
STATUTORY INSTRUMENTS

2011 No. 517

The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011

PART 4

BENEFITS PAYABLE FOR DEATH

Description of benefits - death

29.—(1) Benefits payable for the death of a member or a former member (“the deceased”) are—

- (a) a survivor's guaranteed income payment payable until death to a surviving spouse, civil partner or surviving adult dependant;
- (b) a bereavement grant payable to a surviving spouse, civil partner [^{F1}],^{F2} . . . surviving adult dependant [^{F3}, or eligible child];
- (c) a child's payment payable to or in respect of an eligible child.

(2) If the deceased and the surviving spouse married less than 6 months before the death of the deceased, the Secretary of State may withhold benefit under this article.

(3) If the deceased and the surviving civil partner formed their partnership less than 6 months before the death of the deceased, the Secretary of State may withhold benefit under this article.

(4) Where a member was a member of the AFPS 2005 [^{F4}or the AFPS 2015] and dies in service, a bereavement grant is not payable except in the circumstances specified in paragraph (5).

(5) The circumstances referred to in paragraph (4) are that the salary of the deceased on the date of death is less than the amount of the bereavement grant.

[^{F5}(6) A bereavement grant is payable to an eligible child where the deceased does not leave a surviving spouse, civil partner or surviving adult dependant.]

Textual Amendments

- F1** Art. 29(1)(b): “,” inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **4(a)(i)** (with art. 10)
- F2** Word in art. 29(1)(b) omitted (17.11.2011) by virtue of [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **4(a)(ii)** (with art. 10)
- F3** Words in art. 29(1)(b) inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **4(a)(iii)** (with art. 10)
- F4** Words in art. 29(4) inserted (6.4.2015) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2015 \(S.I. 2015/413\)](#), arts. 1(1), **5**
- F5** Art. 29(6) inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **4(b)** (with art. 10)

Meaning of “surviving adult dependant”

30. A person is a surviving adult dependant in relation to a deceased member or former member if, at the time of the deceased's death—

- (a) the person and the deceased were cohabiting as partners in a substantial and exclusive relationship;
- (b) the deceased leaves no surviving spouse or civil partner;
- (c) the person and the deceased were not prevented from marrying or forming a civil partnership; and
- (d) either the person was financially dependent on the deceased or they were financially interdependent.

Meaning of “eligible child”

31.—(1) In this Order, “eligible child” in relation to a deceased member or former member, means—

- (a) a child or an adopted child of the deceased who meets any of the conditions specified in paragraph (2); and
 - (b) any other child or young person who—
 - (i) meets any of those conditions; and
 - (ii) was financially dependent on the deceased on the day of death.
- (2) The conditions referred to in paragraph (1) are that the person—
- (a) is aged under 18;
 - (b) is in full-time education or vocational training and is aged under 23; or
 - (c) because of physical or mental impairment—
 - (i) is, in the opinion of the Secretary of State, unable to engage in gainful employment; and
 - (ii) was dependent on the deceased on day of the deceased's death.

Eligible child - further provisions

32.—(1) Where a person ceases to be in full-time education and is aged under 19 on that day (“the relevant day”), the person is treated as being in such education until the first of the following days after the relevant day—

- (a) the second Monday in January;
- (b) the second Monday after Easter Monday;
- (c) the second Monday in September;
- (d) the day of the person's 19th birthday;
- (e) the day on which the person becomes engaged full-time in gainful employment.

(2) A person who, on the day of the death of a member or former member, is aged under 23 and taking a break from full-time education or vocational training not exceeding one academic year, is treated as continuing such education or training during the break for the purpose of determining whether the person is an eligible child on that day.

(3) A person who on the day of the death of a member or former member—

- (a) has finished full-time education at school,
- (b) has not started further full-time education or vocational training, and

(c) is taking a break not exceeding 15 months,
is treated as continuing such education or training during the break for the purposes of determining whether the person is an eligible child on that day.

(4) A person who is an eligible child—

(a) who takes a break from full-time education or vocational training not exceeding one academic year; or

(b) who—

(i) finishes full-time education at school, and

(ii) takes a break not exceeding 15 months before starting further full-time education or vocational training,

is to be treated as continuing such education or training during one academic year in the case of paragraph (a) and during 15 months in the case of paragraph (b) for the purpose of determining whether the person is an eligible child during the break.

(5) A person who is aged over 17 and under 23 who has ceased full-time education or vocational training because of ill-health is to be treated, for the purpose of determining whether the person is an eligible child for the purpose of satisfying the condition specified in article 31(2)(b) as continuing such education or training until either—

(a) the person resumes such education or training;

(b) the person is no longer ill and does not resume such education or training; or

(c) the person's ill-health is such that the person is unable to resume such education or training.

(6) Nothing in paragraphs (2), (3) or (4) requires child's payment to be paid in respect of such a child during the break.

(7) A person is no longer treated as an eligible child if a break referred to in paragraph (2), (3), (4) or (5) lasts for longer than the periods mentioned in those paragraphs.

Children born after the death of a member or former member

33.—(1) A child who is born after the death of a member or a former member is only treated as an eligible child of that member if the child is born before the first anniversary of the death of the member or former member.

(2) No child's payment is payable in respect of any period before the birth of such a child.

Amount of survivor's guaranteed income payment

34.—(1) Subject to paragraph (6) the annual amount of survivor's guaranteed income payment is 60% of the base figure.

(2) The base figure is calculated by multiplying the relevant salary by the relevant factor.

(3) In this article—

(a) “the relevant salary” is, subject to paragraph (4), the salary of the member on the date of death, or in the case of a former member, the salary on the day on which the member's service ends up-rated for inflation to the date of claim;

(b) “the relevant factor” is the figure specified in column (b) of the Table set out in Schedule 4 in relation to the relevant age specified in column (a);

(c) “the relevant age” is the age of the member or former member as the case may be on the date of death.

(4) Where death is due to an injury sustained in an incident which occurred on a day while the member or former member held acting rank, the relevant salary is whichever is the higher of—

- (a) the salary specified in paragraph (3); or
- (b) the actual salary of the member or former member on the day of the incident.

(5) Up-rating a former member's salary for inflation for the purposes of determining “relevant salary” under this article is to be carried out in accordance with article 73.

(6) In the event that there is more than one surviving spouse entitled to the survivor's guaranteed income payment, the annual amount to which each such surviving spouse is entitled is 60% of the base figure, divided by the number of surviving spouses so entitled at the date of the death of the member or former member.

Amount of bereavement grant

35.—(1) Subject to paragraph (2), the amount of the bereavement grant payable in respect of the death of a person who was a member on the date of death is £25,000.

[^{F6}(2) Where the person was—

- (a) a member of the AFPS 2005, or
- (b) a member of the AFPS 2015,

the amount of the bereavement grant is the difference between the salary of the member on the date of death and the amount specified in paragraph (1).]

(3) Where a former member dies the bereavement grant is £37,500.

(4) In the event that there is more than one surviving spouse [^{F7}or eligible child] entitled to the bereavement grant, the amount to which each such surviving spouse [^{F7}or eligible child] is entitled is the amount payable at paragraphs (1), (2) or (3), divided by the number of surviving spouses [^{F8}or eligible children] so entitled at the date of the death of the member or former member.

[^{F9}(5) In the case of a bereavement grant payable to an eligible child paragraph (4) applies only where at the time the grant is paid—

- (a) a claim for child's payment has been made by or on behalf of an eligible child; or
- (b) the Secretary of State is aware that a claim is to be made on behalf of a child born after the death of a member or former member.]

Textual Amendments

- F6** Art. 35(2) substituted (6.4.2015) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2015 \(S.I. 2015/413\)](#), arts. 1(1), **6**
- F7** Words in art. 35(4) inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **5(a)(i)** (with art. 10)
- F8** Words in art. 35(4) inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **5(a)(ii)** (with art. 10)
- F9** Art. 35(5) inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **5(b)** (with art. 10)

Amount of child's payment

36.—(1) The annual amount of child's payment is the relevant percentage of the base figure or, in the circumstances specified in paragraphs (3)(b) and (4)(b), the amount referred to in those sub-paragraphs.

- (2) The base figure is calculated by multiplying the relevant salary by the relevant factor.
- (3) Where a member or former member dies leaving a surviving spouse, civil partner or a surviving adult dependant—
- (a) the relevant percentage is—
 - (i) 15% for each of the first 2 eligible children;
 - (ii) 10% for the third eligible child; and
 - (b) where there are more than 3 eligible children, the amount referred to in paragraph (1) is an amount obtained by dividing 40% of the base figure by the number of eligible children left by the member or former member.
- (4) Where a member or a former member dies without leaving a surviving spouse, a civil partner or a surviving adult dependant but leaves—
- (a) no more than 4 eligible children, the relevant percentage is 25%;
 - (b) more than 4 eligible children, the amount referred to in paragraph (1) is an amount obtained by dividing the base figure by the number of eligible children.
- (5) A child's payment is to be recalculated, in accordance with paragraph (6), and commence in accordance with paragraph (7), on the death of a person—
- (a) who was a surviving spouse, civil partner or surviving adult dependant of a member or a former member; and
 - (b) who has been in receipt of a survivor's guaranteed income payment; and
 - (c) where there is no other surviving spouse entitled to a survivor's guaranteed income payment.
- (6) The child's payment is to be recalculated—
- (a) in accordance with paragraph (4); and
 - (b) as if the member or former member had died without leaving a surviving spouse, civil partner or surviving adult dependant.
- (7) The recalculated child's payment becomes payable on the day after the date on which the death of the surviving spouse, civil partner or surviving adult dependant occurred.
- (8) Where a child ceases to be an eligible child, there is to be no adjustment in the amount of child's payment payable to the other children who receive child's payment as a result of the same calculation.
- (9) In this article—
- (a) “the relevant salary” is, subject to paragraph (10), the salary of the member on the date of death or, in the case of a former member, the salary on the day on which the member's service ends up-rated for inflation to the date of claim;
 - (b) “the relevant factor” is the figure specified in column (b) of the Table set out in Schedule 4 in relation to the relevant age specified in column (a);
 - (c) “the relevant age” is the age of the member or the former member on the date of death.
- (10) Where death is due to an injury sustained in an incident which occurred on a day while the member, or former member, held acting rank, the relevant salary is whichever is the higher of—
- (a) the salary specified in paragraph (9); or
 - (b) the actual salary of the member or former member on the day of the incident.
- (11) Up-rating a former member's salary for the purposes of determining “the relevant salary” under this article is to be carried out in accordance with article 73.

Awards of child's payment - later adjustment

37.—(1) This article applies where, after the death of a member or former member—

- (a) a child's payment is paid in respect of one or more persons under this Part on the basis that they were eligible children at the date of the member's death and that there were then no other eligible children; and
- (b) subsequently it appears—
 - (i) that a person in respect of whom such a payment has been paid was not then an eligible child;
 - (ii) that a further person was then an eligible child; or
 - (iii) that a child who was born after the member's death is an eligible child.

(2) The Secretary of State may make such adjustments in the amount of the child's payment payable in respect of the eligible children as are required in view of the facts as they subsequently appear.

(3) Paragraph (2) does not affect the Secretary of State's right to recover a payment or overpayment in any case where the Secretary of State considers it appropriate to do so.

Children entitled to three or more awards of child's payment

38.—(1) This paragraph applies if, apart from this paragraph, child's payment would be payable in respect of the same child under article 29(1)(c) as a result of the death of more than two members or former members.

(2) Child's payment is payable only in respect of the death of two members or former members.

(3) The amount of child's payment is the total of the two payments which together result in the payment of the highest annual amount.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, PART 4.