

(b) The Rate of allowance shall be at the discretion of the Defence Council but shall not exceed:

In the case of Officers the greater of either:

(1) the ordinary rate of widow's pension under the regulations in force on 25th September 1949, or

(2) (i) where there are two parents £100.00 a year for Commissioned Officers (including Senior Commissioned Officers (Branch List), or £85.00 a year for Commissioned Officers (Branch List) other than Senior Commissioned Officers, or

(ii) in single parent cases, the maximum rates are £75.00 and £60.00 a year respectively.

Provided that in exceptional cases the rate of the pension may be increased in excess of the rates given in sub-clause (b) (2) (i) and (ii) above by a sum not exceeding £20.00 a year.

In the case of ratings and marines the rate shall not exceed £1.38 a week where there are two parents and £1.00 a week in single parent cases.

Provided that, in exceptional cases, this rate may be increased by a sum not exceeding £0.62 a week where there are two parents and £0.38 a week in single parent cases.

(c) A grant shall not be transferable, but, if an award has been made to the two parents, payment of the pension may be continued to the survivor at such rate as the Defence Council may determine.

(d) A grant shall cease on the remarriage of the grantee.

Section II. Conditions Governing the Award

Pension cannot be claimed as a right

10.—(a) A pension cannot be claimed as a right, and will not be granted or continued when the applicant is shown to be living with a man as his wife, nor will it be granted if the service of the Officer, rating or marine has not been such as in the opinion of the Defence Council to justify the award.

(b) If the death of an Officer, rating or marine, or the wound, injury or disease which resulted in his death was due wholly or in part to his own negligence or misconduct or to any cause within his own control, any grant which might otherwise be made to his widow or other dependants may be withheld or reduced in amount at the discretion of the Defence Council.

(c) If the applicant is granted any other pension or allowance from public funds on account of the service of the deceased, any pension which might otherwise be granted under this Schedule may be withheld or reduced as the Defence Council may determine.

Third Party Compensation

11. If an Officer, rating or marine is killed or dies in such circumstances that any grant is payable in respect of him under this Schedule and his widow, child or other dependent relative received compensation from or on behalf of a third party for the act, omission or circumstances which cause the death, any such compensation may be taken into consideration in assessing any grant which might be made under this Schedule; and if the compensation is received after assessment it may be taken into consideration and the assessment may be amended or cancelled.

Effect of Separation on Widow's Pension

12. Subject to any exception which the Defence Council may approve in a particular case, a pension will not be awarded to a widow who was separated from her husband at the time of his death. Should such an exception be approved the award will be at such a rate, and subject to such conditions, as the Defence Council may determine.

Date of Commencement of pension

13. The date of commencement of pension will be determined according to the circumstances of the case and will normally, if application is not unduly delayed be the date following the date of cessation of the husband's disablement pension.

Belated claims

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

Remarriage

15. If a widow of a rating or marine who has been granted a pension under this Schedule remarries, her pension will cease on the date of her remarriage, but at the discretion of the Defence Council, she may then be granted a gratuity equal to one year's pension in full discharge of all claims.

The pension of an Officer's widow who remarries shall be suspended from the date following that of her remarriage, but in the event of her again becoming a widow her pension may be restored in whole or in part at the discretion of the Defence Council for such time as she remains a widow, provided that she is otherwise qualified and that her pecuniary circumstances are such as in the opinion of the Defence Council to justify the award. Should she become eligible by remarriage for a pension at a different rate, she may be awarded that which is more to her advantage.

Children

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

(1) a legitimate child of the officer, RN rating or RM other rank; or

(2) a step-child of the Officer, RN rating or RM other rank who was mainly dependent on him at the time of his death; or

(3) a child adopted by the Officer, RN rating or RM other rank; or

(4) an illegitimate child of the Officer, RN rating or RM other rank, born before or within nine months after the date on which he sustained the wound or injury, or the date on which he was removed from duty on account of the disease in respect of which his disablement pension was granted, and who was regularly maintained by the Officer, rating or other rank up to the date of his death, or who was the subject of an affiliation order which was in force at the date of his death.

(b) A child's pension will normally cease when the child attains the age of 16 years in the case of all Officers, ratings and other ranks, but may be granted or continued after that age:

(1) if the child continues to receive full-time education, or is an apprentice not receiving more than nominal wages; or

(2) 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 Defence Council considers that the pecuniary circumstances of the child and family are such as to justify the award.

(c) Children's pension 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 Defence Council.

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

(e) Children's allowances will not be payable for any period during which the children are maintained in the Royal Navy, the Army or the Royal Air Force.

D/NPP/20/7/7

(21 SI)

At the Court at

Buckingham Palace the 18th day of February 1981

Present,

The QUEEN'S Most Excellent Majesty in Council

Whereas it is expedient that the disablement awards payable to Hong Kong locally engaged ratings, being 50 per cent. of the United Kingdom Department of Health and Social Security disablement rates, shall be increased and shall be expressed in sterling and converted to local currency:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by the Naval and Marine Pay and Pensions Act 1865 (1865 c. 73), 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:

1. This Order may be cited as the Naval and Marine Pay and Pensions (Hong Kong Locally Engaged Ratings' Disablement Awards) Order 1981.

2. The rates and conditions of award as set out in the Schedules to this Order shall be effective from 26th November 1980.

N. E. Leigh