

pay, service invalidating retired pay, service pension, service invaliding pension, or preserved pension.

### Section II

#### General Conditions Governing the Award of Family Pensions and Attributable Pensions

4. If the death of an officer, rating or other rank was due wholly or in part to his own negligence or misconduct or to any cause within his own control the award and amount of any family pension payable shall be at the discretion of the Secretary of State for Defence.

5. If the applicant is granted any other pension or allowance from public funds payable by virtue of the deceased's service then the Secretary of State for Defence may at his discretion withhold or reduce any award otherwise admissible.

6.—(a) Where an officer, rating or other rank has suffered an abatement of his retired pay or pension (whether preserved or immediate) on account of his misconduct, inefficiency or voluntary retirement any forces family pension and associated gratuity will be determined by reference to a rate of his retired pay or pension re-assessed on the basis of the accrual rates set out in Clause 3 of Schedule III unless it would be more beneficial to base the forces family pension on his abated pay or pension.

(b) Where the Secretary of State for Defence is of the opinion that the misconduct of an officer, rating, or other rank constitutes a grave offence against the State as defined in Clause 14 of the Schedule to Order

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in Council ——— of 25th July 1978 and he is

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satisfied that the man's widow wilfully aided and abetted the commission of that offence he may in his discretion direct that any pension payable to the widow or children may be abated by such amount as seems to him appropriate having regard to all the circumstances of the case.

7. If a widow dies before establishing her claim to pension, arrears of pension will not, save in exceptional circumstances, be allowed to her estate.

8. The date of commencement of a pension will normally, if application is not unduly delayed, be the date following the husband's death or if death occurs in service the date following the last issue of short-term pension.

9. In exceptional circumstances the Secretary of State for Defence may at his discretion withhold a part of a pension granted under this Schedule and may divert such pension in whole or in part for purposes which he may deem beneficial for the pensioner.

#### Conditions Relating to Marriage

10.—(a) A widow who was married to the deceased officer, rating or other rank before his retirement or discharge from the service, or before the completion of any further service that may have entitled the officer, rating or other rank to re-assessed retired pay or pension may be awarded a pension under Section III, IV or VI of this Schedule as appropriate.

(b) A widow who was married to the deceased officer, rating or other rank after his retirement or discharge may be awarded a pension under the terms of Clause

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4 of the Schedule to Order in Council ——— of

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25th July 1978 which provides for a widow's pension at the annual rate of  $\frac{1}{4}$  per cent. of the husband's final pensionable salary for each year and fraction of a year of his contracted-out service, for such time as she is also eligible for a National Insurance Widowed Mother's Allowance, Widow's or Category B Retirement Pension.

(c) If the death of the officer or rating occurred within a year of his marriage the Secretary of State for Defence may reduce or withhold the amount of any award otherwise admissible.

11. The pension of a widow who re-marries will cease, but if she again becomes a widow her pension may be restored in whole or part at the discretion of the Secretary of State for Defence.

#### Effect of Separation on Widow's Pension and Gratuity

12.—(a) An award of pension to a widow who is separated from her husband at the date of his death will

be at the discretion of the Secretary of State for Defence who may withhold all or such a proportion of the pension as seems appropriate to him in all the circumstances.

(b) If a widow is shown to be living with a man as his wife she will not be eligible for a pension.

#### Conditions for the award of Children's Pensions

13.—(a) A "child" for the purposes of the award of a pension under this Schedule means;

(1) a legitimate child of the officer, rating or other rank provided that the child's mother fulfilled the conditions relating to marriage contained in Clause 10(a); or

(2) a step-child of the officer, rating or other rank who was mainly dependent on him at the time of his death, provided that the child's mother fulfilled the conditions relating to marriage contained in Clause 10(a); or

(3) a child adopted by the officer, rating or other rank, or by his wife before his retirement or discharge (or, if he subsequently gave further service in circumstances rendering him eligible for a re-assessment of retired pay or service pension, before the termination of such further service), who was mainly dependent upon him at the time of his death, and provided that the child's mother by adoption fulfilled the conditions relating to marriage contained in Clause 10(a); or

(4) a child mainly dependent upon the officer, rating or other rank before his retirement or discharge (or, if he subsequently gave further service in circumstances rendering him eligible for re-assessment of retired pay or service pension, before the termination of such further service) who was adopted by the officer, rating or other rank, or by his wife after his retirement or discharge (or after the termination of further service) provided that the Secretary of State for Defence is satisfied that the officer, rating or other rank had formed the intention of adopting the child before retirement or discharge (or before the termination of further service) and that the child was mainly dependent upon him at the time of his death, and provided that the child's mother by adoption fulfilled the conditions relating to marriage contained in Clause 10(a); or

(5) an illegitimate child of the officer, rating or other rank, or of his wife, born before his retirement or discharge (or, if he subsequently gave further service in circumstances rendering him eligible for re-assessment of retired pay or service pension, before the termination of such further service), who was mainly dependent upon him at the time of his death, and provided that where the child is the illegitimate child of the wife, the wife fulfilled the conditions relating to marriage contained in Clause 10(a).

(b) A child's pension will normally cease when the child attains the age of 17 years, except where an officer, Fleet Chief Petty Officer or Regimental Sergeant-Major, Royal Marines, was retired or discharged before 31st March 1973 when payment of a child's pension will normally cease at the age of 18 years. However, it may be granted or continued after these ages:

(1) if the child continues to receive full-time education then the normal limit will be 3 years from the age of 18 years but the pension may be further continued where there are circumstances justifying special consideration; or

(2) the child is an apprentice not receiving more than nominal wages; or

(3) if, before attaining the age referred to above the child was, and continues to be afflicted by mental or bodily infirmity and is therefore incapable of earning his or her own living, provided the Secretary of State for Defence considers that the pecuniary circumstances of the child and family are such as to justify the award.

(c) Children's pensions will be paid to the widow or mother of the child, or other person responsible for the child's maintenance, or to the child direct as may be decided by the Secretary of State for Defence.

(d) Pensions of children of officers and of Fleet Chief Petty Officers and Regimental Sergeant-Majors, Royal Marines, may be issued quarterly in advance.