

Schedules

Schedule 3

Regulation 15

Remediable Service for the Armed Forces Early Departure Payments Scheme 2005

“Schedule

Article 2(3)

Remediable Service

Part 1

Introductory Provisions

Interpretation

1.—(1) In this Schedule—

“AFPS 2005” means the occupational pension scheme arrangements for members of the regular forces set out in Schedules 1, 2 and 3 to the Armed Forces Pension Scheme Order 2005(1) and—

- (a) “AFPS 2005 benefits” means scheme benefits under Schedules 1 and 2;
- (b) “AFPS 2005 service”, in relation to a member, means the member’s remediable service that is pensionable service under the AFPS 2005 (whether or not by virtue of section 2(1) of PSPJOA 2022;

“AFRS 2006” means the Armed Forces Redundancy Scheme 2006 established by the Armed Forces Redundancy Scheme Order 2006;

“AFRS 2020” means the Armed Forces Redundancy Scheme 2020 established under the Schedule to the Armed Forces Redundancy Scheme Order 2020;

“PSP Directions 2022” means the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022;

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

“an armed forces pension scheme” means any Chapter 1 scheme under which service in the regular forces or the reserve forces is pensionable;

“Chapter 1 scheme” has the meaning given in section 33(1) of PSPJOA 2022;

“deferred choice decision” has the meaning given in paragraph 10(1);

“end of the section 6 election period”, in relation to an immediate choice member, has the meaning given in section 7(2) of PSPJOA 2022;

“end of the section 10 election period”, in relation to a deferred choice member, means the end of the day determined in accordance with paragraph 11(1)(b);

“immediate choice decision” has the meaning given in paragraph 7(1);

(1) [S.I. 2005/438](#); relevant amending instruments are [S.I. 2015/568](#) and [2022/323](#).

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“legacy scheme”, in relation to a remedy member’s remediable service, means the Scheme established under the Armed Forces Early Departure Scheme Order 2005, and—

- (a) “legacy scheme benefits” means benefits payable under articles 8 to 13 of that Scheme;
- (b) “legacy scheme service”, in relation to a remedy member, means the person’s remediable service in an employment or office that is relevant service under this instrument (whether or not by virtue of section 2(1) of PSPJOA 2022);

“reformed EDP Scheme” means the Scheme established under Part 2 of the Armed Forces Early Departure Payments Scheme Order 2015, and “reformed EDP Scheme benefits” means new scheme benefits under that scheme;

“reformed scheme” means the AFPS 2015, and “reformed scheme benefits” means new scheme benefits under that scheme;

“relevant amount” has the meaning given in section 26(3) of PSPJOA 2022;

“remediable service”, in relation to a remedy member, means the member’s remediable service in an employment or office that is pensionable service under the AFPS 2005 or relevant service for the purposes of this Scheme (whether or not by virtue of section 2(1) of PSPJOA 2022);

“remedy member” means a person with remediable service;

“remedy period” means the period beginning with 1st April 2015 and ending with 31st March 2022;

“Scheme manager” means the Secretary of State;

“section 6 election” has the meaning given in paragraph 7(1)(a);

“section 10 election” has the meaning given in paragraph 10(1)(a).

(2) In this Schedule, a “deferred choice member” means a remedy member who—

- (a) immediately before 1st October 2023, was not entitled to the present payment of a pension under this Scheme (whether or not that pension was abated), the amount of which was determined (to any extent) by reference to the member’s remediable service;
- (b) on or after 1st October 2023, is an eligible person within the meaning of paragraph 7 of the Schedule to the AFRS 2020 in relation to that service.

(3) In this Schedule, an “immediate choice member” means a remedy member who, immediately before 1st October 2023, was—

- (a) entitled to a pension under this Scheme (whether or not that pension was abated), the amount of which was determined by reference (to any extent) to the member’s remediable service;
- (b) an eligible person within the meaning of article 4 of the AFRS 2006 or paragraph 7 of the Schedule to the AFRS 2020 in relation to that service.

(4) A deferred choice member is a relevant member of the Scheme for the purposes of section 10 of PSPJOA 2022.

(5) An immediate choice member is a relevant member of the Scheme for the purposes of section 6 of PSPJOA 2022.

2.—(1) For the purposes of this Schedule, a reference in PSPJOA 2022 to section 2(1) of that Act coming into force is to be understood as a reference to that section coming into force in relation to members of the armed forces pension schemes.

(2) A term used in this Schedule which—

- (a) is defined in, or for the purposes of, a provision in Chapter 1 of Part 1 of PSPJOA 2022, and
- (b) is not defined differently in this Schedule,

has the meaning given in, or for the purposes of, that provision.

- (3) A term used in this Schedule which—
- (a) is defined in this instrument or the AFP Regulations 2014 (“the relevant schemes”), and
 - (b) is not defined differently—
 - (i) in this Schedule, or
 - (ii) in, or for the purposes of, a provision in Chapter 1 of Part 1 of PSPJOA 2022,
- has, in relation to the relevant schemes, the meaning given in those schemes.

(4) In this Schedule, a reference to a provision of the PSP Directions 2022 is a reference to that provision as amended from time to time.

3. For the purposes of sections 9 and 13 of PSPJOA 2022, the other Chapter 1 legacy scheme mentioned in sections 9(1)(b) and 13(1)(b) respectively is the AFPS 2005, and—

- (a) where the member makes an immediate choice decision under this Schedule, that decision also has effect as a deferred choice decision in relation to the member’s remediable service under the AFPS 2005⁽²⁾;
- (b) where the member makes a deferred choice decision under this Schedule, that decision also has effect as a deferred choice decision in relation to the member’s remediable service under the AFPS 2005⁽³⁾.

4. For the purposes of this Scheme, section 14 of PSPJOA 2022 applies as if—

- (a) in section 14(2) the words “immediately before the coming into force of section 2(1)” were omitted;
- (b) in section 14(7)(b) the words “or section 10” were inserted after “section 6”.

Part 2

Remediable Service Statements

Requirements relating to remediable service statements

5.—(1) The Scheme manager must provide a remediable service statement to a remedy member (“M”) in accordance with—

- (a) section 29 of PSPJOA 2022,
 - (b) any Treasury directions made under section 29(6) of that Act, and
 - (c) this paragraph.
- (2) The Scheme manager must provide a remediable service statement in respect of M—
- (a) before the relevant date,
 - (b) where M is, in relation to their remediable service, for the time being an active member of the AFPS 2005, at least once in each year ending with the anniversary of the relevant date;
 - (c) where M is a deferred choice member of the AFPS 2005, as soon as is reasonably practicable following receipt of notification of the date on which M will leave relevant service.
- (3) The remediable service statement must be provided to M.
- (4) The remediable service statement must include—

(2) See section 9(3) PSPJOA 2022.

(3) See section 13(2) of PSPJOA 2022.

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- (a) information about the form and manner in which required information must be communicated to the Scheme manager;
 - (b) where M is an immediate choice member, information about the irrevocability of an immediate choice decision;
 - (c) where M is a deferred choice member, information about the revocability (or otherwise) of a deferred choice decision.
- (5) For further provision about—
- (a) what a remediable service statement must include, see—
 - (i) section 29(5) of PSPJOA 2022;
 - (ii) direction 20(1) of the PSP Directions 2022;
 - (b) when a remediable service statement must be combined with a benefit information statement provided under section 14 of the Public Service Pensions Act 2013, see direction 20(2) of the PSP Directions 2022.

Part 3

Decisions about the treatment of remediable service

Chapter 1

Immediate choice decision for reformed scheme or legacy scheme benefits

Application of Chapter 1

6. This Chapter applies in respect of the remediable service of an immediate choice member (“M”).

Immediate choice decision for reformed scheme or legacy scheme benefits: general

7.—(1) A decision (an “immediate choice decision”) may be made in accordance with this Chapter—

- (a) to make an election (a “section 6 election”) by virtue of section 6 of PSPJOA 2022 in relation to M’s remediable service, or
 - (b) that no section 6 election is to be made in relation to that service.
- (2) An immediate choice decision may only be made by M.
- (3) An immediate choice decision is made when it is received by the Scheme manager in a form and manner determined by the Scheme manager.
- (4) An immediate choice decision may only be made before the end of the section 6 election period.
- (5) An immediate choice decision is irrevocable.
- (6) An immediate choice decision to make a section 6 election takes effect as a section 6 election (see sections 6(5) and (7), 7(1)(b) and 9 of PSPJOA 2022 about the effect of a section 6 election).
- (7) Where—
- (a) immediately before 1st October 2023, M had remediable service in the reformed scheme (“the reformed scheme service”), and
 - (b) an immediate choice decision is made that no section 6 election is to be made in relation to M’s remediable service,

section 6(4) of PSPJOA 2022 does not apply in relation to M's reformed scheme service (and, accordingly, section 2(1) of PSPJOA 2022 has effect in relation to M's reformed scheme service for the purposes mentioned in section 2(3)(b) of that Act from the time the immediate choice decision is made).

(8) The following provisions of PSPJOA 2022 have effect in relation to a decision that no section 6 election is to be made as they have effect in relation to a section 6 election—

- (a) section 6(7) (section 6 election has effect in respect of all remediable service in the employment or office);
- (b) section 7(1)(b) (provision about when a section 6 election is to be treated as having taken effect);
- (c) section 9 (provision about persons with remediable service in more than one Chapter 1 legacy scheme).

Immediate choice decision: deemed election

8. Where—

- (a) the end of the section 6 election period in relation to M has passed,
- (b) no immediate choice decision has been made,

the Scheme manager may, if it seems reasonable in all the circumstances of the case, treat an immediate choice election as having been made in relation to M's remediable service immediately before the end of the section 6 election period.

Chapter 2

Deferred choice decision for reformed scheme or legacy scheme benefits

Application of Chapter 2

9. This Chapter applies in respect of the remediable service of a deferred choice member ("M").

Deferred choice decision for reformed scheme or legacy scheme benefits: general

10.—(1) A decision (a "deferred choice decision") may be made—

- (a) to make an election (a "section 10 election") by virtue of section 10 of PSPJOA 2022 in relation to M's remediable service, or
- (b) that no section 10 election is to be made in relation to that service.

(2) A deferred choice decision may only be made by M.

(3) A deferred choice decision is made when it is received by the Scheme manager in a form and manner determined by the Scheme manager.

(4) A deferred choice decision may only be made before the end of the section 10 election period.

(5) A deferred choice decision to make a section 10 election takes effect as a section 10 election (see sections 10(4) and (5), 11(3)(b), (4) and (7) and 13 of PSPJOA 2022 about the effect of a section 10 election).

(6) Where the deferred choice decision is that no section 10 election is to be made, the benefits payable to or in respect of M, so far as they are determined by reference to M's remediable service, are legacy scheme benefits.

(7) The following provisions of PSPJOA 2022 have effect in relation to a decision that no section 10 election is to be made as they have effect in relation to a section 10 election—

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- (a) section 10(5) (section 10 election has effect in respect of all remediable service in the employment or office);
- (b) section 11(3)(b), (4) and (7) (provision about when a section 10 election take effect, and the effect of lapse or revocation of a section 10 election);
- (c) section 13 (persons with remediable service in more than one Chapter 1 legacy scheme).

Deferred choice decision: process

11.—(1) A deferred choice decision may only be made during the period—

- (a) beginning on the date a remediable service statement is issued under paragraph 5(2)(c), and
- (b) ending—
 - (i) at the end of the day 6 months after the day the remediable service statement mentioned in paragraph (a) was issued;
 - (ii) subject to sub-paragraph (3), at the end of such other day as the Scheme manager considers reasonable in all the circumstances.

(2) The end of the period during which a deferred choice decision may be made must not be more than one year before the day on which it is reasonably expected that legacy scheme benefits would become payable to or in respect of M.

(3) A deferred choice decision made by M may be revoked—

- (a) at any time before the cancellation deadline, and
- (b) by M communicating to the Scheme manager notice of the revocation in a form and manner determined by the Scheme manager.

(4) Where the Scheme manager receives, before the cancellation deadline, notice that M has died—

- (a) any deferred choice decision made by M lapses, and
- (b) Schedule 3 to the AFPS 2005 applies.

(5) In sub-paragraphs (3) and (4), “the cancellation deadline” means—

- (a) the beginning of the day one calendar month before the day (“the payment day”) on which the first payment under the Scheme is due to be made in relation to M’s remediable service, or
- (b) such later time before the payment day as the Scheme manager considers reasonable in all the circumstances.

Deferred choice decision: deemed section 10 election

12. Where—

- (a) the end of the section 10 election period in relation to M has passed,
- (b) no deferred choice decision has been made,

the Scheme manager may, if it seems reasonable in all the circumstances of the case, treat a section 10 election as having been made in relation to M’s remediable service immediately before the end of the section 10 election period.

Part 4

Provision about special cases

Chapter 1

Election for New Scheme Benefits: Calculation

Application of Chapter 3

13. This Chapter applies where an immediate choice decision under paragraph 7(1)(a) or a deferred choice decision under paragraph 10(1)(a) is made in relation to a remedy member's ("M") remediable service.

Calculation of Benefits for remediable service: election for new Scheme benefits

14.—(1) For the purposes of calculating the benefits due to M in relation to their remediable service, M is treated though they were a person with dual entitlement.

(2) For these purposes—

- (a) M's transition date is taken to be 1st April 2015;
- (b) references to M's relevant service under the EDP 2005 mean M's relevant service up to the end of 31st March 2015.

Part 5

Liabilities and payment

Chapter 1

Application of Part 5

Application of Chapters 1, 2 and 3

15. Chapters 1, 2 and 3 apply in relation to a relevant amount owed in respect of the remediable service of a remedy member.

Chapter 2

Interest, compensation and netting off

Interest

16.—(1) The Scheme manager must calculate interest on a relevant amount described in direction 15 of the PSP Directions 2022 in accordance with the provisions of directions 14 and 15 which apply to that description of relevant amount.

(2) In relation to a relevant amount not described in direction 15 of the PSP Directions 2022, the Scheme manager must determine whether interest is paid and, if so, what rate of interest applies and how it is calculated.

(3) The following provisions of the PSP Directions 2022 apply in relation to a determination under sub-paragraph (2) as if it were a determination under direction 16(1) of those Directions—

- (a) direction 16(2) (provision of explanation);
- (b) direction 16(3) and (4) (appeals).

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Netting off

17.—(1) This paragraph applies where—

- (a) relevant amounts owed by and to a person (“P”) fall to be paid at the same time or similar times, and
- (b) the Scheme manager has determined the interest (if any) that is to be paid on the relevant amounts in accordance with paragraph 16.

(2) The Scheme manager may determine, in accordance with direction 19(2) to (5) of the PSP Directions 2022, that the relevant amounts (and any interest on them) must be aggregated and that the difference must be paid by P to the Scheme or (as the case may be) by the Scheme to P.

(3) For the purposes of this paragraph, an amount owed by P under the rules of a relevant injury and compensation Scheme is treated as a relevant amount owed by P to this Scheme, where P’s liability arose by virtue of the operation of the provisions of Chapter 1 of Part 1 of PSPJOA 2022.

(4) The following provisions of the PSP Directions 2022 apply in relation to a determination under sub-paragraph (2) as if it were a determination under direction 19(1) of those Directions—

- (a) direction 19(6) (provision of explanation);
- (b) direction 19(7) and (8) (appeals).

Chapter 3

Reduction and waiver of liabilities

Power to reduce or waive amounts owed by a person to the Scheme manager

18.—(1) The Scheme manager may reduce or waive an amount owed by a person to the Scheme under—

- (a) section 14 of PSPJOA 2022, or
- (b) this Schedule.

(2) When reducing or waiving an amount under sub-paragraph (1), the Scheme manager must comply with the requirements set out in direction 4(1)(a) to (c) of the PSP Directions 2022 (and the reference in direction 4(1)(c) to “any Scheme regulations made by virtue of section 26(1)(b) of PSPJOA 2022” is to be read as a reference to paragraph 20).

Chapter 4

Payment of net liabilities

Application of Chapter 4

19. This Chapter applies in respect of a relevant amount (together with any interest on that relevant amount) owed after taking into account the effect, if any, of paragraphs 16 to 18 (a “net liability”).

Payment of amounts owed to the Scheme manager

20.—(1) This paragraph applies where a person (“P”) owes a net liability to the Scheme manager.

(2) The Scheme manager must send notice in writing to P setting out—

- (a) how the net liability has been calculated,
- (b) an explanation of the circumstances in which the net liability may be reduced or waived under paragraph 18,
- (c) when and how the net liability must be paid, and

- (d) the consequences of not paying the net liability.
- (3) Where—
 - (a) the Scheme manager has sent a notice under sub-paragraph (2), and
 - (b) the amount of the net liability is subsequently adjusted,the Scheme manager must send another notice in writing to P under sub-paragraph (2).
- (4) P must pay the amount of the net liability to the Scheme manager—
 - (a) before the end of the period of six months beginning with the day after the day on which P receives the most recent notice under sub-paragraph (2), or
 - (b) in accordance with an agreement under sub-paragraph (5).
- (5) P and the Scheme manager may agree that the net liability is to be paid in part or in full—
 - (a) by way of instalments, or
 - (b) by way of deductions from any benefits (including a lump sum benefit) to which P is entitled under an armed forces pension scheme.
- (6) P and the Scheme manager may agree to vary an agreement under sub-paragraph (5).
- (7) Where P does not pay any amount that falls due by virtue of sub-paragraph (4)(a) or an agreement under sub-paragraph (5), the Scheme manager may deduct such sums from benefits payable to P under an armed forces pension scheme as seem reasonable to the Scheme manager for the purpose of discharging P's liability.

Payment of amounts owed to a person

- 21.**—(1) This paragraph applies where the Scheme manager owes a net liability to a person (“P”).
- (2) The Scheme manager must pay the amount of the net liability to P—
 - (a) as soon as reasonably practicable after the Scheme manager determines the amount of the net liability, or
 - (b) where the Scheme manager requires P to provide information in accordance with sub-paragraph (3), as soon as reasonably practicable after receipt of that information.
 - (3) Before paying the amount of a net liability owed to P, the Scheme manager may, by written notice given as soon as reasonably practicable after the Scheme manager determines the amount of the net liability, require P to provide information in relation to the payment of the net liability which is—
 - (a) information within P's possession, or
 - (b) information which P may reasonably be expected to obtain.”