

2006 No. 55

PENSIONS

The Armed Forces Redundancy Scheme Order 2006

Made - - - - - *12th January 2006*

Laid before Parliament *19th January 2006*

Coming into force - - - *6th April 2006*

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

Citation and commencement

- 1.—(1) This Order may be cited as the Armed Forces Redundancy Scheme Order 2006.
- (2) This Order comes into force on 6th April 2006.

Establishment of the Armed Forces Redundancy Scheme

2. The Scheme set out in this Order has effect and is to be known as “the Armed Forces Redundancy Scheme 2006”.

Interpretation

- 3.—(1) In this Order—

(a) 2004 c.32.

“the AFPS 1975” means the occupational pension scheme arrangements, other than the AFPS 2005, that are open to members of the armed forces and set out in—

- (a) Orders in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865(a),
- (b) the Army Pensions Warrant 1977(b), and
- (c) Orders and regulations made under section 2 of the Air Forces (Constitution) Act 1917(c),

or any instrument amending or replacing any of those instruments;

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

“commitment period”, in relation to a member of the armed forces, means the period for which the person’s terms of service commit him to serve;

“the EDP Order” means the Armed Forces Early Departure Payments Scheme Order 2005(e);

“final relevant earnings” has the same meaning as in the EDP Order (see articles 6 and 7 of that Order);

“member”—

- (d) in relation to the army, does not include a member—
 - (i) of the Royal Irish Regiment (Part Time), or
 - (ii) in the case of a Nepalese person recruited in Nepal, of the Brigade of Gurkhas,and references to service, in relation to service as a member of the armed forces, are to be read accordingly;
- (e) in relation to the AFPS 2005, means an active member (as defined in that Scheme), a deferred member (as so defined) or a pensioner member (as so defined);

“relevant service” has the meaning given in article 4 of the EDP Order;

“the Scheme” means the Armed Forces Redundancy Scheme 2006.

(2) In this Order references to periods of relevant service (or service) are to be interpreted as follows.

(3) In the first instance periods of relevant service (or service) are to be calculated in complete years and days and, where it is necessary to aggregate such periods, the aggregation is to be done by reference to periods so expressed and on the assumption that there are 365 days in a complete year.

(4) But to determine years of relevant service (or service) the days referred to in paragraph (3) are converted into years by dividing the number of days in excess of the period of whole years by 365 and calculating the result to four decimal places.

(5) If a period of relevant service (or service) is less than one year—

- (a) paragraph (3) applies with the omission of the words “complete years and”, and
- (b) paragraph (4) applies with the omission of the words “in excess of the period of whole years”.

Eligibility for redundancy payments

4.—(1) A person is eligible for a payment under article 5 if he meets conditions A to D.

(2) Condition A is that the person is a member of the armed forces other than an excluded person.

(a) 1865 c.73.

(b) This is available from Her Majesty’s Stationery Office.

(c) 1917 c.51.

(d) S.I. 2005/438.

(e) S.I. 2005/437.

(3) Condition B is that the Secretary of State has notified the person that the person will be treated for the purposes of the Scheme as having become redundant.

(4) Condition C is that the person ceases to be in service as a member of the armed forces in pursuance of the notification.

(5) Condition D is that the person is not entitled to the immediate payment of a pension under—

- (a) rule D.5 of the AFPS 2005 (early payment of benefits: active members with permanent serious ill-health), or
- (b) rule D.6 of that Scheme (early payment of benefits: active members with significant impairment of capacity for gainful employment).

(6) In paragraph (2) “excluded person” means—

- (a) a person the terms of whose service exclude him from eligibility for payments under article 5, unless the Secretary of State has agreed to treat him as if they did not do so, and
- (b) a person who is an active member of the AFPS 1975.

(7) In paragraph (6) “active member” has the meaning given in section 124(1) of the Pensions Act 1995(a).

Entitlement to redundancy payments

5.—(1) A person who is eligible for a payment under this article in accordance with article 4 (an “eligible person”) becomes entitled to a payment when he ceases to be in service as mentioned in article 4(4).

(2) An eligible person is entitled under this article to a lump sum payment.

This is subject to paragraph (4) and article 9.

(3) 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 in service as mentioned in article 4(4).

(4) A person is not entitled to a lump sum under this article (“the further sum”) if he has previously received a lump sum under this article that he was liable to repay under article 9 and has not repaid it before the time when he would otherwise become entitled to the further sum.

Amount of payment under article 5: leavers with long service commitments

6.—(1) This article applies if, had the service of a person entitled to a payment under article 5 continued until the end of his commitment period, at the end of that period he would either—

- (a) have been entitled to payments under article 9 of the EDP Order (entitlement to early departure payments) (“EDPO payments”), or
- (b) have attained the age of 55.

(2) If when the person’s service actually ceases he—

- (a) is not entitled to EDPO payments, and
- (b) has not attained that age,

then, unless paragraph (3) applies, the amount payable to him under article 5 is equal to one eighth of his final relevant earnings, multiplied by the number of years of relevant service he is entitled to count when his service ceases.

(3) If that number exceeds 18, the amount of the lump sum payable to him under article 5 is equal to one eighth of his final relevant earnings, multiplied by 18.

(4) If when the person’s service actually ceases he—

- (a) is entitled to EDPO payments, or
- (b) has attained the age of 55,

(a) 1995 c.26.

then, unless paragraph (5) applies, the amount of the lump sum payable to him under article 5 is equal to his final relevant earnings.

(5) If the number of years of service (“NY”) that the person would have served after the time when his service ceases had he continued to serve until the end of his commitment period is less than 4, the amount of the lump sum payable to him under article 5 is equal to one quarter of his final relevant earnings, multiplied by NY.

(6) This article is subject to articles 8 to 10.

Amount of payment under article 5: leavers with short service commitments

7.—(1) This article applies if, had the service of a person entitled to a payment under article 5 continued until the end of his commitment period, at the end of that period he would neither—

- (a) have been entitled to payments under article 9 of the EDP Order (entitlement to early departure payments), nor
- (b) have attained the age of 55.

(2) The amount of the lump sum payable to the person under article 5 is equal to the lower of—

- (a) one eighth of his final relevant earnings, multiplied by NRS, and
- (b) the sum of—
 - (i) one eighth of his final relevant earnings, multiplied by NY, and
 - (ii) one eighth of his final relevant earnings.

(3) For the purposes of paragraph (2)—

- (a) NRS is the number of years of relevant service the person is entitled to count when his service ceases, and
- (b) NY is the number of years of service that he would have served after the time when his service ceases had he continued to serve until the end of his commitment period.

(4) This article is subject to articles 8 to 10.

Limit on article 5 payment where leaver has full AFPS 2005 entitlement

8. If a person who is entitled to a payment under article 5—

- (a) is entitled to count at least 40 years’ reckonable service for the purposes of the AFPS 2005 when his service ceases, or
- (b) would be so entitled if he were a member of that Scheme in relation to the service that is ceasing,

the amount of the lump sum payable to him under article 5 must not exceed one half of his final relevant earnings.

Effect of rejoining armed forces or entering certain reserve forces service on article 5 entitlement

9.—(1) This article applies where a person to whom a payment is made under article 5—

- (a) enters service as a member of the armed forces again otherwise than as a result of his being recalled for service under Part 7 of the Reserve Forces Act 1996(a) or under the Reserve Forces Act 1980(b),
- (b) enters full-time service as a result of a commitment under section 24 of the Reserve Forces Act 1996 (commitment to a period of full-time service), or
- (c) enters service as a result of a commitment under section 25 of that Act (commitment to additional duties);

(a) 1996 c. 14.
(b) 1980 c. 9.

and in this article that service is referred to as “the new service”.

(2) If the period beginning with the date when the person becomes entitled to the payment under article 5 and ending immediately before the date on which the new service begins (“the service break”) is less than the relevant period, the person must repay the relevant fraction of the payment made to him under article 5.

(3) In this article, “the relevant period”, in relation to any person to whom a payment has been made under article 5, means—

$$\frac{P \times 365 \text{ days}}{FRE}$$

where—

P is the amount of the payment, and

FRE is the amount of the person’s final relevant earnings by reference to which the lump sum was calculated under article 6 or 7.

(4) In paragraph (2) “the relevant fraction” means—

$$\frac{RP - SB}{RP}$$

where—

RP is the number of days in the relevant period, and

SB is the number of days in the service break.

Effect of award under article 5 on later award

10.—(1) This article applies if—

- (a) a payment is made to a person under article 5 when he ceases to be in service as mentioned in article 4(4) (“the old service”), and
- (b) he enters service as a member of the armed forces again (“the new service”).

(2) In determining the amount of any payment to which he is entitled under article 5 when the new service ceases, the relevant service he was entitled to count when his old service ceased is ignored.

Signed by authority of the Secretary of State for Defence.

12th January 2006

Don Touhig
Under Secretary of State
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Armed Forces (Pensions and Compensation) Act 2004 (c. 32) (“the 2004 Act”) and establishes the Armed Forces Redundancy Scheme 2006 (“the Scheme”). This is a new scheme for making payments to members of the armed forces leaving service as a result of the Secretary of State having determined that they are to be treated for the purposes of the Scheme as having become redundant. The Scheme only applies to members of the armed forces who belong to the Armed Forces Pension Scheme 2005 (“the 2005 Pension Scheme”) or do not belong to the other occupational pension scheme arrangements open to members of the armed forces. The “armed forces” as defined in the 2004 Act do not include the reserve forces.

Article 1 provides that the Order comes into force on 6th April 2006.

Article 2 provides for the establishment of the Scheme and provides that it is to be known as “the Armed Forces Redundancy Scheme 2006”.

Article 3 sets out definitions and explains how references to periods of service are to be interpreted.

Article 4 provides that a member of the armed services is eligible for a payment under article 5 if the Secretary of State has notified him that he will be treated for the purposes of the Scheme as having become redundant when he leaves service and he leaves service accordingly.

Article 5 provides for entitlement to an immediate lump sum payment to arise on leaving service.

Articles 6 to 8 make provision about how the amount of the payment under article 5 is to be calculated. Article 6 provides for cases where the leaver’s terms of service commit him to serve for a period at the end of which he would be entitled to payments under the Armed Forces Early Departure Payments Scheme Order 2005 (S.I. 2005/437) or would have attained the age of 55. Article 7 provides for leavers with shorter commitments. Article 8 imposes a limit on the amount that can be paid where the leaver is entitled to count 40 years’ reckonable service in the 2005 Pension Scheme.

Article 9 deals with the case where a person who is entitled to a payment under article 5 rejoins the armed forces or enters certain reserve forces service after a short break. It provides for part of the sum paid under article 5 to be repaid.

Article 10 deals with the case where a person who is entitled to a payment under article 5 rejoins the armed forces and becomes entitled to a further payment under article 5 when his new service ceases. It provides that his old service does not count in calculating the further payment.

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.

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