

12. A Forces Family Pension under Clause 5 will not be payable in addition.
13. Rank for the purpose of the award of attributable family pension shall be according to rank for invaliding purposes.
14. Where an award of attributable family pension is made the payment of a short term family pension under Clauses 8 and 9 may not exceed 91 days.
15. The date of commencement of an attributable family pension shall normally be the day after the end of the payment of the short term pension under Clauses 8 and 9 unless the Secretary of State for Defence considers there are circumstances justifying special consideration.
16. *Family Pension where an Attributable Pension is paid.* Widows of Officers, RN ratings and RM other ranks who were retired or discharged before 31st March 1973, and whose death is due to service may receive a family pension as provided for in Order in Council (45*/NPP) of 4th February 1972 if the family is awarded an attributable pension.
17. The family pension will be abated by an amount calculated on the following basis if a widow is receiving Department of Health and Social Security attributable pension as the widow of an officer:
- (a) The family pension will be abated by the amount of the rank element included in the war pension if the widow is receiving a war widow's pension from the Department of Health and Social Security as the widow of an Officer. This will be the difference between the war widow's pension for the widow of a Fleet Chief Petty Officer and the actual amount of war widow's pension.
- (b) Children's pensions will not be subject to such reductions.

SECTION V

*Conditions Governing the Award of Family Pensions*18. *Pensions Cannot be Claimed as a Right*

- (a) A pension cannot be claimed as a right and will not be granted or continued when the applicant is shown to be living with a man as his wife, nor will it be granted if the service of the Officer, RN rating or RM other rank has not been such as, in the opinion of the Secretary of State for Defence, to justify the award.
- (b) If the death of an Officer, RN rating or RM other rank, or the wound, injury or disease which resulted in his death, was due wholly or in part to his own negligence or misconduct or to any cause within his control, any grant which might otherwise be made to his widow or children may be withheld or reduced in amount at the discretion of the Secretary of State for Defence.
- (c) If an Officer retired, dismissed the Service, or called upon to retire for misconduct or inefficiency, or a RN rating or RM other rank discharged for misconduct or inefficiency, was not granted any retired pay or pension in respect of his service, no award will be made to the family. If reduced retired pay or service pension was awarded, the family pension will be at such rate as the Secretary of State for Defence may determine.
- (d) If the applicant is granted any other pension or allowance from public funds on account of the service of the deceased, any pension which might otherwise be granted under this Schedule may be withheld or reduced as the Secretary of State for Defence may determine.

19. *Conditions relating to Marriage*

- (a) To be eligible for a pension, a widow must have been married to the Officer, RN rating or RM other rank before his retirement or discharge; or, if he subsequently gave further service in circumstances rendering him eligible for reassessment of retired pay or pension, before the termination of such further service.
- (b) If the death of the Officer, RN rating or RM other rank occurred within a year of his marriage, the Secretary of State for Defence, in the light of the circumstances of the case, may withhold or reduce the award otherwise admissible.

20. *Effect of Separation on Widow's Pension and Gratuity.* Subject to any exception which the Secretary of State for Defence may approve in a particular case, an award will not be made to a widow who was separated from her husband at the time of his death. Should such an exception be approved, the award will be at such a rate, and subject to such conditions, as the Secretary of State for Defence may determine.

21. *Withholding or Diversion of Pension.* In exceptional circumstances the Secretary of State for Defence may withhold the whole or any part of a pension granted under this Schedule and may divert the whole or part for the benefit of persons dependent on the pensioner.

22. *Date of Commencement of Pension.* The date of commencement of pension will be determined according to the circumstances of the case and will normally, if application is not unduly delayed, be the date following the husband's death; or, if death occurred during service, the date following the termination of allowances issuable after death.

23. *Belated Claims.* If a widow dies before establishing her claim to pension, arrears of pension will not, save in exceptional circumstances, be allowed to her estate.

24. *Remarriage.* The pension of a widow who remarries will be suspended, but if she again becomes a widow her pension may be restored in whole or part at the discretion of the Secretary of State for Defence if her pecuniary circumstances justify such restoration.

25. *Children*

(a) A "child" for the purposes of the award of a pension under this Schedule means:

(i) A legitimate child of the Officer, RN rating or RM other rank provided that the child's mother fulfilled the conditions relating to marriage contained in Clause 19 of this Schedule, or

(ii) a step-child of the Officer, RN rating or RM other rank who was mainly dependent on him at the time of his death, provided that the child's mother fulfilled the conditions relating to marriage contained in Clause 19 of this Schedule; or

(iii) a child adopted by the Officer, RN rating or RM other rank, or by his wife, before his retirement or discharge (or, if he subsequently gave further service in circumstances rendering him eligible for a re-assessment of retired pay or service pension, before the termination of such further service), who was mainly dependent upon him at the time of his death, and provided that the child's mother by adoption fulfilled the conditions relating to marriage contained in Clause 19 of this Schedule; or

(iv) a child mainly dependent upon the Officer, RN rating or RM other rank before his retirement or discharge (or, if he subsequently gave further service in circumstances rendering him eligible for re-assessment of retired pay or service pension, before the termination of such further service), who was adopted by the Officer, RN rating or RM other rank, or by his wife after his retirement or discharge (or after the termination of such further service), provided that the Secretary of State for Defence is satisfied that the Officer, RN rating or RM other rank had formed the intention of adopting the child before retirement or discharge (or before the termination of such further service) and that the child was mainly dependent upon him at the time of his death, and provided that the child's mother by adoption fulfilled the conditions relating to marriage contained in Clause 19 of this Schedule; or

(v) an illegitimate child of the Officer, RN rating or RM other rank, or of his wife, born before his retirement or discharge (or, if he subsequently gave further service in circumstances rendering him eligible for re-assessment of retired pay or service pension, before the termination of such further service), who was mainly dependent upon him at the time of his death, and provided that, where the child is the illegitimate child of the wife, the wife fulfilled the conditions relating to marriage contained in Clause 19 of this Schedule.