
STATUTORY INSTRUMENTS

2010 No. 832

**The Armed Forces (Redundancy, Resettlement and
Gratuity Earnings Schemes) (No. 2) Order 2010**

PART 1

GENERAL

Citation and commencement

1.—(1) This Order may be cited as the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No. 2) Order 2010.

(2) This Order shall come into force on 6th April 2010.

Interpretation

2. In this Order—

“the AFPS 1975” means the occupational pension scheme set out in Schedule 1 to the: Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(1), the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(2) and the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(3);

“active member” has the meaning given in section 124(1) of the Pensions Act 1995(4) and, except where the context otherwise requires, refers to membership of the AFPS 1975;

“additional adoption leave” means leave which, in the opinion of the Defence Council, corresponds to additional adoption leave within the meaning of section 75B of the Employment Rights Act 1996(5);

“additional maternity leave” means leave which, in the opinion of the Defence Council, corresponds to additional maternity leave within the meaning of section 73 of the Employment Rights Act 1996(6);

“basic pay” has the meaning given by article 3;

“commitment period”, in relation to a member of the armed forces, means the term of service for which a person is enlisted or commissioned;

(1) Order in Council made on the 10th February 2010.

(2) Royal Warrant made on the 16th February 2010.

(3) Queen’s Order made on the 17th February 2010.

(4) 1995 c. 26.

(5) 1996 c. 18; section 75B was inserted by section 3 of the Employment Act 2002 (c. 22); section 75B(3) was substituted by section 11(1) and paragraph 34 of Schedule 1 to the Work and Families Act 2006 (c. 18).

(6) Section 73 was substituted by section 7 and Part 1 of Schedule 4 to the Employment Relations Act 1999 (c. 26); section 73(3) was substituted by section 11 and paragraph 32 of Schedule 1 to the Work and Families Act 2006 and section 73(5A) was inserted by sections 17(1) and (4) of the Employment Act 2002.

“ordinary adoption leave” means leave which, in the opinion of the Defence Council, corresponds to ordinary adoption leave within the meaning of section 75A of the Employment Rights Act 1996(7);

“ordinary maternity leave” means leave which, in the opinion of the Defence Council, corresponds—

- (a) in relation to any period before 22nd August 1996, to leave under section 33 of the Employment Protection (Consolidation) Act 1978(8); and
- (b) in relation to any period on or after 22nd August 1996, to leave under section 71 of the Employment Rights Act 1996(9);

“paternity leave” means leave which, in the opinion of the Defence Council, corresponds to paternity leave within the meaning of regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(10);

“pay” means “basic pay” in the service that is ceasing for a person of the member’s rank and seniority as at the last day of that service (whether the rank is substantive or acting);

“pension codes” means the tri service pension codes that specify the rates of pension and rates of compensation for injury or death which are attributable to service as recommended by the Armed Forces Pay Review Body and approved annually by the Government;

“public debt” means any debt owed to a civilian authority in the United Kingdom or disallowance including any over issue or advance of pay, pension or other emoluments made through an error as to the facts; or the sum required to make good any loss, deficiency or irregular expenditure of public money, any deficiency, loss, damage or destruction of public stores, buildings or other public property of which, after full investigation, no explanation satisfactory to the Defence Council is given by the person who is responsible for the same;

“qualifying service” means the period of service which counts towards a person’s service for membership of the AFPS 1975, whether or not it counts for the purpose of calculating a pension under the AFPS 1975;

“reckonable service” means the period of service which may be counted for the purposes of calculating a pension under the AFPS 1975;

“service debt” means any debt owed to the armed forces or the sum required to make good any loss, deficiency or irregular expenditure of armed forces money of which after due investigation no explanation satisfactory to the Defence Council is given by the person who is responsible for the same.

Basic pay

3. “Basic pay” means—

- (a) pay for the member’s rank and seniority; and
- (b) any other amount if and to the extent that the Defence Council has determined that it is to be treated as basic pay; but
- (c) subject to paragraph (b) does not include—

(7) Section 75A was inserted by section 3 of the Employment Act 2002; section 75B(2A) was inserted by section 11(1) and paragraph 33 of Schedule 1 to the Work and Families Act 2006.

(8) 1978 c. 44; section 33 was repealed by section 242 and Part 1 of Schedule 3 to the Employment Rights Act 1996 and was re-enacted in section 71 of that Act.

(9) Section 71 was substituted by section 7 and Part 1 of Schedule 4 to the Employment Relations Act 1999; section 71(3) was substituted by section 11(1) and paragraph 31 of Schedule 1 to the Work and Families Act 2006; section 71(4) was amended by sections 17(1) and (2)(a) to (c) of the Employment Act 2002; section 71(7) was substituted by sections 17(1) and (3) of the Employment Act 2002.

(10) S.I. 2002/2788; regulation 4 was amended by article 2 and paragraphs 1(1) and 2(a) and (b) of Schedule 17 of S.I. 2005/2114; regulation 8 was amended by article 2(17) and paragraphs 1(1) and (3) of Schedule 17 of S.I. 2005/2114.

- (i) any allowances;
- (ii) any additional amounts payable in respect of particular qualifications or duties, the location of service or the conditions in which service is temporarily performed;
- (iii) without prejudice to paragraphs (i) and (ii), any additional amounts payable to medical or dental officers; or
- (iv) any description of payment that the Defence Council has determined is not to be treated as basic pay.