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## STATUTORY INSTRUMENTS

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### 2010 No. 832

#### The Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No. 2) Order 2010

#### PART 4

#### THE ARMED FORCES RESETTLEMENT COMMUTATION SCHEME 2010

##### Interpretation of Part 4

**27.**—(1) The Scheme set out in this Part shall be known as the Armed Forces Resettlement Commutation Scheme 2010 (“the AFRCS 2010”).

(2) In this Part—

“ill-health pension” means service invaliding retired pay or pension under the AFPS 1975;

“the life commutation scheme” is set out in rule J.7 of the AFPS 1975;

“the Scheme actuary” means the actuary appointed by or on behalf of the Defence Council to provide a consulting service on actuarial matters relevant to the AFRCS 2010.

##### Application

**28.** The AFRCS 2010 applies to persons serving in the armed forces before 6th April 2005, with an immediate entitlement to pension other than ill health pension, whose service ends on or after 6th April 2010.

##### Resettlement Commutation

**29.**—(1) A person may commute part of their pension, with restoration in full at age 55, to obtain an additional lump sum, subject to the following conditions—

- (a) they gave service on or after 31st March 1978;
- (b) they ceased to be in service with an immediate entitlement to pension other than ill health pension before the age of 55 years; and
- (c) in the opinion of the Defence Council their health on leaving service is satisfactory.

(2) Commutation under both the life commutation scheme and the AFRCS 2010 is not permitted, except as stated under article 30(4).

(3) Subject to paragraph (4), the option to commute under the AFRCS 2010 may only be exercised once and must be exercised on or before the last day of service.

(4) Commutation will not be permitted where an officer has applied to rejoin the armed forces.

##### Factors affecting the amount of commutable pension

**30.**—(1) Subject to article 32, the maximum lump sum which can be commuted by a person shall be the difference between the lump sum awarded on leaving service and—

- (a) in the case of officers, the 34 year rate, and
- (b) in the case of someone who is not an officer, the 37 year rate,

set out in the pension codes at the date service ends.

(2) Any supplements paid to a person shall be included when calculating resettlement commutation and pension.

(3) Commutation under the AFRCS 2010 shall not be permitted to reduce the basic rate of pension by more than half for any person.

(4) Subject to paragraph (3), where a person who is not an officer can raise less than £1000 under the AFRCS 2010, they may commute concurrently under the life commutation scheme to provide a combined sum of up to £1000 provided that the sum taken under the AFRCS 2010 is the maximum available.

(5) The following awards are not commutable—

- (a) ill-health pension;
- (b) any proportion of pension based on purchased added years or additional voluntary contributions of any kind; and
- (c) preserved awards.

(6) The amount of pension to be temporarily waived to secure a capital sum will be determined by the Scheme actuary.

(7) In paragraph (5)(c), “preserved awards” refers to the preserved pension of a person who leaves service without being immediately entitled to a pension.

### **Repayment of resettlement commutation and abatement**

**31.**—(1) Where a person leaves the armed forces with an immediate entitlement to pension, (“the old service”) and later rejoins (“the new service”), that person’s pay under the new service, combined with the existing pension in respect of their old service, shall not exceed the rate of pay (uprated for inflation), on the day before their old service ended.

(2) If the pay under the new service and existing pension exceeds pay in the old service, the difference shall be deducted from pension.

(3) Where a person leaves the armed forces having taken a lump sum under the AFRCS 2010, that person shall commence repayment of the lump sum with immediate effect.

(4) Where a person having taken resettlement commutation later rejoins the armed forces in a post where the pay in the new service combined with existing pension exceeds pay in the old service, the difference shall be repaid in accordance with paragraph (2) and the repayment due in relation to the resettlement commutation sum shall be deducted from that revised sum.

(5) Any deductions under paragraphs (2) and (4) shall be made from pension, with any shortfall immediately repayable.

### **Misconduct**

**32.** Where a person’s service ends by reason of misconduct, the amount payable as set out in the pension codes is—

- (a) in the case of officers, the difference between the lump sum for length of service based on the 34 year rate for premature voluntary retirement; and
- (b) in the case of persons other than officers, the difference between the lump sum for length of service relating to misconduct and the 37 year rate.