
STATUTORY INSTRUMENTS

2010 No. 832

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

PART 2

THE ARMED FORCES REDUNDANCY SCHEME

Interpretation of Part 2

4.—(1) The Scheme set out in this Part shall be known as the Armed Forces Redundancy Scheme 2010 (“the AFRS 2010”).

(2) In this Part—

“annual pay” means the person’s annual rate of basic pay;

“long service commitment” has the meaning given in article 8(1);

“member” means a person who was eligible to join the AFPS 1975 but, in relation to the army, does not include a member of the Brigade of Gurkhas who is an active member of the Gurkha Pension Scheme⁽¹⁾, and references to service, in relation to service as a member of the armed forces, are to be read accordingly;

“one month’s pay” means the person’s annual pay divided by 12 and any reference to more than one month’s pay means that the figure for one month’s pay for that person is multiplied by the multiple (including fractions) of the months specified;

“redundancy reckonable service” is to be read in accordance with articles 6 and 7;

“short service commitment” has the meaning given in article 8(2).

Redundancy

5. In this Part a reference to being treated for the purposes of the AFRS 2010 as having become redundant includes selection for redundancy as part of a programme for the planned reduction of the armed forces.

Redundancy reckonable service

6.—(1) Subject to article 16, “redundancy reckonable service” in relation to a member of the armed forces, means, the aggregate of any period of service referred to in paragraphs (2) and (3), whether current or previous service, but excluding any period which occurs before the member reaches the age of 18.

(2) The service mentioned in paragraph (1) is any period during which the member is—

(a) in service and in receipt of basic pay;

(1) Constituted by the Royal Warrant of 19th December 1949 (see Army Order 151 of 1949).

- (b) on secondment to a different employment under an arrangement where the member is paid by that employer but the terms of secondment provide for the member to be an active member of the AFPS 1975 (or would have provided had the member been an active member of the AFPS 1975);
- (c) in receipt of statutory maternity pay;
- (d) in receipt of statutory adoption pay;
- (e) on ordinary adoption leave;
- (f) on ordinary maternity leave;
- (g) on paternity leave; or
- (h) on unpaid leave for a period which the Defence Council has agreed beforehand can count for this purpose.

(3) Where paragraph (4) applies, service includes any period during which the member is seconded to the United Nations, the North Atlantic Treaty Organisation, or any other arrangement with any other organisation or person under which a member may be seconded into other military service.

(4) This paragraph applies where either conditions 1 or 2 are satisfied—

- (a) condition 1 is that the member (“A”)—
 - (i) is an active member of the AFPS 1975 on the day before the secondment commences;
 - (ii) resumes service in the armed forces at the end of the period of secondment and again becomes an active member of the AFPS 1975; and
 - (iii) makes a single lump sum payment calculated in accordance with the rules set out in the AFPS 1975 following a secondment to an organisation referred to in paragraph (3) to increase reckonable service;
- (b) condition 2 is that the member (“B”)—
 - (i) is entitled to be an active member of the AFPS 1975 on the day before the secondment commenced, but is not an active member;
 - (ii) resumes service in the armed forces at the end of the period of secondment; and
 - (iii) would be entitled to make a single lump sum payment to increase reckonable service by an additional period equal to the length of the secondment, had B been an active member of the AFPS 1975 prior to the commencement of the secondment.

(5) In this article—

“current service” means service as a member of the armed forces which commenced on the date the member last became a member of the armed forces and continues without interruption until the day on which service in the armed forces terminates; and

“previous service” means any period of service as a member of the armed forces which terminated before current service began.

Redundancy reckonable service: supplemental

7.—(1) In this Part references to periods of “redundancy reckonable service” are to be calculated in accordance with paragraphs (2) to (4).

(2) Periods of redundancy reckonable 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—

- (a) by reference to periods so expressed; and
- (b) on the assumption that there are 365 days in a complete year.

(3) To determine years of redundancy reckonable service the days in excess of the period of whole years are converted into years by dividing the number of days by 365 and calculating the result to four decimal places.

(4) If a period of redundancy reckonable service is less than one year—

- (a) paragraph (2) applies with the omission of the words “complete years and”; and
- (b) paragraph (3) applies with the omission of the words “in excess of the period of whole years”.

Commitment periods

8.—(1) A member of the armed forces (“L”) has a long service commitment if the length of L’s redundancy reckonable service (had such service in the armed forces lasted until the end of L’s commitment period) would have been—

- (a) where L is an officer—
 - (i) at least 16 years after L reached the age of 21; or
 - (ii) at least 18 years after L reached the age of 18;
- (b) where L is not an officer, at least 18 years after L reached the age of 18;
- (c) where L is not an officer, and (apart from the notification mentioned in article 9(4)) in respect of whom there is—
 - (i) no evidence that L would not have been willing to engage for an extension of service in the armed forces so as to complete 22 years’ of redundancy reckonable service, and
 - (ii) no evidence that L’s application for such an extension would have been refused, at least 12 years.

(2) A member of the armed forces (“S”) has a short service commitment if the length of S’s redundancy reckonable service (had such service lasted until the end of S’s commitment period) is less than a long service commitment under paragraph (1).

Eligibility for redundancy payments

9.—(1) A member of the armed forces is entitled to a payment under article 10 if conditions A to D are met.

(2) Condition A is that the person’s service as a member of the armed forces began before 6th April 2005.

(3) Condition B is that the person is not an excluded person.

(4) Condition C is that the person has been notified by the Defence Council that they will be treated for the purposes of the AFRS 2010 as having become redundant.

(5) Condition D is that the person’s service as a member of the armed forces ceases, in pursuance of a notification mentioned in paragraph (4), on a date after 6th April 2010.

(6) In paragraph (3) “excluded person” means—

- (a) a person who is excluded by their terms and conditions of service from entitlement to payments under article 10, unless the Defence Council has agreed that they be treated as if those terms did not apply; or
- (b) a person who would be entitled to a payment in respect of a notification under the Armed Forces Redundancy Scheme 2006(2) had the notification referred to that Scheme.

(2) [S.I. 2006/55](#); the Armed Forces Redundancy Scheme was established by article 2 of that Order.

Entitlement to redundancy payments for those eligible under article 9

10.—(1) A member of the armed forces who is eligible for a payment in accordance with article 9 (an “eligible person”) becomes entitled to a payment under this article when the eligible person ceases to be in service in the circumstances specified in article 9(5).

(2) Subject to paragraph (4), an eligible person is entitled under this article to a lump sum payment calculated in accordance with articles 11 to 14.

(3) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the eligible person ceases to be in service in the circumstances specified in article 9(5).

(4) An eligible person is not entitled to a further lump sum under this article if—

- (a) a lump sum under this article has previously been received by the eligible person;
- (b) that lump sum would be liable to repayment under article 15; and
- (c) that lump sum has not been repaid before the time when the eligible person would otherwise become entitled to the further lump sum.

Amount of payment under article 10: leavers with long service commitments and insufficient redundancy reckonable service

11.—(1) Subject to articles 14 to 16, if—

- (a) a member of the armed forces (L1) has a long service commitment, and
- (b) upon ceasing service in the circumstances described in article 9(5), L1’s redundancy reckonable service is less than the relevant period of redundancy reckonable service specified in paragraph (2),

the amount to which L1 is entitled under article 10 is one-eighth of annual pay for each year of redundancy reckonable service.

(2) The relevant period of redundancy reckonable service is—

- (a) where L1 is an officer—
 - (i) 16 years after L1 reached the age of 21; or
 - (ii) 18 years after L1 reached the age of 18; and
- (b) where L1 is not an officer, 18 years after L1 reached the age of 18.

Amount of payment under article 10: leavers with long service commitments and sufficient redundancy reckonable service

12.—(1) Subject to articles 14 to 16, if—

- (a) a member of the armed forces (“L2”) has a long service commitment, and
- (b) upon ceasing service in the circumstances described in article 9(5), L2’s redundancy reckonable service is at least the relevant period of redundancy reckonable service specified in paragraph (2),

the amount to which L2 is entitled under article 10 is calculated in accordance with paragraphs (3) to (5).

(2) The relevant period of redundancy reckonable service is—

- (a) where L2 is an officer—
 - (i) 16 years after L2 reached the age of 21; or
 - (ii) 18 years after L2 reached the age of 18; and
- (b) where L2 is not an officer, at least 18 years after L2 reached the age of 18.

- (3) In paragraphs (4) and (5)—
- (a) “P” is the period after the time when service ceases in the circumstances described in article 9(5), for which L2 would have served, had L2 continued in the armed forces until the end of L2’s commitment period; and
 - (b) that period shall be calculated in accordance with article 7, as if “P” were redundancy reckonable service.
- (4) Where L2 ceases service during the interim period the amount to which L2 is entitled under article 10 is—
- (a) where P is at least 3 years, 9 months’ pay;
 - (b) where P is at least 2 years but less than 3 years, 6 months’ pay;
 - (c) where P is at least 1 year but less than 2 years, 3 months’ pay; and
 - (d) where P is less than 1 year, one-twelfth of 3 months’ pay for each complete month the commitment is shortened.
- (5) Where L2 ceases service after the interim period, the amount to which L2 is entitled under article 10 is—
- (a) where P is at least 1 year, 3 months’ pay; and
 - (b) where P is less than 1 year, one-twelfth of 3 months’ pay for each complete month the commitment is shortened.
- (6) In this article “the interim period” means the period beginning on 6th April 2010 and ending with 31st March 2013.

Amount of payment under article 10: leavers with short service commitments

13. Subject to articles 14 to 16, the amount payable under article 10 in the case of a member of the armed forces ceasing service in the circumstances described in article 9(5) who has a short service commitment (“S”) is the lower of—

- (a) one-eighth of annual pay for each year of S’s redundancy reckonable service; and
- (b) the sum of—
 - (i) one-eighth of annual pay for each year that S would have served (after the time when S ceases service) had S continued to serve until the end of S’s commitment period; and
 - (ii) one-eighth of annual pay.

Limit on article 10 payment where leaver has full AFPS 1975 entitlement

14.—(1) If a member of the armed forces who is entitled to a payment under article 10—

- (a) is entitled to a maximum pension under the AFPS 1975 when that person’s service ceases, or
- (b) would be so entitled if the person were an active member of the AFPS 1975 in relation to the service that is ceasing,

the amount of the lump sum payable under article 10 must not exceed 6 months’ pay.

(2) In this article “maximum pension”, in relation to any person, means a pension calculated by reference to the highest number of years of reckonable service that may be used in that calculation.

Effect of rejoining armed forces or entering certain reserve forces service

15.—(1) This article applies where a person to whom a payment is made under article 10—

- (a) enters service as a member of the armed forces again otherwise than as a result of his being recalled for service under the Reserve Forces Act 1980(3) or Part 7 of the Reserve Forces Act 1996(4),
- (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),

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

(2) Where—

- (a) a person enters new service, and
- (b) the service break is less than the relevant period,

the person shall repay the relevant fraction of the payment received under article 10.

(3) In this article—

“the service break” means the number of days beginning with the day when the person becomes entitled to the payment under article 10 and ending with the day before the new service begins; “the relevant period” is deemed to be a number of days calculated as follows—

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

Where—

P is the amount of the payment received under article 10; and

FRE is the person’s annual pay by reference to which the person’s payment was calculated;

“the relevant fraction” means—

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

Where—

RP is the relevant period; and

SB is the service break.

Effect of award under article 10 on later award

16.—(1) This article applies if—

- (a) a payment is made to a person under article 10 on ceasing to be in service in the circumstances described in article 9(5) (“the old service”); and
- (b) that person enters service as a member of the armed forces again (“the new service”).

(2) In determining the amount of any payment to which the person is entitled under article 10 when the new service ceases, the redundancy reckonable service the person was entitled to count when his old service ceased is ignored.

(3) 1980 c. 9.
(4) 1996 c. 14.