
STATUTORY INSTRUMENTS

1992 No. 3208

PENSIONS

The Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Amendment (No.2) Order 1992

Made - - - - *17th December 1992*
Laid before Parliament *18th December 1992*
Coming into force - - *7th January 1993*

At the Court at Buckingham Palace, the 17th day of December 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas Her Majesty deems it expedient to amend the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(1) and to do so by Order in Council in pursuance of section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(2):

Now, therefore, Her Majesty, in exercise of the powers conferred by sections 12(1) and 24(3) of the said Act of 1977 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:

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 (No.2) Order 1992 and shall come into force on 7th January 1993.

(2) In this Order “the principal Order” means the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983.

Amendment of article 8 of the principal Order

2. In article 8 of the principal Order (general conditions of awards in respect of disablement), after paragraph (2) there shall be inserted the following paragraphs—

“(2A) An award under this Part of this Order shall not be made in respect of—

(a) noise-induced sensorineural hearing loss; or

(1) S.I. 1983/883. There are amendments to the Order which are not relevant for the purposes of this Order.

(2) 1977 c. 5.

(b) a related condition or symptom if it is accompanied by noise-induced sensorineural hearing loss,
unless the degree of disablement from that loss alone is assessed as being at least 20 per cent.

(2B) For the purposes of paragraph (2A) and article 9, “noise-induced sensorineural hearing loss” means damage to the cochlear hair cells of the inner ear which is caused by the exposure of the cochlea to noise, and a condition or symptom is to be treated as related to such hearing loss if it is another condition, or a symptom, which is the consequence of damage to the cochlear hair cells of the inner ear which is caused by the exposure of the cochlea to noise.”.

Amendment of article 9 of the principal Order

3. In article 9 of the principal Order (determination of degree of disablement), after paragraph (2) there shall be inserted the following paragraphs—

“(2A) Where the average hearing loss at frequencies of 1, 2 and 3 kHz is not 50 dB or more in each ear, the degree of disablement in respect of that loss shall be assessed at less than 20 per cent.

(2B) Neither noise-induced sensorineural hearing loss nor a related condition or symptom shall be taken into account in determining a member’s total degree of disablement if the degree of disablement in respect of that loss alone is less than 20 per cent.”.

Transitional provision

4.—(1) Where the degree of disablement in respect of noise-induced sensorineural hearing loss, or in respect of such hearing loss and a related condition or symptom, is assessed at less than 20 per cent, and a claim for an award in respect of that disablement was made prior to 7th January 1993, payment of any award resulting from that claim shall be made as though articles 2 and 3 of this Order were omitted.

(2) Expressions used in this article which are defined in the principal Order shall have the same meaning in this article as they have in the principal Order.

N.H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (S.I.1983/883) by excluding noise-induced sensorineural hearing loss which is assessed as producing less than 20% disablement from giving rise to an entitlement to an award under Part III of the 1983 Order (article 2). Such hearing loss below that level is also to be excluded in determining, under article 9, the overall level of disablement for the purposes of awards of pension under Part III (article 3). Related conditions accompanying such hearing loss are similarly excluded.

There are savings for those who have already claimed an award in respect of such hearing loss whether alone or with a related condition or symptom at the time the amending Order comes into force (article 4).