STATUTORY INSTRUMENTS

1981 No. 1678

PENSIONS

WAR INJURIES (CIVILIANS)

The Personal Injuries (Civilians) Amendment (No.2) Scheme 1981

Made - - - -	24*th November* 1981
Laid before Parliament	2*nd December* 1981
Coming into Operation	23*rd December* 1981

The Secretary of State for Social Services, with the consent of the Treasury, in exercise of the powers conferred by section 2 of the Personal Injuries (Emergency Provisions) Act 1939(**a**) and now vested in him (**b**), and in exercise of all other powers enabling him in that behalf, hereby makes the following Scheme:—

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Personal Injuries (Civilians) Amendment (No.2) Scheme 1981 and shall come into operation on 23rd December 1981.

(2) In this Scheme the expression "the principal Scheme" means the Personal Injuries (Civilians) Scheme 1976(**c**).

Amendment of Article 21 of the principal Scheme

2.—(1) There shall be inserted at the beginning of paragraph (2) of Article 21 of the principal Scheme (allowance for lowered standard of occupation) the words "Subject to the provisions of paragraph (3) below,".

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

> "(3) Where a disabled person is in receipt of an allowance under this Article he may continue to receive such allowance if he becomes eligible subsequently for an allowance under Article 18(1)(i)."

(**a**) 1939 c.82.

(**b**) *See* Transfer of Functions (Ministry of Pensions) Order 1953 (S.I. 1953/1198), article 2; Ministry of Social Security Act 1966 (c.20), section 2; Secretary of State for Social Services Order 1968 (S.I. 1968/1699), article 2.

(**c**) S.I. 1976/585, as amended by S.I. 1976/1167, 1977/404, 1640, 1978/384, 1426, 1979/270, 1232, 1980/1102, 1103, 1950 and 1981/1143.

Amendment of Article 74 of the principal Scheme

3. Article 74 of the principal Scheme (commencing date of awards) shall be redesignated paragraph (1) of Article 74 and Article 74 shall be amended as follows—

(*a*) in paragraph (1)(*b*)(i) there shall be inserted immediately after the words "review is applied for" the words "or, if there is no application for review, where the date on which the Secretary of State first decided that there should be a review is,";

(*b*) in paragraph (1)(*b*)(ii) there shall be inserted immediately after the words "review is applied for" the words "or, if there is no application for review, where the date on which the Secretary of State first decided that there should be a review is,";

(c) in paragraph (1)(*b*)(iii) there shall be inserted immediately after the words "such review" the words "or, if there is no such application, the date on which the Secretary of State first decided that there should be a review";

(*d*) in paragraph (1)(*d*) for the words "an application under Article 76 for a review" there shall be substituted the words "a review under Article 76";

(*e*) in paragraph (1)(*d*)(i) for the words "the application for review is made" there shall be substituted the words "the review is applied for or, if there is no application for review, where the date on which the Secretary of State first decided that there should be a review is,";

(*f*) in paragraph (1)(*d*)(ii) there shall be inserted immediately after the words "application for the review" the words "or, if there is no such application, the date on which the Secretary of State first decided that there should be a review";

(*g*) a new paragraph shall be inserted immediately after the end of paragraph (1) as follows—

"(2) In the case of an appeal under section 6(2) of the Pensions Appeal Tribunals Act 1943 (appeal from Pensions Appeal Tribunals) as a result of which appeal a pension is awarded or restored, paragraph (1)(*b*) of this Article shall apply as if the first reference to an appeal under section 3 or 4 of that Act were a reference to an appeal under section 6(2) of that Act, but as if all the references in paragraph (1)(*b*)(i) to (iii) to "the appeal" were references to the appeal made under section 3 or 4 of that Act to the Pensions Appeal Tribunal against whose decision the further appeal under section 6(2) was made."

Amendment of Article 76 of the principal Scheme

4. Article 76 of the principal Scheme (review of decisions, assessments and awards) shall be amended as follows—

(*a*) for paragraph (1) there shall be substituted the following new paragraph—

"(1) Subject to the provisions of paragraphs (2A) and (2B) and to the provisions of paragraph (4) of this Article, any decision accepting or rejecting a claim for pension or any assessment of the degree or nature of the disablement of any person or any final decision that the disablement is not or is no longer serious or prolonged may be reviewed by the Secretary of State at any time on any ground.";

(*b*) immediately after paragraph (2) there shall be inserted the following new paragraphs—

"(2A) Subject to the provisions of paragraph (4), following a review under paragraph (1) of this Article of any decision accepting a claim for pension or any assessment of the degree or nature of the disablement of any person, that decision or assessment may be revised by the Secretary of State to the detriment of a person only where the Secretary of State is satisfied that—

(*a*) the decision or assessment was given or made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law; or

(*b*) in the case of an interim assessment there has been a change in the degree of disablement which is due to the qualifying injury since the assessment was made.

(2B) An award under this Scheme may be revised by the Secretary of State to the detriment of a person only where the Secretary of State is satisfied that—

(*a*) the award was made in consequence of ignorance of, or a mistake as to, a material fact, or of a mistake as to the law; or

(*b*) there has been any relevant change of circumstances since the award was made; or

(*c*) the decision or assessment upon which the award was based has been revised under paragraph (2A) of this Article.";

(*c*) in paragraph (3) there shall be inserted at the beginning the words "Subject to the provisions of paragraphs (2A) and (2B) of this Article,";

(*d*) in paragraph (3) the proviso shall be redesignated paragraph (3A);

(*e*) in paragraph (3A) for the words "Provided that, where a decision accepting a claim under Article 5" there shall be substituted the words "Notwithstanding the provisions of paragraphs (2A), (2B) and (3), where a decision accepting a claim for pension".

Signed by authority of the Secretary of State for Social Services.

Hugh Rossi,
Minister for Social Security,
Department of Health and Social Security.

19th November 1981.

We consent.

P. L. Brooke,
J. A. Cope,
Two of the Lords Commissioners of
Her Majesty's Treasury.

24th November 1981.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme amends the Personal Injuries (Civilians) Scheme 1976 ("the principal Scheme").

The Scheme amends Article 21 of the principal Scheme by making provision for an award of an allowance for a lowered standard of occupation already in payment under the Article to be continued despite subsequent eligibility under Article 18 of the principal Scheme for unemployability allowances when a disabled person becomes unemployable.

The Scheme amends Article 74 of the principal Scheme (commencing date of awards) by including provision for commencing dates for awards in respect of awards following reviews by the Secretary of State where there has been no application for review, and High Court decisions, or in Scotland and Northern Ireland, decisions of the Court of Session and Court of Appeal respectively.

The Scheme also amends Article 76 of the principal Scheme (review of decisions, assessments and awards) by making provision for reviews of decisions and assessments which were previously limited to specific grounds to be made on any ground and for the grounds for revising a decision, assessment or award to the detriment of a disabled person following such review to be the same as those which applied to adverse reviews prior to the coming into operation of this Scheme. The Scheme also amends Article 76 to make provision for decisions rejecting claims for allowances payable under the principal Scheme to be reviewed by reference to this Article.

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