STATUTORY INSTRUMENTS

1978 No. 384

PENSIONS

WAR INJURIES (CIVILIANS)

The Personal Injuries (Civilians) (Amendment) Scheme 1978

Made - - - -	*9th March* 1978
Laid before Parliament	*13th March* 1978
Coming into Operation	*3rd April* 1978

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

Citation, interpretation and commencement

1. This Scheme, which may be cited as the Personal Injuries (Civilians) (Amendment) Scheme 1978, shall, except so far as the context otherwise requires, be read as one with the Personal Injuries (Civilians) Scheme 1976(**c**), as amended(**d**) (hereinafter referred to as "the principal Scheme"), and shall come into operation on 3rd April 1978, so, however, that in relation to any award payable weekly the foregoing reference to 3rd April 1978, where this is not the normal weekly pay day for that award, shall be construed as a reference to the first normal weekly pay day for that award following 3rd April 1978.

Amendment of Article 18 *of the principal Scheme*

2. In Article 18 (unemployability allowances) of the principal Scheme—

(*a*) in paragraphs (3) and (5) for the words "Chapters I and II", wherever they appear in those paragraphs, there shall be substituted the words "Chapter I or Chapter II";

(*b*) in sub-paragraph (*e*) of paragraph (4) for the words "that child or those children may be increased by the appropriate rate or rates" there shall be substituted the words "each child may be increased by the rate".

Amendment of Article 23 *of the principal Scheme*

3. In Article 23 (treatment allowances) of the principal Scheme, the word "appropriate" in proviso (*b*) to paragraph (4) of that Article shall be omitted.

(**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, and Secretary of State for Social Services Order 1968 (S.I. 1968/1699) Article 2.
(**c**) S.I. 1976/585.
(**d**) S.I. 1976/1167, 1977/404, 1640.

Substitution for Article 74 of the principal Scheme

4. For Article 74 (commencing date of awards) of the principal Scheme there shall be substituted the following Article:—

"*Commencing date of awards*

74. Except in so far as the Secretary of State may otherwise direct with respect to any particular case or class of case, payment of a pension, including payment of an increase in the rate of a pension on account of an increased assessment of the degree of disablement, shall not be made in respect of any period preceding:

(*a*) in the case of an application for the award of a pension as a result of which a pension is awarded—

(i) the day following the date on which a disabled person ceases to give whole-time service as a member of the armed forces of the Crown where the application is made within the time limit specified in Article 54(2), or

(ii) the day following the date of death where the application is for the award of a pension in respect of a person's death and such application is made within the time limit specified in Article 54(3), or

(iii) the date of the application;

(*b*) in the case of an appeal under section 3 or 4 of the Pensions Appeal Tribunals Act 1943(**a**) as a result of which a pension is awarded or restored—

(i) the day following the date on which a disabled person ceases to give whole-time service as a member of the armed forces of the Crown where the application for the award of pension was made within the time limit specified in Article 54(2) and the appeal against the rejection of that application is commenced within three months of the date of the notification of such rejection, or

(ii) the day following the date of death where the application, being an application for the award of a pension in respect of a person's death, was made within the time limit specified in Article 54(3) and the appeal against the rejection of that application is commenced within three months of the date of the notification of such rejection, or

(iii) the date of the commencement of such appeal;

(*c*) in the case of an appeal under section 5 of the Pensions Appeal Tribunals Act 1943 as a result of which the claim to the continuance or resumption of the payment of the pension is accepted or the rate of the pension is increased—

(i) the date of the commencement of the assessment of the degree of disablement where such appeal is commenced within the time limit specified in the Pensions Appeal Tribunals Act, or

(ii) the date of the commencement of such appeal.".

Amendment of Schedules 3 and 4 to the principal Scheme and transitional provisions

5.—(1) Subject to the provisions of paragraph (2) of this Article and to paragraph (2) of Article 2 of the Personal Injuries (Civilians) Scheme 1977(**b**),

(**a**) 1943 c. 39.

(**b**) S.I. 1977/404.

in Schedules 3 and 4 to the principal Scheme (rates of pensions and allowances payable in respect of disablement or death) there shall be made the amendments respectively set out in Parts I and II of the Schedule hereto.

(2) Where in respect of any period a person who, immediately before the date on which this Scheme comes into operation, was qualified to receive a pension or allowance in respect of a child specified in paragraph 7(*b*)(iii)(*a*), in paragraph 12(*e*)(i) or in paragraph 12(*g*)(ii) of Schedule 3 to the principal Scheme or in paragraph 6, in paragraph 7 or in paragraph 8(*b*) of Schedule 4 to that Scheme, at the rate specified in that paragraph before that date—

(*a*) would, on or after that date, continue to be so qualified to receive payment of the pension or allowance at that rate but for the provisions of paragraph (1) of this Article, and

(*b*) there is no entitlement, in respect of that child, to child benefit under the Child Benefit Act 1975(**a**) or under any legislation in Northern Ireland or in any place outside the United Kingdom corresponding to that Act, or, as the case may be, to payment of that benefit,

that person may receive in respect of that period payment of the pension or allowance either at the rate specified as aforesaid under the principal Scheme immediately before the date on which this Article comes into operation or at the rate specified in that paragraph on and after that date, whichever rate is the higher.

David Ennals,
Secretary of State for Social Services.

7th March 1978.

We consent,

Donald R. Coleman,
J. Dotmand,
Two of the Lords Commissioners of Her Majesty's Treasury.

9th March 1978.

(**a**) 1975 c. 61.

SCHEDULE

PART I

Amendment of Schedule 3 to the principal Scheme

1. In Schedule 3 paragraph 7 (unemployability allowances) for sub-paragraph (*b*)(iii) there shall be substituted in the first and second columns respectively the following sub-paragraph:—

"(iii) increase of allowance in respect of each child under Article 18(4)(*e*)	£6·10 per week".

2. In Schedule 3 paragraph 12 (treatment allowances) there shall be substituted in the first and second columns respectively—

(*a*) for sub-paragraph (*e*) the following sub-paragraph:—

"(*e*) increase of additional allowance under Article 23(4), proviso (*b*) in respect of each child of a disabled person	£2·20 per week";

(*b*) for sub-paragraphs (*g*)(ii) and (*g*)(iii) the following sub-paragraph:—

"(ii) in respect of each child of a disabled person ...	£6·10 per week".

3. In Schedule 3 paragraph 13 (part-time treatment allowance) for the sum "£9·80" there shall be substituted the sum "£10·75".

PART II

Amendment of Schedule 4 to the principal Scheme

1. In Schedule 4 for paragraph 6 (allowances in respect of children) there shall be substituted in the first and second columns respectively, the following paragraph:—

"6. Allowances under Article 33 in respect of each child under the age of 15	£7·70 per week".

2. In Schedule 4 paragraph 7 (pensions to motherless or fatherless children) for the sum "£9·15" there shall be substituted the sum "£8·45".

3. In Schedule 4 paragraph 8 (pension or allowance to or in respect of children) in sub-paragraph (*b*) of that paragraph for the sum "£9·15" there shall be substituted the sum "£8·45".

EXPLANATORY NOTE

(*This Note is not part of the Scheme.*)

This Scheme further amends the Personal Injuries (Civilians) Scheme 1976 which provides for compensation to or in respect of civilians injured or killed in the 1939–45 war.

The Scheme amends commencing dates of awards in general. The Scheme also amends rates of pensions and allowances in respect of children of civilians injured or killed in the 1939–45 war and makes transitional provisions in respect of persons who immediately before the coming into operation of the Scheme were qualified to receive payment of such pensions or allowances at the rate then prescribed, but who are not entitled to benefit under the Child Benefit Act 1975 or legislation corresponding thereto. The Scheme also increases the maximum daily rate of allowance for part-time treatment. The other amendments are of a consequential or minor nature.

SI 1978/384
ISBN 0-11-083384-8

