

(b) Where the Secretary of State for Defence is of the opinion that the misconduct of an officer, RN rating, or RM other rank constitutes an offence prejudicial to the safety or interests of the State and he is satisfied that his 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.

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

7. The date of commencement of family 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 terminal benefits.

8. In exceptional circumstances the Secretary of State for Defence may at his discretion withhold the whole or any 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*

9. (a) To be eligible for a pension a widow must have been married to the deceased officer, RN rating or RM other rank before his retirement or discharge from the service, or before the completion of any further service that may have entitled the officer or RN rating or RM other rank to re-assessed retired pay or pension.

(b) The officer, RN rating or RM other rank must have had an entitlement to service retired pay or 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.

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

10. (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.

#### *Re-marriage*

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.

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

12. (a) A "child" for the purposes of the award of a pension under this Schedule means:

(i) a legitimate child of the officer, RN rating or RM other rank provided that the child's mother fulfilled the conditions relating to marriage contained in Clause 9; or

(ii) a step-child of the officer, RN rating or RM 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 9; or

(iii) a child adopted by the officer, RN rating or RM 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 9; or

(iv) a child mainly dependent upon the officer, RN rating or RM 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, RN rating or RM 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, RN rating or RM 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 9; or

(v) an illegitimate child of the officer, RN rating or RM 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 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 9.

(b) A child's pension will normally cease when the child attains the age of 16 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:

(i) 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

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

(iii) 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.

#### *Effect of Commutation*

13. (a) Except as provided for in sub-clauses (b) and (c) below, commutation of retired pay or service pension shall not debar a widow or children, otherwise eligible under the provisions of this Section, from receiving an award of pension nor shall any such pension be reduced or abated on that account.

(b) Where a retired officer gives further service entitling him to a re-assessment of his retired pay or pension, and before of during the period of his re-employment he marries having first commuted a portion of the retired pay granted him in respect of his original service, then any award of pension to the widow may be reduced by an amount proportionate to the amount of retired pay originally commuted.

(c) Any legitimate or illegitimate child born after commutation, a step-child eligible by virtue of a marriage after commutation or a child adopted after commutation shall likewise suffer an abatement of pension proportionate to the amount of retired pay or pension originally commuted.