
STATUTORY INSTRUMENTS

2018 No. 293

PENSIONS

**The Armed Forces and Reserve Forces
(Compensation Scheme) (Amendment) Order 2018**

<i>Made</i>	- - - -	<i>28th February 2018</i>
<i>Laid before Parliament</i>		<i>8th March 2018</i>
<i>Coming into force</i>	- -	<i>9th April 2018</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004⁽¹⁾.

Citation and commencement

1. This Order may be cited as the Armed Forces and Reserve Forces (Compensation Scheme) (Amendment) Order 2018 and comes into force on 9th April 2018.

General

2. The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011⁽²⁾ is amended in accordance with articles 3 to 10.

Amendment of article 12

3. In article 12 (injury and death – other exclusions)—

(a) in paragraph (1), in sub-paragraph (f), for paragraph (iv) substitute—

“(iv) an exogenous infection; or”;

(b) after paragraph (1), insert—

“(1A) Paragraph (1)(f)(iv) does not apply where—

(a) an exogenous infection is acquired in a non-temperate region and the person infected has been exposed to it in the course of service; or

(b) in a temperate region, there has been an outbreak of an exogenous infection in service accommodation or in a workplace.”;

(1) 2004 c. 32.

(2) S.I. 2011/517 as amended by S.I. 2011/2552, 2012/1573, 2013/436, 2014/412, 2015/4132016/557 and 2017/247.

(c) after paragraph (2) insert—

“(3) For the purposes of paragraph (1A)(b), an outbreak of an exogenous infection means any of the following—

- (a) the occurrence of cases of infection in excess of what would normally be expected in a particular community, geographical area or season;
- (b) a single incident of infection in the form of a communicable disease—
 - (i) long absent from, or
 - (ii) caused by a bacterium, virus or other agent not previously recognised in, a particular community or geographical area;
- (c) the emergence of a previously unknown disease in a particular community, geographical area or season.”.

Amendment of article 24A

4. In article 24A (award of armed forces independence payment)(3), in paragraph (3) for “£141.10” substitute “£145.35”.

Amendment of article 24D

5. In article 24D (payment of armed forces independence payment in respect of Motability)(4), in paragraph (2), for “£58.00” substitute “£59.75”.

Amendment of article 39

6. In article 39 (adjustment of guaranteed income payment, survivor’s guaranteed income payment and child’s payment to take account of other amounts)(5), for paragraph (3)(b) substitute—

- “(b) to a payment or to an ill-health pension which is paid for the same injury for which the guaranteed income payment is paid, then the amount of the guaranteed income payment is reduced by the full amount of the payment or, as the case may be, the ill-health pension.”.

Amendment of article 55

7. In article 55 (review – service termination), in paragraph (8), after “this article” insert “and articles 56 and 57”.

New Part 8A

8. After Part 8 (payment), insert the following new part—

(3) Article 24A was inserted by S.I. 2013/436 and amended by S.I. 2014/412, 2015/413 and 2017/247.

(4) Article 24D was inserted by S.I. 2013/436 and amended by S.I. 2014/412 and 2017/247.

(5) To which there are amendments not relevant to this Order.

“Part 8A

Invalidity of Assignments and Bankruptcy

Invalidity of assignments and bankruptcy

69A.—(1) Any assignment or charge, and any agreement to assign or charge, any pension, allowance, benefit or lump sum which may be or has been awarded to a person under this Order is void.

(2) On the bankruptcy of a person referred to in paragraph (1) no part of an award referred to in that paragraph shall pass to any trustee or person acting on behalf of the creditors.”.

Amendment of Schedule 2

9. In Schedule 2 (modifications for reserve forces), in paragraph 5 (modification of article 39 (adjustment of guaranteed income payment, survivor’s guaranteed income payment and child’s payment to take account of other amounts))(6), in the substituted article 39—

- (a) in paragraph (1)(b), after “2005” insert “or the Armed Forces Early Departure Payments Scheme Regulations 2014(7)”;
- (b) in paragraph (4)(b), after “ill-health pension” insert “or a payment”.

Amendment of Schedule 3

10.—(1) Schedule 3 (the tariff and supplementary awards), Part 1 (descriptors, tariff levels and amounts – “the tariff”) is amended as follows.

(2) In Table 6 (neurological disorders, including spinal, head or brain injuries)(8)—

- (a) for the entry in column (b) (description of injury and its effects (“descriptor”)) in respect of—
 - (i) item 5, after “major” insert “and permanent”;
 - (ii) item 11, substitute—

“Brain injury where the claimant has some permanent limitation of response to the environment together with substantial motor and sensory problems and one or more substantial cognitive, personality or behavioural problems, and that injury requires some professional nursing care and is likely to require considerable regular support from other health professionals.”;
 - (iii) item 17, substitute—

“Brain injury where the claimant has moderate and permanent motor or sensory problems and one or more permanent substantial cognitive, personality or behavioural problems, and that injury requires regular help or full-time supervision from others with activities of everyday living but does not require professional nursing care or regular help from other health professionals.”;
 - (iv) item 21A, substitute—

“Brain injury from which the claimant has made a substantial recovery, has no major cognitive personality or behavioural problems, but has substantial functionally disabling motor deficit in upper and or lower limbs, but is able to undertake some form of regular employment^(a).”;

(6) Paragraph (5) was amended by [S.I. 2015/413](#).

(7) [S.I. 2014/2328](#).

(8) Table 6 has been amended by [S.I. 2011/2552](#), [2014/412](#) and [2017/247](#).

(v) item 22, substitute—

“Brain injury from which the claimant has made a substantial recovery, has no major motor or sensory deficits, but does have one or more of a residual functionally disabling—

- (i) cognitive deficit,
- (ii) behavioural change, or
- (iii) change in personality,

but is able to undertake some form of regular employment^(a).”;

(vi) item 26, substitute—

“Mild traumatic brain injury which has caused or is expected to cause either or both functionally limiting or restricting central nervous system symptoms or functionally limiting or restricting audiovestibular symptoms of peripheral labyrinthine origin^(b) (including permanent sensorineural hearing loss of less than 50 dB averaged over 1, 2 and 3 kHz) for more than 52 weeks.”;

(vii) item 34, substitute—

“Mild traumatic brain injury or head injury which has caused or is expected to cause either or both functionally limiting or restricting central nervous system symptoms or functionally limiting or restricting audiovestibular symptoms of peripheral labyrinthine origin^(b) for more than 6 weeks with substantial recovery thereafter.”;

(b) for table note (a), substitute—

“(a) The claimant is unable to undertake work appropriate to experience, qualifications and skills prior to the brain injury, but able to work regularly in a less demanding job.”;

(c) for table note (b), substitute—

“(b) Labyrinthine causes of audiovestibular symptoms must be excluded by detailed specialist audiovestibular assessment.”.

(3) In Table 8 (fractures and dislocations) for the entry in column (b) (description of injury and its effects (“descriptor”)) in respect of item 26, substitute—

“Fracture or dislocation of great toe or associated structures of one foot which has caused, or is expected to cause, significant functional limitation or restriction beyond 26 weeks.”.

(4) For Table 10 (tariff amounts), substitute—

“Table 10

Tariff amounts

<i>Column (a)</i>	<i>Column (b)</i>
<i>Level</i>	<i>Amount</i>
1	£650,000
2	£484,100
3	£391,400
4	£298,700
5	£180,250

<i>Column (a)</i>	<i>Column (b)</i>
<i>Level</i>	<i>Amount</i>
6	£144,200
7	£92,700
8	£61,800
9	£41,200
10	£27,810
11	£15,965
12	£10,300
13	£6,180
14	£3,090
15	£1,236”

28th February 2018

Tobias Ellwood
Parliamentary Under Secretary of State
Ministry of Defence

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 ([S.I. 2011/517](#)) (“the 2011 Order”), which provides for benefits to be payable to, or in respect of, a person by reason of injury, illness or death caused wholly, or partly, by service in the regular or reserve armed forces.

Article 3 amends article 12 of the 2011 Order to define an exogenous infection and to specify when a benefit is (and is not) payable in respect of an injury or death resulting from such an infection.

Article 4 amends article 24A of the 2011 Order to increase the amount of the allowance known as “the armed forces independence payment” which is designed to provide financial support to cover extra costs that a recipient of that benefit may incur as a result of a relevant injury. That amount is increased to £145.35 per week from £141.10 per week.

Article 5 amends article 24D of the 2011 Order to increase the amount that may be paid in settlement of liabilities due under an agreement between a claimant and Motability in respect of the hire or hire purchase of a vehicle. That amount is increased to £59.75 per week from £58.00 per week.

Article 6 amends article 39 of the 2011 Order to provide that, where a person is entitled to a guaranteed income payment in respect of an injury for which that person is also entitled to an early departure payment or ill-health pension, the guaranteed income payment is to be reduced by 100% of that other payment or ill-health pension.

Article 7 amends article 55 of the 2011 Order to apply the provisions extending the time limit for making a claim for injury benefit or death in respect of a person who is mentally or physically incapable, to applications for the review of an award of benefit to such a person.

Article 8 inserts a new part (new Part 8A) into the 2011 Order containing new article 69A. New article 69A makes the assignment of certain benefits under the Scheme invalid and provides that specified scheme benefits do not pass to a trustee in bankruptcy or any other person acting on behalf of the creditors.

Article 9 amends Schedule 2 to the 2011 Order by making a technical amendment to the substituted article 39 of the Order as it is modified in its application to reserve forces.

Article 10 amends Schedule 3 to the 2011 Order by amending—

- Table 6, to update the descriptions of particular injuries and their effects which qualify for an award of benefit;
- Table 8, to provide that a fracture or dislocation of the associated structures of the great toe may be considered when assessing an award of injury benefit;
- Table 10, by increasing the relevant tariff amounts.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.