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STATUTORY INSTRUMENTS

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**2005 No. 437**

**The Armed Forces Early Departure  
Payments Scheme Order 2005**

*Early departure payments*

**Effect of rejoining armed forces or entering certain reserve forces service on article 9 award**

- 12.—**(1) This article applies where a person who is entitled to payments under article 9—
- (a) enters service as a member of the armed forces again,
  - (b) is called out for permanent service under Part 4, 5 or 6 of the Reserve Forces Act 1996<sup>(1)</sup> or under the Reserve Forces Act 1980<sup>(2)</sup>,
  - (c) enters full-time service as a result of a commitment under section 24 of the Reserve Forces Act 1996 (commitment to a period of full-time service), or
  - (d) enters service as a result of a commitment under section 25 of that Act (commitment to additional duties);

and in this article that service is referred to as “the new service”.

(2) The person is not entitled to any periodical payments under article 9 in respect of any period whilst he is in the new service.

- (3) In the case of a person to whom paragraph (1)(a) or (b) applies, when the new service ceases—
- (a) if he is a person to whom paragraph (1)(a) applies who has attained the age of 55 or is an ill-health pensioner, he is not entitled to any further periodical payments under article 9,
  - (b) if he is a person to whom paragraph (1)(a) applies otherwise than as a result of his being recalled for permanent service under Part 7 of the Reserve Forces Act 1996 or under the Reserve Forces Act 1980, then, subject to paragraph (a), a fresh entitlement under article 9 may arise in respect of the relevant service he has then completed (including the new service),
  - (c) if he is a person to whom paragraph (1)(a) applies as a result of his being so recalled or to whom paragraph (1)(b) applies—
    - (i) the new service is disregarded for the purposes of articles 8 to 10, (and accordingly no fresh entitlement under article 9 may arise by virtue of the cessation of the new service), but
    - (ii) subject to paragraph (a), his former entitlement, by virtue of the cessation of the former service, to periodical payments due in respect of any period after the new service ceases revives

(4) For the purposes of paragraph (3), a person is an ill-health pensioner if on leaving the new service he is entitled to the immediate payment of a pension under—

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(1) 1996 c. 14.  
(2) 1980 c. 9.

- (a) rule D.5 of the AFPS 2005 (early payment of benefits: active members with permanent serious ill-health), or
  - (b) rule D.6 of that Scheme (early payment of benefits: active members with significant impairment of capacity for gainful employment).
- (5) In the case of a person to whom paragraph (1)(c) or (d) applies—
- (a) the new service is disregarded for the purposes of articles 8 to 10 (whatever his age when the new service ceases); and
  - (b) accordingly—
    - (i) no fresh entitlement under article 9 may arise by virtue of the cessation of the new service, but
    - (ii) his former entitlement, by virtue of the cessation of the former service, to periodical payments due in respect of any period after the new service ceases revives.
- (6) If the period beginning with the date when the person became entitled to the payments under article 9 and ending immediately before the date on which the new service begins (“the service break”) is less than the relevant period, the person must repay the relevant fraction of any lump sum payment made to him under article 9, unless he is a person to whom paragraph (1)(a) applies as a result of his being recalled for service under Part 7 of the Reserve Forces Act 1996 or under the Reserve Forces Act 1980 or to whom paragraph (1)(b) applies.
- (7) For the purposes of paragraph (6), “the relevant period” in relation to any person to whom a lump sum payment has been made under article 9 is—

$$\frac{LP \times 365 \text{ days}}{FRE}$$

where—

**LP** is the amount of the lump sum, and

**FRE** is the amount of the person’s final relevant earnings by reference to which the lump sum was calculated under article 10.

- (8) In paragraph (7) “the relevant fraction” means—

$$\frac{D}{RP}$$

where—

**D** is the number of days by which the number of days in the service break falls short of the relevant period, and

**RP** is the number of days in the relevant period.