

SCHEDULES

SCHEDULE 2

Regulation 13

Schedule to be inserted in the Armed Forces Pension Scheme 2005

“SCHEDULE 2

Transitional Provision

PART 1

Interpretation

Interpretation

1. In this Schedule—

“AFPS 2005” means the Armed Forces Pension Scheme 2005;

“AFPS 2015” means the scheme established by the AFP Regulations 2014;

“AFP Regulations 2014” means the Armed Forces Pension Regulations 2014;

“continuity of service” in relation to a transition member has the meaning given in paragraph 2;

“club transfer” means a transfer to or from the AFPS 2005 under the club transfer arrangements;

“club transfer arrangements” means arrangements approved by the manager of the AFPS 2015 as providing reciprocal arrangements between that scheme, any connected scheme and other registered occupational pension schemes for making and receiving club transfer value payments;

“club transfer value” in relation to an amount of accrued earned pension under the AFPS 2015, the AFPS 2005 or under another club scheme, means an amount calculated by the manager of the AFPS 2015—

(a) in accordance with the club transfer arrangements; and

(b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

“connected scheme” means another statutory pension scheme that is connected with the AFPS 2005 within the meaning of section 4(6) of the 2013 Act;

“full protection member” has the meaning given in Part 2;

“pensionable public service” means pensionable service under an existing scheme⁽¹⁾ or a public body pension scheme⁽²⁾;

“protection period” has the meaning given in paragraph 10;

“scheme employment” has the meaning given in regulation 13 of the AFP Regulations 2014;

(1) See section 18(2) of the 2013 Act for the meaning of “existing scheme”.

(2) See section 30(5) of the 2013 Act for the meaning of “public body pension scheme”.

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“transition date” in relation to a transition member means 1st April 2015 or, if later, the day a person ceased to be a full protection member of the AFPS 2005;

“transition member” means a person—

- (a) who is a member of AFPS 2005 by virtue of their pensionable service under the AFPS 2005 before the transition date; and
- (b) who is also a member of the AFPS 2015 by virtue of their pensionable service under that scheme;

“the 2013 Act” means the Public Service Pensions Act 2013⁽³⁾;

“transfer payment” means payment of a transfer value; and

“transfer value” has the meaning given in Part 8 of the AFP Regulations 2014.

Meaning of “continuity of service”

2.—(1) For the purposes of this Schedule, a transition member (T) has continuity of service between pensionable service in the AFPS 2005 and pensionable service in the AFPS 2015 (“continuity of service”) unless T has a gap in service exceeding 5 years which—

- (a) begins on or before T’s transition date; and
- (b) ends on the day on which T becomes an active member of the AFPS 2015.

(2) For the purpose of sub-paragraph (1), during the period starting with T’s transition date, T is not on a gap in service while T is in service which is pensionable under an existing scheme, a public body pension scheme or a scheme under section 1 of the 2013 Act.

Commencement of active membership of the AFPS 2015 for a transition member

3.—(1) A person who is a transition member on entering pensionable service under the AFPS 2015 who does not have continuity of service becomes an active member of the AFPS 2015 on the day the person begins pensionable service in a scheme employment.

(2) A person who is a transition member on entering pensionable service under the AFPS 2015 who has continuity of service (T) becomes an active member of the AFPS 2015—

- (a) if T is in pensionable service in a scheme employment on their transition date, on that date; or
- (b) if T is not in pensionable service in a scheme employment on their transition date, on the date T enters pensionable service in a scheme employment after that date.

PART 2

Exception to section 18(1) of the 2013 Act:
full protection members of the AFPS 2005

Meaning of “conditional full protection member of the AFPS 2005”

4.—(1) For the purpose of this Part a person (P) is a conditional full protection member of the AFPS 2005 on a given date if on that date—

- (a) P is in service in respect of which P is eligible to be a member of the AFPS 2005; or
- (b) P is on a gap in service not exceeding 5 years.

(3) 2013 c. 25.

(2) For the purpose of sub-paragraph (1), after 31st March 2015 P is not on a gap in service while P is in pensionable public service.

Meaning of “conditional full protection member of an existing scheme”

5.—(1) For the purpose of this Part a person (P) is a conditional full protection member of an existing scheme(4) on a given date if on that date—

- (a) P is in pensionable service under that scheme;
- (b) P is in service in respect of which P is eligible to be a member of an armed forces or reserve forces pension scheme; or
- (c) P is on a gap in service not exceeding 5 years.

(2) For the purpose of sub-paragraph (1), after the closing date for the existing scheme, P is not on a gap in service while P is in pensionable public service.

(3) In sub-paragraph (2), the closing date for the existing scheme means the date referred to in section 18(4)(a) or (b) of the 2013 Act as applicable.

Meaning of “conditional full protection member of a public body pension scheme”

6.—(1) For the purpose of this Part a person (P) is a conditional full protection member of a public body pension scheme(5) on a given date if on that date —

- (a) P is in pensionable service under that scheme; or
- (b) P is on a gap in service not exceeding 5 years.

(2) For the purpose of sub-paragraph (1), after the closing date for the public body pension scheme, P is not on a gap in service while P is in pensionable public service.

(3) In sub-paragraph (2), the closing date for the public body pension scheme means the date determined under section 31(2) of the 2013 Act by the public authority responsible for that scheme.

Full protection members of the AFPS 2005

7.—(1) A person (P) to whom either of paragraphs 8 or 9 applies is a full protection member of the AFPS 2005.

(2) P ceases to be a full protection member of the AFPS 2005 when P ceases to be in pensionable service under the AFPS 2005 unless sub-paragraph (3) or (4) applies.

(3) This sub-paragraph applies if—

- (a) P returns to service which is pensionable under the AFPS 2005 from service which is pensionable under an existing scheme or a public body pension scheme; and
- (b) P would have been a fully protected member of that existing scheme or public body pension scheme had P re-entered service which is pensionable under that scheme on the date P returns to service which is pensionable under the AFPS 2005.

(4) This sub-paragraph applies if—

- (a) P returns to service which is pensionable under the AFPS 2005 otherwise than from service which is pensionable under an existing scheme or a public body pension scheme; and
- (b) P returns to service which is pensionable under the AFPS 2005 after a gap in service not exceeding 5 years.

(5) In this paragraph—

(4) See section 18(2) of the 2013 Act for the meaning of “existing scheme”.

(5) See section 30(5) of the 2013 Act for the meaning of “public body pension scheme”.

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“exception means”—

- (a) in relation to an existing scheme, an exception under section 18(5) of the 2013 Act provided for in the scheme regulations for that scheme; and
- (b) in relation to a public body pension scheme, an exception under section 31(4) of the 2013 Act provided for by the public authority responsible for that scheme; and

“fully protected member” of an existing scheme or a public body pension scheme means a person in respect of whom an exception applies, which exception is one to which section 18(6) of the 2013 Act (or that section as applied by section 31(4) applies) for the purposes of that scheme.

(6) For the purpose of paragraph (4)(b), after 31st March 2015 P is not on a gap in service while P is in service which is pensionable under an existing scheme or a public body pension scheme.

Members of the AFPS 2005 on 31st March 2015

8.—(1) This paragraph applies if sub-paragraph (2) or sub-paragraph (3) applies—

(2) This sub-paragraph applies if—

- (a) P was a conditional full protection member of the AFPS 2005 on 31st March 2015 and on 31st March 2012; and
- (b) unless P dies, P would reach age 55 on or before 1st April 2022.

(3) This sub-paragraph applies if—

- (a) P was a conditional full protection member of an existing scheme or a public body pension scheme on 31st March 2012;
- (b) P was a conditional full protection member of the AFPS 05 on 31st March 2015; and
- (c) unless P dies, P would reach age 55 on or before 1st April 2022.

Members of an existing scheme or a public body pension scheme

9.—(1) This paragraph applies if—

- (a) P was a conditional full protection member of a public body pension scheme or an existing scheme other than the AFPS 2005 on the closing date for that scheme;
- (b) P was a conditional full protection member of a public body pension scheme or an existing scheme (“P’s transitional scheme”) on 31st March 2012;
- (c) P begins service which is pensionable under the AFPS 2005 not more than 5 years after leaving pensionable service under an existing scheme or a public body pension scheme;
- (d) P would have been—
 - (i) a full protection member of the existing scheme referred to in paragraph (c) had P re-entered pensionable service under that scheme on the date P begins service which is pensionable under the AFPS 2005; or
 - (ii) a fully protected member of the public body pension scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the AFPS 2005; and
- (e) P would, unless P dies, reach age 55 and normal pension age under P’s transitional scheme on or before 1st April 2022.

(2) For the purposes of this paragraph—

- (a) the closing date for an existing scheme is the date referred to in section 18(4)(a) or (b) of the 2013 Act, as applicable;

- (b) the closing date for a public body pension scheme is the date determined under section 31(2) of the 2013 Act by the public authority responsible for that scheme;
- (c) “exception”, in relation to a public body pension scheme, means an exception under section 31(4) of the 2013 Act provided for by the public authority responsible for that scheme; and
- (d) “fully protected member” of a public body pension scheme means a person in respect of whom an exception applies, which exception is one to which section 18(6) of the 2013 Act, as applied by section 31(4), applies for the purposes of that scheme.

Exception for full protection member during protection period

10.—(1) The protection period for a person (P) who is a full protection member of the AFPS 2005 is the period which—

- (a) begins on 1st April 2015; and
 - (b) ends when P ceases to be a full protection member of the AFPS 2005.
- (2) During the protection period—
- (a) P is eligible to be in pensionable service under the AFPS 2005;
 - (b) section 18(1) of the 2013 Act does not apply in respect of that pensionable service; and
 - (c) benefits are to be provided under the AFPS 2005 to or in respect of P in relation to that pensionable service.

Full protection member not eligible to join the AFPS 2015

11. While a person (P) is a full protection member of the AFPS 2005, P is not eligible to be an active member of the AFPS 2015.

PART 3

Payment of ill-health benefits to transition members with continuity of service

This Part not to apply to previous periods of service

12. If a transition member has a period of earlier service within the meaning of rule G.1 (application of Part G) of the AFPS 2005, this Part does not apply to that earlier service except where the member exercises an option under rule G.3 (option to aggregate earlier membership: previous members of the Scheme) or rule G.4 (option to aggregate earlier membership: previous members of the AFPS 1975) to aggregate their earlier service with their current service.

Transition members not to receive early ill-health benefits except in accordance with this Part

13. A transition member with continuity of service is not to receive early benefits on ill-health retirement except as provided by this Part.

Active transition member with permanent serious ill-health who leaves service before reaching age 55

14.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

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- (a) meets the criteria for an ill-health pension (active member with permanent serious ill-health) under regulation 51 of the AFP Regulations 2014; and
 - (b) leaves service before reaching age 55 and has not reached age 55.
- (2) If this paragraph applies—
- (a) early benefits on permanent serious ill-health are not payable under the AFPS 2005; and
 - (b) ill-health benefits (active member with permanent serious ill-health) are payable under the AFPS 2015 in accordance with this paragraph.
- (3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T’s transition date and benefits payable in respect of service from T’s transition date.
- (4) The benefits payable in respect of service before T’s transition date are calculated in accordance with rule D.5 (early payment of benefits: active members with permanent serious ill-health) of the AFPS 2005 but when calculating the rate of annual pension, the following is substituted for rule D.5(5)—
- (a) “(5) For the purposes of paragraph (4), N is equal to the sum of—
 - (i) the member’s years of reckonable service in the AFPS 2005; and
 - (ii) X multiplied by Y.
 - (b) In this paragraph, X is equal to the member’s years of reckonable service in the AFPS 2005 divided by the total of the member’s years of reckonable service in the AFPS 2005 and pensionable service in the AFPS 2015.
 - (c) In this paragraph, Y is the greater of—
 - (i) half of the further reckonable service which the member would have been able to count under the AFPS 2005 if the member had remained an accruing member of that scheme from the date of the ill-health retirement until age 55; and
 - (ii) 20, minus the total of the member’s years of reckonable service in the AFPS 2005 and years of pensionable service in the AFPS 2015.”.
- (5) The benefits payable in respect of service from T’s transition date are calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension, the following is substituted for regulation 54(2)(b) of the AFP Regulations 2014—
- “(b) B is the sum of—
 - (i) the member’s pensionable service under the Scheme; and
 - (ii) X multiplied by N.
 - (c) In this paragraph, X is equal to the member’s years of pensionable service in the AFPS 2015 divided by the total of the member’s years of reckonable service in the AFPS 2005 and pensionable service in the AFPS 2015.
 - (d) In this paragraph, N is the greater of—
 - (i) half of the further pensionable service which the member would have been able to count under the AFPS 2015 if the member had remained an accruing member of that scheme from the date of the ill-health retirement until age 60; and
 - (ii) the lesser of—
 - (aa) 25 minus the total of the member’s years of reckonable service in the AFPS 2005 and pensionable service in the AFPS 2015; and
 - (bb) the further pensionable service which the member would have been able to count under the AFPS 2015 if the member had remained an accruing member of that scheme from the date of the ill-health retirement until age 60.”.

Transition member with permanent serious ill-health who reaches age 55

15.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving an ill-health pension (active members with permanent serious ill-health) in accordance with paragraph 14.

(2) On the day T reaches age 55—

- (a) of the benefits that were payable under paragraph 14(2)(b), the AFPS 2005 basic earned benefits cease to be payable under paragraph 14(2)(b) and instead become payable under the AFPS 2005; and
- (b) of the benefits that were payable under paragraph 14(2)(b), the AFPS 2005 permanent serious ill-health enhancement benefits continue to be payable under paragraph 14(2)(b).

(3) For the purpose of this paragraph, subject to sub-paragraphs (4) and (5)—

- (a) the “AFPS 2005 basic earned benefits” means the amount arrived at by multiplying one seventieth of T’s final pensionable earnings by T’s reckonable service in the AFPS 2005 expressed as number of years; and
- (b) the “AFPS 2005 permanent serious ill-health enhancement benefits” means the benefits payable at paragraph 14(4) in respect of service before T’s transition date minus the AFPS 2005 basic earned benefits.

(4) If T—

- (a) has had their benefits reduced in accordance with rule D.12 (reduction in pension debit member’s benefits) of the AFPS 2005, that reduction is to be applied to the amount at paragraph (3)(a);
- (b) has exercised an option under rule D.10 (option to exchange lump sum for pension) of the AFPS 2005, the amount at paragraph (3)(a) is to be increased by the amount of the additional pension resulting from that option;
- (c) has had a deduction made to their benefit in accordance with rule J.13 (deduction of special lump sum death benefits charge) of the AFPS 2005, that deduction is to be applied to the amount at paragraph (3)(a);
- (d) has had their benefits adjusted in accordance with section 237E (consequential benefit adjustment to be reasonable etc) of the Finance Act 2004(6), that adjustment is to be applied to the amount at paragraph (3)(a).

(5) If the amount at paragraph 3(a), after having been adjusted where applicable under sub-paragraph (4), is a negative amount, the “AFPS 2005 basic earned benefits” are zero, and the “AFPS 2005 permanent serious ill-health enhancement benefits” means the benefits payable at paragraph 14(4).

Active transition member who leaves service with permanent serious ill-health on or after reaching age 55 but before age 60

16.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (active member with permanent serious ill-health) under regulation 51 of the AFP Regulations 2014; and
- (b) leaves service on or after reaching age 55, but before reaching age 60.

(2) Pension benefits are payable under rule D.1 (retirement after reaching pension age) of the AFPS 2005 in respect of service before T’s transition date.

(6) 2004 c. 12. Section 237E was amended by the Finance Act 2011, section 66, Schedule 17, Part 1.

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(3) Early benefits on permanent serious ill-health are payable under regulation 54 of the AFP Regulations 2014 in respect of service from T's transition date but when calculating the rate of annual pension, regulation 54(2)(b) is amended as specified in paragraph 14(5).

Active transition member with significant impairment of capacity for gainful employment who leaves service before reaching age 55

17.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (active members with significant impairment of capacity for gainful employment) under regulation 52 of the AFP Regulations 2014; and
- (b) has not reached age 55.

(2) If this paragraph applies—

- (a) early benefits on significant incapacity for gainful employment are not payable under the AFPS 2005; and
- (b) ill-health benefits (active members with significant impairment of capacity for gainful employment) are payable under the AFPS 2015 in accordance with this paragraph.

(3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T's transition date and benefits payable in respect of service from T's transition date.

(4) The benefits payable in respect of service before T's transition date are calculated in accordance with rule D.6 (early payment of benefits: active members with significant incapacity for gainful employment) of the AFPS 2005 but when calculating the rate of annual pension, the following is substituted for rule D.6(3)—

- (a) “(3) For the purposes of paragraph (2), N is equal to the sum of—
 - (i) the member's years of reckonable service in the AFPS 2005; and
 - (ii) X multiplied by Y; and
- (b) In this paragraph, X is equal to the member's years of reckonable service in the AFPS 2005 divided by the total of the member's years of reckonable service in the AFPS 2005 and pensionable service in the AFPS 2015.
- (c) In this paragraph, Y is one third of the further reckonable service which the member would have been able to count under the AFPS 2005 if the member had remained an accruing member of that scheme from the date of the ill-health retirement until age 55.”

(5) The benefits payable in respect of service from T's transition date are calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension the following is substituted for regulation 55(2)(b)—

- “(b) B is the sum of—
 - (i) the member's pensionable service under the AFPS 2015 as calculated according to regulation 55(2)(a)(i) and (ii); and
 - (ii) X multiplied by N.
- (c) In this paragraph, X is equal to the member's years of pensionable service in the AFPS 2015 divided by the total of the member's years of reckonable service in the AFPS 2005 and pensionable service in the AFPS 2015.
- (d) In this paragraph, N is one third of the further pensionable service which the member would have been able to count under the AFPS 2015 if the member had remained an accruing member of that scheme from the date of the ill-health retirement until age 60.”

Transition member with significant impairment of capacity for gainful employment who reaches age 55

18.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving an ill-health pension (active members with significant impairment of capacity for gainful employment) in accordance with paragraph 17.

(2) On the day T reaches age 55—

- (a) of the benefits that were payable under paragraph 17(2)(b), the AFPS 2005 basic earned benefits cease to be payable under paragraph 17(2)(b) and instead become payable under the AFPS 2005; and
- (b) of the benefits that were payable under paragraph 17(2)(b), the AFPS 2005 significant incapacity ill-health enhancement benefits continue to be payable under paragraph 17(2)(b).

(3) For the purpose of this paragraph, subject to sub-paragraphs (4) and (5)—

- (a) the “AFPS 2005 basic earned benefits” means the amount arrived at by multiplying one seventieth of T’s final pensionable earnings by T’s reckonable service in the AFPS 2005 expressed as number of years; and
- (b) the “AFPS 2005 significant incapacity ill-health enhancement benefits” means the benefits payable at paragraph 17(4) in respect of service before T’s transition date minus the AFPS 2005 basic earned benefits.

(4) If T—

- (a) has had their benefits reduced in accordance with rule D.12 (reduction in pension debit member’s benefits) of the AFPS 2005, that reduction is to be applied to the amount at paragraph (3)(a);
- (b) has exercised an option under rule D.10 (option to exchange lump sum for pension) of the AFPS 2005, the amount at paragraph (3)(a) is to be increased by the amount of the additional pension resulting from that option;
- (c) has had a deduction made to their benefit in accordance with rule J.13 (deduction of special lump sum death benefits charge) of the AFPS 2005, that deduction is to be applied to the amount at paragraph (3)(a);
- (d) has had their benefits adjusted in accordance with section 237E (consequential benefit adjustment to be reasonable etc) of the Finance Act 2004, that adjustment is to be applied to the amount at paragraph (3)(a).

(5) If the amount at paragraph 3(a), after having been adjusted where applicable under sub-paragraph (4), is a negative amount, the “AFPS 2005 basic earned benefits” are zero, and the “AFPS 2005 permanent serious ill-health enhancement benefits” means the benefits payable at paragraph 17(4).

Active transition member who leaves service with significant incapacity for gainful employment on or after reaching age 55 but before reaching age 60

19.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (active members with significant impairment of capacity for gainful employment) under regulation 52 of the AFP Regulations 2014; and
- (b) leaves service on or after reaching age 55 but before reaching age 60.

(2) Pension benefits are payable under rule D.1 (retirement after reaching pension age) of the AFPS 2005 in respect of service before T’s transition date.

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(3) Early benefits on significant impairment of capacity for gainful employment are payable under regulation 55 of the AFP Regulations 2014 in respect of service from T's transition date but when calculating the rate of annual pension, regulation 55(2)(b) is amended as specified in paragraph 17(5).

Deferred transition member with permanent serious ill-health who leaves service before reaching age 55

20.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who—

- (a) meets the criteria for an ill-health pension (deferred member with permanent serious ill-health) under regulation 56 of the AFP Regulations 2014; and
- (b) leaves service before reaching age 55 and has not reached age 55.

(2) If this paragraph applies—

- (a) early benefits on permanent serious ill-health are not payable under the AFPS 2005; and
- (b) ill-health benefits (deferred member with permanent serious ill-health) are payable under the AFPS 2015 in accordance with this paragraph.

(3) The ill-health benefits payable under paragraph (2)(b) comprise benefits payable in respect of service before T's transition date and benefits payable in respect of service from T's transition date.

(4) The benefits payable in respect of service before T's transition date are calculated in accordance with rule D.7 (early payment of benefits: deferred members with permanent serious ill-health) of the AFPS 2005.

(5) The benefits payable in respect of service from T's transition date are calculated in accordance with regulation 56 of the AFP Regulations 2014.

Deferred transition member with permanent serious ill-health who reaches age 55

21.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving ill-health benefits (deferred members with permanent serious ill-health) in accordance with paragraph 20.

(2) On the day the member reaches age 55, the benefits that were payable under paragraph 20(2)(b) cease to be payable under paragraph 20(2)(b) and instead become payable under the AFPS 2005.

Deferred transition member who meets criteria for permanent serious ill-health on or after reaching age 55

22.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is a deferred member of the AFPS 2015, who is age 55 or over, and who meets the criteria for an ill-health pension (deferred member with permanent serious ill-health) in regulation 56 of the AFP Regulations 2014.

(2) Where the member is a deferred member of the AFPS 2005—

- (a) a pension is payable under rule D.7 of the AFPS 2005 in respect of service before T's transition date; and
- (b) a pension is payable under regulation 56 of the AFP Regulations 2014 in respect of service from T's transition date.

(3) Where the member is a pensioner member of the AFPS 2005 in receipt of a pension under AFPS 2005—

- (a) a pension continues to be payable under the AFPS 2005 in respect of service before T's transition date; and

- (b) a pension is payable under regulation 56 of the AFP Regulations 2014 in respect of service from T's transition date.

Review of ill-health awards at request of member or Secretary of State

23. Regulations 57 and 58 of the AFP Regulations 2014 apply to a transition member with continuity of service who is entitled under this Part to an ill-health award in respect of their service before 1st April 2015.

PART 4

Payment of death benefits in respect of transition members with continuity of service

This Part not to apply to previous periods of service

24. If a transition member has a period of earlier service within the meaning of rule G.1 (application of Part G) of the AFPS 2005, this Part does not apply to that earlier service except where the member exercises an option under rule G.3 (option to aggregate earlier membership: previous members of the Scheme) or rule G.4 (option to aggregate earlier membership: previous members of the AFPS 1975) to aggregate their earlier service with their current service

Death benefits not to be paid in respect of transition members except in accordance with this Part

25. Surviving adults' pensions, eligible child's pensions and lump sum death benefits are not to be paid in respect of transition members with continuity of service except as provided by this Part.

Surviving adult's pension when transition member dies in service before reaching age 55

26.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of the AFPS 2015 before reaching age 55 and for whom the conditions of regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) of the AFP Regulations 2014 apply.

(2) A pension for a surviving spouse, surviving civil partner or other adult dependant ("surviving adult dependant") is payable under the AFPS 2005 in respect of service before T's transition date.

(3) A pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part E of the AFPS 2005 but when calculating the rate of annual pension in accordance with rule E.3 the references to rule D.5 are to rule D.5 with the amendment specified at paragraph 14(4).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension in accordance with regulation 70, the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 14(5).

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Surviving adult dependant's pension when a transition member dies in service on or after reaching age 55

27.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of AFPS 2015 on or after reaching age 55.

(2) A pension for a surviving adult dependant is payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) of the AFPS 2005 in respect of service before T's transition date.

(3) A pension for a surviving adult dependant is payable under regulation 70 (annual rate of adult dependants' pensions payable on death of active member) of the AFP Regulations 2014 in respect of service from T's transition date.

(4) Where the death is before the transition member has reached age 60, regulation 70 is to be applied as if the references in regulation 51 to regulation 54 were to regulation 54 amended as specified in paragraph 14(5).

Surviving adult dependant's pension when a transition member dies as a deferred or pensioner member before reaching age 55

28.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred member or a pensioner member of the AFPS 2015 before reaching age 55 and for whom the conditions of regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) of the AFP Regulations 2014 apply.

(2) A pension for a surviving adult dependant is payable under the AFPS 2005 in respect of service before T's transition date.

(3) A pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part E of the AFPS 2005, but—

- (a) where the pensioner member was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with rule E.5 (amount of pensions under rules E.1 and E.2: pensioner members), the references to rule D.5 are to be read as referring to rule D.5 as amended as specified in paragraph 14(4); and
- (b) where the pensioner member was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with rule E.5, the references to rule D.6 are to be read as referring to rule D.6 amended as specified in paragraph 17(4).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—

- (a) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 68 (annual rate of adult dependants' pensions payable on death of pensioner member), the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 14(5) to regulation 54; and
- (b) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 68, the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 17(5) to regulation 55.

Surviving adult dependant's pension when a transition member dies as a deferred member or a pensioner member on or after reaching age 55

29.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred member or a pensioner member of the AFPS 2015 on or after reaching age 55 and for whom the conditions of regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) of the AFP Regulations 2014 apply.

(2) In the case of a deferred member of the AFPS 2015—

- (a) a pension for a surviving adult dependant is payable under rules E.1 or E.2 and rule E.4 (amount of pensions under rules E.1 and E.2: deferred members) of the AFPS 2005, in the case of a deferred member of the AFPS 2005, or under rules E.1 or E.2 and rule E.5 (amount of pensions under rules E.1 and E.2: pensioner members), in the case of a pensioner member of the AFPS 2005, in respect of service before T's transition date; and
- (b) a pension for a surviving adult dependant is payable under regulations 65, 67 and 69 (annual rate of adult dependants' pensions payable on death of deferred member) of the AFP Regulations 2014 in respect of service from T's transition date.

(3) In the case of a pensioner member of the AFPS 2015—

- (a) the pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part E of the AFPS 2005, but—
 - (i) where the pensioner member was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with rule E.5, the references to rule D.5 are to be read as referring to rule D.5 amended as specified in paragraph 14(4); and
 - (ii) where the pensioner member was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with rule E.5, the references to rule D.6 are to be read as referring to rule D.6 amended as specified in paragraph 17(4).
- (b) the pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—
 - (i) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 68 (annual rate of adult dependants' pensions payable on death of pensioner member), the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 14(5) to regulation 54; and
 - (ii) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 68, the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 17(5) to regulation 55.

Eligible child's pension when a transition member dies in service before reaching age 55

30.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of the AFPS 2015 before reaching age 55 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) A pension for an eligible child is payable under the AFPS 2005 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under the AFPS 2015 in respect of service from T's transition date.

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(4) The rate of annual pension payable in respect of service before T's transition date is calculated in accordance with rule E.10 (amount of children's pensions under rule E.8: active members) of the AFPS 2005, but applying rule D.5 with the substitution of rule D.5(5) that is specified in paragraph 14(4).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014 but when calculating the rate of annual pension in accordance with regulation 74 (annual rate of children's pensions), the calculation of the member's earned pension is to take account of the amendment in paragraph 14(5) to regulation 54.

Eligible child's pension when a transition member dies in service on or after reaching age 55

31.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of AFPS 2015 on or after reaching age 55 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) A pension for an eligible child is payable under rule E.8 of the AFPS 2005 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under regulation 74 (annual rate of children's pensions) of the AFP Regulations 2014 in respect of service from T's transition date.

(4) Where the death is before the transition member has reached age 60, the calculation of the member's earned pension is to take account of the amendment in paragraph 14(5) to regulation 54.

Eligible child's pension when a transition member dies as a deferred or pensioner member before reaching age 55

32.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred or pensioner member of the AFPS 2015 before reaching age 55 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) A pension for an eligible child is payable under the AFPS 2005 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under the AFPS 2015 in respect of service from T's transition date.

(4) The pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part E of the AFPS 2005, but—

(a) where the pensioner member was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with rule E.5 (amount of pensions under rules E.1 and E.2: pensioner members), the references to rule D.5 are to be read as referring to rule D.5 as amended as specified in paragraph 14(4); and

(b) where the pensioner member was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with rule E.5 (amount of pensions under rules E.1 and E.2: pensioner members), the references to rule D.6 are to be read as referring to rule D.6 amended as specified in paragraph 17(4).

(5) The pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—

(a) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 74 (annual rate of children's pensions), the calculation of the member's earned pension is to take account of the amendment in paragraph 14(5) to regulation 54; and

- (b) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 74, the calculation of the member's earned pension is to take account of the amendment in paragraph 17(5) to regulation 55.

Eligible child's pension when a transition member dies as a deferred or pensioner member on or after reaching age 55

33.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred member or a pensioner member of the AFPS 2015 on or after reaching age 55 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) In the case of a deferred member of the AFPS 2015—

- (a) a pension for an eligible child is payable under rule E.11 (amount of children's pension under rule E.8: deferred members) of the AFPS 2005 in the case of a deferred member of the AFPS 2005, or rule E.12 (amount of children's pension under rule E.8: pensioner members), in the case of a pensioner member of the AFPS 2005, in respect of service before T's transition date; and
- (b) a pension for an eligible child is payable under regulation 74 (annual rate of children's pensions) of the AFP Regulations 2014 in respect of service from T's transition date.

(3) In the case of a pensioner member of the AFPS 2015—

- (a) the pension payable in respect of service before T's transition date is calculated in accordance with the rules in Part E of the AFPS 2005, but—
 - (i) where the pensioner member was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with rule E.11 or rule E.12 as the case may be, the references to rule D.5 are to be read as referring to rule D.5 as amended as specified in paragraph 14(4); and
 - (ii) where the pensioner member was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with rule E.11 or rule E.12 as the case may be, the references to rule D.6 are to be read as referring to rule D.6 amended as specified in paragraph 17(4).
- (b) the pension payable in respect of service from T's transition date is calculated in accordance with the AFP Regulations 2014, but—
 - (i) where the pensioner was in receipt of early benefits on permanent serious ill-health, when calculating the rate of annual pension in accordance with regulation 74, the calculation of the member's earned pension is to take account of the amendment in paragraph 14(5) to regulation 54; and
 - (ii) where the pensioner was in receipt of early benefits on significant incapacity for gainful employment, when calculating the rate of annual pension in accordance with regulation 74, the calculation of the member's earned pension is to take account of the amendment in paragraph 17(5) to regulation 55.

Death of a transition member whilst in service: lump sum benefit

34.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as an active member of the AFPS 2015.

(2) On the death of the member—

- (a) a lump sum is payable under regulation 79 (lump sum amount payable on death of active member) of the AFP Regulations 2014; but

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- (b) a lump sum is not payable under rule E.15 (death of a member: lump sum benefit) of the AFPS 2005.

Death of a deferred transition member: lump sum benefit

35.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as a deferred member of the AFPS 2015.

(2) On death before reaching age 55—

- (a) if regulation 80 (lump sum amount payable on death of deferred member) of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under those regulations; and
- (b) if the member is a deferred member of the AFPS 2005 and the conditions for payment of a lump sum benefit under rule E.15 (death of a member: lump sum benefit) and rule E.17 (amount of lump sum benefit under rule E.15: deferred members) of the AFPS 2005 are met, a lump sum death benefit equal to the sum that would have been payable under rule E.17 of the AFPS 2005 is payable under the AFPS 2015.

(3) On death on or after reaching age 55, where the member is also a deferred member of the AFPS 2005—

- (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under those regulations; and
- (b) if the conditions for payment of a lump sum death benefit under rule E.15 and rule E.17 of the AFPS 2005 are met, a lump sum death benefit is payable under rule E.17 of the AFPS 2005.

(4) On death on or after reaching age 55, where the member is also a pensioner member of the AFPS 2005—

- (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under those regulations; and
- (b) if the conditions for payment of a lump sum death benefit under rule E.15 and rule E.18 (amount of lump sum benefit under rule E.15: pensioner members) of the AFPS 2005 are met, a lump sum death benefit is payable under rule E.18 of the AFPS 2005.

Death of a pensioner transition member before reaching age 55: lump sum benefit

36.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as a pensioner member of the AFPS 2015 before reaching age 55.

(2) If regulation 81 (lump sum amount payable on death of pensioner member) of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation.

(3) If the member is a pensioner member of the AFPS 2005 and the conditions for payment of a lump sum benefit under rule E.15 (death of a member: lump sum benefit) and rule E.18 (amount of lump sum benefit under rule E.15: pensioner members) of the AFPS 2005 are met, a lump sum death benefit is not payable under rule E.18 of the AFPS 2005, but a lump sum equal to the sum that would have been paid under rule E.18 is payable under the AFPS 2015.

(4) If the member is a deferred member of the AFPS 2005 and the conditions for payment of a lump sum benefit under rule E.15 and rule E.17 (amount of lump sum benefit under rule E.15: deferred members) of the AFPS 2005 are met, a lump sum death benefit is not payable under rule E.17 of the AFPS 2005 but a lump sum equal to the sum that would have been paid under rule E.17 is payable under the AFPS 2015.

Death of a pensioner transition member on or after reaching age 55: lump sum benefit

37.—(1) This paragraph applies in relation to a transition member with continuity of service who dies as a pensioner member of the AFPS 2015 on or after reaching age 55.

(2) If regulation 81 (lump sum amount payable on death of pensioner member) of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation.

(3) If the member is a pensioner member of the AFPS 2005 and the conditions for payment of a lump sum benefit under rule E.15 (death of a member: lump sum benefit) and rule E.18 (amount of lump sum benefit under rule E.15: pensioner members) of the AFPS 2005 are met, a lump sum death benefit is payable under rule E.18 of the AFPS 2005.

(4) If the member is a deferred member of the AFPS 2005 and the conditions for payment of a lump sum benefit under rule E.15 and rule E.17 (amount of lump sum benefit under rule E.15: deferred members) of the AFPS 2005 are met, a lump sum death benefit is payable under rule E.17 of the AFPS 2005.

PART 5

Transitional provisions relating to the AFPS 2005

No benefits for service on or after member's transition date

38. No benefits under the AFPS 2005 are to be provided to or in respect of a transition member in relation to that member's service on or after their transition date.

Pensionable service under the AFPS 2005 for a transition member with continuity of service

39.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under the AFPS 2015.

(2) In determining whether T qualifies under the AFPS 2005 for retirement benefits (other than early benefits on ill-health), T's pensionable service under the AFPS 2005 terminates when T's pensionable service under the AFPS 2015 terminates.

Final salary link for a transition member with continuity of service

40.—(1) In calculating benefits payable under the AFPS 2005 to or in respect of a transition member with continuity of service (T), T's final pensionable earnings are determined by reference to Schedule 7 to the 2013 Act as if "final salary" were a reference to "final pensionable earnings".

(2) If a member's final pensionable earnings on leaving service as a member of the AFPS 2015 are lower than their final pensionable earnings⁽⁷⁾ on their transition date, their final pensionable earnings are to be determined as if paragraph (1) in rule A.4 of the AFPS 2005 were replaced by the following—

"(1) In these Rules "final pensionable earnings", in relation to a member, means the greatest amount that is the member's total pensionable earnings for 365 consecutive days falling within the period beginning three years before their transition date and ending on their transition date.

(1A) In paragraph (1), "transition date" has the same meaning as in paragraph 1 of Schedule 2 to this Order."

(7) "Final pensionable earnings" are defined in rule A.4(1) of the AFPS 2005 as the greatest amount that is the member's total pensionable earnings for 365 consecutive days falling within the period of 3 years ending with the member's last day of reckonable service.

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Secretary of State does not consider that the member has suffered a permanent breakdown of health involving incapacity for any full-time employment

- 41.—(1) This paragraph applies if a member of the AFPS 2005—
- (a) claimed payment of an ill-health pension under the AFPS 2005 before the member's transition date; and
 - (b) the pension does not become payable before the member's transition date.
- (2) If the member is not entitled to immediate payment of an ill-health pension under the AFPS 2005, the member joins the AFPS 2015 on whichever is the later of—
- (a) the member's transition date; and
 - (b) the day after all relevant appeal rights have expired in relation to the Secretary of State's decision that the member has not suffered a permanent breakdown in health involving incapacity for any full-time employment.
- (3) Where sub-paragraph (2) applies, the member is exempted from section 18(1) of the 2013 Act in respect of the period before the member becomes a member of the AFPS 2015.

Deferred membership of the AFPS 2005

- 42.—(1) A transition member with continuity of service (T) does not become a deferred member of the AFPS 2005 unless T becomes a deferred member of the AFPS 2015.
- (2) If T opts out of the AFPS 2015 in relation to service in a scheme employment and T has at least 2 years' qualifying service T becomes a deferred member of the AFPS 2005 in relation to that service.
- (3) If T re-enters pensionable service under the AFPS 2015 after a gap in service not exceeding 5 years, T ceases to be a deferred member of the AFPS 2005.

Qualifying for retirement benefits under the AFPS 2005

- 43.—(1) In determining whether a transition member with continuity of service qualifies for retirement benefits under the AFPS 2005, the member's qualifying service includes the total of—
- (a) the member's qualifying service under the AFPS 2005; and
 - (b) the member's qualifying service under the AFPS 2015.

Final salary link not to apply again to a pension in payment

44. Where any element of pension under the AFPS 2005 which is in payment has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 to the 2013 Act in consequence of a subsequent period of pensionable public service (as defined in paragraph 3 of Schedule 7 to the 2013 Act) unless the further period of pension is aggregated under the rules of the AFPS 2005.

PART 6

Miscellaneous transitional provisions

Nomination under the AFPS 2005 continues to have effect

- 45.—(1) This paragraph applies if a transition member with continuity of service has not nominated a person under the AFP Regulations 2014 to receive a lump sum death benefit under the AFP Regulations 2014.

(2) An existing nomination has effect as if made under the AFP Regulations 2014 until the transition member makes a nomination under the AFP Regulations 2014.

- (3) In this paragraph, “existing nomination” means a nomination which—
- (a) was made for the purpose of the AFPS 2005; and
 - (b) as at T’s transition date, had effect under the AFPS 2005.

Option to buy added years under the AFPS 2005 continues to have effect

46.—(1) This paragraph applies if a transition member with continuity of service—

- (a) has exercised an option under rule C.1(1) (member’s option to pay contributions to increase service) before 31st March 2015; and
- (b) on 31st March 2015, the contractual option period is extant.

(2) Periodical payments paid by the member in accordance with Part C of the AFPS 2005 after 31st March 2015 and before the end of the contractual option period are valid for the purposes of Part C, and the contractual option period continues as if the member continued in pensionable service under the AFPS 2005.

Opting out of AFPS 2015 - contributions under the AFPS 2005 cease to be payable

47. If a transition member with continuity of service opts out of the AFPS 2015 any periodical payments paid by the member in accordance with Part C of the AFPS 2005 cease to be payable.

PART 7

Transfer of final salary benefits

Acceptance of club transfer value payments and club transfers

48. That part of a club transfer value payment that relates to final salary benefit is to be paid into the AFPS 2005.

Member of the AFPS 2015 or the AFPS 2005

49.—(1) This paragraph applies to a person who transfers final salary benefits into the AFPS 2005.

- (2) Unless the person is a full protection member of the AFPS 2005, the person—
- (a) becomes a member of the AFPS 2015; and
 - (b) is taken to be a transitional member with continuity of service.”