
STATUTORY INSTRUMENTS

2023 No. 998

**The Armed Forces Pensions
(Remediable Service) Regulations 2023**

Part 11

**AMENDMENT OF THE ARMED FORCES AND RESERVE
FORCES (COMPENSATION SCHEME) ORDER 2011**

Amendment of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011

41. The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(1) (“the AFCS Order”) is amended as follows.

Article 2: Interpretation

42.—(1) Article 2 (interpretation) of the AFCS Order is amended in accordance with this regulation.

(2) In paragraph (1), insert in the appropriate places the following—.

““EDP 2005 Order” means the Armed Forces Early Departure Payments Scheme Order 2005;

“PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;

“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;

“remedy member” means a member with remediable service;”.

Insertion of new Part 5A: Remediable Service

43. After Part 5 (adjustment and cessation of benefit), insert—

“Part 5A

REMEDIABLE SERVICE

Application and interpretation

42A.—(1) This Part applies where—

- (a) as a result of an immediate choice decision or a deferred choice decision, the amount of the pension or payment payable in respect of a remedy member’s (“M”) remediable service changes, and

- (b) article 39(5) applies in relation to an award of guaranteed income payment, survivor's guaranteed income payment or child's payment.
- (2) In this Part—
 - (a) an “immediate choice decision” means an irrevocable decision in relation to M’s remediable service under—
 - (i) paragraph 8 of Schedule 4 to the AFPS 1975;
 - (ii) paragraph 9 of Schedule 3 to the AFPS 2005;
 - (iii) paragraph 7 of the Schedule to the EDP Order 2005;
 - (b) a “deferred choice decision” means an irrevocable decision in relation to M’s remediable service under—
 - (i) paragraph 12 of Schedule 4 to the AFPS 1975;
 - (ii) paragraph 13 of Schedule 3 to the AFPS 2005;
 - (iii) paragraph 10 of the Schedule to the EDP Order 2005.
 - (c) A reference to a pension or payment has the same meaning as in article 39(1).

Adjustment and Reconciliation

42B.—(1) The Secretary of State must calculate the amount of guaranteed income payment, survivor's guaranteed income payment or child's payment payable since the award came into payment (the “remediable amount”), taking into account—

- (a) the effect of the immediate choice decision or the deferred choice decision on the amount of the pension or payment payable in respect of M’s remediable service, and
- (b) the requirement in article 39 to adjust an award of guaranteed income payment, survivor's guaranteed income payment or child's payment.

(2) Where the remediable amount is less than the amount actually paid, the beneficiary must pay an amount equal to the difference to the Secretary of State.

(3) Where the remediable amount is greater than the amount actually paid, the Secretary of State must pay an amount equal to the difference to the beneficiary.

Recovery of Overpayments

42C. Where an amount is owed to the Secretary of State under article 42B(2), that amount—

- (a) is treated as a relevant amount for the purposes of section 26(1)(b) of PSPJOA 2022, and
- (b) must, in the first instance, be offset against any arrears of pension or payment that may be owed to the relevant beneficiary under the provisions of Chapter 1 of Part 1 of PSPJOA 2022.”.

Schedule 2: insertion of new paragraph 6 (remediable service)

44.—(1) Schedule 2 (modifications for Reserve Forces) is amended in accordance with this regulation.

(2) After paragraph 5 (modification of article 39 (adjustment of guaranteed income payment, survivor's guaranteed income payment or child's payment to take account of other amounts), insert—

“Remediable service: adjustment and reconciliation

- 6.—(1) This paragraph applies where—
- (a) as a result of an immediate choice decision or a deferred choice decision, the amount of the pension or payment payable in respect of a remedy member’s (“M”) remediable service changes, and
 - (b) the substituted article 39(6), contained in paragraph 5, applies in relation to an award of guaranteed income payment, survivor’s guaranteed income payment or child’s payment.
- (2) The Secretary of State must calculate the amount of guaranteed income payment, survivor’s guaranteed income payment or child’s payment payable since the award came into payment (the “remediable amount”), taking into account—
- (a) the effect of the immediate choice decision or the deferred choice decision on the amount of the pension or payment payable in respect of M’s remediable service, and
 - (b) the requirement in article 39 to adjust an award of guaranteed income payment, survivor’s guaranteed income payment or child’s payment.
- (3) Where the remediable amount is less than the amount actually paid, the beneficiary must pay an amount equal to the difference to the Secretary of State.
- (4) Where the remediable amount is greater than the amount actually paid, the Secretary of State must pay an amount equal to the difference to the beneficiary.
- (5) Where an amount is owed to the Secretary of State under sub-paragraph (3), that amount—
- (a) is treated as a relevant amount within the meaning of section 26(1)(b) of PSPJOA 2022, and
 - (b) must, in the first instance, be offset against any arrears of pension or payment that may be owed to the relevant beneficiary under the provisions of Chapter 1 of Part 1 of PSPJOA 2022.
- (6) In this paragraph—
- (a) an “immediate choice decision” means an irrevocable decision in relation to M’s remediable service under—
 - (i) paragraph 8 of Schedule 4 to the RFPS 2005;
 - (ii) paragraph 9 of Schedule 3 to the FTRS 1997;
 - (iii) paragraph 9 of Schedule 4 to the NRPS 2011;
 - (b) a “deferred choice decision” means an irrevocable decision in relation to M’s remediable service under—
 - (i) paragraph 12 of Schedule 4 to the RFPS 2005;
 - (ii) paragraph 13 of Schedule 3 to the FTRS 1997;
 - (iii) paragraph 10 of Schedule 4 to the NRPS 2011;
 - (c) A reference to a pension or payment has the same meaning as in the modified article 39(1).”.