

# JSP 764

## PART 5

### COMPENSATION FOR REDUNDANCY - THE REGULAR ARMED FORCES

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# Chapter 1

## INTRODUCTION

### GENERAL

0101. The rules, for which guidance is given in this Part, apply to members of the Regular Armed Forces who:

- (a) are notified by their manning authority that they are to be compulsorily discharged on **redundancy**, and
- (b) consequently, they will have to leave Service before completing their current commission or service engagement.

These persons will be entitled to compensation for their loss of further career and related financial expectation.

0102. Terms Relating to Gender. The rules explained in this Part are not gender specific. This means that they apply equally to eligible male and female persons. Consequently, where the terms 'he', 'him' or 'his' are used those terms equally apply to mean 'she', 'her' or 'hers'.

0103. Glossary of Other Terms. Some of the other terms used in this Part are defined in the glossary shown at Part 4 of this JSP. Throughout the text of this document the words defined in the glossary are shown in **bold italics** to indicate that further explanation is available.

0104. Excluded Persons. In the rules explained in this Part the term 'Regular Armed Forces' excludes any person who falls into any of the following groups:

- (a) active members of the Gurkha Pension Scheme (GPS), re-employed Gurkha officers;
- (b) members of all locally employed regiments.

0105. Two Redundancy Schemes. There are two separate schemes that authorise compensation payments for redundancy for members of the Regular Armed Forces. A guide to who qualifies to receive compensation under each of these Schemes is shown at paras 0106 and 0107 respectively.

0106. Post 2005 Entrants. The Armed Forces Redundancy Scheme Order 2006 (SI 2006 No 55) introduced new rules that apply to any person declared redundant after 6 April 2006 who either:

- (a) entered or re-entered<sup>1</sup> Regular service on or after 6 April 2005 or

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<sup>1</sup> Re-entered in this context means re-joined Regular Service after a break in service of one calendar month's duration or more.

(b) entered or re-entered Regular service before 6 April 2005, but subsequently transferred his pension rights to the Armed Forces Pension Scheme 2005 (AFPS 05) under the Offer To Transfer (OTT) arrangements described at para 0108.

Guidance on the rules for eligibility and entitlement under Armed Forces Redundancy Scheme 2006 (**AFRS 06**) is shown in detail at Chapter 2 of this Part.

0107. Pre-2005 Entrants. **Redundancy** compensation for a person who entered Regular service before 6 April 2005 is provided under the rules that also authorise AFPS 75, unless he subsequently transferred his pension rights to AFPS 05 under the OTT arrangements shown at para 0108. All benefits under AFPS 75 rules, including redundancy compensation, are authorised by the single Service prerogative instruments as shown below:

- (a) The Naval and Marine Pay and Pensions Act 1865 (Schedule VIII),
- (b) The Army Pensions Warrant 1977 (Part 9), and
- (c) Queens Regulations for the Royal Air Force (Chapter 44).

Guidance on the rules for eligibility and entitlement under the redundancy terms of AFPS 75 are set out in detail at Chapters 3, 4 and 5 of this Part.

0108. Transferees. Personnel who were **active members** of AFPS 75 on 6 April 2006 were given a choice. They could choose to stay with AFPS 75 or transfer to AFPS 05. All personnel who opted to transfer to AFPS 05 were transferred on a common Member Transfer Date (MTD) of 6 April 2006. Consequently, if a pension scheme **member** exercised his OTT and was subsequently declared redundant, he would become entitled to benefits under the post-2005 arrangements shown at Chapter 2. Once the OTT has been exercised the member's decision is normally irrevocable. However, para 0109 gives details of an exception to that rule.

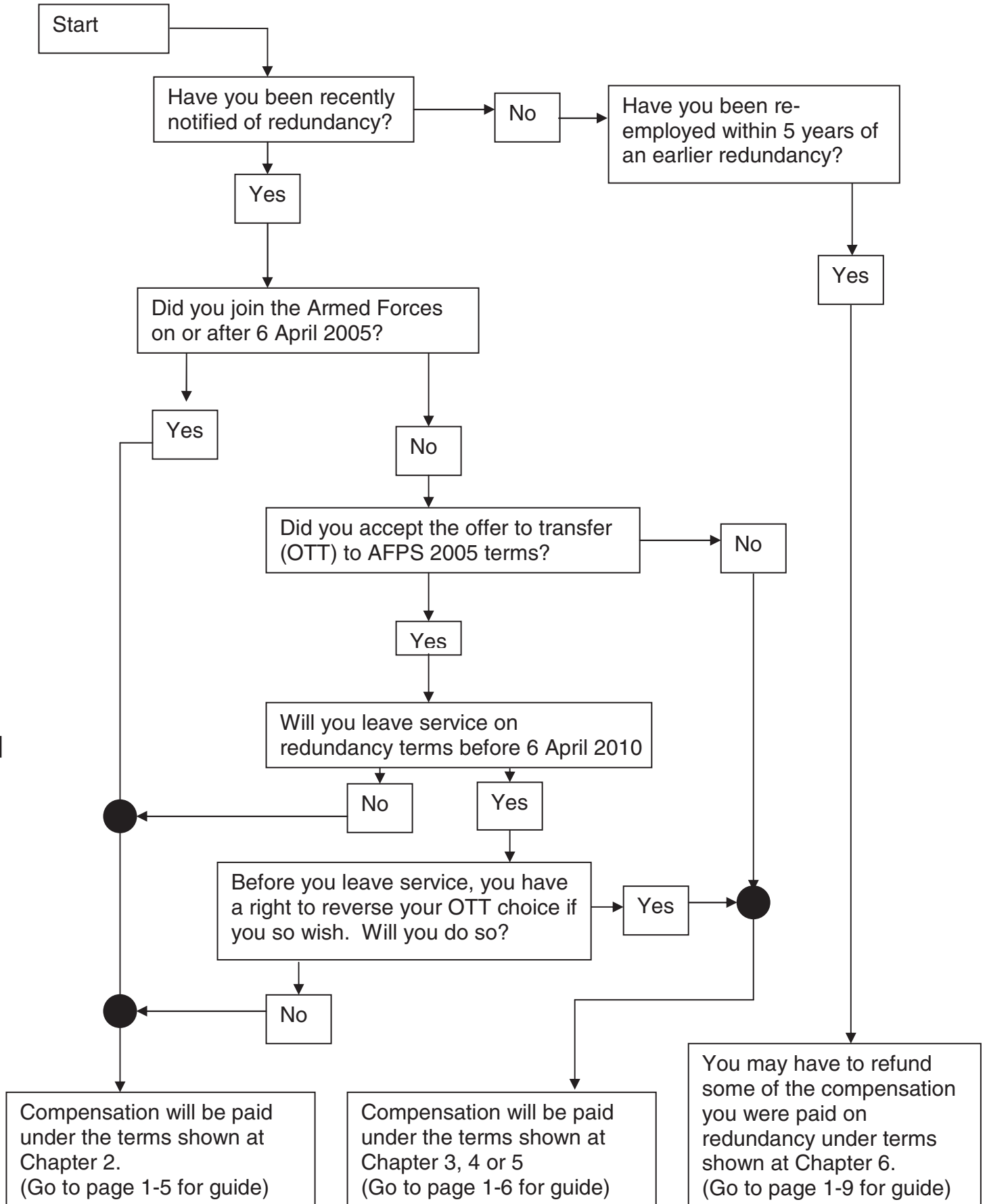
0109. Option to Revert to AFPS 75 Terms. Where a person, who has previously elected to transfer his pension rights to AFPS 05 (as shown at para 0108), is subsequently notified that he must leave the Regular Armed Forces **before 1 April 2008** on redundancy terms, he will be exceptionally permitted one further option to reconsider his OTT choice. A change of his previous election will only be accepted, if it is received in writing by the Pension Awarding authority before the person's last day of paid service. The consequences of electing to reverse his decision to transfer his pension rights, should he decide to do so, would be:

- (a) All of his service that counts for pension and redundancy would be fully reinstated in the AFPS 75 as if he had never left that Scheme. This means that any service completed pre-21 (Officers) or pre-18 (Other Ranks) that had been credited to AFPS 05 on transfer will be disregarded for the calculation of reckonable service on reversion to AFPS 75 terms.
- (b) Consequently, he would become eligible to compensation calculated under the redundancy rules of AFPS 75, as explained in the guidance at Chapter 3.
- (c) However, he cannot pick from the best of both benefit packages, so he would also give up forever all the rights he and his **dependants** had gained under the terms of AFPS 05, the Early Departure Order 2005 and the AFRS 06 by his earlier transfer decision, which would then be cancelled.

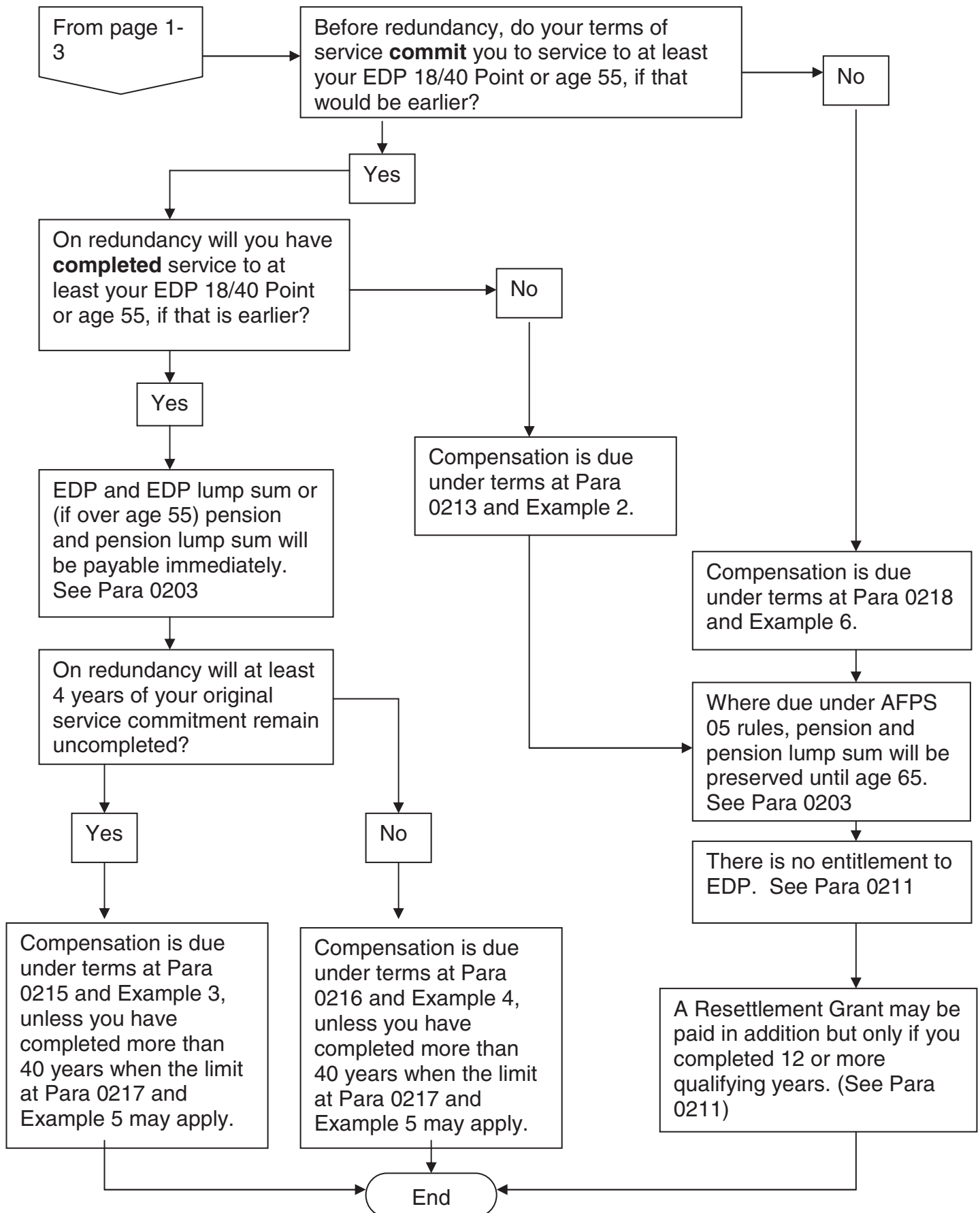
## **FINDING YOUR WAY ABOUT THIS PART**

0110. The following pages in this Chapter contain a series of logic diagrams designed to aid the reader in navigating this Part of this JSP.

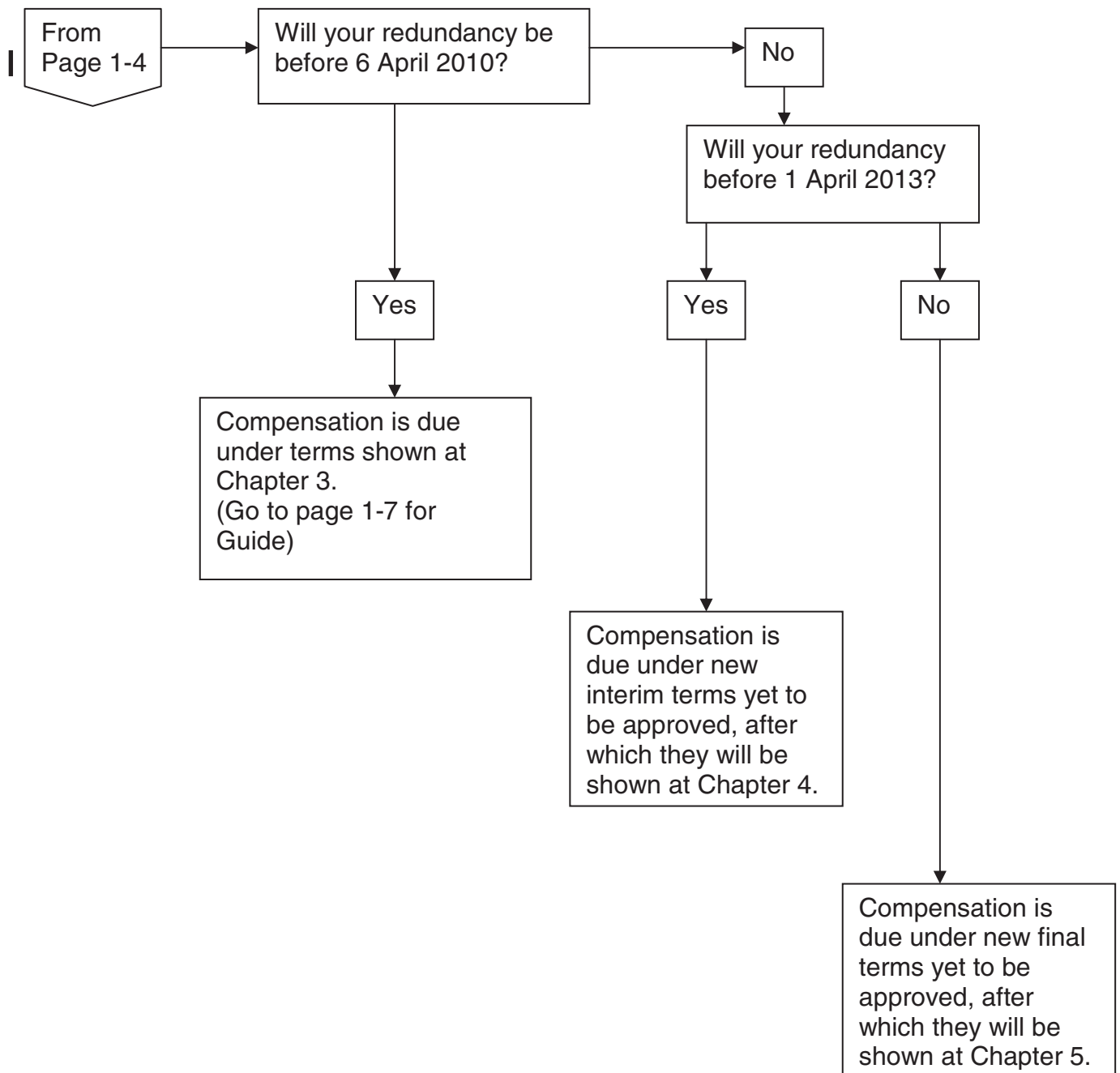
## FINDING YOUR WAY ABOUT PART 5 OF JSP 764



**GUIDE TO THE TERMS SHOWN IN CHAPTER 2 FOR COMPENSATION UNDER  
ARMED FORCES REDUNDANCY SCHEME 2006 RULES**

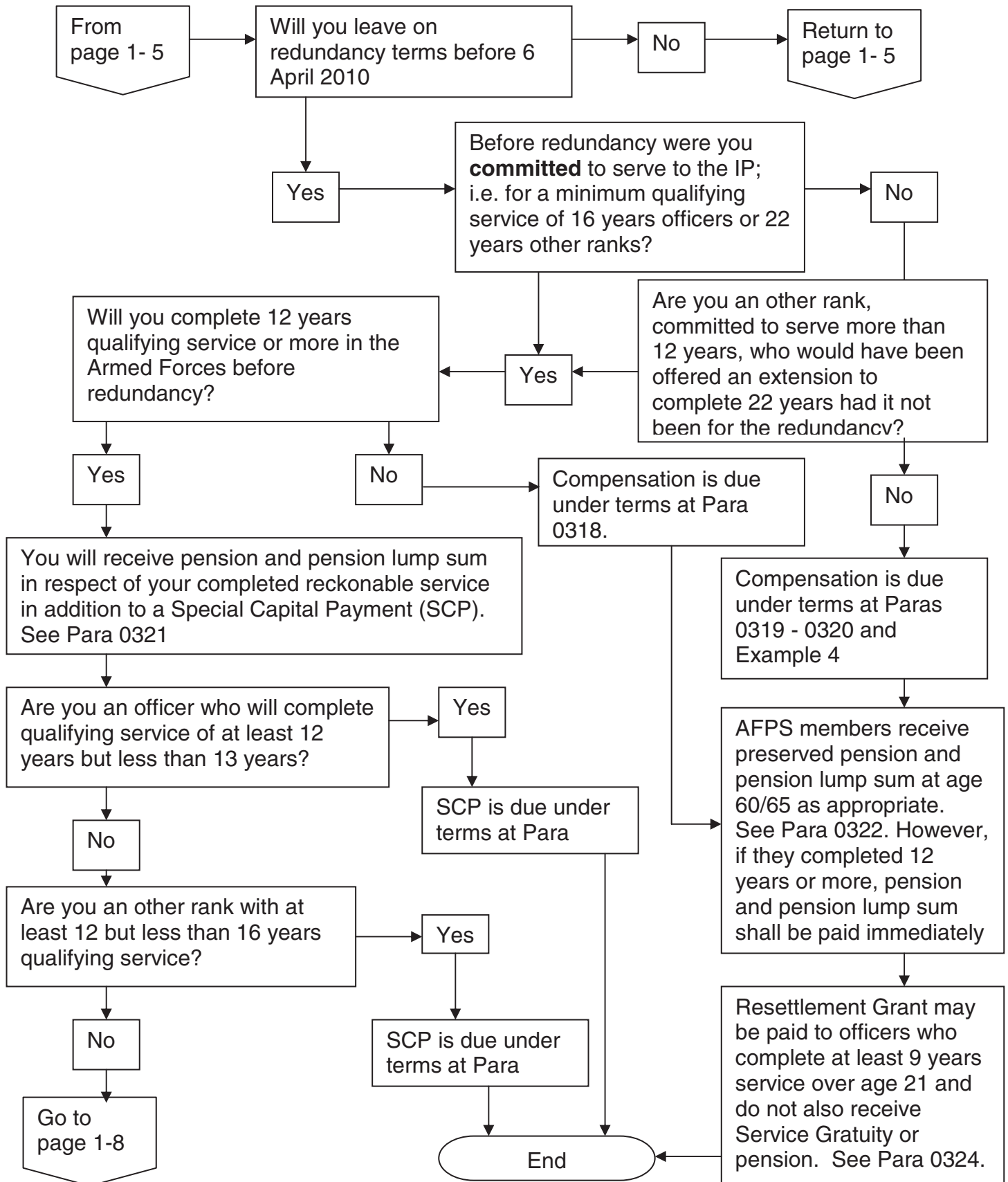


**GUIDE TO THE TERMS SHOWN IN CHAPTERS 3, 4 AND 5 FOR COMPENSATION  
UNDER ARMED FORCES REDUNDANCY SCHEME 1975 RULES**

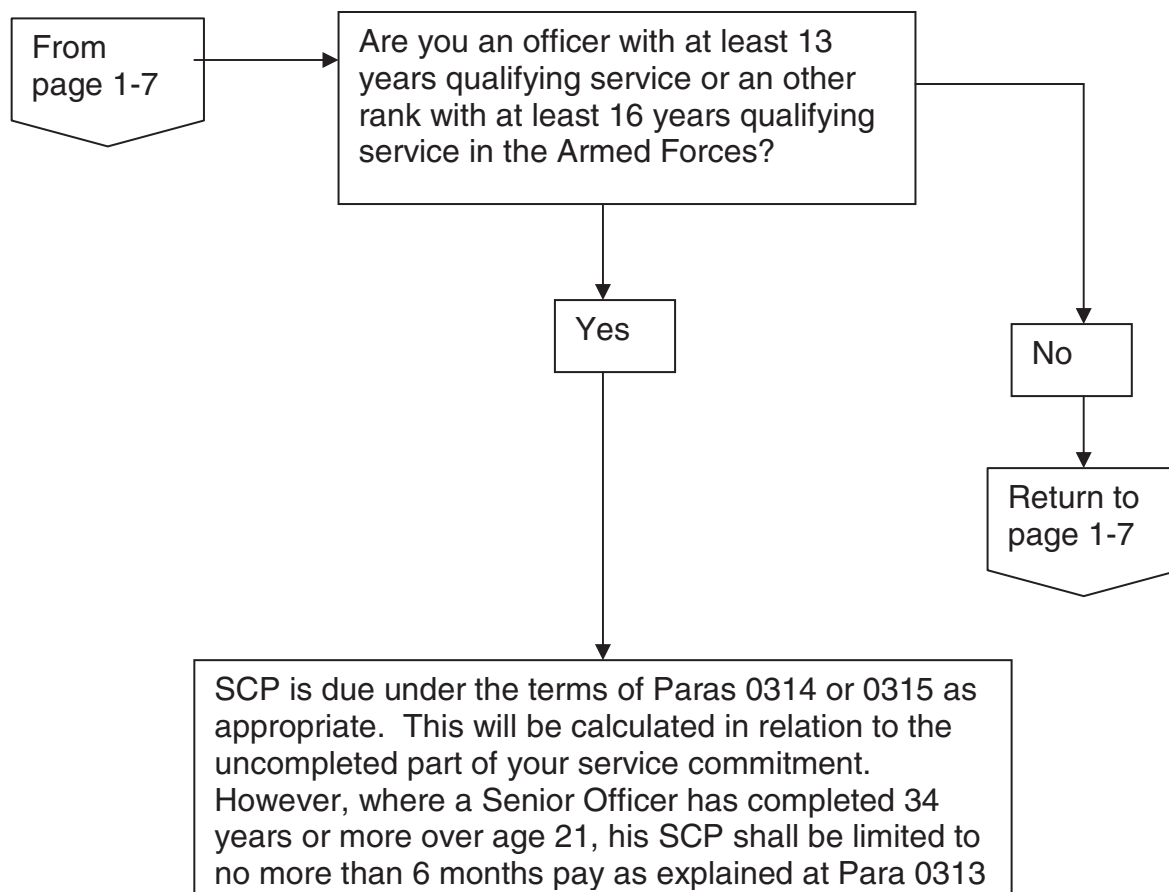




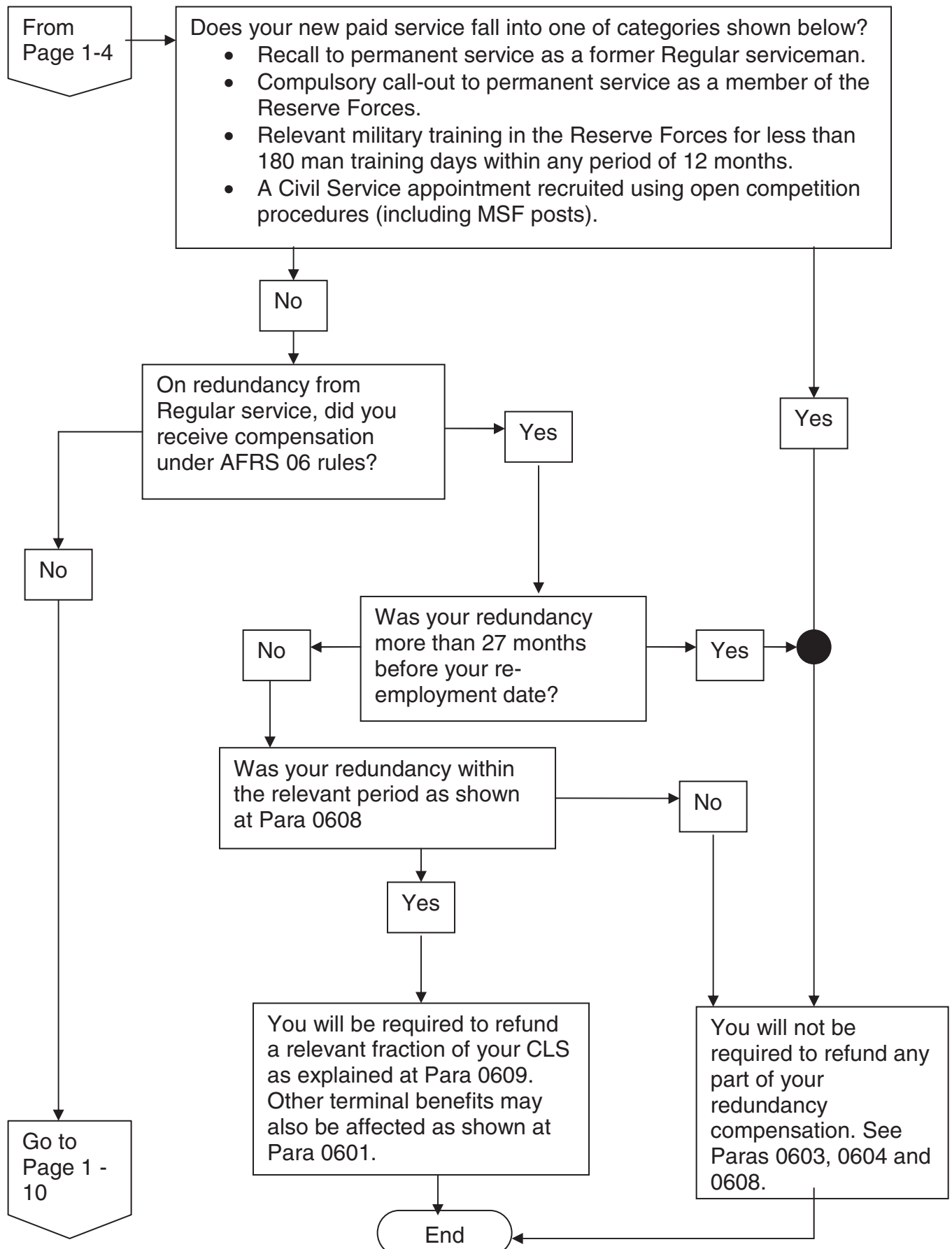
**GUIDE TO THE TERMS SHOWN IN CHAPTERS 3 FOR COMPENSATION  
UNDER ARMED FORCES REDUNDANCY SCHEME 1975 RULES**



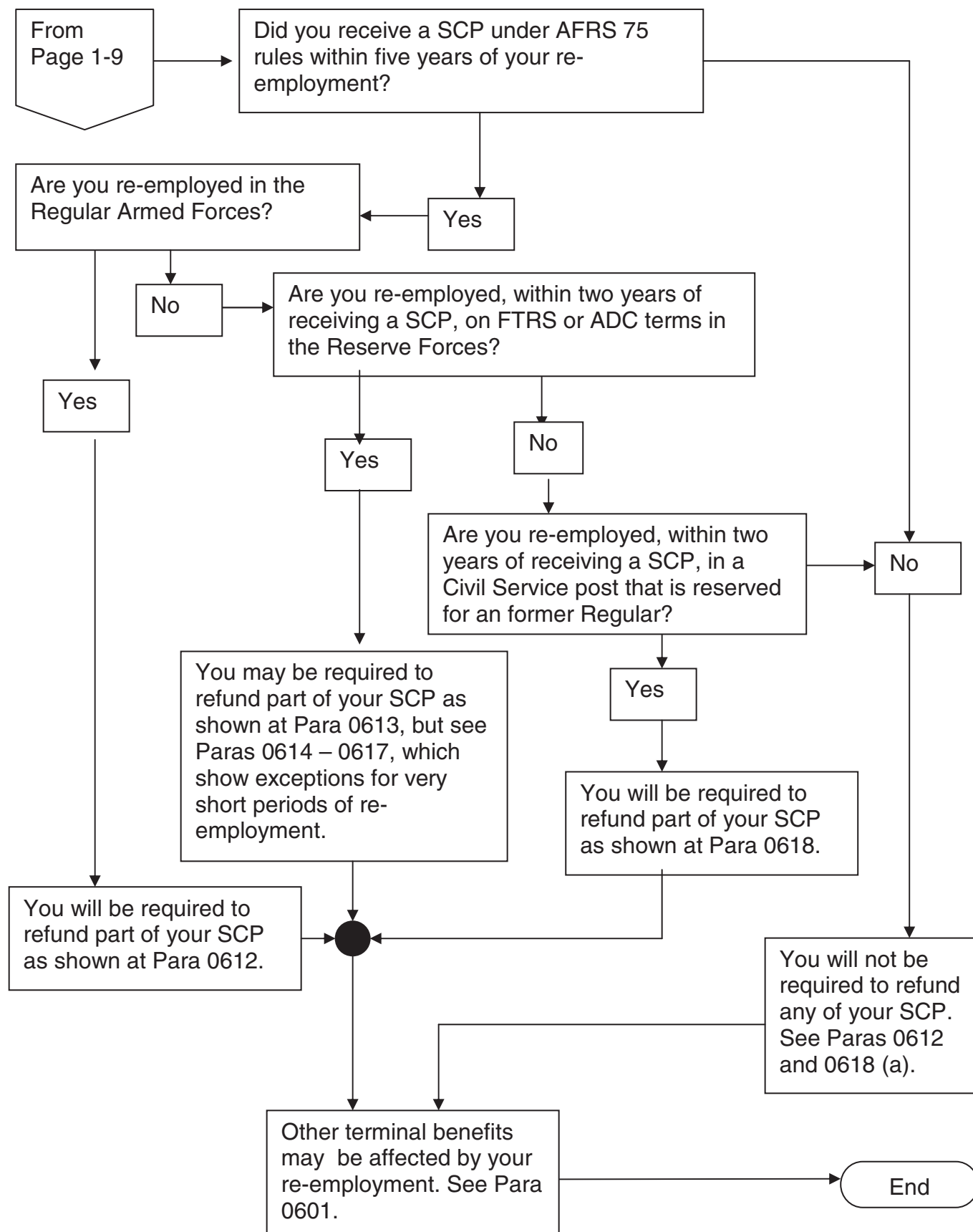
**GUIDE TO THE TERMS SHOWN IN CHAPTERS 3 FOR COMPENSATION  
UNDER ARMED FORCES REDUNDANCY SCHEME 1975 RULES**



# GUIDE TO THE TERMS SHOWN IN CHAPTERS 6 FOR THE REPAYMENT OF COMPENSATION ON RE-EMPLOYMENT



**GUIDE TO THE TERMS SHOWN IN CHAPTERS 6 FOR THE REPAYMENT OF  
COMPENSATION ON RE-EMPLOYMENT**



## Chapter 2

# ARMED FORCES REDUNDANCY SCHEME 2006

### PURPOSE

0201. The aim of the Armed Forces Redundancy Scheme 2006 (**AFRS 06**) is to provide for a tax-free lump sum, which is to be paid as compensation for lost career expectation to personnel in the Regular Armed Forces, who are declared **redundant** before completion of their previously agreed Service commitment.

0202. The rules of the AFRS 06 apply to those persons who joined the Regular Armed Forces on or after 6 April 2005 or who were in service on 5 April 2005 and accepted the Offer To Transfer (OTT) their previously **accrued** rights to AFPS 05. Paragraph 0106 shows the Statutory Instrument (SI) that authorises the rules and also gives details of those persons, who qualify for benefits under the terms explained in this Chapter. This guidance is an interpretation of the SI and does not supersede it.

0203. If he is declared redundant, compensation in the form of a lump sum is to be paid in addition to the person's entitlement to other terminal benefits. This means that the person shall also receive all his normal entitlement to Resettlement Grant (RG), Early Departure Payments (EDP), EDP lump sum, pension, pension lump sum or other **preserved benefits** that he had earned or **accrued** up to his last day of paid service under other rules explained at Chapters 1 and 2 of this JSP. However, the fact that the person is declared redundant shall not affect the value of, or earliest payment date for, any of those other benefits.

### ELIGIBILITY

0204. Criteria. To be eligible for a Compensation Lump Sum (**CLS**) under the terms of AFRS 06, the person must meet all of the following conditions:

- (a) He must be a member of the Regular Armed Forces, other than an 'excluded person' as defined at para 0104.
- (b) He must have been notified that he was to be made redundant under the terms of AFRS 06, whose rules are explained in this Chapter.
- (c) He must leave paid employment in the Regular Armed Forces on the day following his redundancy discharge.

0205. Restriction. The following restrictions apply:

- (a) A person who is re-employed shortly after a previous redundancy will not be entitled to receive another CLS if he has not fully repaid any part of a sum he was required to repay on re-employment. Details of the requirement to repay CLS on re-employment are shown at Chapter 6.

(b) A person cannot be considered for **redundancy** compensation, if he is also entitled to early payment of pension on ill-health grounds on the day following his redundancy discharge.

(c) A person eligible for CLS will not also be entitled to payment of **SCP** under the terms of AFPS 75<sup>2</sup> in respect of the same period of employment.

## PAYMENT OF BENEFITS AUTHORISED UNDER THE SCHEME

0206. Entitlement Begins. A person who is declared redundant under **AFRS 06** rules is entitled to receive a tax-free **CLS** payable with effect from the day following his redundancy discharge. Under the rules, payment of CLS is to be effected within three months of the beginning of entitlement, although it may be paid earlier.

0207. Compensation Basis (Earnings and Service). The value of CLS due to a person under AFRS 06 rules is to be found by reference to his pay and length of service. For calculation purposes, these factors are to be measured using methods that mirror those used for assessing EDP, as explained below:

(a) Pay. For CLS calculation purposes the person's pay means his **final relevant earnings** measured in the same way as it would be for EDP. See JSP 764, Part 2, Chapter 2 for further details.

(b) Length of Service. The various calculation methods, described later in this chapter, refer to either 'completed' or 'uncompleted' service. In this context, these terms shall mean:

(1) Completed Service. The length of **relevant service** the person completed measured in the same way as it would be for EDP<sup>3</sup>, or

(2) Uncompleted Service. This is that part of the person's latest Regular service commitment that he was not allowed to complete because of the redundancy.

0208. Measuring Length of Service. The term relevant service is used to differentiate the type of 'completed service', which counts as **qualifying service** for redundancy compensation. It excludes any **reckonable service**, which was transferred from other employer's or pension provider's scheme or was purchased by way of Added Years. For calculation purposes relevant service or 'uncompleted service' shall be measured first in complete years, with any additional full days counted as 1/365<sup>th</sup> of one full year and the result corrected to 4 places of decimal as shown in Example 1 below.

### EXAMPLE 1- Measuring 'Service' in Years and Part Years to 4 Decimal Places

- A period of relevant service or 'uncompleted service' that occurred between 1 January 2000 and 1 May 2008 (incl) would count as 8 years 122 days.
- Where any redundancy calculation calls for it to be quantified, that same period should be expressed as  $(8 + 122/365)$  years = 8.3342 years.

## CATEGORIES FOR CALCULATION OF CLS

0209. Length of Commitment. Persons who are notified that they are to be declared redundant will fall into one of two broad categories; these are those with:

<sup>2</sup> Entitlement to redundancy benefits under AFPS 75 rules is explained in Chapter 3.

<sup>3</sup> See paragraph 0208, which explains how this differs from reckonable or calculation service.

(a) Long Service Commitments (see para 0210), or

(b) Short Service Commitments (see para 0211).

0210. Long Service Commitments. In the context of **AFRS 06** rules, the term 'Long Service Commitment' means one which was expected to end after the EDP<sup>4</sup> 18/40 Point or on retirement at age 55 or over. Therefore, for **redundancy** compensation purposes it means any commitment where the person was expected to leave Regular service **after** he had either:

(a) attained a minimum of age 40 with at least 18 years **relevant service**, or

(b) reached the normal retirement age of 55, irrespective of how long he had actually served.

In either case the person shall be entitled to redundancy compensation irrespective of whether or not he is also a member of AFPS 05.

0211. Short Service Commitments. In the context of AFRS 06 rules, a 'Short Service Commitment' is one that - had it not been for the redundancy - would nevertheless have ended **before** either:

(a) the person's 40<sup>th</sup> birthday, or

(b) his 55<sup>th</sup> birthday, if also he would have completed less than 18 years relevant service on that day.

However, this group may include persons who have completed 12 years service or more and so qualify to receive a Resettlement Grant (RG)<sup>5</sup>.

## **CALCULATION OF COMPENSATION - LONG SERVICE COMMITMENTS**

0212. Time Served. Persons on Long Service Commitments (see para 0210), who are declared redundant under AFRS 06 rules, fall into two distinct groups for the purposes of calculating compensation, as shown below:

(a) Persons who leave before age 55 and before completing service to the EDP 18/40 Point. Those in this group shall receive a **CLS** calculated as shown at para 0213.

(b) Persons who are redundant after reaching the EDP 18/40 Point or when they are over age 55<sup>6</sup>. Those in this group shall receive a CLS calculated as shown at para 0214.

0213. Early Leavers. A person who leaves earlier than age 55 or before reaching the EDP 18/40 Point shall receive a CLS as shown below and at Example 2.

(a) Under 18 Years Service. If he has completed less than 18 years' service, the CLS due is to be calculated at 1/8<sup>th</sup> (one-eighth) of his **final relevant earnings** for each completed year<sup>7</sup> of relevant service he gave up to his last paid day; or

<sup>4</sup> See JSP 764, Part 2, Chapter 2 for eligibility for EDP.

<sup>5</sup> The rules on entitlement to RG are explained in detail at JSP 764, Part 2, Chapter 3.

<sup>6</sup> This is the point at which an AFPS 05 member will also qualify to receive immediate payment of pension.

<sup>7</sup> Part years are to be treated as explained at paragraph 0208 and Example 1.

(b) Compensation Limit. If he has completed 18 years or more **relevant service** but he leaves before his 40<sup>th</sup> birthday (when he would have been entitled to receive EDP), his **CLS** payment is to be limited to 18 times 1/8<sup>th</sup> (one-eighth) of his **final relevant earnings**<sup>8</sup>.

#### **EXAMPLE 2 - Compensation – Early Leaver from Long Service Commitment**

- (1) Scenario. A person of OF3 rank leaves service on redundancy terms.
- He was committed to serve to his EDP 18/40 Point.
  - He completed 8 years 122 days (8.3342 years) relevant service before actually leaving.
  - His final relevant earnings (FRE) were £50,000.
- (2) Redundancy Terms. The officer is not entitled to receive EDP on leaving, although he would have qualified for that benefit had he been allowed to complete his latest Service commitment.
- (3) Calculation Formula.  $CLS = FRE/8 \times \text{the lower of 8.3342 years or 18 years}$ . In this case that is  $FRE/8 \times 8.3342 \text{ years}$ .
- (4) CLS.  $£50,000 / 8 \times 8.3342 = \textbf{£52,088.75}$ .
- (5) Other Benefits. The officer completed insufficient service to qualify to receive RG<sup>9</sup>. However, he would be entitled to a preserved pension (£5,953 pa) and preserved pension lump sum (£17,859) - both payable from age 65 – so long as he was also a member of AFPS 05.

0214. Later Leavers. A person who leaves on **redundancy** after attaining the EDP 18/40 Point, or when over age 55, shall receive a CLS calculated in relation to the uncompleted period of his service commitment. The ‘uncompleted service’<sup>10</sup> for the purposes of this calculation is that service which would have been completed between:

- (a) the day following the person’s actual last day of paid service, and
- (b) the last day he should have served on his current commission or engagement terms had it not been for the redundancy.

The CLS amount that is due for payment is to be calculated under the terms explained in detail at paras 0215, 0216 or 0217, as appropriate.

0215. Uncompleted Service – At Least 4 Years. If the uncompleted service period of a late leaver (see Paragraph 0214) is at least 4 years or more, then the CLS due for payment to him is to be the sum equal to his final relevant earnings (FRE). Simply, this is calculated at  $FRE \times 1$  as shown at Example 3. However, if the person has completed 40 years’ service or more, the level of compensation allowed is limited to no more than half that amount as explained at para 0217.

<sup>8</sup> The compensation limit here is 2.25 years x final relevant earnings or approx equal to 27 months pay.

<sup>9</sup> RG would be due if the relevant service was 12 or more years and no EDP was payable.

<sup>10</sup> Uncompleted service is to be calculated as shown at paragraph 0208 and Example 1.



### EXAMPLE 3 – Leaving After EDP 18/40 Point – With At Least four Years Uncompleted Service

- (1) Scenario. A person of OR7 rank leaves service on redundancy terms.
- He was previously committed to serve to age 55, when he would have completed 37 years service.
  - He completed 22 years 103 days (22.2822 years) **relevant service** before actually leaving at age 40.
  - The uncompleted period of his Service commitment was (37 – 22.2822) years = 14.7178 years.
  - His **final relevant earnings (FRE)** were £35,000.
- (2) Redundancy Terms. The person's service ended after the EDP 18/40 Point and his uncompleted service is more than four years. The terms at para 0215 apply.
- (3) Calculation Formula. The **CLS** due is limited to FRE x 1.
- (4) CLS. = **£35,000**.
- (5) Other Benefits. The person is also entitled to receive other terminal benefits, which remain payable in addition to the CLS. These benefits are:
- Immediate payment of EDP lump sum of £33,423.30
  - EDP income payable immediately £5,570.55 pa
  - EDP income from age 55 £8,355.83 pa
  - Preserved pension payable from age 65 at rate of £11,141.10 pa\* ·
  - Preserved pension lump sum payable at age 65 of £33,423.30\*
- \*Note: Preserved benefits are only due to members of AFPS05.*

0216. Uncompleted Service - less than four years. If the uncompleted service period of a late leaver (see para 0214) is less than four whole years, the CLS due on redundancy is to be calculated at  $\frac{1}{4}$  (one-quarter) of his final relevant earnings for each complete year<sup>11</sup> by which his service was shortened. The application of this rule is demonstrated at Example 4. However, if the person has completed 40 years' service or more, compensation is limited to the level shown at para 0217.

### EXAMPLE 4 - Leaving After EDP 18/40 Point – Less than Four Years Uncompleted Service

- (1) Scenario. A person of OR7 rank leaves service on redundancy terms.
- He was previously committed to serve to age 44, when he would have completed 26 years.
  - He completed 22 years 103 days (22.2822 years) relevant service before actually leaving.
  - The uncompleted period of his Service commitment was (26 – 22.2822) years = 3.7178 years.
  - His final relevant earnings (**FRE**) were £35,000.
- (2) Redundancy Terms. The person's service ended after the EDP 18/40 Point. His uncompleted service is less than 4 years. Paragraph 0216 therefore applies.
- (3) Calculation Formula. The CLS due = FRE/4 x uncompleted years.
- (4) CLS. = £35,000/4 x 3.7178 years = **£32,530.75**.
- (5) Other Benefits. The person is also entitled to receive other terminal benefits, which are to be awarded in addition to the CLS. These benefits are:
- Immediate payment of EDP Lump Sum of £33,423.30
  - EDP income payable immediately £5,570.55 pa
  - EDP income rising from age 55 £8,355.83 pa
  - Preserved pension payable from age 65 at rate of £11,141.10 pa\* ·
  - Preserved pension lump sum payable at age 65 of £33,423.30\*
- \*Note: Preserved benefits are only due to members of AFPS 05.*

<sup>11</sup> Part years are to be treated as explained at paragraph 0208 and Example 1.

0217. Leavers - After Exceptionally Long Service. This para applies where a person has already completed 40 years service which is **reckonable service** for pension or would be reckonable for pension if that person had not opted to leave AFPS 05 in favour of his own private pension arrangement. Such a person shall receive a lump sum calculated under the normal terms shown at paras 0215 or 0216, as appropriate. However, where the uncompleted portion of his Service commitment is two years or more, the value of **CLS** shall be limited to no more than one-half of **final relevant earnings**.

#### **EXAMPLE 5 – Leaving After Completing 40 years Relevant Service**

(1) Scenario.

- He was due to leave service at age 63; a total commitment of 45 years.
- He completed 40 years 303 days (40.8301 years) **relevant service** before actually leaving.
- The uncompleted period of his service commitment was (45 – 40.8301) years = 4.1699 years.
- His final relevant earnings (FRE) at OF8 rank were £120,728.

(2) Redundancy Terms. The senior officer is over age 55 on leaving. His uncompleted service is more than two years, but he has more than 40 years' **reckonable service**, to count for pension under AFPS 05 rules.

(3) Calculation Formula. Lump Sum = FRE/4 x uncompleted service (4.1699 years) but limited to no more than FRE/2. The latter is the lesser in this case.

(4) **CLS** = £120,728/ 2 = **£60,364.00.**

(5) Other Benefits. The senior officer is also entitled to receive other terminal benefits in addition to the CLS and all are payable immediately on retirement. The other benefits are:

Pension calculated at 40/70<sup>th</sup> of FRE = £68,987.43 pa\*.

Pension Lump Sum @ 3 times rate of pension = £206,962.29\*

\*Note: The Lifetime Allowance (LTA) value of the pension benefits (ie pension x 20 + lump sum) here is £1,586,710.86. This exceeds the tax-free limit of 1.5M in FY06/07. More details about the Pension Tax Simplification rules and tax-free limits that were introduced by Government on 6 April 2006 can be found at [www.hmrc.gov.uk/pensionschemes/pts.htm](http://www.hmrc.gov.uk/pensionschemes/pts.htm)

#### **CALCULATION OF COMPENSATION - SHORT SERVICE COMMITMENTS**

0218. Basis for Calculation. If a person, who was serving on a Short Term Commitment (see para 0211), is declared redundant, a CLS is to be paid to him on leaving. The value of the CLS is to be determined by finding the **lesser** of the two sums that are to be separately calculated by applying each of the formulae at (a) and (b) below:

(a) FRE/8 x completed relevant service, or

(b) the sum of

(1) FRE/8 x uncompleted period of his Service commitment, and

(2) FRE/8.

where the terms:

- FRE - means final relevant earnings, and
- uncompleted service - is found using the method described at para 0208

The application of the rule explained above is illustrated in the scenario shown at Example 6 below.

**EXAMPLE 6 – Compensation on Redundancy from a Short Service Commitment**

- (1) Scenario. A person of OF2 rank leaves service on redundancy terms.
- He was serving on a Short Service Commission for 6 years.
  - He completed four years **relevant service** before actually leaving. His uncompleted service on leaving was two years.
  - His **final relevant earnings (FRE)** were £30,000.
- (2) Redundancy Terms. The officer did not qualify to receive EDP and was under age 55 on leaving. Para 0211 therefore applies.
- (3) Formula and Calculations. His CLS entitlement is the lesser of (a) or (b) below:
- (a)  $FRE/8 \times \text{completed years}$  this is  $£30,000/8 \times 4 = £3,750 \times 4 = £15,000$
- (b)  $(FRE/8 \times \text{uncompleted years}) + FRE/8$  this is  $(£30,000/8 \times 2) + £30,000/8 = (£3,750 \times 2) + £3,750 = £11,250$ .
- (4) CLS. The lesser of the calculations at (3)(a) and (3)(b) is the sum to be paid. This is **£11,250.00**
5. Other Benefits. The member completed insufficient service to qualify to receive any other immediate terminal benefit. However, if he was a member of AFPS 05, he would be entitled to claim a preserved pension (£1,714.29 pa) and preserved pension lump sum (£5,142.87) when he reaches age 65<sup>12</sup>.

<sup>12</sup> Preserved benefits can be claimed earlier in exceptional circumstances. See JSP 764, Part 1, Chapter 3.

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## Chapter 3

# ARMED FORCES REDUNDANCY SCHEME 1975 - LEAVERS BEFORE 6 APRIL 2010

### PURPOSE

0301. The Armed Forces Redundancy Scheme 1975 (**AFRS 75**) is the name used in this guidance to describe rules for redundancy that are authorised by the single service prerogative instruments shown at para 0107. The main purpose of these rules, is to provide for tax-free lump sums, which are to be paid as compensation for lost career expectation to members of the Regular Armed Forces, who:

- (a) joined for Regular service before 6 April 2005, and
- (b) did not transfer to AFPS 05 under the Offer To Transfer (OTT), and
- (c) are subsequently declared **redundant** before completion of their previously agreed continuous Service commitments.

This guidance is an interpretation of the rules that are set out in the single service prerogative instruments that are detailed in para 0107 and does not supersede them.

0302. Those made redundant under the terms of the AFRS 75, are likely to also be members of the Armed Forces Pension Scheme 1975 (AFPS 75), although they all had the legal right to opt-out of that Scheme in favour of their own private pension arrangement. In the case of long serving members, the special rules of AFPS 75 that apply for redundancy also provide for payment of pension and pension lump sum at a much earlier minimum qualification point than would otherwise be the case were the member to leave service on normal retirement terms. Details of how redundancy terms of discharge may affect the payment of pensions that fall due to members of AFPS 75 are given at paras 0321 and 0327.

### ELIGIBILITY

0303. Criteria. To be eligible for benefits under the terms of AFRS 75 that are detailed in this Chapter, the person must meet all of the following conditions:

- (a) He must be a member of the Regular Armed Forces, other than an excluded person as defined at para 0104.
- (b) He must have been notified that he is to leave paid Regular service on a day **before 6 April 2010**<sup>13</sup> under the terms of AFRS 75, whose rules are explained in this Chapter.
- (c) He must leave paid employment in the Regular Armed Forces on the day following his redundancy discharge.

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<sup>13</sup> New terms (yet to announced) will apply to persons notified that they are to be made redundant on or after 6 April 2010 but who otherwise meet the eligibility criteria shown at Paragraph 0303.

However, the following restrictions also apply:

(d) A person cannot be considered for redundancy compensation, if he is discharged on invaliding terms.

(e) A person will not be entitled to redundancy compensation under the terms of Armed Forces Redundancy Scheme 2006 (AFRS 06)<sup>14</sup> in respect of the same period of employment.

## **PAYMENT OF BENEFITS AUTHORISED UNDER THE SCHEME**

0304. Entitlement Begins. A person, who is eligible under para 0303, shall receive compensation in the form of a tax-free lump sum, known as a Special Capital Payment (**SCP**), which is payable with effect from the day following his last day of paid service.

0305. Payment of SCP. Payment of SCP is to be made within three months of the beginning of entitlement, although it may be paid earlier. Where payment of SCP falls due, it shall be paid in addition to any other terminal benefits (eg pension, pension lump sum, Service Gratuity or Resettlement Grant (RG)), which the member otherwise qualifies to receive.

0306. Compensation Basis (Earnings and Service). The value of SCP is to be calculated using the methods shown in this Chapter at paras 0313 to 0320. Each of these various methods relate to the individual's pay and length of service. In this context 'pay' is assessed as shown at para 0307, whereas 'length of service' is determined either from the completed or uncompleted portion of the persons latest Service commitment as explained at paras 0308 and 0309.

0307. Assessing Pay for Compensation Purposes. The value of an entitled person's SCP is to be calculated in multiples of 'one month's pay'. In this context the following definitions apply:

(a) Daily Rate of Pay. Except for those, to whom sub-para (b) applies, the term 'daily rate of pay' shall mean either:

(1) the daily rate of basic military salary in issue on the last day of the person's paid service or, if it is greater,

(2) the daily rate of pay appropriate to any paid acting rank he held at the end of his last appointment before redundancy.  
Basic military salary here is a term that excludes all forms of additional pay and allowances.

(b) Specialist Aircrew. This sub-para applies to those persons who hold the appointment of flight lieutenant (specialist aircrew), and did not transfer to Professional Aviator terms on or after 1 April 2003. For this unique group the term 'pay' means a rate determined at the standard '*daily rate of pay*' (as explained at sub-para (a) above) plus the difference between the middle rate of flying pay and the rate of specialist flying pay in issue on the person's last day of full paid service.

(c) One Month's Pay. The term 'month's pay' means a sum found by multiplying the daily rate of pay by 365 and dividing the answer by 12. The result is to be expressed to the nearest whole £0.01. See Example 1.

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14 Entitlement under AFRS 06 terms is explained in Chapter 2 of this Part.

Note: Under JPA all Regular Service personnel will move from being paid at daily rates of basic pay to annual rates. Where an annual rate has replaced the rate at Sub-Paragraph (a) it should be divided by 12 to find 'one month's pay'. The result is to be expressed to the nearest whole £0.01.

#### **EXAMPLE 1.- Assessment of One Month's Pay**

An Officer (OF3) was made **redundant**. His last paid day was 31 January 2006.

- The pay he received on his last day of paid service was at level 4 on the main career pay scale, ie £121.62 per day.
- One month's pay for SCP purposes is  $£121.62 \times 365/12 =$  **£3,699.28.**

0308. Qualifying Service. In this Chapter '**qualifying service**' for the award of **SCP** and Immediate Pension (IP), where that is also appropriate, means all full paid Regular service given over age 18 by a person, who is made redundant under the terms of AFRS 75. In this context 'full paid service' also includes periods of Statutory Maternity Leave, Ordinary Adoption Leave and Paternity Leave. It does not include unpaid Additional Maternity or Adoption Leave, **reckonable service** that was transferred from another employer's pension scheme or a private pension plan, or purchased by way of Added Years.

0309. Measuring Qualifying Service for SCP Purposes. Qualifying service for **SCP** is to be measured firstly in whole years of completed or uncompleted service as may be required by the specific method for calculation shown in this Chapter. Where there is less than one whole year or there are part years in excess of complete years, then each month or further calendar month of completed or uncompleted service attracts a payment of 1/12<sup>th</sup> of the compensation that would be due for a further whole year. This method of calculation is further explained in Examples 2 and 3.

#### **EXAMPLE 2 - Assessment of Completed Qualifying Service**

- A person's terms committed him to complete 16 years from age 21.
- He joined service at age 18 on 1 January 1996.
- On redundancy he had served from 1 January 1996 to 12 May 2007.
- This term is assessed as 11 completed whole years and 4 completed months of qualifying service.
- The balance of 12 additional days is discounted for SCP calculation purposes.

#### **EXAMPLE 3 - Assessment of Uncompleted Service**

- A person's terms committed him to complete 22 years service from age 18.
- He joined at age 18 on 1 January 1988.
- He was previously expecting to leave on 31 December 2010.
- On redundancy he had served from 1 January 1988 to 1 May 2007.
- His uncompleted service period was 2 May 2007 to 31 December 2010.
- The uncompleted period was 3 whole years and 7 whole months.
- The balance of 30 additional days, being less than a full calendar month, is discounted for SCP calculation purposes.

### **CATEGORIES FOR CALCULATION OF SCP**

0310. Length of Commitment. Persons who are notified that they are to be declared redundant will fall into two broad categories. These are those with:

- (a) Long Service Commitments (see para 0311), or



(b) Short Service Commitments (see para 0312).

0311. Long Service Commitments. A Long Service Commitment means one that was originally due to end after the person had completed the minimum service needed to qualify for an IP under the rules of AFPS 75, eg 16 years or more over age 21 (Officers) or 22 years or more over age 18 (Other Ranks). However, in the context of redundancy the term also includes:

(a) Any Other Rank person whose service would have been extended to complete 22 years had it not been for **redundancy**, and

(b) Any Other Rank person serving on an engagement or engagements in excess of 12 years, where there was no evidence to show (other than for the redundancy) that he would have been refused a further engagement or an extension in order to allow him to complete 22 years' reckonable service for pension purposes; or

(c) Any other person who would have met any of the qualification terms shown in this para had he not exercised his legal right to opt-out of membership of AFPS 75, which he was eligible to join when his current Service commitment started, in favour of his own private pension arrangement.

0312. Short Service Commitments. A Short Service Commitment is one that was expected to end before the person could have qualified for an IP, even if he had not been made redundant and whether or not he had joined AFPS 75. This means that had he not been declared redundant and had he then completed his latest Service commitment in full, he would still have been due to leave the Regular Armed Forces either:

(a) before he had completed 16 years from age 21 as an Officer, or

(b) before he had completed 22 years from age 18 as an Other Rank, and neither of the exceptions explained at sub-paras 0311(a) nor 0311(b) apply in his case.

## **CALCULATION OF COMPENSATION - LONG SERVICE COMMITMENTS**

0313. Discontinued Long or Extended Service (over Age 55). Where an Officer, who is eligible to receive **SCP** under the terms explained in this Chapter:

- had already accrued 34 years' **reckonable service** for pension on leaving, or
- would have done so had he been a member of AFPS 75, then

the amount of SCP due for payment to him is limited to the equivalent of six month's pay or to the amount calculated using the method shown at para 0314 and Table 1, if that calculation produces a smaller lump sum.

0314. Officers – At Least 13 Years Service. This para applies where an eligible Officer is declared redundant from a Long Service Commitment (see para 0311) having completed 13 years or more **qualifying service** from age 18. In that case, except where the limit shown at para 0313 applies, the amount of SCP due is to be calculated as shown at Table 1.



0315. Other Ranks – At Least 16 Years Service. This para applies where an Other Rank, who is eligible under the terms of this Chapter, is declared **redundant** from a Long Service Commitment (see para 0311), having completed 16 years or more qualifying service from age 18. In that case, the amount of **SCP** payable is to be calculated as shown at Table 1.

**Table 1**

Uncompleted Years	Special Capital Payment (Months' Pay )
5 or more	18
4	15
3	11
2	7
1	3

Notes:

- *Table 1 relates to the uncompleted portion of the person's career as explained at para 0309 and Example 3.*
- *Where the uncompleted service is assessed at more than five years the compensation due is limited to a maximum of 18 months' pay.*
- *The term 'month's pay' is defined at para 0307.*

0316. Officers – At Least 12 Years but Less than 13 Years Service. This para applies where an Officer is declared redundant from a Long Service Commitment, having completed 12 years but less than 13 years qualifying service from age 18. In such cases the amount of SCP is to be calculated as shown below:

- for 12 completed years he shall be awarded the equivalent of 15 month's pay plus
- for each completed additional month, 1/12<sup>th</sup> of three month's pay<sup>15</sup>, where
- the term 'month's pay' is as defined at para 0307.

0317 Other Ranks – At Least 12 Years but Less than 16 Years Service. This para applies where an Other Rank is declared redundant from a Long Service Commitment, having completed 12 years but less than 16 years qualifying service from age 18. In such cases the amount of SCP is to be calculated as shown in Table 2.

**Table 2**

Completed Qualifying (Years)	Special Capital Payment (Months' Pay)
15	15
14	15
13	13
12	13

Notes:

- *Table 2 relates to the completed years since age 18 as explained at para 0309 and Example 2..*
- *Where the completed service is assessed at more than 15 years the compensation due is limited to a maximum of 18 months' pay.*
- *The term 'month's pay' is defined at para 0307.*

0318. Officers and Other Ranks – Less than 12 Years Service. This para applies where a person of any rank is declared redundant from a Long Service Commitment, having completed less than 12 years' qualifying service from age 18. In such cases, the amount of SCP payable is to be calculated as shown at Table 3 below.

<sup>15</sup> In the context of paragraph 0309, it is assumed that 3 month's pay is the compensation due to a further full year.

**Table 3**

Completed Years	Special Capital Payment (Months' Pay )
11	19
10	17
9	15
8	14
7	12
6	10
5	9
4	7
3	5
2	3
1	1

Notes:

- *Table 3 relates to the completed portion of the person's career as explained at para 0309 and Example 2.*
- *Where the completed service is more than 11 years but less than 12 years the compensation due is limited to a maximum of 19 months' pay.*
- *The term 'month's pay' is defined at para 0307.*

### **CALCULATION OF COMPENSATION - SHORT SERVICE COMMITMENTS**

0319. Eligibility. This para applies where a person of any rank, who is eligible under the terms this Chapter, is made **redundant** before completing a short service commitment as defined at para 0312. In such cases the amount of **SCP** payable on redundancy is to be calculated as shown at para 0320, where the term 'month's pay' has the meaning shown at para 0307.

0320. Calculation. Where para 0319 applies, the value of a SCP is to be calculated by finding the lesser of:

(a) the equivalent of one month's pay for each whole qualifying year of completed service, or

(b) the sum of:

(1) the equivalent of one month's pay for each whole year, by which service is shortened and

(2) the equivalent of one month's pay.

Further whole calendar months, in addition to whole years, shall count as part years as explained in detail at para 0309.

#### **EXAMPLE 4 – Compensation on Redundancy from a Short Service Commitment**

- (1) Scenario. A person of OF2 rank leaves Service on **redundancy** terms.
- He was serving on a Short Service Commission for six years.
  - He completed four years' **relevant service** before actually leaving.
  - His uncompleted service on leaving was two years.
  - His daily rate of pay on leaving was £92.30.
  - One month's pay equivalent is  $£92.30 \times 365/12 = £2,807.46$ .
- (2) Redundancy Terms. The Officer was not on terms that would have led to immediate payment of pension. Para 0319 therefore applies.
- (3) Formula and Calculations. His entitlement is the lesser of (a) or (b) below:
- (a) One month's pay equivalent x completed years =  $£2,807.46 \times 4 = 11,229.84$
- (b) One month's pay equivalent x uncompleted years. + One month's pay equivalent =  $(£2,807.46 \times 2) + £2,807.46 = £8,422.38$
- (4) SCP. The lesser of the calculations at (3)(a) and (3)(b) is the sum to be paid. This is **£8,422.38**.
- (5) Other Benefits. The member completed insufficient service to qualify to receive any other immediate terminal benefit. However, if he was a member of AFPS 75, he would be entitled to claim a preserved pension (£2,385.84 pa) and preserved pension lump sum (£7,157.52) when he attains age 60<sup>16</sup> or 65.

#### **REDUNDANCY – EFFECTS ON PENSION AND OTHER TERMINAL BENEFITS**

0321. Immediate Pension. Where a member of AFPS 75, is declared redundant having completed 12 years' or more qualifying service as defined at para 0308, he shall be entitled to receive an Immediate Pension (IP) from the day following his redundancy discharge. The amount of the basic annual pension award is to be determined under the appropriate rules for rank and service as explained in detail at paras 0325, 0326 and 0327.

0322. Preserved Pension. All redundant members of AFPS 75 who **accrued** more than 2 years contracted-out service<sup>17</sup> but less than 12 years' qualifying service from age 18, will qualify to receive a preserved pension payable from age 60 or 65<sup>18</sup>, as appropriate.

0323. Pension Lump Sum. Where a person is entitled to pension or preserved pension, as explained at paras 0321 or 0322, then a Terminal Grant (TG) shall also be payable at three times the annual rate of pension calculated as at the time payment of pension or preserved pension is first due.

0324. Resettlement Grant (RG). A RG, which is authorised under AFPS 75 rules, although not a pension scheme benefit, may be payable in addition to a **SCP**. This entitlement arises where a person who is eligible under this Chapter gave sufficient service to qualify for that award before his redundancy, but does not also qualify to receive immediate payment of pension or Service Gratuity in respect of any part of the same service period.

0325. Calculating Immediate Pension (IP) (Officers). If an Officer is entitled to receive an IP under the qualifying rules at para 0321, the basic rate due to him is to be calculated using the rates of Retired Pay in issue for Compulsory Retirements on the day following his last day of **reckonable service**. In applying those rates, which normally apply from a minimum of 16 years service, calculations are to be made as shown below:

<sup>16</sup> Preserved benefits can be claimed earlier but only in exceptional circumstances.

<sup>17</sup> This means paid service at any age, whilst contracted-out of the State Second Tier pension in favour of AFPS 75.

<sup>18</sup> Preserved benefits that are accrued on or after 6 April 2006 are normally payable from age 65.

- (a) At least 12 years. If the Officer has **accrued** less than 16 years' **reckonable service** for pension over age 21 his pension is to be exceptionally calculated according to the length of his accrued reckonable service, as a proportion of the rate for 16 reckonable years.

**EXAMPLE 5 – Calculation of Pension at Pro Rata Rates (Officers)**

In the case of an Officer (OF2) who

- completed 14 qualifying years from age 18
- of which 11 years from age 21 were also reckonable for pension
- he shall receive 11/16<sup>th</sup> of the 16-year rate for his rank.

If the 16-year rate for Compulsory Retired Pay is £10,866 pa, then his pension will be  $£10,866 \times 11/16 =$  **£7,470.38 pa.**

He would also receive a TG at three times the annual rate of pension =  $£7,470.38 \times 3 =$  **£22,411.14.**

- (b) At least 16 Years. If the Officer has 16 years' or more reckonable service for pension over age 21 his pension is to be calculated in accordance with the normal AFPS 75 rules.

0326. Calculating Immediate Pension (IP) (Other Ranks). If an Other Rank is entitled to receive an IP under the qualifying rules at para 0321, the basic rate due to him is to be calculated using the Standard Rates of Service Pension in issue on the day following his last day of reckonable service. In applying those rates, which normally apply from a minimum of 22 years' service, calculations are to be made as shown below:

- (a) At least 12 years. If the Other Rank has accrued less than 22 years' reckonable service for pension over age 18 his pension is to be exceptionally calculated according to the length of his accrued reckonable service, as a proportion of the 22-year rate.

**EXAMPLE 6 – Calculation of Pension at Pro Rata Rates (Other Ranks)**

In the case of a serviceman (OR6) who

- completed 14 qualifying and reckonable years from age 18
- he shall receive 14/22<sup>nds</sup> of the 22-year rate for his rank

If the 22-year Standard Rate for Pension is £9,094 pa, then his pension will be  $£9,094 \times 14/22 =$  **£5,787.09 pa.**

He would also receive a Terminal Grant (TG) at three times the annual rate of pension =  $£5,787.09 \times 3 =$  **£17,361.27.**

- (b) At least 16 Years. If the Other Rank has accrued 22 years' or more reckonable service for pension over age 18 his pension is to be calculated in accordance with the normal rules of AFPS 75.

0327. Rank for Pension Purposes. In order to fully qualify a rank for pension purposes on normal retirement or discharge, the AFPS 75 rules require a minimum of two years service in the substantive rank (Officers) or two years - within the final five years of reckonable service - in the paid rank (Other Ranks). Exceptionally, in cases of redundancy, retired pay or pension shall be awarded based on a rank which shall be determined using the criteria shown below:

- (a) Substantive Rank. Subject to sub-para (b), the rate of retired pay or pension

for an AFPS 75 member of any rank is to be assessed using the substantive rank he held on his last day of reckonable service.

(b) Higher Paid Rank. The rule at (a) above does not cancel the normal AFPS 75 rules for additions to pension for qualifying periods of one year or more, during which the person received pay in a higher rank than his substantive rank. This means that, where it is to the person's advantage, the normal rules for pay received at a higher rank still apply.

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## **Chapter 4**

### **ARMED FORCES REDUNDANCY SCHEME 1975-LEAVERS BETWEEN 6 APRIL 2010 – 31 MARCH 2013**

This Chapter is reserved for new rules which are yet to be fully approved.

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## **Chapter 5**

### **ARMED FORCES REDUNDANCY SCHEME 1975-LEAVERS ON, OR AFTER 1 APRIL 2013**

This Chapter is reserved for new rules which are yet to be fully approved.

DIN02-093 announced the Department's intention to introduce permanent changes to the redundancy rules that will apply to those made redundant on AFPS 75 terms after 31 March 2013. Once full approval has been given to those rules, guidance for interpretation will be inserted by amendment to this Chapter.

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## Chapter 6

# REPAYMENT OF COMPENSATION ON RE-EMPLOYMENT

### PURPOSE

0601. The normal effects of re-employment after the payment of terminal benefits are shown in the re-employment rules at Parts 1 and 2 of this JSP and the single Service prerogative instruments shown at Charter 1, para 0107 of this Part. However, where a person is re-employed after **redundancy** within a specified period, he may be additionally required to repay all or some of the compensation he had previously received in respect of his lost career expectation.

0602. Definitions. In para 0601:

- 'Redundancy' has the meaning shown in Chapter 1, para 0101.
- 'Re-employment' means that a person, who is not exempted under the terms of Paragraph 0603, returns to paid service with the same employer under any of the following terms:
  - he re-enters the Regular Armed Forces after a break in service, or
  - he enters Full-Time Reserve Service (**FTRS**) under the terms of section 24 of the Reserve Forces Act 1996 (RFA 96).
  - he enters part-time Reserve service on an Additional Duties Commitment (ADC) under the terms of section 25 of RFA 96.
  - he takes up a Public Service appointment that is reserved for a former member of the Armed Forces.
- 'Compensation' means a Compensation Lump Sum (**CLS**) under AFRS 06 rules as defined at Chapter 2, para 0206 or a Special Capital Payment (**SCP**) under AFRS 75 rules as defined at Chapter 3, para 0304.

### EXEMPTED PERSONS AND SERVICE

0603. Exempted Paid Service. There will be no requirement at any time for a person to repay any part of the redundancy compensation he previously received, where he enters or re-enters paid service in the Regular Armed Forces, the Reserve Forces or the Civil Service under any of the following circumstances:

- (a) Compulsory Recall. This is where a former Regular serviceman is recalled to permanent service under either Part 7 of the RFA 96, or a similar provision in the Reserve Forces Act 1980 (RFA 80).
- (b) Compulsory Call-out. This is where the person is called-out to permanent service as a member of the Reserve Forces under the terms of Parts 4, 5 or 6 of the RFA 96, or a similar provision in the RFA 80.
- (c) Reserve Service Training. This is where a person gives further paid service - of less than 180 days duration within any period of 12 months - as a member of the Reserve Forces for the purposes of obligatory or voluntary training and other duties under sections 22 or 27 of the RFA 96.

(d) Open Competition Recruitment Terms. This is where a person joins the Home Civil Service or Foreign Service on open competition terms. In such cases there shall be no requirement to repay compensation that was paid on **redundancy** from the Armed Forces. For the absence of doubt, this repayment exemption applies even where such an appointment is in a Military Support Function (MSF)<sup>19</sup> grade.

0604. Repayment Period - Time Expired. There will be no requirement for a person to repay any part of a **CLS** or **SCP** that he had previously received, where he enters or re-enters paid Regular or Reserve Service after expiry of a specified period. The relevant period is that which begins with the date when the person became entitled to the compensation payment and ends immediately before the date on which the re-employed service begins. The maximum relevant periods during which there may be a requirement to repay previously received compensation are:

(a) where a **CLS** was paid under **AFRS 06** rules, explained at Chapter 2 of this Part, repayment will not be required if the person is re-employed after a period of 27 months (2.25 years), or

(b) where a **SCP** was paid under **AFRS 75** rules explained at Chapter 3 of this Part, repayment will not be required after a period of 5 years.

## APPLICABILITY

0605. Repayment Period. If a person is re-employed within the specified period and he is not exempted from repaying compensation under paras 0603 or 0604, then he may be required to refund all or part of the compensation that was previously paid to him. The amount of the repayment due, if any, shall depend on:

(a) the rules under which the compensation was paid, and

(b) the category of re-employed service the person undertakes, and

(c) the length of completed or uncompleted service on which the compensation payment was based.

0606. Repayment Rules. Paras 0607 to 0609 explain the repayment rules where compensation was previously paid under the terms of Chapter 2, para 0206. Para 0610 to 0618 similarly explain the repayment rules where a SCP was previously paid under the terms of Chapter 3, para 0304.

## REPAYMENT OF COMPENSATION PAID UNDER AFRS 06 RULES SHOWN AT CHAPTER 2

0607. Repayment of CLS. If a person is re-employed after redundancy, he may be required to repay part or all of the CLS he received on his earlier discharge. However, no repayment is required if he is exempted for any of the reasons given at para 0603 and 0604. Conversely, repayment is required, where a person received a CLS, under the terms of the AFRS 06, and within 27 months of his redundancy he either:

(a) re-enters service in the Regular Armed Forces, or

(b) enters **FTRS** under section 24 of the RFA 96, or

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<sup>19</sup> MSF posts are recruited using open competition procedures. These posts are due to replace any Civil Service Retired Officer (RO) posts, which appointments (filled before 2004) were only open to former officers in the Regular Armed Forces

(c) enters part-time service on an **ADC** under the terms of section 25 of the RFA 96.

In broad terms, the re-employed person in these circumstances is required to repay a *relevant fraction*<sup>20</sup> of the compensation that he was paid on redundancy. Such repayment should be made at the start of re-employed service that begins within a *relevant period*<sup>21</sup>.

0608. **Relevant Period.** The relevant period - in relation to a person who was previously declared redundant - is that period during which there may be a requirement for him repay all or part of the compensation he received because of re-employment. The relevant period is to be measured:

- **from** the day when the redundancy payment was due. This is the day following the last day of paid service before redundancy,
- **to** the day immediately before the start date of re-employed service.

The length of the relevant period is to be determined by applying the formula shown below:

$$\frac{P \times 365 \text{ days}}{\text{FRE}}$$

where:

**P** is the amount of the lump sum paid on earlier redundancy, and  
**FRE** is the person's *final relevant earnings* used at the time of the redundancy for purpose of calculating **P** above.

#### **EXAMPLE 1 - Identifying the Relevant Period**

(1) **Scenario.** A person left service on **AFRS 06** redundancy terms.

- His final relevant earnings (FRE) were £35,000.
- The CLS he received on redundancy was £70,000 (**P**).
- He returned to service after a break in service of 18 months (**547 days**) (**SB**).

(2) **Relevant Period.** The period during which a relevant fraction shall be repaid is therefore:

$$\frac{P \times 365 \text{ days}}{\text{FRE}} - \text{substituting figures} - \frac{70,000 \times 365 \text{ days}}{35,000} = \mathbf{730 \text{ days}}$$

(3) **Outcome.** Because he returned to service after 547 days, which is within the relevant period of 730 days, he will be required to repay a relevant fraction of his CLS. See para 0609.

0609. **Relevant Fraction.** The relevant fraction in this context is that part of a CLS that falls due for repayment by a person as a consequence of his re-employment within the relevant period since his previous redundancy. The relevant fraction is to be calculated using the formula shown below:

$$\text{Relevant Fraction} = \frac{\text{RP} - \text{SB}}{\text{RP}}$$

where:

**RP** is the number of days in the relevant period, and  
**SB** is the number of days in the actual service break.

<sup>20</sup> Relevant fraction in this context is explained at Paragraph 0609

<sup>21</sup> Relevant period in this context is explained at Paragraph 0608.

### EXAMPLE 2 – Calculating the Relevant Fraction

(1) Scenario. Using the same detail as shown in Example 1 at para 0608.

- **RP** - The value of the Relevant Period is 730 days
- **SB** - The actual Service Break was 547 days
- **P** - The value of original **CLS** Payment was £70,000

(2) Relevant Fraction. The relevant fraction (of the previously issued CLS) that is due to be refunded by the member is:

$$\frac{RP - SB}{RP} = \frac{730 - 547}{730} = 0.2507 \text{ (to 4 decimal places)}$$

RP 730

(3) Calculating the Refund. The sum that the *member* must repay at the onset of service is P x the relevant fraction.

- In this example case that is £70,000 x 0.2507 = **£17,549.00**.

## REPAYMENT OF COMPENSATION PAID UNDER AFRS 75 RULES SHOWN AT CHAPTER 3

0610. Exemption. There is no requirement for a person to refund **SCP** if they are exempted for any of the reasons shown at paras 0603 or 0604.

0611. Re-employment in Public Service. If a person is re-employed in the Armed Forces or by any Government Department<sup>22</sup> on full-time rates of pay within five years of **redundancy**, then that person may be required to refund a part or all of the SCP that he received under the rules of the **AFRS 75**, shown at Chapter 3. The circumstances, in which such a refund will be required and the amount that will then fall due, are set out in paras 0612 to 0618 depending on the category of re-employed service.

0612. Re-employment in Regular Service. Where a person, who is not exempted under para 0610, is re-employed in Regular service within five years of redundancy, he shall be required to repay part of the SCP he was paid when he left service on redundancy. The refund should be paid at the start of re-employed service and the amount is to be calculated as follows:

$$\text{Repayment} = \left(1 - \frac{A}{60}\right) \times B$$

where:

- A is the number of completed months elapsed since redundancy, and
- B is the amount of the SCP when it was paid.

### EXAMPLE 3 – Repayment of SCP for Re-employment in Regular Service

(1) Scenario. A person left service before 1 April 2008 on AFPS 75 redundancy terms.

- His last day of paid service before redundancy was 2 December 2002.
- His first day of paid re-employment was on 6 June 2004.
- The service break was therefore assessed at 18 complete months (**A**). (The additional 4 days are discounted for calculation purposes.)
- The SCP he received on redundancy was £70,000 (**B**).

(2) Calculation. The sum to be repaid at the onset of re-employed service is therefore:

$$\left(1 - \frac{18}{60}\right) \times £70,000 = 1 - 0.3 \times £70,000 = 0.7 \times £70,000 = £49,000$$

<sup>22</sup> Repayment is not required where a Civil Service post is recruited using open competition (see Paragraph 0618)

0613. Re-employment in Reserve Service. If a person, who is not exempted under para 0610, is re-employed in **FTRS** or on a part-time **ADC**, within two years of an earlier **redundancy**, he shall be required to repay part or all of the **SCP** he received on his earlier discharge. The amount to be refunded at the start of re-employed service depends on the length of the new service commitment, as explained in detail at paras 0614 to 0617.

0614. Re-employment in FTRS or ADC - Six Months or Less. If a person undertakes a single period of FTRS or ADC for six months or less, no refund of SCP will be required. However, this period shall be taken into consideration if the person undertakes any subsequent re-employment within two years of his earlier redundancy. This is further explained at Paragraph 0617.

0615. Re-employment in FTRS or ADC - One Year or Less. If, within 12 months of an earlier redundancy, a person undertakes a single period of FTRS or an ADC for more than six months but no more than 12 months, he shall be required to repay part of the SCP he received on his earlier discharge. The amount of the refund he must repay at the onset of re-employed service is to be calculated as follows:

$$\text{Repayment} = \left(1 - \frac{A}{12}\right) \times B$$

**EXAMPLE 4 – Repayment of SCP for Re-employment in FTRS for nine months**

(1) Scenario. Using similar personal details as at Example 3, but where the person enters FTRS or ADC for a committed period of nine months only.

- His last day of paid service before redundancy was 1 December 2004.
- His first day of paid re-employment was on 6 June 2004.
- The service break was therefore assessed at six complete months (**A**). (The additional four days are discounted for calculation purposes.)
- The SCP he received on redundancy was £70,000 (**B**).

(2) Calculation. The sum to be repaid at the onset of re-employed service is therefore:

$$\left(1 - \frac{6}{12}\right) \times £70,000 = 1 - 0.5 \times £70,000 = 0.5 \times £70,000 = \underline{\underline{£35,000}}$$

(3) Time Expiry Point. Had the service break been assessed at 12 months or more, then there would be no requirement to refund any of the part of the SCP.

0616. Re-employment in FTRS or ADC - More than One Year. Where within two years of an earlier redundancy, a person undertakes a period of FTRS or an ADC for more than 12 months, he shall be required to repay part of the SCP he received on his earlier discharge. The amount of the refund he must repay at the onset of re-employed service is to be calculated as shown below and at Example 5:

$$\text{Repayment} = \left(1 - \frac{A}{24}\right) \times B$$

where:

- A is the number of completed months elapsed since redundancy, and
- B is the amount of the SCP when it was paid.

However, if the person undertakes further period of re-employment within two years of the earlier redundancy, the amount of repayment is to be re-assessed as shown at para 0617.

### EXAMPLE 5 - Repayment of SCP for Re-employment in FTRS for 18 months

(1) Scenario. Using similar personal details as at Example 3 at para 0612, but where the person enters **FTRS** for a committed period of four years.

- His last day of paid service before redundancy was 1 December 2002.
- His first day of paid re-employment was on 6 June 2004.
- The service break was therefore assessed at 18 complete months (**A**). (The additional four days are discounted for calculation purposes.)
- The **SCP** he received on **redundancy** was £70,000 (**B**).

(2) Calculation. The sum to be repaid at the onset of re-employed service is therefore:

$$(1 - \frac{18}{24}) \times £70,000 = 1 - 0.75 \times £70,000 = 0.25 \times £70,000 = \underline{\underline{£17,500}}$$

(3) Time Expiry Point. Had the service break been assessed at two years or more, then there would be no requirement to refund any of the part of the SCP.

0617. FTRS or ADC – Multiple Short Commitment Periods. Where a refund was originally waived under para 0614 or assessed for a single short initial re-employment period under rules explained at paras 0615 or 0616 and the person to whom that assessment related is subsequently extended or undertakes a second or subsequent period of FTRS or ADC, within two years of redundancy, then the refund is to be reassessed as follows:

(a) The refund due shall be calculated using the appropriate method shown at paras 0615 or 0616 above, but taking into account the **aggregate** of the initial and further periods of FTRS and ADC. These shall be reassessed as at the commencement date of the second or subsequent period of service; then

(b) in whichever method is now appropriate, the value of 'A' - in the calculation formula - shall be replaced by a new value of Z calculated as follows:

$$Z = A - Y$$

Where:

A is the number of complete months elapsed since redundancy, and.

Y is the number of months completed on the previous period(s) of FTRS and/ or ADC.



#### **EXAMPLE 6 - Refund of SCP for Re-employment in FTRS for a Second Period Within Two years**

(1) Scenario. Using similar personal details as at Example 3 at para 0612, but where the person entered **FTRS** for two short periods within two years of redundancy.

- His last day of paid service before **redundancy** was 1 December 2002.
- His first day of paid re-employment was on 1 April 2003 when he undertook a FTRS commitment until 31 July 2003, ie a period of four months (**Y**).
- **There was no refund of SCP required at the onset of this first period of re-employed service as the commitment was for less than six months (see para 0614).**
- He rejoined FTRS on 5 January 2004 for a committed period of one year. However, with the addition of the previous period of four months, **the aggregate** is 16 months. The repayment consequences are therefore changed to those shown for more than one year at Paragraph 0616.
- The service break was assessed from 1 December 2002 to 5 January 2004. This is a period of 12 complete months (**A**). (The additional four days are discounted for calculation purposes.)
- However, for calculation purposes, the break (12 months) (**A**) is reduced by the amount of the initial re-employed service period (4 months) (**Y**). The service break is therefore reassessed at eight months (**Z**).
- The **SCP** he received on redundancy was £70,000 (**B**).

(2) Calculation. The sum to be repaid at the onset of re-employed service using the formula for an aggregated commitment of 16 months is therefore:

$$(1 - \frac{8}{16}) \times £70,000 = 1 - 0.3333 \times £70,000 = 0.6667 \times £70,000 = \underline{\underline{£46,669}}$$

(3) Time Expiry Point. Had the service break been reassessed at two years or more, then there would be no requirement to refund any of the part of the SCP.

#### 0618. Re-employment in the Civil Service

(a) Open Competition Recruitment Terms. On joining the Home Civil Service or Foreign Service on open competition terms, there shall be no requirement to repay a SCP that was paid on redundancy from the Armed Forces. See para 0603.

(b) Re-employment on Limited Competition Terms. This sub-para only applies where a Public Service appointment is reserved for a former member of the Regular Armed Forces, or is made on the recommendation of a Minister of the Crown (other than a business appointment where it is required that the application should be so approved). In such cases, the successful applicant shall be required to repay part of any SCP he may have received within two years of re-employment, under **AFRS 75** rules, which are explained at Chapter 3. Where, required, the amount due should be repaid at the start of re-employed service. Subject to the limitations at para 0618, the sum to be repaid is to be calculated using the formula set out below:

$$\text{Repayment} = (1 - \frac{A}{24}) \times \frac{2B}{3}$$

where:

- A is the number of complete months elapsed since redundancy
- B is the annual rate of salary (excluding London Weighting or equivalent supplement) on appointment to the new post.

#### **EXAMPLE 7 – Re-employment in Civil Service Post Reserved for Ex-Serviceman**

(1) Scenario. A person left the Armed Forces under the rules of the **AFRS 75**, shown in Chapter 3. He was re-employed in a civilian post where recruitment was limited to (or reserved for) a re-employed serviceman or woman.

- His last day of paid service before **redundancy** was 1 December 2002.
- His annual salary on last day paid service was £46,666.67.
- His first day of paid re-employment was on 6 June 2004.
- The service break was therefore assessed at 18 complete months **(A)**. (The additional four days are discounted for calculation purposes.)
- The SCP he received on redundancy was £70,000.
- His basic salary on appointment in the new post is £39,000 **(B)**.

(2) Calculation. The sum to be repaid at the onset of re-employed service is therefore:

$$(1 - \frac{18}{24}) \times \frac{2}{1} \times \frac{\pounds 39,000}{3} = (1 - 0.75) \times (2 \times \pounds 13,000) = 0.25 \times \pounds 26,000 = \pounds 6,500$$

(3) Time Expiry Point. Had the service break been assessed at two years or more, then there would be no requirement to refund any of the part of the **SCP**.

0619. Limitation. Where a sum that is due for repayment is calculated using the formula at para 0618 (b), the associated limitations are that:

- (a) in no case shall the amount of SCP be reduced by the refund to less than a sum equivalent to three months military salary at the rate used for assessing the SCP when it was awarded;

#### **EXAMPLE 8 – Assessing Minimum SCP After Re-employment Repayment**

(1) In the example at para 0618(b) the value of annual military salary was £46,666.67. The value of three months pay was therefore £46,666.67/12\*3 = £11,666.67.

(2) The SCP was reduced to (£70,000 - £6,500) = £63,500, which is within the permissible limit.

- (b) if the SCP awarded was at a rate less than the equivalent of three month's military salary, as calculated at sub-para 0619 (a) - then no refund would be required.

#### **REFUNDING SCP AT PREMATURE END OF RE-EMPLOYMENT IN THE CIVIL SERVICE**

0620. Entitlement to Refund. Those who left the Armed Forces on redundancy on or after 1 April 1992 and formerly repaid a proportion of SCP as required by para 0618 may subsequently receive a refund of it or a part repayment if the re-employment ends in either of the following circumstances:

- (a) Where the person, for non-disciplinary reasons, fails to satisfactorily complete their probationary period in the Civil Service post.
- (b) Where the person was appointed to a post, which was subsequently required for three years or less or was disestablished within three years of his re-employment.

0621. Limitations. No refund will be due under the terms of para 0620, where the relevant person either:

- (a) leaves re-employed service after attaining age 55; or
- (b) leaves re-employed service early at his own request; or
- (c) dies in service, when a death in service gratuity is payable; or
- (d) becomes entitled to further **redundancy** compensation or a severance payment in excess to the amount repaid at the time of his re-employment. Where any compensation due is less than the amount that otherwise would have been refunded under the terms of para 0620, the difference between the two payments may be refunded.

0622. Calculation. Where a refund falls due under the terms of para 0620, the value shall be calculated using the following formula:

$$\text{Refund} = \left[ \frac{A}{36} \times B \right] + C$$

where:

- A is the number of complete months short of three years service since the date of re-employment
- B is the value of the refunded sum when it was repaid
- C is interest at building society rates, backdated to the date that the original **SCP** was repaid

#### **EXAMPLE 9 – Revision of SCP Repayment on Subsequent Early Retirement**

(1) Scenario. The person, whose refund of SCP was due under para 0618, (see Example 7) subsequently retired for non-disciplinary reasons when his appointment was disestablished before he had completed three years service.

- His first day of paid re-employment was on 6 June 2004.
- He was retired on 5 November 2004. This was after five complete months of service, which is 31 complete months short of three years (**A**).
- The original refund of SCP was £6,500 (**B**).
- The refund was paid on 6 June 2004, which was 153 days before retirement.
- Building Society interest rate (assumed to be at 4% pa) on £6.5K for the period of 153 days = £108.99 (**C**).

(2) Calculation of Refund. The sum to be refunded is therefore:

$$\left[ \frac{31}{36} \times £6,500 \right] + £108.99 = \left[ 0.8611 \times £6,500 \right] + £108.99 = \underline{\underline{£5,706.14}}$$

(3) Time Expiry Point. No refund would have been made had the person been compulsorily retired when over age 55 or had he then become entitled to new redundancy terms where compensation was higher than £6,500.

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