

## SCHEDULE 2

Article 13

### MODIFICATIONS FOR RESERVE FORCES

#### **Modification of article 2 (interpretation)**

1. The following definitions are inserted in article 2(1) in the appropriate alphabetical order—  
“relevant service” has the same meaning as in regulations made under sections 83 and 84 of the Reserve Forces Act 1996 <sup>M1</sup>;  
“reservists' award” means an award payable to a member of a reserve force by virtue of regulations made under sections 83 and 84 or the Reserve Forces Act 1996 in respect of financial loss suffered by the member during relevant service, but does not include—
  - (a) any award payable to a self-employed member of a reserve force in respect of the member's status as an employer;
  - (b) any amount payable to a reservist as a result of expenses incurred by the member during a period of relevant service; or
  - (c) any payments made into the member's civilian occupational pension scheme.

#### **Marginal Citations**

**M1** 1996 c. 14, S.I. 2005/859; 2010/2643.

#### **Modification of article 4 (definition of “salary”)**

- 2.—(1) For paragraph (1) of article 4 substitute the following paragraph—  
“(1) Subject to paragraph (3), in this Order “salary”, in relation to a member of the reserve forces in respect of whom benefit is payable, means—
  - (a) the basic pay payable at the rate of a regular member of the forces who is of equivalent substantive rank, or acting rank, as the case may be, and seniority;
  - (b) an amount which represents any reservist's award to which the member is entitled on the day the member leaves the service by virtue of being in relevant service on that day;
  - (c) where the member is not in relevant service on the day the member leaves service, an amount which represents any reservist's award to which there would have been an entitlement had the member been in relevant service on that day; and
  - (d) any other amount if and to the extent that the Defence Council have determined that it is to be treated as salary.”
- (2) In article 4(2) for “(1)(b)” substitute “ (1)(d) ”.

#### **Modification of article 11 (injury and death – exclusions relating to travel, sport and slipping or tripping)**

3. In article 11(10)(b) after “temporarily attached” insert “ for the purpose of service in the reserve forces. ”.

#### **Modification of article 35 (amount of bereavement grant)**

4. Where death is caused wholly or partly by service in the reserve forces, for article 35 substitute the following article—

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“35.—(1) Subject to the following provisions of this article the bereavement grant payable in respect of the death of a person who was a member of the reserve forces on the day of death is £25,000.

(2) Subject to paragraph (3), where the person was not a member of a reserve forces pension scheme the amount of the bereavement grant is £37,500.

(3) Where the person was an active member of the RFPS 2005 [<sup>F1</sup>or the AFPS 2015] the amount of the bereavement grant is the difference between the salary of the member of the reserve forces on the date of death and the amount specified in paragraph [<sup>F2</sup>(1)].

(4) Where a former member of the reserve forces dies, the bereavement grant is £37,500.

(5) In the event that there is more than one surviving spouse [<sup>F3</sup>or eligible child] entitled to the bereavement grant, the amount to which each such surviving spouse [<sup>F3</sup>or eligible child] is entitled is to be the amount payable, in accordance with the provisions of this article, divided by the number of spouses [<sup>F4</sup>or eligible children] so entitled at the date of death of the member or former member of the reserve forces.

[<sup>F5</sup>(5A) In the case of a bereavement grant payable to an eligible child paragraph (5) applies only where at the time the grant is paid—

- (a) a claim for child's payment has been made by or on behalf of an eligible child; or
- (b) the Secretary of State is aware that a claim is to be made on behalf of a child born after the death of a member or former member.]

(6) In this article—

- (a) “active member” in relation to a reserve forces pension scheme has the meaning given in section 124(1) of the Pensions Act 1995 <sup>M2</sup>;
- (b) “reserve forces pension scheme” means the FTRSPS 2010, the NRPSPS or the RFPS 2005.”.

#### Textual Amendments

- F1** Words in Sch. 2 para. 4 inserted (12.4.2021) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2021 \(S.I. 2021/285\)](#), arts. 1, **5** (with art. 7)
- F2** Word in Sch. 2 para. 4 substituted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **8(a)** (with art. 10)
- F3** Words in Sch. 2 para. 4 inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), **arts. 1(1)**, {8(b)(i)} (with art. 10)
- F4** Words in Sch. 2 para. 4 inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **8(b)(ii)** (with art. 10)
- F5** Words in Sch. 2 para. 4 inserted (17.11.2011) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2011 \(S.I. 2011/2552\)](#), arts. 1(1), **8(c)** (with art. 10)

#### Marginal Citations

- M2** 1995 c. 26.

### Modification of article 39 (adjustment of guaranteed income payment, survivor's guaranteed income payment and child's payment to take account of other amounts)

5. For article 39 substitute the following article—

“39.—(1) This article applies where a person is entitled to guaranteed income payment, survivor's guaranteed income payment or child's payment for any period during which the person is also entitled to—

- (a) a pension under the AFPS 1975, the AFPS 2005 [<sup>F6</sup>, AFPS 2015] or the Gurkha Pension Scheme (“a pension”);
- (b) a payment under the Armed Forces Early Departure Payments Scheme Order 2005 [<sup>F7</sup> or the Armed Forces Early Departure Payments Scheme Regulations 2014] (“a payment”) <sup>M3</sup>;
- (c) a pension under the FTRSPS 2010, the NRPSPS or the RFPS 2005 (“a reserve forces pension”); or
- (d) benefit under an occupational pension scheme or a personal pension scheme in respect of the same injury or death for which guaranteed income payment, survivor's guaranteed income payment or child's payment is paid (“a civilian pension”).

(2) Guaranteed income payment, survivor's guaranteed income payment or child's payment, as the case may be, is adjusted in accordance with paragraphs (3) or (5).

(3) Where a person is entitled to a guaranteed income payment for any period during which the person is also entitled to a pension or payment—

- (a) specified in paragraph (4)(a), the amount of guaranteed income payment is reduced by 75% of that pension or payment;
- (b) specified in paragraph (4)(b), the amount of guaranteed income payment is reduced by the full amount of that pension.

(4) The pensions or payment referred to—

- (a) in paragraph (3)(a) are—
  - (i) a pension or a reserve forces pension which is not an ill-health pension paid for the same injury for which guaranteed income payment is paid;
  - (ii) a payment; or
  - (iii) a civilian pension;
- (b) in paragraph (3)(b), are a pension or a reserve forces pension which is an ill-health pension [<sup>F8</sup> or a payment] paid for the same injury for which the guaranteed income payment is paid.

(5) Where a person is entitled to a survivor's guaranteed income payment or a child's payment for any period during which the person is also entitled to a pension, specified in paragraph (1)(a), (c) or (d), then the amount of the survivor's guaranteed income payment or child's payment is reduced by 75 % of the amount of that pension.

(6) Where an amount of a pension or payment specified in paragraph (1) increases or decreases (including commencement or cessation), after an award of benefit is made, the Secretary of State is to make such adjustments to the amount of guaranteed income payment, survivor's guaranteed income payment or child's payment as are required to satisfy the rules for the adjustment of benefit specified in this article.

(7) In this article—

- (a) any reference to a pension, payment, reserve forces pension, civilian pension or ill-health pension means the gross amount, irrespective of any commutation;
- (b) “occupational pension scheme” has the meaning given in section 1 of the Pension Schemes Act 1993 <sup>M4</sup>;

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- (c) “personal pension scheme” means a personal pension scheme within the meaning of section 1 of the Pension Schemes Act 1993 established within section 154(1) of the Finance Act 2004 <sup>M5</sup>”.

#### Textual Amendments

- F6** Words in Sch. 2 para. 5 inserted (6.4.2015) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2015 \(S.I. 2015/413\)](#), arts. 1(1), **8**
- F7** Words in Sch. 2 para. 5 inserted (9.4.2018) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2018 \(S.I. 2018/293\)](#), arts. 1, **9(a)**
- F8** Words in Sch. 2 para. 5 inserted (9.4.2018) by [The Armed Forces and Reserve Forces \(Compensation Scheme\) \(Amendment\) Order 2018 \(S.I. 2018/293\)](#), arts. 1, **9(b)**

#### Marginal Citations

- M3** [S.I. 2005/437](#), as amended by [S.I. 2006/717](#), [2007/2608](#), [2008/229](#) and [2009/544](#).
- M4** [1993 c. 48](#) as amended by the [Pensions Act 2004 \(c. 35\)](#), [section 239\(1\)](#) and (3).
- M5** [2004 c. 12](#), [section 154\(1\)](#) as amended by the [Finance Act 2007 \(c. 11\)](#), [section 70](#) and Schedule 20, paragraph 1, 2(1) and (2).

[<sup>F9</sup>6.—(1) This paragraph 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) the substituted article 39(6), contained in paragraph 5, applies in relation to an award of guaranteed income payment, survivor’s guaranteed income payment or child’s payment.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Where an amount is owed to the Secretary of State under sub-paragraph (3), that amount—
- (a) is treated as a relevant amount within the meaning 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.
- (6) In this paragraph—
- (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 RFPS 2005;
    - (ii) paragraph 9 of Schedule 3 to the FTRS 1997;

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- (iii) paragraph 9 of Schedule 4 to the NRPS 2011;
- (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 RFPS 2005;
  - (ii) paragraph 13 of Schedule 3 to the FTRS 1997;
  - (iii) paragraph 10 of Schedule 4 to the NRPS 2011;
- (c) A reference to a pension or payment has the same meaning as in the modified article 39(1).]

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**Textual Amendments**

**F9** Sch. 2 para. 6 inserted (1.10.2023) by [The Armed Forces Pensions \(Remediable Service\) Regulations 2023 \(S.I. 2023/998\)](#), regs. 1(b), **44(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, SCHEDULE 2.