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STATUTORY INSTRUMENTS

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**2005 No. 439**

**The Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 (Revoked 9.5.2011)**

**PART I**

**GENERAL**

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**Interpretation**

2.—(1) In this Order —

“the AFPS 1975” means the occupational pension scheme arrangements, other than the AFPS 2005, that are open to members of the forces and 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 of the Air Force (Constitution) Act 1917 or any instrument amending or replacing any of those instruments;

“the AFPS 2005” means the Scheme established in the Armed Forces Pension Scheme Order 2005 ;

“accredited medical specialist” means a medical practitioner whose name is included in the specialist register kept and published by the General Medical Council as required by the European Specialist Medical Qualifications Order 1995;

“additional lump sum” means the sum referred to in article 15C;

“additional multiple injury lump sum” means the sum referred to in article 15B(2);

“appropriate tribunal” means the appropriate tribunal as defined in section 12(1) of the Pensions Appeal Tribunals Act 1943;

“benefit” means a benefit payable under this Order;

“bereavement grant” means the grant referred to in article 21(1)(b);

“child's payment” means the payment referred to in article 21(1)(c);

“claimant” means a person who has claimed benefit, a person to whom benefit has been paid and a person affected by any decision of the Secretary of State made under this Order;

“claim form” means the form referred to in article 36(b);

“death benefit” means a benefit referred in article 21;

“downgraded” means downgraded for medical reasons as a result of which the person downgraded undertakes a reduced range of duties but retains his rank and pay;

“eligible child” has the meaning given in article 23;

“forces” means the armed forces and the reserve forces;

“the FTRSPS 2010” means the occupational pension scheme for members of the Full-Time Reserve Service established by regulations made by the Defence Council in exercise of the powers conferred on them by sections 4(2) and (3) and 8(2) and (3) of the Reserve Forces Act 1996 ;

“Gurkha” means a member of the Brigade of Gurkhas . . . ;

“Gurkha Pension Scheme” means the Gurkha Pension Scheme constituted by the Royal Warrant of 19th December 1949 (see Army Order 151 of 1949);

“guaranteed income payment” is the payment referred to in article 14(1)(b);

“ill-health pension” means a pension paid under rule D5 or D6 of the AFPS 2005 or the equivalent provisions of the NRPSPS or the RFPS 2005;;

“illness” means a physical or mental disorder included either in the International Statistical Classification of Diseases and Related Health Problems or in the Diagnostic and Statistical Manual of Mental Disorders;

“injury” includes illness;

“injury benefit” means the benefits referred to in article 14(1);

“interim award” means an award under article 44(1) and (2);

“invaliding pension” means a pension paid under the AFPS 1975 under the following:

- (d) the Army Pensions Warrant 1977, Part 2, Section 2, article 45 or Part 3, Section 7, article 149;
- (e) the Queen's Regulations for the Royal Air Force , Chapter 38, Section 2, regulation 2938(2) or Chapter 39, Section 1, regulation 3023(2);
- (f) the Order in Council made under the Naval and Marine Pay and Pensions Act 1865, Schedule II, Section 1, Clause 9 or Schedule III Clause 19.

or any later provisions corresponding to the provisions referred to in sub-paragraphs (d), (e) or (f), or the equivalent provisions of the FTRSPS 2010;

“lump sum” means, except in the expressions “additional multiple injury lump sum” and “additional lump sum”, the sum referred to in article 14(1)(a);

“the NRPSPS” means the occupational pension scheme for members of the Non- Regular Permanent Staff set out in Chapter 9 of the Territorial Army Regulations 1978 made by the Defence Council in exercise of the powers conferred on them by sections 4(2) and (3) and 8(2) and (3) of the Reserve Forces Act 1996;

“predominant” means more than 50 per cent;

“the RFPS 2005” means the occupational pension scheme for members of the reserve forces established by regulations made by the Defence Council in exercise of the powers conferred on them by sections 4(2) and (3) and 8(2) and (3) of the Reserve Forces Act 1996;

“service” means service as a member of the forces, except as provided in article 10;

“substantial and exclusive relationship” shall be construed in accordance with Schedule 1;

“surviving adult dependant” has the meaning given in article 22;

“survivor's guaranteed income payment” is the payment referred to in article 21(1)(a);

“tariff” means the tables of injuries and amounts set out in Schedule 4;

“temporary award” means an award referred to in article 20;

“Veterans Agency” means an office designated by the Secretary of State for the purpose of receiving and determining applications for benefit.

(2) In this Order, any reference to claiming a benefit or to a claim

- (a) shall be treated as including a case where, by virtue of article 37, it is not a condition of entitlement to benefit that a claim be made;
  - (b) in the case of a claim for injury benefit, means a claim for one injury even where claims for more than one injury are made on the same claim form.
- (3) In this Order, a person is “discharged on medical grounds” if he is required to be discharged on the grounds that he is medically unfit to continue in service, and—
- (a) . . . is as a result entitled to an invaliding pension or ill health pension, or
  - (b) in the case of a Gurkha who is a member of the Gurkha Pension Scheme, is as a result entitled to a disability pension

**Definition of “late onset illness”**

3. A “late onset illness” is—

- (a) a malignancy, or a disorder of the liver, kidneys or central nervous system, in each case which is capable of being caused by an occupational exposure occurring more than 7 years before the onset of the illness or the date of death as the case may be;
- (b) a mental disorder which is capable of being caused by an incident occurring more than 7 years before the onset of the illness; or
- (c) a mental disorder capable of being caused by an incident occurring less than 7 years before the date of onset of the illness, which disorder is capable of causing the person suffering from it to be unable to seek medical help for the disorder within 7 years of the date of onset of the illness.

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**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 (Revoked 9.5.2011), PART I.