

Army Code 13045

THE ARMY PENSIONS WARRANT 1977

(supersedes The Army Pensions Warrant 1960 (WO Code No. 13045))

*Being the Royal Warrant and Schedule governing the Non effective Pay of the
Army (Service Retired Pay, Pensions Gratuities etc)*

**Revised Edition 2008
Incorporating Amendment 40 Change 3**

MINISTRY OF DEFENCE
Service Personnel Policy (Pensions) AFPS 8
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Royal Warrant

The Army Pensions Warrant 1977

ELIZABETH R

WHEREAS WE deem it expedient to consolidate and amend the provisions concerning the non effective pay of Our Army contained in Our Warrant of 23rd December 1960¹ and in such other Warrants granted since that date as are still in force;

OUR WILL AND PLEASURE is that the Schedule attached to this Our Warrant, together with any additions and amendments that We may hereafter decide shall, except in cases covered by the Warrant of Her late Majesty Queen Victoria of 27th October 1884, be established and obeyed as the sole authority on the matters herein treated; and that Our Defence Council shall be the sole administrators and interpreters of the Schedule attached to this Our Warrant and shall be empowered to issue such detailed instructions in reference thereto as they may from time to time deem necessary; and that any function of the Defence Council under this Our Warrant may (subject to any direction of the Defence Council) be discharged by the Army Board or person or persons authorized by the Board, and accordingly each reference in this Our Warrant to the Defence Council shall include a reference to the Army Board and to those persons.

OUR FURTHER WILL AND PLEASURE is that except as hereinafter may be specially provided, an officer of the rank of Major General or above serving on 1st January 1975 and an officer of the rank of Brigadier and below or a soldier serving on 1st April 1975, or his family on his death shall no longer be eligible to receive in place of an award under this Warrant, and award of gratuity, retired pay, pension or family pension under regulations in force before these dates.

OUR FURTHER WILL AND PLEASURE is that the Schedule to this Our Warrant unless otherwise stated shall have effect from 1st April 1975 and apply to officers, soldiers and women who give full pay service on the Active List on or after 31st March 1975.

OUR FURTHER WILL AND PLEASURE is that this Our Warrant may be cited as the Army Pensions Warrant 1977.

Given at Our Court at St James's, this 17th day of June
1977 in the 26th year of Our Reign.
By Her Majesty's Command

FREDERICK W. MULLEY

¹ The Army Pensions Warrant 1960

AMENDMENT

Amendments Number	By whom amended	Date of Insertion	Amendments Number	By whom amended	Date of Insertion
28 revised edition					
29					
30					
31					
32					
33					
34					
35					
36					
37 & 38 (combined issue)					
39					
40					
40 Change 1					
40 Change 2					
40 Change 3 See Instruction sheet for Removal/Insertion overleaf					

Army Code 13045

The Army Pension Warrant 1977

Amendment 40 Change 2

Instruction Sheet for removal and insertion

Remove Amendment record sheet, Replace new cover sheet

Remove pages	No of leaves	Insert pages	No. of leaves
Front page	1	Front page	1
iii to vi	2	iii to vi	2
		16-3 to 16-11(rb)	5

(rb) – reverse blank

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

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.

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).

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.

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).

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

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.

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.

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.