



Ministry of Defence

Ministry of Defence
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Our Reference: FOI2015/07135



3 September 2015

Dear [REDACTED],

Thank you for your enquiry to the Ministry of Defence (MOD) dated 30 June and your clarification of 5 August in which you requested the following information:

30 June Letter:

a copy of any advice that you provided to the Secretary of State for Defence on the factors specified in sub-paragraph (5) in my case

5 August Clarification:

What advice was given to the Secretary of State in relation to the appropriate period of reckonable service under the AFPS, compared to the reckonable service in GPS, to enable him to exercise his discretion, and what decision if any was made by the Secretary of State in the light of that advice, as to the appropriate period of reckonable service under the AFPS in this case.

I am treating your correspondence as a request for information under the Freedom of Information Act (FOI) 2000. Following a search of our records, I can confirm that the MOD does hold some information relating to your request.

Please be aware that the MOD does not hold any advice to the Secretary of State regarding your case.

Your letter dated 30 June 2015 refers to sub para (5). I must advise you that you are quoting from the Armed Forces Pension Scheme 2005 rules. The correct rules are from the Armed Forces Pension Scheme 1975 (AFPS 75) as stated in the Army Pension Warrant 1977 (Part 16) Amendment 40 Change 3. I attach the relevant chapter on the Gurkha Offer to Transfer. Paragraph 471 deals with the calculation of GPS reckonable service (ANNEX A). In these rules there is no requirement to advise the Secretary of State.

Please find attached a document written by the Government Actuary's Department to the Ministry of Defence titled 'Gurkha Offer to Transfer – Pre 97 Service Credits dated 2 March 2007'. The Government Actuary's Department is the Scheme Actuary referred to in the AFPS 75 scheme rules.

I hope that this information will be helpful to you.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>.

Yours sincerely,

Defence People Secretariat

ANNEX A - Gurkha Offer to Transfer, Part 16
ANNEX B - GAD letter dated 2 March 2007

Part 16 Gurkha Offer to Transfer (GOTT)

Section 33—Active Members of the Gurkha Pension Scheme (GPS)

457. This section applies to persons who are active members of the Gurkha Pension Scheme constituted by the Royal Warrant of 19 December 1949 (GPS) and opt to become members of the Armed Forces Pension Scheme 1975 (AFPS 75) on the basis set out in this section.
461. Active members of the GPS who are in service on 1 October 2007 are entitled to transfer to AFPS 75 providing they opt to do so by this date. The option has effect on 1 October 2007 except when, in individual circumstances, the Defence Council has authorised that it may take place at a later date.
462. This election is irrevocable except in the event that, in the opinion of the Defence Council, the decision was made on the basis of incorrect information provided by the MOD which has resulted in the decision to transfer being made on a false basis. Where permission to revoke the election is given by the Defence Council, the individual must give his revocation in writing within 3 months of the permission being granted.
463. A Gurkha who opts to transfer into AFPS 75 becomes an active member of AFPS 75 on the effective option date in respect of the service he is on that day in the Brigade of Gurkhas. The period of qualifying service which will count in AFPS 75 is the period of qualifying service equal in length to the period the Gurkha was entitled to count under the GPS after age 18 for an Other Rank or age 21 for an Officer (but not exceeding 37 and 34 years respectively) on 30 September 2007.
464. The period of reckonable service which will count in AFPS 75 for an Officer will be:
- a. a period equal to the period of reckonable service the Gurkha was entitled to count under the GPS on 30 September 2007 in respect of service on or after 1 July 1997; and
 - b. in respect of any service before 1 July 1997 the following percentage of that service:
 - (1) For a Gurkha holding the rank of lieutenant on 1 October 2007, 27%,
 - (2) For a Gurkha holding the rank of captain on 1 October 2007, 28%, and
 - (3) For Gurkha holding the rank of major on 1 October 2007, 23%.
465. The period of reckonable service which will count in AFPS 75 for a Gurkha who is not an officer on 1 October 2007 and who joined the Brigade of Gurkhas on or after 1 October 1993 will be a period equal to the period of reckonable service the Gurkha was entitled to count under the GPS on 30 September 2007.

- 466.** The period of reckonable service which will count in AFPS 75 for a Gurkha who is not an officer on 1 October 2007 and who joined the Brigade of Gurkhas before 1 October 1993 is:
- a. a period equal to the period of reckonable service the Gurkha was entitled to count under the GPS on 30 September 2007 in respect of service on or after 1 July 1997; and
 - b. in respect of any service before 1 July 1997 the following percentage of that service:
 - (1) For a Gurkha holding the rank of rifleman or lance corporal on 1 October 2007, 36%,
 - (2) For a Gurkha holding the rank of corporal on 1 October 2007, 30%,
 - (3) For a Gurkha holding the rank of sergeant on 1 October 2007, 29%,
 - (4) For a Gurkha holding the rank staff sergeant or warrant officer 2 on 1 October 2007, 27%
 - (5) For a Gurkha holding the warrant officer on 1 October 2007, 26%
- 467.** Where a GPS transferee is a pension debit member, his benefits will be modified to give effect to the pension sharing order to which his rights are subject.

A. Section 34—Former Active Members of the GPS who are still alive

B. Offer to transfer

- 468.** This section applies to former active members of the GPS, meaning persons:
- a. who were not active members of the GPS on 1 October 2007, but who were active members of the GPS at any time between 1 July 1997 and 30 September 2007 inclusive;
 - b. who:
 - (1) were active members of the GPS for at least two years but left the Brigade before 1 October 2007 without qualifying for a GPS pension,
 - (2) were in receipt of a disability pension under the GPS on 30 September 2007,
- or
- (3) were in receipt of a GPS retirement pension on 30 September 2007; and
 - c. who opt to become members of the AFPS 75 on the basis set out in this section.

For the purposes of sub-paragraph (a), where a Gurkha was in receipt of condoned service on or after 1 July 1997 which ceased before 30 September 2007, he shall be treated as

being an active member of the GPS for the period of such condoned service, notwithstanding the fact that the date of his actual discharge was before 1 July 1997.

- 469.** Former active members of the GPS (as defined in Article **468**) are entitled to transfer to AFPS 75 providing they opt to do so by 1 March 2008, or such later date as the Defence Council may, at its discretion, authorise. The option has effect on 1 March 2008 except when, in individual circumstances, the Defence Council has authorised that the option may be exercised at a later date. This election is irrevocable except in the event that, in the opinion of the Defence Council, the decision was made on the basis of incorrect information provided by the Ministry of Defence which has resulted in the decision to transfer being made on a false basis. Where permission to revoke the election is given by the Defence Council, the individual must give his revocation in writing within three months of the permission being granted. In the event of a former active member dying after making an election and before 1 March 2008, the eligible dependants of the deceased may confirm the election to transfer to AFPS 75, or revoke it, at any time before 1 March 2008, or such later date, in individual circumstances, as the Defence Council authorises.
- 470.** The period of qualifying service which will count in AFPS 75 for a former active member of the GPS who opts to transfer into AFPS 75, is the period of qualifying service equal in length to the period he was entitled to count under the GPS after age 18 (for an Other Rank), or after age 21 (for an Officer) (but not exceeding 37 or 34 years respectively), on 30 September 2007. The period of any condoned service described in Article **468** shall be treated as qualifying service.
- 471.** The period of reckonable service which will count in AFPS 75 for a former active member of the GPS who was an Officer will be:
- a. a period equal to the period of reckonable service he was entitled to count under the GPS on 30 September 2007, in respect of service on or after 1 July 1997; and
 - b. in respect of any service before 1 July 1997, the period of reckonable service that the Defence Council considers appropriate after consultation with the Scheme Actuary.
- 472.** The period of reckonable service which will count in AFPS 75 for a former active member of the GPS who was not an Officer will be:
- a. a period equal to the period of reckonable service he was entitled to count under GPS on 30 September 2007, in respect of service on or after 1 July 1997; and
 - b. in respect of any service before 1 July 1997, the period of reckonable service that the Defence Council considers appropriate after consultation with the Scheme Actuary.
- 473.** Where a person becomes a member of AFPS 75 as a result of this section and a UK court has granted a pension sharing order in relation to that person, his benefits under AFPS 75 will be modified to give effect to that pension sharing order, and he will become a pension debit member in AFPS 75.

C. Terms of Transfer—qualifying service members

474. A former active member under Article **468(b)(1)** (a “qualifying service member”), who exercises the option to transfer, becomes a deferred member of AFPS 75, with rights to a preserved pension, on 1 March 2008 (or such later date as the Defence Council determines if the option is exercised after that date). A qualifying service member is entitled, at the age of 60, to an annual pension and a pension commencement lump sum, as determined by the Defence Council, in consultation with the Scheme Actuary, having regard to factors including, but not limited to, payments that were made to him when he ceased to serve in the Brigade. Dependants’ benefits in relation to a qualifying service member will be paid in accordance with **Part 4** of this Warrant (Family Pensions and Gratuities).

D. Terms of transfer—disability pension members

475. A former active member under Article **468(b)(2)** (a “disability pension member”), who exercises the option to transfer, becomes a member of AFPS 75 on 1 March 2008 (or such later date as the Defence Council determines if the option is exercised after that date). A disability pension member is entitled to an annual ill-health pension as determined by the Defence Council, in consultation with the Scheme Actuary, having regard to factors including, but not limited to, the AFPS 75 rules in force at the time of his disability retirement and payments that have been made to him under the GPS. The calculation of the ill-health pension under AFPS 75 will be back-dated to the date of the pension member’s disability retirement, and any difference between the GPS disability pension already paid and the AFPS 75 ill-health pension now payable (in the member’s favour) will be paid to the disability pension member as arrears due, as a lump sum payment. Dependants’ benefits in relation to a disability pension member will be paid in accordance with **Part 4** of this Warrant (Family Pensions and Gratuities).
476. No pension commencement lump sum will be paid to a disability pension member under AFPS 75, but if a pension commencement lump sum calculated under **Part 2** or **Part 3** of this Warrant is greater than the pension commencement lump sum already received by the disability pension member under the GPS, then his annual ill-health pension under AFPS 75 will be adjusted (in consultation with the Scheme Actuary) to award the difference to the member on an on-going basis.

E. Terms of transfer—pensioner members

477. A former active member under Article **468(b)(3)** (a “pensioner member”) who exercises the option to transfer is entitled to be treated in accordance with Articles **478** and **479** or **480** to **482**, as appropriate.
478. A pensioner member with sufficient qualifying service (calculated in accordance with Article **470**) to qualify for an AFPS 75 pension payable immediately under the terms of this Warrant becomes a member of AFPS 75 on 1 March 2008 (or such later date as the Defence Council determines if the option is exercised after that date). This pensioner member is entitled to the payment of an annual pension as determined by the Defence Council in consultation with the Scheme Actuary. The calculation of the pension under AFPS 75 will be back-dated to the date of the pensioner member’s retirement, and any difference between the GPS pension already paid and the AFPS 75 pension now payable (in the member’s favour) will be paid to the pensioner member as arrears due, as a lump sum payment.

- 479.** No pension commencement lump sum will be paid under AFPS 75 to a pensioner member under Article **478**, but if a pension commencement lump sum calculated under **Part 2** or **Part 3** of this Warrant is greater than the pension commencement lump sum already received by the pensioner member under the GPS, then his annual pension under AFPS 75 will be adjusted (in consultation with the Scheme Actuary) to award the difference to the pensioner member on an on-going basis. Dependants' benefits in relation to a pensioner member will be paid in accordance with **Part 4** of this Warrant (Family Pensions and Gratuities).
- 480.** A pensioner member with insufficient qualifying service (calculated in accordance with Article **470**) to qualify for an AFPS 75 pension payable immediately under the terms of this Warrant will remain a member of the GPS and will receive his GPS pension until age 60. At age 60, the pensioner member becomes a member of AFPS 75 and becomes entitled to receive an annual pension under AFPS 75 as determined by the Defence Council, in consultation with the Scheme Actuary, having regard to factors including, but not limited to, payments that have already been made to him under the GPS. On becoming a member of AFPS 75, no pension commencement lump sum will be paid under AFPS 75, but if a pension commencement lump sum calculated under **Part 2** or **Part 3** of this Warrant is greater than the pension commencement lump sum already received by the pensioner member under the GPS, then his annual pension under AFPS 75 will be adjusted (in consultation with the Scheme Actuary) to award the difference to the pensioner member.
- 481.** A pensioner member referred to in Article **480** will not be allowed to transfer value out of AFPS 75 or to claim the benefits due at age 60 at an earlier date.
- 482.** If a pensioner member referred to in Article **480** dies before reaching the age of 60 his dependants will receive dependants' benefits (as may be due) under the GPS, not AFPS 75. If such a person dies after age 60, dependants' benefits will be paid in accordance with **Part 4** of this Warrant (Family Pensions and Gratuities).

F. Section 35—Gurkhas with service on or after 1 July 1997 who died (a) in service before 1 October 2007 or (b) in retirement before 1 March 2008

G. Offer to Transfer

- 483.** This section applies to eligible dependants of deceased Gurkhas who opt to become beneficiaries of AFPS 75 on the basis of this section. In this section:
- a. "eligible dependant" means a person who would qualify for family benefits under the GPS; and
 - b. "deceased Gurkha" means a person who served with the Brigade of Gurkhas on or after 1 July 1997, and who died:
 - (1) in service, before 1 October 2007 or
 - (2) having left service, before 1 March 2008.
- 484.** Where a deceased Gurkha, at the time of his death:

- a. was an active member of the GPS,
- b. was in receipt of a disability pension under the GPS,
- c. was in receipt of a retirement pension under the GPS, or
- d. had two years reckonable service, but had left the Brigade of Gurkhas prior to his death without qualifying for a GPS pension,

then the eligible dependants of that deceased Gurkha are entitled to transfer to AFPS 75 providing they opt to do so by 1 March 2008, or such later date as the Defence Council may, at its discretion, authorise. The option has effect on 1 March 2008 except when, in individual circumstances, the Defence Council has authorised that the option may be exercised at a later date.

- 485.** The election is irrevocable except in the event that, in the opinion of the Defence Council, the decision was made on the basis of incorrect information provided by the MOD which has resulted in the decision to transfer being made on a false basis. Where permission to revoke the election is given by the Defence Council, the eligible dependants must give their revocation in writing within three months of the permission being granted.
- 486.** Where an eligible dependant exercises the offer to transfer to AFPS 75, the transfer shall be effective in relation to all eligible dependants of that deceased Gurkha, unless, at their discretion, the Defence Council determine otherwise.

H. Terms of Transfer

- 487.** Where an option to transfer has been exercised by the eligible dependants of a deceased Gurkha, then the following entitlements arise on 1 March 2008 (or such later date as the Defence Council determines if an option is exercised after that date):
- a. a family pension becomes payable to the deceased Gurkha's dependants, in accordance with the eligibility criteria in **Part 4** of this Warrant.
 - b. if the deceased Gurkha met the requirements of Article **484(a)** or **484(d)** and died no more than two years before 1 March 2008, a death benefit lump sum becomes payable to the deceased Gurkha's dependants, in accordance with the eligibility criteria in **Part 4** of this Warrant.
 - c. if the deceased Gurkha died before 1 March 2006, no death benefit lump sum is payable under this Warrant. However, if a death benefit lump sum calculated under this Warrant is greater than the lump sum already received by the eligible dependants under the GPS, then the difference will be paid to the dependants as arrears due payable together with any amount arising under Article **488**.
- 488.** The amount of such family benefits is to be determined by the Defence Council, in consultation with the Scheme Actuary, having regard to factors including, but not limited to, the AFPS 75 rules on family benefits at the time of the deceased Gurkha's death, and any payments that have already been made to the eligible dependants under the GPS. The calculation of family benefits under AFPS 75 will be back-dated to the date of the deceased Gurkha's death, and any difference between the GPS family benefits already

paid and the family benefits now payable under AFPS 75 (in the member's favour) will be paid to the dependants as arrears due, in the form of a lump sum payment.

I. Section 36—General Application

- 489.** Article 135 of this Warrant shall not have the effect of excluding any Gurkha from the terms of **Part 3**, if he has elected to join the Scheme under **Part 16**, and on the terms of this Part.
- 490.** The calculation of qualifying or reckonable service for the purposes of **Part 16** of this Warrant shall not take account of any rules contained in other Parts of this Warrant, concerning the calculation of such service.

For those under the 14 year point you have decided to offer year-for-year for all ranks. Offering more than year-for-year for the lower ranks appears illogical given the purposes of the GOTT as a whole and the cost involved in providing the year-for-year for ranks of Corporal and above is negligible given the number of Gurkhas affected, the length of pre 97 service that they will have completed (0 to 4 years) and that it will be offset by any Lance Corporals and below who elect to transfer.

The main focus of the calculations has been on AFPS 75, with that being the scheme for which those choosing to transfer are most likely to opt and also the scheme that was in force before April 1997. You have decided to offer the same service credits in AFPS 05 as AFPS 75, partly because if the Gurkhas had been allowed access to AFPS 75 in 1997 they would have been able to transfer to AFPS 05 on the year-for-year basis in 2006.

We agreed that pre 18 (Other Ranks) and pre 21 (Officers) service in GPS would be included in the calculation of the service credit at the point where the service credit percentage is applied to GPS pre 97 service, but no Gurkha would be given a service credit in AFPS 75 that would give them more pensionable service than they could have completed in AFPS 75 from age 18 or 21.

Assumptions

You are well aware of the number of assumptions that we have had to make in order to make a comparison of the values of the GPS and AFPS benefits. This is not an exact science and has been made more uncertain by the complicated and uncertain nature of future payments from the GPS. This should be kept in mind when considering the service credits, which are a function of the assumptions that we have used. Our assumptions have come from a variety of sources, including examination of experience data, input from yourself and Gurkha Policy and from the models that we use to determine the cost of the AFPS to the MoD. As a whole we have used assumptions which we feel are reasonable.

I have set out a list of the main assumptions in Appendix 2.

Risks

Over the last few months thoughts on how the Gurkha regiment may be operated have been changing repeatedly. If it is ultimately decided that MCPs will not be used or if Gurkhas are able to continue in the army at an MCP point by moving to a different regiment, the pre 97 service credits offered to the post 93 group would be too generous. In this situation they should then only have been offered the service credits being provided for the pre 93 group. This would be a risk that the MoD would run and if the position did change as described above, the cost would eventually come through via an experience loss and resultant increase in the SCAPE rate. However, I would not expect this to be a major item in the context of the overall SCAPE contributions.

Please let me know if you have any questions.

Yours sincerely

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Consulting Actuary



Appendix 1 - Results

Table A – Theoretical service credits

Rank	Percentage of GPS service that is equivalent in value to AFPS 75 Service	
	Less than 14 yrs service on 1/10/2007 (ie joined between 1/10/1993 and 30/6/1997)	More than 14 yrs service on 1/10/2007 (ie joined before 1/10/1993)
Rfn	116%	36%
L.Corp	116%	36%
Corp	97%	30%
Sgt	88%	29%
S.Sgt	82%	27%
WO2	-	27%
WO1	-	26%
Lt	-	27%
Capt	-	28%
Maj	-	23%

(Note that there are no Gurkhas who are WO2 and above in the less than 14 years group.)

Table B – Service credits to be offered

Rank	Percentage of pre 97 GPS service to be offered in AFPS 75 or AFPS 05	
	Less than 14 yrs service on 1/10/2007 (ie joined between 1/10/1993 and 30/6/1997)	More than 14 yrs service on 1/10/2007 (ie joined before 1/10/1993)
Rfn	100%	36%
L.Corp	100%	36%
Corp	100%	30%
Sgt	100%	29%
S.Sgt	100%	27%
WO2	-	27%
WO1	-	26%
Lt	-	27%
Capt	-	28%
Maj	-	23%

Appendix 2 - Assumptions

Financial assumptions

Gross discount rate	6.5% pa
Net discount rate above price inflation	3.5% pa
Net discount rate above salary inflation	2.0% pa
Indian Rupees to the £ sterling	85
Nepalese Rupees to the Indian Rupee	1.6
Future changes in inflation/exchange rates	Assumed that purchasing power remains constant in the future, ie any increases in Indian/Nepalese inflation are offset by falls in the exchange rate.

Demographic assumptions

- An entry age of 19 ½ has been used.
- The same longevity assumptions have been used as those that are used for the armed forces as a whole. These equate to deaths at an average of age 87 for Officers and 85 for Other Ranks.
- All those Gurkhas who joined before 1 October 1993 have been assumed to serve to the later of 22 years service and the normal exit point for their final rank.
- For those who joined after 1 October 1993, all have been assumed to leave at 15 years service, with the exception of Staff Sergeants and Sergeants for whom 95% have been assumed to leave at 15 years with the remainder serving to 22 years.

Assumptions about benefits

- Resettlement Grants have been included.
- GPS pensions in payment have been assumed to increase in line with salaries.
- A deferred pension age in AFPS 75 of 60 has been used
- Qualification for IP/EDP benefits to be based on actual (post 18/21) GPS service, rather than amount of service credited in AFPS 75/05.
- In AFPS 75, Queen's Gurkha Officers would get Officer benefits.
- The comparison between the schemes has been made using 06/07 AFPS 75 pension codes and 06/07 GPS pension codes (uplifted for the recent changes in service weightings).
- The calculations are based on the cost to the MoD of providing the benefits and therefore no allowance is made for any different tax effects between the GPS and AFPS in the hands of the member.