STATUTORY INSTRUMENTS

2014 No. 2328

The Armed Forces Early Departure Payments Scheme Regulations 2014

PART 4

Lump sums on incapacity

Lump sum awards: incapacity for armed forces service

- 19.—(1) A person who ceases to be in service as a member of the armed forces is entitled to immediate payment of a lump sum if—
 - (a) in the opinion of the scheme manager the person will continue to be unfit for service as a member of the armed forces because of physical or mental impairment; and
 - (b) the scheme manager has received evidence from a registered medical practitioner that the person is unfit for the purposes of sub-paragraph (a); and
 - (c) the person has at least 2 years' qualifying service; and
 - (d) immediately before the service ceases the person was an active member of the AFPS 14;
 - (e) the person is not entitled to payments under either—
 - (i) regulation 9 (entitlement to early departure payments), where the scheme manager determines that payment should be made instead of a payment under this regulation, or
 - (ii) the immediate payment of a pension under-
 - (aa) regulation 43 (retirement on or after reaching normal pension age-active members) of the AFPS 14, or
 - (bb) regulation 51 (entitlement to ill-health pension: active members with permanent serious ill-health) of the AFPS 14, or
 - (cc) regulation 52 (entitlement to ill-health pension: active members with significant impairment of capacity for gainful employment) of the AFPS 14, or
 - (dd) regulation 60 (option for members in serious ill-health to exchange whole pension for lump sum) of the AFPS 14.
 - (2) The following periods do not constitute qualifying service for the purposes of this regulation—
 - (a) any pensionable service in respect of which a person's rights under the AFPS 14 are extinguished, or
 - (b) any pensionable service in a connected scheme in respect of which the person's rights under that scheme are extinguished.

Amount of lump sum on incapacity for armed forces service

- **20.**—(1) The amount of the lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person's final pensionable earnings by their service expressed in years and fractions of a year except where—
 - (a) the amount calculated is less than one half of the person's final pensionable earnings. In these circumstances the person is to receive an amount equivalent to half the person's final pensionable earnings.
 - (b) the amount calculated is more than twice the person's final pensionable earnings. In these circumstances the person is to receive an amount equivalent to twice the person's final pensionable earnings.
- (2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.

Effect of payment of an early departure payment, relating to previous service, on payment of lump sum on incapacity for armed forces service

- **21.**—(1) Where a person is in receipt of payments under regulation 9 (entitlement to early departure payments) and subsequently becomes entitled to a payment under regulation 19 (lump sum awards: incapacity for armed forces service), that person will continue to receive payments under regulation 9 unless the scheme manager determines that the person should receive a payment under regulation 19 instead of payments under regulation 9.
- (2) If the scheme manager determines that the person is to receive a payment under regulation 19, payments under regulation 9 are to end from the date that the payment under regulation 19 is made.

Effect of rejoining the armed forces having received a lump sum award for incapacity for armed forces service

- **22.**—(1) Subject to paragraph (2), where a person is accepted for re-entry to the armed forces that person is to retain any previous lump sum paid under regulation 19 (lump sum awards: incapacity for armed forces service).
 - (2) On rejoining the regular forces a person must repay any unexpired part of the lump sum.
 - (3) In paragraph (2) 'unexpired part' is to be determined by applying the following formula—

$$(1-(A \div B)) \times \text{lump sum received}$$

where-

A is the period in years and complete months since the person ceased to be in regular service; and

B is the amount of lump sum awarded multiplied by 8 and then divided by the person's final pensionable earnings as used to calculate the lump sum award.

(4) If a person becomes entitled to a subsequent payment under regulation 19, only that period of service from the point at which the person rejoined the armed forces is to be used for the purpose of calculating the amount of the lump sum under regulation 19.