



Ministry of Defence

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Our Reference: FOI2015/07193
FOI2015/07348

[REDACTED]

[REDACTED]

14 September 2015

Dear [REDACTED],

Thank you for your letter to the Ministry of Defence (MOD) dated 13 August (FOI 2015/07348 and your email to the MOD dated 14 August (FOI 2015/07193) in which you requested the following information:

FOI 2015/07348 asked:

3. Please provide under the Freedom of Information Act 2000 copies of any correspondence that will indicate why it was necessary to completely revise and re-write the rules for gurkha GOTT only one week after the publication of Part 16 of the 1977 Army Pensions Warrant (APW 77)?
4. If my understanding of this is incorrect and there is no substantive difference between Part 16 of the 1977 Army Pension Warrant and Part K of the 2010 Royal Warrant, in other words the rules are identical and the meaning is essentially the same, could you please say so?

FOI 2015/07193 asked:

You said that 'APW 77 is the legal authority governing the offer to transfer for retired members with a disability pension'. Please confirm that APW Amendment 40 change 3 was also the legal authority governing the offer to transfer for all retired members of GPS? If that is not the case, what was the legal authority governing the offer to transfer for normal Gurkha pensioners?

You have said that APW 77 Amendment 40 Change 3 includes the same content for Part 16 as APW 77 Amendment 40 Change 4. Can we assume that the Royal Warrant 2010, which apparently superseded APW 77 on 6 April 2010 that appears to have been re-written and substantially revised, is not relevant in relation to the transfer of retired Gurkhas who transferred from GPS to AFPS in December 2008?

Which is the definitive authority where there are differences in the wording between APW 77, the PPI and the GOTT Handbook?

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 information relating to your questions.

Answers to FOI 2015/07348:

Information relating to the two questions above is covered in the answer to your second FOI.

Answers to FOI 2015/07193:

With regard to your first question, APW 77 Amendment 40 Change 3 Part 16, Section 34 to 36 is the legal authority for retired members who were eligible to transfer from the Gurkha Pension Scheme (GPS) to the Armed Forces Pension Scheme 1975 (AFPS 75) including those in receipt of a disability pension.

No amendments to APW 77 Part 16 were made in Change 4 which came into effect on 6 April 2009 (published in 2010). The amendments in Change 4 related to other parts of the pension scheme. The rules in force at the date of transfer, i.e. APW77 Amendment 40 Change 3 applied to retired members who accepted the offer to transfer. The scheme rules that came into force on 6 April 2010 were the result of the harmonisation of the Royal Navy, Army and Royal Air Force pension scheme regulations. The harmonised rules for Gurkhas are contained in Part K of the Army Warrant. The rules relating to pension benefits for retired members and disability pensioner members (having opted to transfer to AFPS 75) are included in the April 2010 rules (and subsequent amendments).


Finally, the scheme rules are the legal authority governing AFPS 75 and take precedence over policy instructions and guidance issued in scheme booklets.

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