



Ministry
of Defence

Consultation

Regulations for the Armed Forces Pension Scheme 2015 (a summary)

17 June 2014

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Proposals for Consultation

Introduction

Public service reforms

Following the recommendations of the Independent Public Service Pensions Commission, chaired by Lord Hutton of Furness, all public service pensions are being reformed to make them more sustainable and affordable in the long term, and fairer to both members and the taxpayer. People are living much longer, on average 10 years longer than was the case in the 1970s, and this means that the cost of providing public service pensions, including Armed Forces pensions, has increased by a third in the last 10 years.

Consultation on policy proposals for implementation of AFPS 15

In designing the new Armed Forces pension scheme the MOD carried out an extensive two-phase consultation. The initial consultation ran from March 2012 to May 2012 and enabled scheme members and other interested parties to identify, and express views on, any issues associated with the implementation of the reformed scheme.

The consultation documents were widely available online and set out the differences between the current pension schemes and the proposed new scheme. 52 Units were visited, including Afghanistan, Germany, Gibraltar and the Falkland Islands. 69 presentations were given to 8,800 people (including families) and 154 focus groups were held (also including families). 25,000 personnel responded to the online questionnaire; the Royal British Legion, Forces Pension Society and Forces Families Federation also submitted comments. The views and comments received from all parties helped to inform the final stages of the scheme design.

The Outline Scheme Design was published in July 2012, followed by the Final Scheme Agreement in October 2012, which set out the design for AFPS 15.

The key features of AFPS 15 include;

1. **A single pension scheme for all members of the Armed Forces (Regulars and Reserves alike).**
2. **Protection of pension rights already accrued in current Armed Forces pension schemes.**
3. **No personal contributions.**

4. **A pension based on career average earnings.**
5. **An accrual rate of 1/47th of pensionable earnings, which is re-valued annually by an average earnings index.** (once in payment it is re-valued annually by CPI).
6. **A Normal Pension Age (NPA) of 60.**
7. **A Deferred Pension Age linked to the State Pension Age.**
8. **An Early Departure Payment (EDP) for members who leave the Service on completion of 20 years service having reached age 40 (20/40 point), consisting of a lump sum and monthly income stream.** (EDP regulations are covered under separate legislation)
9. **No automatic pension lump sum at the Normal Pension Age or at the Deferred Pension Age. However there will be the option to generate a lump sum by commuting part of the pension income up to HM Revenue and Customs limits.**
10. **Dependants benefits, ill health benefits and death benefits to remain in line with AFPS 05 provisions.**
11. **Abolition of pension abatement if an individual returns to the Services after retirement.** (a break in service of at least 30 days is still required; abatement will still apply to pension rights accrued under legacy schemes.
12. **Breaks in Service of 5 years or less will be treated as continuous Service.**
13. **Annual pension forecasts.**
14. **The establishment of a Pensions Board.**
15. **Transitional protection for Service Personnel who were within 10 years of their pension scheme's NPA on 1 Apr 12 (ie aged 45 or over on 1 Apr 12, or for RFPS members, aged 50 or over on 1 Apr 12). Transitionally protected members will not be affected by AFPS 15, the same applies to individuals with pensions in payment and their dependants.**
16. **A Government commitment to no further changes to public service pensions for the next 25 years.**

Full details are available at:

<https://www.gov.uk/pensions-and-compensation-for-veterans#armed-forces-pension-scheme-2015>

The reforms to the AFPS will ensure that the scheme remains one of the very best available within the public sector, with guaranteed levels of benefits and inflation proofing. It will provide members with a high-quality and sustainable pension that reflects their valued service to Defence, and will help the Armed Forces to attract and retain high quality personnel.

Process for consulting on draft regulations.

Limitations on scope of consultation. Now that the draft legislation has been written, a further period of consultation is required. The basic principles and features have already been decided, and as there has already been a previous consultation, there will be limited opportunity to change policy. This consultation is asking individuals to consider how well the draft regulations fit the requirement to reform public service pensions in order to make them more affordable, sustainable and fairer to both Service personnel and the taxpayer. It is proposed that these draft regulations form the basis of the regulations to be laid in Parliament in Jun 14 ahead of the implementation of AFPS 15 on 1 Apr 15.

About this consultation document. The draft regulations were informed by the views contributed during the earlier consultation. For ease of reference the draft regulations are summarised below, showing in simple terms how the AFPS 15 scheme 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. There are some small, niche, complex areas where the overall policy for all public service schemes is still being finalised (e.g. scheme valuation arrangements). The full regulations will be published once these niche areas are confirmed.

How to comment. The consultation will run for 6 weeks 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 to the Future Armed Forces Pension Scheme (FAFPS) Team at dcdspers-pcv-fafpsmailbox@mod.uk.

The regulations have been written in accordance with the Public Service Pensions Act 2013.

What the regulations say

Part 1 Preliminary

1. **Citation and commencement.** These Regulations may be cited as the Armed Forces Pension Scheme 2015, and will come into force 1 Apr 15.
2. **Establishment of scheme.** These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of members of the Armed Forces.
3. **Interpretation.** A full list of the definitions of terms that are used is shown in Part 1 of the full regulations.

Part 2 Governance

Chapter 1 – Scheme Manager and Scheme Pension Board

4. **Scheme Manager.** The Secretary of State is the responsible authority and scheme manager who is responsible for managing the scheme and any associated scheme. These functions may be delegated.
5. **Establishment of pension board.** A pension board will be established and is responsible for assisting the scheme manager in securing compliance with these regulations and with any other legislation that relates to the governance or administration of this scheme or any connected scheme. MOD is still developing policy for the establishment of the board.
6. **Membership of pension board.** The pension board will consist of a Chair (appointed by the scheme manager) and at least 6 and no more than 16 other members, to include a Financial Director and equal numbers representing the employer and scheme members. The regulations also provide the legal basis, membership and terms of appointment for the new Armed Forces Pension Board and the Armed Forces Pension Scheme Advisory Board (boards which are being established to provide assurance and assistance to the scheme manager in ensuring the effective administration and running of the AFPS).
7. **Terms of appointment to pension board.** A member of the pensions board is to hold and vacate office in accordance with the terms of appointment as determined by the scheme manager.
8. **Conflict of interest; pension board.** The scheme manager must be satisfied that any person appointed to the board does not have a conflict of interest, and board members must provide the scheme manager with any information that the scheme manager reasonably requires to ensure there is no conflict of interest.

Chapter 2 – Scheme Advisory Board

9. **Establishment of scheme advisory board.** A scheme advisory board will be established and will be responsible for advising the scheme manager in relation to the desirability of changes to the scheme.
10. **Membership of the scheme advisory board.** The scheme advisory board will consist of a Chair (appointed by the scheme manager) and at least 6 and no more than 16 other members. Members of the scheme advisory board may be the same as members of the pension board.
11. **Terms of appointment to pension board.** A member of the scheme advisory board is to hold and vacate office in accordance with the terms of appointment as determined by the secretary of state.
12. **Conflict of interest; pension advisory board.** The scheme manager must be satisfied that any person appointed to the scheme advisory board does not have a conflict of interest, and board members must provide the scheme manager with any information that the scheme manager reasonably requires to ensure there is no conflict of interest.

Part 3 Scheme membership

Chapter 1 – Scheme Employment.

13. **Description of persons in scheme employment.** A person who is in service as a member of the Armed Forces is in scheme employment. In service means as part of the Regular and Reserve forces and Non Regular Permanent Staff.

Chapter 2 - Membership

14. **Dual Capacity Membership.** A person is a dual capacity member if the person is a member in more than one of the following capacities; an active member, a deferred member, a pensioner member, a pension credit member.
15. **Payment of benefits to dual capacity members.** For dual capacity members, benefits are payable as if the member were 2 or more members, unless indicated otherwise.
16. **Eligibility for active membership.** A person is an active member of the scheme if they are in scheme employment on or after 1 Apr 15 (and their Terms of Employment do not exclude them from the scheme). This excludes those with full protection in a connected scheme, those who have opted out of the scheme and those for whom the MOD pays contributions to another scheme.

A person becomes an active member on their first day of scheme employment unless they choose to opt out.

17. **Deferred membership.** A person who has vested (has 2 years or more qualifying service which may include any transferred-in service, other than from another occupational pension scheme) and who ceases pensionable service but who has not yet reached normal pension age (age 60) becomes a deferred member.

Chapter 3 – Membership Options

18. **Option not to join the scheme.** A person may opt not to belong to the scheme by writing to their Commanding Officer within 3 months of joining the Armed Forces.

19. **Option to leave the scheme.** An active member may opt to leave the scheme by writing to their Commanding Officer. The option is treated as having been exercised on the date the letter is received by the Commanding Officer. The person then ceases to be a member at the start of the first pay period thereafter, or such other pay period as the scheme manager deems appropriate.

20. **Option to join the scheme.** Eligible personnel may opt to join the scheme by writing to their Commanding Officer once in any 12 month period unless the scheme manager decides otherwise. (eg a Reservist who is mobilised for short periods and chooses to opt out of AFPS 15 each time, may opt back in more than once in any 12 month period). They will be deemed to have joined the scheme on the date the letter is received.

Chapter 4 – Pensionable Service

21. **Pensionable service.** A member is in pensionable service when in scheme employment and receiving pensionable earnings or assumed pay.

A continuous period of pensionable service under AFPS 15 includes any gap in service which does not exceed 5 years. Any period where a person is in pensionable public service does not constitute a gap in service.

22. **Qualifying service.** Qualifying service is the aggregate of;

Any period on or after 1 Apr 15, where the member is an active member.

Any period where the member was in pensionable service under any connected scheme on or before 31 Mar 15 (eg AFPS 75, AFPS 05 etc)

Where there was a break in service of more than 5 years that commenced before 1 Apr 15 and which ended after 1 Apr 15, the earlier period(s) of service will not count as qualifying service towards AFPS 15 pension..

For transfer value payments or cash transfer sums received from another occupational pension scheme, a period equal to the person's period as an active member of that scheme.

Unauthorised absence, service detention, imprisonment and periods of unpaid leave where a person is not receiving assumed pay is not qualifying service. Similarly, service in the scheme (or connected scheme) where rights are extinguished is not qualifying service, nor are periods when the person is opted out of the scheme.

Where an individual leaves service for a period of more than 5 years and subsequently rejoins, qualifying service restarts from the first day of new service.

23. **Pensionable earnings.** Pensionable earnings means basic pay; this does not include allowances, special service pay or bonuses. All other earnings are also not pensionable unless specifically provided to the member on the basis that they are pensionable.

24. **Meaning of ‘assumed pay’.** Assumed pay is granted in circumstances when the member is on secondment to a different employer under an arrangement when that employer pays for active membership to continue. Assumed pay is also applied during maternity/paternity leave, paid additional paternity leave, adoption leave, parental leave or when receiving statutory pay.

Part 4 Pension Accounts

Chapter 1 – Preliminary.

25. **Calculation of amount of accrued pension for purposes of Chapters 4 and 5.** The method by which the amount of accrued pension is calculated is shown in detail within the full regulations. This includes accrued earned pension and any added pension.

26. **Calculation of ‘retirement index adjustment’.** The method by which the retirement index adjustment for an amount of accrued pension is calculated is shown in detail within the full regulations.

Chapter 2 – Pension Accounts; General.

27. **Establishment of pension accounts; general.** The scheme manager must establish and maintain one or more pension accounts for each member.

28. **Closure and adjustment of pension accounts on transfer out.** Unless otherwise stated, all pension accounts must be closed if a transfer value payment or cash transfer sum is paid in respect of accrued rights under this scheme. Certain other criteria are also laid out within the full regulations.

Chapter 3 – Active Member’s Account.

29. **Establishment of an active member’s account.** A pension account must be established for each active member from the first day of pensionable service.

30. **Receipt of transfer values.** On receipt of a transfer value from another pension scheme, the active members account is credited with the transfer sum, as calculated under Regulation 109.

31. **Receipt of club transfer values.** On receipt of a transfer value from another club scheme (another public service pension scheme), the active members account must be credited with the amount of club transfer earned pension, as calculated under Regulation 109.

32. **Account to specify amount of pension for a scheme year.** For every scheme year, the active member's account must specify the amount of pension for that scheme year. The amount earned is 1/47th of the active member's pensionable earnings for that year. Added pension and transferred pension will also be counted.

33. **Account to specify opening balance and index adjustment.** Each year after the first year of service the active member's account must specify the opening balance for the scheme year and the index adjustment for that opening balance. This information will be given to members via annual Pension Benefit Statements.

Chapter 4 – Deferred Member's Account.

34. **Establishment of a deferred member's account.** When an active member ceases to be in pensionable service and becomes a deferred member, their active member's account will be closed and a pension account as a deferred member must be established.

35. **Account to specify provisional amount of deferred pension.** The deferred member's account must specify the provisional amount of the relevant deferred pension (including any accrued added pension) and the retirement index adjustment for that amount. The retirement index adjustment is not applied if any transfer value payments or cash transfer sums are paid in relation to that accrued pension before the end of the last active scheme year.

36. **Adjustment of provisional amount of deferred pension on retirement.** When a deferred member becomes entitled to an immediate pension, the sum may be adjusted to take into account early payment reductions, late payment supplements, any commutation and/or any allocation.

37. **Treatment of deferred member's account on return to pensionable service.** When a deferred member re-enters pensionable service not later than 5 years after having left earlier service, their deferred member's account must be closed and treated as if it was never established. Their active member's account must be re-established as if they had remained in pensionable service but received no pensionable earnings throughout.

If the deferred member re-enters pensionable service more than 5 years after having left the service the deferred member's account must remain open and a new active member's account established for the new period of service.

Chapter 5 – Pensioner Members' Account

38. **Establishment of a pensioner member's account.** When an active member retires and becomes entitled to an immediate pension on or after the Normal Pension Age (age 60), or is in receipt of an ill-health pension, their active member account must be closed and a pensioner member account must be established.

When a deferred member becomes entitled to the payment of a pension or an ill-health pension their deferred member's account must be closed and a pensioner member account must be established.

39. **Determination of 'in-service late payment supplement'.** This applies to every scheme year served after the member reaches Normal Pension Age. An additional amount of pension will be calculated and awarded depending on the length of service beyond Normal Pension Age.

40. **Account to specify amount of retirement pension.** Pensioner members' accounts must specify the amount of pension earned from any accrued earned pension (and added pension) and the retirement index adjustment, plus any in-service late payment supplements that may apply.

Where applicable, the retirement account must specify for each amount of retirement pension; the in service late payment supplement, the late payment supplement, the commutation amount and the allocation amount.

Where a pensioner member re-enters pensionable service their pensioner member account must remain open, and an active member's account established for the new period of service.

Chapter 6 – Pension Credit Member's Account

41. **Establishment of a pension credit member's account.** A pension account must be established for each pension credit member, specifying the amount of credited pension, taking into account any early payment reduction or commutation amount.

42. **Separate accounts for dual capacity pension credit member.** If a pension credit member is also an active member, deferred member or pensioner member, the pension credit member's account is in addition to the other accounts.

If the pension credit member has derived rights from more than one pension debit member, a separate account is to be formed for each different pension credit.

Part 5 Retirement Benefits

This section of the regulations delivers the basis for a scheme member's entitlement to the payment of pension (immediate pension or deferred pension), but does not cover Early Departure Payments. It details how entitled people can delay the drawing of their pension should they so wish, and also how deferred pensions can be drawn early, from age 55, albeit at reduced rates.

Chapter 1 – Retired Member Benefits.

43. **Active Members - Retirement on or after reaching Normal Pension Age (age 60).** An immediate payment for life of earned pension will be paid. If the member delays claiming their pension, an additional late payment supplement may be added. They must also have 2 years' qualifying service or a transfer value payment other than from an occupational scheme accepted.

44. **Deferred Members - Retirement before reaching Normal Pension Age (age 60).** An immediate payment for life of earned pension will be paid upon request, providing the member is aged 55 or over and has ceased to be in pensionable service. They must also have 2 years' qualifying service or a transfer value payment other than from an occupational scheme accepted. An early payment reduction will apply if payment of the pension is requested before the Deferred Pension Age, otherwise a deferred pension will be paid at Deferred Pension Age.

45. **Annual rate of pension payable to active member who becomes a pensioner member.** The method by which the rate of pension payable is calculated is shown within the full regulations.

46. **Annual rate of pension payable to deferred member who becomes a pensioner member.** The method by which the rate of pension payable is calculated is shown within the full regulations.

Chapter 2 – Benefits for Pension Credit and Pension Debit Members.

47. **Pension credit members' pensions.** A pension credit member may claim an immediate pension for life when reaching their Deferred Pension Age, or later if that is when the Pension Sharing Order takes effect. If the pension is to come into payment after the member's Deferred Pension Age, a late payment supplement will be added to the pension. Early payment of pension may also be requested on or after age 55 but before Deferred Pension Age, but an early payment reduction will be applied to the pension.

48. **Annual rate of pension credit members' pension.** The method by which the rate of pension payable is calculated is shown within the full regulations.

49. **Pension credit members rights.** If Pension Sharing Regulations apply, the scheme manager must be satisfied that the requirements of the regulations have been met.

Benefits that are attributable to a pension credit may not be aggregated with any other benefits to which the pension credit member is entitled.

50. **Reduction in pension debit member's benefits.** The benefits to which a pension debit member is entitled are subject to the reduction to be made under Section 31 of the Welfare Reform and Pensions Act 1999.

Chapter 3 – Ill Health Benefits.

Ill health benefits under AFPS 15 are similar to ill health benefits under the AFPS 05 scheme. A member of AFPS 15 who is discharged with an AFPS 15 ill-health pension, and who also has service in a legacy scheme, may also be entitled to ill-health benefits for that scheme. Legacy scheme benefits will be dealt with via separate legislation for transitional arrangements.

51. **Entitlement to ill-health pension; active members with permanent serious ill-health.** An immediate payment of an ill-health pension will be paid if, in the opinion of the scheme manager, and on the evidence of a registered medical practitioner, the member has suffered a permanent breakdown in health involving incapacity for any gainful full-time employment. Certain other criteria are also laid out within the full regulations.

52. **Entitlement to ill-health pension – active members with significant impairment of capacity for gainful employment.** An immediate payment of an ill-health pension will be paid if, in the opinion of the scheme manager, and on the evidence of a registered medical practitioner, the member has suffered a breakdown in health, as a result of which, their capacity for any gainful full time employment is significantly impaired, and will continue at least until the member reaches Normal Pension Age (age 60). Certain other criteria are also laid out within the full regulations.

53. **Deferment of earned pension attributable to a transfer payment.** Any transfer value payments or cash transfer sums that are received in the 24 month period of service immediately prior to drawing an ill-health pension will not be included in the calculation for ill-health pension; they will be treated as contributions towards deferred pension only.

54. **Annual rate of ill-health pension; active members with permanent serious ill-health.** The method by which the annual rate of an ill-health pension is calculated for those with permanent serious ill-health is shown within the full regulations.

55. **Annual rate of ill-health pension; active members with significant impairment of capacity for gainful employment.** The method by which the annual rate

of an ill-health pension is calculated for those with significant impairment of capacity for gainful employment is shown within the full regulations.

56. **Entitlement to ill-health pension; deferred member with permanent serious ill-health.** An immediate payment of an ill-health pension will be paid if, in the opinion of the scheme manager, and after consulting the scheme medical practitioner, the deferred member has suffered a permanent breakdown in health involving incapacity for any gainful full-time employment. Certain other criteria will also apply.

57. **Scheme Manager's review of ill-health awards.** For an ill-health pension in payment the scheme manager may review the member's condition at any time and cease or adjust pension payments accordingly. Members have rights to appeal and there will be a procedure for the resolution of any dispute (similar to existing appeal procedure).

58. **Members request for review of ill-health awards.** Within 5 years of first payment of an ill-health award the member may request their condition to be reviewed by the scheme manager. The scheme manager must then determine whether the member has suffered a further breakdown in health involving incapacity for employment and determine whether the breakdown happened at the time he became entitled to an award, or whether the condition deteriorated such that he suffered the breakdown later.

If the scheme manager is of the opinion that a breakdown has occurred, and that it occurred at a time when he became eligible for pension, then the pension entitlement will be adjusted and backdated, taking into account any pension payments that have already been made.

If the scheme manager is of the opinion that a breakdown has occurred, and that the condition deteriorated such that he suffered the breakdown after becoming entitled to a pension, then the pension will be adjusted from the time the review took place onwards.

Chapter 4 – Options

59. **General option to exchange part of a pension for lump sum.** A member (but excluding a pension credit member where the pension debit member has previously taken a lump sum in accordance with these regulations) may exchange part of their pension for a lump sum on the basis of £1 annual pension is surrendered to generate £12 of lump sum, subject to an HMRC limit (currently 25% of the total pension pot). Certain other criteria are also laid out within the full regulations.

60. **Option for members in serious ill-health to exchange whole pension for lump sum.** The whole of a member's pension may be exchanged, upon request, for a lump sum if the member is expected to live for less than 12 months and evidence received from a registered medical practitioner confirms this is the case. Calculation criteria for the lump sum vary, depending on a member's status within the scheme.

Chapter 5 – Allocation.

61. **Election to allocate pension.** Active or deferred members may elect to allocate a part of their annual pension (but not an ill-health pension) to another person (or persons) who is/are financially dependent or inter-dependent. The maximum is 37.5%.
62. **Procedure for allocation election.** An election to allocate must be made no earlier than 6 months before the pension becomes payable, or any other date as advised by the scheme administrator. Certain other criteria will also apply.
63. **Effect of allocation.** An allocation will cause the member's pension to be reduced accordingly. If the member dies before the beneficiary, the beneficiary is entitled to a pension for life and the amount of the allocation is taken into account when calculating that pension. However, pension may be withheld if the member dies within 2 years of making the election to allocate, or if the scheme manager believes a false health declaration was made. Certain other criteria may also apply.
64. **Adjustment of benefits to comply with the Finance Act 2004 where members die over 75.** If the member dies after reaching age 75, any part of an allocated pension awarded to any other person will not qualify as a dependents' scheme pension. Benefits payable may then be reviewed and adjusted in such a manner as determined by the scheme manager.

Part 6 Death Benefits

Chapter 1 – Pensions for Adult Dependants

65. **Surviving spouses' and civil partners' pensions.** If an active member, deferred member or pensioner member dies leaving a surviving spouse or civil partner, they are entitled to a dependant's pension payable for life, and depending on the deceased member's circumstances, potentially one or more other pensions. Certain other criteria may also apply.

The scheme manager may withhold the payment of pension or pensions if the marriage or civil partnership was made less than 6 months prior to death.

The annual rate at which dependants' pensions are calculated is shown within the full regulations.

66. **Guaranteed minimum pension for surviving spouses and civil partners.** If a surviving spouse or civil partner has a guaranteed minimum under section 17 of the PSA 1993 in relation to a deceased member, nothing shall prevent these minimum rights from being met.

If the weekly rate of pension would be less than the guaranteed minimum, then in these circumstances the guaranteed minimum would still be paid. This rule does not apply to

any pension that is forfeited as a result of a conviction for an offence referred to in Regulation 122.

67. **Other adult dependants' pensions.** If an active member, deferred member or pensioner member dies leaving a surviving adult dependant, and there is no surviving spouse or civil partner, the scheme manager may pay the surviving adult dependant a dependant's pension payable for life, and depending on the deceased member's circumstances within the scheme, potentially one or more other pensions. The definition of a surviving adult dependant is outlined in the full regulations.

68. **Annual rate of adult dependants' pensions payable on death of pensioner member.** The annual rate at which other adult dependants' pensions are calculated is shown within the full regulations.

69. **Annual rate of adult dependants' pensions payable on death of deferred member.** The annual rate at which other adult dependants' pensions are calculated is shown within the full regulations.

70. **Annual rate of adult dependants' pensions payable on death of active member.** Providing the member has 2 or more years qualifying service or a transfer value payment has been accepted (other than from another occupational pension scheme), the annual rate of dependants pension is typically 62.5% of the member's retirement earned pension at the point of the member's death, after subtracting any Pension Sharing Order amount.

The annual rate of the dependant's added pension is calculated in the same manner.

71. **Reduction in pensions in case of a wide age disparity.** Where the surviving beneficiary is more than 12 years younger than the deceased member, the amount of pension is reduced. The method of calculation is shown within the full regulations.

Chapter 2 – Pensions for Eligible Children

72. **Surviving children's pensions.** If an active member, deferred member or pensioner member dies leaving a surviving eligible child, the eligible child is entitled to a child's earned pension and depending on the deceased member's circumstances, potentially one or more other pensions. Certain other criteria are also laid out within the full regulations.

Eligible children will normally share 37.5% of the annual rate of the member's pension, capped at 25% for any one child. If there is no surviving spouse, or the spouse dies while there are still eligible children, all eligible children will normally share 100% of the pension, capped at 33.3% per any one child. Certain other criteria are also laid out within the full regulations.

73. **Meaning of 'eligible child'.** Eligible child is defined as a child that is under 18 and who was financially dependent upon the member on the date of death. Additionally those beneath the age of 23 and who are in full-time education or vocational training are also eligible, as are those of any age who are unable to engage in gainful employment due to physical or mental impairment.

74. **Annual rate of children's pensions.** The annual rate at which surviving children's pensions are calculated is shown within the full regulations.

75. **Children born after the member's death.** To be eligible as a member's child, the child must be born before the first anniversary of the member's death. No pension is payable for any period before the child's birth.

Chapter 3 – Lump Sum Death Benefits.

76. **Meaning of 'final pensionable earnings'.** Final pensionable earnings means the greatest amount of pensionable earnings for 365 consecutive days falling within the last 3 years of service. For those whose TCOS require 365 days continuous service, earnings may be annualised, however annualisation should not be applied to those whose TCOS do not require continuous paid service (ie Reserves)). The precise methods of calculation are shown within the full regulations.

77. **Earnings adjustments in determining final pensionable earnings.** The method of calculating adjustments is shown within the full regulations.

78. **Death of a member; Lump sum benefit.** If a member dies before the age of 75, the scheme manager may pay a lump sum to a nominated person or persons; if there is no nominated person or persons, to any surviving spouse, civil partner or adult dependant. Certain other criteria are also laid out within the full regulations.

79. **Lump sum amount payable on death of active member.** Depending on the deceased member's circumstances, the method of calculating the lump sum differs and is shown within the full regulations.

80. **Lump sum amount payable on death of deferred member.** Depending on the deceased member's circumstances, the method of calculating the lump sum differs and is shown within the full regulations.

81. **Lump sum amount payable on death of pensioner member.** Depending on the deceased member's circumstances, the method of calculating the lump sum differs and is shown within the full regulations.

82. **Lump sum amount payable on death of pension credit member.** Depending on the deceased member's circumstances, the method of calculating the lump sum differs and is shown within the full regulations.

83. **Members affected by court orders to former spouses and civil partners on death.** Depending on the deceased member's circumstances, the method of calculating the lump sum differs and is shown within the full regulations.

84. **Nominations for lump sum death benefits.** A member may nominate individuals or incorporated or unincorporated bodies, subject to certain limits. Nominations must be made in writing to the scheme administrator, be signed and must specify how payments are to be apportioned. Members may revoke or alter a nomination with a signed letter. Certain other criteria are also laid out within the full regulations.

Chapter 4 – General Provisions

85. **Pension debit members.** The particular provisions that are relevant to the calculation of pension debit members' pensions and lump sums (if applicable) are shown within the full regulations.

86. **Dependants' pensions and childrens' pensions; suspension and recovery.** The scheme manager may cease payment and recover any payment already made if any false declaration or deliberately suppressed material fact is discovered, and/or where the scheme manager considers it appropriate to do so.

87. **Recovery of lump sum payments made to nominees.** The scheme manager may recover any lump sum death benefit if the person's nomination is subsequently found to be invalid, and/or where the scheme manager considers it appropriate to do so.

88. **Provisional award of children's pensions; later adjustments.** After the death of an active, deferred or pensioner member and a pension is paid on the basis that the recipient is an eligible child, and subsequently they are found not be an eligible child, or if other eligible children are discovered, the scheme manager may make adjustments to the amount of pension for each eligible child, or make recoveries as deemed appropriate.

89. **Payments under this part.** A pension is payable from the day after the date of the members death. Payment of a lump sum must be made within 2 years of the scheme manager first learning of the death. If the lump sum is not paid within 2 years, the scheme manager may consult with the scheme actuary to increase the pension.

Unless the scheme manager directs otherwise, for an eligible child who is under 18, their pension must be paid to the surviving spouse or civil partner or adult dependant providing the eligible child is in their care. In any other case, payment will be made to the child's guardian.

90. **Payment of death benefits to dual capacity member.** If the deceased member was a dual capacity member their benefits are calculated and paid as two distinct awards (so that 2 or more pensions or lump sums are payable in respect of the one deceased member). The method of calculation is shown within the full regulations.

Part 7 Contributions to Purchase Added Pension

Chapter 1 - Contributions

91. **Members option to make periodical contributions to purchase added pension.** An active member may opt to make periodical contributions to increase either retirement benefits and/or death benefits. An option to alter payment arrangements may be exercised only once per year by writing to the scheme administrator. Certain other criteria are also laid out within the full regulations.

92. **Member's option to pay lump sum contributions to purchase pension.** An active member may opt to make a single lump sum contribution to increase either retirement benefits and/or death benefits. This option may be exercised only once per year by writing to the scheme administrator. Certain other criteria are also laid out within the full regulations.

93. **Cancellation of options to make periodical contributions.** A member may cancel their periodical contributions at any time by writing to the scheme administrator. Certain other criteria are also laid out within the full regulations.

94. **Periodical contributions: special cases.** If a member who is making contributions has a period of absence from work they may either cease to pay their contributions or continue making payments independent of pay. They may also make good any missing payments after the absence has ended, by instalments as agreed with the scheme manager.

95. **Calculation of Added Pension; death in service or medical discharge.** Where a member has been making periodical contributions and dies in service or is discharged with an ill-health pension, the amount that may be credited to the account is the same as that which the member would otherwise have accrued in that scheme year.

96. **Repayment of contributions.** The contributions made by a member are not repayable in any circumstance except as part of a cash transfer sum. Certain other criteria are also laid out within the full regulations.

Chapter 2

97. **Members seconded to NATO or the UN etc.** If seconded to the UN, NATO or any other organisation, members will be deemed to have left the scheme and providing they rejoin the scheme at the end of the period of secondment, a person may opt to make a single lump sum contribution so as to preserve their pension benefits to the same level as if they had not been seconded. Certain other criteria are also laid out within the full regulations.

Part 8 Transfers

Chapter 1 – Preliminary

98. **Interpretation.** In this section of the legislation the meanings of terms used are explained.

Chapter 2 – Transfers out to another pension scheme.

99. **Right to require payment of a transfer value.** Deferred members may require payment of a transfer value in respect of their accrued benefits, but not including benefits that are attributable to a pension credit.

100. **Applications for statements of entitlement.** A member who applies for a transfer value payment must apply in writing to the scheme administrator for a statement of entitlement. Certain other criteria are also laid out within the full regulations.

101. **Applications for a transfer value payment.** A member who has been provided with a statement of entitlement may then apply to the scheme administrator for a transfer value payment. The application must state the pension scheme to which the transfer value should be paid and meet any other conditions required by the scheme manager. An application for a transfer value payment may be withdrawn by writing to the scheme administrator, but a application will not be allowed to be withdrawn if an agreement has already been entered into with a third party.

102. **Calculating amount of the transfer value.** If a transfer value payment is made later than 6 months after the guarantee date, the amount of the transfer value may be increased. The minimum transfer value must be met (minimum transfer value is equal to the member's contributions plus any transfer value payments and cash transfer sums previously accepted into the scheme).

103. **Ways in which a transfer value payment may be used.** A member may only require a transfer value payment in a way specified in section 95(2) of the Pension Schemes Act 1993. The whole of the transfer value must be applied and a transfer payment can only be made to a registered pension scheme or a recognised overseas pension scheme. Certain other criteria may apply and are laid down in the full regulations.

104. **Effects of transfers-out.** If a transfer value payment is made in respect of a members accrued rights under this scheme, those rights are extinguished on transfer.

Chapter 3 – Transfers in

105. **Interpretation.** Meanings of terms used are explained in this section of the legislation.

106. **Rights to request acceptance of transfer value payment.** An active member who has accrued rights under another registered and unconnected occupational pension

scheme, or a personal pension scheme, may request to transfer some or all of those accrued rights into the scheme. This excludes rights that are attributable to a pension credit.

107. **Procedure for making a request.** A request must be made in writing and must specify both the anticipated amount of payment and the pension scheme or arrangement from which the transfer value payment is to be made. Any such request must be made within 12 months of becoming an active member of the AFPS 15 scheme. Certain other criteria may apply and are laid out in the full regulations.

108. **Transfer statement.** If a request is made for a transfer payment (of pension or added pension) to be received from a non-club pension scheme, the scheme manager may require that the transferring scheme's manager provides a statement of the amount of transfer value within 2 months of the transfer being made. The amount specified must be calculated in accordance with actuarial guidance.

109. **Amount of transferred pension.** For the scheme year in which the transfer date falls, the amount of transferred pension a member is entitled to count is calculated by the scheme manager in accordance with actuarial guidance.

110. **Club transfer value statement.** If a request is made for a transfer payment to be received from a club pension scheme (ie another public service pension scheme), the member must ask the transferring scheme's manager to provide a statement of the amount of club transfer earned pension within 2 months of the transfer being made. The amount specified must be calculated in accordance with actuarial guidance. The statement must also specify the basis on which the transferred pension is revalued while the member is in pensionable service under that scheme.

111. **Amount of club transfer earned pension.** For the scheme year in which the transfer occurs, the amount of transfer value is either that specified in the transfer statement, or if a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance.

Chapter 4 – Miscellaneous provisions

112. **EU and overseas transfers.** Transfer arrangements conducted under the Communities Pension Scheme of the Institutions of the European Communities, or any other scheme for the provision of retirement benefits established outside the United Kingdom, shall be subject to such modifications as the scheme manager considers necessary.

Part 9 Actuarial Valuations and Employer Cost Cap

113. **Appointment of scheme actuary and actuarial valuations.** The scheme manager must appoint an appropriately qualified actuary (the scheme actuary) to provide a consulting service on actuarial matters relating to the scheme. The scheme actuary is responsible for carrying out any scheme valuations, in accordance with Treasury directions and to Treasury time-scales, and preparing any reports on valuations.

114. **Employer cost cap.** The employer cost cap for this scheme is a percentage of pensionable earnings of this scheme (NB the cost cap figure will be inserted into the Regulations and published before 1 Apr 15). Following a valuation, where the cost of this scheme is more than 2% above or below the employer cost cap, the Secretary of State must consult those people affected (or their representatives) on any steps that will be taken with a view to achieving the target cost. Following such consultation, the Secretary of State must determine the necessary adjustment to meet the target cost.

Part 10 Supplementary

Chapter 1 – Payment of pensions.

115. **Late payment of retirement index adjustment.** Nothing in the regulations shall require any part of a pension attributable to a retirement index adjustment in respect of the last active scheme year to be paid before the end of that year. While the member may be entitled to this extra in-service indexation amount, it isn't possible to guarantee that it will be paid during the scheme year in which the member retires. However, once an index adjustment has been calculated, a back-payment will be made.

116. **Commutation of small pensions.** If an individual is entitled to receive retirement benefits and or death benefits in respect of one or more pensions under the scheme, and the combined sum does not exceed the small pensions commutation maximum, then the scheme manager may pay the person a single lump sum which the scheme actuary advises represents the capital value of the pension(s), and which then discharges all liability in respect of that pension(s). The individual must consent, and commutation requirements must be met. Certain other criteria are also laid out within the full regulations.

Chapter 2 – Payment and deduction of tax.

117. **Scheme administrator for purposes of the Finance Act 2004.** The scheme manager is responsible for all functions that are conferred or imposed upon the scheme administrator by or under Part 4 of the Finance Act 2004. Scheme administrator in this section has a different meaning than in the rest of the regulations.

118. **Reduction of benefits where lifetime allowance charge payable.** Following a benefits crystallisation event where both the member and the scheme manager are liable, and if no request has been made (or if the scheme manager is unable to comply with any such received request) the scheme manager must then pay the lifetime allowance charge and the amount or value of benefits payable to the member must be reduced. The reduction must fully reflect the value of the charge paid. Certain other criteria may also apply.

119. **Payment on behalf of members of annual allowance charge.** The scheme manager must provide a member with information about the payment of an annual allowance charge if the members total pension input for that tax year exceeds the amount of annual allowance for that tax year. The member may then request (in writing) for the scheme manager to pay the charge on their behalf.

120. **Reduction of benefits where annual allowance charge paid by scheme manager.** If the scheme manager pays the annual allowance charge on a members behalf, the amount or value of the benefits payable to or in respect of the member must be reduced as appropriate. The reduction must fully reflect the value of the charge paid.

Chapter 3 – Forfeiture.

121. **Forfeiture of benefits.** The Secretary of State (scheme manager) may withhold benefits payable under the scheme if a recipient withholds any information or evidence required to prove their identity or establish their entitlement, or if events enabling forfeiture apply and the scheme manager deems it appropriate. Certain other criteria are also laid out within the full regulations.

122. **Events enabling forfeiture.** If a member, deferred member or pensioner member is convicted of treason or offence(s) under the Official Secrets Act and is sentenced to at least 10 years imprisonment, or is convicted of an offence that the Secretary of State considers to have been gravely injurious to the defence, security or other interests of the State, or has incurred a monetary obligation to the Crown which arises out of criminal, negligent or fraudulent act and is in connection to service in the Armed Forces, benefits may be forfeit.

123. **Procedure, references etc.** The Secretary of State must notify a member in writing if he proposes to withhold any benefits. The member must be advised of any amount withheld and the effect of its being withheld on his benefits under the scheme. Members have rights to appeal and there is a procedure for the resolution of any dispute.

Chapter 4 – General.

124. **Pension ceases to be payable.** A pension ceases to be payable to a member who re-enters pensionable service within 28 days after the last day of service in respect

of which the pension was payable. The scheme manager will cease the payments and recover any payment made.

125. **Re-employment after ill-health awards.** Where an ill-health pension has been awarded and that member subsequently rejoins the Service, the ill-health pension ceases to be payable on the first day of paid service. The member then becomes a deferred member in respect of the earlier period of service, a deferred members account is set up and the pension is transferred into it. The scheme manager will credit this deferred pension account for the same amount as the ill-health award, less the element that was the ill-health enhancement.

126. **Payment of benefits.** Pensions are payable by monthly instalments in arrears.

127. **False statements etc about ill-health.** If an ill-health pension has been awarded and the scheme manager is of the opinion that a false declaration about health has been made, or a material fact has been suppressed that was material to the award, the scheme manager may cease paying the pension, withhold all or part of the pension or recover any payment already made.

128. **Non-assignability.** Every benefit to which a person is entitled is payable to or for his benefit. No such benefit is assignable or chargeable with the member's or any other person's debts. This applies to debts outside of the MOD only; MOD debts, such as repayment of LSAP, may still be recovered from terminal benefits.

129. **General prohibition on unauthorised payments.** Nothing in the regulations requires or authorises the making of any payment which would be an unauthorised payment for the purposes of Part 4 of the Finance Act 2004.

130. **Calculation of periods of membership and service.** For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, then days. If, when periods of service or membership are aggregated and there is any excess part day over a number of whole days, that excess is to be rounded up to a full day.

If membership is referred to in years, days and part days are to be converted into years by dividing by 365 and rounded to 4 decimal places.

131. **Determination of questions.** Except as otherwise stated, any questions arising under this scheme are to be determined by the responsible authority (the scheme manager), whose decision on it is final.

132. **Information and evidence.** The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish their identity and the person's continuing entitlement to the payment of any amount. If such evidence is not provided the scheme manager may withhold the whole or any part of any benefits.

133. **Provision of benefit information statements to members.** The scheme manager must provide an annual benefit information statement to each active member of this scheme in accordance with section 14 of the Public Service Pensions Act 2013.