Article 69A(1)(a) or (2); or
- (b) the pensioner has attended for a medical examination as required by the Secretary of State; or
- (c) the Secretary of State, by notice in writing, has informed the pensioner that it is no longer necessary for him to supply the information or evidence referred to at (a) above, or to attend the medical examination referred to at (b) above.”

Amendment to the principal Scheme - Schedule 3

4. For Schedule 3 of the principal Scheme (rates of pensions and allowances payable in respect of disablement and earnings or income thresholds) there shall be substituted the Schedule set out in Schedule 2 of this Scheme.

Amendment to the principal Scheme - Schedule 4

5. For Schedule 4 of the principal Scheme (rates of pensions and allowances payable in respect of death) there shall be substituted the Schedule set out in Schedule 3 of this Scheme.

Amendment to the principal Scheme - Schedule 5

6.—(1) Paragraph 1 of Schedule 5 to the principal Scheme (commencing dates of awards of pension) shall be amended in accordance with the following provisions.

(2) In paragraph 1 sub-paragraph (6), for the words “sub-paragraph (7)” substitute the words “sub-paragraphs (7), (7A) and (7B)”.

(3) In paragraph 1, after sub-paragraph (7) insert sub-paragraphs (7A) and (7B) as follows—

“(7A) Where, an award is suspended pursuant to Article 69A(3) but, on one of the conditions set out in Article 69A(5) being satisfied, the Secretary of State subsequently reviews the award, the Secretary of State shall adjust the award in accordance with sub-paragraph (6) and shall make a backdating payment in respect of the award, which payment shall—

- (a) apply in respect of the period between the date on which the suspension took effect and the date of the review, and
- (b) be calculated by reference to the rate at which the award was in payment prior to its suspension.

(7B) Where, a pensioner’s award has been cancelled (pursuant to Article 69B(1)) but, following submission of a further claim (in accordance with Article 69B(2)) the Secretary of State has made a further award in the pensioner’s favour, such award shall take effect and payment shall be made—

- (a) from the date on which the suspension took effect,
- (b) at such rate as the Secretary of State determines to be appropriate when making the further award.”

Amendment to the principal scheme – Schedule 7

7. Schedule 7 of the principal Scheme shall be omitted.

SCHEDULE 2

Schedule 1 paragraph 4

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 3 TO THE PRINCIPAL SCHEME

“SCHEDULE 3

Article 11

RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DISABLEMENT AND EARNINGS OR INCOME THRESHOLDS

Table

	<i>Description of Pension or Allowance</i>	<i>Rate</i>
1.	Pension for 100 per cent. disablement under Article 11	£134.80 per week
2.	Education allowance under Article 13	£120.00 per annum ^(*)
3.	Constant attendance allowance under Article 14	
	A For decisions made before 9th April 2001—	
	(a) under the proviso to Article 14	£101.80 per week ^(*)
	(b) in any other case under Article 14	£50.90 per week ^(*)
	B For decisions made on or after 9th April 2001—	
	(a) the part day rate of constant attendance allowance	£25.45 per week

	under Article 14(2)	
	(b) the full day rate of constant attendance allowance under Article 14(3)	£50.90 per week
	(c) the intermediate rate of constant attendance allowance under Article 14(4)	£76.35 per week
	(d) the exceptional rate of constant attendance allowance under Article 14(5)	£101.80 per week
4.	Exceptionally severe disablement allowance under Article 15	£50.90 per week
5.	Severe disablement occupational allowance under Article 16	£25.45 per week
6.	Allowance for wear and tear of clothing under Article 17(1)	£174.00 per annum
7.	Unemployability allowances—	
	(a) personal allowance under Article 18(1)(i)	£83.35 per week
	(b) additional allowances for dependants by way of—	
	(i) increase of allowance in respect of a spouse civil partner or adult dependant under Article 18(5)(b)	£46.95 per week ^(*)
	(ii) increase of allowance under Article 18(5)(d)—	
	(aa) in respect of the only, elder or eldest child	£10.90 per week
	(bb) in respect of each other child	£12.85 per week
	(cc) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992 ^(a) , or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£12.85 per week
	For decisions made on or after 9th April 2001	
	(c) the annual earnings figure for the purposes of Article 18(2) is £4,212;	
	(d) the weekly income figure for the purposes of Article 18(5) (b) is £57.45	
8.	Invalidity allowance payable under Article 19	
	(a) if—	
	(i) the relevant date fell before 5th July 1948; or	
	(ii) On the relevant date the disabled person was under the age of 35; or	£16.50 per week
	(iii) On the relevant date the disabled person was under the age of 40 and had not attained the age of 65, in the case of a disabled person being a man, or 60, in the case of that person being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979	
	(b) if—	
	(i) On the relevant date the disabled person was under the age of 45; or	
	(ii) On the relevant date the disabled person was under the age of 50 and had not attained the age of 65, in the case of a disabled person being a man, or 60 in the case of that person being a woman, before 6th April 1979 and the period in respect of which payment of the allowance is to relate begins on or after 6th April 1979	£10.60 per week

	(c) If heads (a) and (b) do not apply and on the relevant date the disabled person was under the age of 60	£5.30 per week
9.	Comforts Allowance—	
	(a) under Article 20(1)(a)	£21.80 per week
	(b) under Article 20(1)(b) or 45(1)	£10.90 per week
10.	Allowance for lowered standard of occupation under Article 21	£50.84 per week ^(*)
11.	Age Allowance under Article 22 where the degree of pensioned disablement is—	
	(a) 40 or 50 per cent.	£9.05 per week
	(b) 60 or 70 per cent.	£13.85 per week
	(c) 80 or 90 per cent.	£19.75 per week
	(d) 100 per cent.	£27.70 per week
12	For decisions made before 9th April 2001, treatment allowance—increase of personal allowance under Article 25	£27.70 per week ^(*)
13.	Part-time treatment allowance under Article 25	£61.85 per day ^(*)
14.	Mobility supplement under Article 25A	£48.55 per week

^(a) 1992 c.4.
^(*) maximum”

SCHEDULE 3

Schedule 1 Paragraph 5

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 4 OF THE PRINCIPAL SCHEME

“SCHEDULE 4

Article 27

Table

RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DEATH

	<i>Description of Pension or Allowance</i>	<i>Rate</i>
1.	Pension to surviving spouses and surviving civil partners—	
	(a) under Article 27(1)	£102.20 per week
	(b) under Article 27(2)	£24.49 per week
	(c) under Article 27(3)	£68.42 per week
2.	Rent allowance under Article 28	£38.55 per week ^(*)
3.	Allowance under Article 29 or 50 to an elderly surviving spouse and elderly surviving civil partner—	
	(a) if age 65 but under 70	£11.70 per week
	(b) if age 70 but under age 80	£22.40 per week
	(c) if age 80 or over	£33.20 per week
4.	Pension under Article 30 to dependants who lived as spouses and dependants who lived as civil partners	£1.00 per week ^(*)
5.	Allowance under Article 33 in respect of each child under the age of 15—	
	(a) in respect of the only, elder or eldest child	£16.05 per week
	(b) in respect of each other child	£17.95 per week

	(c) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992 or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£17.95 per week
6.	Pension under Article 34(1) where the decision is made before 9th April 2001, to a motherless or fatherless child under the age of 15 and, where the decision is made on or after that date, under Article 34(2) to a child under the age of 15 with no parents living—	
	(a) in respect of the only, or elder or eldest child	£18.30 per week
	(b) in respect of each other child	£20.10 per week
	(c) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992 or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£20.10 per week
7.	Pension or allowance where the decision is made before 9th April 2001, under Article 35(3) and, where the decision is made on or after that date, under Article 35(2) to or in respect of a child aged 15 or over—	
	(a) where the child has attained the age of 18 and is incapable of self-support by reason of an infirmity which arose before he attained the age of 15	£78.50 per week ^(*)
	(b) any other case—	
	(i) in respect of the only, elder or eldest child	£18.30 per week ^(*)
	(ii) in respect of each other child	£20.10 per week ^(*)
	(iii) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992, or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£20.10 per week ^(*)
8.	Education allowance under Article 36	£120 per annum ^(*)
9.	Pensions to parents—	
	(a) minimum rate under Article 38(4)	£0.25 per week
	(b) maximum rate under Article 38(4)	
	(i) where there is only one eligible parent	£1.00 per week
	(ii) where there is more than one eligible parent	£1.38 per week
	(c) increase under the proviso to Article 38(4)—	
	(i) where there is only one eligible parent	£0.38 per week ^(*)
	(ii) where there is more than one eligible parent	£0.62 per week ^(*)
10.	Pensions to other dependants—	
	(a) for each juvenile dependant under Article 39(4)	£0.30 per week ^(*)
	(b) aggregate rate under Article 39(4)	£1.00 per week ^(*)
	(c) under Article 39(5)	£1.00 per week ^(*)

^(*) maximum”

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Personal Injuries (Civilians) Scheme 1983 (“the principal Scheme”) makes provision for the payment of pensions and allowances to or in respect of civilians who were killed or injured during the 1939-45 World War. This scheme amends the principal Scheme in the manner described below.

This scheme increases the rates of allowances, pension and awards payable and the amounts of income to be disregarded for the purposes of certain parts of the principal Scheme by inserting new Schedules 3 and 4 to the principal Scheme.

This scheme deletes paragraphs 3 and 4 of Article 18 (Unemployability allowance), so that Article 18 no longer prevents a person in receipt of retirement pension (other than a retirement pension which consists of certain additions) from being eligible for unemployability allowance.

This scheme further amends the principal Scheme by substituting a revised Article 64 (Maintenance in a hospital or an institution) and by deleting schedule 7. The revised Article 64 only requires deductions to be made from constant attendance allowance and severe disablement occupational allowance whilst a person to whom those allowances are paid is in hospital or an institution.

It also inserts new Articles 69A (Suspension – failure to comply with request or pensioner not at last known address) and 69B (Cancellation – failure to comply with request). These Articles give the Secretary of State power to suspend, and later cancel, a pension, gratuity or supplement where a person, having been required to provide information, or to attend for a medical examination, fails to do so after being given reasonable notice. Consequential amendments are made to Schedule 5 (Commencing dates of awards) in order to provide for payment of an award to be backdated on the Secretary of State deciding to recommence a suspended or cancelled award.

A regulatory impact assessment has not been produced for this instrument as it has no significant impact on the costs of business, charities or voluntary bodies.

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PENSIONS

The Personal Injuries (Civilians) (Amendment) Scheme 2006

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