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STATUTORY INSTRUMENTS

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**2015 No. 568**

**PUBLIC SERVICE PENSIONS**

**The Armed Forces (Transitional Provisions) Pensions Regulations 2015**

<i>Made</i>	- - - -	<i>3rd March 2015</i>
<i>Laid before Parliament</i>		<i>9th March 2015</i>
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Secretary of State for Defence makes these Regulations in exercise of the powers conferred by sections 1(1)(1) and (2)(h)(2), 2(1)(3), 3(1) to (4), and 18(5) of the Public Service Pensions Act 2013(4).

In accordance with section 3(5) of that Act, these Regulations are made with consent of the Treasury.

**PART 1**

**Preliminary**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Armed Forces (Transitional Provisions) Pensions Regulations 2015.

(2) These Regulations come into force on 1st April 2015.

**Interpretation**

2. In these Regulations—

“AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014(5);

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(1) See section 1(4) of the Act for the meaning of “scheme regulations”.  
(2) See paragraph 8 of Schedule 1 to the Act for the meaning of “armed forces”.  
(3) See section 2(2) of the Act for the meaning of “responsible authority”.  
(4) 2013 c. 25.  
(5) S.I. 2014/2336.

“EDP 2015” means the scheme established by the Armed Forces Early Departure Payments Scheme Regulations 2014(6).

## PART 2

### Amendments to the Armed Forces Pension Scheme 1975

#### Amendment of the Armed Forces Pensions Scheme 1975

3. The Armed Forces Pension Scheme 1975(7) (“the AFPS 1975”) is amended according to the provisions in this Part.

#### Amendment of Rule A.1 in Schedule 1 to the AFPS 1975

4. In the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(8) (the “Naval Pensions Order”), the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(9) (the “Army Pensions Warrant”) and the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(10)(the “Air Force Pensions Order”), rule A.1 in Schedule 1 (General interpretation) is amended by inserting at the appropriate places—

“(a) “(a) “AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014(11);”; and

“(b) “(b) “transition date” has the same meaning as specified in paragraph 1 of Schedule 3 to this Instrument;”.

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(6) [S.I. 2014/2328](#).

(7) The rules of the Armed Forces Pension Scheme 1975 (the “AFPS 1975”) are set out in three instruments, one for each of the three armed services, the references to which are set out in footnotes (b), (c) and (d) to regulation 4. In each instrument, Schedule 1 sets out the AFPS 1975 rules applying to members of the armed service in question. Schedule 1 is substantially the same in the case of each instrument, except for the fact that in the case of the Army Pensions Warrant, there is a Part K at the end of the Schedule, which applies to transferees from the Gurkha Pension Scheme. (There are no Gurkha Pension Scheme transferees in the Navy or the Royal Air Force).

(8) The rules of the AFPS 1975 in relation to members and former members of the Navy and Royal Marines were restated in Schedule 1 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 made on 10 February 2010. That Schedule was then revoked and replaced by a revised restatement set out at Schedule 1 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010, which came into force on 3 January 2011. Schedules 1 and 2 were then amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012 and Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2015. Amendments were made to Part E of the Scheme by the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 ([S.I. 2014/107](#)) and the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 ([S.I. 2014/560](#)), and the Marriage (Same Sex Couples) Act 2013 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014 ([S.I. 2014/3061](#)).

(9) The rules of the AFPS 1975 in relation to members and former members of the regular Army were restated in Schedule 1 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 made on 10 February 2010. That Schedule was then revoked and replaced by a revised restatement set out at Schedule 1 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010, which came into force on 3 January 2011. Schedules 1 and 2 were then amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2012 and Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2015. Amendments were also made to Part E of the Scheme by same sex marriage S.I.s as set out at footnote (b).

(10) The rules of the AFPS 1975 in relation to members and former members of the Royal Air Force were restated in Schedule 1 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 made on 10 February 2010. That Schedule was then revoked and replaced by a revised restatement set out at Schedule 1 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010, which came into force on 3 January 2011. Schedules 1 and 2 were then amended by the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012 and Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2015. Amendments were also made to Part E of the Scheme by same sex marriage S.I.s as set out at footnote (b).

(11) [S.I. 2014/2336](#).

#### **Amendment of Rule H.1 in Schedule 1 to the AFPS 1975**

5. In the Naval Pensions Order, the Army Pensions Warrant and the Air Force Pensions Order, rule H.1 in Schedule 1 (Further pensionable service: general rule) is amended by inserting into paragraph (1) after “further pensionable service” the following: “including service by virtue of which the person is eligible for membership of the Armed Forces Pension Scheme 2015(12) (“AFPS 2015”)”.

#### **Amendment of Rule H.3 in Schedule 1 to the AFPS 1975**

6. In the Naval Pensions Order, the Army Pensions Warrant and the Air Force Pensions Order, rule H.3 in Schedule 1 (Service on lower pay) is amended by—

- (a) inserting into sub-paragraph (1)(a) after “further pensionable service” the following: “including service by virtue of which the person is eligible for membership of the AFPS 2015”; and
- (b) in paragraph (3), inserting after “A is the annual amount of the pension” the following: “which includes, in the case of an AFPS 2015 pensioner, their AFPS 2015 pension”.

#### **Amendment of Rule H.4 in Schedule 1 to the AFPS 1975**

7. In the Naval Pensions Order, the Army Pensions Warrant and the Air Force Pensions Order, rule H.4 in Schedule 1 (Reserve Service) is amended by—

- (a) inserting into paragraph (1) after “in reserve service” the following: “including service by virtue of which the person is eligible for membership of the AFPS 2015”; and
- (b) in paragraph (3), inserting after “A is the annual amount of the pension” the following: “which includes, in the case of an AFPS 2015 pensioner, their AFPS 2015 pension”.

#### **Insertion of new Schedules**

8. The Naval Pensions Order, the Army Pensions Warrant and the Air Force Pensions Order are each amended by inserting, after Schedule 2 in each case, the new Schedule 3 contained in Schedule 1 to this Instrument, which has effect.

## **PART 3**

### **Amendments to the Armed Forces Pension Scheme 2005**

#### **Amendment of the Armed Forces Pensions Scheme 2005**

9. The Armed Forces Pension Scheme 2005(13) is amended according to the provisions in this Part.

#### **Insertion of new article 5 into the AFPS Order 2005**

10. The Armed Forces Pension Scheme Order 2005(14) (“the AFPS Order 2005”) is amended by inserting after article 4 the following new article—

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(12) The AFPS 2015 is the pension scheme established by the Armed Forces Pension Regulations 2014 (S.I. 2014/2336).

(13) The rules of this pension scheme are established in the Armed Forces Pension Scheme Order 2005 as amended - including by the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107).

(14) S.I. 2005/438.

**“Closure of Scheme and transitional provision**

5.—(1) Schedule 2 (Transitional Provision) has effect.

(2) After 31st March 2015, the Scheme is closed to new members except where provided for in Schedule 2.”

**Amendment of rule A.1 in Schedule 1 to the AFPS Order 2005**

11. Rule A.1(interpretation: general) in Schedule 1 to the AFPS Order 2005 is amended by inserting at the appropriate place—

““AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014(15);”;

**Amendment of rule H.1 in Schedule 1 to the AFPS Order 2005**

12. Rule H.1(application of Part H) in Schedule 1 to the AFPS Order 2005 is amended by—

(a) in paragraph (1), after “pensioner member or deferred member of the Scheme” inserting “(whether or not they are also a pensioner member of the AFPS 2015)”;

(b) after paragraph (1)(b), inserting—

“or

(c) is re-engaged in service by virtue of which the person is eligible for membership of the AFPS 2015,”;

(c) after paragraph (2)(b), omitting “and”; and

(d) after paragraph (2)(c), inserting—

“and

(d) where sub-paragraph (1)(c) applies, the “old service pension” includes any AFPS 2015 pension.”.

**Insertion of new Schedule into the AFPS Order 2005**

13. The AFPS Order 2005 is amended by the insertion after Schedule 1 to the new Schedule 2 contained in Schedule 2 to this Instrument(16).

## PART 4

### Amendments to the Armed Forces Early Departure Payments Scheme 2005

**Amendment of the Armed Forces Early Departure Payments Scheme 2005**

14. The Armed Forces Early Departure Payments Scheme 2005(17) is amended according to the provisions in this Part.

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(15) [S.I. 2014/2336](#).

(16) The former Schedule 2 to the AFPS Order 2005 was revoked by [S.I. 2006/717](#).

(17) The rules of this scheme are established in the Armed Forces Early Departure Payments Scheme Order 2005.

### **Amendment of article 3 (general interpretation) of the EDP Order 2005**

15. Article 3 (general interpretation) of the Armed Forces Early Departure Payments Scheme Order 2005(18) (“the EDP Order 2005”) is amended by inserting at the appropriate places—

- (a) ““AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014 (“the AFP Regulations 2014”);”,
- (b) ““EDP 2015” means the scheme established by the Armed Forces Early Departure Payments Scheme Regulations 2014;”,
- (c) ““transition date” in relation to a person with dual entitlement means 1st April 2015 or, if later, the day on which a person ceased to be a full protection member of the AFPS 2005;”, and
- (d) ““full protection member” has the meaning given in Part 2 of Schedule 2 to the Armed Forces Pension Scheme Order 2005(19);”.

### **Insertion of new article 3A in the EDP Order 2005**

16. The EDP Order 2005 is amended by, after article 3, inserting the following new article—

#### **“Meaning of “a person with dual entitlement”**

**3A.**—(1) For the purposes of the Scheme “a person with dual entitlement” means, subject to paragraph (2), a person who—

- (a) is a member of AFPS 2005 by virtue of their pensionable service under the AFPS 2005, or
- (b) was eligible to have been a member of AFPS 2005, and
- (c) is also a member of the AFPS 2015 by virtue of their pensionable service under the AFPS 2015, or
- (d) was eligible to have been a member of the AFPS 2015 on or after 1st April 2015.

(2) A person is not a person with dual entitlement where the gap between the last day of service or eligibility at paragraph (1)(a) or (b) as the case requires and the first day of service or eligibility at paragraph (1)(c) or (d) as the case requires exceeds 5 years.”.

### **Amendment of article 4 (meaning of “relevant service”) of the EDP Order 2005**

17. Article 4 of the EDP Order 2005 is amended by, after paragraph (3), inserting—

- “(4) In the case of a person with dual entitlement, service on or after the transition date—
- (a) is relevant service for the purposes of article 6(1) and (5),
  - (b) is relevant service for the purposes of article 8(4),
  - (c) is relevant service for the purposes of article 10(4)(a) and (b),
  - (d) is relevant service for the purposes of article 16(1)(b),
  - (e) is not relevant service for the purposes of article 5(a).”.

### **Amendment of article 8 (eligibility for early departure payments) of the EDP Order 2005**

18. Article 8(5) of the EDP Order 2005 is amended by—

- (a) omitting “or” at the end of sub-paragraph (a),

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(18) S.I. 2005/437 as amended.

(19) S.I. 2005/438.

(b) after paragraph (b) inserting—

“(c) “(c) regulation 51 of the AFP Regulations 2014 (entitlement to ill-health pension: active member with permanent serious ill-health), or

(d) regulation 52 of the AFP Regulations 2014 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment).”.

**Amendment of article 10 (amount of payments under article 9) of the EDP Order 2005**

**19.**—(1) Article 10 of the EDP Order 2005 is amended by—

(a) in paragraph (2) substituting “T” for “N”,

(b) in paragraph (4)—

(i) omitting “that the person is entitled to count for the purposes of Condition C in article 8(4), and”,

(ii) inserting after sub-paragraph (a)—

“(zb) “(zb) T is either—

(i) the number of years’ relevant service, or

(ii) for a person with dual entitlement, the number of years’ relevant service before the transition date, and”,

(c) in paragraph (5) inserting “or T, as appropriate,” after “N”,

(d) inserting after paragraph (8)—

“(8A) In the case of a person with dual entitlement—

(a) service on or after the transition date is qualifying service for the purposes of regulation 10 of the EDP Regulations 2014,

(b) all payments made under this article and regulation 10 of the EDP 2015 are payable under the EDP Regulations 2014.”.

**Amendment of article 12 (effect of rejoining armed forces or entering certain reserve forces service on article 9 award) of the EDP Order 2005**

**20.** Article 12 of the EDP Order 2005 is amended by—

(a) at the end of paragraph (4)(a) omitting “or”,

(b) after paragraph (4)(b) inserting—

“(c) “(c) regulation 51 of the AFP Regulations 2014 (entitlement to ill-health pension: active member with permanent serious ill-health), or

(d) regulation 52 of the AFP Regulations 2014 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment).”.

**Amendment of article 14 (entitlement to resettlement grants) of the EDP Order 2005**

**21.** Article 14(1) of the EDP Order 2005 is amended by, after paragraph (d), inserting—

“and

(e) is not entitled to a resettlement grant under regulation 16 of the EDP Regulations 2014.”.

## **Amendment of article 16 (lump sum awards: incapacity for armed forces service) of the EDP Order 2005**

22. Article 16 of the EDP Order 2005 is amended by—
- (a) at the end of paragraph (1)(d)(iii) omitting “or”,
  - (b) after paragraph (1)(d)(iv) inserting—
    - “(v) regulation 43 of the AFP Regulations 2014 (retirement on or after reaching normal pension age – active members),
    - (vi) regulation 51 of the AFP Regulations 2014 (entitlement to ill-health pension: active member with permanent serious ill-health),
    - (vii) regulation 52 of the AFP Regulations 2014 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment), or
    - (viii) regulation 60 of the AFP Regulations 2014 (option for members in serious ill-health to exchange whole pension for lump sum).”
  - (c) inserting at the beginning of paragraph (3) “Subject to paragraph (4A).”
  - (d) inserting at the beginning of paragraph (4) “Subject to paragraph (4A).”
  - (e) after paragraph (4) inserting—
    - “(4A) In the case of a person with dual entitlement—
    - (a) paragraphs (3) and (4) do not apply,
    - (b) service on or after the transition date is only service for the purposes of regulation 20 of the EDP Regulations 2014,
    - (c) the amount of the lump sum calculated under paragraph (2)—
      - (i) is added to the amount of the lump sum calculated under regulation 20(1) of the EDP Regulations 2014 but ignoring regulation 20(1) sub-paragraphs (a) and (b), and
      - (ii) sub-paragraphs (a) and (b) of regulation 20(1) are then applied,
    - (d) all payments made under this article and regulation 20 of the EDP Regulations 2014 are payable under the EDP 2015.”
  - (f) after paragraph (5) inserting—
    - “(6) For a person with dual entitlement this article is subject to regulation 58 (member’s request for review of ill-health awards) of the AFP Regulations 2014.”

## **PART 5**

### **Amendments to the Reserve Forces (Full-Time Reserve Service) Pension Scheme 1997**

#### **Amendment of the Reserve Forces (Full-Time Reserve Service) Pension Scheme 1997**

23. The Reserve Forces (Full-Time Reserve Service Pension Scheme 1997)<sup>(20)</sup> (“the FTRS 1997”) is amended according to the provisions in this Part.

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<sup>(20)</sup> This scheme is established in the Reserve Forces (Full-time Reserve Service Pension Scheme 1997) Regulations 2010 as amended by the Reserve Forces (Full-time Reserve Service Pension Scheme 1997) (Amendment) Regulations 2012.

### **Amendment of Rule G.1 in Schedule 1 to the Reserve Forces (Full-Time Reserve Service Pension Scheme 1997) Regulations 2010**

**24.**—(1) Rule G.1 (abatement of pensions on giving further service), in Schedule 1 to the Reserve Forces (Full-Time Reserve Service Pension Scheme 1997) Regulations 2010<sup>(21)</sup> “the FTRS Regulations”) is amended by inserting into paragraph (1), after “further pensionable service”, the following words: “including service by virtue of which the person is eligible for membership of the Armed Forces Pension Scheme 2015 (“AFPS 2015”)<sup>(22)</sup>.”.

(2) Rule G.1 is further amended at paragraph (2) by the insertion, after “the amount that the pension” the following words: “(which includes, in the case of an AFPS 2015 pensioner, their AFPS 2015 pension)”.

### **Insertion of new regulation 3 into the FTRS Regulations**

**25.** The FTRS Regulations are amended by inserting, after regulation 2, the following new regulation—

#### **“Transitional provision**

**3.** Schedule 2 (Transitional Provision) has effect.”.

### **Insertion of new Schedule into the FTRS Regulations**

**26.** The FTRS Regulations are amended by the insertion of the new Schedule 2 contained in Schedule 3 to this Instrument.

## **PART 6**

### **Amendments to the Reserve Forces Non Regular Permanent Staff Pension Scheme**

#### **Amendment of the Reserve Forces Non-Regular Permanent Staff (Pensions and Attributable Benefits Scheme) Regulations 2011**

**27.** The Reserve Forces Non Regular Permanent Staff Pension Scheme <sup>(23)</sup> is amended according to the provisions in this Part.

#### **Insertion of new regulation 3A**

**28.** The Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Scheme) Regulations 2011<sup>(24)</sup> (“the NRPS Regulations 2011”) are amended by inserting, after regulation 3, the following new regulation—

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(21) These Regulations are Defence Council Regulations. These instruments can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6, Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

(22) This is the pension scheme established by the Armed Forces Pension Regulations 2015 (S.I. 2014/2336).

(23) This pension scheme is established in the Reserve Forces Non-Regular Permanent Staff (Pension and Attributable Benefits Scheme) Regulations 2011.

(24) These Regulations are Defence Council Regulations made under sections 4(2), (3) and (4) of the Reserve Forces Act 1996 (c. 14). They have been amended by the Reserve Forces Pension Scheme (Amendment) Regulations 2006, the Reserve Forces Pension Scheme (Amendment) Regulations 2009 and the Reserve Forces Pension Scheme (Amendment) Regulations 2012. These instruments can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6, Zone M, Ministry of Defence, Main Building, London SW1A 2HB. These regulations have been amended by the Reserve Forces Non-Regular Permanent Staff (Pension and Attributable Benefits Scheme) (Amendment) Regulations 2013 and the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107).



**“Transitional provision**

**3A.**—(1) Schedule 3 (Transitional Provision) has effect.”.

**Insertion of new Schedule into the NRPS Regulations 2011**

**29.** The NRPS Regulations 2011 are amended by the insertion after Schedule 2 to the new Schedule 3 contained in Schedule 4 to this Instrument.

**PART 7**

**Amendments to the Reserve Forces Pension Scheme Regulations 2005**

**Amendment of the Reserve Forces Pension Scheme 2005**

**30.** The Reserve Forces Pension Scheme 2005(25) is amended according to the provisions in this Part.

**Insertion of new article 5 into the Reserve Forces Pension Scheme Regulations 2005**

**31.** The Reserve Forces Pension Scheme Regulations 2005(“the RFPS Regulations 2005”) (26) are amended by inserting after regulation 2 the following new regulation—

**“Closure of Scheme and transitional provision**

**3.**—(1) Schedule 3 (Transitional Provision) has effect.

(2) After 31st March 2015, the Scheme is closed to new members except where provided for in Schedule 3.”.

**Amendment of rule A.1 in Schedule 1 to the RFPS Regulations 2005**

**32.** Rule A.1(interpretation: general) in Schedule 1 to the RFPS Regulations 2005 is amended by inserting at the appropriate place—

““AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014(27);”.

**Amendment of Rule G.1 in Schedule 1 to the RFPS Regulations 2005**

**33.** Rule G.1(application of Part G) in Schedule 1 to the RFPS Regulations 2005 is amended by—

(a) in paragraph (1), after “pensioner member or deferred member of the Scheme” inserting “(whether or not they are also a pensioner member of the AFPS 2015)”;

(b) after paragraph (1)(b), inserting—

“or

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(25) This pension scheme is established in the Reserve Forces Pension Scheme Regulations 2005.

(26) These regulations are Defence Council Regulations made under sections 4(2) and (3), and 8(1) and (3) of the Reserve Forces Act 1996 (c. 14). They have been amended by the Reserve Forces Pension Scheme (Amendment) Regulations 2006, the Reserve Forces Pension Scheme (Amendment) Regulations 2009 and the Reserve Forces Pension Scheme (Amendment) Regulations 2012. These instruments can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6, Zone M, Ministry of Defence, Main Building, London SW1A 2HB. These regulations have also been amended by the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107).

(27) S.I. 2014/2336.

- (c) is re-engaged in service by virtue of which the person is eligible for membership of the AFPS 2015.”;
- (c) after paragraph (2) (b), omit “and”; and
- (d) after paragraph (2)(c), inserting—
  - “and
  - (d) where sub-paragraph (1)(c) applies, the “old service pension” includes any AFPS 2015 pension.”.

### **Insertion of new Schedule into the RFPS Regulations 2005**

**34.** The RFPS Regulations 2005 are amended by the insertion after Schedule 2 to the new Schedule 3 contained in Schedule 5 to this Instrument.

## **PART 8**

### **Amendments to the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No.2) Order 2010**

#### **Amendment of the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No.2) Order 2010**

**35.** The Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No.2) Order 2010<sup>(28)</sup> (“AF(RRGES) (No.2) Order”) is amended according to the provisions in this Part.

#### **Amendment of article 2 (interpretation) of the AF(RRGES) (No.2) Order**

**36.** Article 2 (interpretation) of the AF(RRGES)(No.2) Order is amended by inserting in the appropriate place—

- (a) ““AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014<sup>(29)</sup>”;
- (b) “transition member” means a person—
  - “(a) “(a) who is a member of the AFPS 1975 by virtue of their pensionable service under the AFPS 1975 before 1st April 2015; and
  - (b) who is also a member of the AFPS 2015 by virtue of their pensionable service on and after 1st April 2015;”.

#### **Amendment of article 27 (interpretation of Part 4) of the AF(RRGES) (No.2) Order**

**37.** Article 27(2) of the AF(RRGES) (No.2) Order is amended by substituting—

““ill-health pension” means—

- (a) service invaliding retired pay or pension under the AFPS 1975,
- (b) an ill-health pension under regulation 51 of the Armed Forces Pension Regulations 2014, or
- (c) an ill-health pension under regulation 52 of the Armed Forces Pension Regulations 2014.”.

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<sup>(28)</sup> S.I. 2010/832.  
<sup>(29)</sup> S.I. 2014/2336.

for—

““ill-health pension” means service invaliding retired pay or pension under the AFPS 1975;”.

**Amendment of article 30 (factors affecting the amount of commutable pension) of the AF(RRGES) (No.2) Order**

**38.** Article 30 of the AF(RRGES) (No.2) Order is amended by inserting—

- (a) after “a person” in sub-paragraph (1) “,not including a transition member,”,
- (b) after sub-paragraph (1)—

“(1A) Subject to article 32, the maximum lump sum which can be commuted by a transition member is calculated by application of the following formula—

$$(A - B) \times C \div D$$

where—

**A** in the case of an officer is the 34 year rate and in the case of someone who is not an officer is the 37 year rate;

**B** is the aggregate lump sum from reckonable and pensionable service in AFPS 1975 and AFPS 2015;

**C** is the number of years of AFPS 1975 service; and

**D** is the total number of years of reckonable and pensionable service in AFPS 1975 and AFPS 2015.”.

**Amendment of article 32 (misconduct) of the AF(RRGES) (No.2) Order**

**39.** Article 32 of the AF(RRGES) (No.2) Order is amended by—

- (a) numbering the existing text as paragraph (1),
- (b) after “the 37 year rate.” inserting—

“(2) For a transition member the figure denoted by **A** in article 30(1A) is replaced by the appropriate amount from paragraph (1).”.

**Amendment of article 35 (entitlement to resettlement grants) of the AF(RRGES) (No.2) Order**

**40.** Article 35 of the AF(RRGES) (No.2) Order is amended by—

- (a) substituting for the existing paragraph (1)—

“(1) A person who ceases to be in service as a member of the armed forces is entitled to a lump sum payment if the person—

- (a) was, immediately before ceasing service, an active member of the AFPS 1975 or has opted-out;
- (b) has the relevant years of service;
- (c) is not entitled to the immediate payment of a pension under the AFPS 1975;
- (d) is not entitled to the immediate payment of a pension under the AFPS 2015;
- (e) is not entitled to an early departure payment under regulations 8 and 9 of the EDP 2015; and
- (f) either—

- (i) has not previously received a payment under the AFRGS 2010; or
  - (ii) has made a repayment in respect of a payment previously received in sub-paragraph (i).”
- (b) substituting in paragraph (2)—  
““relevant years of service””
- for—  
““relevant years of reckonable service””.
- (c) inserting after paragraph (5)—  
“(6) Transition members are not entitled to a lump sum payment under regulation 16 of the EDP 2015.”.

## PART 9

### Amendments to the Armed Forces Pension Regulations 2014 and the Armed Forces Early Departure Payments Scheme Regulations 2014

#### **Amendment of the Armed Forces Pension Regulations 2014**

**41.** The Armed Forces Pension Regulations 2014(30) are amended by inserting into regulation 2 (interpretation) at the appropriate place—

““AFPS 2015” means the scheme established by the Armed Forces Pension Regulations 2014.”.

#### **Amendment of the Armed Forces Early Departure Payments Scheme Regulations 2014**

**42.** The Armed Forces Early Departure Payments Scheme Regulations 2014(31) are amended by inserting into regulation 2 (interpretation) at the appropriate place—

““EDP 2015” means the scheme established by the Armed Forces Early Departure Payments Scheme Regulations 2014.”.

Signatory Text

3rd March 2015

*Anna Soubry*  
Minister of State  
Ministry of Defence

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(30) S.I. 2014/2336.  
(31) S.I. 2014/2328.

We approve

27th February 2015

*David Evennett*  
*Harriet Baldwin*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## SCHEDULES

### SCHEDULE 1

Regulation 8

Schedule to be inserted in the Armed Forces Pension Scheme 1975

### “SCHEDULE 3

Transitional Provision for the Armed Forces Pension Scheme 1975

## PART 1

### Interpretation

#### **Interpretation**

**1.** In this Schedule—

“AFPS 1975” means the Armed Forces Pension Scheme 1975;

“AFPS 2015” means the scheme established by the AFP Regulations 2014<sup>(32)</sup>;

“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;

“connected scheme” means another statutory pension scheme that is connected with the AFPS 1975 scheme within the meaning of section 4(6) of the 2013 Act;

“EDP Regulations 2014” means the Armed Forces Early Departure Payments Scheme Regulations 2014<sup>(33)</sup>;

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

“protection period” has the meaning given in paragraph 5;

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

“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 1975;

“transition member” means a person—

(a) who is a member of AFPS 1975 by virtue of their pensionable service under the AFPS 1975 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<sup>(34)</sup>;

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

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

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<sup>(32)</sup> S.I. 2014/2336.

<sup>(33)</sup> S.I. 2014/2328.

<sup>(34)</sup> 2013 c. 25.

### **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 1975 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 1st April 2015, 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 T’s transition date, on that date; or
- (b) if T is not in pensionable service in a scheme employment on T’s 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 1975**

#### **Full protection members of the AFPS 1975**

4.—(1) A person (P) is a full protection member of the AFPS 1975, where—

- (a) P was a conditional full protection member of the AFPS 1975 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.

(2) For the purpose of this paragraph, a member is a conditional full protection member of the AFPS 1975 on a given date if on that date—

- (a) the member is in service in respect of which P is eligible to be a member of the AFPS 1975;
- (b) the member is a fixed protection member of the AFPS 1975; or
- (c) the member is in qualifying service under paragraph (c) of rule A.10(qualifying service) of the AFPS 1975.

(3) P ceases to be a full protection member of the AFPS 1975 when P ceases to be in pensionable service under the AFPS 1975.

#### **Exception for full protection member during protection period**

5.—(1) The protection period for a person (P) who is a full protection member of the AFPS 1975 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 1975.
- (2) During the protection period—
  - (a) P is eligible to be in pensionable service under the AFPS 1975;
  - (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 1975 to or in respect of P in relation to that pensionable service.

**Full protection member not eligible to join the AFPS 2015**

6.—(1) While a person (P) is a full protection member of the AFPS 1975, 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

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

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

**This Part not to apply to previous periods of service**

8. If a transition member has an earlier period of service within the meaning of paragraph (2) of rule G.1 (application of this Part) of the AFPS 1975 that has not been aggregated with a later period of service under Part G of the AFPS 1975, this Part does not apply to the earlier service.

**Active transition member with permanent serious ill-health who has not reached their immediate pension point**

9.—(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) has not reached their immediate pension point under the rules of the AFPS 1975<sup>(35)</sup>.
- (2) If this paragraph applies—
  - (a) early benefits on ill-health are not payable under the AFPS 1975; 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 such amount as the Defence Council may direct with the approval of the Treasury.

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<sup>(35)</sup> Under the rules of the AFPS 1975, a member can reach their immediate pension point even after ceasing to be an accruing member of the AFPS 1975.



(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) B is the sum of—
- (i) the member's pensionable service under the AFPS 2015; 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 1975 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 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 1975 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 from the date of the ill-health retirement until age 60.”.

**Transition member who leaves service before the immediate pension point with permanent serious ill-health who reaches age 55**

**10.**—(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 9.

- (2) On the day the member reaches age 55—
- (a) of the benefits that were payable under paragraph 9(2)(b), the AFPS 1975 basic earned benefits cease to be payable under paragraph 9(2)(b) and instead become payable under the AFPS 1975; and
  - (b) of the benefits that were payable under paragraph 9(2)(b), the AFPS 1975 ill-health enhancement benefits continue to be payable under paragraph 9(2)(b).
- (3) For the purpose of this paragraph—
- (a) “the AFPS 1975 basic earned benefits” means an amount determined by the Defence Council with the approval of the Treasury; and
  - (b) “the AFPS 1975 ill-health enhancement benefits” means an amount determined by the Defence Council with the approval of the Treasury.

**Active transition member who leaves service with permanent serious ill-health after reaching their immediate pension point**

**11.**—(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) has reached their immediate pension point under the rules of the AFPS 1975.
- (2) In respect of service before T's transition date—

- (a) the AFPS 1975 basic earned benefits are payable under the AFPS 1975, and
  - (b) the AFPS 1975 ill-health enhancement benefits are payable under the AFPS 2015.
- (3) In respect of service from T's transition date, early benefits on permanent serious ill health are payable under regulation 54 of the AFP Regulations 2014 but when calculating the amount of annual pension, regulation 54(2)(b) is amended as specified in paragraph 9(5).
- (4) For the purpose of this paragraph—
- (a) “the AFPS 1975 basic earned benefits” means an amount determined by the Defence Council with the approval of the Treasury; and
  - (b) “the AFPS 1975 ill-health enhancement benefits” means an amount determined by the Defence Council with the approval of the Treasury.

**Active transition member with significant impairment of capacity for gainful employment who has not reached their immediate pension point**

- 12.—(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 their immediate pension point under the AFPS 1975.
- (2) If this paragraph applies—
- (a) early benefits on ill health are not payable under the AFPS 1975; 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 such amount that the Defence Council may determine with the approval of the Treasury.
- (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) B is the sum of—
    - (i) the member's years of 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 1975 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 from the date of the ill-health retirement until age 60.”.

**Transition member who leaves service before their immediate pension point with significant impairment of capacity for gainful employment who reaches age 55**

- 13.—(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 12.

- (2) On the day the member reaches age 55—
  - (a) of the benefits that were payable under paragraph 12(2)(b), the AFPS 1975 basic earned benefits cease to be payable under paragraph 12(2)(b) and instead become payable under the AFPS 1975; and
  - (b) of the benefits that were payable under paragraph 12(2)(b), the AFPS 1975 significant incapacity ill-health enhancement benefits continue to be payable under paragraph 12(2)(b).
- (3) For the purpose of this paragraph—
  - (a) the “AFPS 1975 basic earned benefits” means an amount determined by the Defence Council with the approval of the Treasury; and
  - (b) the “AFPS 1975 significant incapacity ill-health enhancement benefits” means an amount determined by the Defence Council with the approval of the Treasury.

**Active transition member who leaves service with significant incapacity for gainful employment after reaching their immediate pension point**

14.—(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 after reaching their immediate pension point under the rules of the AFPS 1975.

(2) In respect of service before T’s transition date—

- (a) the AFPS 1975 basic earned benefits are payable under the AFPS 1975, and
- (b) the AFPS 1975 ill-health enhancement benefits are payable under the AFPS 2015.

(3) In respect of service from T’s transition date, early benefits on significant impairment of capacity for gainful employment are payable under regulation 55 of the AFP Regulations 2014 but when calculating the rate of annual pension, regulation 55(2)(b) is amended as specified in paragraph 12(5).

(4) For the purpose of this paragraph—

- (a) “the AFPS 1975 basic earned benefits” means an amount determined by the Defence Council with the approval of the Treasury; and
- (b) “the AFPS 1975 ill-health enhancement benefits” means an amount determined by the Defence Council with the approval of the Treasury.

**Active transition member who leaves service with incapacity for service before reaching their immediate pension point**

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

- (a) meets the criteria for lump sum on incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and
- (b) has not reached their immediate pension point under the rules of the AFPS 1975.

(2) If this paragraph applies—

- (a) early benefits on ill-health are not payable under the AFPS 1975; and

- (b) ill-health benefits are payable under the AFPS 2015 and lump sum awards on incapacity for armed forces service are payable under the EDP 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 such amount that the Defence Council may determine with the approval of the Treasury.
- (5) In respect of service from the member's transition date, the lump sum award on incapacity for armed service is payable under regulation 19 of the EDP Regulations 2014.
- (6) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

**“20.—**(1) The amount of lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person's final pensionable earnings by their service from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; or
- (b) the amount calculated is more than Y, Y being twice the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.

(2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.

In this regulation—

- (a) “total service” in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the AFPS 1975, and
- (b) “transition date” has the same meaning as is given in paragraph 2 (interpretation) of Schedule 3 to the AFPS 1975<sup>(36)</sup>.”.

(7) If the person is entitled to early departure payments under regulation 9 (entitlement to early departure payments) of the EDP Regulations 2014, the person is not entitled to a lump sum award under sub-paragraph (5).

**Transition member who leaves service before their immediate pension point with incapacity for service who reaches age 55**

**16.—**(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 incapacity for service) in accordance with paragraph 15.

(2) On the day the member reaches age 55—

- (a) of the benefits that were payable under paragraph 15(2)(b), the AFPS 1975 basic earned benefits cease to be payable under paragraph 15(2)(b) and instead become payable under the AFPS 1975; and

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(36) Schedule 3 is inserted by the Armed Forces (Transitional Provisions) Pensions Regulations 2015.

- (b) of the benefits that were payable under paragraph 15(2)(b), the AFPS 1975 ill-health enhancement benefits continue to be payable under paragraph 15(2)(b).
- (3) For the purpose of this paragraph—
  - (a) the “AFPS 1975 basic earned benefits” means an amount determined by the Defence Council with the approval of the Treasury; and
  - (b) the “AFPS 1975 ill-health enhancement benefits” means an amount determined by the Defence Council with the approval of the Treasury.

**Active transition member who leaves service with incapacity for service after reaching their immediate pension point**

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

- (a) meets the criteria for a lump sum on incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and
- (b) has reached their immediate pension point under the rules of the AFPS 1975.
- (2) In respect of service before T’s transition date—
  - (a) the AFPS 1975 basic earned benefits are payable under the AFPS 1975, and
  - (b) the AFPS 1975 ill-health enhancement benefits are payable under the AFPS 2015.
- (3) In respect of service from T’s transition date, benefits are payable under Part 4 of the EDP Regulations 2014.
- (4) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

“20.—(1) The amount of lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person’s final pensionable earnings by their service from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person’s final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; or
- (b) the amount calculated is more than Y, Y being twice the person’s final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.
- (2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.
- (3) In this regulation—
  - (a) “total service” in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the AFPS 1975; and
  - (b) “transition date” has the same meaning as given in paragraph 2 (interpretation) of Schedule 3 to the AFPS 1975(37).”.

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(37) Schedule 3 is inserted by the Armed Forces (Transitional Provisions) Pensions Regulations 2015.

(5) If the person is entitled to early departure payments under regulation 9 (entitlement to early departure payments) of the EDP Regulations 2014, the person is not entitled to a lump sum award under sub-paragraph (3).

(6) For the purpose of this paragraph—

- (a) “the AFPS 1975 basic earned benefits” means an amount determined by the Defence Council with the approval of the Treasury; and
- (b) “the AFPS 1975 ill-health enhancement benefits” means an amount determined by the Defence Council with the approval of the Treasury.

**Deferred transition member with permanent serious ill-health who has not reached age 55**

**18.**—(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) has not reached age 55.

(2) Where T is a deferred member of the AFPS 1975—

- (a) early payment of preserved pension in case of ill-health is not payable under the AFPS 1975; 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.18 of the AFPS 1975.

(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.

(6) Where the member is a pensioner member of the AFPS 1975—

- (a) a pension continues to be payable under the AFPS 1975 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.

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

**19.**—(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 18.

(2) On the day the member reaches age 55, the AFPS 1975 benefits cease to be payable under paragraph 18(2)(b) and instead become payable under the AFPS 1975.

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

**20.**—(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 1975—
  - (a) a pension is payable under the rules of the AFPS 1975 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 1975—
  - (a) a pension continues to be payable under the AFPS 1975 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.

## PART 4

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

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

**21.** 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.

### **This Part not to apply to previous periods of service**

**22.** If a transition member has a period of earlier service within the meaning of rule G.1 (application of this Part) of the AFPS 1975 that has not been aggregated with a period of later service under Part G of the AFPS 1975, this Part does not apply to the earlier service.

### **Surviving adult's pension when transition member dies in service before reaching their immediate pension point**

**23.—(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 their immediate pension point 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) If this paragraph applies—
  - (a) a pension for a surviving spouse or surviving civil partner ("surviving adult dependant") is payable under the AFPS 1975 in respect of service before the transition date; and
  - (b) a pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from the transition date.
- (3) The rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury.

(4) 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 (annual rate of adult dependants' pensions payable on death of active member), the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 9(5).

**Surviving adult’s pension when transition member dies in service on or after reaching their immediate pension point**

24.—(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 on or after reaching their immediate pension point 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) If this paragraph applies—

- (a) a pension for a surviving spouse or surviving civil partner (“surviving adult dependant”) is payable under the AFPS 1975 in respect of T’s service before their transition date; and
- (b) a pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from T’s transition date.

(3) The rate of annual pension payable in respect of service before T’s transition date is as the Defence Council may determine with the approval of the Treasury.

(4) 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 (annual rate of adult dependants’ pensions payable on death of active member), the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 9(5).

**Surviving adult dependant’s pension when a transition member dies as a pensioner member before reaching age 55**

25.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as 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 1975 in respect of service before the 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 rate of annual pension payable in respect of service before T’s transition date is as the Defence Council may determine with the approval of the Treasury.

(5) The pension payable in respect of service from T’s transition date is payable under regulation 68 (annual rate of adult dependants’ pensions payable on death of pensioner member) of 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, the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 9(5); 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 references in regulation 52 to regulation 55 are to be read as references to regulation 55 amended as specified in paragraph 12(5).

**Surviving adult dependant’s pension when a transition member dies as a deferred member before reaching age 55**

26.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred 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) If this paragraph applies—

- (a) a pension for a surviving adult dependant is payable under the AFPS 1975 in respect of service before the transition date; and
- (b) a pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from the transition date.

(3) The rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury.

(4) The pension payable in respect of service from T's transition date is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a deferred member) of the AFP Regulations 2014.

#### **Surviving adult dependant's pension when a transition member dies as a deferred member or a pensioner member 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 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 the AFPS 1975 in respect of service before T's transition date and the rate of annual pension is as the Defence Council may determine with the approval of the Treasury; and
- (b) a pension for a surviving adult dependant is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a 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) a pension for a surviving adult dependant is payable under the AFPS 1975 in respect of service before T's transition date and the rate of annual pension is as the Defence Council may determine with the approval of the Treasury; and
- (b) a 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 9(5) to regulation 54.
  - (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 12(5) to regulation 55.

#### **Eligible child's pension when a transition member dies in service before reaching their immediate pension point**

28.—(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 their immediate pension point

under the rules of the AFPS 1975 and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) If this paragraph applies—

- (a) a pension for an eligible child is payable under the AFPS 1975 in respect of service before the transition date; and
- (b) a pension for an eligible child is payable under the AFPS 2015 in respect of service from the transition date.

(3) The rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury.

(4) 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 references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 9(5).

**Eligible child's pension when transition member dies in service on or after reaching their immediate pension point**

**29.**—(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 on or after reaching their immediate pension point and for whom the conditions of regulation 72 (surviving children's pensions) of the AFP Regulations 2014 apply.

(2) If this paragraph applies—

- (a) a pension for an eligible child is payable under the AFPS 1975 in respect of T's service before their transition date; and
- (b) a pension for an eligible child is payable under the AFPS 2015 in respect of T's service from their transition date.

(3) The rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury.

(4) 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 references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 9(5).

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

**30.**—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as 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 rule E.14 (amount of child's longer-term pension) of the AFPS 1975 in respect of service before T's transition date.

(3) A pension for an eligible child is payable under the AFPS 2015.

(4) The rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury.

(5) The pension payable in respect of service from T's transition date is payable under regulation 72 of the of 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 references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 9(5); 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 references in regulation 52 to regulation 55 are to be read as references to regulation 55 amended as specified in paragraph 12(5).

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

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

(2) If this paragraph applies—

- (a) a pension for an eligible child is payable under the AFPS 1975 in respect of service before the transition date; and
- (b) a pension for an eligible child is payable under the AFPS 2015 in respect of service from the transition date.

(3) The rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury.

(4) 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 retirement earned pension is to take account of the amendment in paragraph 9(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 retirement earned pension is to take account of the amendment in paragraph 12(5) to regulation 55.

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

**32.**—(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.14 (amount of child's longer-term pension) of the AFPS 1975 in respect of the 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 rate of annual pension payable in respect of service before T's transition date is as the Defence Council may determine with the approval of the Treasury; and
- (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 (annual rate of children's pensions), the calculation of the member's retirement earned pension is to take account of the amendment in paragraph 9(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 retirement earned pension is to take account of the amendment in paragraph 12(5) to regulation 55.

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

**33.**—(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
  - (b) a lump sum is not payable under the AFPS 1975.

**Death of a deferred transition member: lump sum benefit**

**34.**—(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 that regulation; and
  - (b) if the member is a deferred member of the AFPS 1975 and the conditions for payment of a lump sum benefit under rule E.20 (lump sum benefit: active or fixed protection, deferred and pensioner members) and rule E.22 (amount of lump sum: deferred members) of the AFPS 1975 are met, a lump sum death benefit equal to the sum that would have been payable under rule E.22 of the AFPS 1975 is payable under the AFPS 2015; and
  - (c) if the member is a pensioner member of the AFPS 1975 and the conditions for payment of a lump sum death benefit under rule E.20 and rule E.23 (amount of lump sum: pensioner members) are met, a lump sum death benefit is not payable under the AFPS 1975, but a lump sum death benefit is payable under the AFPS 2015 in accordance with this paragraph. The lump sum is calculated in accordance with the following formula and is subject to the reductions at rule E.25 (reduction of lump sum for outstanding repayments) of the AFPS 1975—

Step 1: Take three times the amount of the member's representative pay on the day they leave service (disregarding any reckonable service in the AFPS 1975 in excess of the number of whole years);

Step 2: From the resulting value in step 1 subtract any lump sum the member has received under rule D.4 (amount of immediate pension: officers of or above OF-7 rank), D.5 (amount of immediate pension: other officers) or D.6 (amount of immediate pension: other ranks) of the AFPS 1975;

Step 3: Multiply the resulting value in step 2 by the member's reckonable service in the AFPS 1975; and

Step 4: Divide the resulting value in step 3 by the total of the member's reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015.

- (3) On death on or after reaching age 55—
- (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation;
  - (b) if the member is a deferred member of the AFPS 1975 and the conditions for payment of a lump sum death benefit under rule E.20 and rule E.22 of the AFPS 1975 are met, lump sum death benefit is payable under rule E.22 of the AFPS 1975; and
  - (c) if the member is a pensioner member of the AFPS 1975 and the conditions for payment of a lump sum death benefit under rule E.20 and rule E.23 of the AFPS 1975 are met, a lump sum death benefit is payable under the AFPS 1975. The amount of the lump sum is to be calculated in accordance with the following formula, and is subject to the reductions at rule E.25 (reduction of lump sum for outstanding repayments) of the AFPS 1975—
    - Step 1: Take three times the amount of the member’s representative pay on the day they leave service (disregarding any reckonable service in the AFPS 1975 in excess of the number of whole years);
    - Step 2: From the resulting value in step 1 subtract any lump sum the member has received under rule D.4, D.5 or D.6 of the AFPS 1975;
    - Step 3: Multiply the resulting value in step 2 by the member’s reckonable service in the AFPS 1975; and
    - Step 4: Divide the resulting value in step 3 by the total of the member’s reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015.

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

- 35.** 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—
- (a) 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; and
  - (b) if the member is a pensioner member of the AFPS 1975 and the conditions for payment of a lump sum death benefit under rule E.20 (lump sum benefit: active or fixed protection, deferred and pensioner members) and rule E.23 (amount of lump sum: pensioner members) of the AFPS 1975 are met, a lump sum death benefit is not payable under the AFPS 1975, but a lump sum death benefit is payable under the AFPS 2015 in accordance with this paragraph. The lump sum is calculated in accordance with the following formula and is subject to the reductions at rule E.25 (reduction of lump sum for outstanding repayments) of the AFPS 1975—
    - Step 1: Take three times the amount of the member’s representative pay on the day they leave service (disregarding any reckonable service in the AFPS 1975 in excess of the number of whole years);
    - Step 2: From the resulting value in step 1 subtract any lump sum the member has received under rule D.4, D.5 or D.6 of the AFPS 1975;
    - Step 3: Multiply the resulting value in step 2 by the member’s reckonable service in the AFPS 1975; and
    - Step 4: Divide the resulting value in step 3 by the total of the member’s reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015.

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

**36.** 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—

- (a) 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;
- (b) if the member is a deferred member of the AFPS 1975 and the conditions for payment of a lump sum benefit under rule E.20 (lump sum benefit: active or fixed protection, deferred and pensioner members) and rule E.22 (amount of lump sum: deferred members) of the AFPS 1975 are met, a lump sum death benefit is payable under rule E.22 of the AFPS 1975; and
- (c) if the member is a pensioner member of the AFPS 1975 and the conditions for payment of a lump sum death benefit under rule E.20 and rule E.23 (amount of lump sum: pensioner members) of the AFPS 1975 are met, a lump sum death benefit is payable under the AFPS 1975. The amount of the lump sum is to be calculated in accordance with the following formula, and is subject to the reductions at rule E.25 (reduction of lump sum for outstanding repayments) of the AFPS 1975—

Step 1: Take three times the amount of the member's representative pay on the day they leave service (disregarding any reckonable service in the AFPS 1975 in excess of the number of whole years);

Step 2: From the resulting value in step 1 subtract any lump sum the member has received under rule D.4, D.5 or D.6 of the AFPS 1975;

Step 3: Multiply the resulting value in step 2 by the member's reckonable service in the AFPS 1975; and

Step 4: Divide the resulting value in step 3 by the total of the member's reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015.

## **PART 5**

### **Transitional provisions relating to the AFPS 1975**

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

**37.** No benefits under the AFPS 1975 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 1975 for a transition member with continuity of service**

**38.—(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 1975 for retirement benefits (other than early benefits on ill-health), T's pensionable service under the AFPS 1975 terminates when T's pensionable service under the AFPS 2015 terminates.

#### **Professional supplements for a transition member with continuity of service**

**39.—(1)** For transition members with continuity of service—

- (a) in rule D.15 (professional supplement) of the AFPS 1975, in paragraph (6)(a) after “pensionable service” is inserted “as a member of the AFPS 2015.”; and
- (b) for rule D.15(6)(b) of the AFPS 1975 is substituted—
  - “(b) “(b) the number of reckonable days service the member had before the member’s transition date.”.

**Amount of immediate pension: officers of or above OF-7 rank (except medical or dental officers)**

**40.**—(1) For transition members with continuity of service, in rule D.4 (amount of immediate pension: officers of or above OF-7 rank) of the AFPS 1975, for paragraph (3) is substituted the following—

“(3) For the purposes of paragraph (2)(a) the relevant percentage is that specified in the pension code in force on the last day of the member’s pensionable service as a member of the AFPS 2015, for a person of the member’s pension rank, and with X number of whole years’ reckonable service, X being the number of whole years’ service that the member had on the day before they joined the AFPS 2015.”.

(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 on their transition date, their final pensionable earnings are to be determined as if paragraph (1) in rule A.7 (final pensionable earnings) of the AFPS 1975 were replaced by the following—

“(1) References to a member’s final pensionable earnings are to 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.”.

**Amount of immediate pension: other officers (including medical and dental officers of any rank)**

**41.**—(1) For transition members with continuity of service, in rule D.5 (amount of immediate pension: other officers) of the AFPS 1975, for paragraph (2) is substituted the following—

“(2) Subject to the following provisions of this rule and rule D.10 (increase at age 60 or 65), the annual amount of the pension is X plus, if rule D.8 (addition for reckonable service in excess of whole years) applies, an additional amount calculated in accordance with that rule.

(2A) In this rule, for a person to whom paragraph (3)(a), (b) or (c) applies who leaves service after reaching their immediate pension point and who has less than 16 years reckonable service in the AFPS 1975, X is calculated according to the following formula—

Step 1: Take the amount specified in the relevant table of the pension code specifying rates of service retired pay paid on compulsory retirement for a person of the member’s rank, in force on the day the member leaves service for a person of the member’s pension rank who has the number of whole years’ reckonable service that the member has in the AFPS 1975;

Step 2: Multiply the above by the member’s representative rate of pay<sup>(38)</sup> on the day the member leaves service; and

Step 3: Divide the above by the representative rate of pay of a person of the member’s pension rank who has exactly 16 whole years reckonable service in the AFPS 1975.

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(38) “Representative rate of pay” is defined in rule A.1 of the AFPS 1975 rules as having the meaning in rule A.5. Rule A.5 provides that references to a member’s representative rate of pay are to the representative rate of pay set out in the pension code in force on the member’s last day of pensionable service, for a person of the member’s pension rank with the amount of reckonable service that the member has (which means reckonable service in the AFPS 1975).

(2B) In this rule, for a person to whom sub-paragraph (3)(a), (b) or (c) applies who leaves after reaching their immediate pension point with 16 or more years reckonable service in the AFPS 1975, X is calculated according to the following formula—

Step 1: Take the amount specified in the relevant table of the pension code specifying rates of service retired pay paid on compulsory retirement for a person of the member's rank, in force on the day the member leaves service for a person of the member's pension rank who has the number of whole years' reckonable service in the AFPS 1975;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay on the day the member leaves service; and

Step 3: Divide the resulting value in step 2 by the representative rate of pay of a person of the member's pension rank who has exactly 16 whole years reckonable service in the AFPS 1975.

(2C) In this rule, for a person who leaves service after reaching their immediate pension point but with less than 16 years reckonable service in the AFPS 1975, and where none of sub-paragraphs (3)(a), (b) or (c) applies, X is calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service in the AFPS 1975 that the member has, in the relevant table of the pension code specifying rates of service retired pay paid on compulsory retirement for a person of the member's rank, in force on the day the member leaves service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay on the day the member leaves service;

Step 3: Divide the resulting value in step 2 by the representative rate of pay of a person of the member's pension rank who has exactly 16 whole years reckonable service in the AFPS 1975; and

Step 4: Multiply the resulting value in step 3 by the fraction resulting from dividing A by B.

In this step—

“A” is the amount specified in the table of pension code specifying rates of service retired pay paid on premature voluntary retirement for a person of the member's rank with the total number of whole years' reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015 that the member has on the day they leave service; and

“B” is the amount specified in the table of pension code specifying rates of service retired pay paid on compulsory retirement for a person of the member's rank with the total number of whole years' reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015 that the member has on the day they leave service.

(2D) In this rule, for a person who leaves after reaching their immediate pension point with 16 or more years reckonable service in the AFPS 1975, but where none of sub-paragraph (3)(a), (b) or (c) applies, X is calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member has in AFPS 1975 in the relevant table of the pension code specifying rates of service retired pay paid on compulsory retirement for a person of the member's rank, in force on the day the member leaves service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay on the day the member leaves service;

Step 3: Divide the resulting value in step 2 by the representative rate of pay of a person of the member's pension rank who has the same number of years reckonable service in the AFPS 1975 as the member; and

Step 4: Multiply the resulting value in step 3 by the fraction resulting from dividing A by B.

In this step—



“A” is the amount specified in the table of pension code specifying rates of service retired pay paid on premature voluntary retirement for a person of the member’s rank with the total number of whole years’ reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015 that the member has on the day they leave service; and

“B” is the amount specified in the table of pension code specifying rates of service retired pay paid on compulsory retirement for a person of the member’s rank with the total number of whole years’ reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015 that the member has on the day they leave service.”.

**Amount of immediate pension: other ranks**

**42.**—(1) For transition members with continuity of service—

(a) in rule D.6 (amount of immediate pension: other ranks) of the AFPS 1975, for paragraph (2) is substituted the following—

“(2) The annual amount of pension is X plus, if rule D.8 (addition for reckonable service in excess of whole years) applies, an additional amount calculated in accordance with that rule.

(2A) In this rule, for a person who leaves service after reaching their immediate pension point and where the person is not discharged as referred to in paragraph (2B), X is the amount specified for a person of the member’s pension rank with the number of whole years’ reckonable service that the member has in the AFPS 1975, in the relevant table of the pension code in force on the day the member leaves service.

(2B) In this rule, for a person who is, after reaching their immediate pension point, discharged on grounds of misconduct, incapacity, unsuitability or inefficiency within their own control, X is calculated according to the following formula—

Step 1: Take the amount specified for a person of the member’s pension rank with the number of whole years’ reckonable service that the member has in the AFPS 1975 in the relevant table of the pension code specifying standard rates of service pension for a person of the member’s rank, in force on the day the member leaves service; and

Step 2: Multiply the resulting value in step 1 by the fraction resulting from dividing A by B.

In this step—

“A” is the amount specified in the relevant table of the pension code specifying lower rates of service pension paid for a person of the member’s rank with the total number of whole years’ reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015 that the member has on the day they leave service; and

“B” is the amount specified in the pension code specifying standard rates of service pension for a person of the member’s rank with the total number of whole years’ reckonable service in the AFPS 1975 and pensionable service in the AFPS 2015.”.

(b) for rule D.6(8) of the AFPS 1975 is substituted the following—

“(8) The additional amount mentioned in paragraph (2)(c) is the product of—

(a) the number of years for which the member served as an officer before the member’s transition date; and

(b) the amount of the annual commissioned service addition specified in the pension code in force on the last day of the member’s pensionable service.”.

(c) in rule D.6(10)—

“y is the number of years for which the member serves in the lower rank” is substituted for—

“y is the number of years for which the member serves in the lower rank before their transition date”.

#### **Preserved pensions and lump sums**

**43.** For transition members with continuity of service, in rule D.12 (overall pension amount) of the AFPS 1975, paragraph (1)(b)(i) is amended by inserting after “that the member has” the words “in the AFPS 1975”.

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

- 44.**—(1) This paragraph applies if a member of the AFPS 1975—
- (a) claimed payment of an ill-health pension under the AFPS 1975 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 1975, 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 1975**

- 45.**—(1) A transition member with continuity of service (T) does not become a deferred member of the AFPS 1975 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 1975 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 1975.

#### **Qualifying for retirement benefits under the AFPS 1975**

- 46.**—(1) In determining whether a transition member with continuity of service qualifies for retirement benefits under the AFPS 1975, the member’s qualifying service includes the total of—
- (a) the member’s qualifying service under the AFPS 1975; and
  - (b) the member’s qualifying service under the AFPS 2015.

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

**47.** Where any element of pension under the AFPS 1975 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 1975.

## PART 6

### Miscellaneous transitional and consequential provisions

#### **Purchase of additional reckonable service in respect of period on loan**

**48.**—(1) This paragraph applies in relation to a transition member if on 1st April 2015 they are in qualifying service in accordance with rule A.10 (qualifying service) of the AFPS 1975.

(2) For rule C.3 (purchase of additional reckonable service) of the AFPS 1975 is substituted—

**“C.3.**

(1) Following a period which is qualifying service by virtue of rule A.10(c)(loan to another organisation), an active member may opt to make a single lump sum contribution to the AFPS 1975 to increase the member’s reckonable service in respect of that single period of service by an additional period equal to the period of the secondment before 1st April 2015<sup>(39)</sup>.

(2) The option may not be exercised more than 12 months after the end of the period, unless the Scheme administrator so permits.

(3) The amount of the lump sum is the aggregate of—

(a) any contributions paid by the member to, and returned by, the pension scheme to which the member was required to belong during the period; and

(b) any lump sum paid by that scheme to the member after the end of the period.

(4) If the member exercises the option, the member’s reckonable service is increased by the period in question.

(5) If the Scheme actuary in each case determines that the amount required to increase the member’s reckonable service by the period in question is greater than that given by paragraph (3), the Service or body funding the arrangement with the other organisation is to make a contribution to the AFPS 1975 equal to the difference.”.

#### **Option to buy additional reckonable service under the AFPS 1975 continues to have effect**

**49.**—(1) This paragraph applies where a transition member with continuity of service—

(a) has exercised an option under rule C.1(1) (purchase of additional reckonable service by periodic contributions) of the AFPS 1975 before the member’s transition date; and

(b) on the member’s transition date, the contractual option period is extant.

(2) Periodical payments paid by the member in accordance with Part C 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 1975.

(3) If the member opts out of the AFPS 2015, any periodical payments paid by the member in accordance with Part C cease to be payable.

#### **Option to buy right to enhanced benefits calculation ceases to have effect**

**50.**—(1) A transition member who has exercised an option under rule C.4 (purchase of right to have benefits calculated on enhanced basis) of the AFPS 1975 can make no payments under rule C.4 on or after their transition date, and the option period does not continue after that date.

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<sup>(39)</sup> In respect of the period of the secondment from 1st April 2015, the member will have an option to make a lump sum contribution to the AFPS 2015 under regulation 97 of the AFP Regulations 2014.

(2) The member is to be given benefits in the AFPS 1975 determined by the Defence Council with the approval of the Treasury after consultation with the Scheme actuary.

**Option to buy increased pension for surviving spouse or civil partner ceases to have effect**

**51.**—(1) A transition member who has exercised an option under rule C.6 (purchase of increased pension for surviving spouse or civil partner) of the AFPS 1975 can make no payments under rule C.6 on or after their transition date and the option period does not continue after that date.

(2) The member is to be given benefits in the AFPS 1975 determined by the Defence Council with the approval of the Treasury after consultation with the Scheme actuary.

**Option to buy enhanced death in service lump sum ceases to have effect**

**52.**—(1) A transition member who has exercised an option under rule C.8 (purchase of enhanced death in service lump sum) of the AFPS 1975 can make no payments under rule C.8 on or after their transition date, and the option period does not continue after that date.

(2) Payments made by the member before their transition date are not to be taken into account when determining a death in service lump sum under the AFPS 1975.”

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<sup>(40)</sup> or a public body pension scheme<sup>(41)</sup>;

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

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

“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<sup>(42)</sup>;

“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—

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<sup>(40)</sup> See section 18(2) of the 2013 Act for the meaning of “existing scheme”.

<sup>(41)</sup> See section 30(5) of the 2013 Act for the meaning of “public body pension scheme”.

<sup>(42)</sup> 2013 c. 25.

- (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.

(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<sup>(43)</sup> 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<sup>(44)</sup> 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.

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<sup>(43)</sup> See section 18(2) of the 2013 Act for the meaning of “existing scheme”.

<sup>(44)</sup> See section 30(5) of the 2013 Act for the meaning of “public body pension 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—

“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—

- (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)—

“(5) (a) 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) 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<sup>(45)</sup>, 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 subparagraph (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.

(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)—

“(3) (a) 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

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<sup>(45)</sup> 2004 c. 12. Section 237E was amended by the Finance Act 2011, section 66, Schedule 17, Part 1.

- (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) 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 subparagraph (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.
- (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).

### **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.

(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
  - (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<sup>(46)</sup> 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."

### **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

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<sup>(46)</sup> "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.

- (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.”

## SCHEDULE 3

Regulation 26

Schedule to be inserted in the Reserve Forces (Full-Time Reserve Service) Pension Scheme 1997

### “SCHEDULE 2

#### Transitional Provision

## PART 1

### Interpretation

#### **Interpretation**

**1.** In this Schedule—

“AFPS 2015” means the scheme established by the AFP Regulations 2014<sup>(47)</sup>;

“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;

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

“FTRS 1997” means the pension scheme established by the Reserve Forces (Full-Time Reserve Service Pension Scheme 1997) Regulations 2010<sup>(48)</sup>;

“full commitment” member means a member who undertakes—

- (a) a full commitment full-time reserve service;
- (b) a short term volunteer commission; or
- (c) an S-type engagement.

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

“pensionable public service” means pensionable service under an existing scheme or a public body pension scheme;

“protection period” has the meaning given in paragraph 5;

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

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<sup>(47)</sup> S.I. 2014/2336.

<sup>(48)</sup> These Regulations are Defence Council Regulations. These Regulations were amended by the Reserve Forces (Full-Time Reserve Service Pension Scheme 1997) (Amendment) Regulations 2012, which included a replacement of the whole of Part D. These instruments can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6, Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

“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 FTRS 1997;

“transition member means a person—

- (a) who is a member of FTRS 1997 by virtue of their pensionable service under the FTRS 1997 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;

“transfer payment” means payment of a transfer value;

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

“WRP Act 1999” means the Welfare Reform and Pensions Act 1999<sup>(49)</sup>.

### **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 FTRS 1997 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 T’s transition date, on that date; or
- (b) if T is not in pensionable service on a scheme employment on T’s 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 FTRS 1997**

#### **Full protection members of the FTRS 1997**

4.—(1) A person (P) is a full protection member of the FTRS 1997, where—

- (a) P was a conditional full protection member of the FTRS 1997 on 31st March 2015 and on 31st March 2012, and

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<sup>(49)</sup> 1999 c. 30.



- (b) unless P dies—
  - (i) P would reach age 55 on or before 1st April 2022 (if serving under one of the types of commitment referred to in rule A.14(a)); or
  - (ii) P would reach age 60 on or before 1st April 2022 (if serving under one of the types of commitment referred to in rule A.14(b)).
- (2) For the purpose of this paragraph, a member is a conditional full protection member of the FTRS 1997 on a given date if on that date—
  - (a) the member is in service in respect of which the member is eligible to be a member of the FTRS 1997; or
  - (b) the member is in qualifying service under rule A.10 of the FTRS 1997.
- (3) P ceases to be a full protection member of the FTRS 1997 when P ceases to be in pensionable service under the FTRS 1997.

**Exception for full protection member during protection period**

- 5.—(1) The protection period for a person (P) who is a full protection member of the FTRS 1997 is the period which—
- (a) begins on 1st April 2015; and
  - (b) ends when P ceases to be a full protection member of the FTRS 1997.
- (2) During the protection period—
- (a) P is in pensionable service under the FTRS 1997;
  - (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 FTRS 1997 to or in respect of P in relation to that pensionable service.

**Full protection member not eligible to join the AFPS 2015**

6. While a person (P) is a full protection member of the FTRS 1997, 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

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

7. 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 on full commitment with permanent serious ill-health who has not reached the age of 55**

- 8.—(1) This paragraph applies in relation to a transition member on full commitment 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) has not reached age 55.

(2) If this paragraph applies—

- (a) early benefits on ill-health are not payable under the FTRS 1997; 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 the rules in Part C of the FTRS 1997 but when calculating the rate of pension, the only service that is taken into account is the service before the transition date.

(5) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) in rule C.5 (amount of pension under rule C.4: officers)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 21, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) The pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) The amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(6) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) of rule C.6 (amount of pension under rule C.4: other ranks)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 18, the amount of the pension payable under rule C.4 is the amount found by adding—

- (i) the pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) the amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(7) 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) B is the sum of—
- (i) the member's pensionable service under the Scheme as calculated in accordance with regulation 54(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 member's years of reckonable service in the FTRS 1997 and the member's years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is the greater of—
- (i) half of the further reckonable service which the member would have been able to count under the Scheme if the member had been an accruing member from the date of the ill-health retirement until age 60; and
  - (ii) the lesser of Y and Z.
- (e) In this paragraph, Y is equal to 25 minus the total of the member's years of reckonable service in the FTRS 1997 and the sum of—
- (i) for all years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and
  - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year) where the member was eligible for active membership.
- (f) In this paragraph Z is equal to the further pensionable service which the member would have been able to count under the scheme if the member had been an accruing member from the date of the ill-health retirement until age 60.”.

**Active transition member on home or limited commitment with permanent serious ill-health who has not reached age 60**

9.—(1) This paragraph applies in relation to a transition member on home or limited commitment 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) has not reached age 60.
- (2) If this paragraph applies—

- (a) early benefits on ill-health are not payable under the FTRS 1997; 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 the rules in Part C of the FTRS 1997 but when calculating the rate of pension, the only service that is taken into account is the service before the transition date.

(5) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) in rule C.5 (amount of pension under rule C.4: officers)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 21, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) The pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) The amount X calculated according to the following formula:

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(6) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) of rule C.6 (amount of pension under rule C.4: other ranks)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 18, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) the pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) the amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(7) 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 to be substituted for regulation 54(2)(b) of the AFP Regulations 2014—

- “(b) “(b) B is the sum of—
- (i) the member's pensionable service under the Scheme as calculated in accordance with regulation 54(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 FTRS 1997 and the member's years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is the greater of—
- (i) half of the further reckonable service which the member would have been able to count under the scheme if the member had been an accruing member from the date of the ill-health retirement until age 60; and
  - (ii) the lesser of Y and Z.
- (e) In this paragraph, Y is equal to 25 minus the total of the member's years of reckonable service in the FTRS 1997 and the sum of—
- (i) for all the years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and
  - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year) where the member was eligible for active membership;
- (f) In this paragraph, Z is equal to the further pensionable service which the member would have been able to count under the scheme, if the member had been an accruing member from the date of the ill-health retirement until age 60.”.

**Transition member on full commitment who reaches age 55 with permanent serious ill-health**

**10.**—(1) This paragraph applies in relation to a former full commitment 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 8.

(2) On the day the member reaches age 55—

- (a) of the benefits that were payable under paragraph 8(2)(b), the FTRS 1997 basic earned benefits cease to be payable under paragraph 8(2)(b) and instead become payable under the FTRS 1997; and
  - (b) of the benefits that were payable under paragraph 8(2)(b), the FTRS 1997 ill-health enhancement benefits continue to be payable under paragraph 8(2)(b).
- (3) For the purpose of this regulation, subject to sub-paragraph (4)—
- (a) the “FTRS 1997 basic earned benefits” means the amount arrived at by multiplying 1.5% of T’s final pensionable earnings by T’s reckonable service before T’s transition date expressed as number of years; and
  - (b) the “FTRS 1997 ill-health enhancement benefits” means the benefits payable at paragraph 8(5) in respect of service before T’s transition date minus the FTRS 1997 basic earned benefits.
- (4) Where T is a pension debit member of the FTRS 1997 whose benefits have been reduced in accordance with section 31 of the WRP Act 1999—
- (a) “the FTRS basic earned benefits” are the amount specified at paragraph (3)(a) reduced by the amount referred to in section 31 of the WRP Act 1999;
  - (b) where the amount referred to in section 31 of the WRP Act 1999 is greater than the amount at paragraph (3)(a), the “FTRS 1997 ill-health enhancement benefits” are the amount specified at paragraph (3)(b) reduced by the difference between the amount specified at paragraph (3)(a) and the amount referred to at section 31 of the WRP Act 1999.

**Transition member on home or limited commitment who reaches age 60 with permanent serious ill-health**

**11.**—(1) This paragraph applies in relation to a former home or limited commitment 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 9.

- (2) On the day the member reaches age 60—
- (a) of the benefits that were payable under paragraph 9(2)(b), the FTRS 1997 basic earned benefits cease to be payable under paragraph 9(2)(b) and instead become payable under the FTRS 1997; and
  - (b) of the benefits that were payable under paragraph 9(2)(b), the FTRS 1997 ill-health enhancement benefits continue to be payable under paragraph 9(2)(b).
- (3) For the purpose of this paragraph, subject to sub-paragraph (4)—
- (a) the “FTRS 1997 basic earned benefits” means the amount arrived at by multiplying 1.25% of T’s final pensionable earnings by T’s reckonable service before T’s transition date expressed as number of years; and
  - (b) the “FTRS 1997 ill-health enhancement benefits” means the benefits payable at paragraph 9(5) in respect of service before T’s transition date minus the FTRS 1997 basic earned benefits.
- (4) Where T is a pension debit member of the FTRS 1997 whose benefits have been reduced in accordance with section 31 of the 1999 Act—
- (a) “the FTRS basic earned benefits” are the amount specified at paragraph (3)(a) reduced by the amount referred to in section 31 of the WRP Act 1999;
  - (b) where the amount referred to in section 31 of the WRP Act 1999 is greater than the amount at paragraph (3)(a), the “FTRS 1997 ill-health enhancement benefits” are the amount specified at paragraph (3)(b) reduced by the difference between the amount specified at paragraph (3)(a) and the amount referred to at section 31 of the WRP Act 1999.

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

12.—(1) This paragraph applies in relation to a transition member on full commitment 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) has reached age 55 but has not reached age 60.

(2) Early benefits on ill health are payable under rule C.4 (early payment of benefits: active members' ill health) of the FTRS 1997 in respect of service before T's transition date, but when calculating the amount of pension only the service before the transition date is taken into account.

(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 amount of annual pension, regulation 54(2)(b) is amended as specified in paragraph 8(7).

(4) If a transition member has reached age 55, and if when calculating the annual amount of pension under rules C.5(5) or C.6(5) of the FTRS 1997 the higher rate is that falling under rule C.4 (as amended by paragraph 8(5) and (6)), the FTRS 1997 ill health enhancement benefits under rule C.4 are to be paid from the AFPS 2015 and the FTRS 1997 basic earned benefits are to be paid from the FTRS 1997.

(5) For the purposes of sub-paragraph (4), FTRS 1997 ill health enhancement benefits and FTRS 1997 basic earned benefits have the same meaning as given in paragraph 10.

**Active transition member on full commitment with significant impairment of capacity for gainful employment who has not reached age 55**

13.—(1) This paragraph applies in relation to a transition member on full commitment 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 ill health are not payable under the FTRS 1997; 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 the rules in Part C of the FTRS 1997 but when calculating the rate of pension, the only service that is taken into account is the service before the transition date.

(5) For the purposes of calculating the benefits payable under paragraph (4) the following is to be substituted for paragraph (3) of rule C.5(amount of pension under rule C.4: officers)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 21, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) the pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) the amount X calculated according to the following formula:

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(6) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) of rule C.6(amount of pension under rule C.4: other ranks)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 18, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) the pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) the amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(7) 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) B is the sum of—



- (i) the member's pensionable service under the Scheme as calculated in accordance with 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 member's years of reckonable service in the FTRS 1997 and the member's years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is equal to one third of the further pensionable service which the member would have been able to count under the scheme if the member had remained an accruing member from the date of the ill-health retirement until age 60."

**Active transition member with home or limited commitment with significant impairment of capacity for gainful employment who has not reached age 60**

14.—(1) This paragraph applies in relation to a transition member on home or limited commitment 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 their pension age under the rules of FTRS 1997.

(2) If this paragraph applies—

- (a) early benefits on ill health are not payable under the FTRS 1997; 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) comprises 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 the rules in Part C of the FTRS 1997 but when calculating the rate of pension, the only service that is taken into account is the service before the transition date.

(5) For the purposes of calculating the benefits payable under paragraph (4) the following is to be substituted for paragraph (3) in rule C.5 (amount of pension under rule C.4: officers)—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 21, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) the pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) the amount X calculated according to the following formula:

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(6) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) of rule C.6(amount of pension under rule C.4: other ranks) of the FTRS 1997—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years’ qualifying service of which at least 2 years’ qualifying service was served from the age of 18, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) The pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) The amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member’s pension rank with the number of whole years’ reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member’s representative rate of pay, based on total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member’s representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(7) 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) B is the sum of—
  - (i) the member’s pensionable service under the Scheme 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 reckonable service in the FTRS 1997 and the member’s years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is equal to one third of the further pensionable service which the member would have been able to count under the scheme if the member had remained an accruing member from the date of the ill-health retirement until age 60.”.

**Active transition member on full commitment with significant impairment of capacity for gainful employment who reaches age 55**

15.—(1) This paragraph applies in relation to a transition member on full commitment 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 13.

(2) On the day the member reaches age 55—

- (a) of the benefits that were payable under paragraph 13(2)(b), the FTRS 1997 basic earned benefits cease to be payable under paragraph 13(2)(b) and instead become payable under the FTRS 1997; and
- (b) of the benefits that were payable under paragraph 13(2)(b), the FTRS 1997 ill-health enhancement benefits continue to be payable under paragraph 13(2)(b).

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

- (a) the “FTRS 1997 basic earned benefits” means the amount arrived at by multiplying 1.5% of T’s final pensionable earnings by T’s reckonable service before T’s transition date expressed as number of years; and
- (b) the “FTRS 1997 ill-health enhancement benefits” means the benefits payable at paragraph 13(5) in respect of service before T’s transition date minus the FTRS 1997 basic earned benefits.

(4) Where T is a pension debit member of the FTRS 1997 whose benefits have been reduced in accordance with section 31 of the WRP Act 1999—

- (a) “the FTRS basic earned benefits” are the amount specified at paragraph (3)(a) reduced by the amount referred to in section 31 of the WRP Act 1999;
- (b) where the amount referred to in section 31 of the WRP Act 1999 is greater than the amount at paragraph (3)(a), the “FTRS 1997 ill-health enhancement benefits” are the amount specified at paragraph (3)(b) reduced by the difference between the amount specified at paragraph (3)(a) and the amount referred to at section 31 of the WRP Act 1999.

**Active transition member formerly on home or limited commitment with significant impairment of capacity for gainful employment who reaches age 60**

16.—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who is receiving an ill-health pension (active member with significant impairment of capacity for gainful employment) in accordance with paragraph 14.

(2) On the day the member reaches age 60—

- (a) of the benefits that were payable under paragraph 14(2)(b), the FTRS 1997 basic earned benefits cease to be payable under paragraph 14(2)(b) and instead become payable under the FTRS 1997; and
- (b) of the benefits that were payable under paragraph 14(2)(b), the FTRS 1997 ill-health enhancement benefits continue to be payable under paragraph 14(2)(b).

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

- (a) the “FTRS 1997 basic earned benefits” means the amount arrived at by multiplying 1.25% of T’s final pensionable earnings by T’s reckonable service before T’s transition date expressed as number of years; and
- (b) the “FTRS 1997 ill-health enhancement benefits” means the benefits payable at paragraph 14(5) in respect of service before T’s transition date minus the FTRS 1997 basic earned benefits.

(4) Where T is a pension debit member of the FTRS 1997 whose benefits have been reduced in accordance with section 31 of the WRP Act 1999—

- (a) “the FTRS basic earned benefits” are the amount specified at paragraph (3)(a) reduced by the amount referred to in section 31 of the WRP Act 1999;
- (b) where the amount referred to in section 31 of the WRP Act 1999 is greater than the amount at paragraph (3)(a), the “FTRS 1997 ill-health enhancement benefits” are the amount specified at paragraph (3)(b) reduced by the difference between the amount specified at paragraph (3)(a) and the amount referred to at section 31 of the WRP Act 1999.

**Active transition member on full commitment who leaves service with significant impairment of capacity for gainful employment on or after age 55 and before age 60**

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

- (a) meets the criteria for an ill-health pension (active member 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.

(2) Early benefits on ill-health are payable under rule C.4 (early payment of benefits: active members’ ill health) of the FTRS 1997 in respect of service before T’s transition date.

(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 13(7).

(4) If a transition member has reached age 55, and if when calculating the annual amount of pension under rules C.5(5) or C.6(5) of the FTRS 1997 the higher rate is that falling under rule C.4 (as amended by paragraphs 13(5) and (6)), the FTRS 1997 ill-health enhancement benefits under rule C.4 are to be paid from the AFPS 2015 and the FTRS 1997 basic earned benefits are to be paid from the FTRS 1997.

(5) For the purposes of sub-paragraph (4), FTRS 1997 ill-health enhancement benefits and FTRS 1997 basic earned benefits have the same meaning as given in paragraph 10.

**Active transition member on full commitment with incapacity for Armed Forces service who leaves service before reaching age 55**

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

- (a) meets the criteria for a lump sum on incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and
- (b) leaves service before reaching age 55.

(2) If this paragraph applies—

- (a) early benefits on ill-health are not payable under the FTRS 1997; and
- (b) ill-health benefits are payable under the AFPS 2015 and lump sum awards on incapacity for armed forces service are payable under the EDP 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 the rules in Part C but when calculating the amount of the pension the only service that is to be taken into account is the service before T's transition date.

(5) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) of rule C.5 (amount of pension under rule C.4: officers) of the FTRS 1997—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 21, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) The pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) The amount X calculated according to the following formula:

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(6) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for paragraph (3) of rule C.6 (amount of pension under rule C.4: other ranks) of the FTRS 1997—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 18, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) The pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) The amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”

(7) In respect of service from the member's transition date, a lump sum award on incapacity for armed forces service is payable under regulation 19 of the EDP Regulations 2014.

(8) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

“**20.**—(1) The amount of lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person's final pensionable earnings by their service from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; or
- (b) the amount calculated is more than Y, Y being twice the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.

(2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.

(3) In this regulation—

- (a) “total service” in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the FTRS 1997; and
- (b) “transition date” has the same meaning as in paragraph 2 (interpretation) of Schedule 2 to the FTRS 1997<sup>(50)</sup>.”

(9) If the person is entitled to early departure payments under regulation 9 (entitlement to early departure payments) of the EDP Regulations 2014, the person is not entitled to a lump sum award under sub-paragraph (7).

**Active transition member on home or limited commitment with incapacity for Armed Forces service who leaves service before reaching age 60**

**19.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who—

- (a) meets the criteria for lump sum on incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and
- (b) leaves service before reaching age 60.

(2) If this paragraph applies—

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(50) Schedule 2 was inserted by the Armed Forces (Transitional Provisions) Pensions Regulations 2015.

- (a) early benefits on ill-health are not payable under the FTRS 1997; and
- (b) ill-health benefits are payable under the AFPS 2015 and lump sum awards on incapacity for armed forces service are payable under the EDP 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 the rules in Part C but when calculating the amount of the pension the only service that is to be taken into account is the service before T's transition date.

(5) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for rule C.5(3) of the FTRS 1997—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 21, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) The pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) The amount X calculated according to the following formula:

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”.

(6) For the purposes of calculating the benefits payable under sub-paragraph (4) the following is to be substituted for rule C.6(3) of the FTRS 1997—

“(3) Subject to paragraphs (5) and (6), in the case of a member who has at least 5 years' qualifying service of which at least 2 years' qualifying service was served from the age of 18, the amount of the pension payable under rule C.4 is the amount found by adding:

- (i) the pension as if the member were entitled under rule C.1 in respect of service before the transition date; and
- (ii) the amount X calculated according to the following formula—

Step 1: Take the amount specified for a person of the member's pension rank with the number of whole years' reckonable service that the member had as at their transition date in the relevant table setting out the rates of service invaliding pension in the pension code in force on the day the member leaves AFPS 2015 service;

Step 2: Multiply the resulting value in step 1 by the member's representative rate of pay, based on the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015, in force on the day the member leaves AFPS 2015 service;

Step 3: Divide the resulting value in step 2 by the member's representative rate of pay, based on service up to their transition date, in force on the day the member leaves AFPS 2015 service;

Step 4: Subtract the amount calculated in (i) above from the resulting value in step 3;

Step 5: Multiply the resulting value in step 4 by the reckonable service in FTRS 1997 and divide by the total of reckonable service in the FTRS 1997 and pensionable service in the AFPS 2015;

and applying the appropriate fraction of the applicable increase.”

(7) In respect of service from the member's transition date, the lump sum award on incapacity for armed forces service is payable under regulation 19 of the EDP Regulations 2014.

(8) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

“**20.**—(1) The amount of lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person's final pensionable earnings by their service from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; or
- (b) the amount calculated is more than Y, Y being twice the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.

(2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.

(3) In this regulation—

- (a) “total service” in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the FTRS 1997; and
- (b) “transition date” has the same meaning as is given in paragraph 2 (interpretation) of Schedule 2 to the FTRS 1997.”.

(9) If the person is entitled to early departure payments under regulation 9 (entitlement to early departure payments) of the EDP Regulations 2014, the person is not entitled to a lump sum award under sub-paragraph (7).

**Active transition member on full commitment who leaves service with incapacity for Armed Forces service on or after reaching age 55**

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

- (a) meets the criteria for a lump sum on incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and



(b) has reached age 55.

(2) In respect of service before T's transition date, benefits are payable in accordance with rule C.4 of the FTRS 1997.

(3) In respect of service from T's transition date, benefits are payable in accordance with the amendment to regulation 20 of the EDP Regulations 2014 specified in paragraph 18(8).

**Active transition member on full commitment who leaves service with incapacity for Armed Forces service who reaches age 55**

21.—(1) This paragraph applies in relation to a transition member on full commitment with continuity of service (T) who is receiving an ill-health pension (active member with incapacity for armed forces service) in accordance with paragraph 18.

(2) On the day the member reaches age 55—

(a) of the benefits that were payable under paragraph 18(2)(b), the FTRS 1997 basic earned benefits cease to be payable under paragraph 18(2)(b) and instead become payable under the FTRS 1997; and

(b) of the benefits that were payable under paragraph 18(2)(b), the FTRS 1997 ill-health enhancement benefits continue to be payable under paragraph 18(2)(b).

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

(a) the “FTRS 1997 basic earned benefits” means the amount arrived at by multiplying 1.5% of T's final pensionable earnings by T's reckonable service before T's transition date expressed as number of years; and

(b) the “FTRS 1997 ill-health enhancement benefits” means the benefits payable at paragraph 18(5) in respect of service before T's transition date minus the FTRS 1997 basic earned benefits.

(4) Where T is a pension debit member of the FTRS 1997 whose benefits have been reduced in accordance with section 31 of the WRP Act 1999—

(a) “the FTRS basic earned benefits” are the amount specified at paragraph (3)(a) reduced by the amount referred to in section 31 of the WRP Act 1999; and

(b) where the amount referred to in section 31 of the WRP Act 1999 is greater than the amount at paragraph (3)(a), the “FTRS 1997 ill-health enhancement benefits” are the amount specified at paragraph (3)(b) reduced by the difference between the amount specified at paragraph (3)(a) and the amount referred to at section 31 of the WRP Act 1999.

**Active transition member on home or limited commitment who leaves service with incapacity for Armed Forces service who reaches age 60**

22.—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who is receiving an ill-health pension (active member with incapacity for armed forces service) in accordance with paragraph 19.

(2) On the day the member reaches age 60—

(a) of the benefits that were payable under paragraph 19(2)(b), the FTRS 1997 basic earned benefits cease to be payable under paragraph 19(2)(b) and instead become payable under the FTRS 1997; and

(b) of the benefits that were payable under paragraph 19(2)(b), the FTRS 1997 ill-health enhancement benefits continue to be payable under paragraph 19(2)(b).

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

- (a) the “FTRS 1997 basic earned benefits” means the amount arrived at by multiplying 1.25% of T’s final pensionable earnings by T’s reckonable service before T’s transition date expressed as number of years; and
- (b) the “FTRS 1997 ill-health enhancement benefits” means the benefits payable at paragraph 19(5) in respect of service before T’s transition date minus the FTRS 1997 basic earned benefits.

(4) Where T is a pension debit member of the FTRS 1997 whose benefits have been reduced in accordance with section 31 of the WRPA Act 1999—

- (a) “the FTRS basic earned benefits” are the amount specified at paragraph (3)(a) reduced by the amount referred to in section 31 of the WRP Act 1999; and
- (b) where the amount referred to in section 31 of the WRP Act 1999 is greater than the amount at paragraph (3)(a), the “FTRS 1997 ill-health enhancement benefits” are the amount specified at paragraph (3)(b) reduced by the difference between the amount specified at paragraph (3)(a) and the amount referred to at section 31 of the WRP Act 1999.

**Deferred transition member whose last period of service was on full commitment with permanent serious ill-health who has not reached age 55**

**23.**—(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) has not reached age 55.

(2) If this paragraph applies—

- (a) early benefits on permanent serious ill-health are not payable under the FTRS 1997; 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 the rules in Part C of the FTRS 1997.

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

**Deferred transition member whose last period of service was on home or limited commitment with permanent serious ill-health who has not reached age 60**

**24.**—(1) This paragraph applies in relation to a transition member on home or limited commitment 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) has not reached age 60.

(2) If this paragraph applies—

- (a) early benefits on permanent serious ill-health are not payable under the FTRS 1997; 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 the rules in Part C of the FTRS 1997.

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

**Deferred transition member whose last period of service was on full commitment with permanent serious ill-health who reaches age 55**

25.—(1) This paragraph applies in relation to a transition member on full commitment with continuity of service (T) who is receiving ill-health benefits (deferred member with permanent serious ill-health) in accordance with paragraph 23.

(2) On the day the member reaches age 55, the FTRS 1997 benefits cease to be payable under paragraph 23(2)(b) and instead become payable under the FTRS 1997.

**Deferred transition member whose last period of service was on home or limited commitment with permanent serious ill-health who reaches age 60**

26.—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who is receiving ill-health benefits (deferred member with permanent serious ill-health) in accordance with paragraph 24.

(2) On the day the member reaches age 60, the FTRS benefits cease to be payable under paragraph 24(2)(b) and instead become payable under the FTRS 1997.

**Deferred transition member whose last period of service was on full commitment who meets criteria for permanent serious ill-health on or after reaching age 55**

27.—(1) This paragraph applies in relation to a transition member on full commitment 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 FTRS 1997—

(a) a pension is payable under the rules of the FTRS 1997 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 FTRS 1997 in receipt of a pension under FTRS 1997—

(a) a pension continues to be payable under the FTRS 1997 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.

**Deferred transition member whose last period of service was on home or limited commitment who meets criteria for permanent serious ill-health on or after reaching age 60**

28.—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who is a deferred member of the AFPS 2015, who is age

60 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 FTRS 1997—
  - (a) a pension is payable under the rules of the FTRS 1997 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 FTRS 1997 in receipt of a pension under FTRS 1997—
  - (a) a pension continues to be payable under the FTRS 1997 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**

**29.** 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

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

**30.** Surviving adult’s 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 on full commitment dies in service before 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 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 or surviving civil partner (“surviving adult dependant”) is payable under the FTRS 1997 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 D of the FTRS 1997, but when calculating the annual rate of pension in accordance with rule D.2, the amendments specified in paragraphs 8(5) and 8(6) are to be taken into account

(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 (annual rate of adult dependants’ pensions payable on death of active member),

the calculation of the member's earned pension is to take account of the amendment specified in paragraph 8(7) to regulation 54.

**Surviving adult's pension when transition member on home or limited commitment dies in service before reaching age 60**

**32.**—(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 60 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 FTRS 1997 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 D of the FTRS 1997, but when calculating the annual pension in accordance with rule D.2, the amendments specified in paragraph 9(5) and (6) are to be taken into account.

(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 (annual rate of adult dependants' pensions payable on death of active member), the calculation of the member's earned pension is to take account of the amendment specified in paragraph 9(7) to regulation 54.

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

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

(2) A pension for a surviving adult dependant is payable under rule D.1 of the FTRS 1997 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) The pension payable in respect of service from T's transition date is calculated in accordance with the AFPS Regulations 2014, but when calculating the rate of annual pension in accordance with regulation 70 (annual rate of adult dependants' pensions payable on death of active member), the calculation of the member's earned pension is to take account of the amendment in paragraph 8(7) to regulation 54.

**Surviving adult dependant's pension when a transition member on home or limited commitment dies in service on or after reaching age 60**

**34.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as an active member of the AFPS 2015 on or after reaching age 60.

(2) A pension for a surviving adult dependant is payable under rule D.1 of the FTRS 1997 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.

**Surviving adult dependant's pension when a transition member whose last period of service was on full commitment dies as a deferred or ill-health pensioner member before reaching age 55**

**35.**—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred member or an ill-health 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 FTRS 1997 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 D of the FTRS 1997, subject to sub-paragraph (5).

(5) Where T was in receipt of early benefits on ill-health, when calculating the rate of annual pension, the amendments specified in paragraphs 8(5) and 8(6) are to be taken into account.

(6) 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 8(7) of 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 (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 13(7) to regulation 55.

(7) In this paragraph an "ill health pensioner member" is a member who is in receipt of an ill-health pension.

**Surviving adult dependant's pension when a transition member whose last period of service was on home or limited commitment, dies as a deferred or ill-health pensioner member before reaching age 60**

**36.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as a deferred member or an ill-health 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 FTRS 1997 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 D of the FTRS 1997, subject to sub-paragraph (5).

(5) Where T was in receipt of early benefits on ill-health, when calculating the rate of annual pension, the amendments specified in paragraphs 9(5) and 9(6) are to be taken into account.

(6) 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 9(7) 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 (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(7) to regulation 55.

(7) In this paragraph an "ill-health pensioner member" is a member who is in receipt of an ill-health pension.

**Surviving adult dependant's pension when a transition member whose last period of service was on full commitment dies as a deferred member or a pensioner member on or after reaching age 55**

**37.—**(1) This paragraph applies in relation to a transition member on full commitment 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 rule D.1 of the FTRS 1997 in respect of the member's service before T's transition date; and
- (b) a pension for a surviving adult dependant is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a deferred member) of the AFP Regulations 2014 in respect of the member's 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 D of the FTRS 1997, but where T was in receipt of early benefits on the grounds of ill-health, the calculation of the rate of annual pension is to take account of the amendments specified in paragraph 8(5) and (6) to rule C.5(3) and C.6(3); and
- (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 8(7) 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 13(7) to regulation 55.

**Surviving adult dependant's pension when a transition member whose last period of service was on home or limited commitment dies as a deferred member or a pensioner member on or after reaching age 60**

**38.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as a deferred member or a pensioner member of the AFPS 2015 on or after reaching age 60 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 rule D.1 of the FTRS 1997 in respect of the member's service before T's transition date; and
  - (b) a pension for a surviving adult dependant is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a deferred member) of the AFP Regulations 2014 in respect of the member's 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 D of the FTRS 1997, but where T was in receipt of early benefits on ill-health, the calculation of the rate of annual pension is to take account of the amendments specified in paragraph 9(5) and 9(6) to rule C.5(3) and C.6(3); and
  - (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 9(7) 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 14(7) to regulation 55.

**Eligible child's pension payable when a transition member on full commitment dies in service before reaching age 55**

**39.**—(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 their pension age and 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 FTRS 1997 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 D of the FTRS 1997, but when calculating the annual rate of pension in accordance with rule D.9, the amendments specified in paragraph 8(5) and 8(6) are to be taken into account.

(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 8(7) to regulation 54.

**Eligible child's pension payable under the AFPS 2015 when a transition member on home or limited commitment dies in service before reaching age 60**

**40.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as an active member of the AFPS 2015 before reaching age 60 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 FTRS 1997 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 D of the FTRS 1997, but when calculating the annual rate of pension in accordance with rule D.9 the amendments specified in paragraphs 9(5) and 9(6) are to be taken into account.

(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 9(7) to regulation 54.

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

**41.**—(1) This paragraph applies in relation to a transition member on full commitment 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 D.7 of the FTRS 1997 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 8(7) to regulation 54.

**Eligible child's pension when a transition member on home or limited commitment dies in service on or after reaching age 60**

**42.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as an active member of AFPS 2015 on or after reaching age 60 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 D.7 of the FTRS 1997 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.

**Eligible child's pension when a transition member on full commitment dies as a deferred or an ill-health pensioner member before reaching age 55**

43.—(1) This paragraph applies in relation to a transition member on full commitment with continuity of service (T) who dies as a deferred member or an ill-health 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 FTRS 1997 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 D of the FTRS 1997, subject to sub-paragraph (5).

(5) Where T was in receipt of early benefits on ill-health, when calculating the rate of annual pension, the amendments specified in paragraphs 8(5) and 8(6) are to be taken into account.

(6) 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 8(7) 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 13(7) to regulation 55.

(7) In this paragraph an "ill-health pensioner member" is a member who is in receipt of an ill-health pension.

**Eligible child's pension when a transition member on home or limited commitment dies as a deferred or an ill-health pensioner member before reaching age 60**

44.—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as a deferred member or an ill-health pensioner member of the AFPS 2015 before reaching age 60 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 FTRS 1997 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 D of the FTRS 1997, subject to sub-paragraph (5).

(5) Where T was in receipt of early benefits on ill-health, when calculating the rate of annual pension, the amendments specified in paragraphs 9(5) and 9(6) are to be taken into account.

(6) 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 9(7) 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 14(7) to regulation 55.

(7) In this paragraph an "ill-health pensioner member" is a member who is in receipt of an ill-health pension.

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

**45.**—(1) This paragraph applies in relation to a transition member on full commitment 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 D.7 of the FTRS 1997 in respect of the member's 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 the member's 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 D of the FTRS 1997, but where T was in receipt of early benefits on the grounds of ill-health, the calculation of the rate of annual pension is to take account of the amendments specified in paragraph 8(5) and (6) to rules C.5(3) and C.6(3).
- (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 (annual rate of children's pensions), the calculation of the member's earned pension is to take account of the amendment in paragraph 8(7) 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 13(7) to regulation 55.

**Eligible child's pension when a transition member on home or limited commitment dies as a deferred or pensioner member on or after reaching age 60**

**46.**—(1) This paragraph applies in relation to a transition member on home or limited commitment with continuity of service (T) who dies as a deferred member or a pensioner member of the AFPS 2015 on or after reaching age 60 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 D.7 of the FTRS 1997 in respect of the member's 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 the member's 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 D of the FTRS 1997, but where T was in receipt of early benefits on the grounds of ill-health, the calculation of the rate of annual pension is to take account of the amendments specified in paragraph 9(5) and (6) to rules C.5(3) and C.6(3).
  - (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 9(7) 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 14(7) to regulation 55.

**Death of a member in service: lump sum benefit**

**47.**—(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
  - (b) a lump sum is not payable under the FTRS 1997.

**Death of a deferred transition member whose last period of service was on full commitment: lump sum benefit**

**48.**—(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 the death of a deferred transition member of the AFPS 2015 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 that regulation.
  - (b) if the member is a pensioner member of the FTRS 1997 and the conditions for payment of a lump sum benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit equal to the sum that would have been payable under rule D.12 of the FTRS 1997 is payable under the AFPS 2015.
- (3) On the death of a deferred member of the AFPS 2015, who is also a pensioner member of the FTRS 1997, on or after 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 that regulation; and
  - (b) if the member is a deferred member of the FTRS 1997 and the conditions for payment of a lump sum death benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit is payable under rule D.12 of the FTRS 1997.

**Death of a deferred member whose last period of service was on home or limited commitment: lump sum benefit**

49.—(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 the death of a deferred member of the AFPS 2015 before reaching age 60—
  - (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 that regulation.
  - (b) if the member is a deferred member of the FTRS 1997 and the conditions for payment of a lump sum benefit under rule D.12 (lump sum benefit: active, deferred and pensioner members) of the FTRS 1997 are met, a lump sum death benefit equal to the sum that would have been payable under rule D.12 of the FTRS 1997 is payable under the AFPS 2015.
- (3) On the death of a deferred member of the AFPS 2015, who is also a pensioner member of the FTRS 1997, on or after reaching age 60—
  - (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 that regulation; and
  - (b) if the member is a deferred member of the FTRS 1997 and the conditions for payment of a lump sum death benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit is payable under rule D.12 of the FTRS 1997.

**Death of a pensioner member whose last period of service was on full commitment before reaching age 55: lump sum benefit**

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

- (2) On the death of a pensioner member of the AFPS 2015 before reaching age 55—
  - (a) 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; and
  - (b) if the member is a pensioner member of the FTRS 1997 and the conditions for payment of a lump sum benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit is not payable under rule D.12 of the FTRS 1997, but a lump sum equal to the sum that would have been paid under rule D.12 is payable under the AFPS 2015 in accordance with this paragraph.

**Death of a pensioner member whose last period of service was on home or limited commitment before reaching age 60: lump sum benefit**

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

- (2) On the death of a pensioner member of the AFPS 2015 before reaching age 60—
  - (a) 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; and
  - (b) if the member is a pensioner member of the FTRS 1997 and the conditions for payment of a lump sum benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit is not payable under rule D.12 of the FTRS 1997, but a lump sum equal to the sum that

would have been paid under rule D.12 is payable under the AFPS 2015 in accordance with this paragraph.

**Death of a pensioner member on full commitment or on or after reaching age 55: lump sum benefit**

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

- (2) On the death of a pensioner member of the AFPS 2015 on or after reaching age 55—
- (a) 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; and
  - (b) if the member is a pensioner member of the FTRS 1997 and the conditions for payment of a lump sum benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit is payable under rule D.12 of the FTRS 1997.

**Death of a pensioner member on home or limited commitment or on or after reaching age 60: lump sum benefit**

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

- (2) On the death of a pensioner member of the AFPS 2015 on or after reaching age 60—
- (a) 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; and
  - (b) if the member is a pensioner member of the FTRS 1997 and the conditions for payment of a lump sum benefit under rule D.12 of the FTRS 1997 are met, a lump sum death benefit is payable under rule D.12 of the FTRS 1997.

**Removal of increased pensions for the immediate bereavement period pensions**

**54.** A pension under rule D.4 (amount of surviving spouse or civil partnership's short-term pension) or rule D.10 (increased pension under rule D.7 for the immediate bereavement period) of the FTRS 1997 is not payable to a surviving adult dependant or eligible child of a transition member.

## PART 5

### Transitional provisions relating to FTRS 1997

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

**55.** No benefits under the FTRS 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 FTRS 1997 for a transition member with continuity of service**

**56.**—(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 FTRS 1997 for retirement benefits (other than early benefits on ill-health), T's pensionable service under the FTRS 1997 terminates when T's pensionable service under the AFPS 2015 terminates.

**Final salary link for a transition member with continuity of service**

**57.**—(1) In calculating benefits payable under the FTRS 1997 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) The final salary link in Schedule 7 to the 2013 Act—

- (a) applies to T's service only if T is in service as a member of the reserve forces on T's transition date; and
- (b) does not apply to any previous period of service that T has, regardless of the length of time between the periods of service.

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

**58.**—(1) This paragraph applies if a member of the FTRS 1997—

- (a) claimed payment of an ill-health pension under the FTRS 1997 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 FTRS 1997, 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 FTRS 1997**

**59.**—(1) A transition member with continuity of service (T) does not become a deferred member of the FTRS 1997 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, T becomes a deferred member of the FTRS 1997 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 FTRS 1997.

**Qualifying for retirement benefits under the FTRS 1997**

**60.**—(1) In determining whether a transition member with continuity of service qualifies for retirement benefits under the FTRS 1997, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the FTRS 1997; and
- (b) the member's qualifying service under the AFPS 2015.

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

61. Where any element of pension under the FTRS 1997 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 FTRS 1997.”

## SCHEDULE 4

Regulation 29

### Schedule to be inserted in the Reserve Forces Non Regular Permanent Staff Pension Schemes 2011

#### “SCHEDULE 3

#### Transitional Provision

### PART 1

#### Interpretation

#### **Interpretation**

1. In this Schedule—

“AFPS 2015” means the scheme established by the Armed Forces Pension 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;

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

“EDP 2015” means the scheme established by the Armed Forces Early Departure Payment Regulations 2014;

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

“NRPS 2011” means the pension scheme established by the Reserve Forces Non Regular Permanent Staff (Pensions and Attributable Benefits Schemes) Regulations 2011<sup>(51)</sup>;

“pensionable public service” means pensionable service under an existing scheme or a public body pension scheme;

“protection period” has the meaning given in paragraph 5;

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

“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 NRPS 2011;

“transition member means a person—

- (a) who is a member of the NRPS 2011 by virtue of their pensionable service under the NRPS 2011 before the transition date; and

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(51) These regulations are Defence Council Regulations. A copy can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). These Regulations were amended by the Reserve Forces Non-Regular Permanent Staff (Pension and Attributable Pension Schemes) (Amendment) Regulations 2013.



(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;

“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 NRPS 2011 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 T’s transition date; or

(b) if T is not in pensionable service in a scheme employment on T’s 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 NRPS 2011**

#### **Meaning of full protection member of the NRPS 2011**

4.—(1) A person (P) is a full protection member of the NRPS 2011, where—

(a) P was a conditional full protection member of the NRPS 2011 on 31st March 2015 and on 31st March 2012, and

(b) unless P dies, P would reach age 60 on or before 1st April 2022.

(2) For the purpose of this paragraph, a member is a conditional full protection member of the NRPS 2011 on a given date if on that date the member is in service in respect of which the member is eligible to be a member of the NRPS 2011;

(3) P ceases to be a full protection member of the NRPS 2011 when P ceases to be in pensionable service under the NRPS 2011.

**Exception for full protection member during protection period**

- 5.—(1) The protection period for a person (P) who is a full protection member of the NRPS 2011 is the period which—
- (a) begins on 1st April 2015; and
  - (b) ends when P ceases to be a full protection member of the NRPS 2011.
- (2) During the protection period, P is eligible to be—
- (a) in pensionable service under the NRPS 2011;
  - (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 NRPS 2011 to or in respect of P in relation to that pensionable service.

**Full protection member not eligible to join the AFPS 2015**

6. While a person (P) is a full protection member of the NRPS 2011, 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**

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

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

**Active transition member with permanent serious ill-health who has not reached age 60**

- 8.—(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) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on the grounds of medical discharge are not payable under rule C.6 of the NRPS 2011; 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 the rules in Part C of the NRPS 2011, but when calculating the rate of annual pension for an active member who has been medically discharged but who has not reached the age of 60, the formula in paragraph (5) is to be used.
- (5) The formula is—

$$A + (F \div E) \times C$$

where—

A is the “accrued NRPS 2011 pension” which is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under NRPS 2011;

C is the “NRPS enhanced service pension” which is calculated as X-Y where—

- (a) X is one eightieth of the member’s final pensionable pay multiplied by the number of years enhanced service under the NRPS 2011 (rule C.6(6) (column (b))), which they would have been entitled to had they stayed in the NRPS 2011 until the point of ill-health retirement; and
- (b) Y is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015;

E is the number years of actual reckonable service in the NRPS 2011 and pensionable service in the AFPS 2015;

F is the number of years the member served as a member of the NRPS 2011.

(6) 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) B is the sum of—
  - (i) the member’s reckonable service under the scheme as calculated in accordance with regulation 54(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 NRPS 2011 and the member’s years of 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 scheme if the member had been an accruing member from the date of the ill-health retirement until age 60; and
  - (ii) the lesser of Y and Z.
- (e) In this paragraph, Y is equal to 25 minus the total of the member’s years of reckonable service in the NRPS 2011 and the sum of—
  - (i) for all years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member’s account; and
  - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year) where the member was eligible for active membership.
- (f) In this paragraph, Z is equal to the further pensionable service which the member would have been able to count under the scheme if the member had been an accruing member from the date of the ill-health retirement until age 60.”.

**Active transition member with permanent serious ill-health who reaches age 60**

9.—(1) This paragraph applies in relation to a transition member with continuity of service who is receiving an ill-health pension (active member with permanent serious ill-health) in accordance with paragraph 8.

- (2) On the day the member reaches age 60—

- (a) of the benefits that were payable under paragraph 8(2)(b), the accrued NRPS 2011 pension ceases to be payable under paragraph 8(2)(b) and instead becomes payable under the NRPS 2011; and
  - (b) of the benefits that were payable under paragraph 8(2)(b), the NRPS 2011 enhanced service pension continues to be payable under paragraph 8(2)(b).
- (3) For the purpose of this paragraph—
- (a) the “accrued NRPS 2011 pension” has the same meaning as “A” given in paragraph 8(5); and
  - (b) the “NRPS 2011 enhanced service pension” means—
- $$C \times F \div E$$
- where C, F and E have the same meaning as given in paragraph 8(5).

**Active transition member with significant impairment of capacity for gainful employment who has not reached the age of 60**

**10.**—(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 significant impairment of capacity for gainful employment) under regulation 52 of the AFP Regulations 2014; and
  - (b) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on the grounds of medical discharge are not payable under the NRPS 2011; and
  - (b) ill-health benefits (active member 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 the rules in Part C of NRPS 2011, but when calculating the rate of annual pension for an active member who has been medically discharged but who has not reached the age of 60, the formula in sub-paragraph (5) is to be used.
- (5) The formula is—

$$A + (F \div E) \times C$$

where—

A is the “accrued NRPS 2011 pension” which is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under NRPS 2011;

C is the “NRPS enhanced service pension” which is calculated as X-Y where—

- (a) X is one eightieth of the member’s final pensionable pay multiplied by the number of years enhanced service under the NPRS 2011 (rule C.6(6) column (b)), which they would have been entitled to had they stayed in the NRPS 2011 until the point of ill-health retirement; and
- (b) Y is one eightieth of the member’s final pensionable pay multiplied by the number of years reckonable service under the NPRS 2011 and pensionable service under the AFPS 2015;

E is the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015; and

F is the number of years the member served as a member of the NRPS 2011.

(6) 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) B is the sum of—
- (i) the member's pensionable service under the scheme as calculated in accordance with 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 NRPS 2011 and the member's years of pensionable service in the AFPS 2015.
- (d) In this paragraph, N is equal to one third of the further pensionable service which the member would have been able to count under the scheme if the member had remained an accruing member from the date of the ill-health retirement until age 60.”.

**Active transition member with significant impairment of capacity for gainful employment who reaches the age of 60**

11.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving a pension on the grounds of medical discharge (active member with significant impairment of capacity for gainful employment) in accordance with paragraph 10.

- (2) On the day the member reaches age 60—
- (a) of the benefits that were payable under paragraph 10(2)(b) the accrued NRPS 2011 pension ceases to be payable under paragraph 10(2)(b) and instead becomes payable under the NRPS 2011; and
  - (b) of the benefits that were payable under paragraph 10(2)(b), the NRPS 2011 enhanced service pension continues to be payable under paragraph 10(2)(b).
- (3) For the purpose of this paragraph—
- (a) “accrued NRPS 2011 pension” has the same meaning given as “A” in paragraph 10(5); and
  - (b) the “NRPS 2011 enhanced service pension” means—

$$C \times F \div E$$

where C, F and E have the same meaning as given in paragraph 10(5).

**Active transition member with incapacity for Armed Forces service who has not reached the age of 60**

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

- (a) meets the criteria for a lump sum for incapacity for service (lump sum awards: incapacity for armed forces service) under regulation 19 of the EDP Regulations 2014; and
  - (b) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on ill-health are not payable under the NRPS 2011; and

- (b) ill-health benefits are payable under the AFPS 2015 and lump sum awards on incapacity for armed forces service are payable under the EDP 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 the rules in Part C of the NRPS 2011, but when calculating the rate of annual pension for an active member who has been medically discharged but who has not reached the age of 60, the formula in sub-paragraph (5) is to be used.

- (5) The formula is—

$$A + (F \div E) \times C$$

A is the "accrued NRPS 2011 pension" which is one eightieth of the member's final pensionable pay multiplied by the number of years reckonable service as a member of the NRPS 2011;

C is the "NRPS enhanced service pension" which is calculated as X-Y where—

- (a) X is one eightieth of the member's final pensionable pay multiplied by the number of years service under the NRPS 2011 (rule C.6(6) column (b)), which they would have been entitled to had they stayed in the NRPS 2011 until the point of ill-health retirement; and
- (b) Y is one eightieth of the member's final pensionable pay multiplied by the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015;

E is the number of years reckonable service under the NRPS 2011 and pensionable service under the AFPS 2015;

F is the number of years the member served as a member of the NRPS 2011.

(6) In respect of service from the member's transition date, the lump sum award on incapacity for armed forces service is payable under regulation 19 of the EDP Regulations 2014.

(7) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

**"20.—(1)** The amount of lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person's final pensionable earnings by their service from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; and
- (b) the amount calculated is more than Y, Y being twice the person's final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.

(2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.

(3) In this regulation—

- (a) "total service" in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the NRPS 2011; and

- (b) “transition date” has the same meaning as is given in paragraph 2 (interpretation) of Schedule 3 to the NRPS 2011.”.

(8) If the person is entitled to early departure payments under regulation 9 (entitlement to early departure payments) of the EDP Regulations 2014, the person is not entitled to a lump sum award under sub-paragraph (6).

**Active transition member with incapacity for armed forces service who has reached the age of 60**

**13.**—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving a pension on the grounds of medical discharge (active member with incapacity for armed forces service) in accordance with paragraph 12.

(2) On the day the member reaches age 60—

- (a) of the benefits that were payable under paragraph 12(2)(b) the accrued NRPS 2011 pension ceases to be payable under paragraph 12(2)(b) and instead becomes payable under the NRPS 2011; and
- (b) of the benefits that were payable under paragraph 12(2)(b), the NRPS 2011 enhanced service pension continues to be payable under paragraph 12(2)(b).

(3) For the purpose of this paragraph—

- (a) “accrued NRPS 2011 pension” has the same meaning given as “A” in paragraph 12(5); and
- (b) the “NRPS 2011 enhanced service pension” means—

$$C \times F \div E$$

where C, F and E have the same meaning as given in paragraph 12(5).

**Deferred transition member with permanent serious ill-health who has not reached 60**

**14.**—(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) has not reached age 60.

(2) If this paragraph applies—

- (a) pension benefits are not payable under the NRPS 2011;
- (b) NRPS pension benefits 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 C.7 of the NRPS 2011.

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

**Deferred transition member with permanent serious ill-health who has reached 60**

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

(2) On the day the member reaches age 60, of the benefits that were payable under paragraph 14(2)(b), the NRPS 2011 pension benefits cease to be payable under paragraph 14(2)(b) and instead become payable under the NRPS 2011.

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

16. 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 2005.

## **PART 4**

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

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

17. Surviving adult pensions, eligible child's pension and lump sum death benefits are not 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 60**

18.—(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 60 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 or surviving civil partner ("surviving adult dependant") is payable under the NRPS 2011 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 D of the NRPS 2011, but when calculating the enhancement benefits in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended in paragraph 8(5).

(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 (annual rate of adult dependants' pensions payable on death of active member), the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 8(6).

#### **Surviving adult's pension when a transition member dies in service on or after reaching age 60**

19.—(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 60.

(2) A pension for a surviving adult dependant is payable under rule C.3 of the NRPS 2011 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.

**Surviving adult dependant's pension when a transition member dies as a deferred or pensioner member before reaching age 60**

**20.**—(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 60 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 NRPS 2011 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 D of the NRPS 2011, 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 C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); 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 Part C, the references to rule C.6 are to be read as referring to rule C.6 amended as specified in paragraph 10(5).

(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 8(6) 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 10(6) to regulation 55.

**Surviving adult dependant's pension on death of a transition member who dies as a deferred or pensioner member on or after the age of 60**

**21.**—(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 on or after reaching age 60 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 and pensioner member of the NRPS 2011—

- (a) a pension for a surviving adult dependant is payable under rule D.6 of the NRPS 2011 in respect of the member's service before T's transition date; and

- (b) a pension for a surviving adult dependant is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a deferred member) of the AFP Regulations 2014 in respect of the member's 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 rule D.6 of the NRPS 2011, but where the pensioner member was in receipt of an ill-health pension on the grounds of medical discharge, when calculating the rate of the enhanced service pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); and
  - (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 8(6) 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 10(6) to regulation 55.

**Eligible child's pension when a transition member dies in service before reaching age 60**

22.—(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 60 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 NRPS 2011 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 rule D.6 of the NRPS 2011, but when calculating the rate of the enhanced service pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(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 8(6) to regulation 54.

**Eligible child's pension when a transition member dies in service on or after reaching age 60**

23.—(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 60 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 D.10 of the NRPS 2011 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.

**Eligible child's pension when a transition member dies as a deferred or pensioner member before reaching age 60**

**24.**—(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 60 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 NRPS 2011 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 D of the NRPS 2011, 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 C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); 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 Part C, the references to rule C.6 are to be read as referring to C.6 amended as specified in paragraph 10(5).

(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 8(6) 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 10(6) to regulation 55.

**Eligible child's pension when a transition member dies as a deferred or pensioner member on or after reaching age 60**

**25.**—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as a deferred or a pensioner member of the AFPS 2015 on or after reaching age 60 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 D.10 (children's pensions) of the NRPS 2011 in respect of the member's 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 the member's 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 rule D.10 of the NRPS 2011, but where the pensioner member was in receipt of an ill-health pension on the grounds of medical discharge, when calculating the rate of enhanced service pension in accordance with rule C.6, the references to rule C.6 are to be read as referring to rule C.6 as amended as specified in paragraph 8(5); and
- (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 8(6) 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 10(6) to regulation 55.

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

**26.**—(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
  - (b) a lump sum is not payable under the NRPS 2011.

**Death of a deferred member: lump sum benefit**

**27.**—(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 the death of a deferred member of the AFPS 2015 before reaching age 60—
  - (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 that regulation; and
  - (b) if the member is a deferred member of the NRPS 2011 and the conditions for payment of a lump sum benefit under rule D.2 (lump sum death benefit) of the NRPS 2011 are met, a lump sum death benefit equal to the sum that would have been payable under rule D.2 of the NRPS 2011 is payable under the AFPS 2015.
- (3) On the death of a deferred member of the AFPS 2015, who is not a pensioner member of the NRPS 2011, on or after reaching age 60—
  - (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation; and
  - (b) if the member is a deferred member of the NRPS 2011 and the conditions for payment of a lump sum death benefit under rule D.2 of the NRPS 2011 are met, a lump sum death benefit is payable under rule D.2 of the NRPS 2011.

**Removal of short-term pensions for immediate bereavement period**

**28.** A pension under rule D.4 is not payable to a surviving spouse or civil partner of a transition member.

## PART 5

### Transitional provisions relating to the NRPS 2011

#### **No benefits for service on or after the transition date for transition members**

**29.** No benefits under the NRPS 2011 are to be provided to or in respect of a transition member in relation to that member's service on or after the transition date.

#### **Pensionable service under the NRPS 2011 for a transition member with continuity of service**

**30.**—(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 NRPS 2011 for retirement benefits (other than early benefits on ill-health), T's pensionable service under the NRPS 2011 terminates when T's pensionable service under the AFPS 2015 terminates.

#### **Final salary link for a transition member with continuity of service**

**31.**—(1) In calculating benefits payable under the NRPS 2011 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<sup>(52)</sup> on their transition date, their final pensionable earnings are to be determined as if paragraph (3) in rule A.3 of the NRPS 2011 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.

(1A) In paragraph (1), "transition date" has the same meaning as in paragraph 1 of Schedule 3 to these Regulations."

#### **Defence Council does not consider that the member's service should be terminated on medical grounds**

**32.**—(1) This paragraph applies if a member of the NRPS 2011—

- (a) claimed payment of a pension following termination of service on medical grounds under the NRPS 2011 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 a pension following termination of service on medical grounds under the NRPS 2011, 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 Defence Council's decision that the member's service should be terminated on medical grounds.

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<sup>(52)</sup> "Final pensionable earnings" are defined in rule A.3(3) of the NRPS 2011 as the greatest amount that is the member's total pensionable earnings for 365 consecutive days falling within the period of three years ending with the member's last day of reckonable service.

(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 NRPS 2011**

**33.**—(1) A transition member with continuity of service (T) does not become a deferred member of the NRPS 2011 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 NRPS 2011 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 NRPS 2011.

#### **Qualifying for retirement benefits under the NRPS 2011**

**34.**—(1) In determining whether a transition member with continuity of service qualifies for retirement benefits under the NRPS 2011, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the NRPS 2011; and
- (b) the member's qualifying service under the AFPS 2015.

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

**35.** Where any element of pension under the NRPS 2011 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 NRPS 2011.

## **PART 6**

### **Miscellaneous transitional provisions**

#### **Nomination under the NRPS 2011 continues to have effect**

**36.**—(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 NRPS 2011; and
- (b) as at the scheme closing date, had effect under the NRPS 2011.'

## SCHEDULE 5

Regulation 34

Schedule to be inserted in the Reserve Forces Pension Scheme 2005

### “SCHEDULE 3

#### Transitional Provision

## PART 1

### Interpretation

#### Interpretation

1. In this Schedule—

“RFPS 2005” means the Reserve Forces Pension Scheme 2005, established by the Reserve Forces Pension Scheme Regulations 2005;

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

“AFP Regulations 2014” means the Armed Forces Pensions 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 RFPS 2005 under the club transfer arrangements;

“club transfer arrangements” means arrangements approved by the manager of the AFPS 2015 scheme 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 RFPS 2005 or under another club scheme, means an amount calculated by the manager of the AFPS 2015 scheme—

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

(b) (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 RFPS 2005 scheme 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<sup>(53)</sup> or a public body pension scheme<sup>(54)</sup>;

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

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

“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 RFPS 2005;

“transition member means a person—

(a) who is a member of RFPS 2005 by virtue of their reckonable service under the RFPS 2005 before the transition date; and

<sup>(53)</sup> See section 18(2) of the 2013 Act for the meaning of “existing scheme”.

<sup>(54)</sup> See section 30(5) of the 2013 Act for the meaning of “public body pension scheme”.

(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<sup>(55)</sup>;

“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 reckonable service in the RFPS 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 1st April 2015, 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 T’s transition date, on that date; or

(b) if T is not in pensionable service in a scheme employment on T’s 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 RFPS 2005

#### **Meaning of “conditional full protection member of the RFPS 2005”**

4.—(1) For the purpose of this Part a person (P) is a conditional full protection member of the RFPS 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 RFPS 2005; or

(b) P is on a gap in service not exceeding 5 years.

(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.

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(55) 2013 c. 25.



### **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<sup>(56)</sup> 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 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<sup>(57)</sup> 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 RFPS 2005**

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

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

(3) This sub-paragraph applies if—

- (a) P returns to service which is reckonable under the RFPS 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 reckonable under the RFPS 2005.

(4) This sub-paragraph applies if—

- (a) P returns to service which is reckonable under the RFPS 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 reckonable under the RFPS 2005 after a gap in service not exceeding 5 years.

(5) In this paragraph—

“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

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<sup>(56)</sup> See section 18(2) of the 2013 Act for the meaning of “existing scheme”.

<sup>(57)</sup> See section 30(5) of the 2013 Act for the meaning of “public body pension scheme”.

- (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.

“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 RFPS 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) A person (P) was a conditional full protection member of the RFPS 2005 on 31st March 2015 and on 31st March 2012; and
- (b) unless P dies, P would reach age 60 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 RFPS 2005 on 31st March 2015; and
- (c) unless P dies, P would reach age 60 on or before 1st April 2022.

(4) For the purpose of this paragraph, a member is a conditional full protection member of the RFPS 2005 on a given date if rule C.9(1) of the RFPS 2005 applies on that date.

#### **Members of an existing scheme or a public body pension scheme**

9.—(1) This paragraph applies if—

- (a) A person (P) was a conditional full protection member of a public body pension scheme or an existing scheme other than the RFPS 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 reckonable under the RFPS 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 reckonable under the RFPS 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 reckonable the RFPS 2005; and
- (e) P would, unless P dies, reach age 60 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 RFPS 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 RFPS 2005.
- (2) During the protection period—
- (a) P is eligible to be in reckonable service under the RFPS 2005;
  - (b) section 18(1) of the 2013 Act does not apply in respect of that reckonable service; and
  - (c) benefits are to be provided under the RFPS 2005 to or in respect of P in relation to that reckonable service.

#### **Full protection member not eligible to join the AFPS 2015**

**11.** While a person (P) is a full protection member of the RFPS 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**

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

**12.** 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 has not reached age 60**

**13.**—(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) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on permanent serious ill-health are not payable under the RFPS 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 the rules in Part D of the RFPS 2005 but when calculating the rate of annual pension, in rule D.5 (early payment of benefits: active members with permanent serious ill-health) the following is substituted for paragraph (6)—

“(6) (a) For the purposes of paragraph (5), N is equal to the sum of—

(i) the member's years of reckonable service in RFPS 2005 served in the member's current commitment; and

(ii) X multiplied by Y.

(b) In this paragraph, X is equal to the member's years of reckonable service in the RFPS 2005 divided by the total of the member's years of reckonable service in the RFPS 2005 and the member's years of pensionable service in the AFPS 2015.

(c) In this paragraph, Y is half of the further reckonable service which the member would have been able to count in the RFPS 2005 if the member had been an accruing member of the RFPS 2005 from the date of the ill-health retirement until the end of the member's current commitment”.

(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) B is the sum of—

(i) the member's pensionable service under the scheme as calculated in accordance with regulation 54(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 RFPS 2005 and the member's years of 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 scheme if the member had been an accruing member from the date of the ill-health retirement until age 60; and

(ii) the lesser of Y and Z.

(e) In this paragraph, Y is equal to 25 minus the total of the member's years of reckonable service in the RFPS 2005 and the sum of—

(i) for all years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and

(ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year) where the member was eligible for active membership.

(f) In this paragraph, Z is equal to the further pensionable service which the member would have been able to count under the scheme if the member had been an accruing member from the date of the ill-health retirement until age 60.”.

(7) On the date that the member reaches age 60, pension ceases to be payable under this paragraph, and paragraph 14 applies.

**Transition member with permanent serious ill-health who reaches age 60**

**14.**—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving an ill-health pension (active member with permanent serious ill-health) in accordance with paragraph 13.

- (2) On the day the member reaches age 60—
  - (a) of the benefits that were payable under paragraph 13(2)(b), the RFPS 2005 basic earned benefits cease to be payable under paragraph 13(2)(b) and instead become payable under the RFPS 2005; and
  - (b) of the benefits that were payable under paragraph 13(2)(b), the RFPS 2005 permanent serious ill-health enhancement benefits continue to be payable under paragraph 13(2)(b).
- (3) For the purpose of this paragraph, subject to sub-paragraphs (4) and (5)—
  - (a) the “RFPS 2005 basic earned benefits” means the amount arrived at by multiplying one seventieth of the member’s final pensionable earnings by the member’s reckonable service before T’s transition date expressed as number of years; and
  - (b) the “RFPS 2005 permanent serious ill-health enhancement benefits” means the benefits payable at paragraph 13(4) in respect of service before T’s transition date minus the RFPS 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 RFPS 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 RFPS 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 their benefits adjusted in accordance with section 237E (consequential benefit adjustment to be reasonable etc) of the Finance Act 2004(58), 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 “RFPS 2005 basic earned benefits” are zero, and the “RFPS 2005 permanent serious ill-health enhancement benefits” means the benefits payable at paragraph 13(4).

**Active transition member with significant impairment of capacity for gainful employment who has not reached age 60**

**15.**—(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 significant impairment of capacity for gainful employment) under regulation 52 of the AFP Regulations 2014; and
  - (b) has not reached age 60.
- (2) If this paragraph applies—
- (a) early benefits on significant incapacity for gainful employment are not payable under the RFPS 2005; and
  - (b) ill-health benefits (active member with significant impairment of capacity for gainful employment) are payable under the AFPS 2015 in accordance with this paragraph.

(58) 2004 c. 12. Section 237E was amended by the Finance Act 2011, section 66, Schedule 17, Part 1.

(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 the rules in Part D of the RFPS 2005 but when calculating the rate of annual pension, in rule D.6 (early payment of benefits: active members with significant impairment of incapacity for gainful employment) the following is substituted for paragraph (4)—

“(4) (a) For the purposes of paragraph (2), N is equal to the sum of—

(i) the member's years of reckonable service in the RFPS 2005 served in the member's current commitment; and

(ii) X multiplied by Y.

(b) In this paragraph, X is equal to the total of the member's years of reckonable service in the RFPS 2005 divided by the total of the member's years of reckonable service in the RFPS 2005 and the member's years of 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 RFPS 2005 if the member had been an accruing member of the RFPS 2005 from the date of the ill-health retirement until the end of the member's current commitment.”.

(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) B is the sum of—

(i) the member's pensionable service under the Scheme as calculated in accordance with 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 RFPS 2005 and the member's years of pensionable service in the AFPS 2015.

(d) In this paragraph, N is equal to one third of the further pensionable service which the member would have been able to count under the scheme if the member had remained an accruing member from the date of the ill-health retirement until age 60.”.

(7) On the date that the member reaches age 60, pension ceases to be payable under this paragraph, and paragraph 16 applies.

**Transition member with significant impairment of capacity for gainful employment who reaches age 60**

**16.—**(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving an ill-health pension (active member with significant impairment of capacity for gainful employment) in accordance with paragraph 15.

(2) On the day the member reaches age 60—

(a) of the benefits that were payable under paragraph 15(2)(b), the RFPS 2005 basic earned benefits cease to be payable under paragraph 15(2)(b) and instead become payable under the RFPS 2005; and

(b) of the benefits that were payable under paragraph 15(2)(b), the RFPS 2005 significant incapacity ill-health enhancement benefits continue to be payable under paragraph 15(2)(b).

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

- (a) the “RFPS 2005 basic earned benefits” means the amount arrived at by multiplying one seventieth of the member’s final pensionable earnings by the member’s reckonable service before T’s transition date expressed as number of years; and
  - (b) the “RFPS 2005 significant incapacity ill-health enhancement benefits” means the benefits payable at paragraph 15(4) in respect of service before T’s transition date minus the RFPS 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 RFPS 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 RFPS 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 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 “RFPS 2005 basic earned benefits” are zero, and the “RFPS 2005 significant incapacity ill-health enhancement benefits” means the benefits payable at paragraph 15(4).

#### **Active transition member with incapacity for Armed Forces service**

**17.—**(1) This paragraph applies in relation to a transition member with continuity of service (T) who meets the criteria for an award under regulation 19 of the Armed Forces Early Departure Payments Scheme Regulations 2014<sup>(59)</sup> (“the EDP Scheme Regulations 2014”).

(2) If this paragraph applies, early benefits on incapacity for armed forces service are payable under the EDP Scheme Regulations 2014 in respect of the member’s service from the member’s transition date<sup>(60)</sup>.

(3) Where this paragraph applies, the following is substituted for regulation 20 (amount of lump sum on incapacity for armed forces service) of the EDP Regulations 2014—

**“20.—**(1) The amount of lump sum a person receives under regulation 19 (lump sum awards: incapacity for armed forces service) is to be determined by multiplying one eighth of the person’s final pensionable earnings by their service from their transition date expressed in years and fractions of a year except where—

- (a) the amount calculated is less than X, X being one half of the person’s final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to X; or
- (b) the amount calculated is more than Y, Y being twice the person’s final pensionable earnings multiplied by their service from their transition date divided by their total service expressed in years and fractions of years. In these circumstances the person is to receive an amount equivalent to Y.

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<sup>(59)</sup> S.I. 2014/2328.

<sup>(60)</sup> There is no equivalent in the RFPS 2005 to regulation 19 of the Armed Forces Early Departure Payments Scheme Regulations 2014 (lump sum awards: incapacity for armed forces service) so no ill-health benefits are payable under any scheme in respect of service as a member of the RFPS 2005.

(2) The lump sum is payable before the expiry of the period of 3 months beginning with the day on which the person ceases to be a member of the armed forces.

(3) In this regulation—

- (a) “total service” in relation to a member means the total of their service from their transition date plus their reckonable service as a member of the RFPS 2005; and
- (b) “transition date” has the same meaning as is given in paragraph 2 (interpretation) of Schedule 3(61) to the RFPS 2005.”.

**Deferred transition member with permanent serious ill-health who has not reached age 60**

**18.**—(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) has not reached age 60.

(2) If this paragraph applies—

- (a) early benefits on permanent serious ill-health are not payable under the RFPS 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 of the RFPS 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 benefits who reaches age 60**

**19.**—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is receiving ill-health benefits (deferred member with permanent serious ill-health) in accordance with paragraph 18.

(2) On the day the member reaches age 60, of the benefits that were payable under paragraph 18(2)(b) the RFPS 2005 basic earned benefits cease to be payable under paragraph 18(2)(b) and instead become payable under the RFPS 2005.

**Deferred transition member who meets criteria for permanent serious ill-health benefits on or after reaching age 60**

**20.**—(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 60 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 RFPS 2005—

- (a) a pension is payable under rule D.7 of the RFPS 2005 in respect of service before T’s transition date; and

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(61) Schedule 3 is inserted by the Armed Forces Pensions (Transitional Provisions) Regulations 2015.



- (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 RFPS 2005 in receipt of a pension under RFPS 2005—
  - (a) a pension continues to be payable under the RFPS 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**

21. Regulations 57 and 58 of the AFP Regulations 2014 apply to a transition member with continuity of service (T) 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

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

22. 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 age 60**

23.—(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 60 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 RFPS 2005 in respect of service before the transition date.

(3) A pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from the 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 RFPS 2005 but when calculating the rate of annual pension in accordance with rule E.3 (amount of pension under rules E.1 and E.2: active members) the references to rule D.5 are to rule D.5 with the amendment specified at paragraph 13(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 (annual rate of adult dependants' pensions payable on death of active member), the references in regulation 51 to regulation 54 are to be read as references to rule 54 amended as specified in paragraph 13(5).

#### **Surviving adult dependant's pension when a transition member dies in service after reaching age 60**

24.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who dies as an active member of AFPS 2015 after reaching age 60.

(2) A pension for a surviving adult dependant is payable under rule E.1 (surviving spouses and civil partners' pensions) or E.2 (other adult dependants' pensions) of the RFPS 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.

**Surviving adult dependant's pension when a transition member dies as a deferred or pensioner member before age 60**

**25.**—(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 60 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 RFPS 2005 in respect of service before the transition date.

(3) A pension for a surviving adult dependant is payable under the AFPS 2015 in respect of service from the 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 RFPS 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, the references to rule D.5 are to be read as referring to rule D.5 as amended as specified in paragraph 13(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 15(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 70 (annual rate of adult dependants' pensions payable on death of active member), the references in regulation 51 to regulation 54 are to be read as references to regulation 54 amended as specified in paragraph 13(5); 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 70 (annual rate of adult dependants' pensions payable on death of active member), the calculation of the member's earned pension is to take account of the amendment specified in paragraph 15(5) to regulation 55(2)(b).

**Surviving adult dependant's pension when a transition member dies as a deferred member or a pensioner member on or after reaching age 60**

**26.**—(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 60 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 rule E.4 (amount of pensions under rules E.1 and E.2: deferred members) of the RFPS 2005 in the case of a deferred member of the RFPS 2005, or rule E.5, (amount of pensions under rules E.1 and E.2: pensioner members) in the case of a pensioner member of the RFPS 2005, in respect of service before T's transition date; and
  - (b) a pension for a surviving adult dependant is payable under regulation 69 (annual rate of adult dependants' pensions payable on death of a deferred member) of the AFP Regulations 2014 in respect of the member's service from T's transition date.
- (3) In the case of a pensioner member of the AFPS 2015—
- (a) who has retired otherwise than on ill-health—
    - (i) in respect of service before T's transition date, a pension for a surviving adult dependant is payable under rule E.5 (amount of pensions under rules E.1 and E.2: pensioner members) of the RFPS 2005; and
    - (ii) in respect of service from T's transition date, a pension for a surviving adult dependant is payable under regulation 68 (annual rate of adult dependants' pensions payable on death of pensioner member) of the AFP Regulations 2014;
  - (b) who is in receipt of early benefits on permanent serious ill-health—
    - (i) in respect of service before T's transition date a pension amount for a surviving adult dependant is calculated in accordance with Part E of the RFPS 2005, but when calculating the rate of annual pension in accordance with rule E.5, the calculation of the pension to which the member would have been entitled is to take account of the amendment to rule D.5 specified in paragraph 13(4); and
    - (ii) in respect of service from T's transition date, a pension for a surviving adult dependant is payable under regulation 65 of the AFP Regulations 2014 but 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 to regulation 54 specified in paragraph 13(5).
  - (c) who is in receipt of early benefits on significant incapacity for gainful employment—
    - (i) in respect of service before T's transition date a pension amount for a surviving adult dependant is calculated in accordance with Part E of the RFPS 2005 but, 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 as amended as specified in paragraph 15(4); and
    - (ii) in respect of service from T's transition date, a pension for a surviving adult dependant is payable under regulation 65 of the AFP Regulations 2014 but, 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 to regulation 55 specified in paragraph 15(5).

**Eligible child's pension payable under the AFPS 2015 when a transition member dies in service before age 60**

27.—(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 60 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 RFPS 2005 in respect of service before the transition date.

(3) A pension for an eligible child is payable under the AFPS 2015 in respect of service from the transition date.

(5) 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 RFPS 2005, but applying rule D.5 with the substitution of rule D.5(6) that is specified in paragraph 13(4).

(6) 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 retirement earned pension is to take account of the amendment in paragraph 13(5) to regulation 54.

**Eligible child's pension when a transition member dies in service on or after reaching age 60**

**28.**—(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 60 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 (surviving children's pensions) of the RFPS 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.

**Eligible child's pension when a transition member dies as a deferred or pensioner member before age 60**

**29.**—(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 60 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 RFPS 2005 in respect of service before the transition date.

(3) A pension for an eligible child is payable under the AFPS 2015 in respect of service from the 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 RFPS 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 13(4); and

(b) where the pensioner member 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 15(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 13(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 15(5) to regulation 55.

**Eligible child's pension when a transition member dies as a deferred or pensioner member on or after reaching age 60**

**30.**—(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 60 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 RFPS 2005, if T is a deferred member of the RFPS 2005, or rule E.12 (amount of children's pension under rule E.8: pensioner members), if T is a pensioner member of the RFPS 2005, in respect of the service before T's transition date; and
- (b) a pension for a surviving adult dependant 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) who has retired otherwise than on ill-health—
  - (i) in respect of service before T's transition date, a pension for an eligible child is payable under rule E.5 (amount of pensions under rules E.1 and E.2: pensioner members) of the RFPS 2005; and
  - (ii) in respect of service from T's transition date, a pension for an eligible child is payable under regulation 72 of the AFP Regulations 2014;
- (b) who is in receipt of early benefits on permanent serious ill-health—
  - (i) in respect of service before T's transition date a pension amount for an eligible child is calculated in accordance with Part E of the RFPS 2005, but when calculating the rate of annual pension in accordance with rule E.11 or rule E.12 as the case may be, the calculation of the pension to which the member would have been entitled is to take into account the amendment to rule D.5 specified in paragraph 13(4); and
  - (ii) in respect of service from T's transition date, a pension for an eligible child is payable under regulation 72 of 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.
- (c) who is in receipt of early benefits on significant incapacity for gainful employment—
  - (i) in respect of service before T's transition date a pension amount for an eligible child is calculated in accordance with Part E of the RFPS 2005, but when calculating the rate of annual pension in accordance with rule E.11 or rule E.12 as the case may be, the calculation of the pension to which the member would have been entitled is to take into account the amendment to rule D.5 specified in paragraph 13(4); and
  - (ii) in respect of service from T's transition date, a pension for an eligible child is payable under regulation 72 of the AFP Regulations 2014 but when calculating the rate of annual pension in accordance with regulation 74, the references to regulation 55 are to be read as references to regulation 55 amended as specified in paragraph 15(5).

### **Death of a member in service: lump sum benefit**

**31.**—(1) This paragraph applies in relation to a transition member with continuity of service who dies as an active member of the AFPS 2015<sup>(62)</sup>.

- (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
  - (b) a lump sum is not payable under the RFPS 2005.

### **Death of a deferred member: lump sum benefit**

**32.**—(1) For the purpose of payment of death benefits, a transition member with continuity of service (T) who dies as a deferred member of the AFPS 2015 dies out of service under the AFPS 2015 and the RFPS 2005.

- (2) On the death of a deferred member of the AFPS 2015 before reaching age 60—
- (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 that regulation; and
  - (b) if 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 RFPS 2005 are met, a lump sum death benefit equal to the sum that would have been payable under rule E.17 of the RFPS 2005 is payable under the AFPS 2015.
- (3) On the death of a deferred member of the AFPS 2015, who is a deferred member of the RFPS 2005, on or after reaching age 60—
- (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation; and
  - (b) if the conditions for payment of a lump sum death benefit under rule E.15 and rule E.17 of the RFPS 2005 are met, lump sum death benefit is payable under rule E.17 of the RFPS 2005.
- (4) On the death of a deferred member of the AFPS 2015, who is also a pensioner member of the RFPS 2005, on or after reaching age 60—
- (a) if regulation 80 of the AFP Regulations 2014 applies to the member, a lump sum death benefit is payable under that regulation; and
  - (b) if the member is a pensioner member of the RFPS 2005 and the conditions for payment of a lump sum death benefit under rule E.15 and rule E.18 of the RFPS 2005 are met, a lump sum death benefit is payable under rule E.18 of the RFPS 2005.

### **Death of a pensioner member before age 60: lump sum benefit**

**33.**—(1) For the purpose of payment of death benefits, a transition member with continuity of service who dies as a pensioner member of the AFPS 2015 dies out of service under the AFPS 2015 and the RFPS 2005.

- (2) On the death of a pensioner member of the AFPS 2015<sup>(63)</sup> before reaching age 60—
- (a) 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; and

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<sup>(62)</sup> This provision applies whether or not the active member of the AFPS 2015 is also a deferred member of the RFPS 2005.

<sup>(63)</sup> This provision applies whether or not the pensioner member of the AFPS 2015 is also a deferred member of the RFPS 2005.

- (b) if the member is a pensioner member of the RFPS 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 RFPS 2005 are met, a lump sum death benefit is not payable under rule E.18 of the RFPS 2005, but a lump sum equal to the sum that would have been paid under rule E.18 is payable under the AFPS 2015 in accordance with this paragraph.

#### **Death of a pensioner member on or after reaching age 60: lump sum benefit**

**34.**—(1) For the purpose of payment of death benefits, a transition member with continuity of service who dies as a pensioner member of the AFPS 2015 dies out of service under the AFPS 2015 and the RFPS 2005.

- (2) On the death of a pensioner member of the AFPS 2015<sup>(64)</sup> on or after reaching age 60—
  - (a) 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; and
  - (b) if the member is a pensioner member of the RFPS 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 RFPS 2005 are met, a lump sum death benefit is payable under rule E.18 of the RFPS 2005.

## **PART 5**

### **Transitional provisions relating to the RFPS 2005**

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

**35.** No benefits under the RFPS 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.

#### **Reckonable service under the RFPS 2005 for a transition member with continuity of service**

**36.**—(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 RFPS 2005 for retirement benefits (other than early benefits on ill-health), T's reckonable service under the RFPS 2005 terminates when T's pensionable service under the AFPS 2015 terminates.

#### **Final salary link for a transition member with continuity of service**

**37.**—(1) In calculating benefits payable under the RFPS 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) The final salary link in Schedule 7 to the 2013 Act—
  - (a) applies to T's service only if T is in service as a member of the reserve forces on T's transition date; and

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<sup>(64)</sup> This provision applies whether or not the pensioner member of the AFPS 2015 is also a deferred member of the RFPS 2005.

- (b) does not apply to any previous period of service that T has, regardless of the length of time between the periods of service.

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

- 38.**—(1) This paragraph applies if a member of the RFPS 2005—
- (a) claimed payment of an ill-health pension under the RFPS 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 RFPS 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 RFPS 2005**

- 39.**—(1) A transition member with continuity of service (T) does not become a deferred member of the RFPS 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 RFPS 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 RFPS 2005.

**Qualifying for retirement benefits under the RFPS 2005**

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

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

- 41.** Where any element of pension under the RFPS 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 RFPS 2005.



## PART 6

### Miscellaneous transitional and consequential provisions

#### **Nomination under the RFPS 2005 continues to have effect**

**42.**—(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 RFPS 2005; and
- (b) as at the member’s transition date, had effect under the RFPS 2005.

#### **Secondment to NATO or the UN etc**

**43.**—(1) This paragraph applies in relation to a transition member if on 1st April 2015 they are on secondment in accordance with rule C.9(1) of the RFPS 2005.

(2) For rule C.9(2) is substituted—

“(2) if at the end of that period, the member resumes service in which the member is an active member of the AFPS 2015—

- (a) the pre-secondment service and the service the member resumes are treated as a single period of service; and
- (b) the member may opt to make a single lump sum contribution to the RFPS 2005 to increase the member’s reckonable service in respect of that single period of service by an additional period equal to the period of the secondment before 1st April 2015<sup>(65)</sup>.”.

## PART 7

### Transfer of final salary benefits

#### **Acceptance of club transfer value payments and club transfers**

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

#### **Member of the AFPS 2015 or the RFPS 2005**

**45.**—(1) This paragraph applies to a person who transfers final salary benefits into the RFPS 2005.

(2) Unless the person is a full protection member of the RFPS 2005, the person—

- (a) becomes a member of the AFPS 2015; and
- (b) is taken to be a transitional member with continuity of service.”

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<sup>(65)</sup> In respect of the period of the secondment from 1st April 2015, the member will have an option to make a lump sum contribution to the AFPS 2015 under regulation 97 of the AFP Regulations 2014.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make transitional provision for members of existing armed forces final salary pension and employee retirement benefit schemes in the light of new, career average pension and retirement benefit schemes made under section 1 of the Public Service Pensions Act 2013 (c.25) (“the 2013 Act”). These schemes are established by the Armed Forces Pension Regulations 2014 (S.I 2014/2336) and the Armed Forces Early Departure Payments Scheme Regulations 2014 (S.I 2014/2328) both of which come into force on 1st April 2015.

Part 2 of the Regulations makes transitional provision for members of the Armed Forces Pension Scheme 1975 (“the AFPS 1975”). The rules of the AFPS 1975 are set out in three prerogative instruments, one for each of the three services. This Part amends the abatement provisions of the AFPS 1975 so that where a pensioner member of the AFPS 1975 who is re-engaged in service that entitles them to membership of the Armed Forces Pension Scheme 2015 (the “AFPS 2015”), the scheme established under the Armed Forces Pensions Regulations 2014, the AFPS 1975 abatement rules apply. Where that person is also a pensioner member of the AFPS 2015, the AFPS 2015 pension is taken into account when abating the AFPS 1975 pension under the AFPS 1975 rules. This Part also inserts a new Schedule 3 into each of the three prerogative instruments that sets out the rules of the AFPS 1975, which protects the rights that have been accrued in that scheme by people who were members before 1st April 2015. Schedule 3 works by defining two groups of people (“full protection members” and “transition members”) from among the population of AFPS 1975 members who have service after 31st March 2015, and then conferring protection on each of them. Full protection members are exempted from the rules in the 2013 Act that prevent accrual in public sector final salary pension schemes after 31st March 2015. Transition members are not so exempted, but they are allowed an AFPS 1975 pension in respect of their service as a member of that scheme. In some cases (where the member has “continuity of service”) the final salary at the time of leaving service as a member of the AFPS 2015 is linked to the AFPS 1975 service. Special provision is made for ill-health and survivor benefits in respect of transition members with continuity of service.

Part 3 of the Regulations makes transitional provision for members of the Armed Forces Pension Scheme 2005. This Part amends the abatement provisions of the Scheme in a similar way to which Part 2 amends the AFPS 1975. This Part also inserts a new Schedule into the Scheme protecting accrued rights for full protection and transition members.

Part 4 of the Regulations makes transitional provision for members of the Armed Forces Early Departure Payments Scheme 2005. This Part establishes the meaning of a person with dual entitlement within the Scheme, and makes amendments to provide for the payment of early departure payments, resettlement grants and lump sums for incapacity for armed service to a person with dual entitlement.

Part 5 of the Regulations makes transitional provision for members of the Reserve Forces (Full-Time Reserve Service) Pension Scheme 1997. This Part amends the abatement provisions and inserts a new Schedule 2 into the Scheme protecting accrued rights for full protection and transition members.

Part 6 of the Regulations makes transitional provision for members of the Reserve Forces Non Regular Permanent Staff Pension Scheme. This part inserts a new Schedule 3 protecting accrued rights in that Scheme for full protection and transition members.

Part 7 of the Regulations makes transitional provision for members of the Reserve Forces Armed Forces Pension Scheme 2005. This Part amends the abatement provisions and inserts a new Schedule 2 protecting accrued rights for full protection and transition members.

Part 8 of the Regulations makes transitional provision for the Armed Forces (Redundancy, Resettlement and Gratuity Earnings Schemes) (No.2) Order 2010. This Part defines transition member and sets out the formula to be applied in respect of transition members when calculating the maximum amount of commutable pension. Additionally this Part makes amendments to the entitlement for resettlement grants.

Part 9 of the Regulations inserts a definition of “AFPS 2015” into the Armed Forces Pension Regulations 2014 and a definition of “EDP 2015” into the Armed Forces Early Departure Payments Scheme Regulations 2014, as these terms appear in several textual amendments made to these instruments by these Regulations.