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STATUTORY INSTRUMENTS

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**2011 No. 517**

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

**PART 2**

**THE COMPENSATION SCHEME**

**The Compensation Scheme**

7.—(1) The Compensation Scheme set out in this Order is to be known as the Armed Forces and Reserve Forces Compensation Scheme 2011.

(2) Subject to paragraph (3), the rules of the Scheme are to be construed without reference to any other scheme applicable to the armed forces.

(3) Paragraph (2) does not apply where this Scheme—

- (a) re-enacts the provisions of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005; or
- (b) makes express reference to any other scheme.

**Injury caused by service**

8.—(1) Subject to articles 11 and 12, benefit is payable to or in respect of a member or former member by reason of an injury which is caused (wholly or partly) by service where the cause of the injury occurred on or after 6th April 2005.

(2) Where injury is partly caused by service, benefit is only payable if service is the predominant cause of the injury.

**Injury made worse by service**

9.—(1) Subject to articles 11 and 12, benefit is payable to or in respect of a former member of the forces by reason of an injury made worse by service if the injury—

- (a) was sustained before the member entered service and was recorded in the report of the medical examination when the member entered service,
- (b) was sustained before the member entered service but without the member's knowledge and the injury was not found at that examination, or
- (c) arose during service but was not caused by service,

and in each case service on or after 6th April 2005 was the predominant cause of the worsening of the injury.

(2) Benefit is only payable under paragraph (1) if the injury has been worsened by service and remains worsened by service on—

- (i) the day on which the member's service ends; or

- (ii) the date of claim if that date is later.
- (3) Subject to paragraph (4), in the case of paragraph (1)(a) and (b), benefit is only payable if—
  - (a) the member or former member was downgraded within the period of 5 years starting on the day on which the member entered service;
  - (b) the downgrading lasted for a period of at least 6 months (except where the member was discharged on medical grounds within that period);
  - (c) the member or former member remains continually downgraded until service ends; and
  - (d) the worsening was the predominant cause of the downgrading.
- (4) In the case of paragraph (1)(a) or (1)(b), benefit is not payable if the injury is worsened—
  - (a) within 6 months of the day service commenced; or
  - (b) 5 years or more after that day.
- (5) In the case of paragraph (1)(c), benefit is only payable if the member—
  - (a) was downgraded within the period of 5 years starting on the day on which the member sustained the injury and remains continually downgraded until service ends; and
  - (b) the worsening was the predominant cause of the downgrading.

#### **Death caused by service**

- 10.**—(1) Subject to articles 11 and 12, benefit is payable in respect of a member or former member by reason of the death of the member or former member where—
- (a) the death was caused (wholly or partly) by service;
  - (b) the cause of the death occurred on or after 6th April 2005; and
  - (c) one of the conditions specified in paragraph (3) is satisfied.
- (2) Where the death is partly caused by service, benefit is only payable if service is the predominant cause of the death.
- (3) The conditions referred to in paragraph (1) are that the death—
- (a) occurred in service;
  - (b) occurred within the period of 7 years beginning with the day on which service ends and was caused by—
    - (i) an injury which was caused by service; or
    - (ii) the worsening by service of an injury which existed before or arose during service and which was not caused by service; or
  - (c) occurred more than 7 years after the day on which service ends and—
    - (i) the death is caused by a late onset illness which was caused by service; or
    - (ii) the predominant cause of the death is an injury for which an award of injury benefit has been made which gave rise to an entitlement within tariff levels 1 to 9 (inclusive).

#### **Injury and death – exclusions relating to travel, sport and slipping and tripping**

- 11.**—(1) Except where paragraph (2) or (9) apply, benefit is not payable to or in respect of a person by reason of an injury sustained by a member, the worsening of an injury, or death which is caused (wholly or partly) by travel from home to place of work or during travel back again.
- (2) This paragraph applies where the travel referred to in paragraph (1) is—
- (a) from the member’s home or place of work to the place where an activity referred to in paragraph (6) is happening or during travel back again; or

- (b) from home or place of work where a member is changing a place of work in the United Kingdom to a place of work outside the United Kingdom or during travel back again.
- (3) Except where paragraph (4) and (9) apply, benefit is not payable to or in respect of a person by reason of an injury sustained by a member, the worsening of an injury, or death which is caused (wholly or partly) by that member slipping, tripping or falling.
- (4) This paragraph applies where the member was participating in one of the following activities in pursuance of a service obligation—
  - (a) activity of a hazardous nature;
  - (b) activity in a hazardous environment; or
  - (c) training to improve or maintain the effectiveness of the forces.
- (5) Except where paragraph (6) or (9) apply, benefit is not payable to or in respect of a person by reason of an injury sustained by a member, the worsening of an injury, or death which is caused (wholly or partly) by participation in sporting activity as—
  - (a) a player;
  - (b) a referee;
  - (c) an organiser or a representative of a particular sport or sporting organisation.
- (6) This paragraph applies where—
  - (a) the Defence Council have approved the sport or sporting activity as being a sport which enhances the fitness, initiative and endurance of members of the forces, and prior to the event, the relevant Service has recognised the particular sporting event and the organisation and training for it; or
  - (b) the sporting activity is approved by the Defence Council which is undertaken for the purpose of meeting and maintaining the physical standards required of members of the forces.
- (7) For the purposes of paragraph (6)(a), the Defence Council may approve a single sport or sporting activity or a class of such activities and may approve such activities unconditionally or subject to any specified condition.
- (8) Except where paragraph (9) applies, benefit is not payable to or in respect of a person by reason of an injury sustained by a member, the worsening of an injury, or death which is caused (wholly or partly) by reason of—
  - (a) attendance at a social event unless attendance was required by an order; or
  - (b) free time or a social event associated with the activities specified in paragraph (5).
- (9) This paragraph applies where the injury, the worsening of the injury or death was caused (wholly or partly) by reason of—
  - (a) acts of terrorism or other warlike activities in each case directed towards the person as a member of the forces as such; or
  - (b) the member being called out to and travelling to an emergency.
- (10) In this article—
  - (a) “home” means accommodation, including service accommodation, in which a member has lived or is expected to live for 3 or more months, and a member may have more than one home;
  - (b) “place of work” means the place of work to which a member is assigned or temporarily attached;
  - (c) “sporting activity” includes an adventurous course or an adventurous expedition approved by the Defence Council.

### **Injury and death – other exclusions**

**12.** Benefit is not payable to or in respect of a person by reason of an injury sustained by a member, the worsening of an injury, or death which is caused (wholly or partly) by—

- (a) the use or effect of tobacco;
- (b) the consumption of alcohol;
- (c) the non-therapeutic use of drugs;
- (d) consensual sexual activity;
- (e) except where article 9 applies, events, experiences, exposures and activities occurring before the member or former member entered service;
- (f) an illness which is—
  - (i) caused by a single gene defect or is predominantly hereditary in origin;
  - (ii) a personality disorder;
  - (iii) an endogenous infection; or
  - (iv) an exogenous infection except where the infection is acquired in a non-temperate region and the person infected has been exposed to the infection in the course of service or where, in a temperate region, there has been an outbreak of the infection in service accommodation or a workplace; or
- (g) a self-inflicted injury whether or not causing death except where the self-inflicting of injury is a result of a mental illness caused by service.

### **Modifications of provisions for members or former members of the reserve forces**

**13.** Schedule 2 has effect for the modification of certain provisions of this Order in relation to the reserve forces.