
STATUTORY INSTRUMENTS

2011 No. 1364

**The Armed Forces Pension Scheme
2005 (Amendment) Order 2011**

Amendment of the rules of the Scheme

2.—(1) The rules of the Scheme are amended as follows.

(2) In rule A.1(4)—

- (a) omit the definition of “paternity leave”; and
- (b) insert at the appropriate places—

““additional paternity leave” means leave which, in the opinion of the Secretary of State, corresponds to additional paternity leave within the meaning of regulation 4 or 14 of the Additional Paternity Leave Regulations 2010(1);”;

““ordinary paternity leave” means leave which, in the opinion of the Secretary of State, corresponds to paternity leave within the meaning of regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(2);”.

(3) In rule A.3(2)(d) after “on” insert “ordinary paternity leave or on paid additional”.

(4) Rule D.2 is modified as follows—

- (a) in paragraph (1) after “pension benefit age” insert “or, in the case of a member who is within paragraph (7) of this rule, the member attains pension age”;
- (b) in paragraph (2) after “pension benefit age” insert “or, in the case of a member who is within paragraph (7) of this rule, attaining pension age”;
- (c) after paragraph (6) insert—

“(7) A member is within this paragraph if the member satisfies the following two conditions—

- (a) the first condition is that the member has attained at least 54 years and 274 days of age but not yet the pension age; and
- (b) the second condition is that the Scheme administrator is satisfied that the member intends either—
 - (i) to enter civilian employment which would not be available if the member continued in service until pension age; or
 - (ii) to undertake a course of full time education, or a training course, which starts before the time at which the member reaches pension age.”.

(5) For rule D.3(3) substitute—

“(3) The pension and any lump sum become payable—

- (a) immediately on the pension credit member reaching pension benefit age; or

(1) [S.I. 2010/1055](#).

(2) [S.I. 2002/2788](#); regulation 4 was amended by article 2 of, and paragraph 1(1) and (2)(a) and (b) of Schedule 17 to, [S.I. 2005/2114](#); regulation 8 was amended by article 2(17) of, and paragraph 1(1) and (3) of Schedule 17 to, [S.I. 2005/2114](#).

- (b) if it is later, when the pension sharing order under which the member is entitled to the pension credit takes effect.”.
- (6) After rule D.3(5) insert—
 - “(6) If a pension credit member exercises the option under rule D.4, the Secretary of State must be reasonably satisfied that the total value of the benefits payable by virtue of its exercise is at least equal to the amount described in regulation 11 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (value of alternatives to pension credit benefit) **(3)**.”.
- (7) In rule D.4(1) for “D.3(3)(b)(i)” substitute “D.3”.
- (8) Rule D.4(3) is modified as follows—
 - (a) insert “and” after paragraph (a);
 - (b) for paragraph (b) substitute—
 - “(b) the pension sharing order from which the pension credit rights derive has taken effect.”; and
 - (c) omit paragraph (c).
- (9) Rule E.9 is modified as follows—
 - (a) for paragraph (4), substitute—
 - “(4) Condition C is that, because of physical or mental impairment—
 - (a) the person is, in the opinion of the Scheme administrator, unable to engage in full-time gainful employment; and
 - (b) the person was dependent on the member at the date of the death.”; and
 - (b) omit paragraph (4A).
- (10) Rule E.15(1) is modified as follows—
 - (a) after sub-paragraph (b) omit “or” and insert—
 - “(c) any person who, but for the application of rule E.1(2) or rule E.2(2), would be so entitled or to whom a pension may be awarded; or”;
 - (b) the existing paragraph (c) is re-designated accordingly.
- (11) In rule F.8(1)(c), omit “benefit”.