

---

STATUTORY INSTRUMENTS

---

**2014 No. 2336**

**The Armed Forces Pension Regulations 2014**

**PART 10**

**Supplementary**

**CHAPTER 1**

**Payment of pensions**

**Late payment of retirement index adjustment**

**115.** Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment that is payable in respect of the last active scheme year to be paid before the end of that year.

**Commutation of small pensions**

**116.—**(1) This regulation applies if—

- (a) a person's entitlement to a pension under this scheme does not exceed the small pensions commutation maximum;
- (b) a dual capacity member's total pension entitlement under this scheme does not exceed the small pensions commutation maximum; or
- (c) the total pension entitlement under this scheme of a surviving adult dependant or an eligible child of a dual capacity member does not exceed the small pensions commutation maximum.

(2) The scheme manager may pay the person a lump sum of such an amount as the scheme manager after consultation with the scheme actuary advises represents the capital value of the pension if—

- (a) the person consents to receipt of a lump sum in respect of the pension; and
- (b) the commutation requirements are met.

(3) The payment of a lump sum under this regulation in respect of a pension discharges all liabilities under these Regulations in respect of that pension.

(4) In this regulation—

“the small pensions commutation maximum” means the amount that is permitted to be commuted, having regard to all the commutation requirements that apply in the circumstances in question; and

“the commutation requirements” means requirements permitting the commutation of small pensions that are imposed by—

- (a) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997<sup>(1)</sup>;
- (b) paragraph 7 of Schedule 29 to the FA 2004 (which defines trivial commutation lump sums for the purposes of Part 4 of that Act) and, in relation to a pension payable under Part 6 (death benefits), by paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of that Part); or
- (c) regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(2)</sup>.

## CHAPTER 2

### Payment and deduction of tax

#### **Scheme administrator for purposes of the Finance Act 2004**

**117.**—(1) The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on a scheme administrator by or under Part 4 of the FA 2004.

(2) In this regulation ‘scheme administrator’ has the meaning given in Part 4 of the FA 2004.

#### **Reduction of benefits where lifetime allowance charge payable**

**118.**—(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the FA 2004 (“the table”) occurs in relation to a member;
- (b) the member and scheme manager are jointly and severally liable in relation to that event.

(2) If this regulation applies—

- (a) the scheme manager must pay the lifetime allowance charge payable on the event;
- (b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced; and
- (c) in the case of any other event in that table, the amount or value of the benefits payable to or in respect of the member must be reduced.

(3) The amount or value of the reduction must be such that in the opinion of the scheme manager, having consulted the scheme actuary, fully reflects the amount of the lifetime allowance charge so paid and is consistent with normal actuarial practice.

#### **Payment on behalf of members of annual allowance charge**

**119.**—(1) The scheme manager must provide a member with information about the payment of an annual allowance charge under section 227 of FA 2004 if the member’s total pension input amount for that tax year exceeds the amount of the annual allowance for that tax year.

(2) The member may request the scheme manager to pay the charge in respect of this scheme on the member’s behalf.

(3) Such a request must be made by notice in writing in such form and subject to such conditions as the scheme manager requires.

---

(1) [S.I. 1997/785](#)  
(2) [S.I. 2000/1054](#)

### **Reduction of benefits where annual allowance charge paid by scheme manager**

**120.**—(1) If the scheme manager pays the annual allowance charge on a member's behalf, the amount or value of the benefits payable to or in respect of the member must be reduced.

(2) The amount or value of the reduction of benefits must be such that in the opinion of the scheme manager, having consulted with the scheme actuary, it fully reflects the amount of the charge so paid and is consistent with normal actuarial practice.

## **CHAPTER 3**

### **Forfeiture**

#### **Forfeiture of benefits**

**121.**—(1) The Secretary of State may withhold benefits payable under this scheme in respect of a member to whom paragraph (2) of regulation 128 (information and evidence) applies to such extent as the Secretary of State considers appropriate.

This is subject to paragraphs (3) and (4).

(2) The Secretary of State may withhold pension benefits payable under Part 5 to a person to whom paragraph (2) of regulation 122 (events enabling forfeiture) applies to such extent as the Secretary of State considers appropriate; and if the whole of a person's benefits are so withheld that Part applies as if that person had predeceased the member.

This is subject to paragraph (4).

(3) If the member has a guaranteed minimum under section 14 of the PSA 1993 in relation to service by reference to which he is entitled to benefits under the scheme, paragraph (1) only applies to so much of the member's pension as exceeds that guaranteed minimum, unless regulation 122 (1) (a) or (b)(conviction of treason or Official Secrets Acts offences) applies.

(4) If the case of a pension payable to the surviving spouse of a member, paragraph (1) and (2) are subject to regulation 66 (guaranteed minimum pensions for surviving spouses and civil partners).

(5) Where regulation 122 (1)(c) (monetary obligations) applies—

(a) If the amount of the obligation is in dispute, paragraph (1) only applies if the obligation has become enforceable—

(i) under an order of a competent court; or

(ii) in consequence of an award of an arbitrator or, in Scotland, an arbiter to be appointed (failing agreement by the parties) by the sheriff;

(b) only benefits to which the member alone is entitled may be withheld; and

(c) the benefits withheld must not exceed the amount of the monetary obligation or, if less, the value of the person's entitlement or the accrued right in question (as determined under section 93(2) of the Pensions Act 1995)(3).

(6) This regulation is without prejudice to—

(a) section 2 of the Forfeiture Act 1870(4) (under which forfeiture is required in cases of treason, subject to whole or partial restoration under section 70(2) of the Criminal Justice Act 1948)(5); or

(b) so far as it has effect in relation to benefits under the scheme, section 24 of the Chelsea and Kilmainham Hospitals Act 1826(6).

---

(3) 1995 c. 26.

(4) 1870 c. 23.

(5) 1948 c. 58.

(6) 1826 c. 16.

### Events enabling forfeiture

**122.**—(1) This paragraph applies to a member, who is an active member, a deferred member or a pensioner member, if the member—

- (a) is convicted of treason or of one or more offences under the Official Secrets Acts 1911<sup>(7)</sup> to 1989<sup>(8)</sup> for which the member has been sentenced on the same occasion—
  - (i) to a term of imprisonment of at least 10 years; or
  - (ii) to two or more consecutive terms amounting in the aggregate to at least 10 years,
- (b) is convicted of an offence in connection with the service that qualifies the member to belong to the scheme which the Secretary of State considers to have been gravely injurious to the defence, security or other interests of the State; or
- (c) has after becoming a member of the scheme incurred a monetary obligation to the Crown which—
  - (i) arises out of a criminal, negligent or fraudulent act or omission by the member, and
  - (ii) arises out of or in connection with his service in the armed forces.

(2) This paragraph applies to a person who is convicted of the murder or manslaughter of the member or any other offence which involves the unlawful killing of the member.

(3) In paragraph (2) “unlawful killing” includes unlawfully aiding, abetting, counselling or procuring the death.

### Procedure, references etc

**123.**—(1) If the Secretary of State proposes to withhold a person’s benefits under regulation 121 (forfeiture of benefits) the Secretary of State must notify the person in writing that he proposes to do so.

(2) Such a notification must give the person information about rights under—

- (a) the arrangements established by the Secretary of State for the resolution of disputes relating to the scheme that are in force at the time the notification is given; and
- (b) Part 10 of the PSA 1993 (investigations: the Pensions Ombudsman), in respect of any decision made under regulation 121 (forfeiture of benefits).

(3) If the Secretary of State withholds benefits under regulation 121 (forfeiture of benefits) in a case where regulations 122(1)(c) (monetary obligation) applies, the member must be given a certificate showing any amount withheld and the effect of its being withheld on the member’s benefits under the scheme.

(4) The Secretary of State—

- (a) may refer the question whether benefits of a person to whom regulation 121(2) (conviction of member) applies should be withheld to the Social Security Commissioner; and
- (b) must refer that question if the person to whom that rule applies or an eligible child of the member requests the Secretary of State to do so.

---

(7) 1911 c. 28

(8) 1989 c. 6.

## CHAPTER 4

### General

#### **Pension ceases to be payable**

**124.**—(1) A pension ceases to be payable to a member who re-enters pensionable service within 28 days after the last day of the service in respect of which the pension was payable (“earlier service”).

(2) If paragraph (1) applies in relation to a member, the scheme manager must—

- (a) cease to pay the pension; and
- (b) recover any overpayment made.

(3) The member becomes a deferred member in respect of the earlier service.

(4) The scheme manager must close the pension member’s account and establish a deferred member’s account in respect of the earlier service.

(5) The scheme manager must credit to the deferred member’s account as the provisional amount for each description of deferred pension the amount specified in the pension member’s account.

#### **Re-employment after ill health awards**

**125.**—(1) This regulation applies where—

- (a) an ill health pension has been awarded to a member in respect of a continuous period of pensionable service (“earlier service”); and
- (b) subsequently, the member re-enters pensionable service (“current service”).

(2) The ill health pension ceases to be payable on the first day of the current service.

(3) The member becomes a deferred member in respect of the earlier service.

(4) The scheme manager must close the pension member’s account and establish a deferred member’s account in respect of the earlier service.

(5) The scheme manager must credit to the deferred member’s account as the provisional amount for each description of deferred pension the amount specified in the pension member’s account less an amount attributable to the enhancement value under Chapter 3 of Part 5.

#### **Payment of benefits**

**126.** Pensions payable under the scheme are payable by monthly instalments in arrears.

#### **False statements etc about ill-health**

**127.**—(1) This regulation applies where—

- (a) a pension under Chapter 3 of Part 5 (Ill-Health Benefits) has been awarded to a member; and
- (b) subsequently it appears to the scheme manager that the member made a false declaration about the member’s health or deliberately suppressed a material fact that was relevant to the award.

(2) The scheme manager may—

- (a) cease paying the pension;
- (b) withhold the whole or part of the pension; or
- (c) recover any payment made under the award.

### **Non assignability**

**128.**—(1) Every benefit to which a person is entitled under this scheme is payable to or for that person's benefit.

(2) No such benefit is assignable or chargeable with the member's or any other person's debts.

(3) This regulation is without prejudice to anything that has effect by virtue of any enactment or may be done under or for the purposes of the Chelsea and Kilmainham Hospitals Act 1826.

### **General prohibition on unauthorised payments**

**129.** Nothing in these Regulations requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of the FA 2004 (see section 160(5) of that Act).

### **Calculation of periods of membership and service**

**130.**—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that are required to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

This is subject to paragraph (3).

(3) If membership or service is referred to in these Regulations as membership or service in years—

- (a) the days referred to in paragraph (1); and
- (b) the full days referred to in paragraph (2)

are converted into years by dividing the number of days in excess of the period of whole years by 365 or in the case of a leap year 366, and rounding the result to 4 decimal places.

(4) If a period of membership or service is less than one year, this regulation applies as if the words "whole years, and" were omitted from paragraph (1) and the words "in excess of the period of whole years" were omitted from paragraph (3).

### **Determination of questions**

**131.** Except as otherwise provided by these Regulations, any question arising under this scheme is to be determined by the scheme manager, whose decision on it is final.

### **Information and evidence**

**132.**—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

- (a) the person's identity; and
- (b) the person's continuing entitlement to payment of any amount.

(2) If such evidence is not provided, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

### **Provision of benefit information statements to members**

**133.** The scheme manager must provide an annual benefit information statement to each active member of this scheme in accordance with Treasury directions made under section 14 of the Act (information about benefits).