# 1978 No. 278

# PENSIONS

## The War Pensions (Amendment of Previous Instruments) Order 1978

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|---|---|
| *Made* - - - - | *1st March* 1978 |
| *Laid before Parliament* | *9th March* 1978 |
| *Coming into Operation* | *3rd April* 1978 |

At the Court at Buckingham Palace, the 1st day of March 1978

Present,

The Queen's Most Excellent Majesty in Council

WHEREAS Her Majesty deems it expedient to amend the Order in Council of 25th September 1964, as amended(**a**), the Royal Warrant of 19th September 1964(**b**), as amended(**c**), and the Order by Her Majesty of 24th September 1964(**d**), as amended(**e**), concerning pensions and other grants in respect of disablement or death due to service in the naval, military or air forces during the 1914 World War and after 2nd September 1939 and to do so by Order in Council in pursuance of section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(**f**):

NOW, THEREFORE, Her Majesty, in the exercise of 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 may be cited as the War Pensions (Amendment of Previous Instruments) Order 1978 and shall come into operation on 3rd April 1978 so, however, that in relation to any award payable weekly the foregoing

(**a**) Orders of 22nd December 1964, 24th February 1966, 9th June 1966, 28th July 1966, 23rd August 1967, 14th February 1968, 26th July 1968, 31st July 1969, 4th February 1970, 28th July 1971, 26th July 1972, 27th July 1973, 28th June 1974, 18th March 1975, 17th September 1975, 23rd July 1976, 9th March 1977 and S.I. 1977/1630.
(**b**) Cmnd. 2467.
(**c**) Cmnd. 2553, 2926, 3023, 3072, 3385, 3530, 3728, 4134, 4287, 4742, 5077, 5395, 5670, 6001, 6247, 6583, 6763 and S.I. 1977/1630.
(**d**) Cmnd. 2472.
(**e**) Cmnd. 2554, 2927, 3024, 3071, 3384, 3531, 3729, 4135, 4286, 4743, 5078, 5396, 5671, 6002, 6246, 6582, 6762 and S.I. 1977/1630.
(**f**) 1977 c. 5.

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.

(2) In this Order, unless the context otherwise requires, the expression "the 1964 instruments" means the Order in Council of 25th September 1964, as amended, the Royal Warrant of 19th September 1964, as amended, and the Order by Her Majesty of 24th September 1964, as amended (which instruments, when hereinafter individually referred to, are respectively referred to as "the 1964 Order", "the 1964 Warrant" and "the 1964 Order by Her Majesty").

(3) Subject as aforesaid, each provision of this Order, in so far as it amends the 1964 Order, the 1964 Warrant or, as the case may be, the 1964 Order by Her Majesty, shall, except so far as the context otherwise requires, be read as one with the Order, Warrant or, as the case may be, the Order by Her Majesty which it amends.

*Amendment of Article 17 of the 1964 instruments*

**2.** In Article 17 (unemployability allowances) of the 1964 instruments—

(*a*) for paragraph (3) there shall be substituted the following paragraph: —

"(3) A member shall not be eligible for any award under this Article if he is in receipt of a retirement pension under Chapter I or Chapter II of Part II of the Social Security Act 1975(**a**) or the corresponding provisions of the Social Security (Northern Ireland) Act 1975(**b**) (other, in either case, than an increase thereof by way of age addition or a category A or B retirement pension as provided by regulation 14 of the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974(**c**) or by corresponding regulations made in Northern Ireland) or a graduated retirement benefit under the National Insurance Act 1965(**d**) or under any legislation in Northern Ireland corresponding thereto.";

(*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";

(*c*) for paragraph (5) there shall be substituted the following paragraph: —

"(5) Where a person to whom a personal allowance may be or has been awarded under the foregoing provisions of this Article is eligible for a category A or B retirement pension, as provided for by regulation 14 of the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974, or by corresponding regulations made in Northern Ireland, or a widow's pension under Chapters I or II of Part II of the Social Security Act 1975, or the corresponding provisions of the Social Security (Northern Ireland) Act 1975, or where a person to or in respect of whom a personal allowance or an additional allowance may be or has been so awarded is eligible for benefit payable out of public funds under the law of any place outside the United Kingdom being benefit which, in the opinion of the Secretary of State,

(**a**) 1975 c. 14. (**b**) 1975 c. 15 (N.I.).
(**c**) S.I. 1974/1757.
(**d**) 1965 c. 51, as modified by the Social Security (Graduated Retirement Benefit) Regulations 1975 (S.I. 1975/557).

is analogous to benefit under Chapters I or II of Part II of the Social Security Act 1975, the Secretary of State may take into account any such pension against the personal allowance and any such benefit against the personal allowance and the additional allowance in such manner and to such extent as he may think appropriate having regard, in the case of any such benefit, to any adjustment which would be made if the person were eligible for the analogous benefit under the said Act.".

*Amendment of Article 17A of the 1964 instruments*

**3.** In paragraph (4) of Article 17A (invalidity allowance) of the 1964 instruments for the reference to "the National Insurance Acts 1965 to 1971" there shall be substituted "the Social Security Act 1975".

*Amendment of Article 19 of the 1964 instruments*

**4.** In Article 19 (allowance for lowered standard of occupation) of the 1964 instruments in sub-paragraph (*b*) of paragraph (2) before the words "the member's disablement" there shall be inserted the words "there was no such regular occupation or where".

*Amendment of Article 21 of the 1964 instruments*

**5.** In Article 21 (treatment allowances) of the 1964 instruments—

(*a*) in sub-paragraph (*c*) of paragraph (3) for the reference to "the National Insurance Acts 1965 to 1971" there shall be substituted "the Social Security Act 1975(**a**) or, as the case may be, the Social Security (Northern Ireland) Act 1975(**b**)";

(*b*) in proviso (*b*) to paragraph (4) the word "appropriate" shall be omitted;

(*c*) in sub-paragraph (*c*) of paragraph (5A) for the reference to "the National Insurance Acts 1965 to 1973" there shall be substituted "the Social Security Act 1975";

(*d*) for paragraph (6) there shall be substituted the following paragraph: —

"(6) The benefit referred to in paragraph (3) of this Article is personal benefit under Chapters I to V of Part II of the Social Security Act 1975 or the corresponding provisions of the Social Security (Northern Ireland) Act 1975, by way of injury benefit, sickness benefit, retirement pension, invalidity pension and allowance, non-contributory invalidity pension, invalid care allowance, or category A or B retirement pension as provided for by regulation 14 of the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974(**c**) or by corresponding regulations made in Northern Ireland, or any benefits similar to the aforesaid benefits under the law of any place outside the United Kingdom which in the opinion of the Secretary of State is analogous to the first mentioned Act of 1975.".

*Amendment of Article 35 of the 1964 instruments*

**6.** In paragraph (1) of Article 35 (allowances in respect of children under the age limit) the word "appropriate" shall be omitted.

(**a**) 1975 c. 14.
(**b**) 1975 c. 15 (N.I.).
(**c**) S.I. 1974/1757.

*Substitution of Article 65 of the 1964 instruments*

**7.** For Article 65 of the 1964 instruments (commencing date of awards) there shall be substituted the following Article:—

"65. *Commencing date of awards.*—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 a claim to the award of a pension as a result of which a pension is awarded—

(i) the day following the date of the termination of a member's service where such termination is due to invaliding and the claim is made within 6 months of the date of such termination, or

(ii) the day following the date of the termination of a member's service where the claim is made within 3 months of the date of such termination, or

(iii) the date of the claim;

(*b*) in the case of an appeal under section 1 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 of the termination of a member's service due to invaliding where the claim to the award of pension was made within 6 months of the date of such termination and the appeal against the rejection of that claim is commenced within 6 months of the date of the notification of such rejection, or

(ii) the day following the date of the termination of a member's service where the claim to the award of pension was made within 3 months of the date of such termination and the appeal against the rejection of that claim is commenced within 3 months of the date of the notification of such rejection, or

(iii) the date of the claim to the award of pension where such appeal is commenced within 3 months of the notification of rejection of such claim, or

(iv) 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 prescribed by the Pensions Appeal Tribunals Act, or

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

(a) 1943 c. 39.

*Amendment of Schedules to the 1964 instruments and transitional provisions*

**8.**—(1) Subject to the provisions of paragraph (2) of this Article and to paragraph (2) of Article 1 of the Order in Council of 9th March 1977, of the Royal Warrant of 11th March 1977(**a**) or of the Order by Her Majesty of 15th March 1977(**b**), in Schedule 6 (rates of allowances payable in respect of disablement) and Schedule 7 (rates of pensions, other than widows' pensions, and allowances payable in respect of death) to the 1964 instruments there shall be made the amendments respectively set out hereunder, which shall apply in every case—

(*a*) as respects the 1964 Order in Part I of the Schedule hereto;

(*b*) as respects the 1964 Warrant in Part II of that Schedule;

(*c*) as respects the 1964 Order by Her Majesty in Part III of that Schedule.

(2) Where in respect of any period a person who, immediately before the date on which this Order comes into operation, was qualified to receive a pension or allowance in respect of a child specified in paragraph 5(*b*)(iii), paragraph 9(*e*) or paragraph 9(*g*)(ii) or (iii) of Schedule 6 or in paragraph 5 or paragraph 6 of Schedule 7 to the 1964 Order, to the 1964 Warrant or, as the case may be, to the 1964 Order by Her Majesty, 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(**c**) 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 1964 instruments 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.

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

(**a**) Cmnd. 6763 (**b**) Cmnd. 6762.
(**c**) 1975 c. 61.

Article 8

## SCHEDULE

### PART I

*Amendment of Schedules 6 and 7 to the 1964 Order*

1. In Schedule 6 paragraph 5 (unemployability allowances) for sub-paragraph (*b*) (iii) there shall be substituted in the first, second and third columns respectively the following sub-paragraph: —

| | | |
|---|---|---|
| "(iii) increase of allowance in respect of each child under Article 17(4)(*e*)..... | £318·10 per annum | £6·10 per week". |

2. In Schedule 6 paragraph 9 (treatment allowances) there shall be substituted in the first, second and third columns respectively—

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

| | | |
|---|---|---|
| "(*e*) increase of additional allowance in respect of each child under Article 21(4), proviso (*b*)..... | £114·70 per annum | £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 member..... | £318·10 per annum | £6·10 per week". |

3. In Schedule 6 paragraph 10 (part-time treatment allowance) for the sum "£9·80" in the second and third columns there shall be substituted the sum "£10·75".

4. In Schedule 7 paragraph 5 (allowances in respect of children)—

(*a*) for sub-paragraph (*a*) there shall be substituted in the first, second and third columns respectively the following sub-paragraph: —

| | | | |
|---|---|---|---|
| "(*a*) under Article 35(1) in respect of each child..... | (i) | Commissioned Officer*—or Nurse—£408·50 per annum | £7·70 per week |
| | (ii) | Warrant Officer† —£401·50 per annum"; | |

(*b*) in sub-paragraph (*b*) for the sums "£485·20" and "£477·10" in the second column of that sub-paragraph there shall respectively be substituted the sums "£448·70" and "£440·60";

(*c*) in sub-paragraph (*b*) for the sum "£9·15" in the third column of that sub-paragraph there shall be substituted the sum "£8·45".

5. In Schedule 7 paragraph 6—

(*a*) for the sums "£485·20" and "£477·10" in the second column of that paragraph there shall respectively be substituted the sums "£448·70" and "£440·60";

(*b*) for the sum "£9·15" in the third column of that paragraph there shall be substituted the sum "£8·45".

### PART II

*Amendment of Schedules 6 and 7 to the 1964 Warrant*

1. In Schedule 6 paragraph 5 (unemployability allowances) for sub-paragraph (*b*)(iii) there shall be substituted in the first, second and third

columns respectively the following sub-paragraph: —

"(iii) increase of allowance in respect of each child under Article 17(4)(*e*).....£318·10 per annum £6·10 per week".

2. In Schedule 6 paragraph 9 (treatment allowances) there shall be substituted in the first, second and third columns respectively—

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

"(*e*) increase of additional allowance in respect of each child under Article 21(4), proviso (*b*).....£114·70 per annum £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 member.....£318·10 per annum £6·10 per week".

3. In Schedule 6 paragraph 10 (part-time treatment allowance) for the sum "£9·80" in the second and third columns there shall be substituted the sum "£10·75".

4. In Schedule 7 paragraph 5 (allowances in respect of children)—

(*a*) for sub-paragraph (*a*) there shall be substituted in the first, second and third columns respectively the following sub-paragraph: —

"(*a*) under Article 35(1) in respect of each child.....£408·50 per annum £7·70 per week";

(*b*) in sub-paragraph (*b*) for the sum "£485·20" in the second column of that sub-paragraph there shall be substituted the sum "£448·70";

(*c*) in sub-paragraph (*b*) for the sum "£9·15" in the third column of that sub-paragraph there shall be substituted the sum "£8·45".

5. In Schedule 7 paragraph 6—

(*a*) for the sum "£485·20" in the second column of that paragraph there shall be substituted the sum "£448·70";

(*b*) for the sum "£9·15" in the third column of that paragraph there shall be substituted the sum "£8·45".

## PART III

*Amendment of Schedules 6 and 7 to the 1964 Order by Her Majesty*

1. In Schedule 6 paragraph 5 (unemployability allowances) for sub-paragraph (*b*)(iii) there shall be substituted in the first, second and third columns respectively the following sub-paragraph: —

"(iii) increase of allowance in respect of each child under Article 17(4)(*e*).....£318·10 per annum £6·10 per week".

2. In Schedule 6 paragraph 9 (treatment allowances) there shall be substituted in the first, second and third columns respectively—

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

"(*e*) increase of additional allowance in respect of each child under Article 21(4), proviso (*b*).....£114·70 per annum £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 member.....£318·10 per annum £6·10 per week".

3. In Schedule 6 paragraph 10 (part-time treatment allowance) for the sum "£9·80" in the second and third columns there shall be substituted the sum "£10·75".

4. In Schedule 7 paragraph 5 (allowances in respect of children)—

(*a*) for sub-paragraph (*a*) there shall be substituted in the first, second and third columns respectively the following sub-paragraph: —

"(*a*) under Article 35(1) in respect of each child.....£408·50 per annum £7·70 per week";

(*b*) in sub-paragraph (*b*) for the sum "£485·20" in the second column of that sub-paragraph there shall be substituted the sum "£448·70";

(*c*) in sub-paragraph (*b*) for the sum "£9·15" in the third colmun of that sub-paragraph there shall be substituted the sum "£8.45".

5. In Schedule 7 paragraph 6—

(*a*) for the sum "£485·20" in the second column of that paragraph there shall be substituted the sum "£448·70";

(*b*) for the sum "£9·15" in the third column of that paragraph there shall be substituted the sum "£8·45".

## EXPLANATORY NOTE

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

This Order in Council further amends the Order in Council of 25th September 1964, the Royal Warrant of 19th September 1964 and the Order by Her Majesty of 24th September 1964.

In each of those Instruments this Order substitutes for references to pension or benefit under the National Insurance Acts 1965 to 1973 or under the corresponding provisions in Northern Ireland references to pension or benefit under the Social Security Act 1975, under the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974 or, as the case may be, under the corresponding provisions in Northern Ireland; it also, by amendment of the definition of "regular occupation" for the purposes of an award of allowance for lowered standard of occupation, extends that allowance to members of the naval, military or air forces who, by reason only of their having no regular pre-service occupation, would not otherwise qualify for that allowance. This Order also amends commencing dates of awards in general.

The Order also amends rates of pensions and allowances in respect of children of members of the above-mentioned forces and makes transitional provisions in respect of persons who immediately before the coming into operation of the Order 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 and makes consequential amendments. It also increases the maximum rate of allowance which may be paid to members of those forces receiving part-time treatment for their pensioned disablement.

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