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STATUTORY INSTRUMENTS

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**2011 No. 3013**

The Armed Forces Redundancy Scheme 2006, the Armed Forces Redundancy Etc. Schemes 2010 and the Armed Forces Pension Scheme 2005 (Amendment) Order 2011

PART 4

AMENDMENT OF THE ARMED FORCES PENSION SCHEME ORDER 2005

**Amendment of the Armed Forces Pension Scheme Order 2005**

9. The Armed Forces Pension Scheme Order 2005(1) is amended as set out in this Part and references to rules are references to rules of that Order.

**Amendment of rule A.1 (interpretation: general)**

10. In rule A.1—

- (a) after the definition of “final pensionable earnings” insert—  
“fixed protection member” has the meaning given in rule B.6; and
- (b) in the definition of “member”, after “deferred member” insert “a fixed protection member”.

**Insertion of new rule B.5**

11. After rule B.5 insert—

**“Fixed Protection Members**

**B.6.—**(1) “Fixed protection member” means a person who—

- (a) is a member of the armed forces; and
- (b) has ceased to be an active member as described in rule B.4 for the reasons set out in paragraph (2).

(2) The reasons referred to in paragraph (1)(b) are that the member has given notice to an officer of Her Majesty’s Revenue and Customs of their intention to rely upon the lifetime allowance transitional protection afforded by paragraph 14 of Schedule 18 to the Finance Act 2011(2).

(3) Service as a fixed protection member is not pensionable service, qualifying service or reckonable service.

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(1) [S.I. 2005/438](#) as amended by [S.I. 2011/1364](#). There have also been other amendments to [S.I. 2005/438](#) that are not relevant to this Order.  
(2) [2011 c. 11](#).

(4) Rules A.1(5) and (6), D.5, D.6, D.11, D.14, E.1, E.2, E.3, E.10, E.16, E.22, E.25, and E.27 are to be construed as if the references to “active member” also apply to a fixed protection member.”.

**Amendment of rule D.1 (retirement after reaching pension age)**

12. For rule D.1(1), substitute the following—

“**D.1.**—(1) The general rule is that a member is entitled to a pension for life and a lump sum if—

- (a) in the case of a member other than a fixed protection member, the member ceases to be in pensionable service at or after reaching pension age; or
- (b) in the case of a fixed protection member, the member ceases to be in service at or after reaching pension age.”.

**Amendment of rule E.15 (death of a member: lump sum benefit)**

13.—(1) For rule E.15(1), substitute—

“(1) If a member dies before reaching the age of 75, the Secretary of State may pay a lump sum to any of the following—

- (a) the person or persons nominated by the member in accordance with rule E.21;
- (b) if there is no person within sub-paragraph (a), to any person who is entitled to a pension under rule E.1 in respect of the member, or to whom a pension may be awarded under rule E.2 in respect of the member;
- (c) if there is no person within sub-paragraph (a) or (b), to any person who, but for the application of rule E.1(2) or rule E.2(2), would be so entitled or to whom a pension may be awarded; or
- (d) if there is no person within sub-paragraphs (a), (b) or (c), to the member’s personal representatives.”.

(2) For rule E.15(4), substitute—

“(4) A lump sum paid under this rule may not be paid more than two years after the day on which the Scheme administrator first knew, or could reasonably be expected to have known, of the member’s death.”.

(3) After rule E.15(4), insert—

“(5) The annual amount of pension paid to a person under this Part shall be increased by such amount as the Defence Council, after consulting with the Scheme actuary, may determine, if—

- (a) the Defence Council have determined that a lump sum should be paid to the person under this Part, but the lump sum is not paid within two years of the date of the death; or
- (b) the Defence Council have determined that, but for paragraph (1), a lump sum would have been paid to the person.”.