

SCHEDULE 1

ARRANGEMENT OF RULES THE ARMED FORCES PENSION SCHEME 2005

Commencement Information

II Sch. 1 in force at 6.4.2005, see [art. 1](#)

PART E

DEATH BENEFITS

Pensions for Adult Dependants

E.1 Surviving spouses' and civil partners' pensions

(1) If an active member, a deferred member or a pensioner member dies leaving a surviving spouse or civil partner, the surviving spouse or civil partner is entitled to a pension for life.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under rule D.2 (retirement before reaching pension age) if his service had ceased on the date of death otherwise than by reason of death.

(3) The Secretary of State may withhold the pension—

- (a) where it would be payable to a surviving spouse, if the member and the surviving spouse married less than six months before the member's death, and
- (b) where it would be payable to a surviving civil partner, if the civil partnership was formed less than six months before the member's death.

(4) Paragraph (3) is subject to rule E.28 (guaranteed minimum pensions for surviving spouses).

[^{F1}(5) Where a deceased active, deferred or pensioner member was—

- (a) a man or a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) at the time of the deceased member's death, the deceased member was married, and that marriage subsisted before the time when the certificate was issued,

the surviving spouse of the deceased member is to be treated for the purpose of these Rules as if the certificate had not been issued.]

Textual Amendments

F1 Sch. 1 rule E.1(5) inserted (E.W.) (10.12.2014) by [The Marriage \(Same Sex Couples\) Act 2013 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2014 \(S.I. 2014/3061\)](#), art. 1(2), [Sch. 1 para. 15](#); (S.) (16.12.2014) by [The Marriage \(Same Sex Couples\) Act 2013 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Provisions\) Order 2014 \(S.I. 2014/3061\)](#), art. 1(3), [Sch. 2 para. 1\(2\)](#)

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces Pension Scheme Order 2005, PART E. (See end of Document for details)

E.2 Other adult dependants' pensions

(1) If an active member, a deferred member or a pensioner member dies leaving a surviving adult dependant and no surviving spouse or civil partner, the Secretary of State may award the surviving adult dependant a pension for life.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under rule D.2 (retirement before reaching pension age) if his service had ceased on the date of death otherwise than by reason of death.

(3) A person is a surviving adult dependant in relation to a member for the purposes of this rule if the person satisfies the Secretary of State that at the time of the member’s death—

- (a) the person and the member were cohabiting as partners in an exclusive and substantial relationship,

Textual Amendments

F2 Sch. 1 rule E.2(3)(b) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), **Sch. 1 para. 34**

F3 Words in Sch. 1 rule E.2(3)(b)(ii) inserted (E.W.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 108**

E.3 Amount of pensions under rules E.1 and E.2: active members

(1) This rule applies in the case of a deceased active member, other than an active member who would not have qualified for a pension under rule D.2 if his service had ceased on the date of death otherwise than by reason of death.

(2) The annual amount of the pension payable under rule E.1 (surviving spouses' and civil partners' pensions) and rule E.2 (other adult dependants' pensions) is the appropriate fraction of the member’s final pensionable earnings multiplied by RS, where RS is the higher of—

- (a) N for the purposes of rule D.5(4) (early payment of benefits: active members with permanent serious ill-health) if the member had become entitled to a pension under rule D.5 on the date of death, and
- (b) the member’s reckonable service at the date of death in years.

This is subject to paragraphs (4) and (6).

(3) The appropriate fraction is 1/112.

(4) If immediately before the member’s death he was entitled to exercise the option under rule G.3 or G.4 (aggregation of service), then, unless paragraph (5) applies, these Rules apply as if the member had exercised that option before his death (and accordingly no amount is payable under rule E.4 in respect of the service that is aggregated).

[^{F4}(4A) If immediately before the member’s death he was entitled to exercise the option under rule A.10(1A), then unless paragraph (5) applies, these Rules apply as if the member had exercised that option before his death.]

(5) This paragraph applies if in the opinion of the Secretary of State the value of the benefits payable in respect of the member under these Rules would be greater if these Rules did not apply as if the member had exercised that option before his death.

(6) For the purposes of paragraph (2)—

- ^{F5}(a)
- (b) reckonable service exceeding 37 1/3 years does not count.

Textual Amendments

- F4** Sch. 1 rule E.3(4A) inserted (6.4.2009) by [The Armed Forces Pension Scheme etc. \(Amendment\) Order 2009 \(S.I. 2009/544\)](#), arts. 1(1), **9(2)**
- F5** Sch. 1 rule E.3(6)(a) omitted (1.12.2018) by virtue of [The Armed Forces Pension Schemes and Early Departure Payments Schemes \(Amendments Relating to Flexible Working and Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/1111\)](#), regs. 1(2)(b), **2(8)**

E.4 Amount of pensions under rules E.1 and E.2: deferred members

(1) In the case of a deceased deferred member, the annual amount of a pension payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) is calculated by multiplying the appropriate fraction of the member's final pensionable earnings by the member's reckonable service at the date of death in years.

(2) The appropriate fraction is 1/112.

(3) For the purposes of paragraph (1)—

^{F6}(a)

(b) reckonable service exceeding 37 1/3 years does not count.

(4) This rule is subject to rule E.3(4) (no amount payable under this rule in certain cases where the member was both an active member and a deferred member).

Textual Amendments

- F6** Sch. 1 rule E.4(3)(a) omitted (1.12.2018) by virtue of [The Armed Forces Pension Schemes and Early Departure Payments Schemes \(Amendments Relating to Flexible Working and Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/1111\)](#), regs. 1(2)(b), **2(9)**

E.5 Amount of pensions under rules E.1 and E.2: pensioner members

(1) In the case of a deceased pensioner member, the annual amount of a pension payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) is calculated by multiplying the appropriate fraction of the member's final pensionable earnings—

(a) if the member's pension was calculated under rule D.1(3), D.2(3) or D.7(2), by the reckonable service mentioned in that rule,

(b) if the member's pension was calculated under rule D.4(4), by the reckonable service used for the first calculation mentioned in that rule, and

(c) if the member's pension was calculated under rule D.5(4) or D.6(2), by the figure that is N for the purposes of that rule.

This is subject to paragraph (3).

(2) The appropriate fraction is 1/112.

(3) For the purposes of paragraph (1)—

^{F7}(a)

(b) reckonable service exceeding 37 1/3 years does not count.

(4) This rule is subject to rule D.10 (member's option to exchange lump sum for pension).

Textual Amendments

- F7** Sch. 1 rule E.5(3)(a) omitted (1.12.2018) by virtue of [The Armed Forces Pension Schemes and Early Departure Payments Schemes \(Amendments Relating to Flexible Working and Miscellaneous Amendments\) Regulations 2018 \(S.I. 2018/1111\)](#), regs. 1(2)(b), **2(10)**

E.6 Reduction in pensions under rules E.1 and E.2 in cases of wide age disparity

(1) Where on the death of a member a pension is payable under rule E.1 or E.2 to a person (“the beneficiary”) who is more than 12 years younger than the member, the amount of the pension calculated in accordance with rule E.3, E.4 or E.5 is reduced by the appropriate amount.

(2) That amount is the lesser of—

- (a) 50% of the pension so calculated, or
- (b) $2.5\% \times (N - 12)$ of the pension so calculated,

where N is the number of whole years by which the beneficiary is younger than the member.

(3) This rule is subject to rule K.8 [^{F8}and rule L.7].

Textual Amendments

- F8** Words in Sch. 1 rule E.6(3) inserted (1.10.2007) by [The Armed Forces \(Gurkha Pensions\) Order 2007 \(S.I. 2007/2608\)](#), arts. 1(1), **3(10)**

E.7 Adult dependants entitled to two or more pensions under this Part

(1) This rule applies if—

- (a) pensions are payable to a person under rule E.1 or E.2 in respect of more than one deceased member, and
- (b) the total reference service for the pensions exceeds the dependant’s maximum.

(2) In this rule “reference service” means—

- (a) in the case of a pension calculated under rule E.3, the higher of the figures given by rule E.3(2)(a) and (b),
- (b) in the case of a pension calculated under rule E.4, the figure by which the appropriate fraction of the member’s final pensionable earnings is multiplied under rule E.4(1), and
- (c) in the case of a pension calculated under rule E.5—
 - (i) if the member’s pension was calculated under rule D.1(3), D.2(3) or D.7(2), the reckonable service mentioned in that rule,
 - (ii) if the member’s pension was calculated under rule D.4(4), the reckonable service used for the first calculation mentioned in that rule, and
 - (iii) if the member’s pension was calculated under rule D.5(4) or D.6(2), N for the purposes of that rule.

(3) In this rule “the dependant’s maximum” means—

- (a) if none of the deceased members' reckonable service exceeded 35 years, 35 years,
- (b) if one (and only one) of the deceased members' reckonable service exceeded 35 years, that member’s reckonable service (but not exceeding 37 1/3 years), and

(c) if two or more of the deceased members' reckonable service exceeded 35 years, the reckonable service of the member with the greatest reckonable service (but not exceeding 37 1/3 years).

(4) The total amount of the pensions payable as mentioned in paragraph (1) immediately after the death, excluding any amount that is attributable to any increase made as a result of rule D.10 (member's option to exchange lump sum for pension), must not exceed such amount as results from the pensions being calculated by reference to the dependant's maximum.

(5) In determining the amount of each of the pensions so payable to arrive at that total amount, the reference service for the pensions is to be reduced in such a manner as results in the greatest total amount.

(6) In determining for the purposes of the Scheme whether a pension is payable under rule E.1 or E.2, the fact that the amount of any pension that would otherwise be payable under that rule is reduced to nil as a result of this rule is to be disregarded.

Pensions for Eligible Children

E.8 Surviving children's pensions

(1) If a member dies leaving an eligible child, a pension is payable in respect of the child.

(2) If the child ceases to be an eligible child after the date of death, the pension ceases to be payable unless and until the child becomes an eligible child again.

(3) This rule is subject to—

- (a) rule E.13 (children born after the member's death), and
- (b) rule E.14 (children entitled to three or more pensions).

E.9 Meaning of "eligible child"

(1) In these Rules "eligible child", in relation to a deceased member, means—

- (a) a child of the member who meets any of conditions A to C, or
- (b) any other child or young person who—

- (i) meets any of those conditions, and
- (ii) was financially dependent on the member at the date of death.

(2) Condition A is that the person is aged under 18.

(3) Condition B is that the person is in full-time education or vocational training and is aged under 23.

[^{F9}(4) Condition C is that, because of physical or mental impairment—

- (a) the person is, in the opinion of the Scheme administrator, unable to engage in full-time gainful employment; and
- (b) the person was dependent on the member at the date of the death.]

^{F10}(4A)

(5) A person who is aged under 19 on the date when he ceases to be in full-time education is treated as being in such education until the first of the following dates after he so ceases—

- (a) the second Monday in January,
- (b) the second Monday after Easter Monday,
- (c) the second Monday in September,

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- (d) his 19th birthday,
- (e) the date on which he becomes engaged full-time in gainful employment.

(6) A person who at the date of a member's death is aged under 23 and taking a break from full-time education or vocational training not exceeding 15 months is assumed to be continuing in such education or training during the break for the purpose of determining—

- (a) whether the person is an eligible child at that date, and
- (b) how many pensions are payable under rule E.8(1) immediately after that date.

(7) A person who is prevented from continuing in full-time education or vocational training on account of ill-health is treated for the purposes of condition B and paragraph (5) as continuing to be in such education or training until he is no longer so prevented.

(8) Paragraph (7) does not apply at any time when the person's health is such that it is reasonable to assume that he will not be capable of undertaking any further education or training.

(9) Nothing in paragraph (6) or (7) requires a pension to be paid in respect of a person during the break in his education or training.

Textual Amendments

F9 Rule E.9(4) substituted (27.6.2011) by [The Armed Forces Pension Scheme 2005 \(Amendment\) Order 2011 \(S.I. 2011/1364\)](#), arts. 1(1), **2(9)(a)**

F10 Rule E.9(4A) omitted (27.6.2011) by virtue of [The Armed Forces Pension Scheme 2005 \(Amendment\) Order 2011 \(S.I. 2011/1364\)](#), arts. 1(1), **2(9)(b)**

E.10 Amount of children's pension under rule E.8: active members

(1) This rule applies for determining in the case of a deceased active member the annual amount of a pension payable under rule E.8(1) (surviving children's pensions).

(2) The amount of such a pension is determined by reference to the amount ("the member's assumed pension") that is the annual pension to which the member would have been entitled under rule D.5 (early payment of benefits: active members with permanent serious ill-health) if he had become entitled to a pension under that rule on the date of death (see rule D.5(4) and (5)).

(3) If—

- (a) a pension is payable under rule E.1 or E.2 immediately after the date of the member's death, and
- (b) one pension is payable at that time under rule E.8(1),

the annual amount of the pension payable under rule E.8(1) is equal to one quarter of the member's assumed pension.

(4) If—

- (a) a pension is payable under rule E.1 or E.2 immediately after the date of the member's death, and
- (b) two or more pensions are payable at that time under rule E.8(1),

the annual amount of each pension payable under rule E.8(1) is equal to—

$$\frac{100}{100} \frac{SA}{100} \times \frac{AP}{N}$$

where—

SA is the amount of the pension payable under rule E.1 or E.2 (disregarding rules D.10, E.6 and E.7), expressed as a percentage of the member's assumed pension,

AP is the member's assumed pension, and

N is the number of pensions payable under rule E.8(1).

(5) If—

(a) no pension is payable under rule E.1 or E.2 immediately after the date of the member's death, and

(b) one, two or three pensions are payable at that time under rule E.8(1),

the annual amount of each pension payable under rule E.8(1) is equal to one third of the member's assumed pension.

(6) If—

(a) no pension is payable under rule E.1 or E.2 immediately after the date of the member's death, and

(b) four or more pensions are payable at that time under rule E.8(1),

the annual amount of each pension payable under rule E.8(1) is equal to the member's assumed pension, divided by the number of pensions payable under that rule.

(7) If—

(a) immediately before the member's death he was entitled to exercise the option under rule G.3 or G.4 (aggregation of service),

(b) no pension is payable under rule E.1 or E.2, and

(c) the cost condition is met (see paragraph (8)),

these Rules apply as if the member had exercised that option before his death.

(8) The cost condition is that in the opinion of the Secretary of State the total cost of providing benefits in respect of the member under the Scheme and the AFPS 1975 would have been greater if he had exercised that option than if he had not (apart from paragraph (7)).

(9) In forming an opinion for the purposes of paragraph (8), the Secretary of State must—

(a) assume that in the case of each child in respect of whom a pension is payable under rule E.8(1), or under the AFPS 1975 by virtue of any entitlement in respect of the member as a deferred member of the AFPS 1975, the pension will be payable for the period of 5 years or, if longer, until the child reaches 18, and

(b) disregard the effect of the Pensions (Increase) Act 1971 in respect of any period after the date of death.

(10) If—

(a) a pension is payable under rule E.8(1) in respect of a child,

(b) the annual amount of the pension is calculated under this rule on the basis that a pension is payable under rule E.1 or E.2 immediately after the date of the member's death, and

(c) the pension under rule E.1 or E.2 ceases to be payable,

the annual amount of the pension payable under rule E.8(1) in respect of the child for any period after the date on which the pension under rule E.1 or E.2 ceases to be payable is calculated in accordance with paragraphs (5) to (9) as if no pension had been payable under rule E.1 or E.2 immediately after the date of the member's death.

E.11 Amount of children's pension under rule E.8: deferred members

(1) This rule applies for determining in the case of a deceased deferred member the annual amount of a pension payable under rule E.8(1) (surviving children's pensions).

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(2) The amount of such a pension is determined by reference to the annual pension to which the member would have been entitled under rule D.2, on the assumption that the pension had become payable on the date of death (“the member’s deferred pension”).

(3) If—

- (a) a pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) one pension is payable at that time under rule E.8(1),

the annual amount of that pension is equal to one quarter of the member’s deferred pension.

(4) If—

- (a) a pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) two or more pensions are payable at that time under rule E.8(1),

the annual amount of each pension is equal to—

$$\frac{100 - SA}{100} \times \frac{DP}{N}$$

where—

SA is the amount of the pension payable under rule E.1 or E.2 (disregarding rules D.10, E.6 and E.7), expressed as a percentage of the member’s deferred pension,

DP is the member’s deferred pension, and

N is the number of pensions payable under rule E.8(1).

(5) If—

- (a) no pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) one, two or three pensions are payable at that time under rule E.8(1),

the annual amount of each pension is equal to one third of the member’s deferred pension.

(6) If—

- (a) no pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) four or more pensions are payable at that time under rule E.8(1),

the annual amount of each pension is equal to the member’s deferred pension, divided by the number of pensions payable under rule E.8(1).

(7) If—

- (a) a pension is payable under rule E.8(1) in respect of a child,
- (b) the annual amount of the pension is calculated under this rule on the basis that a pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (c) the pension under rule E.1 or E.2 ceases to be payable,

the annual amount of the pension payable under rule E.8(1) in respect of the child for any period after the date on which the pension under rule E.1 or E.2 ceases to be payable is calculated in accordance with paragraph (5) or (6) as if no pension had been payable under rule E.1 or E.2 immediately after the date of the member’s death.

E.12 Amount of children’s pension under rule E.8: pensioner members

(1) This rule applies for determining in the case of a deceased pensioner member the annual amount of a pension payable under rule E.8(1) (surviving children’s pensions).

(2) The amount of such a pension is determined by reference to the annual pension to which the member was entitled on the date of death (“the member’s pension”), except that—

- (a) in a case where the member’s pension was increased under rule D.10 (option to exchange lump sum for pension), the member’s pension is taken for this purpose to exclude so much of the pension as is attributable to that increase, and
- (b) where that option was exercised so as to increase the pension under rule E.8(1), this rule is without prejudice to that increase.

(3) If—

- (a) a pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) one pension is payable at that time under rule E.8(1),

the annual amount of that pension is equal to one quarter of the member’s pension.

(4) If—

- (a) a pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) two or more pensions are payable at that time under rule E.8(1),

the annual amount of each pension is equal to—

$$\frac{100 - SA}{100} \times \frac{P}{N}$$

where—

SA is the amount of the pension payable under rule E.1 or E.2 ^[F11](disregarding any increase or reduction made by virtue of rule D.10, D.16, E.6 or E.7)], expressed as a percentage of the member’s pension,

P is the member’s pension, and

N is the number of pensions payable under rule E.8(1).

(5) If—

- (a) no pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) one, two or three pensions are payable at that time under rule E.8(1),

the annual amount of each pension is equal to the one third of the member’s pension.

(6) If—

- (a) no pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and
- (b) four or more pensions are payable at that time under rule E.8(1),

the annual amount of each pension is equal to the member’s pension, divided by the number of pensions payable under rule E.8(1).

(7) If—

- (a) a pension is payable under rule E.8(1) in respect of a child,
- (b) the annual amount of the pension is calculated under this rule on the basis that a pension is payable under rule E.1 or E.2 immediately after the date of the member’s death, and

(c) the pension under rule E.1 or E.2 ceases to be payable, the annual amount of the pension payable under rule E.8(1) in respect of the child for any period after the date on which the pension under rule E.1 or E.2 ceases to be payable is calculated in accordance with paragraph (5) or (6) as if no pension had been payable under rule E.1 or E.2 immediately after the date of the member's death.

Textual Amendments

F11 Words in [Sch. 1 rule E.12\(4\)](#) substituted (6.4.2006) by [The Armed Forces Pension Scheme etc. \(Amendment\) Order 2006 \(S.I. 2006/717\)](#), arts. 1(2), **8(3)**

E.13 Children born after the member's death

(1) For the purposes of rule E.8(1), a member is only treated as leaving a child who is born after the member's death if the child is born before the first anniversary of the member's death.

(2) No pension is payable under that rule in respect of any period before the child's birth.

(3) But a pension in respect of a child born after the member's death is treated as payable in respect of that period in determining the number of pensions payable immediately after the date of the member's death for the purposes of rules E.10(3), (4), (5) and (6), E.11(3), (4), (5) and (6) and E.12(3), (4), (5) and (6) (amount of children's pensions).

E.14 Children entitled to three or more pensions

(1) This rule applies if, apart from this rule, pensions would be payable in respect of the same child under rule E.8 as a result of the death of more than two members.

(2) Only the pensions payable as a result of the death of two of the members and which together result in the payment of the greatest annual amount in respect of the child are payable.

(3) Rule E.27(3) (under which benefits are payable in respect of dual capacity members under this Part as if two or more members of the kinds in question had died and the amounts payable are determined accordingly) does not apply for the purpose of determining for this rule the number of members as a result of whose deaths pensions are payable.

(4) But the amount of the pensions payable as the result of the death of any member to whom that rule applies are calculated in accordance with rule E.27 before applying paragraph (2).

Lump Sum Death Benefits

Death of a member: lump sum benefit

(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) If two or more persons have been so nominated and the Secretary of State decides to pay the lump sum to them—

- (a) the payment is to be made to them in such proportions as the member has specified in the nomination, or
- (b) if no proportions are so specified, in such proportions as the Secretary of State considers appropriate.

(3) This rule does not apply if—

- (a) the member is—
 - (i) a pensioner member, or
 - (ii) a pension credit member who dies after any benefits attributable to his pension credit have become payable, and
- (b) the death takes place—
 - (i) more than five years after the member's pension becomes payable, or
 - (ii) after the member's pension has been commuted under rule J.8 (commutation of small pensions).

[^{F13}(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.]

[^{F14}(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.]

Textual Amendments

- F12** Rule E.15(1) substituted (10.1.2012) by The Armed Forces Redundancy Scheme 2006, the Armed Forces Redundancy Etc. Schemes 2010 and the Armed Forces Pension Scheme 2005 (Amendment) Order 2011 (S.I. 2011/3013), arts. 1, **13(1)**
- F13** Rule E.15(4) substituted (10.1.2012) by The Armed Forces Redundancy Scheme 2006, the Armed Forces Redundancy Etc. Schemes 2010 and the Armed Forces Pension Scheme 2005 (Amendment) Order 2011 (S.I. 2011/3013), arts. 1, **13(2)**
- F14** Rule E.15(5) inserted (10.1.2012) by The Armed Forces Redundancy Scheme 2006, the Armed Forces Redundancy Etc. Schemes 2010 and the Armed Forces Pension Scheme 2005 (Amendment) Order 2011 (S.I. 2011/3013), arts. 1, **13(3)**

E.16 Amount of lump sum benefit under rule E.15: active members

(1) In the case of an active member, the amount of the lump sum payable under rule E.15 (death of a member: lump sum benefit) is equal to the member's final pensionable earnings, multiplied by four.

This is subject to paragraphs (2) to (5).

(2) If—

- (a) the member was both an active member and a deferred member, and
- (b) the amount payable under rule E.17 is greater than the amount payable under paragraph (1),

the amount payable under rule E.17 is payable instead of the amount specified in paragraph (1).

(3) If the member was both an active member and a pensioner member, the amount payable under paragraph (1) is reduced by the amount of the lump sum paid to the member under rule D.1, D.2, D.4, D.5, D.6 or D.7.

(4) If the member was both an active member of the Scheme and a pensioner member of the AFPS 1975 (or would have been apart from any abatement of his pension under the terms of that Scheme), paragraph (3) and rule E.18 apply as if he were a pensioner member of the Scheme (and accordingly the amount payable under paragraph (1), reduced in accordance with paragraph (3), is payable instead of the amount under rule E.18(3)).

(5) If a lump sum is payable in respect of the member under the AFPS 1975 by virtue of any entitlement in respect of the member as a deferred member of that Scheme, the amount specified in paragraph (1) or, as the case may be, paragraph (2) is only payable if and to the extent that it exceeds the aggregate amount of any lump sum payments made to or in respect of him under the AFPS 1975.

E.17 Amount of lump sum benefit under rule E.15: deferred members

(1) In the case of a deceased deferred member, the amount of the lump sum payable under rule E.15 (death of a member: lump sum benefit) is equal to the amount of the lump sum to which the member would have become entitled under rule D.2 if the member had become entitled to a lump sum under that rule on the date of death.

But this is subject to paragraphs (2) and (3).

(2) If the member was both a deferred member and an active member, the amount payable under rule E.16 is payable instead of the amount under paragraph (1) unless the amount under paragraph (1) is greater.

(3) If a lump sum is payable in respect of the member under the AFPS 1975 by virtue of any entitlement in respect of the member as a deferred member of the AFPS 1975, the amount specified in paragraph (1) is only payable if and to the extent that it exceeds the aggregate amount of any lump sum payments made to or in respect of him under the AFPS 1975.

E.18 Amount of lump sum benefit under rule E.15: pensioner members

(1) In the case of a deceased pensioner member, the amount of the lump sum payable under rule E.15 (death of a member: lump sum benefit) is equal to—

A – B

where—

A is the amount of the pension that would have been payable to the member during so much of the period of five years beginning with the date on which the pension became payable as falls after the date of death, and

B is the amount of any lump sum paid to the member under rule D.1, D.2, D.4, D.5, D.6 or D.7.

(2) Any increases in the pension which might have become payable after the date of death are disregarded for the purposes of paragraph (1).

(3) If the member was both a pensioner member and an active member, the amount payable under rule E.16 is payable instead of the amount under paragraph (1).

E.19 Amount of lump sum benefit under rule E.15: pension credit members

(1) In the case of a pension credit member who dies before any benefits derived from his pension credit have become payable, the amount of the lump sum payable under rule E.15 (death of a member: lump sum benefit) is calculated by multiplying by 3 the amount of the annual pension that

would have been payable to him under rule D.3 if that pension had become payable to him on the date of his death.

(2) In the case of a pension credit member who dies after the pension under rule D.3 becomes payable, the amount of the lump sum payable under rule E.15 (death of a member: lump sum benefit) is equal to—

A – B

where—

A is the amount of the pension that would have been payable to the member during so much of the period of five years beginning with the date on which the pension became payable as falls after the date of death, and

B is the amount of any lump sum paid to the member under rule D.3 or D.4.

(3) Any increases in the pension which might have become payable after the date of death are disregarded for the purposes of paragraph (2).

E.20 Members affected by court orders to former spouses and civil partners on death

(1) This rule applies where on a member's death the Secretary of State is required under a court order to pay any part of any amount payable under rule E.15 to the member's former spouse or civil partner.

(2) Where this rule applies the amount payable under that rule is determined as if no such order had been made, and then this Part applies as if the amount payable under rule E.15 were reduced by the amount payable under the court order.

E.21 Nominations for lump sum death benefits

(1) For the purposes of rule E.15 (death of a member: lump sum benefits)—

(a) a member may nominate one or more persons, and

(b) if he nominates two or more persons, he may specify in the nomination the proportions of the payment he wishes each of them to receive.

(2) The member must make his nomination by notice in writing to the Scheme administrator in such form as the Secretary of State may require or is willing to accept.

(3) A member may revoke or alter a nomination by a further notice in writing to the Scheme administrator in such form as the Secretary of State may require or is willing to accept.

[^{F15}(3A) This rule is subject to paragraph 62 of Schedule 3 (remediable service).]

(4) The nomination of a person is invalid—

(a) if—

(i) the person nominated is an individual who was the spouse or civil partner of the member at the date the nomination was made and is not the spouse or civil partner of the member immediately before the member's death, and

(ii) the member did not confirm the nomination by notice in writing to the Scheme administrator after the marriage or civil partnership ended, or

(b) if the person nominated is an individual who predeceases the member.

(5) If a person nominated is convicted of the offence of murder or manslaughter of the member, the person's nomination is to be treated as invalid from the member's death.

(6) If a person nominated is convicted of any other offence of which the unlawful killing or wounding of the member is an element, the Secretary of State may determine that the nomination is to be treated as invalid from the member's death.

[^{F16}(7) Where the member marries or enters into a civil partnership on or after 1st December 2018, any existing nomination ceases to have effect from the date of the marriage or civil partnership.]

Textual Amendments

- F15** Sch. 1 rule E.21(3A) inserted (1.10.2023) by The Armed Forces Pensions (Remediable Service) Regulations 2023 (S.I. 2023/998), regs. 1(b), **8(4)**
- F16** Sch. 1 rule E.21(7) inserted (1.12.2018) by The Armed Forces Pension Schemes and Early Departure Payments Schemes (Amendments Relating to Flexible Working and Miscellaneous Amendments) Regulations 2018 (S.I. 2018/1111), regs. 1(2)(b), **2(11)**

General Provisions

E.22 Pension debit members

- (1) This rule applies where the deceased member was a pension debit member.
- (2) If the member was an active member—
 - (a) the pension payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) is calculated as mentioned in paragraph (3),
 - (b) the amount payable under rule E.8(1) by virtue of rule E.10 (surviving children's pensions) —
 - (i) is first calculated as if the member were not a pension debit member (in particular, in determining the amount of the member's assumed pension or annual pension for the purposes of rule E.10(2)), and
 - (ii) is then subject to any reduction required under section 31 of the Welfare Reform and Pensions Act 1999 ("section 31"), and
 - (c) the lump sum payable under rule E.15 (death of a member: lump sum benefit) is calculated under rule E.16.
- (3) The pension is first calculated under rule E.3 as if the member were not a pension debit member, and then it is reduced in the same proportion as the member's assumed pension would have been reduced under that section if he had been entitled to it on the date of death.
- (4) If the member was a deferred member—
 - (a) the amount of the pension payable under rule E.1 or E.2 is calculated by reference to the amount of the pension to which the member would have been entitled after any reduction under section 31, and
 - (b) the amount payable under rule E.8(1) by virtue of rule E.11—
 - (i) is first calculated as if the member were not a pension debit member (in particular, in determining the amount of the annual pension referred to in rule E.11(2)), and
 - (ii) is then subject to any reduction required under section 31.
- (5) If the member was a pensioner member—
 - (a) the amount of the pension payable under rule E.1 or E.2 is calculated by reference to the amount of the pension to which the member was entitled (after the reduction under section 31), and
 - (b) the amount payable under rule E.8(1) by virtue of rule E.12—

- (i) is first calculated as if the member were not a pension debit member (in particular, in determining the amount of the annual pension referred to in rule E.12(2) to which the member was entitled), and
- (ii) is then subject to any reduction required under section 31.

(6) The effect of any option under rule D.10 (option to exchange lump sum for pension) to increase any pension is to be disregarded in determining the amount payable under paragraph (5) in the first instance; then the option is to be taken into account so far as it increases the amount of the pension so payable.

E.23 Dependants' pensions: suspension and recovery

- (1) This rule applies where—
 - (a) on a member's death a pension has been awarded and paid under this Part, and
 - (b) subsequently it appears to the Secretary of State that the member or the person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.
- (2) The Secretary of State may—
 - (a) cease paying the pension, and
 - (b) recover any payment made under the award.
- (3) Paragraph (2) does not affect the Secretary of State's right to recover a payment or overpayment in any case where he considers it appropriate to do so.

E.24 Recovery of lump sum payments made to nominee

- (1) Where—
 - (a) payment is made to a person under rule E.15 (death of a member: lump sum benefit) because of the person's nomination by a member, and
 - (b) the person's nomination is subsequently found to be invalid under rule E.21(4) or (5),the Secretary of State may recover the payment.
- (2) Paragraph (1) does not affect the Secretary of State's right to recover a payment or overpayment in any case where he considers it appropriate to do so.

E.25 Provisional awards of children's pensions: later adjustments

- (1) This rule applies where after the death of an active member, a deferred member or a pensioner member—
 - (a) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children at the date of the member's death and that there were then no other eligible children, and
 - (b) subsequently it appears—
 - (i) that a person in respect of whom such a pension has been paid was not then an eligible child, or
 - (ii) that a further person was then an eligible child, or
 - (iii) that a child who was born after the member's death is an eligible child.
- (2) The Secretary of State may make such adjustments in the amount of the pensions payable in respect of the children in question as are required in view of the facts as they subsequently appear.

(3) Paragraph (2) does not affect the Secretary of State's right to recover a payment or overpayment in any case where he considers it appropriate to do so.

E.26 Payments under this Part

- (1) A pension under this Part is payable from the day after the date of the death of the member.
- (2) Payment of a lump sum payable under this Part must be made before the expiry of the period of two years beginning with that date.
- (3) A pension payable under this Part in respect of an eligible child aged under 18 must be paid—
 - (a) if the child is in the care of the member's surviving spouse or civil partner or a person who is the member's surviving adult dependant for the purposes of rule E.2, to the surviving spouse or civil partner or the adult dependant, and
 - (b) in any other case, to the child's guardian,unless the Secretary of State directs otherwise.

E.27 Dual capacity membership

- (1) This rule applies where the deceased member was—
 - (a) a member of the Scheme of two or more of the kinds specified in paragraph (2), or
 - (b) a member of the Scheme and a member of the AFPS 1975.
- (2) They are—
 - (a) an active member,
 - (b) a deferred member,
 - (c) a pensioner member, and
 - (d) a pension credit member.
- (3) Where paragraph (1)(a) applies, the general rule is that—
 - (a) benefits are payable in respect of the member under this Part as if two or more members of the kinds in question had died (so that two or more pensions or lump sums are payable in respect of the one deceased member), and
 - (b) the amounts payable are determined accordingly.
- (4) But that general rule is subject to—
 - (a) rule E.3(4) and E.4(4) (adult dependants' pension where the member was both an active member and a deferred member),
 - (b) rule E.14(3) and (4) (children entitled to three or more pensions),
 - (c) rules E.16(2) and E.17(2) (amount of lump sum where the member was both an active member and a deferred member), and
 - (d) rule E.16(3) and E.18(3) (amount of lump sum where the member was both an active member and a pensioner member).
- (5) Where paragraph (1)(b) applies, the general rule is that benefits are payable in respect of the member under this Part regardless of the member's membership of the AFPS 1975.
- (6) But that general rule is subject to rules E.16(4) and (5) and E.17(3) (amount of lump sum where member was both a member of the Scheme and a member of the AFPS 1975).

E.28 Guaranteed minimum pensions for surviving spouses

(1) This rule applies where the surviving spouse of a deceased active, deferred or pensioner member has a guaranteed minimum under section 17 of the Pension Schemes Act 1993 in relation to benefits in respect of the deceased member under the Scheme.

(2) If apart from this rule—

(a) no pension would be payable to the surviving spouse under this Part, or

(b) the weekly rate of the pension payable would be less than the guaranteed minimum,

a pension the weekly rate of which is equal to the guaranteed minimum is payable to the surviving spouse for life.

(3) Paragraph (2) does not apply if the pension is forfeited in a case where rule J.6(1)(a) (conviction of treason or [^{F17}other national security] offences) applies.

Textual Amendments

F17 Words in Sch. 1 rule E.28(3) substituted (20.12.2023) by The National Security Act 2023 (Consequential Amendments of Subordinate Legislation) Regulations 2023 (S.I. 2023/1267), reg. 1(2), **Sch. para. 10(3)(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Pension Scheme Order 2005, PART E.