STATUTORY INSTRUMENTS

1982 No. 1077

PENSIONS

The Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Amendment (No. 2) Order 1982

Made - - - -	30*th July* 1982
Laid before Parliament	9*th August* 1982
Coming into Operation	30*th August* 1982

At the Court at Buckingham Palace, the 30th day of July 1982

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 1978 (**a**) and to do so 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 the said section 12(1) 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, which may be cited as the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Amendment (No. 2) Order 1982, shall come into operation on 30th August 1982.

(2) In this Order the expression "the principal Order" means the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978.

Amendment to article 65 of the principal Order

2.—(1) Article 65 of the principal Order (commencing dates of awards) shall be amended in accordance with the provisions of this article.

(2) There shall be inserted at the beginning of paragraph (1)*(b)* the words "subject to paragraph (1A) of this article,".

(3) After paragraph (1) there shall be inserted the following paragraph—

"(1A) Except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case, in a case referred to in paragraph (1)*(b)* of this article, where following—

(**a**) S.I. 1978/1525, as amended by S.I. 1978/1902, 1979/113, 1312, 1980/1080, 1081, 1955, 1981/1110, 1672, 1982/845.

(**b**) 1977 c.5.

(a) an appeal under section 6(2) of the Pensions Appeal Tribunals Act 1943 (appeal from Pensions Appeal Tribunal), or

(b) an order under section 6(2A) of that Act (joint application), or

(c) an order for a rehearing of an appeal made on directions given under rules made under paragraph 5 of the Schedule to that Act,

an appeal under section 1 or 4 of that Act has been reheard, the payment of a pension shall not be made in respect of any period preceding the date 6 years prior to the date (as the case may be) of the successful application for leave to appeal under section 6(2), the application under section 6(2A) which resulted in the order under that section, or the application for directions which resulted in the order for a rehearing."

(4) There shall be inserted at the end of paragraph (2) the words—

"so however that, except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case, the payment of a pension shall not be made in respect of any period preceding the date 6 years prior to the date of the successful application for leave to appeal under section 6(2)."

(5) After paragraph (2) there shall be inserted the following paragraph—

"(3) In the case of a review under section 6(2C) of the Pensions Appeal Tribunals Act 1943 (review following order under section 6(2A) of that Act for a rehearing by a Pensions Appeal Tribunal), as a result of which a pension is awarded or restored, paragraph (1)*(b)* of this article shall apply as if references to review were omitted and as if the first two references to appeal under section 1 or 4 of that Act were references to a review under section 6(2C) of that Act but as if the other references to appeal in that sub-paragraph, which shall apply in such a case, were references to an appeal under the said section 1 or 4 of that Act made before the order under the said section 6(2A) and review under the said section 6(2C), so however that, except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case, the payment of a pension shall not be made in respect of any period preceding the date 6 years prior to the date of the application which resulted in the order under section 6(2A)."

N. E. Leigh,
Clerk of the Privy Council.

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 1978 ("the principal Order").

The Order amends article 65 of the principal Order (commencing dates of awards) by making provision for commencing dates in cases in which the Secretary of State reviews a decision on entitlement under section 6(2C) of the Pensions Appeal Tribunals Act 1943 (c.39) following an order for a rehearing of an appeal by a Pensions Appeal Tribunal under section 6(2A) of that Act (joint application) where the appeal is not reheard, as a result of which a pension is awarded or restored, by applying the provisions of paragraph (1)(*b*) of the said article to such cases.

The Order also amends article 65 by making provision that payment of a pension, subject to exercise of discretion by the Secretary of State, is not to be made in respect of any period preceding the date 6 years prior to specified dates in cases referred to in the preceding paragraph and in cases in which a pension has been awarded or restored following an order for a rehearing of an appeal by a Pensions Appeal Tribunal under the said section 6(2A), or under the rules made under the Schedule to the said 1943 Act, or following an appeal under section 6(2) of the said Act (appeal from Pensions Appeal Tribunals), where in any such case the appeal is reheard, and also in cases of appeals under section 6(2) where a decision on entitlement to a pension is given at the hearing of that appeal.

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