
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Armed Forces (Pensions and Compensation) Act 2004 (c. 32) and establishes a new pension scheme for the armed forces (“the Scheme”) for persons joining the armed forces on or after 6th April 2005 or in service immediately before that date and wishing to join the scheme.

Article 1 provides that the Order comes into force on 6th April 2005.

Article 2 establishes the Scheme and provides that it is to be known as “the Armed Forces Pension Scheme 2005”. It introduces Schedule 1 to the Order where the rules of the Scheme are set out.

The rules are divided into lettered Parts dealing with different aspects of the scheme.

Part A sets out definitional matters and, in particular, gives the meaning of expressions like “final pensionable earnings” and “reckonable service” that are used in the provisions relating to entitlement to and calculation of benefits under the Scheme. It provides for a “pension age” of 55 (which is the age at which members still in service in the armed forces are entitled to a retirement pension) and a “pension benefit age” of 65 (which is the age at which members who left service before 55 become entitled to a retirement pension that has been preserved for them in the Scheme).

Part B sets out the conditions that must be met for a person to be eligible to join the Scheme, and also deals with leaving and rejoining it.

Part C enables members of the Scheme to make voluntary contributions to buy further reckonable service. (There is no obligation for members to make contributions under the Scheme.)

Part D deals with the pensions and lump sum benefits to which members become entitled on retirement. The rules in Part D set out different entitlements for those who retire on or after reaching 55, those who retire earlier, those who want earlier payment with actuarial reduction, those who retire with permanent serious ill-health or significant impairment of capacity for gainful employment, and pension credit members. They also enable ill-health pensions to be reviewed and members to exchange lump sums for higher pensions or allocate part of their pension to others.

Part E sets out the benefits that are payable on the death of a member. It provides for pensions to be payable to surviving spouses, civil partners and other adult dependants and eligible children. It also provides for lump sums to be paid to nominees, adults to whom a pension is payable or personal representatives.

Part F deals with members' rights under the Scheme to have a transfer payment paid by the Scheme into another scheme, and the right of a member to have a transfer payment from another scheme accepted by the Scheme so that he is entitled to count further reckonable service in the Scheme. (The rights to transfers out supplement the members' rights under the Pension Schemes Act 1993 (c. 48).) There are special arrangements for those going to or from other public sector schemes.

Part G deals with members who have more than one period of service that counts for the Scheme because they are re-employed. As a general rule the rights relating to such separate periods of service are dealt with separately, but the member is given the option to aggregate earlier periods.

Part H deals with the abatement of pensions in certain circumstances where pensioners are re-engaged in service that entitles them to belong to the Scheme or the Reserve Forces Pension Scheme.

Part J contains miscellaneous and supplementary provisions, for example, relating to claims for and payment of benefits, the forfeiture of benefits in certain circumstances, the commutation of small pensions and the information and evidence that may be required by the Scheme.

Status: This is the original version (as it was originally made).

Part K provides for the transfer of persons who belong to the pension arrangements applicable to regulars in the armed forces immediately before 6th April 2005 and opt on or before 31st March 2006 to join the Scheme on 6th April 2006. Such transferees can count all the reckonable service that was counted under the old arrangements as reckonable service in the Scheme. They can also count added years of reckonable service that they have bought under the old arrangements before 6th April 2006.

Article 2 also introduces Schedule 2 which makes modifications of the Scheme's rules for the period until 6th April 2006 when the arrangements relating to the approval of pension schemes for tax purposes change as a result of the coming into force of the relevant provisions of the Finance Act 2004 (c. 12). Article 2 provides for the Scheme's rules to be read as if references to civil partners and civil partnerships were omitted until section 1 of the Civil Partnership Act 2004 (c. 33) comes into force in England and Wales. It also provides for the Scheme's rules to be read with the omission of references to Chapter 5 of Part 4 of the Pension Schemes Act 1993 (early leavers: cash transfer sums and contributions refunds) until that Chapter comes into force.

Article 3 sets out the consent requirements for the Scheme for the purposes of section 3(2) of the Armed Forces (Pensions and Compensation) Act 2004. These are the requirements that must be met before the Scheme may be modified in a way that would or might adversely affect any member's rights. It provides for notices to be given to members about proposals to make such modifications and for the modifications not to affect members unless they have consented or have not responded.

Article 4 makes a small consequential amendment in the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (S.I.1997/785).

A full regulatory impact assessment has not been produced on this instrument as it has no impact on the costs of business, charities or the voluntary sector.