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STATUTORY INSTRUMENTS

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**2011 No. 517**

**The Armed Forces and Reserve Forces  
(Compensation Scheme) Order 2011**

**PART 11**

**ADDITIONAL BENEFIT**

**Interpretation of Part 11**

**74.** In this Part—

- (a) “original decision” means—
  - (i) a decision by the Secretary of State in relation to the descriptor and tariff level for the qualifying injury made in accordance with the provisions of the AFCS 2005; or
  - (ii) a decision of an appropriate tribunal, the Upper Tribunal, a Social Security Commissioner or a court revising a decision referred to in paragraph (i).
- (b) “qualifying injury” means an injury or injuries which is described by one descriptor to which an entitlement to injury benefit was determined before 9th May 2011 and—
  - (i) injury benefit was paid or payable before that date; or
  - (ii) no injury benefit was payable under article 15(2) of the AFCS 2005 because the injury was the fourth or subsequent injury sustained in the same incident.
- (c) “relevant percentage” means the percentage of guaranteed income payment payable;
- (d) “specified injury” means an injury or injuries or the effect of an injury or injuries which is—
  - (i) a qualifying injury; and
  - (ii) an injury from a category specified in column (a) of the Table in Schedule 5; and
  - (iii) the original decision determined that the injury was described by a descriptor in the AFCS 2005 in the table specified in column (b).

**Additional benefit**

**75.—(1)** The Secretary of State is to award additional benefit for a qualifying injury and in respect of a death (where a claim for death benefit was determined and paid before 9th May 2011) in accordance with the provisions of this Part.

(2) Additional benefits payable for a qualifying injury are—

- (a) a further lump sum benefit determined in accordance with article 78;
- (b) an additional guaranteed income payment determined in accordance with article 79; and
- (c) a guaranteed income payment for a specified injury determined in accordance with article 80.

(3) Additional benefits payable in respect of death are—

- (a) an additional survivor's guaranteed income payment determined in accordance with article 81;
- (b) an additional child's payment determined in accordance with article 82; and
- (c) an additional bereavement grant determined in accordance with article 83.

#### **Tariff level for a qualifying injury**

76.—(1) The tariff level for a qualifying injury which is not a specified injury is the tariff level determined in the original decision.

(2) Where a qualifying injury is a specified injury the tariff level is to be determined in accordance with paragraph (3).

(3) Where a specified injury is described by a descriptor which gives rise to an entitlement to a tariff level—

- (a) at a higher level than awarded in the original decision, the tariff level is to be the higher level;
- (b) at the same or a lower level as the original decision, the tariff level is to be the same as awarded in the original decision.

#### **Supplementary award, relevant amount and relevant percentage for a qualifying injury**

77.—(1) The lump sum for a qualifying injury is the amount specified in column (b) of Table 10 of the tariff in relation to the tariff level determined in accordance with article 76.

(2) A supplementary award of £60,000 is payable where a qualifying injury—

- (a) is a traumatic physical injury;
- (b) is described by a descriptor from Table 2 of the tariff; and
- (c) the injury or the effect of the injury is specified in paragraph 1(2) of Part 2 of Schedule 3.

(3) The relevant amount for a qualifying injury is the total amount of—

- (a) a lump sum determined in accordance with paragraph (1);
- (b) any supplementary award determined in accordance with paragraph (2); and
- (c) where paragraph (4) applies, an increase to the lump sum for a qualifying injury of—
  - (i) £3,000 for a limb injury or fracture of a limb accompanied by acute compartment syndrome requiring operative treatment; or
  - (ii) £1,000 for a perforated tympanic membrane or an open fracture.

(4) This paragraph applies where the increase to the lump sum was awarded in the original decision and—

- (a) was paid; or
- (b) was not paid because the qualifying injury in respect of which it was awarded for the fourth or subsequent injury sustained in the same incident.

(5) Except where paragraph (6) applies, the relevant percentage for a qualifying injury is to be the same as awarded in the original decision.

(6) This paragraph applies where a qualifying injury is a specified injury and the tariff level for the injury—

- (a) is revised under article 76(3)(a); and
- (b) is within tariff levels 1 to 11.

(7) Where paragraph (6) applies, the relevant percentage is to be determined in accordance with article 24(3) and (4).

### **Award of further lump sum benefit**

**78.**—(1) The Secretary of State is to award a further lump sum benefit in accordance with this article.

(2) The amount of the further lump sum benefit is  $A - B$  where—

- (a) “A” is the amount of benefit that would have been awarded for a qualifying injury if that amount has been determined in accordance with paragraph (3):
- (b) “B” is the combined total of all previous awards of lump sum, additional multiple injury lump sum and additional lump sum applicable to the qualifying injury.

(3) The amount of benefit is—

- (a) the relevant amount for a qualifying injury (determined in accordance with article 77(3)), or a percentage of that relevant amount; and
- (b) determined in accordance with articles 18 to 22 with the modifications specified in Schedule 6.

(4) Only one award of further lump sum benefit is to be made for a qualifying injury.

(5) The total amount payable under paragraph (2) is not, taking into account all previous awards of lump sum, additional lump sum and additional multiple injury lump sum applicable to the qualifying injury or injuries sustained in or arising from one incident, to exceed the amount specified in column (b) of Table 10 of the tariff for an injury at tariff level 1.

### **Award of additional guaranteed income payment**

**79.**—(1) This article applies where for any period before 9th May 2011 a former member was—

- (a) in receipt of guaranteed income payment; or
- (b) entitled to guaranteed income payment for a qualifying injury, but guaranteed income payment was not payable due to the reduction of that payment under article 31(2) of the AFCS 2005.

(2) The Secretary of State is to award an additional guaranteed income payment in accordance with this article.

(3) The additional guaranteed income payment is—

- (a) where paragraph (1)(a) applies,  $(A-B)-C$ ;
- (b) where paragraph (1)(b) applies,  $A-B$ .

(4) In this article —

- (a) “A” is the total amount of guaranteed income payment which would have been payable if the annual amount had been calculated in accordance with article 24; and—
  - (i) where paragraph (1)(a) applies, if that amount had been paid from the date payment commenced until the date specified in paragraph (5); and
  - (ii) where paragraph (1)(b) applies, if that amount had been paid for the period specified in paragraph (6).
- (b) “B” is the adjustment of the total amount determined in accordance with article 39(3);
- (c) “C” is the amount of guaranteed income payment paid from the date payment commenced until the date specified in paragraph (5).

(5) The date referred to in paragraph (4)(a)(i) and (4)(c) is whichever is the earlier of—

- (a) the date of the former member's death; or
  - (b) 8th May 2011.
- (6) The period referred to in paragraph (4)(a)(ii) is the period—
- (a) commencing with whichever is the later of—
    - (i) the day after the former member's service ends; or
    - (ii) the date of the claim for injury benefit for the qualifying injury; and
  - (b) ending with whichever is the later of the dates specified in paragraph (5).

### **Award of guaranteed income payment for a specified injury**

- 80.**—(1) This article applies where—
- (a) the tariff level for a specified injury is revised under article 76 to within tariff levels 1 to 11; and
  - (b) guaranteed income payment was not payable to a former member because no qualifying injury gave rise to an entitlement within tariff levels 1 to 11.
- (2) The Secretary of State is to award a guaranteed income payment in accordance with this article.
- (3) The income benefit is A–B where —
- (a) “A” is the total amount of guaranteed income payment which would have been payable if the annual amount—
    - (i) had been determined in accordance with article 24; and
    - (ii) had been paid for the period specified in paragraph (4).
  - (b) “B” is the adjustment of the annual amount of guaranteed income payment determined in accordance with article 39(3).
- (4) The period referred to in paragraph (3)(a)(ii) is the period—
- (a) commencing with whichever is the later of—
    - (i) the day after the former member's service ends; or
    - (ii) the date of the claim for injury benefit for the specified injury; and
  - (b) ending with whichever is the later of —
    - (i) the date of the former member's death; or
    - (ii) 8th May 2011.

### **Additional survivor's guaranteed income payment**

- 81.**—(1) This article applies where for any period before 9th May 2011 a surviving spouse, civil partner or surviving adult dependant was —
- (a) in receipt of survivor's guaranteed income payment; or
  - (b) entitled to survivor's guaranteed income payment, but survivor's guaranteed income payment was not payable due to the reduction of that payment under article 31(3) of the AFCS 2005.
- (2) The Secretary of State is to award an additional survivor's guaranteed income payment in accordance with this article.
- (3) The additional survivor's guaranteed income payment is—
- (a) where paragraph (1)(a) applies, (A–B)–C;

- (b) where paragraph (1)(b) applies, A–B.
- (4) In this article —
  - (a) “A” is the total amount of survivor’s guaranteed income payment which would have been payable (irrespective of any deduction for income tax) if the annual amount had been calculated in accordance with article 34, and—
    - (i) where paragraph (1)(a) applies, if that amount had been paid from the date payment commenced until the date specified in paragraph (5); and
    - (ii) where paragraph (1)(b) applies, if that amount had been paid for the period specified in paragraph (6).
  - (b) “B” is the adjustment of the total amount determined in accordance with article 39(4).
  - (c) “C” is the amount of survivor’s guaranteed income payment paid from the date payment commenced until the date specified in paragraph (5).
- (5) The date referred to in paragraphs (4)(a)(i) and (4)(c) is whichever is the earlier of —
  - (a) the date of death of the surviving spouse, civil partner or surviving adult dependant; or
  - (b) 8th May 2011.
- (6) The period referred to in paragraph (4)(a)(ii) is the period—
  - (a) commencing with whichever is the later of—
    - (i) the day after the date of death of the former member; or
    - (ii) the date of claim; and
  - (b) ending with whichever is the earlier of the dates in paragraph (5).

### **Additional child’s payment**

- 82.**—(1) This article applies where for any period before 9th May 2011 an eligible child was—
- (a) in receipt of child’s payment; or
  - (b) entitled to child’s payment but child’s payment was not payable due to the reduction of that payment under article 31(3) of the AFCS 2005.
- (2) The Secretary of State is to award additional child’s payment in accordance with this article.
- (3) The additional child’s payment is—
- (a) where paragraph (1)(a) applies (A–B)–C;
  - (b) where paragraph (1)(b) applies A–B.
- (4) In this article —
- (a) “A” is the total amount of child’s payment which would have been payable (irrespective of any deduction for income tax) if the annual amount had been calculated in accordance with article 36, and—
    - (i) where paragraph (1)(a) applies, if that amount had been paid from the date payment commenced until the date specified in paragraph (5); and
    - (ii) where paragraph (1)(b) applies, if that amount had been paid for the period specified in paragraph (6);
  - (b) “B” is the adjustment of the total amount determined in accordance with article 39(4).
  - (c) “C” is the amount of child’s payment paid from the date payment commenced until the date specified in paragraph (5).
- (5) The date referred to in paragraphs (4)(a)(i) and (4)(c) is whichever is the earlier of —
- (a) the date of death of the child; or

(b) 8th May 2011.

(6) The period referred to in paragraph (4)(a)(ii) is the period—

(a) commencing with whichever is the later of—

(i) the day after the date of death of the former member; or

(ii) the date of claim; and

(b) ending with whichever is the earlier of the dates in paragraph (5).

(7) Where an eligible child has been paid, or, in the case of paragraph (1)(b) was entitled to, child's payment for more than one period, an additional child's payment determined in accordance with this article is payable for each period.

### **Additional bereavement grant**

**83.**—(1) The Secretary of State is to award an additional bereavement grant (“an additional grant”) to a surviving spouse, civil partner or surviving adult dependant determined in accordance with this article.

(2) An additional grant of £10,000 is payable where—

(a) a member of the reserve forces who was not a member of a reserve forces pension scheme died in service on or after 6th April 2005 and before 3rd August 2010; or

(b) a former member died on or after 6th April 2005 and a claim for benefit in respect of the death of the member was made before 3rd August 2010.

(3) An additional grant of £20,000 is payable where a member—

(a) died in service on or after 6th April 2005 and before 3rd January 2011;

(b) was a member of the AFPS 1975; and

(c) had held acting rank for less than 1 year on the date of death.

(4) In the event that there is more than one surviving spouse entitled to the additional grant the amount payable to each surviving spouse is the amount specified in paragraph (2) or (3) divided by the number of surviving spouses so entitled at the death of the member or former member.

(5) In this article a “reserve forces pension scheme” means the FTRSPS 2010, the NRRSPS or the RFPS 2005.