

SCHEDULE 1

Article 2

AMENDMENTS TO THE PRINCIPAL SCHEME

**Amendment to the principal Scheme – Article 18**

1. In Article 18 (Unemployability allowances) delete paragraphs (3) and (4).

**Amendment to the principal Scheme – Article 64**

2. For Article 64 (maintenance in hospital or an institution) substitute—

“64.—(1) Subject to paragraph (3), the Secretary of State shall withhold constant attendance allowance and severe disablement occupational allowance 4 weeks after the date on which the person to whom either allowance is awarded becomes a person described in paragraph (2).

(2) Paragraph (1) applies to a person who—

- (a) is receiving or has received or is regarded as receiving or having received free in-patient treatment; or
- (b) is being or has been maintained in an institution—
  - (i) which is supported wholly or partly out of public funds, or
  - (ii) in which he is being maintained pursuant to arrangements made by the Secretary of State

otherwise than for the purpose of undergoing medical or other treatment.

(3) For the purposes of paragraph (2), any separate periods of time spent as set out in paragraph (2) shall be treated as a continuous period of time where there is less than 28 days between each such period and for this purpose periods of time spent as set out in paragraph (2) before 9th April 2001 may be aggregated with periods so spent after that date.

(4) In this Article, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient—

- (a) in a hospital or similar institution under the National Health Service Act 1977, the National Health Service (Scotland) Act 1978, the National Health Service and Community Care Act 1990, or any corresponding enactment having effect in Northern Ireland; or
- (b) in a hospital or similar institution maintained or administered by the Defence Council.

(5) In this Article a person shall be regarded as being maintained free of charge in a hospital or similar institution unless

- (a) his accommodation and services are provided under—
  - (i) section 65 of the National Health Service Act 1977(1),

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(1) 1977 c. 49. Section 65 was substituted by section 7(10) of the Health and Medicines Act 1988 (1988 c. 49). It was subsequently amended by sections 25 and 66(1) of, and paragraph 18(4) of Schedule 9 to, the National Health Service and Community Care Act 1990 (1990 c. 19); section 2(1) of, and paragraph 38 of Schedule 1 to, the Health Authorities Act 1995 (1995 c. 17); section 1(3) of, and paragraphs 1 and 20 of Schedule 1 to the National Health Service Reform and Health Care Professions Act 2002 (2002 c. 17) and section 34 of, and paragraphs 23 and 29 of Schedule 4 to, the Health and Social Care (Community Health and Standards) Act 2003 (2003 c. 43).

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- (ii) section 58 of, or paragraph 14 of Schedule 7A to, the National Health Service (Scotland) Act 1978(2),
  - (iii) paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990(3), or
  - (iv) any corresponding enactment having effect in Northern Ireland; or
- (b) he is paying or has paid for any period, in respect of his maintenance, charges which are designed to cover the whole cost of the accommodation or services (other than services by way of treatment) provided for him in the hospital or similar institution for that period.”

### **Amendment to the principal Scheme - new Articles 69A and 69B**

3. After Article 69 (Refusal of treatment), insert Articles 69A and 69B, as follows—

#### **“Suspension – failure to comply with request or pensioner not at last known address**

**69A.**—(1) Where it appears to the Secretary of State that a decision on an award of a pension, gratuity or supplement (“the award”) should be reviewed under Article 76, he may, by notice in writing —

- (a) require the person awarded the pension, gratuity or supplement (“the pensioner”) to provide, within the period of 3 months starting with the date on which the notice is given or sent to the pensioner, such information or evidence as is reasonably required to determine whether the award should be revised; or
- (b) to attend for a medical examination at a time and place to be appointed.

(2) Where it appears to the Secretary of State that a pensioner may no longer be resident at the last address notified to him, he may, by notice in writing, require the pensioner to provide satisfactory evidence of his current residential address and to do so within the period of 3 months starting with the date on which the notice is given or sent to the pensioner.

- (3) The Secretary of State may suspend payment of the award if the pensioner fails—
- (a) to provide the information or evidence required under paragraph (1)(a) within the time specified in that paragraph;
  - (b) to attend for a medical examination at the appointed time and place pursuant to paragraph (1)(b); or
  - (c) to provide the information or evidence required under paragraph (2) within the time specified in that paragraph

in all cases without supplying a satisfactory explanation for the failure and such suspension shall take effect from the date on which the notice referred to in paragraph (4) is given or sent.

(4) If the Secretary of State suspends payment of the award, he shall notify the pensioner in writing of the decision to suspend, which notification shall inform the pensioner—

- (a) that the award has been suspended;
- (b) of the reasons for the decision to suspend; and
- (c) that his award may be cancelled in the circumstances described in Article 69B.

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(2) Schedule 7A was amended by Schedule 1 to the Health Authorities Act 1995 (1995 c. 17) and sections 46 and 49 of, and Schedules 4 and 5 to, the Health Act 1999 (1999 c. 8). Section 58 was amended by section 11 of the Health Services Act 1980 (1980 c. 53).

(3) 1990 c. 19.

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(5) Where, within the period of 12 months beginning with the date on which a notice such as is referred to in paragraph (1) or paragraph (2) was given or sent—

- (a) the pensioner complies with the requirements contained in any such notice; or
- (b) the Secretary of State, by notice in writing, informs the pensioner that it is no longer necessary for him to provide the information or to attend the medical examination

the suspension shall cease with effect from the date specified in paragraph (6).

(6) The date of cessation of suspension shall be the date on which—

- (a) the pensioner complies with the requirement (or where there is more than one requirement the date on which the pensioner has complied with the last outstanding requirement); or
- (b) the date on which the notice referred to at paragraph (5)(b) was given or sent.

(7) On cessation of the suspension, the award shall be paid in accordance with the provisions of paragraph 1(7)(A) of Schedule 5.

#### **Cancellation - failure to comply with request**

**69B.**—(1) Where a pensioner whose award has been suspended under Article 69A(does not, within the period of 12 months beginning with date on which the notice referred to in Article 69A(1) or (2) is given or sent to him, comply with a requirement to supply information or evidence or to attend for a medical examination the Secretary of State shall cancel that award.

(2) A pensioner whose award has been cancelled under paragraph (1) may make a further claim in respect of the matters which gave rise to that award.

(3) The Secretary of State shall send, to the pensioner's last known address, written notification of the cancellation of the award which shall inform the pensioner—

- (a) that the award has been cancelled;
- (b) of the reasons for such cancellation; and
- (c) that he may make a further claim for the award in question in accordance with paragraph (2).

(4) Where a pensioner makes a further claim under paragraph (2), the award shall, if one or more of the conditions specified in paragraph (5) is satisfied, be paid in accordance with paragraph 1(7)(B) of Schedule 5.

(5) The conditions referred to in paragraph (4) are that—

- (a) the pensioner has supplied the information or evidence required in a notice given or sent under Article 69A(1)(a) or (2); or
- (b) the pensioner has attended for a medical examination as required by the Secretary of State; or
- (c) the Secretary of State, by notice in writing, has informed the pensioner that it is no longer necessary for him to supply the information or evidence referred to at (a) above, or to attend the medical examination referred to at (b) above.”

#### **Amendment to the principal Scheme - Schedule 3**

**4.** For Schedule 3 of the principal Scheme (rates of pensions and allowances payable in respect of disablement and earnings or income thresholds) there shall be substituted the Schedule set out in Schedule 2 of this Scheme.

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#### **Amendment to the principal Scheme - Schedule 4**

5. For Schedule 4 of the principal Scheme (rates of pensions and allowances payable in respect of death) there shall be substituted the Schedule set out in Schedule 3 of this Scheme.

#### **Amendment to the principal Scheme - Schedule 5**

6.—(1) Paragraph 1 of Schedule 5 to the principal Scheme (commencing dates of awards of pension) shall be amended in accordance with the following provisions.

(2) In paragraph 1 sub-paragraph (6), for the words “sub-paragraph (7)” substitute the words “sub-paragraphs (7), (7A) and (7B)”.

(3) In paragraph 1, after sub-paragraph (7) insert sub-paragraphs (7A) and (7B) as follows—

“(7A) Where, an award is suspended pursuant to Article 69A(3) but, on one of the conditions set out in Article 69A(5) being satisfied, the Secretary of State subsequently reviews the award, the Secretary of State shall adjust the award in accordance with sub-paragraph (6) and shall make a backdating payment in respect of the award, which payment shall—

- (a) apply in respect of the period between the date on which the suspension took effect and the date of the review, and
- (b) be calculated by reference to the rate at which the award was in payment prior to its suspension.

(7B) Where, a pensioner’s award has been cancelled (pursuant to Article 69B(1)) but, following submission of a further claim (in accordance with Article 69B(2)) the Secretary of State has made a further award in the pensioner’s favour, such award shall take effect and payment shall be made—

- (a) from the date on which the suspension took effect,
- (b) at such rate as the Secretary of State determines to be appropriate when making the further award.”

#### **Amendment to the principal scheme – Schedule 7**

7. Schedule 7 of the principal Scheme shall be omitted.