STATUTORY INSTRUMENTS

2016 No. 374

PENSIONS

The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016

Made - - - -	*15th March 2016*
Laid before Parliament	*21st March 2016*
Coming into force - -	*11th April 2016*

At the Court at Buckingham Palace, the 15th day of March 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty considers it expedient to amend the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(**1**):

ACCORDINGLY, Her Majesty, in exercise of the powers conferred upon Her by sections 12(1) and 24(3) of the Social Security (Miscellaneous Provisions) Act 1977(**2**), and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions (Amendment) Order 2016 and comes into force on 11th April 2016.

(2) In this Order "the principal Order" means the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.

(**1**) S.I. 2006/606; relevant amending instruments are S.I. 2006/1455, 2007/909, 2008/679, 2009/706, 2011/1740, 2012/359, 2014/107, 2014/505, 2014/3229 and 2015/208, and by S.I. 2010/240 and 2011/235 (both spent).

(**2**) 1977 c.5; section 24(3) was amended by the Social Security (Consequential Provisions) Act 1992 (c.6), Schedule 2, paragraph 46(b) and (c).

PART 2

AMENDMENT OF PART 2 OF THE PRINCIPAL ORDER (AWARDS IN RESPECT OF DISABLEMENT) CONSEQUENTIAL TO THE PENSIONS ACT 2014

Amendment of article 10 (severe disablement occupational allowance)

2. In article 10 (severe disablement occupational allowance) of the principal Order insert after paragraph (2)(b)—

"(ba) in receipt of a state pension under Part 1 of the Pensions Act 2014(**3**);".

Amendment of article 12 (unemployability allowances)

3. In article 12 (unemployability allowances) of the principal Order insert after paragraph (10)(a)(ii)—

"(iii) a state pension under Part 1 of the Pensions Act 2014; or".

PART 3

INSERTION OF PART 2A IN THE PRINCIPAL ORDER

Insertion of Part 2A (entitlement of recipients of diffuse mesothelioma lump sums)

4. After Part 2 of the principal Order insert—

"PART 2A

ENTITLEMENT OF RECIPIENTS OF DIFFUSE MESOTHELIOMA LUMP SUMS

Entitlement of recipients of diffuse mesothelioma lump sums to other awards

21A.—(1) Schedule 1A (diffuse mesothelioma lump sums) has effect and applies in determining the entitlement of a member of the armed forces to a diffuse mesothelioma lump sum.

(2) Where a member of the armed forces is entitled to a diffuse mesothelioma lump sum by virtue of paragraph 2 of Schedule 1A—

(a) any award in payment under Part 2 in respect of the disablement of the member must stop;

(b) no award may be paid under Part 3 in respect of the death of the member, except for funeral expenses in accordance with article 32; and

(c) in addition to Schedule 1A, only the provisions of the Order specified in paragraph (3) apply to the member.

(3) The provisions referred to in paragraph (2)(c) are—

(a) Part 2A (entitlement of recipients of diffuse mesothelioma lump sums);

(**3**) 2014 c.19.

(b) in Part 3 (awards in respect of death), article 32;

(c) Part 4 (claims), except for article 35;

(d) Part 5 (adjudication), except for article 44;

(e) Part 6 (payment);

(f) in Part 7 (reduction and cancellations of awards), articles 51, 52, 57 and 59;

(g) Part 8 (miscellaneous provisions);

(h) Schedule 3; and

(i) Schedule 6.

(4) Paragraphs (2) and (3) apply on and after the date on which the Secretary of State pays the diffuse mesothelioma lump sum in accordance with the Order.".

PART 4

MISCELLANOUS AMENDMENTS TO THE PRINCIPAL ORDER

Amendment of Part 4 (claims)

5.—(1) Part 4 of the principal Order is amended as follows.

(2) In article 34(1)—

(a) for "allowance or supplement", where it first occurs, substitute "allowance, supplement or lump sum payment"; and

(b) for "that pension, allowance or supplement" in paragraph (1)(a), substitute "an award".

(3) In article 34(2)—

(a) for "allowances and supplement" substitute "allowances, supplement and lump sum payment";

(b) at the end of paragraph (2)(p) delete the full stop and substitute a semi-colon; and

(c) after paragraph (2)(p), insert—

"(q) a diffuse mesothelioma lump sum under Schedule 1A.".

(4) In article 36—

(a) in paragraphs (1) and (2) for "for a pension, allowance or supplement specified in article 34" substitute "under article 34"; and

(b) in paragraph (3) for "pension, allowance or supplement" substitute "award".

(5) In article 37(2)(a) for "allowance or supplement" substitute "allowance, supplement or lump sum payment".

Amendment of Part 5 (adjudication)

6. In article 38(a) of the principal Order for "allowance or other continuing benefit" substitute "allowance, other continuing benefit or lump sum payment".

Amendment of Part 6 (payment)

7. In article 45 of the principal Order—

(a) in paragraph (1)(a) for "grant or other continuing benefit" substitute "grant, other continuing benefit or lump sum payment"; and

(b) in paragraph (2)(a) for "allowance or other continuing benefit" substitute "allowance, other continuing benefit or lump sum payment".

Amendment of Part 7 (reduction and cancellation of awards)

8. After article 51(2) of the principal Order insert—

"(3) In articles 52, 57 and 59, "pension" includes a lump sum payment under this Order.".

Amendment of Part 8 (miscellaneous provisions)

9.—(1) Part 8 of the principal Order is amended as follows.

(2) In article 67 for "allowance or gratuity" substitute "allowance, gratuity or lump sum payment".

(3) After article 68(1) insert—

"(1A) Where the claimant has made an election for an award of a diffuse mesothelioma lump sum and dies before the lump sum is paid, the Secretary of State may, notwithstanding the claimant's death, make the payment in accordance with the provisions of this Order.".

(4) In article 68(2) for "award" substitute "award or payment".

(5) In article 68(5)(a) after "pension" insert "or an election for an award of a diffuse mesothelioma lump sum".

Amendment of Schedule 1 (disablement due to service in the armed forces)

10. In item 5(c) of the table in Part 4 of Schedule 1 to the principal Order for "the annual earnings figure for the purposes of article 12(4) is £5,408" substitute "the annual earnings figure for the purposes of article 12(4) is £5,590".

Amendment of Schedule 6 (interpretation)

11. Insert after item 26 in the table in Part 2 of Schedule 6 to the principal Order—

"26A	"diffuse mesothelioma lump sum"	the meaning given in paragraph 1 of Schedule 1A."

PART 5

INSERTION OF SCHEDULE 1A (DIFFUSE MESOTHELIOMA LUMP SUMS) IN THE PRINCIPAL ORDER

Insertion of Schedule 1A (diffuse mesothelioma lump sums)

12. Insert after Schedule 1 to the principal Order—

"SCHEDULE 1A

Article 21A(1)

DIFFUSE MESOTHELIOMA LUMP SUMS

Interpretation

1. In this Schedule, the following expressions have the following meanings—

"commencement date" means 11th April 2016; and