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STATUTORY INSTRUMENTS

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**2014 No. 2336**

**The Armed Forces Pension Regulations 2014**

**PART 6**

**Death benefits**

**CHAPTER 3**

**Lump sum death benefits**

**Meaning of “final pensionable earnings”**

**76.**—(1) In this Chapter, “final pensionable earnings”, in relation to a member, means the greatest amount that is the member’s total pensionable earnings, under regulation 23 (pensionable earnings), for 365 consecutive days falling within the period of 3 years ending with the last day of service.

(2) If the person was required to be in service as a member of the armed forces during any period of 365 consecutive days falling within the period of 3 years mentioned in paragraph (1) but was not in such service for a period of 365 consecutive days, then the paragraph applies as if it referred to the person’s annualised pensionable earnings in the period of service ending with the last day of service.

(3) The person’s annualised pensionable earnings in the period of service are the amount given by the formula—

$$PE \times (365 \div N)$$

where—

**PE** is the person’s pensionable earnings for the period, and

**N** is the number of days in the period for which pensionable earnings were received.

If the period of the final pensionable earnings includes the day 29 February, for “365” substitute “366”.

(4) If at any time during the period of 3 years mentioned in paragraph (1) or the period mentioned in paragraph (2), the member is treated under regulation 24 (meaning of ‘assumed pay’) as receiving assumed pay, or would be if they were a member of this scheme throughout that period, for the purposes of this regulation, their pensionable earnings for each day during that period when they are so treated include the assumed pay for that day.

**Earnings adjustments in determining final pensionable earnings**

**77.**—(1) For the purpose of determining which is the greatest amount mentioned in regulation 76 (meaning of ‘final pensionable earnings’), the amount of pensionable earnings, as determined in accordance with regulation 76 for that part of the period of 365 days that falls 365 days or more before the last day of service is to be adjusted for inflation.

(2) Any adjustment made for the purpose of determining final pensionable earnings is to be disregarded for all other purposes of this scheme.

(3) The reference in paragraph (1) to adjusting for inflation the amount of pensionable earnings for part of the period is a reference to increasing it by the same amount as that by which an annual pension of an amount equal to those earnings would have been increased under the PIA 1971 on the day following the last day of service if the pension—

- (a) were eligible to be so increased; and
- (b) had come into payment on the day following the last day of that period.

**Death of a member: lump sum benefit**

78.—(1) On the death of a member, the scheme manager may pay a lump sum to—

- (a) the person or persons nominated by the member in accordance with regulation 84 (nominations for lump sum death benefits);
- (b) if there is no person within sub-paragraph (a), to any person who is entitled to a pension under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) in respect of the member;
- (c) if there is no person within sub-paragraphs (a) or (b), to any person who, but for the application of regulation 65 or 67 would be so entitled or to whom a pension may be awarded; or
- (d) if there is no person within sub-paragraph (a), (b) or (c), to the member's personal representatives.

(2) If the scheme manager decides to pay all or part of the lump sum in accordance with a nomination then—

- (a) the payment is to be made to them in such proportions as the member has specified in the nomination; or
- (b) if no proportions are so specified, in such proportions as the scheme manager considers appropriate.

(3) This regulation does not apply if—

- (a) the member is—
  - (i) a pensioner member, who is not also a deferred member or an active member; or
  - (ii) a pension credit member who dies after any benefits attributable to a pension credit have become payable and who is not also an active member, a deferred member or a pensioner member; and
- (b) the death takes place—
  - (i) more than 5 years after the member's pension becomes payable; or
  - (ii) after the member's pension has been commuted under regulation 116 (commutation of small pensions) or 60 (option for members in serious ill-health to exchange whole pension for lump sum).

**Lump sum amount payable on death of active member**

79.—(1) In the case of a deceased active member, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to the member's final pensionable earnings, multiplied by 4. This is subject to paragraph (2).

(2) If the member was both an active member and a deferred member, and the aggregate of the amount payable under regulation 80 (lump sum amount payable on death of deferred member) and any amount payable by way of a lump sum on the death of the member as a deferred member of

a connected scheme is greater than the amount payable under paragraph (1), the amount payable under regulation 80 is payable instead of the amount specified in paragraph (1).

(3) For the purpose of this regulation, any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are to be disregarded.

### **Lump sum amount payable on death of deferred member**

**80.**—(1) In the case of a deceased deferred member, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to the annual rate of the member's provisional annual pension, multiplied by 3.

(2) The annual pension is the annual rate specified in the deferred member's account at the point of the deferred member's death but subtracting the pension sharing order amount (if any) and added pension (member) (if any).

(3) If the member was both a deferred member and an active member, and the amount payable under regulation 79 (lump sum amount payable on death of active member) is greater than the aggregate of the amount payable under paragraph (1) and any amount payable by way of lump sum on the death of the member as a deferred member of any connected scheme, the amount payable under regulation 79 is payable instead of the amount specified in paragraph (1).

(4) If the member was both a deferred member and a pensioner member, and the amount payable under regulation 81 (lump sum amount payable on death of pensioner member) is greater than the amount payable under paragraph (1), the amount payable under regulation 81 is payable instead of the amount specified in paragraph (1).

(5) For the purpose of this regulation any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are to be disregarded.

### **Lump sum amount payable on death of pensioner member**

**81.**—(1) In the case of a pensioner member, who dies within 5 years of receipt of their pension, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to—

- (a) the member's annual pension, multiplied by 5, less
- (b) the total amount of any pension payments made to the member as such under this scheme.

(2) The reference in paragraph (1)(a) to the member's annual pension is to the sum of the following amounts—

- (a) the amount of the annual rate of each pension as at the beginning date for that pension, but subtracting the commutation amount (if any); and
- (b) the amount of increase (if any) in the annual rate of each such pension under the PIA 1971 payable as at the date of the member's death.

(3) If the member was both a pensioner member and an active member, and the amount payable under regulation 79 (lump sum amount payable on death of active member) is greater than the amount payable under paragraph (1), the amount payable under regulation 80 is payable instead of the amount specified in paragraph (1).

(4) If the member was both a pensioner member and a deferred member, and the amount payable under regulation 80 is greater than the amount payable under paragraph (1), the amount payable under regulation 80 is payable instead of the amount specified in paragraph (1).

(5) For the purpose of this regulation any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are to be disregarded.

### **Lump sum amount payable on death of pension credit member**

**82.**—(1) In the case of a pension credit member who dies before any benefits derived from their pension credit have become payable, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is calculated by multiplying by 3 the amount of the annual pension that would have been payable to the member under regulation 48 (annual rate of pension credit member’s pension) if that pension had become payable to the member on the date of the member’s death.

(2) The reference in paragraph (1) to the member’s annual pension is to the sum of the following amounts—

- (a) the amount of the annual rate of pension as at the beginning date for that pension, without subtracting the early payment reduction amount (if any); and
- (b) the amount of increase (if any) in the annual rate of each such pension under the PIA 1971 payable as at the date of the member’s death.

(3) In the case of a pension credit member who dies after the pension credit member’s pension under regulation 48 (annual rate of pension credit member’s pension) becomes payable, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to—

- (a) the amount of the pension that would have been payable to the pension credit member during so much of the period of 5 years beginning with the date on which the pension became payable as falls after the date of death, but subtracting the commutation amount (if any), less
- (b) the total amount of any pension payments made to the member as such under this scheme.

(4) In this regulation “amount of pension” means the sum of—

- (a) the amount of the annual rate of the pension as at the beginning date for that pension; and
- (b) the amount of increase (if any) in that annual rate of pension under the PIA 1971, payable as at the date of the member’s death.

### **Members affected by court orders to former spouses and civil partners on death**

**83.**—(1) This regulation applies if, on a member’s death, the scheme manager is required under a court order to pay any part of any amount payable under regulation 78 (death of a member: lump sum benefit) to the member’s former spouse or civil partner.

(2) The amount payable under that regulation is first determined as if no such order had been made, and then this Part applies as if the amount payable under that regulation were reduced by the amount payable under the court order.

### **Nominations for lump sum death benefits**

**84.**—(1) For the purposes of regulation 78 (death of a member: lump sum benefit), a member may nominate—

- (a) one or more individuals;
- (b) one incorporated or unincorporated body; or
- (c) one or more individuals and one incorporated or unincorporated body.

(2) A nomination may specify how payments are to be apportioned between—

- (a) two or more individuals; or
- (b) one or more individuals and one incorporated or unincorporated body.

(3) A nomination must be made by signed notice in writing to the scheme administrator in such form as the scheme manager may require or is willing to accept.

(4) A member may revoke or alter a nomination by a further signed notice in writing to the scheme administrator in such form as the scheme manager may require or is willing to accept.

(5) The nomination of a person is invalid—

(a) if—

(i) the person nominated is an individual who was the spouse, civil partner or other adult dependant of the member at the date the nomination was made and is not the spouse, civil partner or other adult dependant of the member immediately before the member's death; and

(ii) the member did not confirm the nomination by notice in writing to the scheme administrator after the marriage, civil partnership or adult dependency ended; or

(b) if the person nominated is an individual who predeceases the member.

(6) If a person nominated is convicted of the offence of murder of the member, the person's nomination is to be treated as invalid from the member's death.

(7) If a person nominated is convicted of manslaughter or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element, the scheme manager may determine that the nomination is to be treated as invalid from the member's death.