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STATUTORY INSTRUMENTS

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**2013 No. 2914**

**PENSIONS**

**The Armed Forces Early Departure  
Payments Scheme (Amendment) Order 2013**

*Made - - - - 17th November 2013*  
*Laid before Parliament 20th November 2013*  
*Coming into force - - 16th December 2013*

The Secretary of State for Defence, in exercise of the powers conferred by sections 1(1) and 10(2) of the Armed Forces (Pensions and Compensation) Act 2004 (1), makes the following Order:

**Citation and commencement**

1.—(1) This Order may be cited as the Armed Forces Early Departure Payments Scheme (Amendment) Order 2013.

(2) This Order comes into force on 16th December 2013.

**Interpretation**

2. In this Order —

“the AFPS 1975” means the occupational pension scheme arrangements set out in—

- (a) the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 made on 16th December 2010(2);
- (b) the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 made on 15th December 2010(3);
- (c) the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 made on 15th December 2010(4);

“the AFPS 2005” means the Armed Forces Pension Scheme 2005 established by article 2 of the Armed Forces Pension Scheme Order 2005(5);

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(1) [2004 c.32](#).  
(2) Order in Council made pursuant to section 3 of the [Naval and Marine Pay and Pensions Act 1865 \(28 and 29 Vict c.73\)](#).  
(3) Royal Warrant made under section 2 of the [Pensions and Yeomanry Pay Act 1884 \(47 and 48 Vict c. 55\)](#) and prerogative powers.  
(4) Queen’s Order made under section 2(1) of the [Air Force \(Constitution\) Act 1917 \(7 and 8 Geo 5 c. 51\)](#).  
(5) [S.I. 2005/438](#), as amended by [S.I 2007/2608](#) and other S.I.s not relevant to this Order.

“the principal Order” means the Armed Forces Early Departure Payments Scheme Order 2005(6).

**Amendment of article 4 (Meaning of relevant service)**

3. In article 4 (meaning of relevant service) of the principal Order after paragraph (e) insert—
- “(f) subject to sub-paragraph (g), in the case of any person who—
    - (i) was in service before 6th April 2005,
    - (ii) was an active member of the AFPS 1975, and
    - (iii) was not an AFPS 1975 transferee (as defined in Rule K1(2) of the AFPS 2005), any period during which the person was in service as a member of the armed forces and either received earnings that are pensionable earnings for the purposes of the AFPS 1975 or is treated under rule A 6 of the AFPS 1975 as having received assumed pay.
  - (g) for the purposes of paragraph (f), a period of service is only to be regarded as relevant service where—
    - (i) the person has exercised the option to aggregate that period of service with current service for pensions purposes under Part G of the Armed Forces Pension Scheme Order 2005(7);
    - (ii) the person has not received any payments in respect of a pension payable under AFPS 75 in respect of that period of service ; and
    - (iii) for the purposes of assessing entitlement to a resettlement grant under article 14 , the person has not received a resettlement grant payment in respect of that period under article 14 or under the AFPS 1975, or where such payment has been received, the person has made repayment under article 15 or under the corresponding provisions.”.

**Amendment of article 14 (Entitlement to resettlement grants)**

4. In paragraph (1) of article 14 (entitlement to resettlement grants) of the principal Order, for sub-paragraph (d) substitute—
- “(d) is not an active or pensioner member of the AFPS 1975.”.

Signed by authority of the Secretary of State for Defence

17th November 2013

*Anna Soubry*  
Parliamentary Under Secretary of State

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(6) [S.I. 2005/437](#) amended by [SI 2007/2608](#) and [2008/229](#); there are other amending instruments but none is relevant.  
(7) Part G provides that where a person has more than one period of previous service, a person may opt for only the last of these to be aggregated with current service for pensions purposes.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Armed Forces Early Departure Payments Scheme Order 2005 ([S.I. 2005/437](#)) (“the principal Order”) which establishes the Armed Forces Early Departure Payments Scheme (“the EDP Scheme”) for the purpose of making payments to members of the Armed Forces Pension Scheme 2005 (“the AFPS 2005”) who leave armed forces service before they are entitled to retirement pensions or other benefits from the AFPS 2005.

Article 4 of the principal Order is amended so that where a member of the armed forces was an active member of the Armed Forces Pension Scheme 1975 (“the AFPS 1975”) who did not opt to become a member of the AFPS 2005 on the basis set out in Part K of AFPS 2005, but rather became a member of the AFPS 2005 after having left and rejoined service, the last period of that person’s service while a member of the AFPS 1975 can be aggregated towards relevant service for the purposes of eligibility for benefits under the EDP Scheme. However, the period will only count as relevant service under the EDP Scheme where the person opts to aggregate the period for pension purposes under Part G of the AFPS 2005 (which allows the aggregation of only the last period of service where there is more than one period of previous service). In addition, the period will only count as relevant service under the EDP Scheme where the person has not already received any pension payments or certain other benefits under the AFPS 1975 in respect of that period.

Article 14(1) of the principal Order is amended to make clear that only active and pensioner members of the AFPS 1975 are excluded by sub-paragraph (d) from entitlement to resettlement grant payments.

A full regulatory impact assessment has not been produced on this instrument as it has no impact on the costs of business, charities or the voluntary sector.