

SCHEDULE 1

AMENDMENTS TO THE PRINCIPAL ORDER

Amendment of article 56

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

“**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⁽¹⁾, section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978⁽²⁾, 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.

(1) 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).

(2) 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).

Status: *This is the original version (as it was originally made).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

(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.”.