

**(5) Pensions Schemes for Seamen, &c.**

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**(i) Coastguards**

THE WAR PENSIONS (COASTGUARDS) SCHEME, 1944, DATED MAY 2, 1944, MADE BY THE MINISTER OF PENSIONS UNDER SECTIONS 5 AND 7 OF THE PENSIONS (NAVY, ARMY, AIR FORCE AND MERCANTILE MARINE) ACT, 1939 (2 & 3 GEO. 6. C. 83) AS AMENDED BY THE PENSIONS (MERCANTILE MARINE) ACT, 1942 (5 & 6 GEO. 6. C. 26).

**1944 No. 500**

**Definitions.** 1. In this Scheme the following expressions have, unless the context otherwise requires, the meanings hereby respectively assigned to them, that is to say—

- (1) "coastguard" means an officer or man of His Majesty's Coastguard or a member of the Auxiliary Coastguard;
- (2) "detention", in relation to a coastguard, means detention which—
  - (i) is consequent on the capture, seizure, arrest, or other restraint of the coastguard effected by reason of the existence of a state of war; and
  - (ii) is suffered by reason of his service;
- (3) "end of war service," in relation to a coastguard, means the end of the war or, if earlier, the termination of the period of service in the course of which the coastguard sustained the qualifying injury or suffered the detention to which his disablement or death is, or is claimed to be, directly attributable;
- (4) "equivalent naval rank," in relation to a coastguard, means the rank which the coastguard is, by virtue of Article 4 of this Scheme, to be treated as holding for the purposes of this Scheme;
- (5) "the Injury Warrant" means the Injury Warrant, No. 1, 1935,(a) or the Injury Warrant, No. 2, 1935,(b) as amended in either case by any subsequent Warrant;
- (6) "material date," in relation to any claim to an award under this Scheme, means the date of the qualifying injury, or of the commencement of the detention, on which the claim to the award is based;
- (7) "the Minister" means the Minister of Pensions;

(a) S.R. & O. 1935 No. 576, p. 458 above.

(b) S.R. & O. 1935 No. 577, p. 466 above.

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- (8) "the Naval Order" means the Order in Council dated January 20th, 1944,<sup>(a)</sup> concerning retired pay, pensions and other grants for members of the naval forces and of the nursing and auxiliary services thereof disabled, and for the widows, children, parents and other dependants of such members deceased, in consequence of service during the present war;
- (9) "physical injury" includes tuberculosis and any other organic disease, and the aggravation thereof;
- (10) "public funds" means moneys provided by Parliament or the Parliament of Northern Ireland, moneys the payment whereof is a charge on the Consolidated Fund of the United Kingdom or of Northern Ireland, moneys provided by any general or local rate or by a fund established under or by virtue of any public, general or local Act, and moneys payable under any enactment, ordinance, regulation or other instrument forming part of the law of any place outside the United Kingdom;
- (11) "qualifying injury," in relation to a coastguard, means a war injury or a war risk injury, being in either case an injury sustained by the coastguard by reason of his service;
- (12) "rank" includes rating;
- (13) "service," in relation to a coastguard, means service as a person to whom this Scheme applies;
- (14) "war injury," in relation to a coastguard, means a physical injury—
  - (i) caused by—
    - (a) the discharge of any missile (including liquids and gas);  
or
    - (b) the use of any weapon, explosive or other noxious thing;  
or
    - (c) the doing of any other injurious act;  
either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or
  - (ii) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of or for the benefit of, His Majesty or any allied power, or any part of, or anything dropped from, any such aircraft;
- (15) "war risk injury," in relation to a coastguard, means an injury falling within Section 1 of the Pensions (Mercantile Marine) Act, 1942. 5 & 6 Geo. 6.  
c. 26.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament. Interpreta-  
tion.  
52 & 53 Vict.  
c. 63.

(2) In no case shall there be an onus on any claimant under this Scheme to prove that disablement or death is directly attributable to a qualifying injury or to detention and the benefit of any reasonable doubt on those questions shall be given to the claimant.

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<sup>(a)</sup> S.R. & O. 1944 (No. 99) I, p. 537, as amended by S.R. & O. 1944 (No. 1125) I, p. 589 (now superseded by S.R. & O. 1946 (No. 812) I, p. 1100).

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(3) For the purposes of this Scheme, the detention of a coastguard may be treated as continuing until whichever is the earlier of the two following dates, that is to say—

- (a) the date of his death; or
- (b) the date on which it is first practicable for him to arrive back in the United Kingdom;

or until such other date as the Minister may direct in relation to that coastguard or to any class of coastguards.

Persons to whom the Scheme applies.  
15 & 16 Geo. 5. c. 88.

3. This Scheme applies to—

- (a) any officer or man of His Majesty's Coastguard who, by virtue of Section 2 of the Coastguard Act, 1925, and the Order made thereunder by the Admiralty on the 26th May, 1940,<sup>(a)</sup> or any Order amending or replacing that Order, is subject to the Naval Discipline Act and borne on the books of one of His Majesty's ships in commission; and
- (b) any member of the Auxiliary Coastguard who, by virtue of any instructions issued by the Admiralty pursuant to the Defence (Auxiliary Coastguard) Regulations, 1941,<sup>(b)</sup> is subject to the Naval Discipline Act and borne on the books of one of His Majesty's ships in commission;

whose disablement or death is directly attributable to a qualifying injury or to detention.

Equivalent naval ranks.

4.—(1) For the purposes of this Scheme a coastguard shall be treated as holding the equivalent naval rank which is specified in the First Schedule to this Scheme in relation to the capacity, or the capacity and circumstances, in which he was employed in the Coastguard Service on the material date or, if more beneficial, on the date of the end of his war service.

(2) A coastguard who on the material date, or the date of the end of his war service, was employed in the Coastguard Service in a capacity, or in a capacity and circumstances, not specified in the First Schedule to this Scheme shall be treated for the purposes of this Scheme as holding on that date such equivalent naval rank as is in the opinion of the Minister appropriate.

(3) Where the disablement or death of a coastguard is directly attributable, not to a single qualifying injury or period of detention, but to two or more such causes, and different ranks would, by virtue of the foregoing provisions of this Article, be applicable to the different causes of the disablement or death—

- (a) any award under the Naval Order as applied by this Scheme in respect of disablement shall be at such composite rate as the Minister may consider appropriate having regard to the disabling effect of each such cause and the rank applicable thereto; and
- (b) any award under the Naval Order as applied by this Scheme in respect of death shall be based upon the highest of those different ranks.

<sup>(a)</sup> S.R. & O. 1940 (No. 1021) I, p. 186 (revoked by S.R. & O. 1945 (No. 1239), p. 124).

<sup>(b)</sup> S.R. & O. 1941 (No. 2059) II, p. 153 (revoked by S.R. & O. 1945 (No. 1208) II, p. 29).

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5. Where the disablement of a coastguard is directly attributable to a qualifying injury or to detention, the provisions of the Naval Order, modified in the respects indicated in the Second Schedule to this Scheme, shall apply to him so as to secure that, subject to the provisions of this Scheme, there may be made on the termination of his service an award or awards in respect of that disablement of the like nature and amount as would, having regard to his equivalent naval rank, have been made in respect thereof under the Naval Order if he had been a member of the naval forces for the purposes of that Order and his disablement had been due to service as a member of those forces during the war.

Awards for disablement.

6. Where a coastguard is in receipt of retired pay, pension or similar award in respect of previous naval, military or air force service, or would be in receipt of such retired pay, pension or award if he had not commuted the same, that coastguard shall be treated for the purposes of any award under the Naval Order as applied by this Scheme in respect of disablement as if he had been recalled to, or called out for service in, or re-enlisted or re-employed in, the naval, military or air forces, so, however, that an award in respect of disablement suffered by a coastguard who would, if the Order referred to in paragraph (a) of Article 3 of this Scheme had not been made, have been eligible for an award under the Injury Warrant, shall not by virtue of this Article be less favourable than the award which would have been made if the Injury Warrant had continued to be applicable.

Coastguards with service pensions.

7.—(1) Where a coastguard who has suffered disablement which is directly attributable to a qualifying injury or to detention (in this Article referred to as the "relevant disablement"), has been awarded a pension or other grant payable out of public funds (otherwise than under this Scheme) in respect of some other disablement however caused, the degree of the relevant disablement shall not exceed the difference between—

Special provision for persons previously disabled.

- (a) the degree of the other disablement determined by reference to the assessment on which payment of the said pension or other grant is being made or, where that payment is not based on any specific assessment, the assessment which, in the opinion of the Minister, having regard to the regulations under which that payment is made, is appropriate to that other disablement; and
- (b) the degree at which the relevant disablement and the other disablement, determined as aforesaid, would together have been assessed on a composite assessment if both disablements had fallen to be assessed under the Naval Order as applied by this Scheme.

(2) The Minister may, notwithstanding anything in the Naval Order as applied by this Scheme or in this Scheme, make such award in respect of the relevant disablement as will secure that the aggregate value of the award in respect of that disablement and of the pension or other grant in respect of the other disablement is not less than the value of the award which, if both disablements had come within the scope of this Scheme, would have been made by virtue of Article 4 (3) of this Scheme having regard to the equivalent naval rank of the coastguard in

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relation to the relevant disablement and the rank which is, or should, in the opinion of the Minister, be assumed to be, the basis of the pension or other grant in respect of the other disablement.

(3) Where an award may be made under the Naval Order as applied by this Scheme in respect of a member of the disabled person's family in respect of whom an award is not comprised in the pension or other grant in respect of the other disablement, the provisions of this Article shall not apply in relation to that award.

Provision for cases where sickness or disablement benefit has been paid. 26 Geo. 5 & 1 Edw. 8. c. 32.

8. Where sickness or disablement benefit in respect of an injury or of disablement directly attributable to detention has been paid to a coastguard under the National Health Insurance Act, 1936, in respect of any period falling within the period of twenty-six weeks beginning with the Monday next before the date on which he sustained that injury or disablement, a pension or allowance under the Naval Order as applied by this Scheme awarded to that coastguard in respect of that period on account of any disablement directly attributable to that injury or detention shall only be paid in respect of that period to the extent to which the amount thereof exceeds the amount of that sickness or disablement benefit.

Awards on death.

9. Where the death of a coastguard is directly attributable to a qualifying injury or to detention, the provisions of the Naval Order, modified in the respects indicated in the Second Schedule to this Scheme, shall apply to him so as to secure that, subject to the provisions of this Scheme, there may be made an award or awards of the like nature and amount as would, having regard to his equivalent naval rank, have been made under the Naval Order if he had been a member of the naval forces for the purposes of that Order and his death had been due to service as a member of those forces during the war.

Invalidity of assignments.

10. Any assignment or charge, and any agreement to assign or charge, any pension, allowance, gratuity or other grant which may be or has been awarded under the Naval Order as applied by this Scheme shall, for the purposes of this Scheme, be void.

Determination of medical questions.

11. The provisions of the Naval Order as applied by this Scheme shall apply in relation to any medical question which arises under this Scheme in like manner as they apply in relation to any matter which is required by the Naval Order to be certified and which involves a medical question.

Declarations and certificates which may be required.

12.—(1) Any person to whom a pension, allowance or gratuity has been awarded under the Naval Order as applied by this Scheme, and any person to whom payment of that pension, allowance or gratuity is to be made, shall, if and when required by the Minister so to do, subscribe such declaration as the Minister may from time to time prescribe or direct.

(2) Where a declaration is subscribed under paragraph (1) of this Article by a person who is not the person to whom the pension, allowance or gratuity has been awarded, there shall be furnished, if and when required by the Minister, such certificate as the Minister may from time to time prescribe or direct.

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(3) If such a declaration or certificate as may have been required by the Minister under this Article to be subscribed or furnished is not subscribed or furnished, payment of the pension, allowance or gratuity, shall be withheld until the requirements of the Minister under this Article have been complied with.

13.—(1) The Minister shall be the sole administrator of this Scheme and, subject to the provisions of the Pensions Appeal Tribunals Act, 1943, all questions with respect to the effect or operation of this Scheme shall be determined by the Minister and his decision thereon shall be final and conclusive. Administration of Scheme. 6 & 7 Geo. 6. c. 39.

(2) The Minister may make regulations for giving effect to the purposes of this Scheme.

14. The War Pensions (Coastguards) Scheme, 1943,(a) shall be deemed to have ceased to have effect as from the 16th August, 1943, without prejudice, however, to its operation in respect of any period before that date. Repeal of previous Scheme.

15.—(1) This Scheme shall be deemed to have come into operation on the 16th August, 1943, so, however, that no payment shall be made under this Scheme in respect of any period before that date. Commencement and citation.

(2) This Scheme may be cited as the War Pensions (Coastguards) Scheme, 1944.

Made by the Minister of Pensions with the consent of the Treasury  
this 2nd day of May, 1944.

*A. Cumison,*  
Secretary.

FIRST SCHEDULE

EQUIVALENT NAVAL RANKS OF COASTGUARDS

Capacity, or capacity and circumstances	Equivalent naval rank
Chief Inspector ... ..	Captain.
Deputy Chief Inspector ... ..	Captain.
Inspector ... ..	Captain.
District Officer with 8 or more years' service as such.	Lieut.-Commander.
District Officer with less than 8 years' service as such.	Lieutenant.
Deputy District Officer ... ..	Warrant Officer.
Station Officer ... ..	Chief Petty Officer.
Senior Coastguardsman at a station where a Station Officer is not posted.	Petty Officer.
Coastguardsman ... ..	Leading Rating.
Member of the Auxiliary Coastguard	Able Seaman.

(a) S.R. & O. 1943 (No. 762) I, p. 765.

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### SECOND SCHEDULE

The provisions of the Naval Order shall, except where the context otherwise requires, be modified for the purposes of their application to coastguards by deleting Articles 1 (6), 1 (9), 1 (19), 1 (23), 2 (4), 4, 6, 12 (5), 12 (8), 20, 30, 31 (4), 31 (5) (b), 32, 37 (3) (b), 38 (4) (b), 42, 43, 46, 48, 50, 51, 53 and 71, and by substituting for the words, phrases and provisions set out in the first column of the following Table the words, phrases and provisions set out in the second column of that Table.

TABLE

Provision in Naval Order	Modification for application to coastguards
Member of the naval forces ...	Coastguard.
Officer ... ..	Coastguard who is to be treated for the purposes of this Scheme as holding an equivalent naval rank which is that of a commissioned or warrant officer of the Royal Navy.
Commissioned Officer, Sub-Lieutenant (in Article 29), Warrant Officer.	Coastguard who is to be treated for the purposes of this Scheme as holding an equivalent naval rank which is that of a Commissioned Officer, Sub-Lieutenant or Warrant Officer, as the case may be.
Rating, other rank ... ..	Coastguard who is to be treated for the purposes of this Scheme as holding an equivalent naval rank which is that of a rating of the Royal Navy.
Rank ... ..	Equivalent naval rank.
Retired pay (except in Part VI) ...	Pension.
Service, war service ... ..	Service as a person to whom this Scheme applies.
Due to war service ... ..	Directly attributable to a qualifying injury or to detention.
End of war service ... ..	End of war service as defined in this Scheme.
Material date as therein defined ...	Material date as defined in this Scheme.
Wound, injury or disease (in Article 5).	Qualifying injury or detention.
Due to more than one wound, injury or disease (in Article 9 (1) proviso).	Directly attributable, not to a single qualifying injury or period of detention, but to two or more such causes.
Due to or hastened by the disablement in respect of which he was at that date in receipt of retired pay or pension (in Article 36).	Directly attributable to the disablement in respect of which he was at that date in receipt of that allowance.