

SCHEDULE 2

MODIFICATIONS FOR RESERVE FORCES

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 [^{F1}, AFPS 2015] or the Gurkha Pension Scheme (“a pension”);
- (b) a payment under the Armed Forces Early Departure Payments Scheme Order 2005 [^{F2} or the Armed Forces Early Departure Payments Scheme Regulations 2014] (“a payment”) ^{M1};
- (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 [^{F3} 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,

Changes to legislation: There are currently no known outstanding effects for the *The Armed Forces and Reserve Forces (Compensation Scheme) Order 2011, Paragraph 5*. (See end of Document for details)

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 ^{M2};
- (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 ^{M3}.”.

Textual Amendments

- F1** 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**
- F2** 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)**
- F3** 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

- M1** [S.I. 2005/437](#), as amended by [S.I. 2006/717](#), [2007/2608](#), [2008/229](#) and [2009/544](#).
- M2** [1993 c. 48](#) as amended by the [Pensions Act 2004 \(c. 35\)](#), [section 239\(1\)](#) and (3).
- M3** [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).

Changes to legislation:

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