

## STATUTORY INSTRUMENTS

# 2011 No. 517

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

### [<sup>F1</sup>PART 5A

#### REMEDIABLE SERVICE

##### Textual Amendments

- F1** Pt. 5A inserted (1.10.2023) by [The Armed Forces Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/998\)](#), regs. 1(b), 43

##### Application and interpretation

**42A.**—(1) This Part applies where—

- (a) as a result of an immediate choice decision or a deferred choice decision, the amount of the pension or payment payable in respect of a remedy member’s (“M”) remediable service changes, and
- (b) article 39(5) applies in relation to an award of guaranteed income payment, survivor’s guaranteed income payment or child’s payment.

(2) In this Part—

- (a) an “immediate choice decision” means an irrevocable decision in relation to M’s remediable service under—
  - (i) paragraph 8 of Schedule 4 to the AFPS 1975;
  - (ii) paragraph 9 of Schedule 3 to the AFPS 2005;
  - (iii) paragraph 7 of the Schedule to the EDP Order 2005;
- (b) a “deferred choice decision” means an irrevocable decision in relation to M’s remediable service under—
  - (i) paragraph 12 of Schedule 4 to the AFPS 1975;
  - (ii) paragraph 13 of Schedule 3 to the AFPS 2005;
  - (iii) paragraph 10 of the Schedule to the EDP Order 2005.
- (c) A reference to a pension or payment has the same meaning as in article 39(1).

##### Adjustment and Reconciliation

**42B.**—(1) The Secretary of State must calculate the amount of guaranteed income payment, survivor’s guaranteed income payment or child’s payment payable since the award came into payment (the “remediable amount”), taking into account—

- (a) the effect of the immediate choice decision or the deferred choice decision on the amount of the pension or payment payable in respect of M's remediable service, and
  - (b) the requirement in article 39 to adjust an award of guaranteed income payment, survivor's guaranteed income payment or child's payment.
- (2) Where the remediable amount is less than the amount actually paid, the beneficiary must pay an amount equal to the difference to the Secretary of State.
- (3) Where the remediable amount is greater than the amount actually paid, the Secretary of State must pay an amount equal to the difference to the beneficiary.

### **Recovery of Overpayments**

- 42C.** Where an amount is owed to the Secretary of State under article 42B(2), that amount—
- (a) is treated as a relevant amount for the purposes of section 26(1)(b) of PSPJOA 2022, and
  - (b) must, in the first instance, be offset against any arrears of pension or payment that may be owed to the relevant beneficiary under the provisions of Chapter 1 of Part 1 of PSPJOA 2022.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, PART 5A.