

## Civil Service Injury Benefits Scheme

The Civil Service Injury Benefits Scheme was made on 22 July 2002 under section 1 of the Superannuation Act 1972 and came into force on 1 October 2002.

The following amendments have subsequently been laid.

|   |                        |
|---|------------------------|
| Civil Service Injury Benefits Scheme (Amendment) Scheme | Laid before Parliament |
| 2003  | 9 April 2003           |
| 2004  | 22 July 2004           |
| 2005  | 11 November 2005       |
| 2006  | 18 December 2006       |

## Civil Service Injury Benefits Scheme

### 1. General

#### (i) In this scheme:

- terms used shall have the meaning given in the 1972 Section of the PCSPS, unless otherwise specified;
- "PCSPS" means the Principal Civil Service Pension Scheme;
- the "1972 Section" means Section II of the PCSPS;
- the "2002 Section" means Section I of the PCSPS;
- "Civil Service Compensation Scheme" means the Civil Service Compensation Scheme which was laid before Parliament on 9 January 1995 under section 1 of the Superannuation Act 1972 as from time to time amended;
- "partnership pension account", in relation to a person in an employment by virtue of which he is eligible for membership of the 2002 section, means a stakeholder pension scheme or personal pension scheme to which the person's employer is paying contributions; and
- "stakeholder pension scheme" means a scheme which is a stakeholder pension scheme for the purposes of Part I of the Welfare Reform and Pensions Act 1999.

#### (ii) The benefits under this scheme will be paid at the discretion of the Minister and nothing in the scheme will extend or be construed to extend to give any person an absolute right to them.

#### (iii) Subject to the provisions of this rule, the Minister will have power to withhold benefits payable under this scheme where a person serving in the Civil Service or a person who formerly served in the Civil Service is convicted:

- (a) of one or more offences under the Official Secrets Act 1911 to 1989 for which the person concerned has been sentenced to a term of imprisonment of at least 10 years or has been sentenced on the same occasion to two or more consecutive terms amounting in the aggregate to at least 10 years; or
- (b) of an offence in connection with any employment to which this scheme applies, being an offence which is certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service.

Before benefits may be forfeited under this rule, the person concerned will be entitled to appeal against the forfeiture to an independent board nominated by the Minister, and, where an

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appeal is made, the Minister will accept the board's judgment on whether or not the appellant's benefits should be forfeited.

- (iv) Any question under this scheme shall be determined by the Minister, whose decision on it shall be final.

## **Part 1: Persons employed in the Civil Service**

1.1 This part of the scheme applies to persons serving in full-time or part-time employment in the Civil Service (except a person in that service who is recruited and employed in a place outside the United Kingdom in which a satisfactory scheme of injury compensation is provided under local legislation which is applicable to, or the provisions of which will be applied to, such a person) who:

- (i) if the Injury Warrants 1952 71 applied to them are injured or contract a disease on or after 29 February 1972;
- (ii) if those Warrants did not apply to them are injured or contract a disease on or after 1 June 1972;

in any of the circumstances set out in rule 1.3. The provisions of section 18 of the Superannuation Act 1965, insofar as they have effect by virtue of section 2(12) of the Superannuation Act 1972 as if they constituted part of the Principal Civil Service Pension Scheme, are hereby revoked.

1.2 This part also applies to persons to whom the Injury Warrants 1952 71 applied who were injured or contracted a disease before 29 February 1972 in circumstances which satisfied the conditions of those Warrants, but whose service had not ended before 29 February 1972.

### **Qualifying conditions**

- 1.3 Except as provided under rule 1.11, benefits in accordance with the provisions of this part may be paid to any person to whom the part applies and
- (i) who suffers an injury in the course of official duty, provided that such injury is wholly or mainly attributable to the nature of the duty; or
  - (ii) who suffers an injury other than in the course of official duty as a result of an attack or similar act which is directly attributable to his being employed, or holding office, as a person to whom the scheme applies; or
  - (iii) who contracts a disease to which he is exposed wholly or mainly by the nature of his duty.
  - (iv) who, having been recruited in the United Kingdom, is injured while in an area outside the United Kingdom for the purposes of his employment by an injury which is directly attributable to the existence in or near that area of a state of war, revolution, or serious and widespread internal disturbance, or is a direct result of deliberate acts of the local population or of sporadic political disturbances; or
  - (v) who, having been recruited in the United Kingdom, but as a result of having been employed outside the United Kingdom

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suffers an aggravation of a disease from which he is already suffering, being an aggravation to which he was exposed because of his duty outside the United Kingdom:

except that benefits will not be payable if the said injury or disease, or aggravation, is wholly or mainly due to or is seriously aggravated by his own serious and culpable negligence or misconduct.

- 1.3a References in rule 1.3 to “duty” include activities reasonably incidental to the duty.
- 1.4 (i) Subject to paragraph (ii) below, an injury suffered in the course of a journey between the person's place of residence and his place of employment shall not be treated as falling within rule 1.3(i).
- (ii) An injury suffered in the course of a duty journey shall be treated as an injury in the course of official duty. For the purposes of this paragraph, a duty journey includes a journey:
- (a) between the normal place of employment and the detached duty station, and between any two points of detached duty;
  - (b) between the place of residence at the headquarters station and the detached duty station;
  - (c) between the temporary place of residence on the detached duty station and the place of employment on the detached duty station, for the first 30 days only of detached duty;
  - (d) between the place of residence and the place of employment, if required for official purposes and additional to the journeys required for the individual's normal attendance at work.
- (iii) Any injury unrelated to the nature of a person's official duty and suffered during his main meal break, whether or not on official premises, shall not be treated as falling within rule 1.3(i).
- 1.5 Any reference in the following provisions of this scheme to ‘injury’ will be taken to include a reference to ‘disease’, and references to a person being injured and to the date on which an injury is sustained will be construed respectively as including references to his contracting a disease and to the date on which the disease is contracted. In this part in the case of a civil servant whose benefits fall to be calculated under rule 3.1b or 3.4(ii) of the 1972 Section ‘pensionable earnings’ means pensionable earnings in his last period of service and ‘reckonable service’ means the whole of his reckonable service.

### **Eligibility for benefit**

- 1.6 Subject to the provisions of this part, any person to whom this part of this scheme applies whose earning capacity is impaired because of injury and:

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- (i) whose service ends before the pension age and who does not fall within paragraph (ii) below, may be paid an annual allowance and lump sum according to the Scheme Medical Adviser's medical assessment of the impairment of his earning capacity, the length of his service, and his pensionable earnings when his service ends;
- (ii) who resigns when disciplinary proceedings against him are pending or who is discharged for disciplinary reasons, may be eligible on reaching pension age for an annual allowance and lump sum according to the demonstrated impairment of his earning capacity, the length of his service and his pensionable earnings at the date of his resignation or discharge;
- (iii) subject to rule 1.6a, who is receiving sick pay or sick pay at pension rate for his injury, or whose entitlement to paid sick leave has expired and for whom the total amount of any sick pay or sick pay at pension rate, together with any occupational pension (other than a pension payable in respect of a partnership pension account or a stakeholder pension) payable from public funds and any annual allowance payable under rule 3.24a(i) of the 1972 Section, or for which all or part of the contributions are payable from public funds, or where he has opted out of the 1972 Section, any personal pension or state earnings-related pension (as the case may be) and any annual allowance payable under rule 3.24b of the 1972 Section, and any of the national insurance benefits specified in rule 1.8(iii), amount to less than the amount of guaranteed minimum income provided in rule 1.7 for total incapacity, may be paid a temporary allowance under this scheme of an amount sufficient to bring the said total up to the guaranteed minimum income for total incapacity;
- (iv) who has not retired but because of his injury is employed in a lower grade or in a different capacity with loss of earnings, may be paid an annual allowance in accordance with the Scheme Medical Adviser's medical assessment of impairment of earning capacity of an amount which when added to the amount of the pension to which he would have been entitled had he retired on ill health grounds at the date of his re-employment with loss of earnings, any of the national insurance benefits specified in rule 1.8(iii) and any occupational pension (other than a pension payable in respect of a partnership pension account or a stakeholder pension) payable from public funds or for which all or part of the contributions are payable from public funds, or where he has opted out of the 1972 Section, any personal pension or state earnings-related pension (as the case may be), equals the appropriate guaranteed minimum income provided in rule 1.7; except that for the purposes of this rule the amount of the annual allowance payable under this rule shall be subject to suspension or abatement in accordance with rules 3.26 and 3.27 of the 1972 Section or Part H of the 2002 Section, as the case

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may be, as if the allowance were a pension under rule 3.1 of the 1972 Section or under rule D.1 of the 2002 Section, as the case may be, and the person had resigned and become re-employed;

- (v) who had retired because of injury and to whom an annual allowance under this scheme is in payment may, on reemployment in the Civil Service, continue to receive that allowance; except that for the purposes of this rule the amount of such allowance when added to any occupational pension (other than a pension payable in respect of a partnership pension account or a stakeholder pension) payable from public funds or for which all or part of the contributions are payable from public funds, or where he has opted out of the 1972 Section, any personal pension or state earnings-related pension (as the case may be) shall be subject to suspension or abatement in accordance with rules 3.26 and 3.27 of the 1972 Section or Part H of the 2002 Section, as the case may be, as if that allowance were a pension payable under rule 3.1 of the 1972 Section or rule D.1 of the 2002 Section, as the case may be;
- (vi) who has sustained an injury in circumstances which satisfy the conditions of this scheme and for which no allowance, other than a temporary allowance under rule 1.6(iii), or a lump sum, has been paid under this scheme, and who subsequently retires on age grounds, may be paid an annual allowance and lump sum as provided by this scheme in accordance with the demonstrated impairment of his earning capacity, the length of his service and his pensionable earnings at the date of his retirement.

1.6a If a person has returned to work part-time on medical grounds and meets the criteria for payment of a temporary allowance under rule 1.6(iii), the temporary allowance shall be adjusted as follows:

- (i) the guaranteed minimum income to be applied for the purposes of calculating the temporary allowance under rule 1.6(iii) shall be calculated in accordance with rule 1.7 except the proportion of pensionable pay shall be:

$$\frac{\text{part-time hours}}{\text{full-time hours}} + \frac{85\% (\text{full-time hours} - \text{part-time hours})}{\text{full-time hours}}$$

- (ii) for the purposes of calculating the temporary allowance under rule 1.6(iii), the person's actual pay shall be included in the amount that is subtracted from the guaranteed minimum income (as adjusted by paragraph (i) above).

### Scale of benefits

1.7 Subject to rule 1.9a, the annual allowance under rule 1.6 will be the amount which when added to the benefits specified below, will provide an income of not less than the guaranteed minimum shown in the table below and appropriate to the circumstances of the case.

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For the purposes of this scheme:

- where a person is employed part-time, his pensionable earnings for the purpose of determining the guaranteed minimum income, will be scaled down by the ratio that hours worked bear to full-time hours;
- where a person has opted out of the 1972 Section, his service shall be treated as service in the 1972 Section;
- a person serving in a capacity specified in paragraphs (i) to (vi) of rule 1.4 of the 1972 Section whose employment in the Civil Service began before 1 October 2002 and who is not eligible to join the 2002 Section and who does not have a partnership pension account shall be treated as if his service was service in the 1972 Section;
- in the case of a person who is a member of the 2002 Section:

references to "pensionable earnings" shall be deemed to be references to "final pensionable earnings" as defined in rule A.4(1) of the 2002 Section except that, for the purpose of calculating an award under rules 1.6(iii) or (iv), references in the definition of "final pensionable earnings" to the last day of reckonable service and the last day of his active membership period shall be read as references to the day before the person suffered loss of earnings because of his injury;

references to "reckonable service" shall be deemed to be references to "reckonable service" as defined in rule A.9 of the 2002 Section, except that the reckonable service that an unreserved joiner (as defined in the 2002 Section) is entitled to count under rules K.3, K.4 and K.6 of the 2002 Section shall be the period of reckonable service which he was entitled to count immediately before 1 October 2002 under the 1972 Section (and not reduced under those rules);

references to "pension age" shall be deemed to be references to "pension age" as defined in rule A.1(4) of the 2002 Section;

- the service of a person who has opted out of the 2002 Section or who has a partnership pension account or who was appointed to the Civil Service on or after 1 October 2002 and is not eligible to join the 2002 Section shall be treated as service as a member of the 2002 Section.

The benefits to be taken into account are:

- (i) any occupational pension payable to him out of public funds or for which all or part of the contributions are so payable, except that
  - (a) no account shall be taken of increases in pension resulting from an election made under rule 3.1a of the 1972 Section, or rule 5.8(b) of the Civil Service Compensation Scheme;

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- (b) where a person has commuted an ill health pension under rule 3.4b of the 1972 Section or under rule D.9 of the 2002 Section, the pre commutation value of the ill health pension shall be used;
  - (c) in the case of a member of the 2002 Section (other than a reserved joiner (as defined in the 2002 Section)), the value of a pension payable to him under the 2002 Section shall be deemed to be the amount which would be payable to him if he had exchanged such part of his pension as was necessary to give the maximum lump sum payable under rule D.8 of the 2002 Section;
  - (d) in the case of a reserved joiner (as defined in the 2002 Section), he shall be deemed to have exchanged such part of his pension which was calculated using his new reckonable service (as defined in rule L.9(2) of the 2002 Section) as was necessary to give the maximum lump sum payable under rule D.8 of the 2002 Section in respect of that part of the pension;
- (ii) any of the national insurance benefits specified in rule 1.8(iii) which are payable to him; and
  - (iii) where he has opted out of the 1972 Section, any personal pension or state earnings-related pension (as the case may be) to which he may be entitled.

In applying this rule no account shall be taken of :

- (a) pensions payable under section 1 or 2 of the Overseas Pensions Act 1973 except for those pensions payable under a scheme which incorporates, replaces or amends the Governors Pensions Acts 1957 and 1967 or the Superannuation Act 1965 so far as it continues to have effect by virtue of section 23(2) of the Superannuation Act 1972; or
- (b) pensions for which Her Majesty's Government in the United Kingdom has accepted, or in the opinion of the Secretary of State with the consent of the Minister would be prepared to accept, responsibility for the whole or part of the cost in pursuance of arrangements made with the Secretary of State under the International Development Act 2002; or
- (c) any pension payable in respect of a partnership pension account or under a stakeholder pension scheme or any personal pension or state earnings-related pension payable as a result of opting out of the 2002 Section.

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| Impairment of earning capacity  | <b>Guaranteed minimum income</b>  |   |  |                   |
|---|---|---|--|-------------------|
|   | Proportion of pensionable earnings<br>Length of service or reckonable service if longer |   |  |                   |
|   | Less than 5 years   | 5 years and over but less than 15 years | 15 years and over but less than 25 years | 25 years and over |
| Slight impairment<br>(more than 10% impaired but not more than 25%)   | 15%   | 30%                                     | 45%                                      | 60%               |
| Impairment<br>(More than 25% impaired but not more than 50%)          | 40%   | 50%                                     | 60%                                      | 70%               |
| Material impairment<br>(More than 50% impaired but not more than 75%) | 65%   | 70%                                     | 75%                                      | 80%               |
| Total impairment<br>(More than 75% impaired)                          | 85%   | 85%                                     | 85%                                      | 85%               |

If the total of benefits payable under (i), (ii) and (iii) above exceeds the guaranteed minimum income ascertained from the table, no annual allowance is payable under rule 1.6.

1.8 The pensions and benefits referred to in rule 1.7 are taken to be of the following amounts as at (as the case may be):

the date of retirement, or

the date of commencement of part sick pay or sick pay at pension rate, or

the date of discontinuance of sick pay, or

the date of movement from a higher to a lower substantive grade, or

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(in the case of persons to whom part 2 or 3 of this scheme applies) the date of ceasing to hold office or the date the annual allowance under this scheme begins:

- (i) the annual amount of any occupational pension (other than a pension payable in respect of a partnership pension account or a stakeholder pension) payable from public funds, or for which all or part of the contributions are payable from public funds, or the annual amount of any personal pension or state earnings-related pension to which the person may be entitled consequent on his having opted out of the 1972 Section; and any other periodical payment provided for in the PCSPS;
- (ii) three-quarters of the annual value of the benefits of the policies or accumulated investments held under the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses, or any other scheme under which the benefits are payable otherwise than as an annual pension;
- (iii) the annuity value or the annual value, as appropriate, of any rights which have accrued or probably will accrue from the injury by way of industrial disablement benefit, sickness benefit, invalidity pension or incapacity benefit; except that no account will be taken of any increase of the disablement pension payable under section 104 of the Social Security Contributions and Benefits Act 1992 (increase of a disablement pension where constant attendance is needed) or under section 105 of the Social Security Contributions and Benefits Act 1992 (increase of disablement pension in cases of exceptionally severe disablement); and no account will be taken of so much of an unemployability supplement as represents an increase payable under paragraph 3 of Schedule 7 to the Social Security Contributions and Benefits Act 1992 (early onset of incapacity for work);
- (iv) the annual amount or annuity value of payments made under any insurance for which the premium was paid wholly or partly from public funds (where the premium was partly paid from public funds, the amount of insurance payments taken into account will be proportionate to the amount of the premium so paid).

1.9 Subject to rule 1.9a, the lump sum will be calculated according to the degree of impairment of earning capacity and the amount of pensionable earnings as follows:

| <b>Impairment of earning capacity</b> | <b>Proportion of pensionable earnings</b> |
|---------------------------------------|---|
| Slight impairment                     | one eighth                                |

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|                     |               |
|---------------------|---------------|
| Impairment          | one quarter   |
| Material impairment | three eighths |
| Total impairment    | one half      |

Where any person is employed part-time, the pensionable earnings used to determine the lump sum due may be scaled down by the ratio that hours worked bear to full-time hours.

- 1.9a Where rule 1.3(i) or rule 1.3(iii) above applies and the injury is mainly but not wholly attributable to the nature of the duty, the Minister shall, having regard to guidelines at any time agreed by the Minister with representatives of persons who are likely to be affected, reduce the amount of any benefits payable under this scheme to take account of the extent to which the injury is not wholly attributable to the nature of the duty.

### **Review of awards**

- 1.10 Subject to rule 1.10a, the annual allowance may be reviewed:
- (i) if the beneficiary's condition attributable to his injury deteriorates and he appeals for such review; or
  - (ii) if any change is made in the class or level of benefit payable to him under the Social Security Acts, such as substitution of retirement pension for sickness benefit or invalidity pension, or cessation of a dependant's allowance, or reassessment of benefit rate; or
  - (iii) when re-employment ends; or
  - (iv) on modification of pension on account of national insurance pension; or
  - (v) when there comes into payment a retirement pension (other than a pension payable in respect of a partnership pension account or a stakeholder pension) payable wholly or partly out of public funds; or
  - (vi) where the beneficiary has opted out of the 1972 Section and there comes into payment any personal pension or state earnings-related pension to which he may be entitled in consequence of having done so.
- 1.10a Where the annual allowance has been awarded in respect of an injury sustained on or after 1 April 2003, rule 1.10(i) does not apply.

### **Temporary service outside the United Kingdom**

- 1.11 If a person to whom this part of this scheme applies and who is normally employed in the United Kingdom or, in the case of a member of the Diplomatic Service, is normally based in the United Kingdom, is injured while serving outside the United Kingdom he may be paid
- (i) the rate of benefit which would have been payable to him under the Social Security Contributions and Benefits Act 1992; or

- (ii) the award which would have been payable to him under the Criminal Injuries Compensation Scheme; or
- (iii) the benefits which would have been provided by this scheme if the injury had been sustained in analogous circumstances in Great Britain, whichever is the most favourable. In calculating the sums payable under this rule no account will be taken of any benefit which would have reduced the sum payable if the injury had been sustained in analogous circumstances in Great Britain unless there is in fact any present or future entitlement to that benefit.

**Widows', widowers' and dependants' benefits**

1.12 References in this part to an eligible widow shall be construed where applicable as references to an eligible widower as defined in rule 4.21a of the 1972 Section and to a surviving civil partner. If a person to whom this part of this scheme applies:

- (i) was a person to whom the Injury Warrants 1952 71 applied and is injured on or after 29 February 1972; or
- (ii) was a person to whom the Injury Warrants 1952 71 did not apply and is injured on or after 1 June 1972;

in any of the circumstances set out in rule 1.3, and dies as the direct result of his injury, an annual allowance and a lump sum may be paid in accordance with rules 1.13 to 1.18a as follows:

- (a) An annual allowance may be paid to an 'eligible widow' as defined in rule 4.4 of the 1972 Section. Where the deceased person was a member of the 1972 Section, this allowance will begin on the 183rd day after the date of his death except that it will begin on
  - (i) the day after the date of his death if this produces a more favourable result for his widow and if, in the case of a person leaving the Civil Service before 6 April 1978, he dies after leaving the Civil Service; or
  - (ii) on the 92nd day where death occurred before 1 January 1986.

Where the deceased person was a member of the 2002 Section, the allowance will begin on the day after the date of his death.

The allowance will be paid under the same conditions as those specified in rule 4.5 of the 1972 Section in respect of a widow's pension or rule 4.21b of the 1972 Section in respect of a widower's pension.

- (b) An annual allowance may be paid for each 'eligible child' as defined in rules 4.26 to 4.28 of the 1972 Section or in rule E.9 of the 2002 Section, as the case may be, up to a maximum of four children at any one time. Where the deceased person was a member of the 1972 Section, if there is also an eligible widow, the allowance will begin at the same time as the widow's

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allowance under (a). If there is no eligible widow and if he dies in service it will begin on the 92nd day after the date of the person's death or (if earlier) on the day after payments under rule 4.8 or rule 4.21f of the 1972 Section cease or, where death occurred on or after 1 January 1986 on the 183rd day after the date of the person's death; if he dies after leaving the Civil Service it will begin on the day after the date of his death or where death occurred on or after 1 January 1986, on the 183rd day after the date of his death.

Where the deceased person was a member of the 2002 Section, the allowance will begin on the day after the date of his death.

- (c) An annual allowance may be paid to the person's mother, or if his mother is dead, his father, provided his mother or his father as the case may be was wholly or mainly dependent on the person at the date of his death.
- (d) An annual allowance may be paid to the person's incapacitated children, brothers and sisters who have ceased to be in the period of childhood and full-time education and who were wholly or mainly dependent on the person at the date of his death. (The limitation to four children in (b) does not apply to incapacitated children.)

1.13 The allowance payable under this scheme to a widow will be reduced by the annual value of any rights which may accrue to her by way of industrial death benefit under the Social Security Contributions and Benefits Act 1992 at the date when industrial death benefit first comes into payment. The allowance may not thereafter be further reduced because of any subsequent change in the annual value of those rights.

1.14 A lump sum may be paid to an 'eligible widow' as defined in rule 4.4 of the 1972 Section. Where there is no eligible widow a lump sum may be paid for the benefit of any children of the deceased person who are entitled to an allowance under this scheme, and if there is more than one child the lump sum shall be paid for the benefit of them equally. Where there is neither an eligible widow nor eligible children the lump sum may be paid to a dependent parent. If there is no eligible widow, eligible children, nor dependent parents, the lump sum may be paid to dependent brothers and sisters, being divided equally between them if there is more than one. In all cases the lump sum may be paid immediately after the person's death. However, no lump sum will be payable under this rule if a lump sum in respect of the injury was previously paid to the person to whom this part applies under rule 1.6.

1.15 In rules 1.12 and 1.14

'father' includes the person's step-father and a male person by whom he has been adopted;

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`mother' includes his step-mother and a female person by whom he has been adopted;

`brother' includes every male child of his father and of his mother;

`sister' includes every female child of his father and of his mother.

1.16 References in this scheme to a widow or her husband may be construed as references to a widower or his wife or as references to a surviving civil partner or his deceased civil partner, except that where the deceased person died on or before 30 June 1987 and left a widower no award may be made to him or for his children unless the widower was at the date of the deceased person's death permanently incapacitated and wholly or mainly dependent on her.

- 1.17 (i) This rule applies where any person referred to below dies on or before 30 June 1987. In such cases a child may not be eligible for an award under this scheme in respect of more than one deceased person. Where there would otherwise be an eligibility for children's allowance in respect of two or more such persons, the child will count as eligible in respect of one of them in the way which, in the opinion of the Minister, gives the most favourable overall result for all the children in question.
- (ii) This rule applies provided that at least one person referred to below dies on or after 1 July 1987. An eligible child may receive a children's allowance in respect of not more than two deceased persons to each of whom this part applies. If an eligible child is eligible for children's allowances in respect of three or more persons to each of whom this part applies, the child will count as eligible in respect of only two persons, in the way which gives the most favourable overall result.

### **Scale of dependants' benefits**

- 1.18 (i) Subject to rule 1.18a, the annual allowance under rule 1.12 will be an amount which, when added to any pension to which the dependant is entitled under section 4 of the 1972 Section or part E of the 2002 Section or any occupational pension (other than a pension payable in respect of a partnership pension account or a stakeholder pension) payable from public funds or for which all or part of the contributions are payable from public funds, or any personal pension or state earnings-related pension payable as a consequence of the deceased having previously opted out of the 1972 Section, will provide an income not less than the guaranteed minimum income at the rate provided in the following table. If any pension in issue exceeds the appropriate guaranteed minimum income, no allowance will be payable under this rule. In applying this rule, no account shall be taken of any increase in a pension under section 4 of the 1972 Section, resulting from an election made under rule 3.1a of the 1972 Section.

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| Beneficiary   | <b>Guaranteed minimum income.</b>   |  |
|---|---|--|
|   | Proportion of pensionable earnings  |  |
| (a) widow or widower or surviving civil partner   | 45%   |  |
|   | Where there is a widow or widower or surviving civil partner eligible for benefit | Where there is no widow or widower or surviving civil partner eligible for benefit |
| (b) Children during the period of childhood and full-time education up to a maximum of 4 at any one time  | 10% for each child  | 20% for each child   |
| (c) Dependent mother or father  | 20%   | 45%  |
| (d) Dependent brothers and sisters during the period of childhood and full-time education up to a maximum of 4 inclusive of the children in (b) above | 10% for each child  | 20% for each child   |
| (e) Dependent adult children, brothers and sisters  | 20%   | 45%  |

Allowances for incapacitated children may be paid in addition to the maximum number of children's allowance laid down in (b) and (d) above. The total of allowances awarded for the death of a person may not exceed 100% of his pensionable earnings.

- (ii) Subject to rule 1.18a, the lump sum under rule 1.14 will be equal to six months' pensionable earnings except that where the person's death occurred before 1 January 1986, the lump sum will be equal to three months' pensionable earnings.
- 1.18a (i) Subject to paragraph (ii), where the deceased's death was a direct result of an injury of the kind described in rule 1.3(i) or 1.3(iii) and the injury was mainly but not wholly attributable to the nature of his duty, the Minister shall, having regard to guidelines at any time agreed by the Minister with representatives of persons who are likely to be affected, reduce the annual allowance under rule 1.12 and the lump sum under rule 1.14 to take account of the extent to which the injury was not attributable to the nature of the duty.
- (ii) No reduction will be made to the annual allowance under rule 1.12 or the lump sum under rule 1.14 if the person died without

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having been awarded benefits under this scheme in respect of the injury.

### Damages

- 1.19 (i) Where the Minister for the Civil Service is satisfied that damages have been or will be recovered by any person in respect of an injury for which benefits may be paid under this scheme, or damages in respect of the death of a person to whom this scheme applies, the Minister for the Civil Service will take those damages into account against any benefit which might otherwise be payable under this scheme and will withhold or reduce the allowance and lump sum payable under this scheme accordingly.
- (ii) (a) Before 6 April 1978 a person shall be regarded as having recovered damages whether they are paid in pursuance of a judgment or order of the Court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce the claim; and if they are recovered for his benefit in respect of a claim under the Fatal Accidents Acts 1846 1959.
- (b) From 6 April 1978 damages will, for the purpose of this rule, include payment received by a person to whom this scheme applies as a result of a claim in respect of an injury for which benefits may be paid under this scheme, or received by the estate or dependants of such a person as a result of a claim in respect of his death, whether or not payment is made in pursuance of a judgment or order of a court of any jurisdiction or by way of settlement or compromise of the claim and whether or not proceedings are instituted to enforce the claim.
- (iii) Where compensation is paid
- (a) under a Criminal Injuries Compensation Scheme in the United Kingdom, or
- (b) under a scheme of injury compensation provided under local legislation or otherwise in respect of an injury to, or the death of, a person injured in an area outside the United Kingdom in the circumstances described in rule 1.3(iv), or circumstances resulting in a payment under rule 1.11(ii),
- the person to whom or for whose benefit the compensation is paid shall be deemed to recover damages and the compensation paid shall be deemed to be the damages recovered.

### Apprentices

- 1.20 If a person to whom this part of the scheme applies is at the date on which he becomes eligible for an allowance under rule 1.6 an apprentice, or because of his youth is receiving pay at a lower rate

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than is payable to an adult worker employed in similar work, the allowance payable to him will, for any period after he attains the adult age, be calculated as if at the date of eligibility for an allowance he had been receiving the pay of an adult worker employed in similar work.

**Part 2: Persons employed for the purposes of HM Government**

2.1 This part of the scheme applies to persons who, although not serving in employment in the Civil Service are employed in a civil capacity, whether temporarily or permanently and whether for reward or not, for the purposes of Her Majesty's Government in the United Kingdom and are injured after 31 May 1972 in any of the circumstances set out in rules 1.3 and 1.4. A person shall not be considered to be employed for the purposes of Her Majesty's Government in the United Kingdom by reason only that he renders or agrees to render services in the ordinary course of his profession, trade or business.

2.2 If the earning capacity of any person to whom this part of the scheme applies is impaired because of injury he may be paid an allowance and lump sum in accordance with the provisions of rules 1.7, 1.8, 1.9, 1.9a and 1.19 (as they apply to members of the 1972 Section) according to the demonstrated impairment of his earning capacity, the salary and emoluments which would have been payable to a civil servant employed to perform similar duties and, if his normal employment is in the public sector, the length of his service in his normal employment; and if he is in private employment or has no employment, the length of his employment for the purposes of Her Majesty's Government.

If the person to whom this part of the scheme applies is normally employed in the public sector the allowance and lump sum provided by this rule may be paid on retirement or loss of earnings as if he were a civil servant to whom rule 1.6(i) and (vi) applied.

If the person to whom this part of the scheme applies is normally in private employment, or has no employment, the allowance and lump sum provided by this rule may be paid when employment for the purpose of Her Majesty's Government ceases.

Exceptionally, if the impairment of earning capacity is of a short-term nature, a temporary allowance may be paid in accordance with the provisions of rule 1.6(iii) applied as appropriate to the circumstances of the particular case.

2.3 If any person to whom this part of the scheme applies dies as the direct result of injury his spouse and his dependants may be paid an allowance and lump sum in accordance with the provisions of rules 1.12 to 1.19 except that the guaranteed minimum income shall be based on the salary and emoluments of a civil servant who would be employed to perform similar duties. The allowance and lump sum may be paid on the day following the date of death, or alternatively on the day following the date of cessation of any short-term pension to which the spouse is entitled at a rate higher than the guaranteed minimum income.

### **Part 3: Ministers**

- 3.1 This part of the scheme applies to persons holding office in Her Majesty's Government in the United Kingdom who are injured on or after 29 February 1972 in any of the circumstances set out in rules 1.3 and 1.4.
- 3.2 Any person to whom this part of the scheme applies, in respect of whose office provision is made by Statute for the payment of a pension or who is entitled to such a pension in respect of past service, and whose earning capacity is impaired because of injury, may on ceasing to hold Ministerial office, and subject to his not holding any office in respect of which the salary is payable out of monies voted by Parliament, be paid an annual allowance and lump sum in accordance with the provisions of rules 1.7, 1.8, 1.9, 1.9a and 1.19 (as they apply to members of the 1972 Section) according to the Scheme Medical Adviser's medical assessment of impairment of earning capacity and the amount of his Ministerial salary. For the purpose of the table in rule 1.7 he will be treated as if the length of his service was between 15 and 25 years.
- 3.3 Any person to whom this part of the scheme applies in respect of whose office no provision is made by Statute for the payment of a pension and whose earning capacity is impaired because of injury may, on ceasing to hold Ministerial office, be paid an annual allowance and lump sum in accordance with the provisions of rules 1.7, 1.8, 1.9, 1.9a and 1.19 according to the Scheme Medical Adviser's medical assessment of impairment of earning capacity, the aggregate of his service in Ministerial office and the amount of his Ministerial salary at date of ceasing to hold office or date of injury whichever is the more favourable.
- 3.4 If any person to whom this part of the scheme applies dies as the result of injury his spouse and his dependants may be paid an allowance and lump sum in accordance with the provisions of rules 1.12 to 1.19, except that the guaranteed minimum income shall be based on Ministerial salary at date of injury or date of death whichever is more favourable. The allowance and lump sum may be paid on the day following date of death.