
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 is largely concerned with amending the rules of the Armed Forces Pension Scheme 2005 (“the Scheme”). Most of the amendments reflect changes that are consequential on the replacement on 6th April 2006 of the tax regime applying in respect of pensions under Part 14 of the Income and Corporation Taxes Act 1988 (c. 1) by Part 4 of the Finance Act 2004 (c. 12) (“Part 4”). Some minor amendments of the Armed Forces Early Departure Payments Scheme Order 2005 (S.I.2005/437) (“the EDP Order”) and the Armed Forces Redundancy Payments Scheme Order 2006 (S.I. 2006/55) (“the Redundancy Order”) are also included.

Article 1 provides that this Order comes into force on 6th April 2006.

Article 2 sets out definitions.

Article 3 amends one of the conditions relating to the definition of eligible children where a child is suffering from mental or physical impairment so that the child must be under 23 and dependant on the deceased member at the date of his death. The requirement that the child be engaged in gainful employment is removed. The change does not apply if the member died before 6th April 2006 and was a pensioner member.

Article 4 makes minor amendments relating to ill-health pensions and lump sums so as to make the Scheme comply with the requirements of Part 4 relating to pensions and lump sums that are payable early.

Article 5 makes some similar amendments of rule D.11, which permits the commutation of the whole of a member’s rights where he is suffering from serious ill-health. It also amends that rule so that pension credit members commuting their rights in those circumstances will receive an amount equal to the value of those rights.

Article 6 makes it clear that the Secretary of State may take advice before determining questions that arise under the Scheme and removes the requirement that the Secretary must consult the scheme medical adviser in certain cases.

Article 7 amends rule D.4 (which relates to the early payment of pensions with actuarial reduction) so as to remove the references to pension credit members.

Article 8 amends rule D.14(4) so as to restrict the amount of pension that a member may allocate to 37.5 per cent. or such lower percentage of the pension as will not risk a breach of the pension death benefit rules in Part 4. It also amends the formula used in rule E.12 for calculating children’s pensions in cases where a pensioner member leaves a surviving adult dependant and two or more children, so as to increase those pensions in cases where the member allocated some pension to the surviving dependant.

Article 9 amends rule F.8 so as to extend the rule that applications for a transfer-in payment to be accepted by the Scheme must be made within one year of the member becoming eligible to be a member, so that that rule also applies to transfers in from personal pension arrangements or involving rights under an occupational pension scheme that derive from voluntary contributions. The change only applies for members joining the Scheme on or after 6th April 2006 and only applies to existing members from 6th April 2007.

Article 10 inserts two new rules (J.11 and J.12) providing for payment of the lifetime allowance charge under section 214 of the Finance Act 2004 on behalf of members, and for transfer values or

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

benefits to be reduced where such a payment has been made without the member having made a payment to the Scheme to cover the tax. It also inserts a new rule (J.13) providing for the payment of special lump sum death benefits charge under section 206 of that Act.

Article 11 amends rules relating to entitlement to pensions and transfers in so as to simplify them by removing references to specific kinds of schemes, which would otherwise require modification because of the changes made by Part 4. It also adjusts the definitions in the Scheme to reflect those changes.

Article 12 amends rule B.1(a)(ii) of the Scheme, which relates to eligibility for membership of the Scheme, and similar provisions in the EDP Order and the Redundancy Order, so as to clarify which members with eligibility for other pension arrangements are excluded from the Scheme and the schemes established by those Orders.

Article 13 amends article 16 of the EDP Order so that its requirements for the payment of lump sums where ill-health occurs match those of the rules of the Scheme relating to payments in the event of ill-health, as amended by article 4 of this Order.

Article 14 introduces the Schedule, which contains revocations consequential on this Order. It specifically revokes the provisions in the Armed Forces Pension Scheme Order 2005 (S.I. [2005/438](#)), which modified the Scheme's rules for the period until 6th April 2006 (when the arrangements relating to the approval of pension schemes for tax purposes changed as a result of the coming into force of Part 4) and so are spent, and other provisions that made temporary modifications that are now spent.

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.