



Ministry
of Defence

Armed Forces Pension Consultation

Amendments to the Armed Forces Pension Scheme 2015

June 2018

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INTRODUCTION

1. The Ministry of Defence is consulting on proposed amendments to the Statutory Instrument that provides the rules for the Armed Forces Pension Scheme 2015¹ (AFPS 15). The amendments to the Scheme are required to ensure the good conduct of the Scheme for its members.

2. When changes are proposed to AFPS 15, the Public Service Pensions Act 2013 requires the Ministry of Defence to consult such persons (or representatives of such persons) as appear to the authority to be likely to be affected by the changes.

Who this consultation is aimed at

3. This consultation applies to the UK Armed Forces. The government will consult the list of stakeholders identified in Annex A, but also welcomes any comments or views on the proposals set out in this document from other interested parties.

Duration of the consultation

4. The consultation period begins on 29 June 2018 and runs until 27 July 2018.

How to respond to this consultation

5. Comments on the proposals can be sent by email or post to:

Email: AFPension-policy@mod.gov.uk

By post to:

Ministry of Defence

AF Remunerations - Pensions

Main Building,

Level 6, Zone M

Whitehall

London

SW1A 2HB

Government response

¹ Statutory Instrument 2014 Number 2336

6. We will aim to publish the government response to the consultation on the gov.uk website. The consultation principles encourage departments to publish a response within 12 weeks or to provide an explanation as to why this is not possible. Where consultation is linked to a Statutory Instrument, responses should be published before or at the same time as the Instrument is laid.

How we consult

7. This consultation is being conducted in line with the revised [Cabinet Office consultation principles](#) published in March 2018. These principles give clear guidance to government departments on conducting consultations.

8. We value your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues we are consulting on), including if you feel that the consultation does not adhere to the values expressed in the consultation principles or that the process could be improved, please respond to the address at paragraph 5.

Freedom of Information

9. Information provided during this consultation, including personal information, may be published or disclosed in accordance with access to information regimes, primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA). If you want the information you provide to be treated confidentially, please be aware that, in accordance with the FOIA, public authorities are required to comply with a statutory code of practice which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you wish that information to be treated confidentially. If we receive a request for disclosure of that information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

10. MOD will process your personal data in accordance with the Data Protection Act 2018 (and the General Data Protection Regulations) and, in most circumstances, this will mean that your personal data will not be disclosed to third parties. This consultation follows the UK government's consultation principles. Details of MOD's Personal Information Charter can be found at: <https://www.gov.uk/government/organisations/ministry-of-defence/about/personal-information-charter> Details of the MOD Privacy Notice can be found at: <https://www.gov.uk/government/publications/ministry-of-defence-privacy-notice/mod-privacy-notice>

Proposed Amendments to the AFPS 15 Scheme – SI 2014/2336

Regulation 84 – Nomination for lump sum death benefits – insertion of new rule to effect automatic cancellation of Nomination for Lump Sum Death Benefits on a member’s marriage or on entering into a civil partnership

Current Scheme Rules

11. The AFPS15 provides a death in service lump sum benefit which, in the case of a deceased active member, is equal to the member’s final pensionable earnings, multiplied by four. Regulation 78 of AFPS15 sets out the order of preference to whom the scheme manager may pay the lump sum benefit. The order is as follows:

1. the person nominated in accordance with Regulation 84;
2. a surviving spouse or civil partner entitled to a pension under regulation 65 or adult dependant who is entitled to a pension under Regulation 67;
3. if there is no person nominated in accordance with Regulation 84 or any person entitled to a pension under Regulation 65 or 67, to any person who, but for the application of Regulation 65 or 67 would be entitled to a pension or to whom a pension may be awarded; or
4. if there is no one as described in 1, 2, or 3 above, to the member’s personal representatives.

Nomination for lump sum death benefits

12. Regulation 84 sets out who a member may nominate to receive their lump sum death benefits. It also states that a nomination must be made by signed notice in writing to the

scheme administrator and that a member may revoke or alter a nomination by a further signed notice in writing to the scheme administrator.

Reasons for nomination becoming invalid

13. In accordance with Regulation 84(5), as currently drafted, the nomination of a person is invalid if:

- the person nominated is an individual who was the spouse, civil partner or other adult dependant of the member at the date the nomination was made and is not the spouse, civil partner or other adult dependant of the member immediately before the member's death; and the member did not confirm the nomination by notice in writing to the scheme administrator after the marriage, civil partnership or adult dependency ended.
- the person nominated is an individual who predeceases the member.
- the person nominated is convicted of the offence of murder of the member.
- Also, the scheme manager may decide to treat the nomination as invalid from the date of death of the member if the nominated person is convicted of manslaughter or any other offence (apart from murder) which involved the unlawful killing or wounding of the member.

Requirement for amendment

14. A review of the policy on cancellation of a nomination form pre-dating a member's marriage or civil partnership has been carried out because the current rules require that the lump sum must be paid to the nominee or nominees where the member's marriage or civil

partnership post-dates the nomination and the existing nomination has not been revoked in writing, even where the nominee is not the spouse or civil partner.

Recommendation 1 – Death in Service Nomination Forms

Of the options considered, the preference was for the automatic revocation of a nomination on marriage or entering into a civil partnership. The proposed amendment to the Scheme is the insertion of a new rule which would revoke any existing nomination when a member marries or enters a civil partnership. This change would mean that the member's lump sum death benefit would automatically go to their spouse or civil partner. A member who did not wish this to happen would have the option of completing a new nomination form.

Other options considered

15. Several options for changing the current rules relating to death in service nominations were considered. They included withdrawing the nomination form and paying the lump sum direct to the scheme member's personal representatives. This option was not recommended because:

- The rules of the pension scheme would decide to whom the lump sum was paid and the member would have no control over it;
- If the lump sum passes automatically on death to the member's personal representatives the value of the lump sum will form part of the estate for inheritance tax purposes and in some circumstances, there could be a tax liability;
- There remains the possibility of the lump sum being paid to someone other than the person to whom the member would wish the payment to be made.

16. Another option considered was to review the level of discretion permitted to the scheme administrator (for example making the nomination “indicative” rather than binding, as is the case with some other pension schemes). This would allow the scheme administrator to pay the lump sum to someone other than a nominee or nominees, even when a nomination form had been completed. This option was not recommended because:

- Service personnel could lose some control over who receives their lump sums;
- Decisions may have to be escalated to the Policy authority for decision and cases will take longer to decide.

Regulation 121 - Forfeiture of Benefits – correction of error

17. An amendment is required to the wording of Regulation 121(1) as it currently incorrectly refers to paragraph (2) of Regulation 132², which deals with information and evidence. Instead, it should refer to paragraph (1) of Regulation 122, which deals with events enabling forfeiture. The effect of this error is that Regulation 121(1) cannot currently be used for the intended purpose of allowing the Secretary of State to consider the forfeiture of pensions in the circumstances specified in Regulation 122(1).

Recommendation 2 – Forfeiture of Benefits

The amendment described above should be implemented. As this is a technical correction to ensure that the original policy intent can be achieved, no other options were considered.

² The Armed Forces Pension Scheme and Early Departure Payments Scheme (Amendment) Regulations 2015 refer

Expert Consultation – Consultees

The Royal British Legion

The Soldiers, Sailors, Airmen and Families Association

The Confederation of Service Charities (COBSEO)

BLESMA, the Limbless Veterans

The three Forces Family Federations (Royal Navy, Army and Air Force)

The Independent Medical Expert Group

The Veterans Advisory and Pensions Committee

The War Widows' Association

The Forces Pension Society

Armed Forces Pension Board

The Pension Regulator

The Armed Forces Pay Review Body

The Services Insurance and Investment Advisory Panel

The White Ensign Association