

2011 No. 208

PENSIONS

**The Armed Forces Redundancy Scheme 2006 and the Armed
Forces Redundancy Etc. Schemes 2010 (Amendment) Order
2011**

<i>Made</i>	- - - -	<i>2nd February 2011</i>
<i>Laid before Parliament</i>		<i>7th February 2011</i>
<i>Coming into force</i>	- -	<i>28th February 2011</i>

The Secretary of State, in exercise of the powers conferred by section 1(1) of the Armed Forces (Pensions and Compensation) Act 2004(a), makes the following Order:

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Armed Forces Redundancy Scheme 2006 and the Armed Forces Redundancy Etc. Schemes 2010 (Amendment) Order 2011 and comes into force on 28th February 2011.

PART 2

AMENDMENT OF THE ARMED FORCES REDUNDANCY SCHEME 2006

Amendment of the Armed Forces Redundancy Scheme Order 2006

2. The Armed Forces Redundancy Scheme Order 2006(b) is amended as set out in this Part, and references to articles are references to articles of that Order.

Amendment of article 3 (interpretation)

3. In article 3(1)—
- (a) insert at the appropriate place—

(a) 2004 c. 32.

(b) S.I. 2006/55; Article 3(1) was amended by S.I.2006/717 and S.I. 2007/2608.

““the Armed Forces Redundancy Scheme 1975” means the redundancy compensation arrangements that applied to members of the Armed Forces Pension Scheme 1975 prior to the 10th February 2010 as set out in—

- (a) Orders in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865^(a);
 - (b) the Army Pensions Warrant 1977^(b); and
 - (c) Orders and Regulations made under section 2(1) of the Air Force (Constitution) Act 1917^(c)”; and
- (b) in the definition of “member”, for sub-paragraph (a) substitute—
- “(a) does not include an active member of the Gurkha Pension Scheme^(d)”;

Amendment of article 4 (eligibility for redundancy payments)

4.—(1) For article 4(3) substitute—

“(3) Condition B is that the person—

- (a) has been notified by the Defence Council that they will be treated for the purpose of the Scheme as having become redundant; or
- (b) is an officer of at least the rank of Commodore, Brigadier or Air Commodore who has been notified by the Defence Council that they—
 - (i) are directed to take early retirement; and
 - (ii) will be eligible for compensation under the Scheme.”.

(2) For article 4(5) substitute —

“(5) Condition D is that the person’s service is not terminated on medical grounds.”.

(3) In article 4(6) for “the Secretary of State has” substitute “the Defence Council have”.

Amendment of article 10 (effect of award under article 5 on later award)

5.—(1) For the heading to article 10 substitute—

“Effect of previous award on later award”.

(2) For article 10(1)(a) substitute—

“(a) a payment is made to a person—

- (i) under article 5,
- (ii) under article 10 of the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No. 2) Order 2010^(e), or
- (iii) under the Armed Forces Redundancy Scheme 1975,

when that person ceases to be in service (“the old service”); and”.

(a) 1865 c. 73 (28 & 29 Vict).

(b) This instrument, made under section 2 of the Pensions and Yeomanry Pay Act 1884 (47 and 48 Vict c. 55), was revoked by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Royal Warrant, made on 10th February 2010.

(c) 1917 c. 51 (7 and 8 Geo 5).

(d) The Gurkha Pension Scheme was constituted by the Royal Warrant of 19th December 1949 (see Army Order 151 of 1949). The Scheme has been amended by the Armed Forces (Gurkha Pensions) Order 2007 (S.I.2007/2608).

(e) S.I. 2010/832.

PART 3

AMENDMENT OF THE ARMED FORCES REDUNDANCY ETC. SCHEMES 2010

Amendment of the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No.2) (Order) 2010

6. The Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No.2) Order 2010(a) is amended as set out in this Part and references to articles are references to articles of that Order.

Amendment of article 2 (interpretation)

7. In article 2 —

- (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 Defence Council, corresponds to additional paternity leave within the meaning of the Additional Paternity Leave Regulations 2010(b);”;

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

““the Armed Forces Redundancy Scheme 1975” means the redundancy arrangements that applied to members of the Armed Forces Pension Scheme prior to 10th February 2010 as set out in—

- (a) Orders in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865;
- (b) the Army Pensions Warrant 1977; and
- (c) Orders and Regulations made under section 2(1) of the Air Force (Constitution) Act 1917;”.

Amendment of article 4 (interpretation of Part 2)

8. In article 4 in the definition of “member” omit “a member of the Brigade of Gurkhas who is”.

Amendment of article 6 (redundancy reckonable service)

9.—(1) In article 6(2)(g) after “on” insert “ordinary paternity leave or on paid additional”.

(2) For article 6(4) substitute—

“(4) This paragraph applies where the member—

- (a) is an active member of the AFPS 1975 on the day before the secondment commences;
- (b) resumes service in the armed forces at the end of the period of secondment and again becomes an active member of the AFPS 1975; and
- (c) is entitled to make a single lump sum payment calculated in accordance with the rules set out in the AFPS 1975 following a secondment to an organisation referred to in paragraph (3) to increase reckonable service.”.

(a) S.I. 2010/832.

(b) S.I. 2010/1055.

(c) S.I. 2002/2788; regulation 4 was amended by article 2 and paragraphs 1(1) and 2(a) and (b) of Schedule 17 of S.I. 2005/2144; regulation 8 was amended by article 2(17) and paragraphs 1(1) and (3) of Schedule 17 of S.I. 2005/2114.

Amendment of article 8 (commitment periods)

10. In article 8(1) omit sub-paragraph (c).

Amendment of article 9 (eligibility for redundancy payments)

11.—(1) In article 9(1) for “D” substitute “E”.

(2) For article 9(4) substitute—

“(4) Condition C is that the person—

- (a) has been notified by the Defence Council that they will be treated for the purposes of the AFRS 2010 as having become redundant; or
- (b) is an officer holding at least the rank of Commodore, Brigadier or Air Commodore who has been notified by the Defence Council that they—
 - (i) are directed to take early retirement; and
 - (ii) will be eligible for compensation under AFRS 2010.”.

(3) After article 9(5) insert—

“(5A) Condition E is that the person’s service is not terminated on medical grounds.”.

Amendment of article 12 (amount of payment under article 10: leavers with long service commitments and sufficient redundancy reckonable service)

12.—(1) For article 12(4) substitute—

“(4) Where L2 ceases service during the interim period, the amount to which L2 is entitled under article 10 is—

- (a) where P is 3 years or more, 9 months’ pay; and
- (b) where P is less than 3 years, 3 months’ pay multiplied by P.”.

(2) For article 12(5) substitute—

“(5) Where L2 ceases service after the interim period, the amount to which L2 is entitled under article 10 is —

- (a) where P is 1 year or more, 3 months’ pay; and
- (b) where P is less than 1 year, 3 months’ pay multiplied by P.”.

(3) In article 12(6) for “31st March 2013” substitute “31st December 2015”.

Amendment of article 13 (amount of payment under article 10: leavers with short service commitments)

13.—(1) Article 13 is renumbered as paragraph (1) of that article.

(2) After paragraph (1) so renumbered insert—

“(2) In paragraph (1)(b)(i), each year that S would have served is to be calculated in accordance with article 7(2) to (4) as if references to redundancy reckonable service were references to uncompleted service.”.

Amendment of article 16 (effect of award under article 10 on later award)

14.—(1) For the heading to article 16 substitute—

“**Effect of previous award on later award**”.

(2) For article 16(1)(a) substitute—

- “(a) a payment was made to a person under—
 - (i) article 10 of this Order, or

(ii) the Armed Forces Redundancy Scheme 1975,
when that person ceases to be in service (“the old service”); and”.

Amendment of article 21 (maternity, adoption and paternity leave)

15. In article 21(1)—

(a) for sub-paragraph (a) substitute—

“(a) any period of paid ordinary maternity leave, paid ordinary paternity leave, paid additional paternity leave or paid ordinary adoption leave whether the pay is at the statutory minimum, reduced pay or full pay rate, will count as both qualifying and reckonable service;”;

(b) in sub-paragraph (b) after “additional maternity leave,” insert “ordinary paternity leave, additional paternity leave,”.

Andrew Robathan
Parliamentary Under Secretary of State
Ministry of Defence

2nd February 2011

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Armed Forces Redundancy Scheme Order 2006 (“the AFRS Order 2006”)(S.I. 2006/55) and the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No. 2) Order 2010 (“the AFRS Order 2010”) (S.I. 2010/832).

Part 2 amends the Armed Forces Redundancy Scheme 2006 (“the AFRS 2006”). This is the redundancy scheme for members of the Armed Forces Pension Scheme 2005, including those who have transferred to that pension scheme from the Armed Forces Pension Scheme 1975.

Article 3 of the AFRS Order 2006 is amended to make provision in respect of all active members of the Gurkha Pension Scheme.

Article 4(5) of the AFRS Order 2006 is amended so that redundancy compensation is not paid to anyone whose service is terminated on medical grounds.

Article 9 of the AFRS Order 2006 is amended to apply to officers holding at least the rank of Commodore, Brigadier or Air Commodore who have been notified that they are directed to take early retirement and that they are eligible for compensation under the AFRS 2006. The compensation that such officers receive will be calculated in the same way as if their service had been terminated under a redundancy programme.

Article 10 of the AFRS Order 2006 is amended so that if a service person has received redundancy compensation under the Armed Forces Redundancy Scheme 2010 (“the AFRS 2010”) or its predecessor the Armed Forces Redundancy Scheme 1975 for a previous period of service, that service is not taken into account when calculating compensation under the AFRS 2006.

Part 3 amends the AFRS Order 2010. That Order establishes the Armed Forces Redundancy Scheme 2010 which applies to members of the Armed Forces Pension Scheme 1975. It also establishes the Armed Forces Gratuity Earnings Scheme 2010.

Article 2 of the AFRS Order 2010 is amended to reflect the fact that there are now two types of paternity leave, being ordinary paternity leave and additional paternity leave. The amendment means that paid additional paternity leave counts as redundancy reckonable service under the AFRS 2010 and counts as service for the purposes of calculating a gratuity under Armed Forces Gratuity Earnings Scheme 2010.

Article 4 of the AFRS Order 2010 is amended to make provision in respect of all active members of the Gurkha Pension Scheme.

Article 6 of the AFRS Order 2010 is amended so that the service of a member of the Armed Forces Pension Scheme 1975 while on secondment to NATO or United Nations or a similar organisation counts as redundancy reckonable service, even where that person has not taken up the option of paying a lump sum at the end of the secondment to buy reckonable service within that pension scheme.

Article 8 of the AFRS Order 2010, which defines long service commitments, is amended for ranks other than officers.

An amendment to article 9 of the AFRS Order 2010 extends the AFRS 2010 to officers holding at least the rank of Commodore, Brigadier or Air Commodore who have been notified that they are directed to take early retirement and that they are eligible for compensation under the AFRS 2010. The compensation that such officers receive will be calculated in the same way as if their service had been terminated under a redundancy programme. Article 9 is also amended so that redundancy compensation is not paid to anyone whose service is terminated on medical grounds.

Article 12 of the AFRS Order 2010 determines the amount of compensation for personnel on long service commitments who have completed sufficient redundancy reckonable service to qualify for an immediate pension. Their compensation depends on the length of their uncompleted service, in other words the service they would have served had it not been for the redundancy or directed early retirement. One of the amendments means that all the days in excess of whole years of uncompleted service are taken into account in calculating redundancy compensation. The other amendment relates to the interim period for personnel on long service commitments with sufficient redundancy reckonable service for an immediate pension. Personnel leaving within the interim period may be paid compensation equivalent to up to 9 months' pay, whereas those leaving after the interim period may be paid a maximum of 3 months' pay. The amendment extends the interim period so that it ends on 31st December 2015.

Article 13 of the AFRS Order 2010, which determines the amount of compensation for personnel on short service commitments, is amended so that fractions of years of uncompleted service are taken into account when calculating compensation.

Article 16 of the AFRS Order 2010 is amended so that if a person received redundancy compensation under the Armed Forces Redundancy Scheme 1975 the service in respect of which that compensation was paid is not to be taken into account when calculating redundancy reckonable service.

Finally, article 21 of the AFRS Order 2010, which relates to the Armed Forces Gratuity Earnings Scheme 2010, is amended. The amendment to sub-paragraph (a) provides that paid additional paternity leave is to be counted as qualifying and reckonable service for the purposes of calculating a gratuity. The amendment to sub-paragraph (b) provides that the pro-rata calculation provision applies in respect of early departures following additional paternity leave and ordinary paternity leave.

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£5.75