

2001 No. 409

PENSIONS

**The Naval, Military and Air Forces Etc. (Disablement
and Death) Service Pensions Amendment Order 2001**

Made - - - - - 14th February 2001

Laid before Parliament 26th February 2001

Coming into force - - 9th April 2001

At the Court at Buckingham Palace, the 14th day of February 2001

Present,

The Queen's Most Excellent Majesty in Council

WHEREAS Her Majesty deems it expedient to amend the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(a) by Order in Council in pursuance of section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(b):

NOW, THEREFORE, Her Majesty, in exercise of the powers conferred by section 3 of the Naval and Marine Pay and Pensions Act 1865(c), section 2(1) of the Pensions and Yeomanry Pay Act 1884(d), section 2(1) of the Air Force (Constitution) Act 1917(e) and section 12(1) and 24(3) of the said Act of 1977, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Amendment Order 2001 and shall, subject to articles 2(2) to (5), come into force on 9th April 2001 (“the commencement date”).

(2) In this Order “the principal Order” means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 and, except where the context otherwise requires, a reference to a numbered article, Part, Table or Schedule is to the article, Part, Table or Schedule in the principal Order which bears that number.

(a) S.I. 1983/883, as amended by S.I. 1983/1116, 1521, 1984/1154, 1687, 1985/1201, 1986/592, 1987/165, 1988/248, 2248, 1989/156, 1990/250, 1308, 1991/766, 1992/710, 3208, 1993/598, 1994/772, 1906, 1995/766, 1996/732, 1638 and 2882, 1997/286, 1998/262, 1999/294, and 2000/252.
(b) 1977 c. 5.
(c) 28 & 29 Vict c. 73.
(d) 47 & 48 Vict c. 55.
(e) 7 & 8 Geo 5 c. 51.

Amendments to the principal Order and application

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

(2) Paragraphs 2, 3, 4, 5(a), (b) and (d), 9, 11, 12, 18(b) and (d) and 21 to 25 of Schedule 1 to this Order (which amend articles 3A, 14, 15, 16, 18(2), (2A), and (7), 26A, 35 to 37, 42A and 67(3)(b) and Schedules 3 and 4 and insert article 67 (2A)) shall apply for the purposes of decisions made on or after the commencement date.

(3) Paragraph 5(c) of Schedule 1 to this Order (which amends paragraph (5)(b) of article 18) shall apply for the purposes of claims made on or after the date which is six months after the commencement date.

(4) Paragraphs 14 and 16(a) of Schedule 1 to this Order (which amend articles 56 and 61(1)(c)) shall apply for the purposes of deductions of pensions or allowances made for any day on or after the commencement date.

(5) Paragraphs 16(b) and 17 of Schedule 1 to this Order (which amend articles 61(1)(d) and 62) shall apply for the purposes of decisions to withhold or forfeit a pension or gratuity made on or after the commencement date.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 2

AMENDMENTS TO THE PRINCIPAL ORDER

Amendment of article 1

1. In paragraph (6)(b) of article 1 (citation, commencement and interpretation) for “the member’s widow or unmarried dependant who lived as a wife” substitute “the member’s widow or widower or unmarried dependant who lived as a spouse”.

Amendment of article 3A

2. In paragraph (3) of article 3A (making of claims) for the words in brackets after “article 36” substitute “pensions for children under the child’s age limit with no living parents”.

Amendment of article 14

3. For article 14 (constant attendance allowance) substitute—

“14.—(1) Where—

- (a) a member of the armed forces is in receipt of retired pay (as defined in article 17(3)) or a pension (as so defined) in respect of disablement the degree of which is not less than 80 per cent; and
- (b) it is shown to the satisfaction of the Secretary of State that constant attendance on the member is necessary on account of the disablement,

the member may be awarded an allowance in accordance with the following paragraphs of this article.

(2) Where the necessary attendance consists of frequent or regular attendance for periods during the daytime which total not less than four and not more than eight hours per day, the rate of the allowance shall be the part day rate specified in paragraph 2(a) of Part IV of Schedule 1.

(3) Where the necessary attendance consists of—

- (a) frequent or regular attendance for periods during the daytime which total not less than eight and not more than sixteen hours per day; or
- (b) frequent or regular attendance for periods during the daytime which total less than eight hours per day and attendance on two or more occasions per night,

the rate of the allowance shall be the full day rate specified in paragraph 2(b) of Part IV of Schedule 1.

(4) Where the necessary attendance consists of—

- (a) frequent or regular attendance for periods during the daytime which total not less than eight hours per day and attendance on two or more occasions per night; or

(b) frequent or regular attendance for periods at night which total not less than eight hours and during the daytime for periods which total not less than four hours per day,
the rate of the allowance shall be the intermediate rate specified in paragraph 2(c) of Part IV of Schedule 1.

(5) Where the necessary attendance consists of continual attendance throughout the day and night, the rate of the allowance shall be the exceptional rate specified in paragraph 2(d) of Part IV of Schedule 1.”.

Amendment of articles 15 and 16

4. In articles 15 and 16 (exceptionally severe disablement allowance and severe disablement occupational allowance) for “increased under the provisions of article 14(1)(b)” substitute “payable under the provisions of article 14(4) or (5)”.

Amendment of article 18

5. In article 18 (unemployability allowances)—

(a) for paragraph (2) substitute—

“(2) For the purposes of this article, subject to paragraph (2A), a member may be deemed to be unemployable although in receipt of therapeutic earnings which are, in the opinion of the Secretary of State, unlikely to exceed per year the figure specified in paragraph 6(c) of Part IV of Schedule 1 and for this purpose “therapeutic earnings” means earnings from work for no more than 16 hours per week and which in the Secretary of State’s view is not detrimental to the health of the member.”;

(b) for paragraph (2A) substitute—

“(2A) Where, before 9th April 2001, a member was in receipt of therapeutic earnings as defined in this Order immediately before that date, any such earnings he receives on and after that date shall constitute therapeutic earnings for the purpose of paragraph (2) until the member ceases permanently to do the work in respect of which they are received.”;

(c) in paragraph (5)(b), for the words after “Part IV of Schedule 1” substitute—

“if—

(i) the person in respect of whom the allowance is claimed has a weekly income which does not exceed the figure specified in paragraph 6(d) of Part IV of Schedule 1; and

(ii) the Secretary of State thinks fit to award the allowance, having regard to that person’s financial circumstances (including any earnings, occupational pension and social security benefits the person receives);”;

(d) omit paragraph (7); and

(e) in respect of decisions made before 9th April 2001, in paragraph (2) for “£3,042” substitute “£3,146”.

Amendment of article 19

6. In article 19 (invalidity allowance)—

(a) in paragraph (1) omit “(whether before or after the coming into operation of this article)” and “or, in the case of a woman member, the age of 55,”; and

(b) omit paragraphs (5) and (6).

Amendment of article 21

7. In article 21 (allowance for lowered standard of occupation)—

(a) in paragraph (1)—

(i) omit “or has been granted an award under article 11 in respect of a minor disablement,” and “in either case”;

(ii) for “which is of an equivalent standard and” substitute “with equivalent gross income which”; and

(iii) after “suitable in his case,” add “taking into account his education, training and experience,”;

(b) omit paragraphs (1A) and (2)(a), (b) and (d); and

- (c) in paragraph (2)—
 - (i) for sub-paragraph (c)(ii) substitute—
 - “(ii) where there was no such regular occupation, or where the member’s disablement is due to service after 31st July 1973, his trade or profession as a member of the armed forces on the date that he sustained the wound or injury, or was first removed from duty on account of the disease on which his award is based, or if there was no such occurrence, the date of the termination of his service;”; and
 - (ii) omit sub-paragraph (c)(iii).

Amendment of article 23

- 8. In article 23 (treatment allowances)—
 - (a) for paragraph (2) substitute—
 - “(2) Where in relation to a period a member is in receipt of an award of treatment allowance under this article no payment shall be made in respect of that period under article 21.”; and
 - (b) omit paragraphs (3), (5) and (7).

Amendment of article 26A

- 9. In article 26A (mobility supplement)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (b) insert after “disablement” “, where the degree of disablement is assessed at 40 per cent or more,” and for sub-paragraphs (i) and (ii) substitute—
 - “(i) rendering him unable to walk (including with any suitable prosthesis or artificial aid which he habitually wears or uses, or which he might reasonably be expected to wear or use);
 - (ii) restricting his leg movements to such an extent that his ability to walk (with any such prosthesis or artificial aid) without severe discomfort is of little or no practical use to him; or”;
 - (ii) in sub-paragraph (c) after “considered by the Secretary of State,” insert “on or after 9th April 2001” and omit sub-paragraph (iii); and
 - (iii) in sub-paragraph (d), after “blind”, insert “(with a loss of vision certified in accordance with article 9 as amounting to more than 80 per cent)” and after “deaf”, insert “(with a loss of hearing so certified as amounting to not less than 80 per cent)”;
 - (b) omit paragraphs (1A), (2) and (2A); and
 - (c) in paragraph (4) omit the words after “acquisition of the car”.

Amendment of article 29

- 10. In article 29 (pensions to widows) in paragraph (1A) for the amount “£57.07” substitute the amount “£58.95”.

Substitution of articles 35, 36 and 37

- 11. For articles 35, 36 and 37 (awards for children) substitute—

“Allowances for children under the child’s age limit

35.—(1) An award may be made in respect of a child of a member of the armed forces whose death is due to service where the child—

- (a) has not attained the child’s age limit; and
- (b) is not eligible for an award of pension under article 36.

(2) An allowance awarded under this article shall be—

- (a) at the appropriate rate specified in paragraph 5(a) of Part III of Schedule 2 where the child lives with a parent; or
- (b) at a rate not exceeding the appropriate rate specified in paragraph 5(b) of Part III of Schedule 2 where the child does not live with a parent or with a person who is or has been in receipt of a pension awarded under article 29, 30, 34 or 39 in respect of the death of that member.

Pensions for children under the child’s age limit with no parents living

36.—(1) An award may be made in respect of a child of a member of the armed forces whose death is due to service where the child—

- (a) has not attained the child’s age limit; and

(b) has no parents living.

(2) A pension awarded under this article shall be at the appropriate rate specified in paragraph 6 of Part III of Schedule 2.

Award for children who have attained the child's age limit

37.—(1) An award may be made or continued in respect of a child of a member of the armed forces whose death is due to service where the child has attained the child's age limit; and

- (a) is a student or apprentice; or
- (b) is incapable of self-support by reason of an infirmity which arose before he attained the child's age limit,

and where the Secretary of State considers the making or continuing of the award is justified in all the circumstances of the case.

(2) An allowance or pension awarded or continued under this article—

- (a) shall be at the rate, and subject to the conditions in, articles 35 or 36 as appropriate; or
- (b) where a child in respect of whom an award was made under articles 35 and 36 has attained the age of 18 years and is incapable of self-support by reason of an infirmity which arose before he attained the child's age limit, shall be at a rate not exceeding the rate specified in paragraph 7 of Part III of Schedule 2.”.

Amendment of article 42A

12. In article 42A (funeral expenses)—

- (a) in paragraph (1) before “Where a member” insert “Subject to paragraph (3),”;
- (b) for paragraph (2)(b) substitute—

“(b) the death of the member occurred whilst, in respect of the disablement which gives rise to an award under this Order, he was receiving in-patient treatment in a hospital or similar institution, under the National Health Service Act 1977(a), the National Health Service (Scotland) Act 1978(b), the National Health Service and Community Care Act 1990(c), any corresponding enactment having effect in Northern Ireland, or in a hospital or similar institution maintained or administered by the Defence Council;”;

(c) at the end add—

“(3) For the purposes of this article “reasonable funeral expenses” means expenses which the Secretary of State considers reasonable in relation to any of the following items, and after deduction of any amount payable in respect of death benefit in the Isle of Man or any of the Channel Islands—

- (a) necessary documentation;
- (b) transportation of the body but only within the British Islands and the Republic of Ireland;
- (c) travelling costs of one return journey within the British Islands and the Republic of Ireland, by the responsible person to arrange and attend the funeral;
- (d) funeral director's fees and disbursements including the cost of an ordinary coffin;
- (e) transportation of the coffin and bearers and the cost of one other car;
- (f) funeral ceremony fees;
- (g) cemetery or cremation fees;
- (h) the cost of flowers from the person responsible for the funeral up to £75; or
- (i) up to £75 for extra costs because of the religion of the deceased member.”.

Amendment of article 54

13. In article 54 (interpretation of Part VI)—

- (a) in paragraph (1) omit “56,”; and
- (b) in paragraph (2) insert after “(6),” “67A, 67B, 67C”.

Amendment of article 56

14. For article 56 (maintenance in hospital or an institution) substitute—

(a) 1977 c. 49.
(b) 1978 c. 29.
(c) 1990 c. 19.

“56.—(1) This article applies where any person is receiving or has received or is regarded as receiving or having received free in-patient treatment, or (otherwise than for the purpose of undergoing medical or other treatment) is being or has been maintained in an institution which is supported wholly or partly out of public funds, or in which he is being or has been maintained pursuant to arrangements made by the Secretary of State.

(2) Subject to paragraph (3), in relation to any person to or in respect of whom a pension has been awarded, the Secretary of State may deduct such amount as he may think fit having regard to all the circumstances of the case from the pension payable in respect of the period during which the treatment is received or regarded as received or, as the case may be, during which the person is being so maintained.

(3) Subject to paragraph (4), in relation to any person to or in respect of whom an allowance or pension listed in the Table in Schedule 7 has been awarded, the Secretary of State may make deductions in respect of the allowance or pension in column 1 of that Table from the date and at the relevant rate specified opposite the allowance or pension in columns 2 and 3 respectively of that Table.

(4) For the purposes of paragraph (3) and Schedule 7, any separate periods of time spent as set out in paragraph (1) 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 (1) before 9th April 2001 may be aggregated with periods so spent after that date.

(5) For the purposes of 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,

and such a person shall for the purposes of sub-paragraph (a) or (b) be regarded as being maintained free of charge in a hospital or similar institution unless his accommodation and services are provided under section 65 of the National Health Service Act 1977(a), section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978(b), paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990, or any corresponding enactment having effect in Northern Ireland or unless 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.

(6) For the purposes of this article “pension” means any retired pay or pension under this Order or a 1919 to 1921 instrument and “allowance” means any allowance under this Order or a 1919 to 1921 instrument.”.

Amendment of article 58

15. In article 58 (children whose maintenance is otherwise provided for)—

(a) for paragraph (2) substitute—

“(2) A pension which may be or has been awarded to or in respect of a child of a member of the armed forces may be reduced by the amount of any contributions to the support of the child which are being made by, or which it would be reasonably practicable to obtain from any parent not living in the same household with the child.”; and

(b) omit paragraph (3).

Amendment of article 61

16. In article 61(1) (administration of pensions, etc)—

(a) in sub-paragraph (c) after “institution” insert “or hospital”; and

(b) in sub-paragraph (d) omit “or has been restored”.

Amendment of article 62

17. In article 62 (forfeiture of pensions etc.)—

(a) in paragraph (1)—

(a) Section 65 was substituted by section 7(10) of the Health and Medicines Act 1988 (c. 49) and 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, and section 2(1) of, and paragraph 38 of Schedule 1 to, the Health Authorities Act 1995 (c. 17).

(b) Schedule 7A was amended by Schedule 1 to the Health Authorities Act 1995 and sections 46 and 49 of, and Schedules 4 and 5 to, the Health Act 1999 (c. 8) and section 58(3) was repealed by Schedule 7 to the Health Services Act 1980 (c. 53).

- (i) omit “during the 1914 World War or after 2nd September 1939”; and
 - (ii) in sub-paragraph (a) for “or other young offenders institution” substitute “or, in Scotland, a young offenders institution or, in Northern Ireland, a young offenders centre”;
- (b) for paragraph (2) substitute—
- “(2) Where the Secretary of State is satisfied that a dependant will suffer hardship where a pension is withheld or forfeited under paragraph (1), the Secretary of State may pay, with the pensioner’s consent, up to half of the pension awarded under article 10 to the pensioner’s spouse, to an unmarried dependant of the pensioner or to anyone lawfully entitled to give a good receipt in respect of monies payable to the pensioner’s dependant.”; and
- (c) after paragraph (2) add—
- “(3) When paragraph (1) ceases to apply, the Secretary of State may award to the pensioner a sum not exceeding an amount calculated by reference to the number of weeks for which the pension was withheld or forfeited under paragraph (1), or 52 weeks, whichever is the lesser, and after the deduction of any amount paid under paragraph (2).”.

Amendment of article 67

- 18.** In article 67 (review of decisions, assessments and awards)—
- (a) in paragraph (1) “before “(3)” insert “(2A)”, for “paragraphs (6A) and (8)” substitute “paragraph (8)” and in paragraph (2) omit “(6A).”;
 - (b) after paragraph (2) insert—

“(2A) Any assessment or decision made, given or upheld by the Pensions Appeal Tribunal under section 8 of the War Pensions (Administrative Provisions) Act 1919 or the Pensions Appeal Tribunals Act 1943 and 1949 may be reviewed by the Secretary of State at any time if the Secretary of State is satisfied that there has been a relevant change of circumstances since the assessment or decision was made, including any improvement or deterioration in the disablement in respect of which the assessment was made.”;
 - (c) in paragraph (3) for “paragraphs (7) and (8)” substitute “paragraph (8)”;
 - (d) in paragraph (3)(b) omit “in the case of an interim assessment”;
 - (e) omit paragraphs (6A) and (7); and
 - (f) in paragraph (7A), omit “, in the case of the member being a man, or 60, in the case of the member being a woman”.

Amendment of Schedule 1

- 19.** Schedule 1 (rates of retired pay, pensions, gratuities and allowances in respect of disablement due to service in the armed forces) shall be amended as follows—
- (a) for the Table in Part II there shall be substituted the Table set out in Schedule 2 to this Order;
 - (b) for Tables 1 and 2 of Part III there shall respectively be substituted the Tables set out in Schedules 3 and 4 to this Order; and
 - (c) for Part IV there shall be substituted the Part set out in Schedule 5 to this Order.

Amendment of Schedule 2

- 20.** In Schedule 2 (rates of provisions and allowances in respect of death due to service in the armed forces)—
- (a) for Tables 1, 2, 3, 4 and 5 of Part II substitute the Tables set out in Schedule 6 to this Order; and
 - (b) for Part III substitute the Part set out in Schedule 7 to this Order.

Amendment of Schedule 3

- 21.** In paragraph 1 of Schedule 3 (commencing dates of awards)—
- (a) omit sub-paragraphs (2)(d) and (4)(c);
 - (b) for sub-paragraph (4)(ii) substitute “(ii) except where sub-head (i) applies, the date of notification of a decision on the claim or review.”;
 - (c) in sub-paragraph (6) before “Where” insert “Subject to sub-paragraph (6A).”;
 - (d) after sub-paragraph (6) insert—

“(6A) Where an award is reviewed as a result of a decision (“the original decision”) which arose from an official error, the reviewed decision shall take effect from the effective date of the original decision and for this purpose “official error” means an error made by the Secretary of State or any officer of his carrying out functions in connection with war pensions, defence, or foreign and commonwealth affairs, to which no other person materially contributed, including reliance on erroneous medical advice but excluding any error of law which is only shown to have been an error by virtue of a subsequent decision of a court.”.
- 22.** In paragraph 4 of Schedule 3 omit sub-paragraph (a).

- 23.** In paragraph 5 of Schedule 3—
- (a) in sub-paragraph (a) insert “or” between “claim” and “an application” and omit “or, as the case may be, an application for an appeal”; and
 - (b) in the full-out words for “claim, application” substitute “claim or date of application” and omit “or application for an appeal”.
- 24.** In paragraph 10 of Schedule 3—
- (a) for sub-paragraph (a) substitute—
 - “(a) he would have made a claim or an application for a review on an earlier date than he actually did but for an act or omission of the Secretary of State or any officer of his carrying out functions in connection with war pensions, defence, or foreign and commonwealth affairs, which wrongly caused him to delay the claim or application and that act or omission was the dominant cause of the delay.”;
 - (b) in sub-paragraph (b) for “error” substitute “act or omission”; and
 - (c) in the full-out words for “claim, date” substitute “claim or date” and omit “or application for an appeal”.

Amendment of Schedule 4

- 25.** In Schedule 4 (glossary of expressions)—
- (a) for item 15 (definition of “adopted”) substitute—
 - “15 “adopted” adopted within the meaning in Part IV of the Adoption Act 1976(a) or, in Scotland, section 38 of the Adoption (Scotland) Act 1978(b) and “adoption” shall be construed accordingly”;
 - (b) for item 19 (definition of “child”) substitute—
 - “19 “child” in relation to a member of the armed forces, a child with respect to whom the member—
 - (a) is in law the mother or father of the child, including by adoption;
 - (b) is the child’s step parent; or
 - (c) is the child’s foster parent within the meaning in the Children Act 1989(c) or, in Scotland, the Foster Children (Scotland) Act 1984(d); and in each case the member—
 - (i) is regularly maintaining him or contributing to his maintenance or could reasonably be expected to do so;
 - (ii) where the member has died, was regularly maintaining him or contributing to his maintenance up to the date of his death or could reasonably have been expected to do so; or
 - (iii) where the child was unborn at the date of the member’s death, would have so maintained him or contributed to his maintenance.”; and
 - (c) for item 50 (definition of “student”) substitute—
 - “50 “student” a person who is aged less than 19 and attending a full-time course of education at a school, university or college, or any other educational establishment recognised by the Secretary of State as being of comparable status, and for the purpose of this Order a person may continue to be a student for a period of up to 13 weeks after he ceases to attend such a course and before he reaches the age of 19 as the Secretary of State may in any particular case determine.”.

Addition of Schedule 7

- 26.** After Schedule 6 add as Schedule 7 the Schedule which is set out in Schedule 8 to this Order.

(a) 1976 c. 36.
 (b) 1978 c. 28.
 (c) 1989 c. 41.
 (d) 1984 c. 56.

SCHEDULE 2

Schedule 1 paragraph 19

TABLE TO BE SUBSTITUTED FOR THE TABLE SET OUT IN PART II OF SCHEDULE 1

TABLE

Article 10

1. WEEKLY RATES OF PENSIONS FOR DISABLED MEMBERS OF THE ARMED FORCES IN GROUPS 10–15 OF PART I OF THIS SCHEDULE.

2. YEARLY RATES OF RETIRED PAY AND PENSIONS FOR DISABLED MEMBERS OF THE ARMED FORCES IN GROUPS 1–9 OF PART I OF THIS SCHEDULE.

<i>Degree of Disability</i>	<i>Weekly rate</i>	<i>Yearly rate</i>
<i>Per cent.</i>	<i>£</i>	<i>£</i>
100	119.80	6,251
90	107.82	5,626
80	95.84	5,001
70	83.86	4,376
60	71.88	3,751
50	59.90	3,126
40	47.92	2,500
30	35.94	1,875
20	23.96	1,250

SCHEDULE 3

Schedule 1 paragraph 19

TABLE TO BE SUBSTITUTED FOR TABLE 1 OF PART III OF SCHEDULE 1

TABLE 1

Article 11(1)

GRATUITIES PAYABLE FOR SPECIFIED MINOR INJURIES

<i>Description of Injury</i>	<i>Assessments</i>	<i>Groups 1–15</i>
<i>For the loss of:</i>	<i>Per cent.</i>	<i>£</i>
A. FINGERS—		
Index Finger—more than 2 phalanges including loss of whole finger	14	5,695
More than 1 phalanx but not more than 2 phalanges	11	4,558
1 phalanx or part thereof	9	3,796
Guillotine amputation of tip without loss of bone	5	2,273
Middle finger—more than 2 phalanges including loss of whole finger	12	4,933
More than 1 phalanx but not more than 2 phalanges	9	3,796
1 phalanx or part thereof	7	3,035
Guillotine amputation of tip without loss of bone	4	1,898
Ring or little finger—more than 2 phalanges including loss of whole finger	7	3,035
More than 1 phalanx but not more than 2 phalanges	6	2,660
1 phalanx or part thereof	5	2,273
Guillotine amputation of tip without loss of bone	2	1,137
B. TOES—		
Great toe—through metatarso-phalangeal joint	14	5,695
Part, with some loss of bone	3	1,512
1 other toe—through metatarso-phalangeal joint	3	1,512
Part, with some loss of bone	1	762

<i>Description of Injury For the loss of:</i>	<i>Assessments Per cent.</i>	<i>Groups 1–15 £</i>
2 toes, excluding great toe—through metatarso-phalangeal joint	5	2,273
Part, with some loss of bone	2	1,137
3 toes, excluding great toe—through metatarso-phalangeal joint	6	2,660
Part, with some loss of bone	3	1,512
4 toes, excluding great toe—through metatarso-phalangeal joint	9	3,796
Part, with some loss of bone	3	1,512

SCHEDULE 4

Schedule 1 paragraph 19

TABLE TO BE SUBSTITUTED FOR TABLE 2 OF PART III OF SCHEDULE 1

TABLE 2

Article 11(2)

GRATUITIES PAYABLE TO MEMBERS OF THE ARMED FORCES FOR DISABLEMENT ASSESSED AT LESS THAN 20 PER CENT NOT BEING A MINOR INJURY SPECIFIED IN TABLE 1

Groups 1–15	Estimated duration of the disablement within the degree referred to								
	Temporary less than a year			Temporary more than a year			Indeterminate		
	Per cent.			Per cent.			Per cent.		
	1–5 £	6–14 £	15–19 £	1–5 £	6–14 £	15–19 £	1–5 £	6–14 £	15–19 £
	316	707	1,237	635	1,409	2,467	1,905	4,232	7,406

SCHEDULE 5

Schedule 1 paragraph 19

PART TO BE SUBSTITUTED FOR PART IV OF SCHEDULE 1

PART IV

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

<i>Description of Allowance</i>	<i>Rate</i>	
	<i>Groups 1–9</i>	<i>Groups 10–15</i>
1. Education allowance under article 13	£120 per annum*	£120 per annum*
2. Constant attendance allowance under article 14—		
A. For decisions made before 9th April 2001		
(a) under article 14(1)(b)	£4,717 per annum*	£90.40 per week*
(b) under article 14(1)(a)	£2,359 per annum*	£45.20 per week*
B. For decisions made on or after 9th April 2001		
(a) the part day rate of constant attendance allowance under article 14(2);	£1,179 per annum	£22.60 per week
(b) the full day rate of constant attendance allowance under article 14(3);	£2,359 per annum	£45.20 per week
(c) the intermediate rate of constant attendance allowance under article 14(4);	£3,538 per annum	£67.80 per week
(d) the exceptional rate of constant attendance allowance under article 14(5).	£4,717 per annum	£90.40 per week
3. Exceptionally severe disablement allowance under article 15	£2,359 per annum	£45.20 per week
4. Severe disablement occupational allowance under article 16	£1,179 per annum	£22.60 per week

* maximum.

<i>Description of Allowance</i>	<i>Rate</i>	
	<i>Groups 1-9</i>	<i>Groups 10-15</i>
5. Allowance for wear and tear of clothing under article 17(1)	£154 per annum	£154 per annum
6. Unemployability allowances—		
(a) personal allowance under article 18(1)(a)	£3,861 per annum	£74.00 per week
(b) additional allowances for dependants by way of—		
(i) increase of allowance in respect of a wife, husband or unmarried dependant living as a spouse or an adult dependant under article 18(5)(b)	£2,179 per annum*	£41.75 per week*
(ii) increase of allowance under article 18(5)(d)—		
(aa) in respect of the only, elder or the eldest child of a member	£506 per annum	£9.70 per week
(bb) in respect of each other child of a member	£592 per annum	£11.35 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.	£592 per annum	£11.35 per week
For decisions made on or after 9th April 2001		
(c) the annual earnings figure for the purposes of article 18(2) is £3,146		
(d) the weekly income figure for the purposes of article 18(5)(b) is £53.05		
7. Invalidity allowance under article 19		
(a) if—		
(i) the relevant date fell before 5th July 1948; or		
(ii) on the relevant date the member was under the age of 35; or		
(iii) on the relevant date the member was under the age of 40 and had not attained the age of 65 in the case of the member being a man, or 60 in the case of the member 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	£764 per annum	£14.65 per week
(b) if—		
(i) on the relevant date the member was under the age of 45; or		
(ii) on the relevant date the member was under the age of 50 and had not attained the age of 65 in the case of the member being a man, or 60 in the case of the member 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	£485 per annum	£9.30 per week
(c) if heads (a) and (b) do not apply and on the relevant date the member was under the age of 60	£243 per annum	£4.65 per week
8. Comforts Allowance		
(a) under article 20(1)(a)	£1,012 per annum	£19.40 per week
(b) under article 20(1)(b)	£506 per annum	£9.70 per week
9. Allowance for lowered standard of occupation under article 21	£2,356 per annum*	£45.16 per week*
10. Age allowance under article 22 where the degree of pensioned disablement is—		
(a) 40 to 50 per cent.	£417 per annum	£8.00 per week
(b) over 50 per cent, but not exceeding 70 per cent.	£644 per annum	£12.35 per week
(c) over 70 per cent, but not exceeding 90 per cent.	£916 per annum	£17.55 per week
(d) over 90 per cent.	£1,289 per annum	£24.70 per week
11. For decisions made before 9th April 2001		
Treatment allowance—increase of personal allowances under article 23(3)	£1,289 per annum*	£24.70 per week*
12. Part-time treatment allowance under article 25	£54.90 per day*	£54.90 per day*
13. Mobility supplement under article 26A	£2,249 per annum	£43.10 per week

(a) 1992 c. 4.

* maximum.

TABLES TO BE SUBSTITUTED FOR TABLES 1, 2, 3, 4 AND 5 OF PART II OF SCHEDULE 2

PART II

RATES OF PENSIONS AND ALLOWANCES

TABLE 1

Article 29(1)(a)

YEARLY RATES OF PENSIONS FOR WIDOWS OF OFFICERS WHO WERE MEMBERS OF THE ARMED FORCES BEFORE 14 AUGUST 1914 OR AFTER 30 SEPTEMBER 1921

PENSIONS OTHER THAN PENSIONS AWARDED UNDER ARTICLE 11(1) OR (2) OF THE 1921 (OFFICERS) ORDER OR ARTICLE 11(1) OF THE 1921 (WARRANT OFFICERS) ORDER, OF THE 1920 WARRANT OR OF THE 1921 ORDER

<i>Group</i>	<i>Yearly rate</i> £
1	5,471
2	5,276
3	5,152
4	5,041
5	4,964
6	4,892
7	4,867
8	4,830
9	4,812
10	4,793
11	4,763

TABLE 2

Article 29(1)(a)

WEEKLY RATES OF PENSIONS FOR WIDOWS OF RATINGS, SOLDIERS OR AIRMEN

<i>Group</i> (1)	<i>Weekly rate</i> (2) £
12 } 13 } 14 } 15 } 16 } 17 }	90.75
	90.45

TABLE 3

Article 29(1)(a)

YEARLY RATES OF PENSIONS FOR WIDOWS OF OFFICERS WHO
WERE MEMBERS OF THE FORCES BETWEEN 14 AUGUST 1914
AND 30 SEPTEMBER 1921

PENSIONS AWARDED UNDER ARTICLE 11(1) OR (2) OF THE 1921
(OFFICERS) ORDER OR ARTICLE 11(1) OF THE 1921 (WARRANT OFFICERS)
ORDER, OF THE 1920 WARRANT OR OF THE 1921 ORDER

<i>Group (1)</i>	<i>Yearly rate (2) £</i>
1	5,594
2	5,348
3	5,224
4	5,101
5	5,004
6	4,904
7	4,876
8	4,830
9	4,812
10	4,793
11	4,763

TABLE 4

Article 29(1)(b)

YEARLY RATES OF PENSIONS FOR WIDOWS OF OFFICERS WHO
WERE MEMBERS OF THE FORCES BEFORE 14 AUGUST 1914 OR
AFTER 30 SEPTEMBER 1921

<i>Group (1)</i>	<i>Yearly rate (2) £</i>
1	5,471
2	5,276
3	5,152
4	5,041
5	4,964
6	4,892
7	4,867
8	1,677
9	1,496
10	1,316
11	1,164

TABLE 5

Article 29(1)(b)

WEEKLY RATES OF PENSION FOR CHILDLESS WIDOWS AGED UNDER 40
BEING WIDOWS OF RATINGS, SOLDIERS OR AIRMEN

<i>Group (1)</i>	<i>Weekly rate (2) £</i>
12	21.75
13	
14	
15	
16	21.75
17	

PART TO BE SUBSTITUTED FOR PART III OF SCHEDULE 2

PART III

RATES OF PENSIONS, OTHER THAN WIDOWS' PENSIONS, AND ALLOWANCES PAYABLE IN RESPECT OF DEATH

<i>Description of Pension or Allowance</i>	<i>Rate</i>	
	<i>Groups 1-11</i>	<i>Groups 12-17</i>
1. Pension under article 30 to unmarried dependant who lived as a spouse	£4,613 per annum*	£88.40 per week*
2. Rent allowance under article 31	£1,785 per annum*	£34.20 per week*
3. Allowance under article 32 to elderly widow or widower or unmarried dependant who lived as a spouse—		
(a) if aged 65 but under 70	£540 per annum	£10.35 per week
(b) if aged 70 but under 80	£1,036 per annum	£19.85 per week
(c) if aged 80 or over	£1,542 per annum	£29.55 per week
4. Pension to widower under article 34	£5,594 per annum*	£90.75 per week*
5. Allowances in respect of children—		
(a) where the decision is made before 9th April 2001, under article 35(1) and, where the decision is made on or after that date, under article 35(2)(a)		
(i) in respect of the only, elder or eldest child of a member	£746 per annum	£14.30 per week
(ii) in respect of each other child of a member	£832 per annum	£15.95 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	£832 per annum	£15.95 per week
(b) 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)(b)		
(i) in respect of the only, elder or eldest child of a member	£845 per annum	£16.20 per week
(ii) in respect of each other child of a member	£931 per annum	£17.85 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	£931 per annum	£17.85 per week
6. Pension under article 36 where the decision is made before 9th April 2001, to a motherless or fatherless child under the age limit and, where the decision is made on or after that date, to a child of a member with no parents living—		
(a) in respect of the only, elder or eldest child of a member	£845 per annum	£16.20 per week
(b) in respect of each other child of a member	£931 per annum	£17.85 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	£931 per annum	£17.85 per week
7. Pension or allowance under article 37(3) where the decision is made before 9th April 2001, and under article 37(2) where the decision is made on or after that date, to or in respect of a child who has attained the child's age limit	£3,640 per annum*	£69.75 per week*
8. Education allowance under article 38	£120 per annum*	£120 per annum*

* maximum.

<i>Description of Pension or Allowance</i>	<i>Rate</i>	
	<i>Groups 1-11</i>	<i>Groups 12-17</i>
9. Pensions to parents—		
(a) minimum rate under article 40(3)	£15 per annum	£0.25 per week
(b) under paragraphs (a) and (b) of article 40(3)—		
(i) where there is only one eligible parent	(i) Groups 1–10 £75 per annum*	£1.00 per week*
	(ii) Group 11 £60 per annum*	
(ii) where there is more than one eligible parent	(i) Groups 1–10 £100 per annum*	£1.38 per week*
	(ii) Group 11 £85 per annum*	
(c) increase under article 40(3)(c)	£20 per annum*	(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*
(d) under paragraph (d) of article 40(4)		£1.00 per week*
10. Pension to other dependants—		
(a) under article 41(2)	£54 per annum*	£1.00 per week*
(b) for each juvenile dependant under article 41(3)	(i) Groups 1–10 £26 per annum*	£0.30 per week*
	(ii) Group 11 £20 per annum*	
(c) aggregate rate under article 41(3)	(i) Groups 1–10 £75 per annum*	£1.00 per week*
	(ii) Group 11 £65 per annum*	

* maximum.

SCHEDULE 8

Schedule 1 paragraph 26

SCHEDULE 7

DEDUCTIONS FOR THE PURPOSES OF ARTICLE 56

Article 56

TABLE

<i>Allowance/Pension</i>	<i>Date of Deduction</i>	<i>Weekly Rate of Deduction</i>
Constant attendance allowance (article 14)	After 4 weeks of falling within article 56 paragraph (1)	Total amount of Constant Attendance Allowance
Severe disablement occupational allowance (article 16)	After 4 weeks of falling within article 56 paragraph (1)	Total amount of Severe Disablement Occupational Allowance
Unemployability personal allowance (article 18)	After 8 weeks of falling within article 56 paragraph (1)	(i) Where member has no partner, spouse or dependants—£28.30 (ii) Where member has partner, spouse or dependants—£14.50

<i>Allowance/Pension</i>	<i>Date of Deduction</i>	<i>Weekly Rate of Deduction</i>
Unemployability allowance increase for wife, husband, unmarried dependant living as a spouse or adult dependant (article 18)	(i) After 8 weeks of falling within article 56 paragraph (1) (ii) After 104 weeks of falling within article 56 paragraph (1)	(i) £14.50 (ii) £28.30
Invalidity allowance (article 19)	After 52 weeks of falling within article 56 paragraph (1)	(i) Where member has no dependants—total amount of Invalidity Allowance (ii) Where member has dependants—nil
War widows pension and war widowers pension (articles 29 and 34) and pension paid to an unmarried dependant who lived as spouse (article 30)	After 52 weeks of falling within article 56 paragraph (1)	£28.30

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (“the principal Order”) which makes provisions for pensions and other awards in respect of disablement or death due to service in the naval, military and air forces. The amendments are provided for in Schedule 1.

Paragraphs 1, 2 and 16 of Schedule 1 make consequential amendments to articles 1, 3A and 61 of the principal Order.

Paragraphs 3 to 9 of Schedule 1 amend articles 14, 15, 16, 18, 19, 21, 23 and 26A of the principal Order with the effect that four rates of constant attendance allowance are provided for, the meaning of therapeutic earnings for the purposes of unemployability allowance is clarified, ages are equalised for unemployability allowance, invalidity allowance and allowance for lowered standard of occupation, and the conditions for award of treatment allowance are clarified as is disablement for the purposes of mobility supplement.

Paragraph 10 of Schedule 1 increases the amount of a widow’s pension payable under article 29 of the principal Order.

Paragraph 11 of Schedule 1 substitutes articles 35 to 37 of the principal Order as regards awards in respect of children.

Paragraph 12 of Schedule 1 amends article 42A of the principal Order concerning funeral expenses. Paragraphs 13, 14 and 26 of Schedule 1, and Schedule 8, amend articles 54 and 56 of, and insert Schedule 7 into, the principal Order so that the amount of deductions from specified pensions and awards where a member is in hospital or an institution are set out in the new Schedule and so that suspension powers extend to allowances.

Paragraphs 15 and 17 of Schedule 1 amend articles 58 and 62 of the principal Order concerning respectively deductions from children’s awards where maintenance is paid and forfeiture.

Paragraphs 19 and 20 of Schedule 1, and Schedules 2 to 7, make amendments to and substitute Tables in Schedules 1 and 2 to the principal Order, thereby varying the rates of retired pay, pensions, gratuities and allowances in respect of disablement or death due to service in the armed forces.

Paragraph 18 of Schedule 1 amends article 67 of the principal Order to enable the Secretary of State to review an assessment or decision of the Pensions Appeal Tribunal where there is a change of circumstances and to review any assessment where there is an improvement in the disablement. Paragraphs 21 and 23 of Schedule 1 remove references in Schedule 3 to the principal Order to applications for appeals. These changes are consequent upon amendments to section 8 of the Pensions Appeal Tribunals Act 1943 c. 39 made by section 58 of the Child Support, Pensions and Social Security Act 2000 c. 19. Paragraph 21 also amends paragraph 1

of Schedule 3 to the principal Order to clarify what is meant by official error. Paragraph 22 of Schedule 1 omits paragraph 4(a) of Schedule 3 regarding backdating where there is additional evidence and paragraph 24 of Schedule 1 substitutes a provision in paragraph 10 of Schedule 3 to the principal Order concerned with administrative error.

Paragraph 25 of Schedule 1 substitutes new definitions of “adopted”, “child” and “student” in Schedule 4 to the principal Order.

This Order does not impose any costs on business.

2001 No. 409

PENSIONS

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