CHAPTER 83.

An Act to make provision for the transfer to the Minister of Pensions of powers and duties with respect to pensions and grants vested in certain Naval, Military and Air Force authorities, to amend section nine of the War Pensions (Administrative Provisions) Act, 1918, to make provision for awards in respect of war injuries to, and the detention of, mariners and other seafaring persons and war damage to their effects, and for purposes connected with the matters aforesaid.

[3rd September 1939.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Transfer of powers and duties as respects naval, military and air force pensions.

1.—(1) His Majesty may by Order in Council transfer to the Minister of Pensions (in this Act referred to as " the Minister ") all or any of the powers and duties of any appropriate authority with respect to pensions and grants payable out of moneys provided by Parliament, on account of disablement or death arising out of service after such date (whether before or after the commencement of this Act) as may be specified in the Order, to the following persons, namely—

(*a*) persons who have served as officers or men of any of His Majesty's naval, military or air forces;

(*b*) persons who have been employed in the nursing service or other auxiliary service of any of His Majesty's said forces;

(*c*) dependants of such persons as aforesaid.

(2) In the preceding subsection the expression "appropriate authority" means, in relation to any of His Majesty's naval forces, the Admiralty, in relation to any of His Majesty's military forces, the Army Council, the Secretary of State and the Commissioners of the Royal Hospital for soldiers at Chelsea and, in relation to any of His Majesty's Air Forces, the Air Council and the Secretary of State.

(3) His Majesty may by Order in Council re-transfer all or any of the powers and duties transferred to the Minister pursuant to this section to the authority from which they were so transferred.

(4) A transfer or re-transfer pursuant to this section shall take effect on such date as His Majesty may by Order in Council fix, and different dates may be fixed for different powers and duties.

(5) An Order in Council under this section may make such adaptations in the enactments relating to any powers and duties transferred to the Minister pursuant to this section as may be necessary or expedient for enabling those powers and duties to be exercised or performed by the Minister and his officers, and may contain such supplementary and consequential provisions as may be necessary or expedient for giving effect to the purposes of the Order.

Amendment as to care of children.

8 & 9 Geo. 5. c. 57.

2. The children for the care of whom it shall be the duty of the Minister to make provision after the commencement of this Act under section nine of the War Pensions (Administrative Provisions) Act, 1918, as amended by any subsequent enactment, shall be children—

(*a*) to or in respect of whom a pension or grant has been awarded by the Minister on account of the death of a parent under any powers or duties transferred to him pursuant to the last preceding section; and

(*b*) who, by reason of their mother being dead or for any other reason, are suffering from neglect or want of proper care;

and no other children, except children for whose care provision is being made under that section at the commencement of this Act.

Awards to mariners in respect of war injuries and detention.

3.—(1) The Minister may with the consent of the Treasury make a scheme for—

(*a*) applying the provisions of any Naval War Pensions Order to mariners in cases where their death or disablement is directly attributable to war injuries sustained by reason of their service in British ships, or to detention caused by reason of such service; and

(*b*) the payment of allowances to or for the benefit of mariners detained as aforesaid, or to or for the benefit of the dependants of mariners so detained.

(2) For the purpose of this section a mariner shall be deemed to have sustained a war injury, or to have been detained, by reason of his service in a British ship, if he sustained the injury, or if the capture in consequence of which the detention occurs is effected—

(*a*) while he is in the service of a British ship; or

(*b*) while he is proceeding by sea, or by land or air outside the British Islands, to a British ship for the purpose of being in the service thereof; or

(*c*) while he is returning by sea, or by land or air outside the British Islands, to the British Islands or to the country to which he belongs from a British ship after being in the service thereof; or

(*d*) while he is outside the British Islands on leave from a British ship which for the time being is in a port outside the British Islands.

(3) If it appears to the Minister that the awards that could be authorised by the provisions of a scheme made by virtue of paragraph (*a*) of subsection (1) of this section would, in the case of mariners of any particular class, be inappropriate to the conditions of their employment or engagement, he may, with the consent of the Treasury, in lieu of making provision for the application in their case of a Naval War Pensions Order, make a scheme authorising in their case awards on account of the like matters

as if the scheme were made under those provisions, but of such amount and character as may be specified in the scheme.

Awards to pilots, &c.

4.—(1) The Minister may with the consent of the Treasury make a scheme for—

(*a*) applying the provisions of any Naval War Pensions Order to persons to whom this section applies in cases where their death or disablement is directly attributable to war injuries sustained by reason of their service, or to detention caused by reason of their service; and

(*b*) the payment of allowances to or for the benefit of any such persons detained as aforesaid, or to or for the benefit of the dependants of such persons so detained.

(2) This section applies to the following persons, namely—

(*a*) pilots and apprentice pilots; and

(*b*) masters and members of the crew of pilot boats, lightships, lighthouse tenders and lightship tenders.

(3) For the purpose of this section, a person to whom this section applies shall be deemed to have sustained a war injury, or to have been detained, by reason of his service, if he sustained the injury, or if the capture in consequence of which the detention occurs is effected—

(*a*) in the case of a pilot or apprentice pilot—

(i) while he is on board any ship for the purpose of taking her, or assisting to take her, into or out of a port in the British Islands; or

(ii) while he is proceeding by sea, or by land or air outside the British Islands, to a ship for the purpose of taking her, or assisting to take her, into any such port; or

(iii) while he is returning to the British Islands after having taken, or assisted to take, a ship out of any such port; or

(iv) while he is at a place outside the British Islands for the purpose of proceeding or returning as aforesaid; or

(v) while he is on board any pilot boat;

(*b*) in the case of a master or member of the crew of a pilot boat, lighthouse tender or lightship tender, while he is in the service of the boat or tender;

(*c*) in the case of a master or member of the crew of a lightship, while he is in the service of the lightship or is proceeding by sea or air to the lightship for the purpose of being in the service thereof or from the lightship after being in the service thereof.

(4) In this section the following expressions have the meanings hereby respectively assigned to them:—

"Lightship" means a lightship belonging to a local or general lighthouse authority within the meaning of the Merchant Shipping Act, 1894; 57 & 58 Vict. c. 60.

"Lighthouse tender" means a tender to a lighthouse belonging to any such authority;

"Lightship tender" means a tender to a lightship;

"Pilot boat" has the meaning assigned to it by section thirty-eight of the Pilotage Act, 1913. 2 & 3 Geo. 5. c. 31.

Awards to certain persons serving on naval ships.

5.—(1) The Minister may, with the consent of the Treasury, make a scheme for—

(*a*) applying the provisions of any Naval War Pensions Order to persons employed or engaged on ships forming part of His Majesty's Navy (being persons to whom the provisions of the Order would not otherwise apply) in cases where their death or disablement is directly attributable to war injuries sustained in such circumstances as may be specified in the scheme, or to detention caused by reason of their service in such ships; and

(*b*) the payment of allowances to or for the benefit of any such persons detained as aforesaid, or to or for the benefit of the dependants of such persons so detained.

(2) If it appears to the Minister that the awards that could be authorised by the provisions of a scheme made by virtue of paragraph (*a*) of the foregoing subsection would, in the case of any such persons of any particular class, be inappropriate to the conditions of their employment or engagement, he may, with the

consent of the Treasury, in lieu of making provision for the application in their case of a Naval War Pensions Order, make a scheme authorising in their case awards on account of the like matters as if the scheme were made under those provisions, but of such amount and character as may be specified in the scheme.

Compensation for war damage to effects.

6.—(1) The Board of Trade may with the consent of the Treasury make a scheme for compensating—

(*a*) mariners, for war damage to their effects sustained in the circumstances mentioned in subsection (2) of section three of this Act; and

(*b*) a person to whom section four of this Act applies, for war damage to his effects sustained in such of the circumstances mentioned in subsection (3) of that section as are applicable in his case; and

(*c*) persons to whom section five of this Act applies, for war damage to their effects sustained in such circumstances as may be specified in the scheme.

(2) A scheme made by virtue of this section may fix the maximum amount that shall be payable thereunder in different circumstances specified in the scheme.

(3) In the event of the death of any person to whom compensation would be payable under a scheme made by virtue of this section, section one hundred and seventy-six of the Merchant Shipping Act, 1894 (which provides for the distribution of the property of deceased seamen) shall apply to the compensation payable as it applies to the property of a deceased seaman in the hands of the Board of Trade.

(4) In this section the expression "effects", in relation to any person, means any property carried on his person or in the ship in which he is serving or in the ship or other conveyance in which he is travelling, or otherwise accompanying him, at the time when the war damage in question occurs.

General provisions as to schemes.

7.—(1) A scheme made by the Minister or the Board of Trade under this Act (hereafter in this Act referred to as "a scheme") may contain any such provisions as appear to him or them to be necessary or expedient for giving effect to the purpose of the scheme,

and, without prejudice to the generality of the foregoing words, may make provision—

(*a*) for the determination of questions with respect to the effect or operation of the scheme, and

(*b*) for empowering the Minister or the Board of Trade, as the case may be, to make regulations for giving effect to the purposes of the scheme.

(2) A scheme may provide that it shall come into operation, or shall be deemed to have come into operation, on such date as may be specified therein, whether before or after the commencement of this Act.

(3) A scheme may be amended or revoked by a subsequent scheme or by an order made by the Minister or the Board of Trade, as the case may be.

(4) A scheme and any regulations made thereunder, and any order made under this Act, shall, for the purpose of section three of the Rules Publication Act, 1893 (which relates to the printing of statutory rules), be deemed to be statutory rules within the meaning of that Act. 56 & 57 Vict. c. 66.

(5) A scheme applying the provisions of a Naval War Pensions Order to mariners or other persons in the cases mentioned in this Act may apply the Order subject to—

(*a*) such modifications as appear to the Minister to be appropriate, having regard to the differences in the conditions of service of mariners and other persons and of officers and men of His Majesty's naval forces respectively or to other circumstances; and

(*b*) such conditions, limitations and exceptions as appear to the Minister to be expedient.

(6) All sums to be paid in respect of a pension or other payment awarded by virtue of a scheme shall be paid out of moneys provided by Parliament.

8. Any person who, for the purpose of obtaining a payment under a scheme, either for himself or for any other person, knowingly makes any false statement or false representation, shall be liable on summary conviction to imprisonment for a term not exceeding three months. Penalty for false statements.

Exercise of powers of Board of Trade.

9. Anything required or authorised by or under this Act to be done by, to or before the Board of Trade, may be done by, to or before the President of the Board of Trade, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

Interpretation.

10. In this Act the following expressions have the meanings hereby respectively assigned to them :—

"British Islands" means Great Britain, Northern Ireland, the Channel Islands and the Isle of Man;

"British ship" has the same meaning as in the Merchant Shipping Act, 1894, except that it includes a ship within the meaning of that Act not forming part of His Majesty's Navy which belongs to His Majesty or is held by any person on behalf of or for the benefit of the Crown;

"Capture" includes seizure, arrest or other restraint;

"Detention," in relation to a mariner or other person, means detention consequent on the capture of the mariner or other person or of his ship effected by reason of the existence of a state of war;

"Mariner," in relation to a British ship, means the master or a member of the crew of the ship, being a person employed or engaged in seagoing service and not being a member of His Majesty's naval forces or a person to whom the provisions of section four or section five of this Act apply;

"Naval War Pensions Order" means an Order in Council whereby provision is made as respects officers and men of His Majesty's naval forces for the award of pensions or other payments on account of death or disablement attributable to service in those forces during war;

"Port" includes place;

"War injuries" means physical injuries—

(*a*) caused by—

(i) the discharge of any missile (including liquids and gas); or

(ii) the use of any weapon, explosive or other noxious thing; or

(iii) the doing of any other injurious act; either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(*b*) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of or for the benefit of, His Majesty or any allied power, or any part of, or anything dropped from, any such aircraft;

and the expression "war damage", in relation to the effects of any person, means loss of or damage to his effects caused as aforesaid or caused by or in consequence of his capture or the capture of the effects.

Short title and extent.

11.—(1) This Act may be cited as the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939.

(2) It is hereby declared that this Act extends to Northern Ireland.

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