



Ministry
of Defence

Consultation

Regulations for the Armed Forces Early Departure Payments Scheme 2015 (a summary)

16 June 2014

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Proposals for Consultation

Consultation on policy proposals for implementation of Early Departure Payment Scheme Regulations 2015

Alongside the consultation on the legislation for the reformed Armed Forces pension scheme (AFPS 15), there is a requirement to consult on the legislation for the associated Early Departure Payment (EDP 15) scheme. Early Departure Payments are unique to the Armed Forces and are not pensions. This legislation covers EDP, lump sums on incapacity and will also cover resettlement grants, however the policy on resettlement grants is still under development and will be published in due course.

The basic principles and features of the EDP 15 rules have already been decided and, as there has been an earlier consultation, there will be limited opportunity now to change policy. Instead this consultation is asking individuals to consider how well the draft regulations fit the requirement to reform EDPs in order to make them more affordable and sustainable and fair to Service personnel and the taxpayer. It is proposed that these draft regulations form the basis of the regulations that will be laid in Parliament in June 2014 ahead of the implementation of EDP 15 on 1 April 2015.

About this consultation document. These draft regulations have already taken into account some of the views contributed during the previous consultation. For ease of reference the draft regulations are summarised below for the next stage of consultation, showing in simple terms how EDP 15 will operate in practice. The wording is not definitive and as such this consultation document is intended to be used only as an indicative guide. The new regulations, and amendments/updates to existing regulations, will come together to form the basis for the reformed EDP; they will be complete in time to allow effective administration and communication of the changes involved.

How to comment. The consultation will run from 7 April 2014 until 19 May 2014. In order to participate in the consultation, please complete the survey online at the following link;

<http://surveys.defenceconsultations.org.uk/limesurvey/index.php?sid=82168&lang=en>

If you are unable to access the survey please email your comments to the Future Armed Forces Pension Scheme (FAFPS) Team at dcdspers-pcv-fafpsmailbox@mod.uk.

What the regulations say

Preliminary

1. **Citation and commencement.** These Regulations may be cited as the Armed Forces Early Departure Payments Scheme 2015, and will come into force 1 April 2015.

The Armed Forces Early Departure Payments Scheme

2. **Establishment of the Armed Forces Early Departure Payment Scheme.** These Regulations establish a scheme for the payment of a lump sum and periodical payments when membership of the Regular Forces ceases and certain conditions as to age and service as a member of the Regular Forces are met. These regulations also allow payment of a lump sum where the member of the Armed Forces becomes medically unfit for service and certain other conditions are met. These regulations will also cover resettlement grants, although policy in this area is still being developed.

3. **Governance.** The provisions of a scheme manager, pension board and governance of the AFPS 15 scheme shall apply to this scheme.

Interpretation

4. **General Interpretation.** A list of the definitions of terms that are used is shown in Part 1 of the full regulations. These are still under consideration and will be finalised in due course.

5. **Meaning of 'final pensionable earnings'.** Final pensionable earnings means the greatest amount of pensionable earnings received during any 365 consecutive days which falls during the last 3 years of service. For Regulars, if 365 days have been served but not consecutively, the annualised earnings for the final 12 month period of service are used. (The formula by which annualised earnings is calculated is shown in the full regulations). Pensionable earnings includes basic pay and any other sum which the Secretary of State has expressly determined to be pensionable earnings; it does not include any allowances, any amounts payable in respect of particular qualifications or duties, or any amounts payable due to the location of service or the conditions in which service is performed. Pensionable earnings also exclude any additional amounts payable to medical and dental officers.

6. **Earnings adjustments in determining final pensionable earnings.** Where final pensionable earnings are derived from a period of 365 consecutive days that did not end

on the last day of service, they are adjusted for earnings (increasing it by the same amount as that by which an active member's annual pension would have been increased (under the Pensions Increase Act 1971) for that scheme year).

7. **Meaning of 'qualifying service'.** For the purposes of this scheme 'qualifying service' means the number of calendar days from the first day of paid service, but excluding the following periods; absence without leave, service detention, imprisonment and unpaid leave. Periods of qualifying service separated by 5 years or less are aggregated for the purposes of this scheme.

Early Departure Payments

8. **Eligibility for early departure payments.** A person is only eligible for an early departure payment if;

They are a member of the Regular forces, and are not an active member of either AFPS 75 or AFPS 05, or are otherwise excluded.

They cease to be in service as a member of the Regular forces on or after attaining the age of 40 and before attaining the Normal Pension Age.

They have completed at least 20 years qualifying service in the Regular forces.

They are not entitled to the immediate payment of a pension for ill health (active members with permanent serious ill-health or active members with significant impairment of capacity for gainful employment).

They are not entitled to a lump sum on incapacity for service in the Armed Forces.

Periods of service within AFPS 15 separated by a gap of more than 5 years cannot be aggregated.

9. **Entitlement to early departure payments.** A person who is entitled to payments under this regulation becomes entitled from the date they cease to be in service as a member of the Regular forces. An eligible person is entitled to; a lump sum payment and periodical payments made between the day after leaving Regular service and the day before reaching the deferred pension age.

The lump sum is payable within 3 months of leaving the Services. Periodical payments are made monthly in arrears.

10. **Amount of early departure payments.** The annual amount of periodical payments is the sum of; the basic amount and the additional service allowance.

The basic amount is equal to 34% of the members deferred pension (including any added pension) at the point of exit.

The additional service allowance is an amount equal to 0.85% of the members deferred pension for every full year served within the Regular forces beyond the 20 year service and age 40 qualification point.

The amount of lump sum is the provisional amount of deferred pension (including added pension) multiplied by 2.25.

In the case of a person who would be excluded other than the Secretary of State agreeing otherwise, the payments may be reduced by any such amount as the scheme manager deems appropriate.

11. Option to convert the entire lump sum payment into additional monthly payments. A person may opt to exchange the whole of the lump sum for an increase in the amount of periodical payments.

Where this option is taken, entitlement to a lump sum ceases and the periodical payments are increased from the date the payments are due to start, to a level which the scheme manager and scheme actuary consider to be equivalent in value to the lump sum.

This option must be exercised in writing (by writing to the scheme administrator) during the final 6 months of service. The option is deemed to have been exercised on the date the request is received by the scheme administrator.

12. Increases for inflation. When a person reaches the age of 55, the basic amount and additional service allowance are adjusted for inflation in respect of each scheme year.

13. Effect of rejoining the regular forces within 5 years. Where a person who is in receipt of an EDP rejoins the Regular forces 5 years or less after they left, they may, within 1 month of rejoining, elect to retain all their EDP payments relating to their prior service. In these circumstances their EDP remains in payment but is not recalculated on cessation of the second period of service. Payment then ceases upon reaching the deferred pension age.

Alternatively, a person may elect to stop receiving their periodical payments and repay in full any lump sum already received. Repayment of the lump sum will include an interest rate as determined by the Secretary of State. On cessation of the subsequent period of service they will be entitled to a lump sum and periodical payments that are recalculated to take into account both periods of service.

A person is not entitled to receive a lump sum where they have previously received a lump sum which has not been repaid.

Where a person who is in receipt of an EDP rejoins the Regular forces more than 5 years after they left, they will retain all EDP payments. Their payments will not be recalculated

in respect of any subsequent period of service and will cease once the person is in receipt of an AFPS 15 pension, or if they are not a member of AFPS 15, when they have reached the deferred pension age of the AFPS 15 scheme.

14. **Effect of joining the Reserve forces.** Where a person who is in receipt of an EDP enters service with the Reserve forces, that person will retain their EDP payments. Such payments will not be recalculated upon cessation of their service in the Reserve forces and will cease once the person is in receipt of an AFPS 15 pension, or if they are not a member of AFPS 15, when they have reached the deferred pension age of the AFPS 15 scheme.

15. **Effect of emergencies.** If a person would be entitled to an EDP but does not cease service on the expected date, for reasons which are deemed to be an emergency by the scheme manager, or that person is a prisoner of war on the expected date, the person is treated as having ceased to be in service on the expected date.

Resettlement Grants

16. **Entitlement to a resettlement grant.** When a person ceases to be in service as a member of the Regular forces they will be entitled to a lump sum payment if;

They have at least 12 years qualifying service.

They are not entitled to an EDP, an ill-health award or an immediate pension.

They have not previously received a resettlement grant.

They are not an active member of AFPS 75 or AFPS 05.

Where a person re-enters Regular services more than 5 years after leaving, they may not aggregate their previous service for the purposes of qualifying for a resettlement grant.

17. **Amount of resettlement grant.** The scheme manager will determine and publish the amount of the resettlement grant. The resettlement grant is to be paid within 3 months of leaving the Services.

18. **Effect of resettlement grant on rejoining the Regular forces or joining the Reserve forces.** Where a person who has received a resettlement grant rejoins the Regular forces, or joins the Reserve forces, they are entitled to keep the lump sum, however when they rejoin as a Regular or a full time Reservist within 30 days of leaving, they are to repay the resettlement grant.

If they kept the lump sum, at the end of the second period of service they will not be entitled to a second resettlement grant.

If they repaid the lump sum, at the end of the second period of service they will be entitled to a new resettlement grant provided they continue to meet the qualifying criteria in paragraph 16.

If they repaid the lump sum and re-joined as a full time Reservist, on leaving Reservist Service they will not be entitled to a new resettlement grant.

Lump Sums on Incapacity

19. **Lump sum awards: incapacity for Armed Forces service.** A person who ceases to be in service as a member of the Armed Forces is entitled to an immediate payment of a lump sum if in the opinion of the scheme manager the person will continue to be unfit for service in the Armed Forces because of physical or mental impairment, and this has been confirmed to the scheme manager by a registered medical practitioner. The person must have completed at least 2 years qualifying service and have been a member of AFPS 15 immediately prior to discharge. The person must also not be entitled to an EDP or an immediate pension or an ill-health pension under AFPS 15.

Where a person re-enters service with the Regular forces more than 5 years after serving in AFPS 15 or a connected scheme, the different periods of service cannot be aggregated for the purposes of calculating incapacity lump sum awards.

Any pensionable service where a person's rights have been extinguished will not count as qualifying service for the purposes of calculating incapacity lump sum awards.

20. **Amount of lump sum on incapacity for Armed Forces service.** The amount of incapacity lump sum is determined by multiplying one eighth of the person's final pensionable earnings by their length of service (expressed in years and fractions of years).

Where the amount calculated is less than one half of the person's final pensionable earnings, the person receives an amount equivalent to one half of their final pensionable earnings.

Where the amount calculated is more than twice the person's final pensionable earnings, the person receives an amount equivalent to twice their final pensionable earnings.

The incapacity lump sum is payable within 3 months of leaving the Armed Forces.

21. **Effect of payment of an early departure payment, relating to previous service, on payment of a lump sum on incapacity for Armed Forces service.** Where a person becomes entitled to an incapacity lump sum and has reached or served beyond the 20/40 EDP point they will be entitled to EDP payments rather than the incapacity lump sum; they cannot receive both. Where a re-joiner continues to be in receipt of an

EDP and subsequently becomes entitled to an incapacity lump sum, they also cannot receive both. They will continue to receive the EDP unless the scheme manager determines that the person should receive an incapacity lump sum instead.

If the scheme manager determines that the person shall receive an incapacity lump sum instead of an EDP, the EDP shall cease from the date the incapacity lump sum is paid.

22. Effect of re-joining the Armed Forces having received a lump sum award for incapacity for Armed Forces service. Where a person is accepted for re-entry to the Armed Forces they will retain any previous incapacity lump sum paid, however they must repay any unexpired part of that lump sum. The method used to calculate the unexpired part is shown in the full regulations.

If a person becomes entitled to another incapacity lump sum during their subsequent period of service, only the subsequent period of service is to be used when calculating the lump sum award.