

2005 No. 3031

PENSIONS

**The Personal Injuries (Civilians) (Amendment) (No.3) Scheme
2005**

<i>Made</i> - - - -	<i>26th October 2005</i>
<i>Laid before Parliament</i>	<i>1st November 2005</i>
<i>Coming into force</i> - -	<i>5th December 2005</i>

The Secretary of State, with the approval of the Treasury, in exercise of the powers conferred by sections 1 and 2 of the Personal Injuries (Emergency Provisions) Act 1939(a) and now vested in him(b), and of all other powers enabling him in that behalf, makes the following Scheme:

Citation, commencement and interpretation

1.—(1) This Scheme may be cited as the Personal Injuries (Civilians) (Amendment) (No.3) Scheme 2005 and shall come into force on 5th December 2005.

(2) In this Scheme, “the principal Scheme” means the Personal Injuries (Civilians) Scheme 1983(c).

Amendment to the principal Scheme and application

2. The amendments to the principal Scheme contained in Schedule 1 to this Scheme shall have effect.

Signed by authority of the Secretary of State

25th October 2005

Don Touhig
Parliamentary Under-Secretary of State
Ministry of Defence

(a) 1939 (c.82).

(b) The functions of the Minister of Pensions were transferred to the Minister of Pensions and National Insurance by virtue of the Transfer of Functions (Ministry of Pensions) Order 1953, S.I.1953/1198, article 2. The functions of the Minister of Pensions and National Insurance were transferred to the Minister of Social Security by virtue of the Ministry of Social Security Act 1966, (c.20), section 2. The functions of the Minister of Social Security were transferred to the Secretary of State by virtue of the Secretary of State for Social Services Order 1968, S.I.1968/1699, article 2. The functions of the Secretary of State for Social Services were transferred to the Secretary of State for Social Security by virtue of the Transfer of Functions (Health & Social Security) Order 1988 S.I. 1988/1843, article 3. The functions of the Secretary of State for Social Security were transferred to the Secretary of State for Defence by virtue of the Transfer of Functions (War Pensions etc.) Order 2001, S.I. 2001/3506.

(c) S.I. 1983/686; amending instruments are S.I.1983/1164, 1540, 1984/1289, 1675, 1985/1313, 1986/628, 1987/191, 1988/367, 2260, 1989/415, 1990/535, 1300, 1991/708, 1992/702, 3226, 1993/480, 1994/715, 2021, 1995/445, 1996/502, 1997/812, 1998/278, 1999/262, 2000/301, 2001/420, 2002/672, 2003/637, 2004/717 and 2005/655, 1639.

We approve

Tom Watson
Gillian Merron

26th October 2005

Two of the Lord's Commissioners of Her Majesty's Treasury

SCHEDULE 1

Article 2

AMENDMENTS TO THE PRINCIPAL SCHEME

Amendment of article 2 (definitions)

1. Article 2 shall be amended as follows—

(1) in sub-paragraph 3(a)(ii) delete the words “a widow or has never been married or is married to a husband who is”;

(2) in sub-paragraph 3(a)(iv) delete the words “has never been married or is a widow or is married to a husband who”;

(3) for paragraph (8) there shall be substituted—

““dependant living as a civil partner” in relation to a person who has sustained a qualifying injury, means—

(a) where the injured person is alive, a person of the same sex who, 6 months before the material date, was being wholly or substantially maintained by the injured person on a permanent bona fide domestic basis and who has been continuously thereafter and is still being maintained by the injured person on such a basis;

(b) where the injured person is dead, a person of the same sex who was wholly or substantially maintained by the injured person on a permanent bona fide domestic basis continuously throughout the period beginning 6 months before the material date and ending with the date of the injured person's death;

and “dependant who lived as a civil partner” shall be construed accordingly;”

(4) for paragraph (9) there shall be substituted—

““dependant living as a spouse”, in relation to a person who has sustained a qualifying injury, means—

(a) where the injured person is alive, a person of the opposite sex who, 6 months before the material date, was being wholly or substantially maintained by the injured person on a permanent bona fide domestic basis and who has been continuously thereafter and is still being maintained by the injured person on such a basis;

(b) where the injured person is dead, a person of the opposite sex who was wholly or substantially maintained by the injured person on a permanent bona fide domestic basis continuously throughout the period beginning 6 months before the material date and ending with the date of the injured person's death;

and “dependant who lived as a spouse” shall be constructed accordingly;”

(5) in paragraph (10) for the words “wife, husband” there shall be substituted “spouse, civil partner”;

(6) in sub-paragraph (16)(d) for the words “spouse (not being a separated spouse)” there shall be substituted “spouse (not being a separated spouse) or civil partner (not being a separated civil partner)”;

(7) in paragraph (21A) for the words “dependent widower” there shall be substituted “widower”;

- (8) paragraph (21B) shall be omitted; and
- (9) paragraph (22) shall be omitted.

Amendment of article 3 (interpretation)

2. Article 3 shall be amended as follows—

- (1) in sub-paragraph (8)(b) for the words “widow or widower” there shall be substituted “surviving spouse or surviving civil partner”; and
- (2) in paragraph 9—
 - (a) after the word “spouse” (in each place) there shall be inserted “or civil partner”; and
 - (b) after the word “spouses” (in each place) there shall be inserted “or civil partners”.

Amendment of article 18 (unemployability allowance)

3. In sub-paragraph 18(5)(b) for the words “wife or husband” there shall be substituted “spouse, civil partner”.

Amendment of article 27 (pensions to widows and widowers)

4. Article 27 shall be amended as follows—

- (1) for the heading substitute “Pensions to surviving spouses and surviving civil partners”;
- (2) for the words “widow or widower” there shall be substituted “surviving spouse or surviving civil partner”;
- (3) for the word “spouse’s” there shall be substituted “spouse’s or civil partner’s”; and
- (4) after the word “spouse” (in each place) there shall be inserted “or civil partner”.

Amendment of article 28 (rent allowance to widows who have children)

5. Article 28 shall be amended as follows—

- (1) for the heading substitute “Rent allowance to surviving spouses and surviving civil partners who have children”; and
- (2) after the words “surviving spouse” (in each place) insert “or surviving civil partner”.

Amendment of article 29 (allowances to elderly surviving spouses)

6. Article 29 shall be amended as follows—

- (1) in the heading after the word “spouses” there shall be inserted “and elderly surviving civil partners”; and
- (2) after the word “spouse” there shall be inserted “or surviving civil partner”.

Amendment of article 30 (pensions to unmarried dependant who lived as wives)

7. Article 30 shall be amended as follows—

- (1) in the heading for the words “unmarried dependants who lived as wives” there shall be substituted “dependants who lived as spouses and dependants who lived as civil partners”;
- (2) in paragraph (1) for the words “An unmarried dependant who lived as a spouse” there shall be substituted “A dependant who lived as a spouse or a dependant who lived as a civil partner,”;
- (3) in paragraph (2) for the words “an unmarried dependant who lived as a spouse” there shall be substituted “a dependant who lived as a spouse or a dependant who lived as a civil partner,”;
- (4) in paragraphs (2) and (3) for the words “the unmarried dependant who lived as a spouse” there shall be substituted “the dependant who lived as a spouse or the dependant who lived as a civil partner”.

Amendment of article 31 (temporary allowances to widows or widowers and unmarried dependants who lived as wives of severely disabled persons)

8. Article 31 shall be amended as follows—

(1) for the heading of the article there shall be substituted “Temporary allowances to surviving spouses, surviving civil partners, dependants who lived as spouses and dependants who lived as civil partners of severely disabled persons”;

(2) in paragraph (1) for the words “widow or widower or unmarried dependant who lived as his spouse” there shall be substituted “surviving spouse, surviving civil partner, dependant who lived as his spouse or dependant who lived as his civil partner”;

(3) in paragraphs (2), (3), and (5) for the words “widow or widower” (in each place) there shall be substituted “surviving spouse or surviving civil partner”;

(4) in sub-paragraph (2)(a) for the word “spouse’s” there shall be substituted “spouse’s or civil partner’s”;

(5) in sub-paragraph (2)(b) after the word “spouse” there shall be inserted “or civil partner”;

(6) in paragraph (3) for the words “An unmarried dependant who lived as the spouse” there shall be inserted “A dependant who lived as the spouse or civil partner”;

(7) in paragraph (4) for the words “widow or widower of a person or an unmarried dependant who lived as the spouse” there shall be substituted “surviving spouse, surviving civil partner, dependant who lived as the spouse or dependant who lived as the civil partner,”; and

(8) in paragraph (5) for the word “re-marries” there shall be inserted “enters into a subsequent marriage or forms a subsequent civil partnership”.

Amendment of article 38 (pensions to parents)

9. In paragraph (2) for the words “widow, unmarried dependant who lived as a spouse, or widower” there shall be substituted “surviving spouse, surviving civil partner, dependant who lived as a spouse or dependant who lived as a civil partner”.

Amendment of article 39 (pensions to other dependants)

10. In paragraph (2) for the words “wife or husband” there shall be substituted “spouse or civil partner”.

Amendment of article 49 (awards in respect of death)

11. Article 49 shall be amended as follows—

(1) in sub-paragraphs (1)(a), 1(b) and 3(a) for the words “widow or widower” there shall be substituted “surviving spouse or surviving civil partner”;

(2) in sub-paragraph 1(c) and paragraph (2) for the words “widow or widower” (in each place) there shall be substituted “surviving spouse, surviving civil partner”;

(3) in paragraph (3) for the words “to the widow or widower” there shall be substituted “to the surviving spouse, surviving civil partner”; and

(4) in sub-paragraph 3(a)—

(a) for the words “widow’s or widower’s” there shall be substituted “surviving spouse’s or surviving civil partner’s”;

(b) for the word “husband” there shall be substituted “spouse or civil partner”; and

(c) for the word “husband’s” there shall be substituted “spouse’s or civil partner’s”.

Amendment of article 50 (allowance to elderly surviving spouses)

12. Article 50 shall be amended as follows—

(1) in the heading of the article after the words “surviving spouses” there shall be inserted “and elderly surviving civil partners”; and

(2) after the word “spouse” there shall be inserted “or surviving civil partner”.

Amendment of article 51 (temporary allowances to widows or widowers of severely disabled persons)

13. Article 51 shall be amended as follows—

(1) for the heading of the article substitute “Temporary allowances to surviving spouses and surviving civil partners of severely disabled persons”; and

(2) for the words “widow or widower” there shall be substituted “surviving spouse or surviving civil partner”.

Amendment of article 54 (time limits for applications)

14. Article 54 shall be amended as follows—

(1) in sub-paragraph (1B)(f) for the word “widows” there shall be substituted “surviving spouses and surviving civil partners”;

(2) in sub-paragraph (1B)(g) for the words “widows and unmarried dependants who lived as wives” there shall be substituted “surviving spouses, surviving civil partners, dependants who lived as spouses and dependants who lived as civil partners.”;

(3) in sub-paragraph (1B)(k) for the word “widows” there shall be substituted “surviving spouses and surviving civil partners”; and

(4) in sub-paragraph (1B)(l) for the word “widows” there shall be substituted “surviving spouses and surviving civil partners”.

Amendment of article 58 (members of the armed forces of the Crown)

15. Article 58 shall be amended as follows—

(1) in paragraph (1) for the words “his widow” there shall be substituted “his surviving spouse or surviving civil partner”; and

(2) in paragraph (1) for the words “widow’s pension” there shall be substituted “surviving spouse’s or surviving civil partner’s pension”.

Amendment of article 60 (injuries sustained outside the United Kingdom)

16. Article 60 shall be amended as follows—

(1) for in sub-paragraph 3(e)(ii) substitute

“(ii) by a person whose death has occurred as the direct result of the injury if the claimant is either his surviving spouse or surviving civil partner who was born in the United Kingdom and is a British subject or but for her marriage to the deceased person would be a British subject, or, where that surviving spouse or surviving civil partner has also died, is his dependant child.”

Amendment of article 68 (forfeiture of pensions)

17. In paragraph (2) for the words “pensioner’s spouse, to an unmarried dependant of the pensioner” there shall be substituted “pensioner’s spouse, the pensioner’s civil partner, a dependant of the pensioner who has not married or formed a civil partnership”.

Amendment of article 71 (effects of marriage and living together)

18. Article 71 shall be amended as follows—

(1) in the heading of the article for the words “marriage and living together” there shall be substituted “relationships subsequent to the award of a pension”;

(2) in paragraph (1) for the words “marries or lives with another person as the spouse of that person” there shall be substituted “marries, forms a civil partnership, lives with another person as the spouse of that person or lives with another person as a civil partner of that person”;

(3) in sub-paragraph (1A)(a) for the words “had another person living with her as her spouse” there shall be substituted “formed a civil partnership, lived with another person as the spouse of that person or lived with another person as the civil partner of that person”;

(4) in paragraph (1B) for the words “marries or begins to live with another person as the spouse of that person” there shall be substituted “marries, forms a civil partnership, begins to live with another person as the spouse of that person or begins to live with another person as the civil partner of that person”; and

(5) In paragraph (2) after the word “marries” insert “or forms a civil partnership”.

Amendment of article 74A (direct credit transfer)

19. In sub-paragraph 1(b) after the word “spouse” there shall be inserted “or civil partner”.

Amendment of article 77 (posthumous Awards)

20. Article 77 shall be amended as follows—

(1) in sub-paragraph (1)(b)(i) for the words “widow or, as the case may be, widower” there shall be substituted “surviving spouse or surviving civil partner”; and

(2) in sub-paragraph (1)(b)(ii) for the words “unmarried dependant who lived as a spouse;” there shall be substituted “dependant who lived as a spouse or dependant who lived as a civil partner”.

Amendment of the table at Schedule 3 (rates of pension and allowances payable in respect of disablement and earnings or income thresholds)

21. In paragraph 7(b)(i) for the words “wife or a dependant husband” there shall be substituted “spouse, civil partner or adult dependant”.

Amendment of the table at Schedule 4 (rates of pensions and allowances payable in respect of death)

22. The table at Schedule 4 shall be amended as follows—

(1) in paragraph 1 for the words “widows and widowers” there shall be substituted “surviving spouses and surviving civil partners”;

(2) in paragraph 3 after the word “spouse” there shall be inserted “and elderly surviving civil partner”; and

(3) in paragraph 4 for the words “unmarried dependant who lived as spouse” there shall be substituted “dependants who lived as spouses and dependants who lived as civil partners”.

Amendment of Schedule 5 (commencing dates of awards of pension)

23. Schedule 5 shall be amended as follows—

(1) For paragraph 1(4) substitute—

“(4) This sub-paragraph is satisfied where the date of claim or application for review is made within 3 months of—

- (a) the date of the disabled person’s qualifying injury or, where an award is made in respect of a person’s death, the date of death; or
- (b) except where paragraph (a) applies, the date of notification of a decision on the claim or review.”

(2) For paragraph 2 substitute—

“(1) In a case to which section 168 of the Pensions Act 1995 (war pensions for widows: effect of remarriage) or article 71(1A) (Relationships subsequent to the award of a pension) applies, for paragraph 1(4)(a) of this Schedule substitute “the date of termination of a marriage or of a judicial separation relating to a marriage; or the date of termination of a civil partnership or a separation order relating to a civil partnership; or the date that the claimant ceased to live with another as a spouse or civil partner;”

(2) In this paragraph,

- (a) in relation to marriage “termination of marriage” and “judicial separation” have the meanings they bear in section 168 of the Pensions Act 1995
- (b) in relation to civil partners
 - (i) the reference to the termination of a civil partnership is to the termination of the civil partnership by death, dissolution or annulment, and
 - (ii) the reference to judicial separation includes any legal separation obtained in a country or territory outside the British Islands and recognised in the United Kingdom.

and for those purposes a dissolution, annulment or legal separation obtained in a country or territory outside the British Islands must, if the Secretary of State so determines, be treated as recognised in the United Kingdom even though no declaration as to its validity has been made in any court in the United Kingdom.”

Amendment of the table at Schedule 7 (deductions for the purposes of article 64)

24. In Schedule 7 there shall be substituted the Table set out in Schedule 2 to this Order.

SCHEDULE 2

Schedule 1 paragraph 24

TABLE TO BE SUBSTITUTED FOR THE TABLE SET OUT AT SCHEDULE 7

“SCHEDULE 7

Article 64

Table

DEDUCTIONS FOR THE PURPOSES OF ARTICLE 64

<i>Allowance / Pension</i>	<i>Date of Deduction</i>	<i>Weekly Rate of Deduction</i>
Constant attendance allowance (article 14)	After 4 weeks of falling within article 64 paragraph (1)	Total amount of Constant attendance allowance
Severe disablement occupational allowance (article 16)	After 4 weeks of falling within article 64 paragraph (1)	Total amount of Severe disablement occupational allowance
Unemployability personal allowance (article 18)	After 8 weeks of falling within article 64 paragraph (1) where that has been reached on or before 30th September 2003 and after 13 weeks of falling	(i) Where disabled person has no spouse, civil partner or dependants—£31.20

<i>Allowance / Pension</i>	<i>Date of Deduction</i>	<i>Weekly Rate of Deduction</i>
	within article 64 paragraph (1) where that has been reached on or after 1st October 2003 and on or before 11th April 2004 and in any other case after 52 weeks of falling within article 64 paragraph (1)	(ii) Where disabled person has spouse, civil partner or dependants—£16.40
Unemployability allowance increase for spouse, civil partner, dependant living as a spouse, dependant living as a civil partner or adult dependant (article 18)	(i) After 8 weeks of falling within article 64 paragraph (1) where that has been reached on or before 30th September 2003 and after 13 weeks of falling within article 64 paragraph (1) where that has been reached on or after 1st October 2003 and on or before 11th April 2004 and in any other case after 52 weeks of falling within article 64 paragraph (1)	(i) £16.40
	(ii) After 104 weeks of falling within article 64 paragraph (1)	(ii) 31.20
Invalidity allowance (article 19)	After 52 weeks of falling within article 64 paragraph (1)	(i) Where disabled person has no dependants—total amount of Invalidity allowance (ii) Where disabled person has dependants—nil
Pensions to surviving spouses and surviving civil partners (article 27) or pensions to dependants who lived as a spouse or to dependants who lived as a civil partner (article 30)	After 52 weeks of falling within article 64 paragraph (1)	£31.20”

EXPLANATORY NOTE

(This note is not part of the Scheme)

This scheme further amends the Personal Injuries (Civilians) Scheme 1983 (“the principal Scheme”) in consequence of the introduction of civil partnerships by the Civil Partnership Act 2004 (2004 c.33).

Sub-paragraphs 1(1) and (2) of Schedule 1 to this Scheme removed the marriage related eligibility requirements of the definition of an adult dependant for the purposes of Article 18 of the principal Scheme.

Paragraph 21 of Schedule 1 to this Scheme inserts a reference to adult dependant into paragraph 7(b)(i) of the table at Schedule 3 of the principal Scheme in order to bring it into line with the provisions of Article 18(5)(b) of the principal Scheme.

All other paragraphs provide that marriage related benefits are paid equally to civil partners in consequence of the introduction of civil partnerships by the Civil Partnership Act 2004 (2004 c.33).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

2005 No. 3031

PENSIONS

**The Personal Injuries (Civilians) (Amendment) (No.3) Scheme
2005**

£3.00

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