

(3) Subject to the following provisions of this Article, where an injury which has led to a member's discharge or death during service was not noted in a medical report made on that member on the commencement of his service, a certificate under paragraph (1) of this Article shall be given unless the evidence shows that the conditions set out in that paragraph are not fulfilled.

(4) In the case of a member of the Naval Reserve Forces, the provisions of paragraphs (2) and (3) of this Article shall not apply to any claim made in connection with his service as such a member but—

(a) a disablement or death shall be certified in accordance with paragraph (1) of this Article if it is shown that the conditions set out in this Article and applicable thereto are fulfilled;

(b) where, upon reliable evidence, a reasonable doubt exists whether the conditions set out in paragraph (1) of this Article are fulfilled, the benefit of that reasonable doubt shall be given to the claimant.

(5) Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

5. *Entitlement where a disablement is claimed or death takes place more than seven years after the termination of service.*—(1) Where, after the expiration of the period of seven years beginning with the termination of the service of a member of the naval forces, a claim is made in respect of a disablement of that member, or in respect of the death of that member (being a death occurring after the expiration of the said period) and the member was at the time of his death, or at any time previously thereto had been, in receipt of a pension awarded by the Minister in respect of an injury which was a cause of his death, such disablement or death, as the case may be, shall be accepted as due to service for the purposes of this Order provided it is certified that—

(a) the disablement is due to an injury which—

(i) is attributable to service; or

(ii) existed before or arose during service and has been and remains aggravated thereby; or

(b) the death was due to or substantially hastened by—

(i) an injury which was attributable to service; or

(ii) the aggravation by service of an injury which existed before or arose during service.

(2) A disablement or death shall be certified in accordance with paragraph (1) of this Article if it is shown that the conditions set out in this Article and applicable thereto are fulfilled.

(3) The condition set out in subparagraph (a) (ii) of paragraph (1) of this Article, namely, that the injury on which the claim is based remains aggravated by service, shall not be deemed to be fulfilled unless the injury remains so aggravated at the time when the claim is made, but this paragraph shall be without prejudice, in a case where an award is made, to the subsequent operation of paragraph (7) of Article (2) of this Order in relation to that condition.

(4) Where, upon reliable evidence, a reasonable doubt exists whether the conditions set out in paragraph (1) of this Article are fulfilled, the benefit of that reasonable doubt shall be given to the claimant.

(5) Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

(6) For the purposes of this Article the expression "pension" shall include retired pay, disablement addition, weekly allowance or gratuity, or an allowance in respect of a period of approved treatment.

6. *Serious negligence or misconduct.*—The Minister may withhold, cancel or reduce any award which may be or has been made under this Order in respect of the disablement or death of a member of the naval forces in any case in which the injury on which the claim to the award is based was caused or contributed to by the serious negligence or misconduct of the member, or in any case in which the death of the member was so caused or contributed to.

7. *Rank or status.*—(1) Where, for the purposes of any award under Part III, IV or V of this Order (including any award under any Article in those Parts made by virtue of Part VI) in respect of the disablement or death of a member of the naval forces, the member's rank has to be determined, it

shall be determined by reference to the relevant rank of the member.

(2) Subject to the following provisions of this Article, the relevant rank of a member shall be whichever is the highest of the following ranks, namely—

(a) the substantive rank held by him on the date on which he was last on full pay prior to the termination of his service;

(b) where on that date he held war substantive rank, or paid temporary or paid acting rank which would then have been allowed to reckon for the purpose of calculating service retired pay or the rank element of a service pension if he were eligible for such retired pay or pension, that war substantive rank, or paid temporary or paid acting rank, as the case may be;

(c) the substantive, war substantive, paid temporary or paid acting rank held by the member on any of the following dates, namely—

(i) the date on which he sustained the wound or injury, or was first removed from duty on account of the disease, on which the claim to the award is based;

(ii) where the member suffered aggravation of the injury on which the claim to the award is based (being aggravation which, in the case of death, persisted until death) as a result of service after the date mentioned in subparagraph (c) (i) of this paragraph, the date of the removal from duty on account of the aggravation, or if there was no such removal from duty, the date of the termination of his service;

(3) In the case of a member of the Naval Reserve Forces, the relevant rank shall be—

(a) the paid rank held by him, or, where pay was not in issue, the rank for which pay would have been in issue if the member had been entitled to receive pay, on the date on which he sustained the wound or injury, or on which he was first removed from duty on account of the disease, on which the claim to the award is based; or

(b) if there was no such occurrence, the highest rank (ascertained in accordance with the provisions of subparagraph (a) of this paragraph) held by him during the relevant period of service; or

(c) where the member suffered aggravation of the injury on which the claim to the award is based (being aggravation which, in the case of death, persisted until death) as a result of service after the date or period mentioned in subparagraphs (a) and (b) of this paragraph, the date of the removal from duty on account of the aggravation, or, if there was no such removal from duty, the highest rank (ascertained in accordance with the provisions of subparagraph (a) of this paragraph) held by him during such service.

(4) Where an award is payable in respect of the disablement or death of a member by reason of more than one injury, and different ranks would, under the foregoing provisions of this Article, be relevant to the different causes leading to the disablement or death—

(a) an award under Part III or IV of this Order shall be at a composite rate having regard to the disabling effect of each such cause and the relevant rank appropriate thereto; and

(b) an award under Part V of this Order shall be based upon the highest of those different relevant ranks.

(5) For the purposes of an award in respect of the death of a retired officer who has been recalled to service or otherwise taken into employment as a commissioned officer, the relevant rank shall be the rank in which he was employed, or the rank appropriate to the appointment in which he was employed, at the date on which he was last on full pay prior to the termination of his service, or at any of the dates mentioned in paragraph (2) (c) of this Article, whichever is most favourable.

(6) The provisions contained in the principal Regulations as to equivalent ranks of officers and ratings, for the purposes of retired pay, pension or like grant thereunder, and as to the classification of different categories of ratings, shall have effect for the purposes of this Order.

(7) For the purposes of any award under this Order, a Chaplain shall be treated as holding such rank as is, in the opinion of the Minister, appropriate in his case having regard to his denomination and the length of his service and the provisions made in the principal Regulations as to the grant of retired