
STATUTORY INSTRUMENTS

2005 No. 439

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

PART V

REDUCTION OF BENEFIT

Reduction of guaranteed income payment, survivor's guaranteed income payment and child's payment to take account of other amounts.

31.—(1) Where a person is entitled to guaranteed income payment, survivor's guaranteed income payment or child's payment for any period during which the person is also entitled to—

- (a) a pension under the AFPS 1975 or the AFPS 2005 (“a pension”); or
- (b) a payment under the Armed Forces Early Departure Payments Scheme Order 2005^{M1} (“a payment”)

the guaranteed income payment, the survivor's income payment or the child's payment as the case may be is reduced in accordance with paragraphs (2) and (3).

(2) Where a person is entitled to guaranteed income payment for any period during which he is also entitled—

- (a) to a payment, or to a pension which is not an invaliding pension or ill-health pension paid for the same injury for which the guaranteed income payment is paid, then the amount of the guaranteed income payment is reduced by 75 per cent. of the amount of that pension or payment;
- (b) to an invaliding pension or ill-health pension which is paid for the same injury for which the guaranteed income payment is paid then the amount of guaranteed income payment is reduced by the full amount of the invaliding pension or ill-health pension.

(3) Where a person is entitled to survivor's guaranteed income payment or child's payment for any period during which he is also entitled to a pension then the amount of the survivor's guaranteed income payment or child's payment is reduced by 75 per cent. of the amount of that pension.

(4) In this article any reference to a pension, invaliding pension, ill-health pension or a payment means the gross amount of that pension, invaliding pension, ill-health pension or payment.

Marginal Citations

M1 S.I. 2005/437.

Reduction in benefit to take account of awards of damages

32.—(1) Where the Secretary of State is satisfied that—

Status: Point in time view as at 06/04/2005.

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 V. (See end of Document for details)

- (a) damages have been or will be recovered by any person in respect of an injury or condition for which benefit is payable; or
- (b) damages have been or will be recovered by any person in respect of the death of a person for which benefit is payable

he may take those damages into account against any benefit which might otherwise be payable under this Order and may withhold or reduce any such benefit accordingly.

(2) For the purposes of this article, damages include any payment received as a result of a claim made—

- (a) in respect of an injury or condition for which benefit is payable; or
- (b) in respect of the death of a person for which benefit is payable

whether or not the payment is made in pursuance of a judgement or order of a court of any jurisdiction or by way of settlement or compromise of the claim and whether or not proceedings are instituted to enforce the claim.

(3) Where compensation is paid—

- (a) under the Criminal Injuries Compensation Scheme established under the Criminal Injuries Compensation Act 1995 ^{M2};
- (b) under the Criminal Injuries (Compensation)(Northern Ireland) Order 1988 ^{M3}; or
- (c) under the scheme established by the Ministry of Defence for the purposes of paying compensation to members of the forces who suffer injury as a result of a crime committed outside the United Kingdom

the person to whom or for whose benefit the compensation is paid shall be treated as recovering damages and the compensation paid shall be treated as the damages recovered.

Marginal Citations

M2 1995 c. 53.

M3 1988/793 (N.I. 4).

Abatement of awards in respect of Social Security benefits

33. Where benefit is awarded under this scheme to or in respect of a person for any past period for which benefit under the Social Security and Contributions and Benefits Act 1992 ^{M4} or the Jobseekers Act 1995 ^{M5}, or any legislation in Northern Ireland corresponding thereto, had been paid to or in respect of that person, the total amount of benefit so awarded may be abated by the amount by which the amount of benefit so paid exceeds what would have been payable for that period had the benefit been concurrently payable.

Marginal Citations

M4 1992 c. 4.

M5 1995 c. 18.

Negligence or misconduct

34. The Secretary of State may withhold up to 40 per cent. of benefit where the negligence or misconduct of a member or former member of the forces contributed to his injury or death.

Status:

Point in time view as at 06/04/2005.

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 V.