

[^{F1}SCHEDULE 2

Transitional Provision

Textual Amendments

- F1** Sch. 2 inserted (1.4.2015) by The Armed Forces (Transitional Provisions) Pensions Regulations 2015 (S.I. 2015/568), reg. 1(2), Sch. 2

PART 5

Transitional provisions relating to the AFPS 2005

No benefits for service on or after member's transition date

38. No benefits under the AFPS 2005 are to be provided to or in respect of a transition member in relation to that member's service on or after their transition date.

Pensionable service under the AFPS 2005 for a transition member with continuity of service

39.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under the AFPS 2015.

(2) In determining whether T qualifies under the AFPS 2005 for retirement benefits (other than early benefits on ill-health), T's pensionable service under the AFPS 2005 terminates when T's pensionable service under the AFPS 2015 terminates.

Final salary link for a transition member with continuity of service

40.—(1) In calculating benefits payable under the AFPS 2005 to or in respect of a transition member with continuity of service (T), T's final pensionable earnings are determined by reference to Schedule 7 to the 2013 Act as if "final salary" were a reference to "final pensionable earnings".

(2) If a member's final pensionable earnings on leaving service as a member of the AFPS 2015 are lower than their final pensionable earnings on their transition date, their final pensionable earnings are to be determined as if paragraph (1) in rule A.4 of the AFPS 2005 were replaced by the following—

“(1) In these Rules “final pensionable earnings”, in relation to a member, means the greatest amount that is the member's total pensionable earnings for 365 consecutive days falling within the period beginning three years before their transition date and ending on their transition date.

(1A) In paragraph (1), “transition date” has the same meaning as in paragraph 1 of Schedule 2 to this Order.”.

Secretary of State does not consider that the member has suffered a permanent breakdown of health involving incapacity for any full-time employment

41.—(1) This paragraph applies if a member of the AFPS 2005—

- (a) claimed payment of an ill-health pension under the AFPS 2005 before the member's transition date; and
- (b) the pension does not become payable before the member's transition date.

Status: Point in time view as at 01/04/2015.

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces Pension Scheme Order 2005, PART5. (See end of Document for details)

(2) If the member is not entitled to immediate payment of an ill-health pension under the AFPS 2005, the member joins the AFPS 2015 on whichever is the later of—

- (a) the member's transition date; and
- (b) the day after all relevant appeal rights have expired in relation to the Secretary of State's decision that the member has not suffered a permanent breakdown in health involving incapacity for any full-time employment.

(3) Where sub-paragraph (2) applies, the member is exempted from section 18(1) of the 2013 Act in respect of the period before the member becomes a member of the AFPS 2015.

Deferred membership of the AFPS 2005

42.—(1) A transition member with continuity of service (T) does not become a deferred member of the AFPS 2005 unless T becomes a deferred member of the AFPS 2015.

(2) If T opts out of the AFPS 2015 in relation to service in a scheme employment and T has at least 2 years' qualifying service T becomes a deferred member of the AFPS 2005 in relation to that service.

(3) If T re-enters pensionable service under the AFPS 2015 after a gap in service not exceeding 5 years, T ceases to be a deferred member of the AFPS 2005.

Qualifying for retirement benefits under the AFPS 2005

43.—(1) In determining whether a transition member with continuity of service qualifies for retirement benefits under the AFPS 2005, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the AFPS 2005; and
- (b) the member's qualifying service under the AFPS 2015.

Final salary link not to apply again to a pension in payment

44. Where any element of pension under the AFPS 2005 which is in payment has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 to the 2013 Act in consequence of a subsequent period of pensionable public service (as defined in paragraph 3 of Schedule 7 to the 2013 Act) unless the further period of pension is aggregated under the rules of the AFPS 2005.]

Status:

Point in time view as at 01/04/2015.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Pension Scheme Order 2005, PART5.