STATUTORY INSTRUMENTS

2008 No. 679

PENSIONS

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2008

Made - - - -	*12th March 2008*
Laid before Parliament	*13th March 2008*
Coming into force in accordance with article 2	

At the Court at Buckingham Palace, the 12th day of March 2008

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty considers it expedient to amend the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(**a**).

ACCORDINGLY, Her Majesty, in exercise of the powers conferred upon Her by sections 12(1) and 24(3) of the Social Security (Miscellaneous Provisions) Act 1977(**b**), and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:—

Citation and interpretation

1.—(1) This Order may be cited as the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2008.

(2) In this Order, "the principal Order" means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, and a reference to a numbered article, Part, Table or Schedule is a reference to the article, Part, Table or Schedule in the principal Order which bears that number.

Amendments to the principal Order and commencement

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

(2) Subject to the following provisions of this article the amendments contained in—

(**a**) S.I. 2006/606 as amended by S.I. 2006/1455 and S.I. 2007/909.
(**b**) 1977 c.5, sub-section 24(3) of which was amended by the Social Security (Consequential Provisions) Act 1992 (1992 c.6), section 4 and Schedule 2, paragraph 46.

(a) Part 1 of Schedule 1 shall come into force on 7th April 2008;

(b) Part 2 of Schedule 1 shall come into force on the operative day.

(3) Paragraphs 1, 3, 4, 5, 6 and 9 of Part 1 of Schedule 1 to this Order (which amend articles 7, 27, 33, 40, 44 and Schedule 3) shall apply for the purposes of decisions made on or after 7th April 2008.

(4) Paragraphs 10 and 11 of Part 2 of Schedule 1(which amend article 10) shall apply—

(a) for the purposes of decisions made under article 10 of the principal Order; and

(b) to any member of the armed forces in receipt of severe disablement occupational allowance;

on or after the operative day.

(5) Paragraphs 12 and 13 of Part 2 of Schedule 1(which amend articles 50 and 56) shall apply for the purposes of decisions to adjust or abate a pension or gratuity made on or after the operative day.

(6) In this article "operative day" means the day that section 1 of the Welfare Reform Act 2007(**a**) comes into force.

Judith Simpson
Clerk of the Privy Council

(**a**) 2007 c.5.

SCHEDULE 1

Article 2

PART 1

Amendment of article 7 (gratuity for minor disablement)

1. In article 7(2)(a) for "disablement was of uncertain duration;" substitute "duration of the assessed disablement was temporary;".

Amendment of article 23 (pensions to surviving spouses and surviving civil partners)

2. In article 23(2) for "£70.88" substitute "£73.64".

Amendment of article 27 (temporary allowances)

3. In article 27(1) omit paragraph (a).

Amendment of article 33 (relationships subsequent to the award of pension)

4. In article 33(3) after "who died or whose service terminated" omit "on or".

Amendment of article 40 (entitlement where a claim is made in respect of a disablement, or death occurs, not later than 7 years after the termination of service)

5. In article 40(3) for "provision" substitute "provisions".

Amendment of article 44 (review of decisions, assessments and awards)

6. In article 44(1)—

(a) after "the provisions of paragraph (8)" omit ", any decision";

(b) in sub-paragraph (a) before "accepting or rejecting" insert "any decision".

Amendment of Schedule 1

7. In Schedule 1 (disablement due to service in the armed forces)—

(a) for the Table in Part II substitute the Table set out in Schedule 2 to this Order;

(b) for Tables 1 and 2 in Part III substitute Tables 1 and 2 set out in Schedule 3 to this Order; and

(c) for the Table in Part IV substitute the Table set out in Schedule 4 to this Order.

Amendment of Schedule 2

8. In Schedule 2 (death due to service in the armed forces)—

(a) for Tables 1, 2, 3, 4 and 5 of Part II substitute Tables 1, 2, 3, 4 and 5 set out in Schedule 5 to this Order; and

(b) for the Table in Part III substitute the Table set out in Schedule 6 to this Order.

Amendment of Schedule 3

9. In Schedule 3 (commencing date of awards)—

(a) in paragraph 1(2)(a) for "Part IV" substitute "Part III";

(b) in paragraph 3 for "High Court" substitute "Social Security Commissioners".

PART 2

Amendment of article 10 (severe disablement occupational allowance)

10. For article 10(2) substitute—

"(2) Paragraph (1) does not apply during any period in respect of which the member of the armed forces is—

(a) eligible for an award under article 12(1)(a);

(b) in receipt of any personal benefit under Part 2 or Part 3 of the Social Security Contributions and Benefits Act 1992(**a**) or the corresponding provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**b**);

(c) in receipt of employment and support contributory allowance under Part 1 of the Welfare Reform Act 2007(**c**); or

(d) in receipt of any benefits similar to a personal benefit under the law of any place outside the United Kingdom which in the opinion of the Secretary of State is analogous to a personal benefit.".

11. After article 10(3)(e) insert—

"(f) employment and support contributory allowance.".

Amendment of article 50 (payment of public claims out of pension)

12. In article 50(3)—

(a) omit "or" at the end of paragraph (a);

(b) after paragraph (a) insert—

"(aa) employment and support income-related allowance under Part 1 of the Welfare Reform Act 2007; or".

Amendment of article 56 (abatement of awards of social security benefits)

13. In article 56(3) after paragraph (e) insert—

"(f) Part 1 of the Welfare Reform Act 2007.".

(**a**) 1992 c.4.
(**b**) 1992 c.7 (N.I.).
(**c**) 2007 c.5.

SCHEDULE 2

Schedule 1 paragraph 7(a)

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

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

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

Degree of Disablement *Per cent*	*Weekly Rate* £	*Yearly Rate* £
100	145.10	7,571
90	130.59	6,814
80	116.08	6,057
70	101.57	5,300
60	87.06	4,543
50	72.55	3,786
40	58.04	3,028
30	43.53	2,271
20	29.02	1,514"

SCHEDULE 3

Schedule 1 paragraph 7(b)

TABLES TO BE SUBSTITUTED FOR TABLES 1 AND 2 SET OUT AT PART III OF SCHEDULE 1

"**Table 1**

GRATUITIES PAYABLE FOR SPECIFIED MINOR INJURIES

Description of Injury	*Assessments*	*Groups* 1-15
For the loss of:	*Per cent*	£
A. FINGERS		
Index finger—		
More than 2 phalanges including loss of whole finger	14	6,902
More than 1 phalanx but not more than 2 phalanges	11	5,523
1 phalanx or part thereof	9	4,601
Guillotine amputation of tip without loss of bone	5	2,754
Middle finger—		
More than 2 phalanges including loss of whole finger	12	5,978
More than 1 phalanx but not more than 2 phalanges	9	4,601

1 phalanx or part thereof	7	3,678
Guillotine amputation of tip without loss of bone	4	2,300
Ring or little finger—		
More than 2 phalanges including loss of whole finger	7	3,678
More than 1 phalanx but not more than 2 phalanges	6	3,224
1 phalanx or part thereof	5	2,754
Guillotine amputation of tip without loss of bone	2	1,378
B. TOES		
Great toe—		
Through metatarso-phalangeal joint	14	6,902
Part, with some loss of bone	3	1,833
1 other toe—		
Through metatarso-phalangeal joint	3	1,833
Part, with some loss of bone	1	924
2 toes, excluding great toe—		
Through metatarso-phalangeal joint	5	2,754
Part, with some loss of bone	2	1,378
3 toes, excluding great toe—		
Through metatarso-phalangeal joint	6	3,224
Part, with some loss of bone	3	1,833
4 toes, excluding great toe—		
Through metatarso-phalangeal joint	9	4,601
Part, with some loss of bone	3	1,833

Table 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 a year or less			*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 £
	381	856	1,499	770	1,707	2,989	2,308	5,130	8,974”

SCHEDULE 4

Schedule 1 paragraph 7(c)

TABLE TO BE SUBSTITUTED FOR THE TABLE SET OUT AT PART IV OF SCHEDULE 1

“Table

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

Description of Allowance	*Rate*	
	Groups 1-9	*Groups 10-15*
1.Constant attendance allowance under article 8—		
(a) under article 8—		
(i) the part day rate of constant attendance allowance under article 8(2);	£1,430 per annum	£27.40 per week
(ii) the full day rate of constant attendance allowance under article 8(3);	£2,859 per annum	£54.80 per week
(iii) the intermediate rate of constant attendance allowance under article 8(4);	£4,289 per annum	£82.20 per week
(iv) the exceptional rate of constant attendance allowance under article 8(5)	£5,719 per annum	£109.60 per week
(b) under article 71(4)—		
(i) the rate under paragraph 4(a)	£2,859 per annum(*)	£54.80 per week(*)
(ii) the rate under paragraph 4(b)	£5,719 per annum(*)	£109.60 per week(*)
2.Exceptionally severe disablement allowance under article 9	£2,859 per annum	£54.80 per week
3.Severe disablement occupational allowance under article 10	£1,430 per annum	£27.40 per week
4.Allowance for wear and tear of clothing under article 11	£187 per annum	£187 per annum

5.Unemployability allowances—		
(a) personal allowance under article 12(1)(a)	£4,681 per annum	£89.70 per week
(b) additional allowances for dependants by way of—		
(i) increase of allowance in respect of a spouse, civil partner, dependant living as a spouse , dependant living as a civil partner or an adult dependant under article12(6)(a)	£2,638 per annum(*)	£50.55 per week(*)
(ii) increase of allowance under article 12(6)(b)—		
(aa) in respect of the only, elder or the eldest child of a member	£613 per annum	£11.75 per week
(bb) in respect of each other child of a member	£720 per annum	£13.80 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	£720 per annum	£13.80 per week
For decisions made on or after 9th April 2001		
(c) the annual earnings figure for the purposes of article 12(4) is £4,602		
(d) the weekly income figure for the purposes of article 12(6)(a)(i) is £60.50		
6. Invalidity allowance under article 13—		
(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	£926 per annum	£17.75 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 a 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	£595 per annum	£11.40 per week
(c) If heads (a) and (b) do not apply and on	£297 per annum	£5.70 per week

the relevant date the member was a man under the age of 60 or a woman under the age of 55		
7. Comforts allowance—		
(a) under article 14(1)(a)	£1,226 per annum	£23.50 per week
(b) under article 14(1)(b)	£613 per annum	£11.75 per week
8. Allowance for lowered standard of occupation under article 15	£2,855 per annum(*)	£54.72 per week(*)
9.Age allowance under article 16 where the degree of pensioned disablement is—		
(a) 40 to 50 per cent	£509 per annum	£9.75 per week
(b) over 50 per cent, but not exceeding 70 per cent	£777 per annum	£14.90 per week
(c) over 70 per cent, but not exceeding 90 per cent	£1,109 per annum	£21.25 per week
(d) over 90 per cent	£1,555 per annum	£29.80 per week
10. Part-time treatment allowance under article 19	£66.60 per day(*)	£66.60 per day(*)
11.Mobility supplement under article 20	£2,726 per annum	£52.25 per week

(*) maximum

(a) 1992 c.4."

SCHEDULE 5

Schedule 1 paragraph 8(a)

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

"**Table 1**

YEARLY RATES OF PENSIONS FOR SURVIVING SPOUSES AND SURVIVING CIVIL PARTNERS 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

Group *(1)*	*Yearly Rate* *(2)* £
1	6,630
2	6,394
3	6,243
4	6,108
5	6,016
6	5,929
7	5,897
8	5,854
9	5,831
10	5,808
11	5,772

Table 2

WEEKLY RATES OF PENSIONS FOR SURVIVING SPOUSES AND SURVIVING CIVIL PARTNERS OF RATINGS, SOLDIERS OR AIRMEN

Group *(1)*	*Weekly Rate* *(2)* £
12) 13) 14) 15) 16) 17)	110.05

Table 3

YEARLY RATES OF PENSIONS FOR SURVIVING SPOUSES AND SURVIVING CIVIL PARTNERS OF OFFICERS WHO WERE MEMBERS OF THE ARMED 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

Group (1)	*Yearly Rate* (2) £
1	6,779
2	6,480
3	6,331
4	6,182
5	6,065
6	5,943
7	5,909
8	5,854
9	5,831
10	5,808
11	5,772

Table 4

YEARLY RATES OF PENSIONS FOR SURVIVING SPOUSES AND SURVIVING CIVIL PARTNERS OF OFFICERS WHO WERE MEMBERS OF THE ARMED FORCES BEFORE 14 AUGUST 1914 OR AFTER 30 SEPTEMBER 1921

Group *(1)*	*Yearly Rate* *(2)* £
1	6,630
2	6,394
3	6,243
4	6,108
5	6,016
6	5,929
7	5,897
8	2,033
9	1,812
10	1,594
11	1,410

Table 5

WEEKLY RATES OF PENSION FOR CHILDLESS SURVIVING SPOUSES AND SURVIVING CIVIL PARTNERS AGED UNDER 40 BEING SURVIVING SPOUSES OR SURVIVING CIVIL PARTNERS OF RATINGS, SOLDIERS OR AIRMEN

Group (1)	*Weekly Rate* (2) £
12)	
13)	
14)	26.36
15)	
16)	
17)	”

SCHEDULE 6

Schedule 1 paragraph 8(b)

TABLE TO BE SUBSTITUTED FOR THE TABLE SET OUT AT PART III OF SCHEDULE 2

"**Table**

RATES OF PENSIONS, OTHER THAN SURVIVING SPOUSES' AND SURVIVING CIVIL PARTNERS' PENSIONS AND ALLOWANCES PAYABLE IN RESPECT OF DEATH

	Rates	
Description of Pension or Allowance	*Groups 1-11*	*Groups 12-17*
1.Pension under article 24 to dependant who lived as a spouse or dependant who lived as a civil partner	£5,620 per annum(*)	£107.70 per week(*)
2.Rent allowance under article 25	£2,165 per annum(*)	£41.50 per week(*)
3.Elderly persons allowance under article 26—		
(a) if aged 65 but under 70	£655 per annum	£12.55 per week
(b) if aged 70 but under 80	£1,258 per annum	£24.10 per week
(c) if aged 80 or over	£1,865 per annum	£35.75 per week
4.Allowances in respect of children—		
(a) under article 28(2)(a)—		
(i) in respect of the only, elder or eldest child of a member	£903 per annum	£17.30 per week
(ii) in respect of each other child of a member	£1,010 per annum	£19.35 per week
(iii) where the child does not quality for child benefit under the Social Security Contributions and Benefits Act 1992 or any legislation in Northern Ireland or the Isle of Man corresponding to that Act	£1,010 per annum	£19.35 per week
(b) under article 28(2)(b)—		
(i) in respect of the only, elder or eldest child of a member	£1,028 per annum	£19.70 per week
(ii) in respect of each other child of a member	£1,127 per annum	£21.60 per week
iii) where the child does not qualify for child benefit under the Social Security Contributions and Benefits Act 1992, or any legislation in Northern Ireland or under the Isle of Man corresponding to that Act	£1,127 per annum	£21.60 per week
5.Pension under article 29 to a child of a member who has no parent living and has not attained the child's age limit—		
(a) in respect of the only, elder or eldest child of a member	£1,028 per annum	£19.70 per week
(b) in respect of each other child of a member	£1,127 per annum	£21.60 per week
(c) where the child does not quality for child benefit under the Social Security Contributions and Benefits Act 1992, or	£1,127 per annum	£21.60 per week

under any legislation in Northern Ireland or the Isle of Man corresponding to that Act		
6.Allowance under article 30(2)(b) to or in respect of a child who has attained the child's age limit	£4,409 per annum(*)	£84.50 per week(*)

(*) maximum"

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 2006 ("the principal Order") which makes provision for pensions and other awards in respect of disablement or death due to service before 6th April 2005 in the naval, military and air forces.

Article 2 gives effect to the amendments in Schedule 1 and makes commencement provisions. The amendments in Part 1 of Schedule 1 come into force on 7th April 2008, and Part 2 of Schedule 1 comes into force on the day that section 1 of the Welfare Reform Act 2007 comes into force.

Paragraphs 1, 3, 4, 5, 6 and 9 of Part 1 of Schedule 1 correct errors in the principal Order which arose during the process of consolidating a number of earlier instruments into the principal Order.

Paragraph 2 of Schedule 1 varies the rate of supplementary pension payable to an entitled surviving spouse or surviving civil partner of a member whose service terminated before 31st March 1973.

Paragraphs 7 and 8 of Part 1 of Schedule 1 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.

Part 2 of Schedule 1 inserts references to the Welfare Reform Act 2007. The Act makes provision for employment and support allowance which will replace incapacity benefit and income support for new claimants.

Paragraphs 10 and 11 amend article 10 and disqualify a pensioner in receipt of employment and support contributory allowance from receiving severe disablement occupational allowance

Paragraph 12 amends article 50, and provides that the Secretary of State may take into account income from employment and support income-related allowance when calculating any arrears of pension. Paragraph 13 amends article 56 and provides that the Secretary of State may take into account income from employment and support allowance when abating arrears of pension.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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2008 No. 679

PENSIONS

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2008

£3.00

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Stationery Office and Queen's Printer of Acts of Parliament.

E2224 3/2008 182224T 19585