
STATUTORY INSTRUMENTS

2010 No. 832

**The Armed Forces (Redundancy, Resettlement and
Gratuity Earnings Schemes) (No. 2) Order 2010**

PART 3

THE ARMED FORCES GRATUITY EARNINGS SCHEME 2010

Eligible child

25.—(1) An eligible child for the purposes of any payments under articles 22 and 24, is any child who meets one of the conditions under paragraphs (2) to (9) and any of Conditions A to C in paragraphs (11) to (13).

(2) The first condition is that the child is a legitimate child of the deceased where the deceased was married to or in a civil partnership with the child's other parent before the death of the deceased.

(3) The second condition is that the child is an illegitimate child of the deceased born before or within 9 months of the deceased's death who was mainly dependent on the deceased at the time of the deceased's death.

(4) The third condition is that the child is an illegitimate child of—

- (a) the deceased's spouse, or
- (b) the deceased's civil partner,

who was born before or within 9 months of the deceased's death and who was or would have been mainly dependent on the deceased and who meets the condition in paragraph (10).

(5) The fourth condition is that the child is an adopted child of the deceased where the deceased was married to or had formed a civil partnership with the child's other adoptive parent.

(6) The fifth condition is that the child is an adopted child of the deceased, or the Defence Council is satisfied that the deceased had previously formed an intention to adopt the child before the deceased's death, and the child was mainly dependent on the deceased at the date of the deceased's death and meets the condition in paragraph 10.

(7) The sixth condition is that the child is a step-child of the deceased where the natural or adoptive parent of the child was married to the deceased or was the deceased's civil partner at the time of the deceased's death and where the child was mainly dependent on the deceased at the date of death and meets the condition in paragraph (10).

(8) The seventh condition is that the child is a grandchild of a person where the Defence Council considers that the child has been abandoned by its parents or the parents have died, where the child was mainly dependent on the deceased at the date of the deceased's death and meets the condition in paragraph (10).

(9) The eighth condition is that the child is a child of the natural or adoptive parent, or a step child of a person who was the deceased's eligible partner before the deceased's death and where the child was mainly dependent on the deceased at the date of death and meets the condition in paragraph (10).

(10) The condition referred to in paragraphs (4), (6), (7), (8) and (9) is that the child was financially dependent on the deceased at the date of the deceased's death or would have been had it been born before the death.

(11) Condition A is that the child is aged under 17.

(12) Condition B is that the child is aged under 23 and is—

- (a) in full time secondary education;
- (b) in full time further education that started immediately after ceasing full time secondary education; or
- (c) undertaking full-time vocational training which in the opinion of the Defence Council is unpaid or substantially unpaid.

(13) Condition C is that the person (who may be aged over 18), was dependent on the deceased at the date of the deceased's death because of physical or mental impairment and in the opinion of the Defence Council is incapable of earning a living.

(14) For the purposes of Condition B, a child who takes a break not exceeding 15 months between concluding secondary education and beginning full-time further education or vocational training is assumed to be continuing in such education or training during the break.

(15) Paragraph (14) does not apply at any time when the child's health is such that it is reasonable to assume that the child will not be capable of undertaking any further education or training.

(16) Nothing in paragraph (14) requires a child's compensation to be paid during the break.

(17) Any payments due to an eligible child under the age of 18 may be paid to the surviving spouse, civil partner or eligible partner of the deceased, or mother or father of the child, or other person responsible for the child's maintenance, or the child direct as may be decided by the Defence Council.

(18) Any payments due in relation to an eligible child under paragraph (13) may be made to a person at the discretion of the Defence Council.