
STATUTORY INSTRUMENTS

1995 No. 238

The Overseas Service (Pensions Supplement) Regulations 1995

PART V

MISCELLANEOUS AND SUPPLEMENTARY

Calculation of supplement on pensions of dependants of certain officers who served in the Federation of Rhodesia and Nyasaland

21.—(1) This regulation applies where an officer served under the government of Zambia (formerly Northern Rhodesia) or Malawi (formerly Nyasaland) and subsequently served under the government of the Federation of Rhodesia and Nyasaland and where a dependant of the officer receives—

- (a) a pension in respect of contributions made in relation to the officer's service under the government of Zambia or Malawi;
- (b) a pension in respect of the officer's service under the government of the Federation of Rhodesia and Nyasaland; and
- (c) a special pension paid out of the Central African Pension Fund to compensate for the difference between the combined rate of the pensions mentioned above and the rate of pension which the dependant might have received had the officer died immediately before he transferred to service under the government of the Federation of Rhodesia and Nyasaland.

(2) For the purpose of calculating supplement the pensions mentioned in paragraph (1)(a) and (c) shall be aggregated and (subject to paragraph (3)) deemed a single contributory derivative pension in respect of contributions made in relation to the officer's service under the government of Zambia or Malawi, and in relation to that deemed pension the period of contributory service under the government of Zambia or Malawi shall be treated as extending up to and including the date when the officer ceased to serve under the government of the Federation of Rhodesia and Nyasaland; but—

- (a) for the purposes of paragraph 4 of Schedule 5, only those dates specified in paragraph 5 of that Schedule which occurred before the officer began to serve under the Government of the Federation of Rhodesia and Nyasaland shall be taken into account; and
- (b) for the purposes of regulation 17 and Schedule 6, only those relevant dates which occurred before the officer began to serve under the government of the Federation of Rhodesia and Nyasaland shall be taken into account.

(3) Notwithstanding that paragraph (2) provides for the pensions mentioned in paragraph (1)(a) and (c) to be deemed a single contributory derivative pension, the provisions of regulation 22 shall apply to those pensions as separate pensions and accordingly—

- (a) the increasable rate of the deemed pension shall be the aggregate of the increasable rates of each pension converted into sterling at the rate of exchange appropriate to each pension; and
- (b) the overseas increases on each pension shall be converted into sterling at the rate of exchange appropriate to that pension.

(4) Supplement in respect of the pension mentioned in paragraph (1)(b) shall be calculated normally.

Conversion to sterling

22.—(1) Supplement under these regulations shall be calculated and payable in sterling.

(2) For the purposes of these regulations, the increasable rate of a pension initially payable in a currency other than sterling (including one treated as so payable by regulation 5) shall be converted to sterling at the rate of exchange provided by paragraphs (3) to (5), and the same rate of exchange shall apply for conversion to sterling of the rate of pension first awarded referred to in regulation 19(1)(c) and the current rate of any other pension referred to in regulation 19(1)(d).

(3) Where there is a Public Officers' Agreement between Her Majesty's Government in the United Kingdom and the Government of the overseas territory to which the other currency relates (other than the Central African Public Officers' Agreement 1964), the rate of exchange shall be that specified in that Agreement, whether or not that Agreement applies to such pension or the pension is paid at the rate of exchange specified in the Agreement.

(4) Where there is no Public Officers' Agreement or the pension is one to which the Central African Public Officers' Agreement 1964 applies the rate of exchange shall be—

- (a) where any provision or administrative arrangement in force in the overseas territory to which the other currency relates provides for a specific rate of exchange, that rate, unless—
 - (i) the currency relates to an overseas territory specified in column 1 of Schedule 7, or
 - (ii) that rate produces a greater amount in sterling than the rate specified in subparagraph (c) of this paragraph;
- (b) where the currency relates to an overseas territory specified in column 1 of Schedule 7, and subject to paragraph (5), the middle rate in the official exchange rate market on the date specified in column 2 of that Schedule; and
- (c) in any other case, the middle rate in the official exchange rate market on—
 - (i) 30th June 1976, where the pension is one for which the last day of service in respect of which it was awarded is on or before that date; or
 - (ii) the last day of such service, where that day is after 30th June 1976.

(5) In the case of a pension initially payable in the currency of the Gilbert and Ellice Islands or the Solomon Islands which is computed by reference to emoluments in service of which the last day was before 31 December 1976, for the purpose of calculation, under Part I of the Act as applied by Part III of these regulations, of the increases under section 1 of the Act and under orders made under section 2 of the Act⁽¹⁾ up to and including the Pensions Increase (Annual Review) Order 1976⁽²⁾, the increasable rate of the pension shall be converted to sterling at the middle rate of the official exchange rate market on 30 June 1976, but for all other purposes the increasable rate shall be converted to sterling at the rate of exchange determined under paragraph (4)(b), and accordingly, in relation to that pension, in any order made under section 2 of the Act beginning with Pensions Increase (Annual Review) Order 1977⁽³⁾ or in any order made under section 59 of the Social Security Pensions Act 1975⁽⁴⁾—

(1) Section 2 was repealed by the Social Security Pensions Act 1975 (c. 60), Schedule 5, but without prejudice to any existing orders under that section.

(2) S.I. 1976/1356.

(3) S.I. 1977/1387.

(4) 1975 c. 60; section 59 was amended by the Social Security Act 1979 (c. 18), section 11(1), (2) and Schedule 3 paragraph 20; by the Social Security Act 1985 (c. 53), Schedule 5, paragraph 33 and Schedule 6; by the Social Security Act 1986 (c. 50), section 9(8); by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), sections 1(7) and 5(1) and (2); by the Social Security (Consequential Provisions) Act 1992 (c. 6), Schedule 2 paragraph 34, and by the Pension Schemes Act 1993 (c. 48), Schedule 8, paragraph 9(1).

- (a) any reference to the basic rate is a reference to a basic rate equal to the increasable rate of the pension converted in accordance with the rate of exchange determined under paragraph (4)(b);
 - (b) any reference to the amount of any increase under section 1 of the Act or the existing Orders is a reference to that amount calculated by reference to the increasable rate of the pension converted in accordance with the rate of exchange which applies under this paragraph for the purpose of that calculation; and
 - (c) any statement showing the cumulative effect of increases shall not be applicable.
- (6) The sterling value of any overseas increase to which regulation 19(1)(a) applies initially payable in a currency other than sterling shall be calculated on the 15th day of each month of payment of supplement using—
- (a) the rate of exchange at which the overseas increase is paid, where that is the rate for the overseas territory to which the currency other than sterling relates—
 - (i) specified in the Public Officers' Agreement (if any) for that territory, other than the Central African Public Officer's Agreement 1964;
 - (ii) provided by any provision or administrative arrangements in force in that territory; or
 - (iii) specified in paragraph (4)(b);
 - (b) in any other case, the middle rate on that day in the official exchange market between the other currency and sterling or, if there is no official exchange market, the prevailing exchange rate for current payments.

Application for supplement

- 23.—(1) Application for supplement shall be made to the Secretary of State.
- (2) An applicant for supplement may be required by the Secretary of State to produce proof that he is alive and eligible for supplement.
- (3) Where proof has been required under paragraph (2), no payment of supplement shall be made until such proof is furnished to the satisfaction of the Secretary of State.

Revision and recovery of supplement

- 24.—(1) Where any overseas increase taken into account in the calculation of a supplement is revised with retrospective effect, that supplement shall be revised with similar effect and any overpayment of supplement thereby identified shall be repaid to the Secretary of State.
- (2) Any sum repayable under paragraph (1), and any sum paid in respect of supplement which is recoverable by the Secretary of State apart from that provision, may (without prejudice to any other means of recovery) be recovered by deduction from supplement paid to the pensioner in respect of any pension.

Revocations

25. The regulations specified in Schedule 8 are revoked.

Savings and transitional provision

- 26.—(1) Where, in relation to any pension, supplement is being paid immediately before the date when these regulations come into force under the Overseas Service (Pensions Supplement)

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Regulations 1977(5) and the amount of supplement being paid is higher than the amount which would be payable at that date under these regulations—

- (a) that amount of supplement may continue to be paid as if it were the amount payable at that date under these regulations (but subject like that amount to revision on any relevant change of circumstances); and
 - (b) for the purpose of the application to the pension of any order under section 59 of the Social Security Act 1975 which comes into force after these regulations come into force, the amount of the basic rate as increased by the amount of any increase under section 1 of the Act or any existing Orders in force before these regulations come into force shall be determined under Part I of the Act as applied by the Overseas Service (Pensions Supplement) Regulations 1977, where that produces a higher amount than the amount determined under Part I of the Act as applied by Part III.
- (2) Supplement on any payments of pension which fall due before these regulations come into force shall be calculated under the Overseas Service (Pensions Supplement) Regulations 1977, notwithstanding that supplement is only applied for or paid when these Regulations are in force.