



# Ministry of Defence

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Our Reference: FOI2015/08636



28 October 2015

Dear ,

Thank you for your e-mail to the Ministry of Defence (MOD) dated 25 September in which you requested the following information:

Reference:

A. Your FOI2015/07103 dated 3 September 2015

1. Thank you for reference A in which you kindly forwarded an Explanatory Memorandum of the Amendment. Please advise under the FOIA 2000:

- a. What was the purpose of this document?
- b. When was it published and to whom was it disseminated?
- c. Was it broadcast on the Internet? If so when?

2. In relation to Army Pension Warrant 1977 Amendment 40 Change 3:

- a. When was it enacted by Parliament?
- b. When was it published by the TSO?
- c. To whom was it disseminated?
- d. Was it broadcast on the Internet? If so when?
- e. Was any attempt made to amend the detailed instructions that had already been disseminated to the Gurkha GOTT transferees in the GOTT Handbook, to reflect the specific rules in Articles 471 (a), 471 (b) and 490? Please provide copies of any correspondence in relation to this.

I am treating your correspondence as a request for information under the Freedom of Information Act (FOI) 2000.

A search for the information has now been completed within the Ministry of Defence (MOD), and I can confirm that the MOD does hold some information within the scope of your request; this is provided in the attached annexes.

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](mailto: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

1. In relation to the Explanatory Memorandum (EM) for the Army Pension Warrant Amendment 40 Change 3 you asked:

a. What is the purpose of this document?

Information regarding the purpose of an EM is exempt under Section 21 of the FOI Act (reasonably accessible to the applicant by other means). The requested information can be found at <http://www.legislation.gov.uk/help> and includes the following explanation:

‘An EM sets out a brief statement of the purpose of a Statutory Instrument or Statutory Rules of Northern Ireland and provides information about its policy objective and policy implications. It aims to make the Statutory Instruments or Rules accessible to readers who are not legally qualified. EMs accompany any Statutory Instrument or Draft Statutory Instrument laid before Parliament from June 2004 onwards and any Statutory Rule laid before the Northern Ireland Assembly (or UK Parliament during the suspension of the Northern Ireland Assembly) since June 2004’.

Although the Army Pension Warrant is a Prerogative Instrument, the EM serves the same purpose as described above.

b. When was it published and to whom was it disseminated?

This information is not held. However, Under Section 16 of the FOI Act (Advice and Assistance) it may be helpful if I explain that the EM is not normally published by The Stationery Office (TSO) with the accompanying legislation.

c. Was it broadcast on the Internet? If so when?

Information not held. But see advice under 2d.

2. In relation to the Army Pension Warrant 1977 (APW77), Amendment 40, Change 3, you asked:

a .When was it enacted by Parliament?

No dated copy of the enacted legislation is held. As advised in our response dated 3 September 2015: "Under Section 16 of the FOI Act (Advice and Assistance) I have also enclosed an Explanatory Memorandum of the Amendment and also an e-mail documenting that the approved version of the Warrant was laid before Parliament as formal legal authority." Further to that response I can now provide two email's dated 6 February 2008 (attachment 1) and 12 February 2008 (attachment 2) confirming that the Warrant was ready for signature by HM The Queen. This preceded the email referred to above (26 February 2008), which has already been released to you. I am also now able to confirm that the legislation was laid in Parliament on 27 February 2008 (attachment 3).

b. When was it published by TSO?

Information regarding the publication date of the Warrant is exempt under Section 21 of the FOI Act (reasonably accessible to the applicant by other means). The requested information is available from the TSO at the link: <http://www.tsoshop.co.uk/bookstore.asp?Action=Book&ProductID=9780117730786> which confirms that the Warrant was published on 9 April 2008.

c. To whom was it disseminated?

A distribution list regarding APW77 is provided on attachment 4

d. Was it broadcast on the Internet? If so when?

Information not held. However, under Section 16 of the FOI Act, (Advice and Assistance) I can explain that as the Army Pension Warrant is a Prerogative Instrument not a Statutory Instrument, it is not held on [www.legislation.gov.uk](http://www.legislation.gov.uk) but is routinely published on MOD's web pages. These are now available on [www.gov.uk](http://www.gov.uk) and were previously available on the MOD web site [www.mod.uk](http://www.mod.uk). The following archived web page confirms this in relation to the Army Pension Warrant Amendment 40, Change 4: <http://webarchive.nationalarchives.gov.uk/20101208222236/http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/Pensions/AFPS75/ArmedForcesPensionScheme1975Regulations.htm>. However, we do not hold an archived record of the web page where Amendment 40, Change 3 would have been published.

e. Was any attempt made to amend the detailed instructions that had already been disseminated to the Gurkha GOTT transferees in the GOTT Handbook, to reflect the specific rules in Articles 471 (a), 471 (b) and 490? Please provide copies of any correspondence in relation to this.

Our FOI response FOI2015/07952 dated 5 October 2015 provided advice and information regarding your request dated 8 September concerning these articles: "We have not been able to identify any other reference to the issue except for the Retired Member GOTT booklet (also attached) which sets out the terms and conditions of the offer to help members to decide if they wanted to transfer to the AFPS75. Page 11 of the booklet includes definitions of relevant terms and confirms that condoned service is not reckonable service. Retired Gurkhas were therefore aware that condoned service would not be counted as reckonable service when they opted to transfer to AFPS75."