

RESERVE FORCES (ATTRIBUTABLE BENEFITS ETC.) REGULATIONS

2001

The Defence Council, in exercise of the powers conferred on them by sections 4(2) and 8 of the Reserve Forces Act 1996, hereby make the following Regulations:-

PART I

General

Citation and commencement

1. These Regulations may be cited as the Reserve Forces (Attributable Benefits) Regulations 2001 and shall come into force on 30th April 2001. .

Interpretation

2.-(1) In these Regulations-

“the 1983 Order” means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983;

“armed forces pension scheme” means-

the Naval and Marine Pay and Pensions (Non-Effective Benefits and Family Pensions) Order 2000;

Army Pensions Warrant 1977; or

the provisions for the time being in force with respect to the payment of pensions and gratuities in respect of service in the Royal Air Force made by order under section 2 of the Air Force (Constitution) Act 1917;

“attributable benefits” shall be construed in accordance with regulation 3;

“attributable pension” shall be construed in accordance with regulation 4(1);

“child’s pension” means a pension awarded under regulation 19;

“eligible child” shall be construed in accordance with regulation 18(4)

“occupational pension scheme”, “personal pension scheme” and “retirement annuity scheme” shall be construed in accordance with regulation 5(8);

“widow’s pension” shall be construed in accordance with regulation 12(1);

(2) In these Regulations-

any reference to the date of medical discharge, in relation to any person, is to the date on which that person was retired or discharged from a reserve force on the grounds that he was medically unfit to continue in service; and

any reference to a person who is entitled to be paid an attributable pension at the higher rate or a person who is entitled to be paid an attributable pension at the lower rate shall be construed in accordance with Schedule 1.

PART II

Attributable benefits

Eligibility for attributable benefits

3.-(1) The Secretary of State may decide to award benefits to a person under this Part of these Regulations (referred to in these Regulations as “attributable benefits”) if-

the person has been a member of any reserve force;
he has been required to retire or has been discharged from that force on the grounds that he is medically unfit to continue in service;
the injury or condition which gave rise to his being unfit to continue in service-
(i) is attributable to his service in that force; or
(ii) where the injury or condition existed before or arose during his service, has been aggravated by his service in that force;
he suffered the injury, or (as the case may be) the condition was first diagnosed, on or after 1st April 1980;
an assessment has been carried out for the purposes of Part III of the 1983 Order under which the degree of disablement due to the injury or condition has been assessed as being 20% or more; and
he has been awarded retired pay or a pension under Part III of the 1983 Order, and the commencing date of the award is no later than the day after the date of his medical discharge.

(2) For the purposes of these Regulations, where the retirement or discharge of the person was caused by more than one injury or condition, any reference to “the degree of disablement due to the injury or condition” shall be to the total degree of disablement due to every such injury or condition.

Attributable Pension

4.-(1) Where the Secretary of State decides to award attributable benefits to a person, that person shall be entitled to be paid a pension (referred to in these Regulations as an “attributable pension”) payable at such annual rate as may be determined in accordance with paragraph (2).

(2) In respect of any day on which a person is entitled to be paid an attributable pension, he shall be paid at the following annual rate:-

$A - B$,

where-

is the annual rate as determined in accordance with Schedule 1 to these Regulations;
is the sum of any amounts which in accordance with regulations 5 to 7 are to be deducted from the annual rate at which the pension is payable in respect of that day.

(3) An attributable pension shall be payable from whichever is the later of-

the day immediately following the date of medical discharge;
30th April 2001.

(4) An attributable pension shall be payable monthly in arrears.

Reduction of annual rate to take account of civilian pension benefits

5.-(1) Paragraph (2) applies where a person who is awarded an attributable pension at the higher rate is entitled to be paid-

any benefits under an occupational pension scheme (other than an armed forces pension scheme) awarded as a result of the injury or condition for which attributable benefits are payable;

a pension paid in respect of such injury or condition under a retirement annuity scheme or personal pension scheme; or

any preserved benefits under an occupational pension scheme (other than an armed forces pension scheme), a retirement annuity scheme or a personal pension scheme where, by reason of such injury or condition, the benefits have become payable at an earlier date than would otherwise have been the case.

(2) Where this regulation applies, the Secretary of State may reduce the annual rate of attributable pension by an amount which does not exceed-

$$0.75(A + \frac{B}{4})$$

,
where-

is the total amount payable annually to the person concerned as pension under any such scheme as is referred to in paragraph (1); and

is the total amount payable to the person concerned as a lump sum or terminal grant under any such scheme.

(3) No reduction shall be made under paragraph (2) in respect of any day prior to the date on which the benefits referred to in paragraph (1) become payable.

(4) Paragraph (5) applies where any benefits referred to in paragraph (1) do not include the payment of a lump sum or terminal grant.

(5) Where this paragraph applies, paragraph (2) shall have effect in relation to any such benefits as if-

the amount payable annually to the person concerned as pension under the relevant scheme was-

$$\frac{4}{5} P$$

; and

the amount of the lump sum was an amount equal to-

$$\frac{9}{4} P$$

,

where P is the actual amount payable annually as pension.

(6) For the purposes of this regulation, any reference to the amount payable annually to a person as pension under any scheme referred to in paragraph (1) is to the annual rate of pension which the person concerned is entitled to receive under the scheme on the date of his medical discharge; and, where a person is not entitled on that date to the payment of a pension under any such scheme, the amount payable

annually to that person shall be the first annual rate payable under the scheme when the pension becomes payable.

(7) Where this regulation applies, the Secretary of State shall as soon as reasonably practicable give notice in writing to the person concerned of the amount of the reduction in the annual rate of his attributable pension as determined in accordance with this regulation.

(8) In these Regulations-
“occupational pension scheme” shall have the meaning assigned to it by section 1 of the Pensions Schemes Act 1993;
“personal pension scheme” shall have the meaning assigned to it by section 1 of the Pensions Schemes Act 1993; and
“retirement annuity scheme” means a contract or scheme which is approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988.

Reduction of annual rate to take account of benefits paid under an armed forces pension scheme

6.-(1) Paragraph (2) applies where any person who is awarded an attributable pension is entitled to be paid retired pay or pension under an armed forces pension scheme.

(2) Where this paragraph applies, the Secretary of State may reduce the annual rate at which the attributable pension is payable in respect of any day by an amount which does not exceed the annual rate of retired pay or pension payable in respect of that day under the armed forces pension scheme.

Reduction of annual rate to take account of payments of unemployability allowance

7.-(1) Paragraph (2) applies where-

any person to whom an attributable pension is payable is awarded an unemployability allowance under article 18(1)(a) of the 1983 Order; and
such award is made within the period of 12 months beginning on the date on which the determination is made to award the person retired pay or pension under Part III of the 1983 Order.

(2) Where this paragraph applies, the Secretary of State may reduce the annual rate of attributable pension by an amount which does not exceed the first annual rate payable to the person under article 18 of the 1983 Order.

(3) In this regulation, the reference to the first annual rate payable under article 18 of the 1983 Order is to the combined annual rate of all allowances payable to the person concerned on the date when an award under that article is first made.

Attributable lump sum

8.-(1) Where the Secretary of State decides to award attributable benefits to a person, he may also pay that person a lump sum; and, subject to paragraph (2) below, the amount of the lump sum shall be determined in accordance with Schedule 2.

(2) The lump sum may also include an amount in addition to that determined in accordance with paragraph (1); and, in determining whether a person's lump sum shall include such an additional amount, and (if so) how much the additional amount should be, the Secretary of State shall have regard to-

the commencing date for the purposes of the pension awarded to the person under Part III of the 1983 Order;

the amounts (if any) of any allowances that the person has received under Part III of the 1983 Order before 30th April 2001.

(3) Where the lump sum awarded under this regulation includes an amount under paragraph (2), the Secretary of State shall give written notice to the person concerned of the amount and of the basis on which that amount was calculated.

Reviews

9.-(1) This article applies where, following an award of attributable benefits under these Regulations-

a review is carried out under the 1983 Order of the assessment of the degree of disablement due to any injury or condition to which the award of attributable benefits relates; and

following that review, the assessment of the degree of disablement due to the injury or condition is revised.

(2) Subject to paragraph (3), the attributable pension payable to the person concerned shall, in relation to any time on or after the date on which the assessment of

the degree of disablement is revised, be calculated by reference to the revised assessment.

(3) Subject to paragraph (4), this regulation shall not have the effect of reducing the attributable pension payable to a person where the assessment of the degree of disablement is revised at any time after the period of 12 months beginning with the date of the award of attributable benefits.

(4) A person shall cease to be entitled to receive an attributable pension where, following the review, the degree of disablement due to the injury has been assessed as being less than 20%.

(5) Where by virtue of paragraph (4) a person ceases to be entitled to receive an attributable pension, his entitlement shall cease from the date on which the decision is made to revise the assessment of the degree of disablement.

Application of the Regulations where the commencing date of the award under the 1983 Order is prior to the coming into force of the Regulations

10. Where the commencing date of an award of retired pay or pension made to a person under Part III of the 1983 Order was before 30th April 2001, these Regulations shall have effect in relation to the payment of attributable benefits to that person subject to the modifications specified in Schedule 3.

PART III

Benefits payable in respect of the death of a reservist

Conditions of eligibility for benefits payable under Part III

11. Awards may be made under this Part of these Regulations in respect of the death of a person (referred to in these Regulations as “the deceased”) if-

he was or had been a member of any reserve force;
his service in that force included service on or after 1 April 1980;
an award in respect of his death has been made under Part IV of the 1983 Order;
the award relates to his service in that force; and
it appears to the Secretary of State that his death (whether it occurred before or after he ceased to be a member of that force) was attributable to his service in that force.

Widow's pension

12.-(1) The Secretary of State may award a pension (referred to in these Regulations as a “widow's pension”) to the widow of the deceased payable at such annual rate as may be determined in accordance with paragraph (2).

(2) In respect of any day on which a widow's pension is payable, it shall be paid at the following annual rate:-

A – B,

where-

is the annual rate as determined in accordance with Part I of Schedule 4 to these Regulations;
is the sum of any amounts which in accordance with regulations 14 and 15 are to be deducted from the annual rate at which the pension is payable in respect of that day.

(3) The Secretary of State may in particular decide not to award a widow's pension where-

the deceased's death occurred within one year of the date of his marriage to the person to whom the pension would otherwise be payable; or
the marriage took place after the date of the deceased's medical discharge.

(4) Subject to regulation 13(2) and (3), a widow's pension shall be payable from whichever is the later of-

the day following the date of the deceased's death; or
30th April 2001.

(5) A widow's pension shall be payable monthly in arrears.

(6) In these regulations-

any reference to the widow of the deceased shall include, where the deceased is a woman, a reference to her widower; and
any reference to a widow living with a man as his wife shall include a reference to a widower living with a woman as her husband.

Effect of remarriage etc. on eligibility for a widow's pension

13.-(1) A person shall not be entitled to be paid a widow's pension if before 31 October 2000-

she remarried, and the marriage has not been terminated or the parties to the marriage have not been judicially separated;
she began living with another man as his wife and she has continuously lived with him as his wife since that date.

(2) Where a widow remarried before 31 October 2000 but since that date the marriage has been terminated or the parties to the marriage have been judicially separated, the widow's pension shall be payable from-

where the claim for the pension is made within three months of the date of termination of the marriage or (as the case may be) the date on which the separation took effect, that date;
in any other case, the date on which the claim is made.

(3) Where before 31 October 2000 a widow began living with a man as his wife but has since that date ceased to live with that man as his wife, the widow's pension shall be payable from the date on which the claim for the pension is made.

(4) For the purposes of paragraphs (2) and (3), a claim for a widow's pension shall not be valid unless it is made after the date (as the case may be) when the marriage was terminated, the judicial separation took effect or the widow ceased to live with the man as his wife.

(5) In this regulation, references to termination of marriage or judicial separation shall be construed in accordance with section 168 of the Pensions Act 1995.

Reduction of annual rate of a widow's pension to take account of civilian pension benefits

14.-(1) Paragraph (2) applies where a person who is awarded a widow's pension is being paid or will become entitled to be paid-

any benefits under an occupational pension scheme (other than an armed forces pension scheme) awarded as a result of the deceased's death;
a pension paid in respect of the deceased's death under a retirement annuity scheme or personal pension scheme; or
any preserved benefits under an occupational pension scheme (other than an armed forces pension scheme), a retirement annuity scheme or a personal pension scheme where, by reason of the deceased's death, the benefits have become payable at an earlier date than would otherwise have been the case.

(2) Where this regulation applies, the Secretary of State may reduce the annual rate of the widow's pension by an amount which does not exceed-

$0.75(A + \frac{B}{24})$

24 ,

where-

is the total amount payable annually to the person concerned as pension under any such scheme as is referred to in paragraph (1); and

is the total amount payable to the person concerned as a lump sum or terminal grant under any such scheme.

(3) No reduction shall be made under paragraph (2) in respect of any day prior to the date on which the benefits referred to in paragraph (1) become payable.

(4) Paragraph (5) applies where any benefits referred to in paragraph (1) do not include the payment of a lump sum or terminal grant.

(5) Where this paragraph applies, paragraph (2) shall have effect in relation to any such benefits as if-

the amount payable annually to the person concerned as pension under the relevant scheme was-

$\frac{4}{P}$

; and

the amount of the lump sum was an amount equal to-

$\frac{9}{4} P$,

where P is the actual amount payable annually as pension.

(6) For the purposes of this regulation, the amount payable annually to a person as pension under any scheme referred to in paragraph (1) is (subject to paragraph (7)) the annual rate of pension which the person concerned is entitled to receive under the scheme on the day immediately following the date of the deceased's death; and, where a person is not entitled on that date to the payment of a pension under any such scheme, the amount payable annually to that person shall be the first annual rate payable under the scheme when the pension becomes payable.

(7) Where the scheme referred to in paragraph (1) provides for the pension to be paid for an initial period at a higher rate than the rate at which it is to be paid immediately following that initial period, payments under the scheme shall be treated for the purposes of this regulation as if made at the lower rate for the whole period during which the pension was payable at the higher rate.

(8) Where this regulation applies, the Secretary of State shall as soon as reasonably practicable give notice in writing to the person concerned of the amount of the reduction in the annual rate of her widow's pension as determined in accordance with this regulation.

Reduction of annual rate of a widow's pension to take account of benefits paid under an armed forces pension scheme

15.-(1) Paragraph (2) applies where any person who has been awarded a widow's pension is entitled to be paid a long term family pension under an armed forces pension scheme.

(2) Where this paragraph applies, the Secretary of State may reduce the annual rate at which the widow's pension is payable in respect of any day by an amount which does not exceed the annual rate of long term family pension payable in respect of that day under the armed forces pension scheme.

Widow's lump sum

16.-(1) Where the Secretary of State awards a person a widow's pension, he may also pay that person a lump sum; and, subject to paragraph (2) below, the amount of the lump sum shall be determined in accordance with Part II of Schedule 4.

(2) The lump sum may also include an amount in addition to that determined in accordance with paragraph (1); and, in determining whether a person's lump sum shall include such an additional amount, and (if so) how much the additional amount should be, the Secretary of State shall have regard to-

the date of the deceased's death;

the amounts (if any) of any allowances that the person has received under Part IV of the 1983 Order before 30th April 2001.

(3) Where the lump sum awarded under this regulation includes an amount under paragraph (2), the Secretary of State shall give written notice to the person concerned of the amount and of the basis on which that amount was calculated.

Application of the Regulations where the deceased's death occurred prior to their coming into force

17. Where the deceased's death occurred before 30th April 2001, these Regulations shall have effect in relation to the payment of a widow's pension subject to the modifications specified in Schedule 5.

Allowances payable in respect of the deceased's eligible children

18.-(1) The Secretary of State may pay an allowance in respect of each eligible child of the deceased, up to a maximum of four children at any one time, at such annual rate as may be determined in accordance with Schedule 6 to these Regulations.

(2) Where an allowance is paid under this regulation in respect of an eligible child of the deceased it shall be paid to the person who for the time being appears to the Secretary of State to have the primary responsibility for the care and maintenance of the child.

(3) An allowance under this regulation shall be payable monthly in arrears.

(4) For the purposes of these Regulations, an "eligible child" means-

a legitimate child of the deceased;

a stepchild of the deceased, or an adopted or illegitimate child of the deceased or his wife, who was mainly dependent on the deceased at the time of his death;

a child of the deceased born after his death.

Child's pension

19.-(1) The Secretary of State may award an eligible child of the deceased a pension at such annual rate as may be determined in accordance with Schedule 6 to these Regulations.

(2) A child's pension shall be payable monthly in arrears.

(3) An allowance under regulation 18 shall not be payable in respect of a child where a child's pension is paid to the child in question.

Date on which allowances and children's pensions cease to be payable

20.-(1) Subject to the following provisions of this regulation, an allowance under regulation 18, or a child's pension, shall not be payable, or, where it has been paid, shall cease to be payable, in respect of a child who has attained the age of 17 years.

(2) An allowance under regulation 18 or a child's pension may be paid or (as the case may be) may continue to be paid on or after an eligible child has attained the age of 17 years-

at any time when the child to whom it relates-

(i) is receiving full-time education; or

(ii) is undergoing full-time training during which he receives not more than £1994 in any financial year as remuneration; or
where the child to whom it relates is, in the opinion of the Secretary of State, unable to support himself by reason of a disability which he suffered before attaining that age.

(3) The Secretary of State may exceptionally determine to pay an allowance under regulation 18, or a child's pension, in circumstances other than those permitted by the preceding provisions of this regulation.

(4) Where the Secretary of State makes a determination under paragraph (3), he shall give notice in writing to the person to whom the allowance or pension is payable, setting out his reasons for doing so and specifying the period in respect of which the allowance or pension is payable.

(5) Any period specified in a notice under paragraph (4) shall be without prejudice to the powers of the Secretary of State to extend that period or to make a further determination under paragraph (3).

(6) In paragraph (2)(a), the reference to a financial year is to the period of twelve months ending with 31st March.

Reduction of annual rate of a child's pension or allowance to take account of benefits paid under an armed forces pension scheme

21.-(1) Paragraph (2) applies where both-

an allowance under regulation 18 or a child's pension; and
a long term family pension under an armed forces pension scheme,

are payable in respect of or to the same child.

(2) Where this paragraph applies, the Secretary of State may reduce the annual rate at which the allowance or pension is payable in respect of any day by an amount which does not exceed the annual rate of long term family pension payable in respect of that day under the armed forces pension scheme.

PART IV

Reduction in benefits to take account of awards of damages

Damages

22.-(1) Where the Secretary of State is satisfied that-

damages have been or will be recovered by any person in respect of an injury or condition for which attributable benefits are payable, or
damages have been or will be recovered by any person in respect of the death of a person for which benefits are payable under article Part III of these Regulations,

he may take those damages into account against any benefit which might otherwise be payable under these Regulations and may withhold or reduce any such benefits accordingly.

(2) For the purposes of this regulation, damages shall include any payment received as a result of a claim made-

in respect of an injury or condition for which attributable benefits are payable, or
in respect of the death of a person for which benefits are payable under Part III of these Regulations,

whether or not the payment is made in pursuance of a judgment or order of a court of any jurisdiction or by way of settlement or compromise of the claim, and whether or not proceedings are instituted to enforce the claim.

(3) Where compensation is paid-

under the Criminal Injuries Compensation Scheme established under the Criminal Injuries Compensation Act 1995,
under the Criminal Injuries (Compensation) (Northern Ireland) Order 1988, or
under the scheme established by the Ministry of Defence for the purposes of paying compensation to members of the armed forces of the Crown who suffer injury as a result of a crime committed outside the United Kingdom,

the person to whom or for whose benefit the compensation is paid shall be deemed to recover damages and the compensation paid shall be deemed to be the damages recovered.

On behalf of the Defence Council

April 2001

Members of the Defence Council

SCHEDULE 1

PART I - GENERAL

1. There shall be two annual rates of attributable pension (referred to in these Regulations as “the higher rate” and “the lower rate”).
2. A person shall be entitled to be paid at the higher rate if the injury or condition in respect of which the attributable pension is paid has substantially affected the person’s ability to work.
3. For the purposes of paragraph 2, a person’s ability to carry out work is to be regarded as having been substantially affected by an injury or condition if, by reason of that injury or condition, he is unable to carry out any particular profession, trade or occupation (excluding service in a reserve force but including any unpaid domestic duties) which he was accustomed to carry out-

before he suffered the injury or condition; or
where he was required to retire or was discharged because an existing injury or condition was aggravated by service, before the injury or condition was so aggravated.
4. A person who is not entitled to be paid at the higher rate shall be paid at the lower rate.
- 5.-(1) Subject to sub-paragraph (2), a person’s entitlement to be paid at the higher or lower rate shall be determined by the Secretary of State when the award of attributable benefits is first made to the person concerned.

(2) The Secretary of State may review a person’s entitlement to be paid at the higher or lower rate; and, where he determines that the person should be paid at the different rate, he shall be paid at that different rate from the date of the decision on the review.
- 6.-(1) Table 1 in the Appendix to this Schedule explains the numbers used in the other Tables contained in these Regulations for the purpose of describing the ranks held by members of the reserve forces.

(2) All of the amounts specified in each of the Tables contained in these Regulations are given in pounds sterling.

PART II – HIGHER RATE ATTRIBUTABLE PENSION

7. This Part of this Schedule applies where a person is entitled to be paid an attributable pension at the higher rate.
- 8.-(1) The annual rate of attributable pension payable to the person shall be the rate set out in Table 2 in the Appendix to this Schedule as being payable to a person-

holding the substantive rank held by him on the date of medical discharge, and with his degree of disability.

(2) For the purposes of sub-paragraph (1), a person's degree of disability shall be the degree of disablement assessed for the purposes of an award under Part III of the 1983 Order as the degree of disablement due to the injury or condition in respect of which the attributable pension is payable.

PART III – LOWER RATE ATTRIBUTABLE PENSION

9. This Part of this Schedule applies where a person is entitled to be paid an attributable pension at the lower rate.

10.-(1) The annual rate of attributable pension payable to the person shall be the rate set out in Table 3 in the Appendix to this Schedule as being payable to a person with his degree of disability.

(2) For the purposes of sub-paragraph (1), a person's degree of disability shall be the degree of disablement assessed for the purposes of an award under Part III of the 1983 Order as the degree of disablement due to the injury or condition in respect of which the attributable pension is payable.

APPENDIX TO SCHEDULE 1

TABLE 1

| <i>Number</i> | Rank | | |
|---------------|--|--------------------------------|---------------------------------|
| | <u>RESERVE NAVAL AND MARINE FORCES</u> | <u>RESERVE LAND FORCES</u> | <u>RESERVE AIR FORCES</u> |
| 1 | Able Rating, Marine | Below corporal | Aircraft-man/ Aircraft-woman |
| 2 | Leading Rating (RN) Corporal (RM) | Corporal | Corporal |
| 3 | Petty Officer (RN) Sergeant (RM) | Sergeant | Sergeant |
| 4 | Chief Petty Officer (RN) Colour Sergeant (RM) | Staff Sergeant | Flight Sergeant |
| 5 | Warrant Officer Class 2 (RM) | Warrant Officer Class 2 | |

TABLE 1 (Continued)

| <i>Number</i> | Rank | | |
|---------------|---|----------------------------------|--|
| | <u>ROYAL NAVY</u> | <u>ARMY</u> | <u>ROYAL AIR FORCE</u> |
| 6 | Warrant Officer (RN) Warrant Officer Class 1 (RM) | Warrant Officer Class 1 | Warrant Officer |
| 7 | Lt(RN) Capt(RM) | Captain | Flight Lieutenant |
| 8 | | | Flight Lieutenant (Specialist Aircrew) |
| 9 | Lt Cdr(RN), Major (RM) | Major | Squadron Leader |
| 10 | Commander (RN), Lt Col (RM) | Lt Colonel | Wing Commander |
| 11 | Captain (RN) (Less than 6 years in substantive rank), Col (RM) (promoted on or after 1 July 2000) | Colonel, Deputy Chaplain General | Group Captain |
| 12 | Commodore(RN), Captain (RN) (6 years or more in substantive rank), Brigadier(RM), Col(RM) (promoted prior to 1 July 2000) | Brigadier | Air Commodore |
| 13a* | Chaplain | Chaplain Class 1,2,3,4 | Below Principal Chaplain |
| 13b* | Chaplain | Chaplain Class 1,2,3,4 | Below Principal Chaplain |
| 14 | Principal Chaplain | Principal Chaplain | Principal Chaplain |

Chaplains etc. who are described by the number 13a are those with less than 20 years service, whereas those described by the number 13b are those with 20 or more years service.

TABLE 2 - HIGHER RATE OF ATTRIBUTABLE PENSION

| Rank | Degree of Disability | | | | | | | | |
|------|----------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| | 20% | 30% | 40% | 50% | 60% | 70% | 80% | 90% | 100% |
| 1 | 2183 | 2417 | 2651 | 3313 | 3547 | 3780 | 4729 | 4962 | 5196 |
| 2 | 3161 | 3638 | 4116 | 5145 | 5623 | 6101 | 7498 | 7975 | 8453 |
| 3 | 3642 | 4240 | 4839 | 6048 | 6647 | 7245 | 8862 | 9460 | 10059 |
| 4 | 4322 | 5090 | 5858 | 7323 | 8091 | 8859 | 10788 | 11556 | 12324 |
| 5 | 4425 | 5219 | 6014 | 7517 | 8311 | 9105 | 11081 | 11875 | 12669 |
| 6 | 5017 | 5959 | 6902 | 8627 | 9569 | 10511 | 12759 | 13701 | 14643 |
| 7 | 5735 | 6857 | 7979 | 9973 | 11095 | 12216 | 14793 | 15914 | 17036 |
| 8 | 7176 | 8657 | 10139 | 12674 | 14156 | 15637 | 18874 | 20356 | 21837 |
| 9 | 7184 | 8668 | 10152 | 12690 | 14173 | 15657 | 18898 | 20381 | 21865 |
| 10 | 9728 | 11848 | 13968 | 17460 | 19579 | 21699 | 26106 | 28225 | 30345 |
| 11 | 11462 | 14015 | 16568 | 20710 | 23263 | 25816 | 31018 | 33571 | 36124 |
| 12 | 12839 | 15736 | 18634 | 23292 | 26190 | 29087 | 34920 | 37817 | 40714 |
| 13a | 7184 | 8668 | 10152 | 12690 | 14173 | 15657 | 18898 | 20381 | 21865 |
| 13b | 10768 | 13148 | 15528 | 19410 | 21789 | 24169 | 29052 | 31432 | 33812 |
| 14 | 11115 | 13581 | 16048 | 20060 | 22526 | 24993 | 30035 | 32501 | 34968 |

TABLE 3 – LOWER RATE OF ATTRIBUTABLE PENSION

| | <i>Degree of Disability</i> | | | | | | | | |
|--|-----------------------------|-----|-----|-------|-------|-------|-------|-------|-------|
| | 20% | 30% | 40% | 50% | 60% | 70% | 80% | 90% | 100% |
| | 728 | 806 | 884 | 1,104 | 1,182 | 1,260 | 1,576 | 1,654 | 1,732 |

SCHEDULE 2

ATTRIBUTABLE LUMP SUM

1.-(1) This paragraph applies in the case of a person who when first awarded an attributable pension is entitled to be paid at the higher rate.

(2) The amount of the lump sum payable to such a person in accordance with regulation 8(1) shall be that set out in Table 1 in the Appendix to this Schedule as being payable to a person-

holding the substantive rank held by that person on the date of retirement or discharge, and
with his degree of disability.

(3) For purposes of this paragraph and paragraph 2, a person's degree of disability shall be the degree of disablement assessed for the purposes of an award under Part III of the 1983 Order as the degree of disablement due to the injury or condition in respect of which the attributable pension is payable.

2.-(1) This paragraph applies in the case of a person who when first awarded an attributable pension is entitled to be paid at the lower rate.

(2) Subject to sub-paragraphs (3) and (4), the amount of the lump sum payable to such a person in accordance with regulation 8(1) shall be that set out in Table 2 in the Appendix to this Schedule as being payable to a person with his degree of disability.

(3) Where in accordance with paragraph 5 of Schedule 1 to these Regulations the Secretary of State-

reviews the rate at which an attributable pension should be paid to a person to whom this paragraph applies; and
determines that the person concerned should be paid at the higher rate,

the amount of the lump sum payable to that person in accordance with regulation 8(1) shall be determined in accordance with sub-paragraph (4).

(4) Where this sub-paragraph applies, the amount of the lump sum shall be such amount as may be determined by the Secretary of State being an amount which does not exceed that set out in Table 1 in the Appendix to this Schedule as being payable to a person-

holding the substantive rank held by the person concerned on the date of retirement or discharge, and
with his degree of disability (as assessed on the date on which the determination referred to in sub-paragraph (3)(b) is made).

APPENDIX TO SCHEDULE 2

TABLE 1 – LUMP SUM FOR HIGHER RATE PENSIONERS

| Rank | Degree of Disability | | | | | | | | |
|------|----------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| | 20% | 30% | 40% | 50% | 60% | 70% | 80% | 90% | 100% |
| 1 | 1716 | 2575 | 3433 | 4291 | 5149 | 6007 | 6866 | 7724 | 8582 |
| 2 | 2205 | 3308 | 4410 | 5513 | 6615 | 7718 | 8820 | 9923 | 11025 |
| 3 | 2446 | 3669 | 4892 | 6115 | 7337 | 8560 | 9783 | 11006 | 12229 |
| 4 | 2786 | 4178 | 5571 | 6964 | 8357 | 9750 | 11142 | 12535 | 13928 |
| 5 | 2837 | 4256 | 5675 | 7094 | 8512 | 9931 | 11350 | 12768 | 14187 |
| 6 | 3133 | 4700 | 6267 | 7834 | 9400 | 10967 | 12534 | 14100 | 15667 |
| 7 | 3492 | 5239 | 6985 | 8731 | 10477 | 12223 | 13970 | 15716 | 17462 |
| 8 | 4213 | 6319 | 8425 | 10532 | 12638 | 14744 | 16850 | 18957 | 21063 |
| 9 | 4217 | 6325 | 8434 | 10542 | 12650 | 14759 | 16867 | 18976 | 21084 |
| 10 | 5489 | 8233 | 10978 | 13722 | 16466 | 19211 | 21955 | 24700 | 27444 |
| 11 | 6356 | 9533 | 12711 | 15889 | 19067 | 22245 | 25422 | 28600 | 31778 |
| 12 | 7044 | 10566 | 14088 | 17611 | 21133 | 24655 | 28177 | 31699 | 35221 |
| 13a | 4217 | 6325 | 8434 | 10542 | 12650 | 14759 | 16867 | 18976 | 21084 |
| 13b | 6009 | 9013 | 12018 | 15022 | 18026 | 21031 | 24035 | 27040 | 30044 |
| 14 | 6182 | 9273 | 12364 | 15456 | 18547 | 21638 | 24729 | 27820 | 30911 |

TABLE 2– LUMP SUM FOR LOWER RATE PENSIONERS

| | <i>Degree of Disability</i> | | | | | | | | |
|--|-----------------------------|-----|-------|-------|-------|-------|-------|-------|-------|
| | 20% | 30% | 40% | 50% | 60% | 70% | 80% | 90% | 100% |
| | 572 | 858 | 1,144 | 1,430 | 1,716 | 2,002 | 2,289 | 2,575 | 2,861 |

SCHEDULE 3

APPLICATION OF REGULATIONS WHERE THE AWARD UNDER PART III OF THE 1983 ORDER WAS MADE BEFORE 30th APRIL 2001

Interpretation

1.-(1) Subject to paragraph 5(3), any reference in this Schedule to a comparable former member of the relevant regular force, in relation to a person to whom an attributable pension is payable (referred to below as “the former reservist”), is to a person (whether real or notional)-

who was required to retire, or was discharged, from the relevant regular force on the grounds that he was medically unfit to continue in service;

who was retired or discharged on the same date as the date on which the former reservist was medically discharged;

who held the same substantive rank on that date as the former reservist held on the date of his medical discharge;

whose injury or condition which gave rise to his being unfit to continue in service was attributable to his service in the relevant regular force;

in respect of whom an assessment has been carried out for the purposes of Part III of the 1983 Order under which the degree of disablement due to the injury or condition is the same as that for the time being assessed as due to the injury or condition suffered by the former reservist in respect of which the attributable pension is payable; and

who has been awarded retired pay or a pension under Part III of the 1983 Order, and the commencing date for the award is the same as that for the award made to the former reservist.

(2) Where in any case falling within this Schedule the attributable pension is payable-

in respect of service in the Royal Fleet Reserve or the Royal Naval Reserve-

(i) references in this Schedule to the relevant regular force are to the Royal Navy; and

(ii) references in this Schedule to attributable retired pay or pension payable under the appropriate armed forces pension scheme are to service attributable retired pay or pension payable under the Naval and Marine Pay and Pensions (Non-Effective Benefits and Family Pensions) Order 2000;

in respect of service in the Royal Marines Reserve-

(i) references in this Schedule to the relevant regular force are to the Royal Marines; and

(ii) references in this Schedule to attributable retired pay or pension

payable under the appropriate armed forces pension scheme are to service attributable retired pay or pension payable under the Naval Marine Pay and Pensions (Non-Effective Benefits and Family

Pensions) Order 2000;

in respect of service in the Army Reserve or Territorial Army-

- (i) references in this Schedule to the relevant regular force are to the Army; and
- (ii) references in this Schedule to attributable retired pay or pension payable under the appropriate armed forces pension scheme are to service attributable retired pay or pension under the Army Pensions Warrant 1977;

in respect of service in the Air Force Reserve or Royal Auxiliary Air Force-

- (i) references in this Schedule to the relevant regular force are to the Royal Air Force; and
- (ii) references in this Schedule to attributable retired pay or pension are payable under the appropriate armed forces pension scheme are to service attributable retired pay or pension payable by virtue of an order or regulations made under section 2 of the Air Force (Constitution) Act 1917.

Scope of application

2. The modifications specified in the following provisions of this Schedule shall apply in relation to the payment of attributable benefits to any person where the commencing date for the award of retired pay or pension payable to that person under Part III of the 1983 Order was before 30th April 2001.

Annual rate of attributable pension

3.-(1) Regulation 4(2) shall have effect as if for the reference to the annual rate as determined in accordance with Schedule 1 to these Regulations there was substituted a reference to the annual rate as determined in accordance with paragraph 4 or 5 of this Schedule.

(2) Subject to sub-paragraph (3), regulation 5(6) shall have effect as if for the reference to the date of medical discharge there was substituted a reference to 9 April 2001.

(3) The modification to regulation 5(6) specified in sub-paragraph (2) above shall not apply for the purposes of calculating the notional lump payment under paragraph (5)(b) of that regulation.

4.-(1) This paragraph applies where a person is entitled to be paid an attributable pension at the higher rate.

(2) The annual rate is the same as the annual rate of attributable retired pay or pension which would be payable on 30th April 2001 under the appropriate armed forces pension scheme to a comparable former member of the relevant regular force.

5.-(1) This paragraph applies where a person is entitled to be paid an attributable pension at the lower rate.

(2) The annual rate is one-third of the annual rate of attributable retired pay or pension which would be payable on 30th April 2001 under the appropriate armed forces pension scheme to a comparable former member of the relevant regular force.

(3) In sub-paragraph (2), the reference to a comparable former member of the relevant regular force shall be construed in accordance with paragraph 1(1) and (2) of this Schedule, save that sub-paragraph (1)(c) of that paragraph shall have effect for the purposes of this paragraph as if it provided for the rank held by the person on the date on which he was medically discharged to be the rank (as the case may be) of able rating, marine, private or aircraft-man

Payment of a lump sum

6. The Secretary of State may withhold or reduce the lump sum payable to a person under regulation 8 where he is satisfied that-

a lump sum payment was made to the person concerned before the date of commencement of these Regulations;
the payment was in respect of his retirement or discharge from the relevant reserve force on the grounds that he was medically unfit to continue in service; and
the payment does not fall to be taken into account under regulation 22.

SCHEDULE 4

PART I – ANNUAL RATE OF WIDOW’S PENSION

The annual rate of pension payable to the widow of the deceased under regulation 12 shall be calculated by reference to the deceased’s substantive rank at his death or, where he died after the date on which he ceased to be a member of the reserve force in question, his substantive rank immediately before he retired or was discharged. The Table immediately below specifies the annual rate of widow’s pension payable in respect of each rank.

| <i>Rank</i> | <i>Widow’s Pension</i> |
|-------------|----------------------------|
| 1 | 6644 |
| 2 | 8843 |
| 3 | 9927 |
| 4 | 11456 |
| 5 | 11689 |
| 6 | 13021 |
| 7 | 14636 |
| 8 | 17877 |
| 9 | 17896 |
| 10 | 23620 |
| 11 | 27521 |
| 12 | 30620 |
| 13a | 17896 |
| 13b | 25960 |
| 14 | 26741 |

PART II – LUMP SUM

The amount of the lump sum payable to a person in accordance with regulation 16(1) shall be calculated by reference to the deceased's substantive rank at his death or, where he died after the date on which he ceased to be a member of the reserve force in question, his substantive rank immediately before he retired or was discharged. The Table immediately below specifies the amount of the lump sum payable in accordance with regulation 16(1) in respect of each rank.

| Rank | <i>Lump sum</i> |
|------|-----------------|
| 1 | 8582 |
| 2 | 11025 |
| 3 | 12229 |
| 4 | 13928 |
| 5 | 14187 |
| 6 | 15667 |
| 7 | 17462 |
| 8 | 21063 |
| 9 | 21084 |
| 10 | 27444 |
| 11 | 31778 |
| 12 | 35221 |
| 13a | 21084 |
| 13b | 30044 |
| 14 | 30911 |

SCHEDULE 5

APPLICATION OF REGULATIONS WHERE THE DECEASED'S DEATH OCCURRED BEFORE 30TH APRIL 2001

Interpretation

1.-(1) Any reference in this Schedule to a comparable former member of the relevant regular force is to a person (whether real or notional)-

who was a member of the relevant regular force;
who died whilst he was still a member of that force;
whose substantive rank on the date of his death was-

(i) the same as that of the deceased's on the date of his death; or

(ii) where the deceased's death occurred after he had been retired or discharged from the reserve force, the same as the deceased's on the date on which he was so retired or discharged;

in respect of whose death an award has been made under Part IV of the 1983 Order;
whose widow has not remarried or otherwise become disqualified from receiving a long term family pension under the appropriate armed forces pension scheme; and
whose widow is not entitled to receive-

(i) any benefits under an occupational pension scheme (other than an armed forces pension scheme) awarded as a result of the deceased's death;

(ii) *a pension paid in respect of the deceased's death under a retirement annuity scheme or personal pension scheme where tax relief has been given on contributions paid into the scheme; or*

(iii) any preserved benefits under an occupational pension scheme (other than an armed forces pension scheme), a retirement annuity scheme or a personal pension scheme where, by reason of the deceased's death, the benefits have become payable at an earlier date than would otherwise have been the case.

Where the widow's pension is payable-

in respect of service in the Royal Fleet Reserve or the Royal Naval Reserve-

(i) references in this Schedule to the relevant regular force are to the Royal Navy; and

(ii) references in this Schedule to a long term family pension payable under the appropriate armed forces pension scheme are to such a pension payable under the Naval and Marine Pay and Pensions (Non-Effective Benefits and Family Pensions) Order 2000;

in respect of service in the Royal Marines Reserve-

(i) references in this Schedule to the relevant regular force are to the Royal Marines; and

(ii) references in this Schedule to a long term family pension payable under the appropriate armed forces pension scheme are to such a pension payable under the Naval and Marine Pay and Pensions (Non-Effective Benefits and Family Pensions) Order 2000;

in respect of service in the Army Reserve or Territorial Army-

(i) references in this Schedule to the relevant regular force

to the Army; and

- (ii) references in this Schedule to a long term family pension payable under the appropriate armed forces pension scheme are to such a pension payable under the Army Pay Warrant 1977;

in respect of service in the Air Force Reserve or Royal Auxiliary Air Force-

- (i) references in this Schedule to the relevant regular force are to the Royal Air Force; and
- (ii) references in this Schedule to a long term family pension payable under the appropriate armed forces pension scheme are to such a pension payable by virtue of an order or regulations made under section 2 of the Air Force (Constitution) Act 1917.

Scope of application

2. The modifications specified in the following provisions of this Schedule shall apply in relation to the payment of a widow's pension where the deceased's death occurred before 30th April 2001.

Annual rate of widow's pension

3.-(1) Regulation 12(2) shall have effect as if for the reference to the annual rate as determined in accordance with Part I of Schedule 4 to these Regulations there was a reference to the annual rate as determined in accordance with sub-paragraph (2).

(2) The annual rate of pension payable to the widow of the deceased is the same as the annual rate of long term family pension which would be payable on 30th April 2001 under the appropriate armed forces pension scheme to the widow of a comparable former member of the relevant regular force

(3) Subject to sub-paragraph (4), regulation 14(6) shall have effect as if for the reference to the day immediately following the date of the deceased's death there was substituted a reference to 9 April 2001.

(4) The modification to regulation 14(6) specified in sub-paragraph (3) above shall not apply for the purposes of calculating the notional lump payment under paragraph (5)(b) of that regulation.

Payment of a lump sum

4. The Secretary of State shall not make a lump sum payment under regulation 16 in a case to which this Schedule applies where he is satisfied that- a lump sum payment was made to the person concerned before 30th April 2001; the payment was made in respect of the deceased's death and by reason of the fact that his death was attributable to his service in a reserve force; and the payment does not fall to be taken into account under regulation 22.

SCHEDULE 6

ANNUAL RATE OF ALLOWANCE AND CHILD'S PENSION

1. *Paragraphs 2 to 4 of this Schedule shall have effect for the purposes of calculating the annual rate of an allowance under regulation 18 or a child's pension where the deceased's death occurred on or after 30th April 2001.*
2. There shall be two annual rates in relation to the payment of an allowance under regulation 18 and a child's pension (referred to in this Schedule as the "ordinary rate" and the "parentless rate").
- 3.-(1) Where an allowance under regulation 18 or a child's pension is payable in respect of an eligible child, it shall be payable at the parentless rate if the person who for the time being appears to the Secretary of State to have the primary responsibility for the care and maintenance of the child-

is not in receipt of a widow's pension in respect of the deceased's death, and
is not the mother or father or stepmother or stepfather of the child.

(2) In any case not falling within sub-paragraph (1), the allowance under regulation 18 or the child's pension shall be payable at the ordinary rate.
4. *The annual rate of an allowance under regulation 18, or a child's pension, payable in respect of an eligible child shall be calculated by reference to the deceased's substantive rank at his death or, where he died after the date on which he ceased to be a member of the reserve force in question, his substantive rank immediately before he retired or was discharged. The Table immediately below specifies the annual rate (both the ordinary and parentless rates) payable in respect of each rank.*

| <i>Rank</i> | <i>Ordinary rate</i> | <i>Parentless Rate</i> |
|-------------|----------------------|------------------------|
| 1 | 1716 | 3433 |
| 2 | 2205 | 4410 |
| 3 | 2446 | 4892 |
| 4 | 2786 | 5571 |
| 5 | 2837 | 5675 |
| 6 | 3133 | 6267 |

(Table continued from previous page)

| <i>Rank</i> | <i>Ordinary rate</i> | <i>Parentless Rate</i> |
|-------------|----------------------|------------------------|
| 7 | 3492 | 6985 |
| 8 | 4213 | 8425 |
| 9 | 4217 | 8434 |
| 10 | 5489 | 10978 |
| 11 | 6356 | 12711 |
| 12 | 7044 | 14088 |
| 13a | 4217 | 8434 |
| 13b | 6009 | 12018 |
| 14 | 6182 | 12364 |

5.-(1) This paragraph shall have effect for the purposes of calculating the annual rate of an allowance under regulation 18 or a child's pension where the deceased's death occurred before 30th April 2001.

(2) *The annual rate payable in respect of an eligible child of the deceased shall be the same as the annual rate of long term family pension which would be payable on 30th April 2001 under the appropriate armed forces pension scheme in respect of any eligible child of a comparable former member of the relevant regular force.*

(3) In sub-paragraph (2), the reference to an eligible child of a comparable former member of the relevant regular force is to an eligible child under 17 years of age of a person (whether real or notional)-

who was a member of the relevant regular force;
who died whilst he was still a member of that force;
whose substantive rank on the date of his death was-

- (i) the same as that of the deceased's on the date of his death; or
- (ii) where the deceased's death occurred after he had been retired or discharged from the reserve force, the same as the deceased's on the date on which he was so retired or discharged;

in respect of whose death an award has been made under Part IV of the 1983 Order.

(4) *References in this paragraph to the relevant regular force and to a long term family pension payable under the appropriate armed forces pension scheme shall be construed in accordance with paragraph 1(2) of Schedule 5.*

