

2007 No. 2609

PENSIONS

The Armed Forces (Gurkha Compensation) Order 2007

Made - - - - *6th September 2007*

Laid before Parliament *10th September 2007*

Coming into force - - *1st October 2007*

The Secretary of State for Defence, in exercise of the powers conferred on him by sections 1(2) and 10(2), (3) and (4) of the Armed Forces (Pensions and Compensation) Act 2004(a), makes the following Order:

Citation, commencement and interpretation

- 1.—(1) This Order may be cited as the Armed Forces (Gurkha Compensation) Order 2007.
- (2) This Order comes into force on 1st October 2007.

Amendments of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005

2.—(1) The Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(b) is amended as follows.

(2) In article 2(1) (interpretation: general)—

- (a) in the definition of “Gurkha” omit “who was recruited in Nepal”,
- (b) after that definition insert—

““Gurkha Pension Scheme” means the Gurkha Pension Scheme constituted by the Royal Warrant of 19th December 1949 (see Army Order 151 of 1949);”.

(3) In article 2(3) (meaning of “discharged on medical grounds”)—

- (a) in sub-paragraph (a) omit “in the case of a regular member,” and
- (b) for sub-paragraph (b) substitute

“or

(b) in the case of a Gurkha who is a member of the Gurkha Pension Scheme, is as a result entitled to a disability pension”.

(4) In article 12(2) (application of Schedule 3 to the Order to Gurkhas) at the end insert “or former Gurkhas who are not members of the AFPS 1975 or the AFPS 2005”.

(5) For Schedule 3 substitute —

(a) 2004 c. 32.

(b) S.I. 2005/439, to which there are amendments which are not relevant to this Order.

“SCHEDULE 3

MODIFICATIONS FOR GURKHAS WHO ARE MEMBERS OF THE GURKHA PENSION SCHEME

1.—(1) This Schedule sets out modifications of this Order that apply in relation to Gurkhas or former Gurkhas who—

- (a) are not members of the AFPS 1975 or the AFPS 2005 on the relevant date, and
- (b) in the case of former Gurkhas who have died before the relevant date, are not treated as if they were such members in connection with making payments of benefits to their surviving spouses, civil partners or other dependants.

(2) The relevant date is—

- (a) for the purposes of article 16—
 - (i) in the case of a Gurkha or former Gurkha who is in service on or after 1st October 2007, the day on which that service ends, and
 - (ii) in the case of a Gurkha or former Gurkha whose service ended before 1st October 2007, the day after the option closing date, and
- (b) for the purposes of article 26 or 28—
 - (i) in the case of a Gurkha or former Gurkha who is in service on or after 1st October 2007, the day of death,
 - (ii) in the case of a Gurkha or former Gurkha whose service ended before 1st October 2007 and who died on or before the day after the option closing date, that day, and
 - (iii) in the case of a Gurkha or former Gurkha whose service ended before 1st October 2007 and who has died later than the day after the option closing date, the date of death.

(3) In paragraph (2) “the option closing date” means 31st January 2008 or, if the last date on which an option under rule L.3 of the AFPS 2005(a) may be exercised is later, that last date.

2. In the definition of “relevant factor” in articles 16(5), 26(3) and 28(6) for the words from “column (b)” to “column (a)” substitute “the second column of the table set out in Schedule 3 in relation to the relevant age specified in the first column”.

3. For article 31 substitute—

“Reduction of guaranteed income payment, survivor’s guaranteed income payment and child’s payment to take account of other amounts

31.—(1) This article applies if—

- (a) a Gurkha within Schedule 3 to this Order is discharged, or
- (b) a Gurkha or former Gurkha within that Schedule dies.

(2) If a former Gurkha is entitled to a guaranteed income payment for any period during which the former Gurkha is also entitled to a pension by virtue of the Gurkha Pension Scheme, guaranteed income payment is reduced by the amount of that pension.

(3) If a person who is the surviving spouse, civil partner or other adult dependant of the Gurkha or former Gurkha is entitled to a survivor’s guaranteed income

(a) Part L of the Armed Forces Pension Scheme 2005 is inserted by article 2 of the Armed Forces (Gurkha Pensions) Order 2007 S.I. 2007/2608.

payment for any period during which the person is also entitled to a family pension in respect of the deceased Gurkha or former Gurkha by virtue of the Gurkha Pension Scheme, survivor's guaranteed income payment is reduced by the amount of that pension

(4) Paragraphs (5) and (6) apply if the Gurkha or former Gurkha dies—

- (a) without leaving a surviving spouse, civil partner or surviving adult dependant but leaving one or more eligible children, and
- (b) a family pension is payable as a result of the death.

(5) If there is only one eligible child, the child's payment is reduced by the amount of the family pension.

(6) If there are two or more eligible children, the child's payment paid to or in respect of each eligible child is reduced by the amount of the family pension, divided by the number of eligible children.”.

4. This is the table referred to in articles 16(5), 26(3) and 28(6) (as modified by paragraph 2)—

Table of Guaranteed Income Payment Factors

<i>Age last birthday</i>	<i>Guaranteed income payment factor</i>
16	0.841
17	0.834
18	0.828
19	0.822
20	0.814
21	0.807
22	0.800
23	0.792
24	0.783
25	0.774
26	0.766
27	0.756
28	0.746
29	0.736
30	0.725
31	0.713
32	0.701
33	0.688
34	0.675
35	0.660
36	0.646
37	0.630
38	0.613
39	0.596
40	0.577
41	0.558
42	0.538
43	0.515
44	0.492
45	0.467
46	0.440
47	0.411
48	0.382

<i>Age last birthday</i>	<i>Guaranteed income payment factor</i>
49	0.348
50	0.314
51	0.276
52	0.235
53	0.191
54	0.144
55	0.091
Over 55	0.091”

Signed by authority of the Secretary of State for Defence.

Derek Twigg
Under Secretary of State
Ministry of Defence

6th September 2007

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).

Article 1 provides that this Order comes into force on 1st October 2007.

Article 2 amends the Armed Forces and Reserve Forces Compensation Order 2005 (S.I. 2005/439) which established and sets out the Armed Forces and Reserve Forces (Compensation Scheme) 2005 (“the Compensation Scheme”). As a consequence, the guaranteed income payment and the survivor’s guaranteed income payment to be paid in relation to Gurkhas who are members of the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005 will be calculated by application of the factors contained in the table at Schedule 5 to the Compensation Scheme. A new Schedule 3 of the Compensation Scheme is inserted, which contains a new table of factors which is to be used in calculating the guaranteed income payment or survivor’s guaranteed income payment to be paid in relation to Gurkhas who are members of the Gurkha Pension Scheme.

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.

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