
STATUTORY INSTRUMENTS

2011 No. 517

**The Armed Forces and Reserve Forces
(Compensation Scheme) Order 2011**

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 and comes into force on 9th May 2011.

Interpretation

2. In this Order—

(1) “the AFCS 2005” means the Scheme established by the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 ^{M1};

“the AFPS 1975” means the occupational pension scheme arrangements set out in—

- (a) the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 made on 16th December 2010 ^{M2};
- (b) the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 made on 15th December 2010 ^{M3};
- (c) the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 made on 15th December 2010 ^{M4};

“the AFPS 2005” means the Scheme established in the Armed Forces Pension Scheme Order 2005 ^{M5};

[^{F1}“the AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014;]

“accredited medical specialist” means a medical practitioner whose name is included in the specialist register kept and published by the General Medical Council as required by section 34D of the Medical Act 1983 ^{M6};

“acting rank” means a rank where a member of the forces is appointed to a post above the member’s substantive rank, and is paid at the rate appropriate to the higher rank;

“additional benefit” means a benefit specified in article 75(2) and (3);

“additional lump sum” means a benefit previously awarded under article 15C ^{M7} of the AFCS 2005;

“additional multiple injury lump sum” means a benefit previously awarded under article 15B ^{M8} of the AFCS 2005;

“appropriate tribunal” means the appropriate tribunal as defined in section 12(1) of the Pensions Appeal Tribunals Act 1943 ^{M9};

[^{F2}“armed forces independence payment” is the benefit referred to in article 24A;]

“benefit” means a benefit payable under this Order;

“bereavement grant” means the grant referred to in article 29(1)(b);

“body zone” is to be construed in accordance with article 20;

“child’s payment” means the payment referred to in article 29(1)(c) and determined in accordance with article 36;

“claimant” means a person who has claimed benefit, a person to whom benefit has been paid and a person affected by any decision of the Secretary of State made under this Order;

“claim form” means the form referred to in article 44(b);

“a Commissioner” means a Northern Ireland Social Security Commissioner and includes a tribunal of Commissioners constituted under section 6D(5) of the Pensions Appeal Tribunals Act 1943 ^{M10};

[^{F3}“constant attendance allowance” means a constant attendance allowance under article 8 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006;]

“death benefit” means a benefit referred to in article 29;

“descriptor” means a description of an injury in column (b) of Tables 1 to 9 of the tariff, and is to be construed in accordance with article 5;

“downgraded” means downgraded for medical reasons as a result of which the person downgraded undertakes a reduced range of duties but retains rank and pay;

[^{F4}“EDP 2005 Order” means the Armed Forces Early Departure Payments Scheme Order 2005;]

“eligible child” has the meaning given in article 31;

[^{F5} “ extra-costs disability benefit ” means personal independence payment under the Welfare Reform Act 2012, disability living allowance or attendance allowance under the Social Security Contributions and Benefits Act 1992, [^{F6}Child Disability Payment [^{F7}given by virtue of] the Disability Assistance for Children and Young People (Scotland) Regulations 2021][^{F8}, Adult Disability Payment given by virtue of the Disability Assistance for Working Age People (Scotland) Regulations 2022,] or any equivalent benefit awarded under corresponding Northern Ireland legislation or under the legislation of another country or dependent territory;]

“fast payment” means the benefit referred to in article 27;

“final decision” means a decision referred to in article 54;

“forces” means the armed forces and the reserve forces;

“former member” means a former member of the forces;

“the FTRSPS 2010” means the occupational pension scheme for members of the Full-Time Reserve Service ^{M11} established by regulations made by the Defence Council ^{M12} in exercise of the powers conferred on them by sections 4(2) and (3) and 8(2) and (3) of the Reserve Forces Act 1996 ^{M13};

“guaranteed income payment” is the payment referred to in article 15(1)(c) and determined in accordance with article 24;

“Gurkha Pension Scheme” means the Scheme constituted by the Royal Warrant of 19th December 1949 (see Army Order 151 of 1949) ^{M14};

“ill-health pension” means a pension paid under —

- (a) rules D1 and D7 (where the ill-health condition is met) of the instruments referred to in the definition of the AFPS 1975;
- (b) rule D5 or D6 of the AFPS 2005; ^{F9}...
- (c) provisions in the FTRSPS 2010, the Gurkha Pension Scheme, the NRPSPS or the RFPS 2005 equivalent to a pension specified in sub-paragraph (a) or (b) above; [^{F10}or]
- (d) ([^{F11}Chapter 3 of Part 5 of the AFPS 2015;]

“illness” means a physical or mental disorder included either in the International Statistical Classification of Diseases and Related Health Problems ^{M15} or in the Diagnostic and Statistical Manual of Mental Disorders ^{M16};

“injury” includes illness except in relation to determining eligibility for a fast payment in article 27(1)(a);

“injury benefit” means a lump sum, a supplementary award and guaranteed income payment;

“interim award” means an award under article 52(1);

“lump sum”, except in the expressions “additional lump sum” and “additional multiple injuries lump sum”, means the sum referred to in article 15(1)(a) and determined in accordance with article 16(3);

“medical expenses” means the expenses referred to in article 28;

“member” member means a member of the forces;

[^{F12}“mobility supplement” means a mobility supplement under article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006;]

[^{F13} “ Motability ” means the company set up under that name as a charity and originally incorporated under the Companies Act 1985 and subsequently incorporated by Royal Charter;]

“the NRPSPS” means the occupational pension scheme for members of the Non-Regular Permanent Staff ^{M17} set out in Chapter 9 of the Territorial Army Regulations 1978 ^{M18} made by the Defence Council in exercise of the powers conferred on them by sections 4(2) and (3) and 8(2) and (3) of the Reserve Forces Act 1996;

[^{F4}“PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;]

“predominant” means more than 50%;

[^{F4}“remediable service” has the meaning given in section 1 of PSPJOA 2022, and refers to service in an employment or office that is pensionable service under a Scheme within the meaning of that section, whether or not by virtue of section 2(1) of PSPJOA 2022;]

[^{F4}“remedy member” means a member with remediable service;]

“the RFPS 2005” means the occupational pension scheme for members of the reserve forces established by regulations made by the Defence Council in exercise of the powers conferred on them by sections 4(2) and (3) and 8(2) and (3) of the Reserve Forces Act 1996;

“service” means service as a member of the forces;

“Service Personnel and Veterans Agency” means an office designated by the Secretary of State for the purpose of receiving and determining applications for benefit;

“substantial and exclusive relationship” is to be construed in accordance with Schedule 1;

“supplementary award” means an award referred to in article 15(1)(b) and determined in accordance with article 16(5) and Part 2 of Schedule 3;

“surviving adult dependant” has the meaning given in article 30;

“survivor's guaranteed income payment” is the payment referred to in article 29(1)(a) and determined in accordance with article 34;

“tariff” means the tables of injuries and amounts set out in Part 1 of Schedule 3;

“tariff level” means the level of the tariff specified in column (a) of Tables 1 to 10 of Part 1 of Schedule 3;

“temporary award” means an award referred to in article 26.

(2) In this Order, any reference to claiming a benefit or to a claim—

(a) is to be treated as including a case where, by virtue of article 45, it is not a condition of entitlement to benefit that a claim be made;

(b) in the case of a claim for injury benefit, means a claim for one injury even where claims for more than one injury are made on the same claim form.

(3) In this Order, a person is “discharged on medical grounds” if the discharge is on the grounds that the person is medically unfit to continue in service, and as a result is entitled to an ill-health pension.

Textual Amendments

- F1** Words in art. 2(1) inserted (6.4.2015) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2015 \(S.I. 2015/413\)](#), arts. 1(1), **2**
- F2** Words in art. 2(1) inserted (8.4.2013) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2013 \(S.I. 2013/436\)](#), arts. 1(1), **2(2)**
- F3** Words in art. 2(1) inserted (10.4.2017) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2017 \(S.I. 2017/247\)](#), arts. 1, **3(a)**
- F4** Words in art. 2(1) inserted (1.10.2023) by [The Armed Forces Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/998\)](#), regs. 1(b), **42(2)**
- F5** Words in art. 2(1) inserted (8.4.2013) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2013 \(S.I. 2013/436\)](#), arts. 1(1), **2(2)**
- F6** Words in art. 2 inserted (26.7.2021) by [The Scotland Act 2016 \(Social Security\) \(Consequential Provision\) \(Miscellaneous Amendment\) Regulations 2021 \(S.I. 2021/804\)](#), regs. 1(2), **4(2)**
- F7** Words in art. 2 substituted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The Scotland Act 2016 \(Social Security\) \(Adult Disability Payment and Child Disability Payment\) \(Amendment\) Regulations 2022 \(S.I. 2022/335\)](#), **reg. 4(a)**
- F8** Words in art. 2 inserted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The Scotland Act 2016 \(Social Security\) \(Adult Disability Payment and Child Disability Payment\) \(Amendment\) Regulations 2022 \(S.I. 2022/335\)](#), **reg. 4(b)**
- F9** Word in art. 2(1) omitted (10.4.2017) by virtue of [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2017 \(S.I. 2017/247\)](#), arts. 1, **3(b)(i)**
- F10** Word in art. 2(1) inserted (10.4.2017) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2017 \(S.I. 2017/247\)](#), arts. 1, **3(b)(ii)**
- F11** Words in art. 2(1) inserted (10.4.2017) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2017 \(S.I. 2017/247\)](#), arts. 1, **3(b)(iii)**
- F12** Words in art. 2(1) inserted (10.4.2017) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2017 \(S.I. 2017/247\)](#), arts. 1, **3(c)**
- F13** Words in art. 2(1) inserted (8.4.2013) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2013 \(S.I. 2013/436\)](#), arts. 1(1), **2(2)**

Marginal Citations

- M1** [S.I. 2005/439](#), amended by [S.I. 2006/1438](#), [2007/2609](#), [2008/39](#), [2008/2160](#), [2008/2942](#), [2008/2683](#), [2009/3236](#) and [2010/1723](#).

- M2** Order in Council made pursuant to section 3 of the Naval and Marine Pay and Pensions Act 1865 c. 73 (28 and 29 Vict).
- M3** Royal Warrant made under section 2 of the Pensions and Yeomanry Pay Act 1884 (47 and 48 Vict c. 55) and prerogative powers.
- M4** Queen's Order made under section 2(1) of the Air Force (Constitution) Act 1917 c. 51.(7 and 8 Geo 5).
- M5** S.I. 2005/438. as amended by S.I. 2006/717, 2007/2608, 2008/229 and 2009/544.
- M6** 1983 c. 54, **section 34D** was inserted by S.I. 2010/234, **article 4** and paragraph 10 of Schedule 1.
- M7** Article 15C was inserted by S.I. 2008/2942, article 10. This S.I. is revoked by article 94 and Schedule 7.
- M8** Article 15B was inserted by S.I. 2008/39, **article 8**. This S.I. is revoked by article 94 and Schedule 7.
- M9** 1943 c. 39, **section 12(1)** was amended by S.I. 2008/2833, **article 9(1)** and paragraph 4(20)(a) of Schedule 3.
- M10** 1943 c. 39, **section 6D(5)** was inserted by the Armed Forces (Pensions and Compensation) Act 2004 (c. 32), **section 5** and schedule 1, paragraph 4 and amended by S.I. 2008/2833, **article 9(1)**, **Schedule 3**, paragraph 4(16)(d).
- M11** Full-Time Reserve Service is a commitment to a period of full-time service made under section 24 of the Reserve Forces Act 1996 (c. 14).
- M12** This instrument is available from Deputy Chief of Defence Staff (Personnel), (Pensions, Compensation and Veterans), Ministry of Defence, Main Building, Whitehall, London, SW1A 2HB.
- M13** 1996 c. 14.
- M14** This instrument is available from Land Forces Secretariat (Gurkha Policy). IDL 24, HQ Land Forces, Blenheim Building, Marlborough Lines, Andover, Hampshire, SP11 8HJ.
- M15** World Health Organisation, Geneva, 10th Revision 1992.
- M16** American Psychiatric Association, Washington DC. 4th Edition, Text Revision (2000).
- M17** Non-Regular Permanent Staff undertake administrative tasks for the Territorial Army. They are subject to call out under section 52 of the Reserve Forces Act 1996 (c. 14).
- M18** This instrument is available from Directorate Personnel Services (Army) (Territorial Army), Headquarters Land Forces, Inkerman 67, Wilton, Salisbury, Wiltshire, SP2 0AG.

Definition of “late onset illness”

3. A “late onset illness” is—
- a malignancy, or other physical disorder which is capable of being caused by an occupational exposure occurring 7 or more years before the onset of the illness or the date of death as the case may be;
 - a mental disorder which is capable of being caused by an incident occurring 7 or more years before the onset of the illness; or
 - a mental disorder capable of being caused by an incident occurring less than 7 years before the date of onset of the illness, which disorder is capable of causing the person suffering from it to be unable to seek medical help for the disorder within 7 years of the date of onset of the illness.

Definition of “salary”

4.—(1) Subject to the following provisions of this article, in this Order “salary”, in relation to a member or former member in respect of whom benefit is payable, means—

- basic pay payable at the rate for a person of the member's substantive rank, or acting rank as the case may be, and seniority; and
- any other amount if and to the extent that the Defence Council have determined that it is to be treated as salary.

(2) Subject to paragraph (1)(b), “salary” does not include—

- (a) any allowances; or
 - (b) any additional amounts payable in respect of particular qualifications or duties (including payable to medical or dental officers), the location of service or the conditions in which service is temporarily performed.
- (3) “Salary” does not include any description of payment that the Secretary of State has determined is not to be treated as salary.

[^{F14}(4) In relation to a member or former member who is (or was) serving on flexible terms for any period, the amounts to be used for any calculation under this article in respect of that period of flexible service are to be determined as though the member or former member had not served on flexible terms for that period.

(5) In this article—

“flexible service” means one or both of the following types of service—

- (a) part-time service;
- (b) restricted separation service,

and references to a member serving on flexible terms must be construed accordingly;

“part-time service” means—

- (a) for enlisted members, a period of service where the member is serving in accordance with an arrangement provided for in regulations made under section 329(2)(ha) of the Armed Forces Act 2006;
- (b) for members who are officers, a period of service on equivalent terms of service;

“restricted separation service” means—

- (a) for enlisted members, a period of service where the member is serving in accordance with an arrangement which does not restrict the member’s service in a particular area but does make it subject to other geographic restrictions provided for in regulations made under s329(2)(i) of the Armed Forces Act 2006;
- (b) for members who are officers, a period of service on equivalent terms of service.]

Textual Amendments

F14 Art. 4(4)(5) inserted (1.4.2019) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment No. 2\) Order 2018 \(S.I. 2018/1099\)](#), arts. 1(a), **2(2)**

Descriptor, further interpretative provisions

5.—(1) Subject to article 25, a descriptor is to be construed as encompassing the expected effects of the primary injury and its appropriate clinical management, short of a discrete diagnosable disorder, including, but not limited to—

- (a) pain and suffering due to the primary injury;
- (b) the effect of operative intervention, including pain, discomfort and scarring;
- (c) the effect of therapeutic drug treatment;
- (d) the use of appropriate aids and appliances;
- (e) associated psychological effects short of a discrete diagnosable disorder.

(2) The effects described in paragraph (1) include the effects both on directly damaged and indirectly affected body structures.

(3) The term “functional limitation or restriction” in relation to a descriptor means that, as a result of an impairment arising from the primary injury or its effects, a person—

- (a) has difficulty in executing a task or action; or
- (b) is required to avoid a task or action because of the risk of recurrence, delayed recovery, or injury to self or others.

(4) Subject to paragraph (5), a reference in a descriptor to duration of effects means from the date of injury.

(5) In Tables 3 and 4 of the tariff a reference in a descriptor to duration of effects means from the date the claimant first sought medical advice in respect of the mental or physical disorder.

(6) Functional limitation or restriction is to be assessed by—

- (a) taking account of the primary injury and its effects; and
- (b) making a comparison between the limitation and restriction of the claimant and the capacity of a healthy person of the same age and sex who is not injured or suffering a health condition.

(7) Functional limitation or restriction is —

- (a) “permanent” where following appropriate clinical management of adequate duration—
 - (i) an injury has reached steady or stable state at maximum medical improvement; and
 - (ii) no further improvement is expected; and
- (b) “significant” where the functional limitation or restriction has an extensive effect.

[^{F15}(8) The term “operative treatment” means surgical intervention intended to investigate or treat but excludes insertion of sutures under local anaesthetic, acupuncture, facet or other joint injection or minor dental procedure.]

Textual Amendments

F15 Art. 5(8) inserted (31.5.2016) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2016 \(S.I. 2016/557\)](#), arts. 1(1), 2

Service of documents

6. Where under this Order—

- (a) any notice or other document is required to be given or sent to the Service Personnel and Veterans Agency, that notice or document is to be treated as having been given or sent on the day it is received by that Agency; and
- (b) any notice or other document is required to be given or sent to any person, that notice or document, if sent by post to that person's last known address, is to be treated as having been given or sent on the day that it was posted.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, PART 1.