

## [<sup>F1</sup>Schedule 3

### Remediable Service

#### Textual Amendments

- F1** Sch. 3 inserted (1.10.2023) by The Armed Forces Pensions (Remediable Service) Regulations 2023 (S.I. 2023/998), reg. 1(b), Sch. 2

## Part 9

### Liabilities and payment

#### Chapter 1

#### Application of Part 9

#### Application of Chapters 1, 2 and 3

**64.** 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

**65.**—(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).

#### Indirect compensation

**66.**—(1) This paragraph applies where pursuant to an application under paragraph 67, the Scheme manager determines that an immediate choice member (“M”) has incurred a compensatable loss that is a Part 4 tax loss (a “relevant loss”),

(2) M is not to be paid an amount under section 23 of PSPJOA 2022 by way of compensation in respect of the relevant loss.

(3) Instead, the amount of benefit payable under the Scheme is to be increased to reflect the amount of the relevant loss in such manner as determined by the Scheme manager in accordance with direction 10(2) to (4) of the PSP Directions 2022.

### **Applications for compensation or indirect compensation**

- 67.**—(1) This paragraph applies in relation to—
- (a) the payment of a relevant amount by way of compensation under section 23(1) of PSPJOA 2022;
  - (b) the increase of benefits by way of indirect compensation under paragraph 66.
- (2) The relevant amount is not payable, or (as the case may be) the benefits are not to be increased, except where—
- (a) an application is made in accordance with direction 18(1) and (2) of the PSP Directions 2022,
  - (b) the application is accompanied by such information that the Scheme manager may by written notice require the person making the application (“P”) to provide in relation to the proposed compensation which is—
    - (i) information within P’s possession, or
    - (ii) information which P may reasonably be expected to obtain, and
  - (c) the Scheme manager makes a determination in accordance with direction 18(3) of those Directions.
- (3) The following apply in relation to a determination under direction 18(3) of the PSP Directions 2022—
- (a) direction 18(4) (provision of explanation);
  - (b) direction 18(5) and (6) (appeals).

### **Netting off**

- 68.**—(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 65.
- (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**

- 69.**—(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 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 71).

## Chapter 4

### Payment of net liabilities

#### Application of Chapter 4

**70.** 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 65 to 69 (a “net liability”).

#### Payment of amounts owed to the Scheme manager

**71.**—(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 69,
- (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

**72.**—(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—

**Changes to legislation:** *There are currently no known outstanding effects for the The Armed Forces Pension Scheme Order 2005, Part 9. (See end of Document for details)*

- (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 subparagraph (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.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces Pension Scheme Order 2005, Part 9.