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STATUTORY INSTRUMENTS

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**1997 No. 812**

**PENSIONS**

**The Personal Injuries (Civilians) Amendment Scheme 1997**

<i>Made</i>	- - - -	<i>12th March 1997</i>
<i>Laid before Parliament</i>		<i>17th March 1997</i>
<i>Coming into force</i>	- -	<i>7th April 1997</i>

The Secretary of State for Social Security, with the approval of the Treasury, in exercise of the powers conferred by sections 1 and 2 of the Personal Injuries (Emergency Provisions) Act 1939<sup>(1)</sup> and now vested in him<sup>(2)</sup> and of all other powers enabling him in that behalf, hereby makes the following Scheme:

**Citation, commencement and interpretation**

1.—(1) This Scheme may be cited as the Personal Injuries (Civilians) Amendment Scheme 1997 and shall come into force on 7th April 1997.

(2) In this Scheme, the expression “the principal Scheme” means the Personal Injuries (Civilians) Scheme 1983<sup>(3)</sup> and, except where the context otherwise requires, a reference to a numbered Article, Part or Schedule is to the Article, Part or Schedule in the principal Scheme which bears that number.

**Substitution of Article 17**

2. For Article 17 (allowance for wear and tear of clothing) there shall be substituted—

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

17.—(1) A disabled person who is in receipt of a pension under Article 11 or Article 42 may be awarded an allowance in respect of wear and tear of clothing at the rate specified in Schedule 3, paragraph 6 where either—

- (a) he is in receipt of a pension in respect of an amputation and regularly wears an artificial limb; or

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(1) 1939 c. 82.

(2) See Transfer of Functions (Ministry of Pensions) Order 1953 (S.I. 1953/1198), article 2; Ministry of Social Security Act 1966 (c. 20), section 2; Secretary of State for Social Services Order 1968 (S.I. 1968/1699), article 2.

(3) S.I. 1983/686, as amended by S.I. 1983/1164, 1540, 1984/1289, 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 and 1996/502.

- (b) the Secretary of State is satisfied that as a result of the disablement which gives rise to an award under this Scheme there is exceptional wear and tear of the disabled person's clothing.”.

### **Amendments to Articles 18, 21 and 25A**

**3.—**(1) In the amendments to the principal Scheme made in paragraphs (2) to (4) below, a claim is a new claim where—

- (a) it is made on or after 7th April 1997; and
  - (b) on the day which immediately precedes the first day to which the claim relates the person who has sustained a war injury or, as the case may be, a war service injury, does not have an award of the allowance or, as the case may be, the supplement in question.
- (2) In Article 18 (unemployability allowances)—
- (a) after paragraph (1) there shall be inserted the following paragraph—
    - “(1A) Paragraph (1) shall not apply in the case of a person who submits a new claim for an allowance under this Article—
    - (a) on or after the date he attained the age of 65, or
    - (b) where the degree of disablement is assessed at less than 60 per cent.”;
  - (b) in paragraph (2) for the amount “£2,366”(4) there shall be substituted the amount “£2,418”.
- (3) In Article 21 (allowance for lowered standard of occupation)—
- (a) in paragraph (1) at the beginning there shall be inserted the words—
    - “Except in the case of a person to whom paragraph (1A) applies,”; and
  - (b) after paragraph (1) there shall be inserted the following paragraph—
    - “(1A) This paragraph applies in the case of a person who submits a new claim for an allowance under this Article—
    - (a) on or after the date he attained the age of 65; or
    - (b) where the degree of disablement is assessed at less than 40 per cent.”.
- (4) In Article 25A(5) (mobility supplement), after paragraph (1) there shall be inserted the following paragraph—
  - “(1A) This Article shall not apply in the case of a person who submits a new claim where the degree of disablement is assessed at less than 40 per cent.”.

### **Funeral grant**

**4.—**(1) After Article 26 there shall be inserted—

#### **“Funeral grant**

**26A.** Where—

- (a) a person's war injury or, as the case may be, war service injury causes him to die on or after 7th April 1997;
- (b) the funeral took place in the British Islands or the Republic of Ireland; and
- (c) within three months of the person's funeral, either—

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(4) The amount £2,366 was substituted by S.I. 1996/502.

(5) Article 25A was inserted by S.I. 1983/1164; such amendments as have been made to Article 25A are not relevant to this Scheme.

- (i) a claim is made for a funeral grant under this Article, or
- (ii) an enquiry is made in person, in writing or orally to the Secretary of State or to an authorised agent about claiming funeral expenses and a claim is made for such expenses within three months of the date the claim form is sent in response to that enquiry,

the Secretary of State may defray so much of any reasonable funeral expenses as he may determine, including the cost of transporting the person's body but only within the area of the British Islands and the Republic of Ireland.”

- (2) After Article 49 there shall be inserted—

**“Funeral grant**

**49A.** The provisions of Article 26A shall have effect as if the deceased person had been gainfully occupied.”

**Amendment of Article 71**

5. Article 71(6) shall be amended as follows—

- (a) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where—

- (a) in accordance with paragraph (1) an award ceased because the person had another person living with her as her spouse; and
- (b) that person claims an award under Part IV or Article 49(1) in respect of a period which begins after the end of that relationship,

the claim shall be determined as though that relationship never existed.”;

- (b) paragraphs (3) and (4) shall be omitted.

**Substitution of Schedules 3, 4 and 5**

6. For Schedules 3, 4 and 5 (rates of pensions and allowances payable in respect of disablement and death and commencing dates of awards of pensions) there shall respectively be substituted the Schedule set out in the Schedule to this Scheme and numbered 3, 4 and 5.

Signed by authority of the Secretary of State for Social Security.

12th March 1997

*MacKay of Ardbrecknish*  
Minister of State,  
Department of Social Security

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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We approve,

12th March 1997

*Patrick McLoughlin*  
*Gyles Brandreth*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULE

Article 6

## SCHEDULES TO BE SUBSTITUTED FOR SCHEDULES 3, 4 AND 5

## “SCHEDULE 3

Article 11

## RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DISABLEMENT

<i>Description of Pension or Allowance</i>	<i>Rate</i>
1. Pension for 100 per cent. disablement under Article 11	£107.20 per week
2. Education allowance under Article 13	£120.00 per annum*
3. Constant attendance allowance—	£81.00 per week*
(a) under the proviso of Article 14	
(b) in any other case under that Article	£40.50 per week*
4. Exceptionally severe disablement allowance under Article 15	£40.50 per week
5. Severe disablement occupational allowance under Article 16	£20.25 per week
6. Allowance for wear and tear of clothing under Article 17(1)	£137.00 per annum*
7. Unemployability allowances—	£66.25 per week
(a) personal allowance under Article 18(1)(i)	
(b) additional allowances for dependants by way of—	£37.35 per week*
(i) increase of allowance in respect of a wife or a dependent husband under Article 18(5)(b)	
(ii) increase of allowance under Article 18(5)(d)—	£9.90 per week
(a) in respect of the only, elder or eldest child	
(b) in respect of each other child	£11.20 per week
(c) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992(7) or under any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£11.20 per week
8. Invalidity allowance payable under Article 19	£13.15 per week

\* Maximum.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
(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	
(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 the 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—	£8.30 per week
(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 the 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	
(c) if heads (a) and (b) do not apply and on the relevant date the disabled person was a man under the age of 60 or a woman under the age of 55	£4.15 per week
<b>9. Comforts allowance—</b>	<b>£17.40 per week</b>
(a) under Article 20(1)(a)	
(b) under Article 20(1)(b) or Article 45(1)	£8.70 per week
<b>10. Allowance for lowered standard of occupation under Article 21</b>	<b>£40.44 per week*</b>
<b>11. Age allowance under Article 22 where the degree of pensioned disablement is—</b>	<b>£7.15 per week</b>
(a) 40 or 50 per cent.	

\* Maximum.

<i>Description of Pension or Allowance</i>	<i>Rate</i>
(b) 60 or 70 per cent.	£11.05 per week
(c) 80 or 90 per cent.	£15.75 per week
(d) 100 per cent.	£22.10 per week
<b>12.</b> Treatment allowances—increase of personal allowance under Article 23(2)	£22.10 per week*
<b>13.</b> Part-time treatment allowance under Article 25	£49.15 per day*
<b>14.</b> Mobility supplement under Article 25A	£38.55 per week**

\* Maximum.

## SCHEDULE 4

Article 27

## RATES OF PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DEATH

<i>Description of Pension or Allowance</i>	<i>Rate</i>
<b>1.</b> Pension to widow—	£81.00 per week
(a) under Article 27(1)	
(b) (b) under Article 27(2)	£18.74 per week
(c) (c) under Article 27(3)	£52.80 per week
<b>2.</b> Rent allowance under Article 28	£30.65 per week*
<b>3.</b> Allowance under Article 29 or 50 to an elderly surviving spouse—	£9.25 per week
(a) if age 65 but under age 70	
(b) (b) if age 70 but under age 80	£17.75 per week
(c) (c) if age 80 or over	£26.45 per week
<b>4.</b> Pension under Article 30 to unmarried dependant who lived as spouse	£1.00 per week*
<b>5.</b> Pension to dependent widower under Article 32	£81.00 per week*
<b>6.</b> Allowance under Article 33 in respect of each child under the age of 15—	£14.15 per week
(a) in respect of the only, elder or eldest child	
(b) (b) in respect of each other child	£15.45 per week
(c) (c) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992 or under any legislation in	£15.45 per week

\* Maximum.

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<i>Description of Pension or Allowance</i>	<i>Rate</i>
Northern Ireland or the Isle of Man corresponding to that Act	
<b>7.</b> Pension under Article 34(1) to a motherless or fatherless child under the age of 15—	£15.90 per week
(a) in respect of the only, elder or eldest child	
(b) (b) in respect of each other child	£17.20 per week
(c) (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	£17.20 per week
<b>8.</b> Pension or allowance under Article 35(3) to or in respect of a child over the age of 15—	£62.45 per week*
(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	
(b) (b) any other case—	£15.90 per week*
(i) in respect of the only, elder or eldest child	
(ii) in respect of each other child	£17.20 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	£17.20 per week*
<b>9.</b> Education allowance under Article 36	£120.00 per annum*
<b>10.</b> Pensions to parents—	£0.25 per week
(a) minimum rate under Article 38(4)	
(b) (b) maximum rate under Article 38(4)	£1.00 per week
(i) where there is only one eligible parent	
(ii) where there is more than one eligible parent	£1.38 per week
(c) (c) increase under the proviso to Article 38(4)—	£0.38 per week*

\* Maximum.



<i>Description of Pension or Allowance</i>	<i>Rate</i>
(i) where there is only one eligible parent	
(ii) where there is more than one eligible parent	£0.62 per week*
<b>11.</b> Pensions to other dependants—	£0.30 per week*
(a) for each juvenile dependant under Article 39(4)	
(b) (b) aggregate rate under Article 39(4)	£1.00 per week*
(c) (c) under Article 39(5)	£1.00 per week*

\* Maximum.

SCHEDULE 5

Article 74

COMMENCING DATES OF AWARDS OF PENSIONS

**1.—**(1) Subject to the adjustments in the following provisions of this Schedule, an award or an adjustment to an award shall have effect from such date as may be specified in the award, being a date not earlier than the date specified in sub-paragraph (2) which is relevant in the claimant’s case.

(2) The date specified in this sub-paragraph is whichever date is the latest in time of the date—

- (a) of the claim;
- (b) of the last application for review; or
- (c) of an application for appeal under section 3, 4 or 5 of the Pensions Appeal Tribunals Act 1943<sup>(8)</sup>.

(3) Where the claimant satisfies the requirements of sub-paragraph (4) the award shall have effect from the date the sub-paragraph is satisfied.

(4) This sub-paragraph is satisfied where the date of—

- (a) the claim;
- (b) the application for review;
- (c) the application for an appeal under section 3, 4 or 5 of the Pensions Appeal Tribunals Act 1943,

whichever is appropriate in the claimant’s case is made within 3 months of—

- (i) the date of the disabled person’s qualifying injury or, where an award is made in respect of a person’s death, the date of death, or
- (ii) except where sub-head (i) applies, the date of issue of notification of a decision on the claim, review or, as appropriate, on appeal under section 3, 4 or 5 of the Pensions Appeal Tribunals Act 1943.

<sup>(8)</sup> 1943 c. 39; section 5 was amended by the Chronically Sick and Disabled Persons Act 1970 (c. 44), section 23(2) and the Social Security Act 1980 (c. 30), section 16(3).

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(5) Where the requirements of sub-paragraph (4) are satisfied on more than one occasion and the occasions on which they are satisfied are consecutive, sub-paragraph (3) shall apply as from the first occasion on which sub-paragraph (4) is satisfied.

(6) Where an award is adjusted upon review instigated by the Secretary of State, the adjustment shall take effect from the date of the review.

2.—(1) In a case to which section 168 of the Pensions Act 1995<sup>(9)</sup> (war pensions for widows: effect of remarriage) or Article 71(1A)<sup>(10)</sup> applies, paragraph 1(4)(c)(i) of this Schedule shall have effect as if, for the words “disabled person’s qualifying injury or, where an award is made in respect of a person’s death, the date of death” there were substituted the words “the termination of the claimant’s marriage, judicial separation of the parties or, as the case may be, the date the claimant ceased to live as a spouse with another”.

(2) In this paragraph “termination of marriage” and “judicial separation” have the meanings they bear in section 168 of the Pensions Act 1995.

3. Where an award is made pursuant to a successful appeal to the High Court<sup>(11)</sup>, the Secretary of State may make payment for a past period which does not exceed six years from the date of the application for leave to appeal to the High Court.

4. Where an award or an adjustment to an award is made following a decision of the President of the Pensions Appeal Tribunals that the decision of a Pensions Appeal Tribunal be treated as set aside—

- (a) subject to paragraph 8, payment shall not be made in respect of any period before the date of the application to the President of the Pensions Appeal Tribunals where the ground for setting aside the decision of the Tribunal is the availability of additional evidence<sup>(12)</sup>;
- (b) the Secretary of State may make payment for a past period which does not exceed six years from the date of the application which led to the decision of the President of the Pensions Appeal Tribunals where the ground for setting aside the decision is that the Tribunal’s decision was erroneous in point of law<sup>(13)</sup>.

5. Where a claimant satisfies the Secretary of State that—

- (a) he would have made a claim, an application for a review or, as the case may be, an application for an appeal on a date (“the earlier date”) earlier than that (“the actual date”) on which he actually did so but for the fact that he was incapable of so doing, or of instructing someone to act on his behalf, by reason of illness or disability; and
- (b) that illness or disability continued to be the cause of the delay up to the moment the claim or application was made,

any reference in this Schedule to the date of a claim, application for review, or application for an appeal shall be treated as references to the later of—

- (i) the earlier date; and
- (ii) the date three years before the actual date.

6.—(1) Where, upon review of a decision rejecting a claim for pension, the Secretary of State makes an award on the basis that medical opinion has developed since the date of the decision which

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<sup>(9)</sup> 1995 c. 26.

<sup>(10)</sup> Article 71(1A) is inserted by this Scheme: see above.

<sup>(11)</sup> See section 6(2) of the Pensions Appeal Tribunals Act 1943 (1943 c. 39).

<sup>(12)</sup> See section 6(2A)(b)(i) of the Pensions Appeal Tribunals Act 1943 (1943 c. 39); section 6(2A) was inserted by the Chronically Sick and Disabled Persons Act 1970 (c. 44), section 23(1) and amended by the Social Security and Housing Benefits Act 1982 (c. 24), section 43(1).

<sup>(13)</sup> See section 6(2A)(b)(ii) of the Pensions Appeal Tribunals Act 1943 (1943 c. 39).

is the subject of the review, no payment may be made in respect of any period preceding whichever is the later of—

- (a) the date on which the Secretary of State considers that medical opinion had developed to the extent that an award in the claimant's case was justified; and
- (b) the date three years before the date of application for a review or, where the review is at the instigation of the Secretary of State, the date three years before the date of the Secretary of State's review decision.

(2) Where the Secretary of State accepts a claim and he is satisfied that a claimant would have made a claim at an earlier date but for advice given by the Secretary of State that a claim would be rejected on the basis of medical opinion, the Secretary of State may make payment in respect of a period commencing on whichever is the later of—

- (a) the date on which the Secretary of State considers that medical opinion had developed to the extent that an award in the claimant's case was justified; and
- (b) the date three years before the date of claim.

7. Where a decision, which falls to be reviewed in the light of a decision of a court in a case to which the claimant is not a party, is revised, no payment may be made pursuant to the revision in respect of any period before the date three years before the decision of the court.

8. Where, either upon review of a decision rejecting a claim for pension or following a decision of the President of the Pensions Appeal Tribunals that the decision of a Pensions Appeal Tribunal be treated as set aside by reason of the availability of additional evidence, an award is made on the basis of evidence contained in documents produced by the claimant which was not available to the claimant at the time of the decision which is the subject of the review or appeal because those documents were classified at that time, payment may be made in respect of a period commencing on the date three years before the date of the application for review or, as the case may be, application to the President of the Pensions Appeal Tribunals that the decision of a Pensions Appeal Tribunal be treated as set aside.

9. Except in a case to which paragraph 6 or 7 applies, where a claimant satisfies the Secretary of State that—

- (a) he would have made a claim, an application for a review or, as the case may be, an application for an appeal on an earlier date than he actually did but for an administrative error on the part of the Secretary of State; and
- (b) that error continued to be the dominant cause of the delay up to the moment the claim or application was made,

any reference in this Schedule to the date of a claim or application for an appeal shall be treated as references to the earlier date referred to in this paragraph..

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## EXPLANATORY NOTE

*(This note is not part of the Scheme)*

This Scheme further amends the Personal Injuries (Civilians) Scheme 1983 (S.I.1983/686) (“the principal Scheme”) which 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.

Article 2, together with Schedule 3 of the principal Scheme as substituted by this Scheme, replaces two rates of clothing allowance with a single rate of allowance.

Article 3 increases the maximum amount of annual earnings which may be received by a disabled person whilst he is deemed to be unemployable for the purposes of unemployability allowances. It also amends the principal Scheme so that, for claims made on or after 7th April 1997, (a) an unemployability allowance may not be awarded to a claimant who is aged 65 or over, or whose pensioned disablement has been assessed at less than 60 per cent.; (b) an allowance for lowered standard of occupation may not be awarded to a claimant who is aged 65 or over or whose pensioned disablement has been assessed at less than 40 per cent.; and (c) a mobility supplement may not be awarded to a claimant whose pensioned disablement has been assessed at less than 40 per cent..

Article 4 inserts into the principal Scheme provision for the Secretary of State to defray reasonable expenses in respect of the funeral of a person whose death is caused by injuries which were due to enemy action.

Article 5 amends the principal Scheme to make provision for a widow, whose pension ceased because she lived with a man as his wife, to claim restoration of an award after that relationship has ended. It also amends the principal Scheme with the effect that gratuities are not payable to widows in connection with remarriage or cohabitation.

Article 6 substitutes Schedules 3 and 4 of the principal Scheme thereby increasing the amounts of allowances, pensions and awards payable under that Scheme and also increasing the amounts of income to be disregarded for the purposes of certain parts of the Scheme. It also substitutes Schedule 5 thereby making provision for the commencing dates of awards and adjustments to awards.

This Scheme does not impose any costs on business.