

SCHEDULES

SCHEDULE 4

Regulation 29

Schedule to be inserted in the Reserve Forces Non
Regular Permanent Staff Pension Schemes 2011

“SCHEDULE 3

Transitional Provision

PART 1

Interpretation

Interpretation

1. In this Schedule—

“AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014;

“AFP Regulations 2014” means the Armed Forces Pension Regulations 2014;

“continuity of service” in relation to a transition member has the meaning given in paragraph 2;

“connected scheme” means another statutory pension scheme that is connected with this scheme within the meaning of section 4(6) of the 2013 Act;

“EDP 2015” means the scheme established by the Armed Forces Early Departure Payment Regulations 2014;

“full protection member” has the meaning given in Part 2;

“NRPS 2011” means the pension scheme established by the Reserve Forces Non Regular Permanent Staff (Pensions and Attributable Benefits Schemes) Regulations 2011⁽¹⁾;

“pensionable public service” means pensionable service under an existing scheme or a public body pension scheme;

“protection period” has the meaning given in paragraph 5;

“scheme employment” has the meaning given in regulation 13 of the AFP Regulations 2014;

“transition date” in relation to a transition member means 1st April 2015 or, if later, the day a person ceased to be a full protection member of the NRPS 2011;

“transition member means a person—

- (a) who is a member of the NRPS 2011 by virtue of their pensionable service under the NRPS 2011 before the transition date; and
- (b) who is also a member of the AFPS 2015 by virtue of their pensionable service under that scheme;

⁽¹⁾ These regulations are Defence Council Regulations. A copy can be found at www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations. These Regulations were amended by the Reserve Forces Non-Regular Permanent Staff (Pension and Attributable Pension Schemes) (Amendment) Regulations 2013.

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- “the 2013 Act” means the Public Service Pensions Act 2013;
- “transfer payment” means payment of a transfer value; and
- “transfer value” has the meaning given in Part 8 of the AFP Regulations 2014.

Meaning of “continuity of service”

2.—(1) For the purposes of this Schedule, a transition member (T) has continuity of service between pensionable service in the NRPS 2011 and pensionable service in the AFPS 2015 (“continuity of service”) unless T has a gap in service exceeding 5 years which—

- (a) begins on or before T’s transition date; and
- (b) ends on the day on which T becomes an active member of the AFPS 2015.

(2) For the purpose of sub-paragraph (1), during the period starting with T’s transition date, T is not on a gap in service while T is in service which is pensionable under an existing scheme, a public body pension scheme or a scheme under section 1 of the 2013 Act.

Commencement of active membership of the AFPS 2015 for a transition member

3.—(1) A person who is a transition member on entering pensionable service under the AFPS 2015 who does not have continuity of service becomes an active member of the AFPS 2015 on the day the person begins pensionable service in a scheme employment.

(2) A person who is a transition member on entering pensionable service under the AFPS 2015 who has continuity of service (T) becomes an active member of the AFPS 2015—

- (a) if T is in pensionable service in a scheme employment, on T’s transition date; or
- (b) if T is not in pensionable service in a scheme employment on T’s transition date, on the date T enters pensionable service in a scheme employment after that date.

PART 2

**Exception to section 18(1) of the 2013 Act:
Full protection members of the NRPS 2011**

Meaning of full protection member of the NRPS 2011

4.—(1) A person (P) is a full protection member of the NRPS 2011, where—

- (a) P was a conditional full protection member of the NRPS 2011 on 31st March 2015 and on 31st March 2012, and
- (b) unless P dies, P would reach age 60 on or before 1st April 2022.

(2) For the purpose of this paragraph, a member is a conditional full protection member of the NRPS 2011 on a given date if on that date the member is in service in respect of which the member is eligible to be a member of the NRPS 2011;

(3) P ceases to be a full protection member of the NRPS 2011 when P ceases to be in pensionable service under the NRPS 2011.

Exception for full protection member during protection period

5.—(1) The protection period for a person (P) who is a full protection member of the NRPS 2011 is the period which—

- (a) begins on 1st April 2015; and

- (b) ends when P ceases to be a full protection member of the NRPS 2011.
- (2) During the protection period, P is eligible to be—
 - (a) in pensionable service under the NRPS 2011;
 - (b) section 18(1) of the 2013 Act does not apply in respect of that pensionable service; and
 - (c) benefits are to be provided under the NRPS 2011 to or in respect of P in relation to that pensionable service.

Full protection member not eligible to join the AFPS 2015

6. While a person (P) is a full protection member of the NRPS 2011, P is not eligible to be an active member of the AFPS 2015.

PART 3

Payment of ill-health benefits to transition members with continuity of service

Transition members not to receive early ill-health benefits except in accordance with this Part

7. A transition member with continuity of service is not to receive early ill-health benefits except as provided by this Part.

Active transition member with permanent serious ill-health who has not reached age 60

8.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (active member with permanent serious ill-health) under regulation 51 of the AFP Regulations 2014; and
 - (b) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on the grounds of medical discharge are not payable under rule C.6 of the NRPS 2011; and
 - (b) ill-health benefits (active member with permanent serious ill-health) are payable under the AFPS 2015 in accordance with this paragraph.

(3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T's transition date and benefits payable in respect of service from T's transition date.

(4) The benefits payable in respect of service before T's transition date are calculated in accordance with the rules in Part C of the NRPS 2011, but when calculating the rate of annual pension for an active member who has been medically discharged but who has not reached the age of 60, the formula in paragraph (5) is to be used.

- (5) The formula is—
- $$A + (F \div E) \times C$$

where—

A is the “accrued NRPS 2011 pension” which is one eightieth of the member's final pensionable pay multiplied by the number of years reckonable service under NRPS 2011;

C is the “NRPS enhanced service pension” which is calculated as X-Y where—

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- (a) X is one eightieth of the member’s final pensionable pay multiplied by the number of years enhanced service under the NPRS 2011 (rule C.6(6) (column (b))), which they would have been entitled to had they stayed in the NRPS 2011 until the point of ill-health retirement; and
- (b) Y is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under the NPRS 2011 and pensionable service under the AFPS 2015;

E is the number years of actual reckonable service in the NRPS 2011 and pensionable service in the AFPS 2015;

F is the number of years the member served as a member of the NRPS 2011.

(6) The benefits payable in respect of service from T’s transition date are calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension, the following is substituted for regulation 54(2)(b) of the AFP Regulations 2014—

- “(b) B is the sum of—
- (i) the member’s reckonable service under the scheme as calculated in accordance with regulation 54(2)(a)(i) and (ii); and
 - (ii) X multiplied by N.
- (c) In this paragraph, X is equal to the member’s years of pensionable service in the AFPS 2015 divided by the total of the member’s years of reckonable service in the NRPS 2011 and the member’s years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is the greater of—
- (i) half of the further pensionable service which the member would have been able to count under the scheme if the member had been an accruing member from the date of the ill-health retirement until age 60; and
 - (ii) the lesser of Y and Z.
- (e) In this paragraph, Y is equal to 25 minus the total of the member’s years of reckonable service in the NRPS 2011 and the sum of—
- (i) for all years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member’s account; and
 - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year) where the member was eligible for active membership.
- (f) In this paragraph, Z is equal to the further pensionable service which the member would have been able to count under the scheme if the member had been an accruing member from the date of the ill-health retirement until age 60.”.

Active transition member with permanent serious ill-health who reaches age 60

9.—(1) This paragraph applies in relation to a transition member with continuity of service who is receiving an ill-health pension (active member with permanent serious ill-health) in accordance with paragraph 8.

(2) On the day the member reaches age 60—

- (a) of the benefits that were payable under paragraph 8(2)(b), the accrued NRPS 2011 pension ceases to be payable under paragraph 8(2)(b) and instead becomes payable under the NRPS 2011; and
- (b) of the benefits that were payable under paragraph 8(2)(b), the NRPS 2011 enhanced service pension continues to be payable under paragraph 8(2)(b).

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- (3) For the purpose of this paragraph—
- (a) the “accrued NRPS 2011 pension” has the same meaning as “A” given in paragraph 8(5); and
 - (b) the “NRPS 2011 enhanced service pension” means—
$$C \times F \div E$$
where C, F and E have the same meaning as given in paragraph 8(5).

Active transition member with significant impairment of capacity for gainful employment who has not reached the age of 60

10.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (active member with significant impairment of capacity for gainful employment) under regulation 52 of the AFP Regulations 2014; and
 - (b) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on the grounds of medical discharge are not payable under the NRPS 2011; and
 - (b) ill-health benefits (active member with significant impairment of capacity for gainful employment) are payable under the AFPS 2015 in accordance with this paragraph.
- (3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T’s transition date and benefits payable in respect of service from T’s transition date.
- (4) The benefits payable in respect of service before T’s transition date are calculated in accordance with the rules in Part C of NRPS 2011, but when calculating the rate of annual pension for an active member who has been medically discharged but who has not reached the age of 60, the formula in sub-paragraph (5) is to be used.

(5) The formula is—
$$A + (F \div E) \times C$$

where—

A is the “accrued NRPS 2011 pension” which is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under NRPS 2011;

C is the “NRPS enhanced service pension” which is calculated as X-Y where—

- (a) X is one eightieth of the member’s final pensionable pay multiplied by the number of years enhanced service under the NRPS 2011 (rule C.6(6) column (b)), which they would have been entitled to had they stayed in the NRPS 2011 until the point of ill-health retirement; and
- (b) Y is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015;

E is the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015; and

F is the number of years the member served as a member of the NRPS 2011.

(6) The benefits payable in respect of service from T’s transition date are calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension the following is substituted for regulation 55(2)(b)—

“(b) B is the sum of—

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- (i) the member’s pensionable service under the scheme as calculated in accordance with regulation 55(2)(a)(i) and (ii); and
- (ii) X multiplied by N.
- (c) In this paragraph, X is equal to the member’s years of pensionable service in the AFPS 2015 divided by the total of the member’s years of reckonable service in the NRPS 2011 and the member’s years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is equal to one third of the further pensionable service which the member would have been able to count under the scheme if the member had remained an accruing member from the date of the ill-health retirement until age 60.”.

Active transition member with significant impairment of capacity for gainful employment who reaches the age of 60

11.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving a pension on the grounds of medical discharge (active member with significant impairment of capacity for gainful employment) in accordance with paragraph 10.

- (2) On the day the member reaches age 60—
 - (a) of the benefits that were payable under paragraph 10(2)(b) the accrued NRPS 2011 pension ceases to be payable under paragraph 10(2)(b) and instead becomes payable under the NRPS 2011; and
 - (b) of the benefits that were payable under paragraph 10(2)(b), the NRPS 2011 enhanced service pension continues to be payable under paragraph 10(2)(b).
- (3) For the purpose of this paragraph—
 - (a) “accrued NRPS 2011 pension” has the same meaning given as “A” in paragraph 10(5); and
 - (b) the “NRPS 2011 enhanced service pension” means—

$$C \times F \div E$$

where C, F and E have the same meaning as given in paragraph 10(5).

Active transition member with incapacity for Armed Forces service who has not reached the age of 60

12.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for a lump sum for incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and
- (b) has not reached age 60.
- (2) If this paragraph applies—
 - (a) early benefits on ill-health are not payable under the NRPS 2011; and
 - (b) ill-health benefits are payable under the AFPS 2015 and lump sum awards on incapacity for armed forces service are payable under the EDP 2015 in accordance with this paragraph.

(3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T’s transition date and benefits payable in respect of service from T’s transition date.

(4) The benefits payable in respect of service before T’s transition date are calculated in accordance with the rules in Part C of the NRPS 2011, but when calculating the rate of annual pension for an active member who has been medically discharged but who has not reached the age of 60, the formula in sub-paragraph (5) is to be used.

(5) The formula is—

$$A + (F \div E) \times C$$

A is the “accrued NRPS 2011 pension” which is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service as a member of the NRPS 2011;

C is the “NRPS enhanced service pension” which is calculated as X-Y where—

- (a) X is one eightieth of the member’s final pensionable pay multiplied by the number of years service under the NRPS 2011 (rule C.6(6) column (b)), which they would have been entitled to had they stayed in the NRPS 2011 until the point of ill-health retirement; and
- (b) Y is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015;

E is the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015;

F is the number of years the member served as a member of the NRPS 2011.

(6) In respect of service from the member’s transition date, the lump sum award on incapacity for armed forces service is payable under regulation 19 of the EDP Regulations 2014.

(7) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

“**20.**—(1) The amount of 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 from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person’s final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; and
- (b) the amount calculated is more than Y, Y being twice the person’s final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.

(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.

(3) In this regulation—

- (a) “total service” in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the NRPS 2011; and
- (b) “transition date” has the same meaning as is given in paragraph 2 (interpretation) of Schedule 3 to the NRPS 2011.”.

(8) If the person is entitled to early departure payments under regulation 9 (entitlement to early departure payments) of the EDP Regulations 2014, the person is not entitled to a lump sum award under sub-paragraph (6).

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Active transition member with incapacity for armed forces service who has reached the age of 60

13.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving a pension on the grounds of medical discharge (active member with incapacity for armed forces service) in accordance with paragraph 12.

(2) On the day the member reaches age 60—

- (a) of the benefits that were payable under paragraph 12(2)(b) the accrued NRPS 2011 pension ceases to be payable under paragraph 12(2)(b) and instead becomes payable under the NRPS 2011; and
- (b) of the benefits that were payable under paragraph 12(2)(b), the NRPS 2011 enhanced service pension continues to be payable under paragraph 12(2)(b).

(3) For the purpose of this paragraph—

- (a) “accrued NRPS 2011 pension” has the same meaning given as “A” in paragraph 12(5); and
- (b) the “NRPS 2011 enhanced service pension” means—

$$C \times F \div E$$

where C, F and E have the same meaning as given in paragraph 12(5).

Deferred transition member with permanent serious ill-health who has not reached 60

14.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (deferred member with permanent serious ill-health) under regulation 56 of the AFP Regulations 2014; and
- (b) has not reached age 60.

(2) If this paragraph applies—

- (a) pension benefits are not payable under the NRPS 2011;
- (b) NRPS pension benefits are payable under the AFPS 2015 in accordance with this paragraph.

(3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T’s transition date and benefits payable in respect of service from T’s transition date.

(4) The benefits payable in respect of service before T’s transition date are calculated in accordance with rule C.7 of the NRPS 2011.

(5) The benefits payable in respect of service from T’s transition date are calculated in accordance with the AFP Regulations 2014.

Deferred transition member with permanent serious ill-health who has reached 60

15.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving ill-health benefits (deferred member with permanent serious ill-health) in accordance with paragraph 14.

(2) On the day the member reaches age 60, of the benefits that were payable under paragraph 14(2)(b), the NRPS 2011 pension benefits cease to be payable under paragraph 14(2)(b) and instead become payable under the NRPS 2011.

Review of ill-health awards at request of member or Secretary of State

16. Regulations 57 and 58 of the AFP Regulations 2014 apply to a transition member with continuity of service who is entitled under this Part to an ill-health award in respect of their service before 1st April 2005.

PART 4

Payment of death benefits in respect of transition members with continuity of service

Death benefits not to be paid in respect of transition members except in accordance with this Part

17. Surviving adult pensions, eligible child's pension and lump sum death benefits are not paid in respect of transition members with continuity of service except as provided by this Part.

Surviving adult's pension when transition member dies in service before reaching age 60

18.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of the AFPS 2015 before reaching age 60 and for whom the conditions of regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) of the AFP Regulations 2014 apply.

(2) A pension for a surviving spouse or surviving civil partner ("surviving adult dependant") is payable under the NRPS 2011 in respect of service before T's transition date.

(3) A pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part D of the NRPS 2011, but when calculating the enhancement benefits in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended in paragraph 8(5).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension in accordance with regulation 70 (annual rate of adult dependants' pensions payable on death of active member), the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 8(6).

Surviving adult's pension when a transition member dies in service on or after reaching age 60

19.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of AFPS 2015 on or after reaching age 60.

(2) A pension for a surviving adult dependant is payable under rule C.3 of the NRPS 2011 in respect of service before T's transition date.

(3) A pension for a surviving adult dependant is payable under regulation 70 (annual rate of adult dependants' pensions payable on death of active member) of the AFP Regulations 2014 in respect of service from T's transition date.

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Surviving adult dependant's pension when a transition member dies as a deferred or pensioner member before reaching age 60

20.—(1) This paragraph applies in relation to a transition member with continuity of service ('T') who dies as a deferred or pensioner member of the AFPS 2015 before reaching age 60 and for whom the conditions of regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) of the AFP Regulations 2014 apply.

(2) A pension for a surviving adult dependant is payable under the NRPS 2011 in respect of service before T's transition date.

(3) A pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part D of the NRPS 2011, but—

(a) where the pensioner member was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); and

(b) where the pensioner member was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with Part C, the references to rule C.6 are to be read as referring to rule C.6 amended as specified in paragraph 10(5).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—

(a) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 68 (annual rate of adult dependants' pensions payable on death of pensioner member), the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 8(6) to regulation 54; and

(b) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 68, the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 10(6) to regulation 55.

Surviving adult dependant's pension on death of a transition member who dies as a deferred or pensioner member on or after the age of 60

21.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred or pensioner member of the AFPS 2015 on or after reaching age 60 and for whom the conditions of regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) of the AFP Regulations 2014 apply.

(2) In the case of a deferred member of the AFPS 2015 and pensioner member of the NRPS 2011—

(a) a pension for a surviving adult dependant is payable under rule D.6 of the NRPS 2011 in respect of the member's service before T's transition date; and

(b) a pension for a surviving adult dependant is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a deferred member) of the AFP Regulations 2014 in respect of the member's service from T's transition date.

(3) In the case of a pensioner member of the AFPS 2015—

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- (a) the pension payable in respect of service before T's transition date is calculated in accordance with rule D.6 of the NRPS 2011, but where the pensioner member was in receipt of an ill-health pension on the grounds of medical discharge, when calculating the rate of the enhanced service pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); and
- (b) the pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—
 - (i) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 68 (annual rate of adult dependants' pensions payable on death of pensioner member), the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 8(6) to regulation 54; and
 - (ii) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 68, the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 10(6) to regulation 55.

Eligible child's pension when a transition member dies in service before reaching age 60

22.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of the AFPS 2015 before reaching age 60 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) A pension for an eligible child is payable under the NRPS 2011 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with rule D.6 of the NRPS 2011, but when calculating the rate of the enhanced service pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(4).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but when calculating the rate of annual pension in accordance with regulation 74 (annual rate of children's pensions), the calculation of the member's earned pension is to take account of the amendment in paragraph 8(6) to regulation 54.

Eligible child's pension when a transition member dies in service on or after reaching age 60

23.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of AFPS 2015 on or after reaching age 60 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) A pension for an eligible child is payable under rule D.10 of the NRPS 2011 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under regulation 74 (annual rate of children's pensions) of the AFP Regulations 2014 in respect of service from T's transition date.

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Eligible child's pension when a transition member dies as a deferred or pensioner member before reaching age 60

24.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred or pensioner member of the AFPS 2015 before reaching age 60 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) A pension for an eligible child is payable under the NRPS 2011 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part D of the NRPS 2011, but—

- (a) where the pensioner member was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); and
- (b) where the pensioner member was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with Part C, the references to rule C.6 are to be read as referring to C.6 amended as specified in paragraph 10(5).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—

- (a) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 74 (annual rate of children's pensions), the calculation of the member's earned pension is to take account of the amendment in paragraph 8(6) to regulation 54; and
- (b) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 74, the calculation of the member's earned pension is to take account of the amendment in paragraph 10(6) to regulation 55.

Eligible child's pension when a transition member dies as a deferred or pensioner member on or after reaching age 60

25.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred or a pensioner member of the AFPS 2015 on or after reaching age 60 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) In the case of a deferred member of the AFPS 2015—

- (a) a pension for an eligible child is payable under rule D.10 (children's pensions) of the NRPS 2011 in respect of the member's service before T's transition date; and
- (b) a pension for an eligible child is payable under regulation 74 (annual rate of children's pensions) of the AFP Regulations 2014 in respect of the member's service from T's transition date.

(3) In the case of a pensioner member of the AFPS 2015—

- (a) the pension payable in respect of service before T's transition date is calculated in accordance with rule D.10 of the NRPS 2011, but where the pensioner member was in receipt of an ill-health pension on the grounds of medical discharge, when calculating the

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rate of enhanced service pension in accordance with rule C.6 , the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); and

- (b) the pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—
 - (i) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 74, the calculation of the member's earned pension is to take account of the amendment in paragraph 8(6) to regulation 54; and
 - (ii) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 74, the calculation of the member's earned pension is to take account of the amendment in paragraph 10(6) to regulation 55.

Death of a transition member in service: lump sum benefit

26.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as an active member of the AFPS 2015.

- (2) On the death of the member—
 - (a) a lump sum is payable under regulation 79 (lump sum amount payable on death of active member) of the AFP Regulations 2014; but
 - (b) a lump sum is not payable under the NRPS 2011.

Death of a deferred member: lump sum benefit

27.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as a deferred member of the AFPS 2015.

- (2) On the death of a deferred member of the AFPS 2015 before reaching age 60—
 - (a) if regulation 80 (lump sum amount payable on death of deferred member) of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation; and
 - (b) if the member is a deferred member of the NRPS 2011 and the conditions for payment of a lump sum benefit under rule D.2 (lump sum death benefit) of the NRPS 2011 are met, a lump sum death benefit equal to the sum that would have been payable under rule D.2 of the NRPS 2011 is payable under the AFPS 2015.
- (3) On the death of a deferred member of the AFPS 2015, who is not a pensioner member of the NRPS 2011, on or after reaching age 60—
 - (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation; and
 - (b) if the member is a deferred member of the NRPS 2011 and the conditions for payment of a lump sum death benefit under rule D.2 of the NRPS 2011 are met, a lump sum death benefit is payable under rule D.2 of the NRPS 2011.

Removal of short-term pensions for immediate bereavement period

28. A pension under rule D.4 is not payable to a surviving spouse or civil partner of a transition member.

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PART 5

Transitional provisions relating to the NRPS 2011

No benefits for service on or after the transition date for transition members

29. No benefits under the NRPS 2011 are to be provided to or in respect of a transition member in relation to that member's service on or after the transition date.

Pensionable service under the NRPS 2011 for a transition member with continuity of service

30.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under the AFPS 2015.

(2) In determining whether T qualifies under the NRPS 2011 for retirement benefits (other than early benefits on ill-health), T's pensionable service under the NRPS 2011 terminates when T's pensionable service under the AFPS 2015 terminates.

Final salary link for a transition member with continuity of service

31.—(1) In calculating benefits payable under the NRPS 2011 to or in respect of a transition member with continuity of service (T), T's final pensionable earnings are determined by reference to Schedule 7 to the 2013 Act as if "final salary" were a reference to "final pensionable earnings".

(2) If a member's final pensionable earnings on leaving service as a member of the AFPS 2015 are lower than their final pensionable earnings⁽²⁾ on their transition date, their final pensionable earnings are to be determined as if paragraph (3) in rule A.3 of the NRPS 2011 were replaced by the following—

"(1) In these Rules "final pensionable earnings", in relation to a member, means the greatest amount that is the member's total pensionable earnings for 365 consecutive days falling within the period beginning three years before their transition date.

(1A) In paragraph (1), "transition date" has the same meaning as in paragraph 1 of Schedule 3 to these Regulations."

Defence Council does not consider that the member's service should be terminated on medical grounds

32.—(1) This paragraph applies if a member of the NRPS 2011—

(a) claimed payment of a pension following termination of service on medical grounds under the NRPS 2011 before the member's transition date; and

(b) the pension does not become payable before the member's transition date.

(2) If the member is not entitled to immediate payment of a pension following termination of service on medical grounds under the NRPS 2011, the member joins the AFPS 2015 on whichever is the later of—

(a) the member's transition date; and

(b) the day after all relevant appeal rights have expired in relation to the Defence Council's decision that the member's service should be terminated on medical grounds.

(2) "Final pensionable earnings" are defined in rule A.3(3) of the NRPS 2011 as the greatest amount that is the member's total pensionable earnings for 365 consecutive days falling within the period of three years ending with the member's last day of reckonable service.

(3) Where sub-paragraph (2) applies, the member is exempted from section 18(1) of the 2013 Act in respect of the period before the member becomes a member of the AFPS 2015.

Deferred membership of the NRPS 2011

33.—(1) A transition member with continuity of service (T) does not become a deferred member of the NRPS 2011 unless T becomes a deferred member of the AFPS 2015.

(2) If T opts out of the AFPS 2015 in relation to service in a scheme employment and T has at least 2 years' qualifying service, T becomes a deferred member of the NRPS 2011 in relation to that service.

(3) If T re-enters pensionable service under the AFPS 2015 after a gap in service not exceeding 5 years, T ceases to be a deferred member of the NRPS 2011.

Qualifying for retirement benefits under the NRPS 2011

34.—(1) In determining whether a transition member with continuity of service qualifies for retirement benefits under the NRPS 2011, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the NRPS 2011; and
- (b) the member's qualifying service under the AFPS 2015.

Final salary link not to apply again to a pension in payment

35. Where any element of pension under the NRPS 2011 which is in payment has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 to the 2013 Act in consequence of a subsequent period of pensionable public service (as defined in paragraph 3 of Schedule 7 to the 2013 Act) unless the further period of pension is aggregated under the rules of the NRPS 2011.

PART 6

Miscellaneous transitional provisions

Nomination under the NRPS 2011 continues to have effect

36.—(1) This paragraph applies if a transition member with continuity of service has not nominated a person under the AFP Regulations 2014 to receive a lump sum death benefit under the AFP Regulations 2014.

(2) An existing nomination has effect as if made under the AFP Regulations 2014 until the transition member makes a nomination under the AFP Regulations 2014.

(3) In this paragraph, "existing nomination" means a nomination which—

- (a) was made for the purpose of the NRPS 2011; and
- (b) as at the scheme closing date, had effect under the NRPS 2011.'