
STATUTORY INSTRUMENTS

2005 No. 438

The Armed Forces Pension Scheme Order 2005

Preliminary

Citation and commencement and interpretation

1. This Order may be cited as the Armed Forces Pension Scheme Order 2005 and comes into force on 6th April 2005.

Establishment of the Armed Forces Pension Scheme 2005

2.—(1) The Scheme set out in Schedule 1 to this Order has effect and is to be known as “the Armed Forces Pension Scheme 2005”.

(2) But that Scheme has effect—

- (a) for the period beginning with 6th April 2005 and ending with 5th April 2006 with the modifications specified in Schedule 2 to this Order,
- (b) for the period before section 1 of the Civil Partnership Act 2004⁽¹⁾ comes into force in relation to England and Wales with the omission of references to civil partners and civil partnerships, and
- (c) for the period before Chapter 5 of Part 4 of the Pension Schemes Act 1993⁽²⁾ comes into force in relation to England and Wales with the omission of references to that Chapter, rights under it and members to whom it applies as such.

Amendments of the Armed Forces Pension Scheme 2005

3.—(1) For the purposes of section 3(2) of the Armed Forces (Pensions and Compensation) Act 2004, so far as it applies to the Armed Forces Pension Scheme 2005, the consent requirements are as follows.

(2) The Secretary of State may not make a modification of the Scheme which would or might adversely affect any entitlement, accrued rights or pension credit rights of any member acquired before the power to modify the Scheme is exercised unless—

- (a) he has taken the steps specified in paragraphs (3) to (5) and obtained the written consent of the member, or
- (b) paragraph (6) applies.

(3) The Secretary of State must give written notice to the member that it is proposed to modify the Scheme in a manner which will or might adversely affect an entitlement, accrued rights or pension credit rights of the member that have been acquired before the modification is to take effect.

(4) The notice must—

- (a) set out the modifications proposed to be made which would or might adversely affect any such entitlement or rights, and

(1) 2004 c. 33.

(2) 1993 c. 48. Chapter 5 is inserted by section 264 of the Pensions Act 2004 (c. 35).

- (b) contain an explanation of their effects.
- (5) The notice must contain a statement that the modifications will not affect any such entitlement or rights unless—
 - (a) the member has consented in writing to the modifications, or
 - (b) paragraph (6) applies.
- (6) This paragraph applies if—
 - (a) the Secretary of State has sent two copies of the notice to the member’s last known address, the second being sent at least 2 months after the first, and
 - (b) no response has been received from the member to either of the notices before the end of the period of one month beginning with the date on which the second was sent.
- (7) In this regulation “accrued rights”, “entitlement”, “member” and “pension credit rights” have the same meaning as in Part 1 of the Pensions Act 1995⁽³⁾ (see section 124 of that Act).

Amendments of other regulations

- 4.—(1) Regulation 1(2) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997⁽⁴⁾ is amended as follows.
- (2) At the end of the definition of “Armed Forces Pension Scheme” insert the words “or section 1(1) of the Armed Forces (Pensions and Compensation) Act 2004”.

(3) 1995 c. 26. The definition of “pension credit rights” in subsection (1) of section 124 and subsection (2A) of that section were inserted by paragraph 61 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30).

(4) S.I.1997/785.