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PART 1

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Chapter 1

INTRODUCTION TO THE ARMED FORCES PENSION SCHEME 2005 (AFPS 05)

GENERAL

0101. AFPS 05 is introduced under powers held by the Secretary of State through the Armed Forces (Pensions and Compensation) Act 2004, which came into force on 6 April 2005. The detailed rules are set out in Statutory Instrument 2005/438 (SI 2005/438). Subsequent amendments are set out in SI 2006/1438, SI 2006/717, SI 2007/2608, SI 2008/229, SI 2009/544. This guidance explains but does not supersede the contents of that SI.

0102. Changes to the scheme will be made by laying before Parliament SIs containing details of the change. The **scheme actuary** will be consulted on changes to the scheme which could adversely affect **accrued** benefits. Scheme **members'** consent will be sought before such a change is brought in.

0103. Consent will be deemed to be given where the Scheme Administrator has written twice to the member's last known address with no response.

0104. The Scheme Administrator is Service Personnel and Veterans Agency formerly known as Armed Forces Personnel and Administration Agency (AFPAA). The Scheme Manager is Deputy Chief of the Defence Staff Personnel Pensions Compensation and Veterans Policy (DCDS Pers PCV AFPS 05 Pol) formerly known as SP Pol (Pens).

0105. References to 'he' throughout this document should be read as 'he or she', references to 'him' should be read as 'him or her' and references to 'his' should be read as 'his or hers'.

0106. A glossary of terms used in this guidance note is at Part 4 of this JSP. Those terms which are defined in the glossary will be marked in ***bold italics*** in the text of this publication to indicate that an explanation is available.

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Chapter 2

MEMBERSHIP

GENERAL

0201. A person is eligible to be an **active member** of AFPS 05 if:

(a) he is in service as a member of the Regular Armed Forces (excluding active members of the Gurkha Pension Scheme, constituted by the Royal Warrant of 19th December 1949 (see Army Order 151 of 1949) and all locally employed regiments), or an ex-member of the Regular Armed Forces mobilised under Part 7 of the Reserve Forces Act 1996 (RFA 96) or corresponding provision of the Reserve Forces Act 1980 (RFA 80),

(b) either:

(1) his service began on or after 6 April 2005 with a break in service of at least 30 days if previously a member of AFPS 75, or

(2) he opted to transfer to AFPS 05 from Armed Forces Pension Scheme 1975 (AFPS 75) on the Member Transfer Date of 6 April 2006, and

(c) he is not:

(1) an active member of AFPS 75, or

(2) a member of another occupational pension scheme (ie a scheme in respect of which an employer is paying a contribution).

Some people will wish to pay into a Stakeholder pension or other personal pension arrangement in addition to their membership of AFPS 05. This will not prevent membership of AFPS 05 but it is the individual's responsibility to ensure that these private provisions do not put him in breach of any HMRC limits on pensions savings eligible for tax relief. See Part 4, Chapter 6 for more information on tax simplification or visit www.hmrc.gov.uk.

0202. Membership begins on the individual's first day of paid service irrespective of his age on joining the Regular Armed Forces. Benefits can be **accrued** for a maximum of 40 years.

0203. If a new entrant does not wish to belong to the scheme, he must give notice in writing. The effective date for his option will be the date on which it is received by SPVA(GL) or the unit administrator. Those who opt out will receive no compensation for the surrender of their membership of AFPS 05.

0204. An eligible person who has opted out may opt back in at any time providing that he is still serving, that he is under age 55 and that he can prove that he is medically fit. Any costs linked with obtaining proof of medical fitness must be borne by the individual. If he opts out a second time, he will not be eligible to opt in again. This provision has nothing to do with the Offer To Transfer (OTT) and cannot be taken to give those who remained in AFPS 75 a further opportunity to transfer into AFPS 05. See Chapter 10 for OTT rules.

0205. If the period of the break between opting out and opting back in does not exceed six months, the earlier period and the later period will be considered as one period for pensions purposes. The same applies if he leaves the Regular Armed Forces and rejoins within a period of six months. This rule does not apply if his pension comes into payment prior to rejoining the Regular Armed Forces. The gap between two periods of service for which he has opted in will not be reckonable unless Part 1, Chapter 5, para 0520 applies.

Chapter 3

RETIREMENT BENEFITS

ENTITLEMENT TO BENEFITS

0301. A scheme member is entitled to a taxable pension for life and a pension lump sum if he leaves the Regular Armed Forces at or beyond **normal retirement age**. The pension lump sum is normally tax-free. See Part 4, Chapter 6 for Tax Simplification information. Normal retirement age is 55 which means that the last day of service is the day before 55th birthday. The **pension** and **pension lump sum** become payable immediately on the member ceasing to be in pensionable service on or after age 55. Exceptionally, if a scheme member is offered employment or an educational offer which will not wait until his normal retirement age, he can be released early to take up that offer providing evidence of the offer is produced and it is within three months of his normal retirement age. In these circumstances, he will still be entitled to have his pension and pension lump sum payable at age 55. The period between his actual date of leaving and his normal retirement age will be recognised as **qualifying service** but not **reckonable service**.

0302. Some groups (eg Doctors) will have retirement ages higher than 55 and para 0301 does nothing to change the terms of employment they have entered into.

0303. A scheme member who leaves the Regular Armed Forces before the age of 55 is entitled to a taxable pension for life and a one-off pension lump sum (normally tax-free), payable at the age of 65 providing:

- (a) he has at least two years' **qualifying service**, or
- (b) he was formerly entitled to rights under an occupational pension scheme, a personal pension scheme or a short service benefit by virtue of section 71 of the Pension Act 1993 in respect of which a transfer value payment has been accepted by the Scheme.

This is known as a **preserved pension** and the scheme member will need to claim this pension. An electronic version of the preserved pension application form is available on the Defence intranet under "Find Out About Armed Forces Pensions" and on the internet at www.armedforcespensions.mod.uk (<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/SPVA/SpvaPensionsForms.htm>). The application must be sent to SPVA (GL).

0304. Pensions under paras 0301 and 0303 are calculated by multiplying one seventieth of the member's **final pensionable earnings** by the length of his **reckonable service** in years and parts of years (as a percentage to four decimal points). The pension lump sum is three times the amount of annual pension. HMRC rules require that those receiving lump sums on the commencement of a pension must sign a declaration regarding investment of that lump sum into another pensions scheme or to purchase Additional Voluntary Contributions. See Part 4, Chapter 6 for information on Life Time Allowance (LTA) and the implications of exceeding it.

CALCULATION OF FINAL PENSIONABLE PAY

0304A. The examples below show how final pensionable pay is calculated if the best 365 days pay is in the last 12 months of service. Example 1 shows a straightforward calculation where the entire 365 days is at the same rate of pay. In reality, there will normally be a split with the pay rise in April affecting the salary and ultimately the final pensionable pay. Example 2 shows the effect of the April pay rise.

EXAMPLE 1

An individual who leaves the Armed Forces on 31 March at age 55 with 39 years' reckonable service (having joined at age 16) on a final pensionable salary of £45,000 will receive:

$39 \times £45,000 \times \frac{1}{70} = £25,071.43$ pension paid monthly in arrears
and
 $25,071.43 \times 3 = £75,214.29$ pension lump sum

EXAMPLE 2

An individual who leaves the Armed Forces on 12 September at age 55 with 39 years' reckonable service:

13 Sep – 31 Mar = 200 days @ £45,000 = £24,657.53
1 Apr – 12 Sep = 165 days @ 47,000 = £21,246.57

$(£24,657.53 + £21,246.57) =$ final pensionable pay of £45,904.10

$39 \times £45,904.10 \times \frac{1}{70} = £25,575.14$ pension paid in monthly arrears
and
 $£25,575.14 \times 3 = £76,725.42$ pension lump sum

ADJUSTMENTS FOR INFLATION IN DETERMINING FINAL PENSIONABLE EARNINGS

0305. The member's final pensionable earnings is the greatest amount of pensionable earnings that he has earned in 365 consecutive days falling within the last three years of service. The last 365 days of service will normally be the best and, of course, will not require adjustment for inflation but it is not out of the question that the last three years of service included a temporary promotion which did not occur in the last 365 days.

EXAMPLE

If an individual left the Regular Armed Forces as a Major but, 18 months before leaving he had been paid as a Lt Colonel for three months, the pay for the 365 days containing that period, adjusted for inflation, would be greater than the last 365 days. Thus the final pensionable salary would be based on the best 365 days containing that period.

0306. The earlier years will need to be adjusted for inflation by increasing them by the same amount as they would have been increased under the Pensions (Increase) Act 1971. This is a compound calculation.

EXAMPLE

If an individual's actual earnings over the last three years were £32,000 for the last 365 days, £30,000 for the previous year and £32,000 for the year before that, assuming that the pension increase figure was 2% per year, the earnings would be adjusted as follows:

For the last 365 days - £32,000 with no adjustment

For the previous year - £30,000 + 2% = £30,600

For the year before that - (£32,000 + 2%) + 2% = £32,640 + 2% = £33,292.80

Thus the final pensionable earnings used in this individual's pension calculation would be £33,292.80 in respect of the earliest period that could be considered as part of the calculation. This is a very simple example as it uses full years. Actual comparisons could compare many permutations of 365 consecutive days.

GROSSING UP OF EARNINGS

0307. If there were periods during the final three years where the member was absent for reasons defined as assumed pay, such earnings must be included. The following calculation will apply in circumstances where the member was not an **active member** during the whole of the period or was on assumed pay for part of the year.

0308. The member's annualised **pensionable earning** for a year is:

$$\frac{\text{PE} \times 365}{\text{N}}, \text{ where}$$

PE is the member's pensionable earnings for the year,

N is the number of days in the year in the period for which pensionable earnings were received.

EXAMPLE

If an individual had taken a three month (91 day) period of unpaid leave during his last year of service, that year's earnings would be grossed up. His actual earnings for the part of the year he did work was £28,000. The grossed up figure would be calculated as follows:

$$\frac{\text{£}28,000 \times 365}{274} = \frac{10,220,000}{274} = \text{£}37,299.27$$

PENSIONS INCREASES

0309. Under this Scheme pensions increases apply in the following circumstances:

- (a) where members are in receipt of pensions or ill-health benefits;
- (b) where dependants are in receipt of pensions;
- (c) in respect of **preserved pension** calculations at the point at which they are due to come in to pay;
- (d) when adjusting **abatements**.

0310. The amount of the pensions increase is that which applies under the provisions of the Pensions (Increase) Act 1971.

PENSION CREDIT MEMBERS

0311. Where a Pension Sharing Order (PSO) is made, the general rule is that a pension for the member's ex-spouse for life is derived from the member's **pension credit** rights (the value of pension benefits earned, as at a specific date). The member's ex-spouse becomes a '**pension credit member**' whose pension becomes payable:

- (a) immediately on the pension credit member attaining 55 if the PSO was sealed after 6 April 2009. **Pension Credit Members** whose **PSOs** were sealed before 6 April 2009, may now claim their benefits at age 55, rather than age 60 or 65, but their benefits will be adjusted for early payment (but see paras 0313 and 0316), or
- (b) if it is later, when the PSO takes effect.

The value of the pension must be equal to the pension credit as calculated by the court and, if the member's pension is not in payment at the time that the order is made, the pension credit will normally provide the pension credit member with a one-off lump sum (normally tax-free) and an annual pension for life. A pension credit does not provide survivor's benefits in the event of the death of the pension credit member. If a pension credit member dies before the pension becomes payable a lump sum of three times pension is paid to the estate. If the pension credit member dies shortly after the pension is payable, the balance of five years' pension is paid to the estate taking into account any lump sum that has already been paid is worth three years pension.

0312. The pension credit may not be **aggregated** with any other benefits to which the pension credit member is entitled under the Scheme nor can they be supplemented by the purchase of added years. A person can have two or more pension credits and each is to be independent of the others.

EARLY PAYMENT OF PENSIONS

0313. **Early payment of preserved pension with actuarial reduction.** A member who is not entitled to the immediate payment of a pension may apply for immediate payment of an **actuarially reduced** pension and pension lump sum, even if he is in receipt of Early Departure Payments (EDP), provided that he is a **deferred member** who has reached the age of 55.

The application to SPVA(GL) must be in writing and the sum payable is determined after consultation with the factor tables provided by the **scheme actuary**, who, in the case of a deferred member, will take into account any **inverse commutation** which might have been applied for in accordance with para 0339-0343. The decision becomes binding on the member only after he has seen and accepted the actuary's figures. Early payment of preserved pension factors are at Part 4, Chapter 4.

0314. Early payment of preserved pension in the event of permanent ill-health. A **deferred member** is entitled to apply for the immediate payment of his **preserved pension** and **pension lump sum** before reaching 65 if:

- (a) in the opinion of SPVA(GL) (having received evidence from a registered medical practitioner and other specialists that), the member has suffered a permanent breakdown in health involving incapacity for any full-time employment which will continue at least until the member reaches pension benefit age, and
- (b) he is not an active member of another occupational pension scheme (other than an AVC scheme). The test is whether he belongs to another occupational pension scheme in respect of which his employer is making contributions in relation to his employment, and
- (c) he makes a claim in writing to SPVA(GL) for immediate payment of his pension and lump sum.

In these circumstances, the pension is not actuarially reduced. It will be adjusted for the inflation which has occurred between the date of his discharge from the Regular Armed Forces and the date it comes into payment, and it will attract pension increases thereafter.

0315. Review of Early Payment of Preserved Benefits in the event of ill-health. Entitlement to early payment of this pension may be reviewed and the pension will cease if SPVA(GL) is of the opinion that the member no longer meets the criteria. In these circumstances the pension will be preserved until age 65, unless the deferred member re-applies successfully for its early payment on ill-health grounds.

0316. Life expectancy of less than 12 months. If as a result of a written application, SPVA(GL) (having received evidence from a registered medical practitioner or other specialists) agrees that an **active member**, a deferred member (even if he is in receipt of EDP) or a **pension credit member** who has not received any benefits has a life expectancy of less than 12 months, he may opt to exchange the whole of his pension (including the Guaranteed Minimum Pension (GMP) element) for a lump sum (normally tax-free). For active members and deferred members, the amount of the lump sum will be five times the annual pension (taking into account any pension lump sum due). Pension credit members will receive a lump sum in the opinion of the scheme actuary is equivalent to the value of his pension credit rights. This lump sum will be paid as soon as is reasonably practicable. There will be no further lump sum benefits payable on the member's death.

ILL-HEALTH BENEFITS

0317. AFPS 05 offers ill-health benefits if a career is cut short by injury or illness, irrespective of cause. Additionally, if the injury or illness is mainly **attributable** to service, compensation for conditions caused on or after 6 April 2005 will be considered

under the Armed Forces Compensation Scheme (AFCS), details of which can be found in JSP 765. If a Guaranteed Income Payment is awarded under the AFCS for the condition which brought about the medical discharge, the ill-health pension under AFPS 05 or EDP becomes tax-free. Benefits for those who are medically discharged because of an **attributable** condition caused before 6 April 2005 are dependent upon the allocated tier as follows:

- (a) For Tier 1, the member will be given the choice of either:
 - (1) receiving what was referred to as a Service Invaliding Pension (SIP) under AFPS 75 topped up to the Minimum Guaranteed Income (MGI) (formally known as the Service Attributable Pension (SAP)), or
 - (2) receiving EDP (if the member has reached the EDP 18/40 Point) topped up to the MGI.
- (b) For Tier 2 and Tier 3, the AFPS 05 ill-health pension will be compared to the MGI. If the MGI is higher than the AFPS 05 pension then a top-up will be made. The ill-health pension becomes tax-free in both cases.

0318. If an active member with at least two years' **qualifying service** suffers ill-health leading to medical discharge, he will be entitled to an ill-health award. The type and size of award will depend upon the Tier, which is allocated by reference to the Tariff (see Part 4 for Tariff as at 15 December 2008), and the length of the individual's service.

0319. A Tier 3 ill-health pension will be awarded when, in the opinion of SPVA(GL), an **active member** suffers permanent breakdown in health which it is deemed will continue until the member reaches normal retirement age of 55, making him permanently incapable of any civilian full-time employment (tariff levels 1–6). He will be entitled to an annual pension calculated by multiplying one seventieth of his **final pensionable earnings** by whichever of the following gives the greater amount of **reckonable service**:

- (a) the sum of his reckonable service and half of the further reckonable service which he would have been able to count under the scheme if he had remained an active member until age 55, age 55 is used irrespective of the type of commitment that the individual has signed up for, (the day before 55th birthday is used as the basis of the calculation) and
- (b) 20 years.

He will also receive a lump sum (normally tax-free) which is calculated by multiplying the amount of annual pension payable by three.

EXAMPLE 1

If an individual who joined age 20, was injured and medically discharged under Tier 3 after four years' service he would have 31 years remaining to normal retirement age of 55. Half of this 31 years (15 years 6 months) would be added to the four years he has already served giving a total of 19 years 6 months. As the total is less than 20 years, the minimum guarantee of 20 years is used to calculate the ill-health pension. This illustration uses years and proportions of years: SPVA(GL) will use years and days to ensure accuracy.

EXAMPLE 2

If an individual who joined age 19, was medically discharged under Tier 3 after 20 years service he would have 16 years remaining until normal retirement age of 55. Half of this 16 years (8 years) is added to the 20 years already served giving a total of 28 years. His ill-health pension will be calculated on 28 years' service.

0319A. Ill-health pensions are not payable if the member is over age 55; however, if they are medically discharged with an attributable condition, the pension becomes tax-free.

0320. A Tier 2 ill-health pension will be awarded when, in the opinion of SPVA(GL), an active member suffers a breakdown in health which, while not leaving him permanently incapable of gainful civilian employment, is deemed to have significantly impaired his employment prospects (tariff levels 7-11). He will be entitled to an annual pension calculated by multiplying one seventieth of his final pensionable earnings by the sum of his reckonable service and one-third of the further reckonable service which he would have been able to count under the scheme if he had remained an active member until age 55 (again, age 55 is used irrespective of the commitment the individual has signed up for). He will also receive a lump sum (normally tax-free) which is calculated by multiplying the amount of annual pension by three. Ill-health pensions are not payable if the member is over age 55, however, if they are medically discharged with an attributable condition, the pension becomes tax-free.

EXAMPLE

An individual who joined age 20, who was injured and medically discharged under Tier 2 after five years' service would have 30 years remaining to age 55. One-third of this 30 years (10 years) would be added to the five already served. Thus, the ill-health pension is calculated on 15 years' service.

0321. A Tier 1 tax-free lump sum will be awarded when, in the opinion of SPVA(GL), an **active-member** is unfit for service in the Armed Forces but it is deemed that his capacity to get gainful employment is not significantly affected by that condition (tariff levels 12-15). For further details please see Chapter 4 of Part 2 of this JSP. For implications of rejoining the Armed Forces after receiving a Tier 1 award see Part 1, Chapter 7.

0322. Once in payment, irrespective of the age of the recipient, ill-health pensions are adjusted in line with the Retail Prices Index (RPI) each year, usually in April, using the previous September's annual headline rate of inflation.

Request by member for review

0323. A member who is medically discharged with a pension under Tier 2 or a lump sum under Tier 1 may request a review of his condition within five years of discharge. In exceptional circumstances a review may be conducted out of time.

0324. The request must be made in writing. SPVA(GL) will refer it to the Scheme Medical Adviser, and respond to the individual within two months. If an individual is not satisfied with the response then he can pursue through the Internal Disputes Resolution Procedure (IDRP) (see Part 1, Chapter 9, para 0913). If SPVA(GL) (having received evidence from a registered medical practitioner or other specialists) accepts

that his discharge condition should be placed in a higher tier, the member will become entitled to a payment which will depend on whether the original decision on which tier to place his condition was wrong or whether his condition had deteriorated in an unexpected way.

Error in the original decision on a Tier 2 award

0325. In the event of an error having been made and a Tier 2 award being replaced with a Tier 3 award, he will be entitled to:

- (a) the difference between the pension paid and the pension he is then entitled to backdated to the date of his medical discharge and increased by the RPI as appropriate, and
- (b) the difference between the lump sum paid and the lump sum he is then entitled to, increased by RPI as appropriate.

EXAMPLE

If an individual who left with a Tier 2 award at age 25 with five years' service based on a final pensionable salary of £25,000, he would have received a taxable pension of £5,357.14 and a tax-free lump sum of £16,071.43. The pension is calculated by multiplying £25,000 by 15 (5 years + one third of the 30 yrs between age 25 and age 55) and then dividing by 70. The lump sum is three times the pension.

A Tier 3 award for the same person would have resulted in a taxable pension of £7,142.86 and a tax-free lump sum of £21,428.57. The pension is calculated by multiplying £25,000 by 20 (5 years + half of the 30 years between age 25 and age 55) and then dividing by 70. The lump sum is three times the pension.

Thus, a successful review of a Tier 2 award to a Tier 3 award on the grounds that the original decision was wrong would result in the payment of:

- £1785.72 extra in annual pension,
- any back payments due between the date of discharge and the date at which the higher pension is actually paid, and
- a tax-free lump sum of £5357.14 (the difference between a Tier 2 and Tier 3 lump sum).

Deterioration after a Tier 2 award

0326. Although routine review is not intended, SPVA(GL) has the discretion to review any medical discharge and reduce the pension if they find that the condition which gave rise to the award has improved significantly or no longer exists. The review must take place before the member reaches the age of 55. In the event of unexpected deterioration of a condition originally assessed as a Tier 2 condition which has become a Tier 3 condition, he will be entitled to:

- (a) the difference between the pension paid and the pension he is then entitled to, backdated to the date of his application for review and increased by RPI as appropriate, and

- (b) the difference between the lump sum paid and the lump sum he is then entitled to, increased by RPI as appropriate.

0326A. HMRC rules do not allow a second lump sum to be paid so the difference in lump sum will be inversely commuted using factors provided by GAD and added to the pension.

EXAMPLE

Using the example in para 0325, a successful review of a Tier 2 award to a Tier 3 award on the grounds of deterioration of the original condition would result in the payment of:

- £1,785.72 extra in annual pension,
- Any back payments due between the date of the application for review and the date at which the higher pension is actually paid (this can be paid as a lump sum), and
- The difference between a Tier 2 and Tier 3 lump sum of £5,357.14 will be inversely commuted using a factor only to increase the member's pension. If the factor was 4.2 this would lead to an additional increase in pension of £225 per annum.

0327. See Chapter 4 of Part 2 of this JSP for the implications of a successful review from Tier 1 to Tier 2.

Review of medical discharge by the scheme

0328. Although routine reviews are not intended, SPVA(GL) has the discretion to review any medical discharge and either reduce or stop the pension if it is found that the condition which gave rise to the award has improved significantly or no longer exists. The review must take place before the member reaches the age of 55.

GUARANTEED MINIMUM PENSIONS

0329. If a member of AFPS 05 has a guaranteed minimum in relation to his pension under the scheme for service before 6 April 1997, in accordance with Section 14 of the Pension Schemes Act 1993, the following applies:

(a) From state pension age the member will be entitled to receive a pension payable for the remainder of his lifetime at the rate equivalent to a weekly rate of not less than the guaranteed minimum (subject to para 0331). If he continues serving beyond state pension age, payment may be postponed with his consent. If he does not consent to the postponement, the GMP is payable from state pension age. If he continues serving for a further five years after reaching state pension age, and does not leave, he is entitled to receive the guaranteed minimum from that point unless he consents to a further postponement.

(b) If the member dies leaving a **spouse**, a pension shall be provided for the spouse at a weekly rate of not less than half of the member's guaranteed minimum.

0330. The GMP will increase in line with Section 148 Orders (approximately average earnings) in deferment until State pension age. The increase in payment depends on when the GMP was accrued. GMP accrued before 6 April 1988 does not increase in payment and GMP accrued after 5 April 1988 increases in payment in line with RPI but is capped at 3%.

0331. He will not receive a pension for life if:

(a) the pension is forfeited (see paras 0907-0912) as a result of a conviction for:

(1) treason, or

(2) under the Official Secrets Act, or

(b) the pension is commuted under the arrangements for commutation of small pensions and the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-Out) Regulations are met.

ALLOCATION OF PENSION

0332. An **active member** or a **deferred member** whose pension is not in payment may opt to allocate up to 37.5% or such lower percentage as appears to the scheme administrator to be capable of being allocated without risk that a part of the pension to which any person becomes entitled on the death of the member after 75 does not qualify as a dependant scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules) of his pension to one or more person(s) who are financially dependent upon him. This can be one allocation of up to 37.5% of his pension or several allocations which, together, total no more than 37.5% of his pension.

0333. An active member who is due to leave the Armed Forces with an ill-health pension or a deferred member who has applied to have his deferred pension paid early on ill-health grounds, will not be allowed to allocate part of his pension to anyone else.

0334. The election to allocate must be submitted to SPVA(GL) during the six months before the member's pension becomes payable. He may revoke it or amend it before his pension becomes payable but, once his pension is in payment, the allocation cannot be changed or cancelled. Anyone considering making such an allocation might wish to take independent financial advice as to the tax or benefit implications of his plans. An electronic version of the Allocation Application form (SPVA(GL) Pens Form 3) is available on the Defence intranet under "Find Out About Armed Forces Pensions" and on the internet at www.armedforcespensions.mod.uk (<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/SPVA/SpvaPensionsForms.htm>). The application must be sent to SPVA(GL).

0335. Allocation means that, during the member's lifetime, any pension payable would be paid at a reduced rate and that, on his death, the nominated person(s) would benefit from the allocation for life. The sum payable to the nominee(s) will be calculated by the **scheme actuary**, taking into account the age and sex of the beneficiaries. Allocation tables for males allocating to a female beneficiary and females allocating to a male beneficiary are at Part 4, Chapter 4. Factors for allocating to a same sex dependant will be produced by the Government Actuary when required. The arrangement will not be binding on the member until he has seen and accepted

the actuary's figures. There will be no charge for the administration linked with the making of an allocation. Allocation does not reduce the level of spouse's, civil partner's, eligible partner's or eligible children's pension as these benefits **accrue** separately from the **member's** benefits but in some cases there may be tax implications for them. Members are advised to take financial advice at their own cost before entering into such an arrangement as there are possible tax implications should he die at or after the age of 75. See Part 4, Chapter 6 for further details.

0336. If the member dies after having made an allocation but before his pension is due to start, his option will be invalid.

0337. If there is evidence of coercion or duress in respect of the option to allocate pension, or SPVA(GL) is of the opinion that the member was mentally impaired at the time he made the election and would not have made it had it not been for the impairment, the option will be invalid.

0338. If the member dies within two years of receiving his pension and it is found that he has made a false declaration about his health in connection with making the allocation, payment to the beneficiary of the allocation may be withheld. Any pension foregone will be credited to his estate.

INVERSE COMMUTATION

0339. Benefits may be improved by **inverse commutation** which redistributes the lump sum in one of two ways. An **active member** or a **deferred member** may opt to exchange the whole or part of his pension lump sum for an increase in the amount of pension payable to:

- the **member's** pension only
- both member's and dependants' benefits.

EXAMPLE

An individual retires at age 55 with 34 years' reckonable service and a final pensionable salary of £35,000 pa. He is entitled to a pension of £17,000 pa ($34 \times £35,000 \times \frac{1}{70}$) and a lump sum of £51,000 ($3 \times £17,000$). He opts to exchange £40,000 of his lump sum for an addition to his own pension. The factor per £100 is 4.90, therefore $£40,000/£100 \times 4.90 = £1,960$ additional pension pa. If he were to increase both his and his spouse's pension the factor would be 4.72, which would increase their pensions by $£40,000/£100 \times 4.72 = £1,888$ pa.

The actual conversion factors, showing the amount of additional pension obtained per £100 of the lump sum foregone is dependent on the age and sex of the person receiving the pension, appear in Part 4, para 0415.

0340. An individual who is being medically discharged with a Tier 2 or 3 ill-health pension will be allowed to inversely commute his pension lump sum, as will an individual who applies to have his preserved pension paid early on ill-health grounds.

0341. This option can only be exercised within the six months before the pension is due to come into payment. The application must be sent to SPVA(GL) who will calculate the value of the exchange in accordance with the factor tables provided by the **scheme actuary**. An electronic version of the Inverse Commutation application

form is available on the Defence intranet under “Find Out About Armed Forces Pensions” and on the internet at www.armedforcespensions.mod.uk. (<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/SPVA/SpvaPensionsForms.htm>). The application must be sent to SPVA(GL). Once the member has seen and accepted the actuary’s figures, the exchange is agreed and the lump sum is reduced by the amount exchanged whether or not the pension that is to be increased as a result of the option actually becomes payable. For example, if a member reduces his lump sum to improve his and his partner’s benefits but she dies before him, the exchange will not be reversed.

0342. If a member opts for ***inverse commutation*** but dies before his pension becomes payable, the option is invalid. An individual who is being medically discharged with an ill-health pension will be allowed to inversely commute his pension lump sum, as well as an individual who applies to have his preserved pension paid early on ill-health grounds.

0343. There will be no charge for the administration linked with the opting for inverse commutation.

Chapter 4

DEATH BENEFITS

GENERAL

0401. Pensions for *spouses, civil partners, eligible partners* and *eligible children* are payable from the day after the date of the death of the *member* but they must be claimed. Lump sums will be paid to the individuals or organisations nominated by the member or, if there is no nomination, to his spouse, civil partner or partner. If he dies with no nominees, spouse, civil partner or eligible partner, the lump sum will be paid to his estate. The calculations described in this Chapter assume that dependants' benefits have not been increased by *allocation* (paras 0332-0338) or *inverse commutation* (paras 0339-0343).

0402. In circumstances where the individual is 'missing', the date of death used for pensions purposes will be notified to SPVA(GL) by the Joint Personnel Administration Centre (JPAC).

0403. A married member or a member who enters into a *civil partnership* does not need to take special action for his spouse or civil partner to receive a pension as the relationship is a legally documented one. For a member who is not married or in a civil partnership but has a partner things are not so clear. By nominating his partner as the recipient of the lump sum it would add to the evidence which would be considered when establishing eligibility for pension. (See paras 0418 for eligibility criteria).

0404. Members may nominate more than one individual or one incorporated or unincorporated body as the recipient of a lump sum in the event of his death. The nomination must be in writing and, if there is more than one nominee, he must specify the percentage which will go to each. It may be revoked or altered but, again, this must be done in writing. It is the responsibility of the member to review his nomination from time to time but Unit Administration or Personnel staffs should raise the issue of nomination when they are notified that a member has married, divorced, become a widow(er) or dissolved a civil partnership. An electronic version of the Nomination application form is available on the Defence intranet under "Find Out About Armed Forces Pensions" and on the internet at [www.mod.uk \(http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/SPVA/SpvaPensionsForms.htm\)](http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/SPVA/SpvaPensionsForms.htm). The application must be sent to SPVA(GL).

0405. A nomination becomes invalid if:

- (a) the member nominated his spouse or civil partner and then the relationship is legally dissolved. There will be instances where the member will want his ex-spouse or ex-civil partner to receive the lump sum irrespective of the fact that the relationship has been dissolved. In these circumstances, on a date after the relationship has been dissolved, the member must submit a new nomination;

- (b) the nominee dies before the member;
- (c) the nominee is convicted of the murder or manslaughter of the member; or
- (d) the nominee is convicted of any other offence of which the unlawful wounding or killing of the member is an element.

0406. The timescales within which lump sums must be paid are:

- for a death in service where there is either a nomination or the deceased had a **spouse, civil partner or eligible partner**, normally within one month of notification of the death;
- for a death in service where there are no nominee(s), spouse, civil partner or eligible partner, as soon as possible after the grant of probate/letters of administration but, in any case, within two years of the death of the member;
- for death after leaving the Regular Armed Forces, as soon as possible but, in any case, within two years of notification of the death of the member. This longer timescale takes account of the fact that SPVA(GL) will not get to know about a death unless someone tells them and, even then, it is necessary to establish who the beneficiary is. (Again, if there is no nomination but the deceased had a spouse, civil partner or eligible partner, they will automatically be the beneficiary.)

0407. Where there is a court order requiring that a payment should be made to the member's former spouse or civil partner, the calculations will be undertaken as if the order had not been made and then reduced by the amount payable under the order.

0408. Pensions and lump sums may be suspended, reduced or recovered if:

- (a) the member or the beneficiary made a false declaration or deliberately suppressed a material fact in connection with the award;
- (b) it is considered appropriate to do so (eg reduction of children's pensions on the birth of an additional eligible child after the death of the member).

CALCULATION OF LUMP SUMS

Death in Service

0409. If an **active member** (including a member who also has preserved benefits from this scheme or AFPS 75) dies in service, a lump sum (normally tax-free) will be paid to his nominated recipient(s), his spouse, civil partner or eligible partner or, if he has none of these, to his estate. The value of the lump sum will be four times his pensionable pay. As a death-in-service lump sum is paid, there will be no additional lump sum payable in respect of the preserved benefits. This entitlement is irrespective of the normal two year qualifying period.

0410. If the deceased was in service but also in receipt of a pension from this scheme or AFPS 75 (albeit that it is abated or suspended), a lump sum will be paid to his nominated recipient(s), his spouse, civil partner or eligible partner or, if he has none of these, to his estate. The value of the lump sum will be four times his pensionable pay less the lump sum already received.

EXAMPLE

If an individual dies in service as a member of AFPS 05 a lump sum equivalent to four times his pensionable pay is payable. If he previously left the Regular Armed Forces with an Immediate Pension (IP) under AFPS 75, he would receive four times his pensionable pay less the IP lump sum.

Death after leaving the Service

0411. If a **deferred member** dies, his deferred pension lump sum will be paid to his nominated recipient(s), his **spouse**, **civil partner** or **eligible partner** or, if he has none of these, to his estate. This lump sum will be adjusted to take account of inflation between his discharge and his death and the resulting lump sum will be tax-free.

0412. If a **pensioner member** dies more than two years after his pension has become payable, his pension ceases. Nothing further is payable. If he dies within five years of drawing his pension, his spouse, civil partner, eligible partner or his estate will be paid the balance of five years' worth of pension, less the value of the pension lump sum and pension he has already received. This payment will be tax-free.

EXAMPLE:

If an individual leaves the Regular Armed Forces at age 55 with a pension of £20,000 per year but dies six months later his estate will receive a lump sum of £30,000. The value of five years' worth of pension would have been £100,000. He has already received a pension lump sum of £60,000 and £10,000 pension (total of £70,000). Thus the balance of 5 years' worth of pension is £30,000.

Death of a pension credit member

0413. If a **pension credit member** dies before any pension credit benefits have become payable, a tax-free lump sum will be paid to his estate. The value of the lump sum will be three times the annual amount payable.

0414. If a pension credit member dies after any pension credit benefits are in payment, the balance of five years' worth of pension will be paid to his estate less the value of any benefits received including any lump sum already paid. This lump sum will be tax-free.

Death of a pension debit member

0415. Where a pension debit member dies his benefits are calculated as if he were not a **pension debit member** and reduced in accordance with the PSO. In these circumstances HMRC limits are disregarded for the purposes of making the calculations but not in respect of the amount actually paid.

EXAMPLE

The pension benefits of a Serviceman who died in service at age 45, who had a total of 25 years' service and pensionable earnings of £30,000 would be worked out as follows:

30 (this is $25 +$ half the number of years he could have served to age 55) \times £30,000 $\times \frac{1}{70} =$ £12,857 pa

If 15 years' into his service he was divorced and ordered to pay 50% (ie 7 years 6 months worth) of his pension accrued for this period, his pension file would be annotated with the monetary amount of his ex-spouse's share. After his death the monetary amount of the ex-spouse's share will be increased in line with the Pension (Increase) Act from the date of the pension share to the date of the death and taken away from the £12,857 above.

If the ex-spouse's share was £2,143 pa at the point of the divorce, assuming increases of 2% pa, the sum deducted from the £12,857 above would be £2,612. Thus the Serviceman's annual pension entitlement would be £10,245 and any future eligible spouse, civil partner or eligible partner would have their benefits based on this amount.

PENSIONS FOR SPOUSES, CIVIL PARTNERS OR ELIGIBLE PARTNERS

Eligibility

0416. If an **active member** with two years' **qualifying service**, a **deferred member** or a **pensioner member** dies leaving a **spouse** or **civil partner**, the surviving spouse or civil partner is entitled to a pension for life. Under the provisions of the Civil Partnership Act 2004, civil partners will be treated similarly to spouses as far as is reasonably practicable. Civil partner's benefits are payable dependent on when the member began service as follows:

- for those members in service on or after 1 October 1987 and still in service on 5 December 2005, all service counts for civil partner's benefits;
- for those members in service on or after 1 October 1987 but now preserved pensioners, civil partner's benefits will be limited to service post 6 April 1978.

0417. If the marriage or **civil partnership** ceremony took place less than six months before the member's death, the pension may be withheld, although the Guaranteed Minimum Pension (*GMP*) may not. (For information on GMP see paras 0329-0331). In deciding whether the pension should be withheld SP Pol (Pensions) will consider all the facts. If they conclude that the marriage or civil partnership has been contracted simply to obtain a pension which would otherwise not be paid, the pension will be withheld. If the individual is not happy with the decision made they can pursue through IDRPs (see para 0913).

0418. If an active member with two years' qualifying service, a deferred member or a pensioner member dies leaving a surviving **eligible partner** and no surviving spouse or civil partner, the surviving eligible partner is entitled to a pension for life providing that they can demonstrate that at the time of the member's death:

- (a) the person and the member were cohabiting as partners in a substantial, exclusive, committed relationship,
- (b) the person and the member were not prevented from marrying or entering a civil partnership, **and**
- (c) either the person was financially dependent on the member or they were financially interdependent.

To support such a claim, SPVA(GL) would expect to see some of the following as evidence:

- nomination for receipt of a pension from the scheme;
- evidence of regular financial support by the scheme member (or vice versa);
- provision under a will naming the partner as a beneficiary in relation to a substantial proportion by value of the scheme member's estate;
- a life insurance policy, valid at the time of the member's death, which was taken out by the scheme member naming his partner as beneficiary or which was taken out by the partner naming the scheme member as beneficiary;
- joint ownership of a dwelling or other property of a substantial nature;
- a lease or rental agreement relating to a dwelling where the scheme member and the partner lived under which both the scheme member and the partner were liable to pay rent;
- joint bank or building society accounts from which money could be withdrawn by either the scheme member or the partner;
- financial arrangements entered into by the scheme member and the partner jointly;
- a valid power of attorney exercisable by the scheme member in relation to the partner or the partner in relation to the scheme member;
- payment by the scheme member of the partner's debts or by the partner of the deceased's debts;
- shared responsibility for children.

This list is not exhaustive. If the claim for a partner's pension is rejected the individual can pursue through IDRП (see para 0913).

0419. Where a pension is payable to a ***spouse, civil partner or eligible partner*** who is more than 12 years younger than the member, the amount of pension will be reduced by the lesser of the following:

- (a) 50% of the pension calculated, or
- (b) 2.5% times the number of whole years, in excess of 12 years, by which the beneficiary is younger than the member.

This reduction is made in recognition that, when a spouse, civil partner or eligible partner is significantly younger than the member, the pension will be in payment for longer than the period used in the actuarial calculations upon which the scheme's costings rely. The reduction does not result in a higher percentage of the member's pension being available for children's pensions.

EXAMPLE:

No of whole years younger than member	Reduction in spouse's, civil partner's or eligible partner's pension
12	Nil
13	2.5%
18	15%
23	27.5%
28	40%
32	50%
34	50%

0420. Para 0419 does not apply where the member transferred from AFPS 75 under the OTT arrangements and was married or in a civil partnership to the beneficiary at the common date of transfer (6 April 2006). If the member divorces this spouse and remarries, even if he remarries the same person, he will no longer be entitled to this exemption. This will also apply to civil partners who have dissolved their partnership. There is no such preserved right for unmarried partners as they were not entitled to **non-attributable** pension benefits under AFPS 75.

Calculation of spouse's, civil partner's or eligible partner's pension

0421. In the case of the death of an **active member** with at least two years' **qualifying service**, the amount payable will be the member's **final pensionable earnings**, multiplied by $\frac{1}{112}$, multiplied by his **reckonable service** enhanced by half the further reckonable service he would have been able to count had he served until age 55 (the same calculation as for a Tier 3 ill-health pension). The use of age 55 is irrespective of the length of commitment he has signed up for. The minimum reckonable service used for this calculation is 20 years. The value of the pension is subject to para 0419, any PSO that may be in place and to a maximum of $37\frac{1}{3}$ years' service.

Example of calculation of reckonable service

If an individual who joined at age 19 died in service after six years, the number of years' service his spouse's, civil partner's or eligible partner's pension would be based on is 21 years (six years actual service + half of the 30 years remaining until age 55).

Example of calculation of pension

If the individual in the above example had a final pensionable salary of £25,000, his spouse, civil partner or eligible partner would receive a pension of £4,687.50 (£25,000 x 21 x $\frac{1}{112}$).

0422. If the member would have been entitled to **aggregate** previous service, SPVA(GL) may aggregate the service if it is more advantageous to the beneficiary to do so.

0423. In the case of the death of a **deferred member**, the amount payable is calculated by multiplying the member's final pensionable earnings (adjusted for inflation which has taken place between his discharge from the Regular Armed Forces and his death) by $\frac{1}{112}$, and then by his reckonable service. The maximum reckonable service which may be used for this calculation is limited to $37\frac{1}{3}$ years. The value of the pension is subject to para 0419 and any PSO that may be in place. Any allocation that had taken place will be disregarded when calculating spouse's, civil partner's or eligible partner's pensions.

0424. In the case of the death of a **pensioner member**, the amount payable is calculated by multiplying the member's final pensionable earnings by $\frac{1}{112}$ (adjusted to allow for increases in price inflation between retirement and death) and then by his reckonable service. The maximum reckonable service which may be used for this calculation is limited to $37\frac{1}{3}$ years. The value of the pension is subject to para 0419 and any PSO that may be in place. If the member is in receipt of an ill-health pension (see para 0319 and 0320), the enhanced **reckonable service** used to calculate this pension will also be used to calculate the spouse's, civil partner's or eligible partner's pension.

0425. Where a **spouse, civil partner or eligible partner** is entitled to two or more pensions the total amount of the pensions payable must be reckoned on service not exceeding 35 years unless one or more of the members has more than 35 years' reckonable service, in which case the limit is the service of that member up to a maximum of $37\frac{1}{3}$ years. The sum payable should be calculated in such a way as to give the greatest total amount.

EXAMPLE

If an individual receives a partner's pension of £5,000 per year based on 20 years' reckonable service, then, following a marriage to another Serviceman, is entitled to a widow's pension of £3,000 per year based on nine years' reckonable service, she is entitled to receive both pensions. If she goes on to marry another Serviceman, who then dies, leaving her with an entitlement to pension of £2,000 per year based on 6 years' reckonable service, she is entitled to keep all three pensions.

If an individual receives a partner's pension of £5,000 per year based on 20 years' reckonable service, then, following a marriage to another Serviceman, is entitled to a widow's pension of £8,000 per year based on 20 years' reckonable service, the pension will be limited to benefits based on 35 years. The reduction will be made to the least valuable pension.

If an individual receives a partner's pension of £10,000 per year based on 25 years' reckonable service, then, following a marriage to another Serviceman, is entitled to a widow's pension of £16,750 per year based on $37\frac{1}{3}$ years' reckonable service, the second pension will remain in payment and the first pension will stop.

0425A. Where the spouse's, civil partner's or eligible partner's pension is within 1% of the LTA, the pension can be commuted and paid as a one-off lump sum. This is then taxed as pension income. For the forthcoming Financial Years, this equates to a pension of less than:

2008-2009	£715 pa
2009-2010	£760 pa
2010-2011	£782 pa

PENSIONS FOR ELIGIBLE CHILDREN

Eligibility

0426. Children's pensions are only payable if the member has two or more years **qualifying service**. An **eligible child** is a natural or adopted child of the member who meets any of the conditions listed at (a) to (c) or any other child who meets these conditions and was financially dependent upon the member at the date of his death. The conditions are:

- (a) that the person is under the age of 18, or
- (b) that the person is in full-time education or vocational training and is aged under 23, or
- (c) if the pensioner member died before 6 April 2006, that the person is unable to engage in gainful employment because of physical or mental disability from which the person began to suffer before age of 23, or
- (d) in the case of any other member, the person is under 23 and was at the date of the member's death dependant on the member because of physical or mental impairment and unable because of that impairment to engage in gainful employment.

0427. The member may be regarded as leaving a child providing the child is born before the first anniversary of the member's death. No pension is payable in respect of the period before the child is born. The amount payable to existing eligible children will be adjusted to take account of the additional eligible child or when an eligible child ceases to be eligible.

0428. A child who qualifies under 0426(b) who is prevented from attending his full-time educational or vocational training by ill-health will keep his pension unless he voluntarily drops out of that education or training or is too ill to continue.

0429. There may be a gap of up to 15 months between leaving school and going into higher education or vocational training or during the higher education or vocational training. A pension will not be payable during this period. If the child is working pending a place in full-time education or vocational training, he must take up that place within this 15 month period.

Calculation of children's pensions

0430. In the case of the death of a member, if a pension is to be paid to a **spouse**, **civil partner** or **eligible partner**, children's pensions will be paid as follows:

- (a) if there is only one eligible child, his pension will equal one quarter of the rate (see paras 0421,0423 and 0424 for details of the method of

calculating the scheme member's pension depending on whether he is an active, deferred or pensioner member) at which the member's pension would have been paid had it been due on the date of his death or member's pension in payment disregarding allocation; or

(b) if there are two or more eligible children, their pensions will be 37.5% of the member's pension divided by the number of eligible children.

0431. In the case of the death of a member, if there is **no spouse, civil partner or eligible partner**, children's pensions will be paid as follows:

(a) if there are one, two or three eligible children, each pension will be equal to one third of the member's pension; or

(b) where there are four or more eligible children, the member's pension is divided by the number of children.

0432. If the deceased member was an **active member** or a **deferred member** who was entitled to **aggregate** a period of previous service, SPVA(GL) will aggregate the periods, provided it would be to the benefit of the beneficiary.

0433. Unless the member opted for **inverse commutation** or **allocation**, the total amount of spouse's, civil partner's or eligible partner's and children's benefits may not exceed 100% of the member's pension. This is because allocation is disregarded when calculating spouse's, civil partner's, partner's and children's benefits.

0434. Children's pensions may be paid to the child's carer or to the child, dependent upon circumstances.

Variations to children's pensions

0435. If a member dies leaving an **eligible child**, a pension is payable in respect of the child. The amount of the pension may be adjusted if:

(a) a further person is identified as an eligible child,

(b) an eligible child is born after the member's death (see para 0427),

(c) an eligible child ceases to be eligible, or

(d) there was a spouse, civil partner or eligible partner at the time of the member's death who dies whilst the children's pension is in payment.

0436. If three or more pensions would be payable in respect of the same child, only two pensions which, together, result in the payment of the greatest annual amount in respect of the child are payable.

EXAMPLE:

A child has parents who are both in the Regular Armed Forces. One parent dies leaving him a pension. The surviving parent marries another member of the Regular Armed Forces who adopts the child. The couple then die together in a car crash. Two more children's pensions become payable in respect of this child but he will receive only the two which are of the greatest monetary value.

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Chapter 5

INCREASING BENEFITS

ADDED YEARS

0501. The opportunity exists for an **active member** to purchase added years to increase **reckonable service** for pension purposes. However, pension debit members may buy added years only to the same extent as was possible before the PSO was made. **Pension credit members** are not allowed to purchase added years.

0502. The option to purchase added years must be made to SPVA(GL) in writing and may be made more than once. An electronic version of the Added Years Application form is available on the Defence intranet under “Find Out About Armed Forces Pensions” and on the internet at www.armedforcespensions.co.uk (<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/SPVA/SpvaPensionsForms.htm>). The application must be sent to SPVA(GL).

0503. The purchase will be by regular contributions to the scheme for the contractual period specified when the arrangement is made, except in the case of secondees (see para 0520).

0504. These contributions will be made by deductions from basic pay. See para 0513 for the rules relating to periods of absence from work.

0505. The amount payable will be expressed as a percentage of **pensionable earnings** and calculated using tables issued by the scheme actuary. These tables use age next birthday and **normal retirement age** as reference points, and contributions must be paid for the whole of the contractual period to give the increase agreed (see Part 4, chapter 4 for Added Years factors).

0506. The minimum regular contribution is 0.01% of pensionable earnings and the maximum imposed by the Scheme is 15% of pensionable earnings. Individuals will need to take care that their pension provisions do not exceed the life-time pension ceiling (of £1.5m from April 2006 rising to £1.8m in 2010). See Part 4, Chapter 6 for more information on tax simplification or visit www.hmrc.gov.uk.

0507. A member may cancel his option by giving SPVA(GL) notice in writing. In these circumstances, regular contributions will cease from the first pay period following receipt of the notice. He will not receive a refund of the contributions already paid unless para 0517 or 0518 applies. He will receive a pro-rata credit for the reckonable service he has purchased and, should he wish to recommence contributions at a later date, he will not be able to do so at the same rate.

0508. If a member is contracted to purchase added years up to the age of 55 but subsequently accepts an extension of service beyond 55, he will be committed to pay the contribution until age 55, if he wants to achieve the benefit he contracted to buy. Members may purchase added years after the age of 55. The scheme actuary will calculate the contributions required on an individual basis.

0509. If a member pays all of the contributions required under the option, his reckonable service is increased by the whole of the additional period covered by the option. If he leaves the Armed Forces with an entitlement to ***preserved pension*** benefits his contributions will result in a pro-rata increase to his reckonable service relative to the number of added years he agreed to buy and the number of payments he has made. If the member dies in service or is medically discharged, his added years contract is deemed to be paid up and he will get full credit for the number of years he was buying.

0510. If:

- (a) a member pays some, but not all, of the contributions necessary to purchase the period covered by the option, or
- (b) the rate at which he pays is limited by the Scheme 15% ceiling, or
- (c) during any part of the period while he should be paying contributions he is not being paid, or
- (d) more than one of sub-paragraphs (a)-(c) applies,

his ***reckonable service*** is increased as follows:

0511. For each contribution paid at the rate originally required under the contract the increase to his reckonable service is:

$$\frac{\text{CAY}}{\text{N}}$$

Where CAY is the contractual added years and N is the total number of contributions the member was originally required to pay.

EXAMPLE

An individual age 35 opts to purchase four added years by regular monthly payments that are due to be paid until he is aged 55. To purchase the full four added years he needed to make 240 payments (20 x 12). Thus each contribution is worth four divided by 240, or 0.016667% of a year's reckonable service.

He leaves the Regular Armed Forces at age 40 having made 60 payments (5 x 12) at the rate originally agreed. At this point he would have purchased added years to the value of one year (0.016667 x 60) rather than the four he had contracted to purchase.

0512. For each contribution paid at a reduced rate the increase is:

$$\frac{\text{CAY} \times \text{RR}}{\text{N} \quad \text{CR}}$$

Where CAY is the contractual added years, N is the total number of contributions the member was originally required to pay, RR is the reduced rate and CR is the rate at which the contribution would be payable under the contract apart from the reduction.

0513. If during any pay period (PP) that is part of the period taken into account for the calculations under paras 0511 or 0512, the member is on unpaid leave for a period which does not count as reckonable service (NRS), then for that pay period the period of increase is as calculated under that paragraph, multiplied by:

$$\frac{\text{PP-NRS}}{\text{PP}}$$

0514. Where a member is purchasing added years and has a period of absence from work, he may:

- (a) cease to pay the contributions payable under the option, or
- (b) pay the same amounts of contributions as would be payable if he were receiving **pensionable earnings** at the full rate.

0515. Where contributions are payable under paragraph 0514(b), the member may opt to pay the contributions after the absence or leave has ended:

- (a) by instalments as agreed with the scheme administrator, or
- (b) by lump sum

Subject to para 0506.

0516. Where a member is on paid maternity leave at less than full pay, she will pay contributions on her actual pay in respect of the period of her leave. Such payments will constitute full payment for the period in question.

Refund of contributions

0517. If an **active member** leaves the scheme without giving two years **qualifying service** his contributions towards added years will be refunded, less any tax which becomes due.

0518. If an error has occurred which results in the member paying more than the amount necessary to purchase the period covered by the option, he is entitled to be paid an amount equal to the excess, less tax but including compound interest. The rate of compound interest will be the average of the Bank of England base rate for the period of the overpayment.

SECONDMENT

0519. Where an active member is seconded to industry, providing that the employer is paying pension contributions to the scheme, his period on secondment will count as both qualifying service and **reckonable service**.

SERVICE WITH THE UN OR OTHER COLLABORATIVE ARRANGEMENTS

0520. Where an active member is seconded to UN, NATO or other similar collaborative arrangement, he will be considered to be on unpaid leave. The period of the secondment will not be reckonable unless, on his return from unpaid leave, he pays both elements of his severance payment into the Scheme. There is always a shortfall between the total of both elements of the severance pay and the sum

needed to buy back the lost reckonable service and any shortfall between the amount paid and the amount due will be made up by the MOD project which required the secondment. Members are advised to establish the position regarding project funding before agreeing to such a secondment.

TREATMENT OF ADDED YEARS AND AVCs OF THOSE TRANSFERRING FROM AFPS 75 AS A RESULT OF THE OFFER TO TRANSFER (OTT)

0521. It was agreed that those purchasing added years under AFPS 75 who opted to transfer to AFPS 05 as part of the OTT could choose to:

- stop their contributions on transfer and receive a pro-rata increase in their reckonable service in respect of the premiums paid;
- continue paying the same premium to purchase the same number of added years;
- start a new contract for a different number of added years at a premium reflecting their age at the time the new contract is entered into. This means that a member may keep his original contract based on his age at the time he entered into it and enter a new contract in respect of the balance he wishes to buy, subject to the 15% Scheme limit.

0522. Under AFPS 75 separate AVCs were available:

- Increase of death-in-service lump sum to four times pensionable earnings,
- Increase of *spouse's* benefits, and
- Purchase of headroom between *representative pay* and military salary.

0523. As the increase in death-in-service AVC was an insurance type arrangement with no monetary value if the member did not die in service, those transferring to AFPS 05 as a result of OTT simply stopped paying the premiums.

0524. In contrast, by paying for increased spouse's benefits or for headroom on pensionable pay, the member was paying for something which was expected to yield a financial benefit at the end of the contractual period. It was, therefore, agreed that premiums paid would be converted into additional reckonable service. However, it should be noted that if the member's salary is below the representative rate of pay on the Member Transfer Date, no additional reckonable service will be given for headroom on pay AVCs. The maximum an individual can transfer to AFPS 05 is 35 years – this includes any additional service given in recognition of paying for AVCs.

COMMERCIAL AVCs AND STAKEHOLDER PENSIONS

0525. The scheme does not offer any other *defined benefit* AVC that improves the benefits payable direct from AFPS 05. However, AVCs may be paid to the nominated AVC provider (see para 0530), where the benefits are paid externally from the scheme, or alternatively to a Free Standing AVC or a Stakeholder pension (see para 0527 and 0530), subject to any limits on pensions savings eligible for tax relief. See Part 4, Chapter 6 for more information on tax simplification or visit www.hmrc.gov.uk.

0526. When the need arises (eg to improve recruitment and/or retention of certain specialists), it is possible that MOD would offer to share the cost of certain AVCs. Details of any shared-cost agreements will be published in DINs as and when they occur.

0527. It is possible to purchase a Stakeholder pension in order to build up an additional pension to your AFPS 05 benefits subject to any limits on pensions savings eligible for tax relief. See Part 4, Chapter 6 for more information on tax simplification or visit www.hmrc.gov.uk. Such arrangements are outside the scheme.

0528. It is the responsibility of the individual to seek any necessary independent financial advice at his own cost and to ensure that their pension provisions remain within HMRC limits on pensions savings eligible for tax relief. See Part 4, Chapter 6 for more information on tax simplification or visit www.hmrc.gov.uk.

0529. A list of independent financial advisors accredited by the Services Insurance and Investment Advisory Panel is published regularly in DINs, but individuals should not feel that they are limited to those listed. Additionally, the Financial Services Authority can advise on how to find a financial adviser. Their helpline number is 0300 500 5000 or visit their website www.fsa.gov.uk/consumer.

0530. Scottish Widows has been designated as the preferred provider of Stakeholder pensions to the Armed Forces. Contact details are as follows:

Scottish Widows Helpline: 0845 608 0376 or +44 131 655 6600
Email: armedforces@scottishwidows.co.uk

Write to: Scottish Widows, Direct Sales, 69 Morrison St,
Edinburgh, EH3 0BR

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Chapter 6

TRANSFERS

TRANSFERS OUT

0601. Chapter 4 of Part 4 of the Pension Schemes Act 1993 confers a right on the member to transfer pension rights to another scheme. These rights do not apply to benefits directly attributable to a ***pension credit***.

0602. This means that if a member with at least two years' ***qualifying service*** either leaves the Armed Forces before age 55 (thus becoming a ***deferred member***) or opts to leave the scheme but stays in the Armed Forces he can apply for a written statement giving the transfer value of the benefits he has ***accrued*** under the scheme (a statement of entitlement). A member who is in receipt of EDP will not be prevented from transferring his preserved benefits out of the scheme. EDP is not a pension benefit.

0603. Over and above the rights conferred by Chapter 4 of Part 4 of the Pension Schemes Act 1993, members with less than two year's qualifying service will be allowed to apply to transfer their notional benefits out of the scheme providing that the application is made within twelve months of joining the new scheme. If no application is made he will be contracted back in to the State Second Pension (the State arrangement). After April 2006, a member will be entitled to apply for a ***cash transfer sum*** or a ***contribution refund***. The contribution refund refers to the member's contributions which means that only those purchasing added years will be able to claim.

0604. The application for a statement of entitlement must be made in writing to SPVA(GL). The member may withdraw the application for a statement of entitlement at any time before the statement is provided.

0605. If he has made an application for a statement of entitlement and has not withdrawn it, he may make only one other such application in the period of twelve months beginning with the date of the first application.

0606. If he has left the Regular Armed Forces he may apply to transfer his ***preserved benefits*** out of the scheme at any time up until he reaches age 64, or within six months of him leaving pensionable service, whichever is the later.

0607. A statement of entitlement will be provided within three months of being requested, unless, for reasons beyond SPVA(GL)'s control (eg disputes about entitlement), the requisite information cannot be obtained to calculate the amount of the cash equivalent.

0608. The guaranteed cash equivalent transfer value will remain valid for three months from the date specified on the statement. The individual must be provided with the statement within 10 working days of the date on the statement.

0609. The member may apply in writing to SPVA(GL) for the cash equivalent value to be paid. The payment must be made no later than six months after the date

specified on the statement of entitlement or, if it is earlier, the date on which the member reaches normal pension age unless the transfer value payment is to be made under the public sector transfer arrangements (see para 0610). His application must specify the pension scheme or other arrangement to which the payment should be made.

0610. An application for transfer value payments under the Public Sector Transfer Arrangements may only be made:

- (a) before the first anniversary of the day on which the member becomes eligible to be an active member of the scheme to which the transfer is to be made, and
- (b) before the member reaches age 65.

0611. An application for the cash equivalent value to be paid to another scheme or arrangement may be withdrawn by notice in writing unless an agreement in respect of the whole or part of the guaranteed cash equivalent transfer value has been entered into with a third party before the notice is given. So, in other words, if the new scheme has received the transfer, the arrangement may not be withdrawn.

0612. If the payment is made later than six months after the date specified on the statement of entitlement the amount of the payment to which the member is entitled must be increased by:

- (a) the difference between the amount specified in the statement of entitlement and the amount had the calculation been made on the date on which the payment is made, or
- (b) if it is greater and there was no reasonable excuse for the delay in payment, the interest on the amount specified in the statement of entitlement calculated on a daily basis over the period from the date specified on the statement of entitlement to the date the payment is made at 1% above Bank of England base rate.

0613. The guaranteed cash equivalent transfer value will be calculated in accordance with guidance and tables provided by the *scheme actuary* (see Part 4, Chapter 4 for the Transfer Out factors). It will take into account:

- (a) any transfer value payments that have been made to the scheme in respect of *accrued* rights in other schemes,
- (b) any contributions paid for added years under AFPS 05, and
- (c) in the cases of an AFPS 75 transferee, any payments made before 6 April 2006 for the purchase of added years under AFPS 75 which were transferred automatically to AFPS 05.

0614. If the scheme to which the guaranteed cash equivalent payment is to be made has no GMP, the GMP element will not be available for transfer. Instead, it will either remain in AFPS 05 or be vested in an approved insurance scheme.

0615. Where a transfer value payment is made in respect of a member's rights under AFPS 05, those rights are extinguished.

TRANSFERS IN

0616. An **active member** may apply to have some or all of the rights that have **accrued** to him under any scheme or arrangement to which a transfer value payment made be made under Part 4 Chapter 4 of the Pension Schemes Act 1993 (transfer values).

This does not apply to rights that arise directly from a **pension credit**. The timescales involved are:

- Within 12 months for a transfer-in from another Public Sector pension scheme, a personal pension arrangement, a short service benefit by virtue of section 71 of the Pension Act 1993 or a Stakeholder pension; and
- Before the 12 months prior to the member's normal pension age (so, before age 54) for non-public sector occupational pension schemes and any defined benefit AVCs linked with such pension benefits.

0617. An application to transfer in must be made in writing. It must be made while the individual is an active member of the scheme and specify the scheme or arrangement from which the transfer value payment is to be made and the anticipated amount of that payment.

0617A. In the case of a transfer value payment being made from

- (a) a personal pension scheme or
- (b) relates to voluntary contribution rights

it must be made during the period of one year beginning with the relevant day unless para 0617B applies. The relevant day means the day on which the applicant becomes eligible to be an active member of the scheme or 6 April 2006, whichever is the later.

0617B. This para applies in the case of a transfer value payment within para 0617A (b) if

- (a) the member is also applying to transfer in a different occupational pension scheme from that which the relevant payment is payable (the second scheme).
- (b) The second scheme relates to the same employment as that to which the scheme by which the relevant payment is payable relates and
- (c) The transfer value payment by the second scheme relates to rights that are or include rights that are not voluntary contribution rights.

0618. In the case of a transfer value payment to be made under the Public Sector Transfer Arrangements, the application must be made during the first year during which he is eligible to be a member of the Scheme. It must be received by SPVA(GL) before the applicant reaches the normal pension age under the scheme from which the transfer value is to be made.

0619. SPVA(GL) may accept the transfer value payment and, if they do, the member is entitled to count the appropriate period of **reckonable service** for the purposes of the Scheme. The value of the transfer is calculated in accordance with tables and

guidance provided by the **scheme actuary**. These tables are in Part 4, Chapter 4. The calculation will be done using the member's **pensionable earnings** as at:

- (a) two months after the application is received, or
- (b) the date on which the transfer value payment is received,

whichever is the later. If the transfer value payment is received earlier than two months after the application is received, any necessary adjustment will be made to the calculation to reflect any changes in the amount of **pensionable earnings**.

0620. If the transfer value payment is accepted under the Public Sector Transfer Arrangements, the calculation is made in accordance with those arrangements and by reference to tables and guidance provided by the scheme actuary for the purpose. These tables are in Part 4, Chapter 4 but do not apply to medical and dental officers. Medical and dental officer values will be calculated on an individual basis.

0621. SPVA(GL) will not accept a transfer value payment if:

- the member is under notice that he is to be medically discharged or made redundant;
- the timescales in para 0616 are not complied with; or
- if the sum is not coming from another Public Sector scheme and is insufficient to cover the member's or the member's spouse's entitlement to GMP.

OVERSEAS TRANSFERS

0622. UK pension benefits can only be transferred to a Qualifying Recognised Overseas Pensions Scheme (QROPS). HMRC will provide confirmation that the Scheme is a QROPS. The decision on whether an application for an overseas transfer may be accepted is made by SPVA(GL). QROPS will require details of the members **LTA**. A transfer to QROPS will give rise to a LTA charge only if the amount exceeds the member's unused LTA. For more information on tax simplification see Part 4, Chapter 6.

Chapter 7

REJOINING THE ARMED FORCES

RE-JOINING WHERE THE MEMBER WAS AN ACTIVE MEMBER OF AFPS 05 DURING HIS EARLIER SERVICE

0701. Such an individual could be an **active member** of AFPS 05 who either:
- (a) left the Regular Armed Forces and was subsequently re-engaged, or
 - (b) opted out of AFPS 05 and, later, opted back in.

In respect of each, if his break in service was less than six months, the break is disregarded, the two periods are treated as one and he is not considered to be a re-employed active member. Providing he has reserved rights in the scheme (regardless of changes which have taken place during his break in service), his service is deemed to be continuous. The gap between two periods of service for which he has opted in will not be reckonable unless para 0520 applies.

0702. A re-engaged active member may choose to have his periods of service treated separately (eg in cases where the member rejoins at a lower rank) or he may apply to have the most recent of them added to the current period of service at any time up to final retirement. This rule does not apply if the individual's pension has come into payment prior to rejoining the Regular Armed Forces. In the event of his death in service, SPVA(GL) will **aggregate** previous service automatically.

0703. If his previous discharge was one which attracted an enhancement to **reckonable service** (Tier 2 or Tier 3 medical discharge), the enhancement will not count towards the aggregated period to the extent that the enhancement exceeds the break in service.

EXAMPLE

If an individual left on Tier 2 ill-health terms at age 25 having served for five years, his pension would have been based on five years' actual service plus one-third of his remaining service until age 55. This means that the reckonable service used for the calculation was 15 years (5 + 10 years enhancement). If he then rejoined after five years, the break would count as reckonable but the balance of the enhancement would not.

If he had rejoined after 12 years, the full 10 year enhancement would count as reckonable but the remaining two years would be a break in service.

0704. See Part 2, Chapter 2, paras 0209-0215 for the effect on EDP and Part 3, Chapter 3, paras 0303-0307 for the effect on Resettlement Grant.

RE-JOINED WHERE THE MEMBER WAS AN ACTIVE MEMBER OF AFPS 75 DURING HIS LAST PERIOD OF SERVICE

0705. An individual who joins the Regular Armed Forces after 6 April 2005, who has preserved benefits in AFPS 75, is entitled to **aggregate** the last period of such service with his 'new' service on a 'year for year' basis. This means that if he has three and a half years' service preserved in AFPS 75, he is entitled to ask for that amount of service to be added to his service in the new scheme.

0706. As only the last period of service may be aggregated, members who wish to transfer in earlier periods of AFPS 75 service for which the pension is preserved can do so under the normal Transfer In rules. See Chapter 6, para 0616 – 0622.

0707. If an individual is in receipt of his AFPS 75 pension (albeit abated) there can be no aggregation as the AFPS 75 benefit is already in payment. Aggregation can only take place where the AFPS 75 pension is preserved. The decision to aggregate must be made while the individual is still an active member, and cannot be exercised after leaving service. Preserved benefits in AFPS 75-FTRS **cannot** be aggregated with AFPS 05.

OFFER TO TRANSFER (OTT)

0708. Individuals transferring from AFPS 75 as a result of the OTT exercise will have a common Member Transfer Date (MTD) of 6 April 2006. These individuals are entitled to count pre-age 18 and pre-age 21 service for Other Ranks and Officers respectively but the maximum which may be transferred across is 35 years. This additional reckonable service would not be lost if an individual subsequently left the Armed Forces and later rejoined. Individuals who join AFPS 05 for the first time at a date other than MTD will not be able to count this otherwise non-reckonable service towards their pension.

Re-joining the Armed Forces where the individual left on Gratuity Earning Terms but rejoins on Pension Earning Terms

0709. If an individual has been paid a gratuity on the satisfactory completion of gratuity earning service and subsequently rejoins the Armed Forces on or after 6 April 2009 on pension earning terms they can count that period of gratuity earning service as qualifying and reckonable service. This is providing the gratuity is refunded within the first year of becoming an active member of AFPS 05 either by a lump sum payment or by 12 equal monthly payments. The arrangements for refunding must be made at the time of entry onto a pensionable commission.

0710. The amount of the refund shall be the full gratuity plus interest at the Bank of England base rate¹, calculated on a monthly basis from the day after the last day of service in respect of which the gratuity has been awarded to the day before the date of re-entry. Where the break in service is one month or less no interest is payable.

¹ "Base rate" means the rate for the time being quoted by the reference banks as applicable to sterling deposits or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of four, is the first in the sequence.

"Reference banks" means the largest institutions for the time being which:

- (i) are authorised by the Bank of England under the Banking Acts 1987(b)
- (ii) are incorporated in and carrying on within the United Kingdom, a deposit taking business (as defined in Section 6, but subject to any orders under section 7 of that Act) and
- (iii) quote a base rate applicable to sterling deposits.

Conditions Relating to Changing from Gratuity Earning Terms to Pensionable Earning Terms

0711. If an individual commenced their service on gratuity earning terms but subsequently changes to service on pension earning terms on or after 6 April 2009 they will be allowed to count that period of gratuity earning service as qualifying and reckonable service. This is providing they agreed to surrender all their rights to a gratuity in respect of the gratuity earning service.

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Chapter 8

ABATEMENT

GENERAL

0801. Where a person who is in receipt of a pension is re-engaged in the Regular Armed Forces (other than on mobilisation under Part 4, 5, 6 or 7 of the Reserve Forces Act 1996 (RFA 96) or corresponding provision under the Reserve Forces Act 1980 (RFA 80)) his pension may be suspended or **abated**. This applies whether he is over or under age 55.

0802. Where a person is mobilised under RFA 96 or corresponding provision under RFA 80, his pension remains in payment. For implications for EDP see Part 2 of this JSP.

0803. **Abatement** or suspension of a pension under this scheme may also occur if an individual leaves the Regular Armed Forces and takes up a post which is dependent on his previous military service and the pension will be abated accordingly (eg a Full Time Reserve Service (FTRS) appointment).

0804. The rule is that the new rate of pay plus pension cannot exceed the old rate of pay. For the purposes of the calculation, the old rate of pay would be increased in line with pension increases when there has been a gap between leaving in receipt of a pension and joining either the Regular Armed Forces or the FTRS. Where the new rate equals the old rate, the pension is suspended. Where the new rate plus the pension exceeds the old rate, the pension is abated to ensure that pension is paid only to the extent that it does not take the new rate plus pension above the old rate.

EXAMPLE:

If an officer with a final pensionable salary of £50,000 left the Regular Armed Forces at age 55 with a pension of £25,000 in May and then joined the FTRS two months later on a pensionable salary of £30,000, his pension would be abated so that his new rate of pay together with his pension would not exceed £50,000. Thus his pension would be abated by £5,000.

0805. This does not mean that an individual can never earn more than his old rate of pay. He can. However, if his new rate of pay equals or exceeds his old rate of pay (adjusted for inflation) his pension will cease entirely for the duration of his new service.

0806. Increases to rates of pay or pension increases will not lead to a reassessment of the amount of pension being paid; but a change in rank (for example the regrading of an FTRS post) will lead to such a re-assessment. At the time of promotion the total income would not increase, but the amount of pay received would be higher, reducing the level of pension payable. However, the member would receive future increases based on the pay in the higher rank.

0807. Where he has opted for ***inverse commutation*** of his ***pension lump sum*** to improve his pension, the amount of the increase will be disregarded for abatement purposes. This is because inverse commutation redistributes the pension lump sum and, had inverse commutation not taken place, the pension lump sum would not have been recovered on re-employment.

0808. Where a person is in receipt of an ***Immediate Pension*** from AFPS 75, his pension will be abated under the rules of that Scheme which are in line with the principle set out above.

Chapter 9

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

CLAIMS FOR AND PAYMENT OF BENEFITS

0901. The payment of benefits is subject to the receipt by SPVA(GL) of a written claim from the **member** or, in the event of his death, his **dependants**. This will involve the completion of a declaration confirming his entitlement to benefits. The claim should be made within one year of the pension becoming due for payment.

0902. In the event of a late claim, the question of payment of arrears will be considered as follows:

- (a) periods of up to six years, by SPVA(GL), or
- (b) where the period exceeds six years, by HM Treasury.

Where arrears are paid, any interest due will be paid at Bank of England base rate.

INFORMATION AND EVIDENCE

0903. SPVA(GL) may require any person who is receiving a pension under the scheme to provide him with evidence to establish:

- (a) the person's identity, and
- (b) his continuing entitlement to payment of any amount.

If such evidence is not provided, the whole or any part of any benefits payable to him under the scheme may be withheld.

FALSE STATEMENTS ETC ABOUT ILL-HEALTH

0904. Where a member has been awarded an ill-health pension or the early payment of a deferred pension on ill-health grounds and it becomes apparent that he has made a false statement about his health or deliberately suppressed a material fact in relation to his health, SPVA(GL) may:

- (a) instruct the cessation of the paying the pension,
- (b) instruct that the whole or part of the pension be withheld,
- (c) take action to recover any payment under the award, or
- (d) prosecute the individual responsible for the fraud.

NON-ASSIGNABILITY

0905. Benefits payable to the **member** under the Scheme are payable to him or for his benefit. They are not assignable or chargeable with his debts or the debts of any other person. This rule does not affect the cessation of pension on admission to the Royal Hospital Chelsea.

ADMISSION TO THE ROYAL HOSPITAL CHELSEA

0906. When a pensioner is admitted to the Royal Hospital Chelsea his pension will cease. If he is later discharged, the pension will resume, having first been uprated in line with pension increases.

FORFEITURE OF PENSION BENEFITS

0907. A member or his **dependants** may forfeit the whole or part of their benefits in certain circumstances.

0908. If it is proposed that benefits should be withheld, SPVA(GL) must notify the would-be recipient in writing. Individuals may appeal against forfeiture as follows:

(a) the member's appeal route is to the Pensions Ombudsman through the scheme's Internal Disputes Resolution Procedure (see para 0913-0934);

(b) in the case of dependants, if there is a question as to whether a partner's benefit should be forfeited, DCDS Pers PCV AFPS 05 Pol may refer it to a Social Security Commissioner. As a decision by SPVA(GL) not to penalise a spouse, civil partner or eligible partner could affect the sums due to **eligible children**, they too may ask for the case to be referred to a Social Security Commissioner.

0909. A member's benefits may be forfeited if he:

(a) is convicted of one or more offences under the Official Secrets Act 1911 to 1989 for which he has been sentenced to a term of imprisonment of at least 10 years or two or more consecutive terms amounting in **together** to at least 10 years,

(b) is convicted of treason,

(c) is convicted of an offence in connection with the service which qualifies him to belong to this Scheme, in respect of which a forfeiture certificate has been issued. Such offences include:

(1) assisting, aiding or communicating with the enemy in time of war,

(2) mutiny or incitement to mutiny in time of war or peace,

(3) failure to suppress a mutiny in time of war or peace,

(4) desertion in time of war or while on active service,

(5) sabotage in war or grave sabotage in time of peace,

(6) grave breach of the Geneva Convention,

or

(d) has, after becoming a **member** of the Scheme, incurred a monetary obligation to the crown as a result of a criminal, negligent or fraudulent act or omission by him which arises out of or is in connection with his service in the Armed Forces. He will be given a certificate showing any amount withheld and the effect of it being withheld on his benefits under the Scheme.

0910. If forfeiture is under 0909(a) or (b), the whole of the pension may be forfeited. If it is under 0909(d), the amount forfeit will be the amount of the obligation which will be decided by a court or, in Scotland, an arbiter appointed by the Sheriff. This sum can only be deducted from benefits to which the member himself is entitled.

0911. A dependant's benefits may be forfeited if he is convicted of the murder or manslaughter of the member or any other offence which involves the unlawful killing of the member.

0912. A person who has forfeited their pension will still receive the Guaranteed Minimum Pension (GMP), unless forfeiture is under para 0909(a) or (b) when the GMP may also be forfeit.

INTERNAL DISPUTES RESOLUTION PROCEDURE (IDRP)

0913. The Pensions Act 1995, which has since been amended by the Pensions Act 2004, imposed a statutory requirement on scheme administrators to ensure that procedures are in place to deal internally with pension disputes, known as Internal Disputes Resolution Procedures (IDRP). Scheme administrators need to comply with that legislation and related guidance, including the requirement that decisions are taken within a reasonable period. Its aim is to provide arrangements that give the member the opportunity to explain the nature of his complaint to the scheme administrators and maximise the opportunity to resolve the disagreement internally. IDRP is not final and disputes involving alleged or actual maladministration or disputes concerning fact or law can also be considered independently by the Pensions Ombudsman (PO) if the complaint cannot be resolved internally.

0914. IDRP can be used for all cases where there is alleged or actual maladministration, or in cases where there is a dispute over fact or law.

0915. Complaints against SPVA(GL) may be made under the scheme's IDRP. Those eligible to complain under these procedures are:

- (a) serving members of the scheme;
- (b) members of the scheme who have left service;
- (c) dependants of deceased members of the scheme;
- (d) pension credit members of the scheme;
- (e) potential members of the scheme;
- (f) anyone claiming to be in any one of the above categories;

- (g) an appointed representative (eg a friend or solicitor) of the above.

A former member of the Scheme who transferred pension benefits out of the Scheme into a new scheme more than six months prior to making a complaint is not permitted to complain under IDRP. This does not apply in respect of the transfer from AFPS 75 to AFPS 05 as a result of the OTT where the individual will be treated as if no change of scheme had occurred for these purposes.

0916. There are two stages to the IDRP. Decisions under first stage IDRP will be made by a single deciding officer at C1 or C2 grade at SPVA (GL).

0917. The complaint must be made in writing and should clearly state in respect of which scheme IDRP is being invoked eg AFPS 75, AFPS 05 or RFPS. It would help with the processing of the complaint if it is made clear whether:

- The complaint is against the application of the pension scheme rules or
- The exercise of discretion within the rules.
- It should explain the capacity of the complainant (eg serving member, member who has left service or pensioner), giving details of Service, rank, Service number etc and any other relevant information. It should state what the disagreement is about, and what the desired outcome is.
- A dependant of a deceased scheme member should give their own details as well as those of the scheme member, and explain their relationship to the member.
- If an appointed representative is acting on behalf of the claimant, he or she should provide details of name, address, profession and an address for correspondence; also proof that he has been appointed as representative.

Please ensure the letter is clearly headed “IDRP Complaint” and indicate in which category the dispute should be considered. To provide full details of the complaint and evidence of why the rules have been incorrectly applied in relation to the pension or why discretion should be exercised in a different way.

0918. If the complaint does not contain the above information, it will be sent back stating what information is still required and that no further action can be taken until this is provided.

0919. Once a complaint is accepted for processing under IDRP, receipt will be acknowledged.

0920. Paras 0920-0922 outline the first stage of the complaints procedure. The complaint must be made to SPVA(GL) at the following address:

Service Personnel and Veterans Agency (Glasgow)
C1 Armed Forces Pensions
MOD Authority Pensions
SPVA (GL) Mail Point 600
Kentigern House
Glasgow
G2 8EX

0921. The complainant should be issued with a decision under the first stage of IDRP within two months of receipt of the complaint. This is known as “the notice of decision”. If a reply is not possible within that timescale, an interim reply will be sent explaining why there has been a delay and when a full reply can be expected.

0922. The notice of decision will include:

- An explanation of the decision, including references to any legislation or scheme rules on which it is based.
- If the complaint is rejected, advice on the right to refer the decision for consideration at the second stage of IDRP by a single deciding officer at OF5 level at the SPVA within a time limit of six months from the date of the notice of decision.
- Advice that The Pensions Advisory Service (TPAS) is available, and its address.

0923. Paras 0923-0926 outline the second stage of the complaints procedure. Under the second stage, members of the scheme have the right to appeal against the decision made on their complaint under the first stage. The appeal should be sent to SPVA (GL)

0924. Appeals against the decision made under the first stage, must be made in writing within six months of the notice of decision. Appellants must provide the same categories of basic information as were required at the first stage, but should also provide a clear statement as to why they disagree with the Stage 1 decision and offer evidence to demonstrate why they believe the original decision was wrong and the outcome they are seeking.

0925. As with the first stage, if the necessary information is not provided the complaint will be referred back to the appellant stating that no action can be taken until this is provided.

0926. Decisions on complaints under the second stage will normally be considered by a single deciding officer at OF 5 level at SPVA who will take the necessary medical or legal advice as appropriate, which will normally be separate from the advice provided at Stage 1. This process will take up to two months, although more complex cases can take longer. Individuals will be informed if it is likely that their case will take longer than two months.

The Pension Advisory Service (TPAS) and The Pension Ombudsman (TPO)

0927. The Pension Advisory Service (TPAS) can be contacted for advice at any stage during IDRP, but the individual must have raised their complaint in writing to SPVA(GL) before contacting TPAS for help. A TPAS adviser will assist the individual through and if necessary beyond the process.

0928. TPAS usually undertakes the initial investigation of a case in correspondence with the administrators of the pension scheme. It will then pass the complaint on to the Pensions Ombudsman if it believes the complainant has a case. TPAS will also assist with general enquiries on State pensions and gives free help and advice to members of the public on all matters concerning occupational pension schemes.

0929. The address for TPAS is:

TPAS
11 Belgrave Road
London
SW1V 1RB

0930. If the complaint is not resolved by IDRP, the complainant is entitled to take the complaint to the Pensions Ombudsman through TPAS (see paras 0927-0929).

0931. A complaint to the Pensions Ombudsman should be made within three years from the date on which the event or decision causing the complaint took place. If the complainant did not know about the matter at the time, the three year period runs from the time when he knew, or reasonably ought to have known.

0932. The Pensions Ombudsman investigates complaints of maladministration and disputes of fact or law concerning the scheme in question. He or she cannot investigate a complaint or dispute already subject to court proceedings, including employment tribunals.

0933. The Pensions Ombudsman has power to compel the disclosure of documents. He or she may also hold an oral hearing with both sides present. If the Ombudsman finds that a benefit has not been paid when it was due, he has the power to award interest.

0934. The Pensions Ombudsman's decision is final and binding both on the complainant and on the Scheme, subject only to an appeal to the High Court on a point of law. The Pensions Ombudsman's address is:

The Pensions Ombudsman
11 Belgrave Road
London
SW1V 1RB

0935. Before appealing to the Pensions Ombudsman, however, complainants must go through the full IDRP process unless the Ombudsman decides that there is no real prospect of an IDRP decision being made in a reasonable time or he thinks it is reasonable to deal with the complaint straight away.

COMMUTATION OF SMALL PENSIONS

0936. If the AFPS 05 pension is worth less than £100 per annum, this pension can automatically be commuted into a lump sum without doing a LTA test. If it is worth more than £100, but is within the limit of 1% of LTA then SPVA (GL) will ask the scheme member if they have any other pensions in payment. If when combined, the amounts do not amount to more than 1% of LTA then the individual can commute the pension into a lump sum. Seventy-five per cent of the lump sum paid is treated as taxable pension income. For the forthcoming Financial Years this equates to a pension of less than:

2008-09	£715 pa
2009-10	£760 pa
2010-11	£782 pa

0937. Where more than one pension exists they may only be commuted if they do not when ***aggregate*** exceed the small pensions commutation maximum. |

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Chapter 10

OFFER TO TRANSFER (OTT) ARRANGEMENTS

GENERAL

1001. 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. The following details the terms agreed for those who chose to transfer.

1002. All personnel who opted to transfer to AFPS 05 were transferred on a common member transfer date (MTD) of 6 April 2006.

BASIS OF THE TRANSFER OF QUALIFYING AND RECKONABLE SERVICE

1003. Reckonable and **qualifying service** in AFPS 75 was transferred to AFPS 05 on a year-for-year basis.

1004. Service prior to age 18 for Other Ranks and prior to age 21 for Officers did not count in AFPS 75 but, under an arrangement applying **only** for the OTT, those transferring to AFPS 05 were allowed to count it as reckonable service.

1005. If an individual were to be credited with pre-18 or pre-21 service, leave the Armed Forces leaving a preserved pension in the Scheme and subsequently rejoin, he would not lose this credit.

1006. Personnel who leave the Armed Forces with preserved benefits in AFPS 75 who subsequently rejoin after 6 April 2005 will not have the opportunity to have any pre-18 or pre-21 service they may have done as a member of AFPS 75 counted.

1007. The maximum amount of **reckonable service** (including this pre-18 and pre-21 service and the value transferred across from any AFPS 75 AVC or Added Years arrangement) which could be transferred in to AFPS 05 was 35 years. This is because, under AFPS 75, the maximum pension payable was worth 50% of pay (at representative rate) and 35 years gave the same benefit under AFPS 05 (although AFPS 05 gave individuals the opportunity following transfer to carry on building up reckonable service to a total of 40 years).

EXAMPLE

If an officer aged 50 on MTD, who had been promoted from the ranks having joined the Armed Forces at age 16, opted to transfer to AFPS 05, he would be entitled to carry the whole 34 years of his service over to the new scheme. This is irrespective of the fact that 29 years would have been reckonable for pension under AFPS 75. Any further service after MTD would count for pension up to a maximum of 40 years.

If the officer had been 52 years old on MTD rather than 50, his service would total 36 years (31 years of which would have been reckonable under AFPS 75), but he could only count 35 in the new scheme. Again any service after MTD would count for pension up to a maximum of 40 years.

DISCHARGE ON ATTRIBUTABLE ILL-HEALTH GROUNDS FOR A CONDITION PRE-DATING 6 APRIL 2005

1008. AFPS 05 does not offer separate *attributable* ill-health pensions. For attributable conditions caused by service on or after 6 April 2005, benefits will be considered under the rules of the Armed Forces Compensation Scheme. Benefits for those who are medically discharged because of an *attributable* condition caused before 6 April 2005 are dependent upon the allocated tier as follows:

- (a) For Tier 1, the member will be given the choice of either:
 - (1) receiving what was referred to as a Service Invaliding Pension (SIP) under AFPS 75 topped up to the Minimum Guaranteed Income (MGI) (formally known as the Service Attributable Pension (SAP)), or
 - (2) receiving EDP (if the member has reached the EDP 18/40 Point) topped up to the MGI. The EDP becomes tax-free.
- (b) For Tier 2 and Tier 3, the AFPS 05 ill-health pension will be compared to the MGI. If the MGI is higher than the AFPS 05 pension then a top-up will be made. The ill-health pension becomes tax-free in both cases.

This does not mean that other benefits from AFPS 05 are lost (eg *spouses'*, *civil partners'* and *eligible partners'* pensions for life) or that other benefits from AFPS 75 are gained (eg the option to commute pension into lump sum).

PROTECTION OF THE POSITION OF THOSE WHO TRANSFER WHO ALREADY HAVE A SPOUSE OR CIVIL PARTNER WHO IS MORE THAN 12 YEARS YOUNGER THAN THEMSELVES

1009. AFPS 05 contains a rule which reduces the pensions of spouses and civil partners who are more than 12 years younger than the member (para 0419). This is a rule common to most Public Sector schemes, and it takes account of the longer time that a pension would be in payment when compared to the life span figures assumed by the actuary for the purposes of assessing the reasonable cost for the Scheme. Individuals who opt to transfer to AFPS 05 who already have a spouse or civil partner who is more than 12 years younger than themselves will not be subject to this rule. This transitional rule is not extended to existing partners as partners did not qualify for non-attributable pensions under AFPS 75.

1010. If, however, they divorce, the ***civil partnership*** is dissolved or that spouse or civil partner dies and they form a qualifying relationship with another person who is more than 12 years younger than themselves, they will become subject to the rule. Further, if, for example, a couple divorced and then re-marry each other, the protection of this transitional rule would be lost.

PROTECTION OF THE POSITION OF THOSE WHO TRANSFER AND ARE SUBSEQUENTLY MADE REDUNDANT

1011. An individual who opts to transfer to AFPS 05 as a result of the OTT who is subsequently made redundant as part of the personnel reductions flowing from the 2004 Spending Review will have the option to transfer back to AFPS 75 to take advantage of the redundancy terms offered by that scheme. The decision to revert to AFPS 75 **MUST** be received and actioned by SPVA(GL) before his last day of paid Service. In arriving at their decision as to which scheme to choose, personnel will need to consider the whole range of benefits offered by each scheme. If an individual opts to transfer back to AFPS 75, all their pension benefits will be those linked to that scheme and rights to all AFPS 05 benefits will cease. For further information on redundancy see Part 5 of this publication.

TREATMENT OF ADDED YEARS

1012. It was agreed that those purchasing added years under AFPS 75 who opted to transfer to AFPS 05 as part of the OTT could choose to:

- stop their contributions on transfer and receive a pro-rata increase in their reckonable service in respect of the premiums paid;
- continue paying the same premium to purchase the same number of added years;
- start a new contract for a different number of added years at a premium reflecting their age at the time the new contract is entered into. This means that a member may keep his original contract based on his age at the time he entered into it and enter a new contract in respect of the balance he wishes to buy, subject to the 15% Scheme limit.

TREATMENT OF AVCs

1013. Under AFPS 75, separate AVCs were available to:

- increase death-in-service lump sum to four times pensionable earnings,
- increase ***spouse's*** benefits, and
- purchase headroom between representative pay and pensionable pay.

It was agreed that there would be no adjustment of ***reckonable service*** in respect of premiums paid to improve death-in-service lump sums, but that premiums paid towards improved spouse's benefits or the purchase of headroom would be converted into additional reckonable service up to a maximum of 35 years on transfer. (See 0522-0524 for further details and exceptions to this).

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Chapter 11

GURKHA OFFER TO TRANSFER (GOTT) ARRANGEMENTS

GENERAL

1101. The change in policy to allow Gurkhas, who have traditionally been members of the Gurkha Pension Scheme (**GPS**), to belong to AFPS 05 arises from a major review of Gurkhas' Terms and Conditions of Service, including their pension arrangements, the outcome of which was announced on 8 March 2007.

1102. It was agreed that:

- (a) those joining the Brigade of Gurkhas in 2007 would be eligible to join AFPS 05;
- (b) Gurkhas who were in service on 1 October 2007 would have the option to transfer to AFPS 75 or AFPS 05;
- (c) Gurkhas who were in service on or after 1 July 1997 but left before 1 October 2007 would have the option to transfer to AFPS 75 if their service ceased before 6 April 2006, and to AFPS 75 or AFPS 05 if their service ceased on or after that date;
- (d) **dependants** of deceased Gurkhas who were in service on or after 1 July 1997 but left service on or after 6 April 2006 or died in service on or after 6 April 2005 (see para 1129 below) are eligible for AFPS 05 benefits. Dependants of those who died on or after 1 July 1997 but before the dates specified are eligible for AFPS 75 benefits.

The rules for transfers to AFPS 05 (contained in SI 2005 No. 438 (as amended by SI 2007/2608)) which came into force on 1 October 2007 and a further amending SI 2008/229 for former **active members** of GPS with sufficient **qualifying service** for EDP) are as follows. Those opting to transfer to AFPS 05 extinguish their rights under GPS on the effective date of the transfer, and any benefits their dependants may have expected to receive under that scheme. The effective date of the transfer will be:

- (a) for active members of the GPS: 1 October 2007, unless an extension was granted;
- (b) former active members of the GPS who served more than two years but left without qualifying for a pension: 1 March 2008;
- (c) for former active members of the GPS who, had they been members of AFPS 05 at the date of their discharge would have been entitled to a pension paid at age 55 or EDP benefits and former active members who left with a GPS disability pension: 1 March 2008;

(d) for former **active members** of the **GPS** who left with a GPS pension, other than those described in (c): when they reach age 65; and

(e) the **dependants** of those who have died since 1 July 1997: 1 March 2008.

1103. For those described in 1102(c) and (d) above there will be individuals who left before 1 July 1997 who will be within the scope of the GOTT if they had **condoned service** to their exit date, which was on or after 1 July 1997. Condoned service occurs where the date of a member's discharge is brought forward for administrative convenience. The period between the actual date of discharge and the date the discharge was due to take place is called condoned service and, although it is not reckonable, it is **qualifying service**. The same does not apply to those who left on redundancy terms before 1 July 1997.

1104. AFPS 05 contains a rule which reduces the pensions of **spouses, civil partners** and **eligible partners** who are more than 12 years younger than the member (see Part 1, para 0419 of this JSP). This is a rule common to most Public Sector pension schemes, and it takes account of the longer time that the spouse can be expected to receive a pension when compared to the lifespan assumed by the **Scheme Actuary** for the purposes of assessing the cost of the scheme. Individuals who opt to transfer as a result of GOTT to AFPS 05 who already have a spouse or civil partner who is more than 12 years younger than themselves will not be subject to this rule. This exemption from the rule in Part 1 para 0419 of this JSP applies to spouses and civil partners described in para 1102 (d) who fall within the scope of the GOTT by virtue of the member's death.

1105. If, however, the member **divorces**, the **civil partnership** is dissolved or their spouse or civil partner dies and they form a qualifying relationship with another person who is more than 12 years younger than themselves, they will become subject to the rule. Further, if, for example, a couple divorce and then re-marry each other, the protection of this transitional rule would be lost. This transitional rule is not extended to existing partners who are not civil partners, as partners did not qualify for pensions under GPS.

1106. Where rights in respect of a GPS transferee are subject to a Pension Sharing Order (PSO) awarded by a UK Court, the benefits he is entitled to transfer will be modified to give effect to the PSO to which his rights are subject. This means that, if an active member or a former active member of the GPS already has a PSO, the amount he can transfer will be reduced in accordance with the PSO.

ACTIVE MEMBERS OF THE GPS

1107. Gurkhas described in para 1102(b) were entitled to transfer to AFPS 05 providing they opted to do so by 1 October 2007 except when, in individual circumstances, the Secretary of State has authorised that it may take place at a later date.

1108. This election is irrevocable except in the event that the decision was made on the basis of incorrect information having been provided on the personal benefit statement. Where permission to revoke the election is given by the Secretary of State, the individual must give his revocation in writing within three months of the permission being granted.

Basis of the Transfer for Active Members of GPS

1109. The **qualifying service** which will count in AFPS 05 is the qualifying service a Gurkha would have been able to count in **GPS** plus any service he has given before age 17. Service before age 17 will also count as reckonable in AFPS 05, provided that the individual's membership is as a result of his GOT'T decision. Paras 1110 – 1112 set out exactly how this **reckonable service** will be counted.

1110. Gurkha Officers fall into four distinct groups:

- Gurkha Commissioned Officers (GCO)
- Honorary Ranks
- Queen's Gurkha Officers (QGO)
- Re-employed Gurkha Officers (RGO)

For service from 1 July 1997 all Gurkha Officers' service will be reckonable on a year-for-year basis. Service before 1 July 1997 will count as reckonable in the following proportions:

(a) for GCOs and Honorary Ranks:

Rank	Factor for Service Pension	Factor for Disability Pension
Major (QGO) Honorary Captain (GCO) and Honorary Major	27%	26%
Major (QGO) Honorary Lieutenant (GCO)	26%	25%
Captain (QGO) Honorary Captain (GCO)	31%	30%
Captain (QGO) Honorary Lieutenant (GCO) and Honorary Captain	30%	29%
Warrant Officer Class 1 Honorary Lieutenant (QGO)	28%	27%
Warrant Officer Class 2 Honorary Lieutenant (QGO)	29%	28%
Colour Sergeant Honorary Lieutenant (QGO)	29%	28%
Sergeant Honorary Lieutenant (QGO)	31%	30%

(b) for QGOs and RGOs:

- for a Lieutenant, 27%
- for a Captain, 28%
- for a Major, 23%

Service before the age of 17 will also be reckonable as described in this para. This means that, if the individual was a Captain when he left and he had pre-17 service before 1 July 1997, it will count as 28% of a year.

EXAMPLE

A Captain who joined on 1 October 1985 on his 16th birthday would have 21 years and 1 day's reckonable service in GPS on 1 October 2007, the first year being non-reckonable due to his age.

His reckonable service in AFPS 05 would be calculated as follows:

$1/07/97-1/10/07 = 10 \text{ years } 93 \text{ days} = 10.2548 \text{ years}$

$1/10/85-30/6/97 = 11 \text{ years } 273 \text{ days multiplied by } 28/100 = 3.2894 \text{ years}$

Which gives a total of 13.5442 years service which would be reckonable in AFPS 05.

1111. **Reckonable service** for Other Ranks who joined on or after 1 October 1993 will be on a year-for-year basis.

1112. Reckonable service for Other Ranks, other than those referred to in para 1111, who were serving on or after 1 July 1997 will be the total of service from that date on a year-for-year basis and service before that date in the following proportions:

- For a Rifleman or Lance Corporal, 36%
- For a Corporal, 30%
- For a Sergeant, 29%
- For a Staff Sergeant or Warrant Officer 2, 27%
- For a Warrant Officer 1, 26%

Service before the age of 17 will also be reckonable as described in this para. This means that, if the individual was a Sergeant when he left and he had pre-17 service before 1 July 1997, it will count as 29% of a year.

EXAMPLE

A Warrant Officer who joined on 1 July 1980 on his 16th birthday would have 27 years and 93 days' reckonable service in GPS on 1 October 2007, the first year being non-reckonable due to his age.

His reckonable service in AFPS 05 would be calculated as follows:

$1/07/97-1/10/07 = 10 \text{ years } 93 \text{ days} = 10.2548 \text{ years}$

$1/7/80-30/6/97 = 17 \text{ years multiplied by } 26/100 = 4.42 \text{ years}$

Which gives a total of 14.6748 years service which would be reckonable in AFPS 05.

FORMER ACTIVE MEMBERS OF THE GPS WHO ARE STILL ALIVE

General

1113. Former **active members** of the **GPS** described in para 1102 (c) above who choose to transfer to AFPS 05 fall into one of three categories:

- (a) those who left with more than two years' service but without qualifying for a pension under GPS;
- (b) those who left with a GPS disability pension; and
- (c) those who left with a GPS pension, other than a disability pension.

The date by which the GOTT decision has to be made is 29 February 2008. This differs from the date specified in SI 2007 No. 2608 which cites 31 January as the decision date but the required notice was sent to SPVA on 10 October 2007, in accordance with Article L3(6)(b) of that SI changing the date to 29 February 2008. Although the decision date is 29 February 2008, the effective date of the transfer to AFPS 05 will depend upon individual circumstances and these are explained below.

1114. This election is irrevocable except in the event that the decision was made on the basis of incorrect information having been provided by the Department. Where permission to revoke the election is given by the Secretary of State, the individual must give his revocation in writing within three months of the permission being granted.

Basis of the Transfer for Former Active Members of GPS

1115. The **qualifying service** which will count in AFPS 05 is the qualifying service a retired Gurkha would have been able to count in GPS plus any service he has given before age 17. Service before age 17 will also count as qualifying and reckonable in AFPS 05, provided that the individual's membership is as a result of his GOTT decision. Qualifying service will have relevance for those who left with a GPS pension who, had they been an AFPS 05 member at the time, would have qualified for payments under the Early Departure Payments (EDP) Scheme. See Part 2, paras 0221 and 0222 of this JSP for GOTT rules on EDP.

1116. **Reckonable service** for an Officer will be the total of service from 1 July 1997 on a year-for-year basis and service before that date in the proportions described in para 1110. Service before the age of 17 will also be reckonable on a year-for-year basis if it falls after 30 June 1997 or in the relevant proportion to the extent that it falls before that date. Reckonable service is just one factor that the Secretary of State and the **Scheme Actuary** will consider when determining the amount of pension to be paid to an individual.

1117. Unlike the treatment of reckonable service for Other Ranks detailed at para 1111 for active members of the GPS, former active members who are Other Ranks who joined on or after 1 October 1993 will have their pre-1 July 1997 service treated as detailed in para 1118. This is because, their service having ended, there is certainty about their benefits: there is no opportunity for this group to give longer

service nor the possibility of early discharge from the Army.

1118. **Reckonable service** for Other Ranks who were serving on or after 1 July 1997 will be the total of service from that date on a year-for-year basis and service before that date in the proportions set out in para 1112. Service before the age of 17 will also be reckonable on a year-for-year basis if it falls after 30 June 1997 or in the relevant proportion if it falls before that date. Reckonable service is just one factor that the Secretary of State and the **Scheme Actuary** will consider when determining the amount of pension to be paid to an individual.

Those With More Than Two Years' Service Who Left Without a GPS Pension

1119. Those described at para 1113 (a) above without pension benefits of any kind will be treated as deferred members of AFPS 05. The amount of their **preserved pension** and preserved **pension lump sum** will be in a sum determined by the Scheme Actuary, who will take into account any gratuity which may have been paid when they left the Brigade of Gurkhas, and these **preserved benefits** will be payable at age 65. The reason that these benefits may include a pension commencement lump sum is that no previous pension commencement lump sum will have been paid from the **GPS**.

1120. Persons in this group will be entitled to transfer benefits out of AFPS 05 or apply for early payment of a preserved pension under Part 1, paras 0313, 0314 and 0316 of this JSP in the same way as other preserved pensioners. Providing the benefits are not transferred out, any subsequent **dependants'** benefits will be paid in accordance with normal AFPS 05 rules.

Those Who Left With a GPS Disability Pension

1121. Those described in para 1113 (b) above will have their pension calculated under the AFPS 05 rule in force at the time of their retirement. If their condition falls within Tier 1 (thus leaving with preserved benefits as described in Chapter 1 para 0303 of this JSP and a tax-free lump sum payable on discharge as described in Part 1 para 0321 and Part 2, Chapter 4 of this JSP), the amount of preserved pension will be adjusted by the Scheme Actuary to take account of GPS benefits paid from date of discharge to age 65. If the individual had completed enough service to reach the EDP 18/40 point, EDP benefits would be payable instead of the disability pension and the Scheme Actuary's calculation would take account of the fact that EDP benefits are not pension benefits. It is not believed that anyone within the scope of the AFPS 05 GOTT is in this category.

1122. Providing the former **active member's** condition falls into Tier 2 or 3 (as described in Part 1 paras 0319 and 0312 of this JSP) they will receive a pension based on their reckonable service adjusted by the Scheme Actuary in accordance with paras 1116 or 1118 above plus any adjustment in accordance with Part 1, paras 0319 and 0312 of this JSP. This means that, if the former active member left with a condition which falls into Tier 2 or 3, his reckonable service will be enhanced in respect of the relevant proportion of prospective service to age 55.

1123. Individuals described in para 1122 above will become entitled to the AFPS 05 benefits immediately and arrears will be backdated to the date of discharge. The arrears will be the difference between the amount paid under **GPS** and the amount which would have been paid under AFPS 05 since the date of discharge. If the lump sum payable under AFPS 05 is larger than the lump sum received under the GPS,

the amount of annual pension will be increased on a permanent basis to take account of the value of that lump sum in the ratio of £4.25 for every £100 of lump sum by which the AFPS 05 lump sum exceeds the GPS lump sum. This is due to the fact that HMRC rules prevent the payment of a second pension commencement lump sum.

EXAMPLE

A RGR Sergeant aged 40 who was discharged in 2007 with a GPS disability assessed at 50% would receive a GPS pension worth £2,146 pa and a lump sum worth £6,882. His medical condition would have entitled him to a Tier 2 pension had he been an AFPS 05 member. Assuming he had 12 years' reckonable service in AFPS 05 (rounded after adjusting for pre-1 July 1997 service) on a salary of £31,000 the Tier 2 pension he would have been entitled to had he been an AFPS 05 member would have been:

- A pension worth $(£31,000/70) \times 17 \text{ yrs} = £7,529$; and a lump sum worth three times the pension.

He has already received a lump sum of £6,882 so the balance of the AFPS 05 lump sum ($£22,587 - £6,882 = £15,705$) will be *inversely commuted* using a factor of £4.25 for every £100 of lump sum:

$$157.05 \times £4.25 = £667.46$$

His pension will, therefore, be £8196.46 ($£7,529 + £667.46$) and arrears will be calculated as if this had been the correct rate from his date of discharge.

1124. Any subsequent *dependants'* benefits will be paid in accordance with normal AFPS 05 rules. So, for example, the *spouse*, partner or *civil partner* pension would be calculated by multiplying the member's *final pensionable earnings* by the enhanced amount of *reckonable service* he was allowed to count, and the result multiplied by 1/112.

Those Who Left With a GPS Pension, Other Than a Disability Pension

1125. Those described in para 1113 (c) will have left with a GPS pension, paid to those who have given 15 or more years' reckonable service from age 18. There are three possible categories of persons to be considered in this group:

- (a) those who left at or after age 55;
- (b) those who left before age 55 who have reached the EDP 18/40 point; and
- (c) those who left before age 55 who have not reached the EDP 18/40 point.

SI 2007 No.2608 did not provide for (b): SI 2008 No.229 contains provision to cater for this group.

1126. For those described at para 1125 (a), the new rate of pension will come into payment immediately and the individual will be entitled to arrears backdated to the date of his retirement, adjusted to take account of **GPS** benefits paid since retirement.

If the lump sum payable under AFPS 05 is larger than the lump sum received under the GPS, the pension will be increased on a permanent basis to take account of the fact that HMRC rules prevent the payment of a second pension commencement lump sum (see example at para 1123).

1127. For those described in paras 1125 (a) and 1126, any subsequent **dependants'** benefits will be paid in accordance with normal AFPS 05 rules. So, for example, the **spouse's** pension would be calculated by multiplying the member's **final pensionable earnings** by the amount of **reckonable service** he was allowed to count, and the result multiplied by 1/112. However, it is understood that there is nobody within the scope of the AFPS 05 GOTT who falls into this category.

1128. For those described at para 1125 (b), their GPS pension will be replaced by EDP benefits. The amount of the pension which will come into payment when they reach age 65 will be calculated by the **Scheme Actuary**, taking into account the HMRC rule which does not allow the payment of a second pension commencement lump sum. The EDP will be calculated in the usual way (see Part 2 of this JSP). EDP payments will be backdated to the last day of service and arrears will be adjusted to take account of the amount of GPS pension already paid.

1129. For those described at para 1125 (b) and 1128, subsequent dependants' benefits will be paid under AFPS 05 rules.

1130. For those described in para 1125 (c), their GPS pension will remain in payment until age 65. They will not be proper **preserved pensioners** and they will not be allowed to transfer their benefits out or to claim their pension before age 65. They will not become members of AFPS 05 until they are 65. The amount of the pension which will come into payment when they reach age 65 will be calculated by the Scheme Actuary, taking into account the amount of pension already paid from the date of their retirement to age 65. HMRC rules prevent the payment of a second pension commencement lump sum and, in the event that, after the Actuary's calculations, one is due, a higher pension will be paid at age 65 on a permanent basis instead (see example at para 1123). If he dies before reaching age 65, his eligible dependants will receive GPS, not AFPS 05, benefits. If he dies on or after age 65, dependants' benefits will be paid in accordance with the AFPS 05 rules in force at the time of his death.

ACTIVE AND FORMER ACTIVE MEMBERS WHO DIED BEFORE 1 MARCH 2008

General

1131. If a former **active member** of the **GPS** with service, or **condoned service**, on or after 1 July 1997 died either in service before 1 October 2007 or in retirement before 1 March 2008, his **dependants** will be given the opportunity to choose between AFPS 75, AFPS 05 and GPS benefits. The date by which the GOTT decision has to be made is 29 February 2008. This differs from the date specified in SI 2007 No.2608 which cites 31 January 2008 as the decision date but the required notice was sent to SPVA on 10 October 2007, in accordance with Article L3(6)(b) of SI 2007 No.2608 changing the date to 29 February 2008. The effective date of the transfer to AFPS 05 will depend upon individual circumstances and these are explained below. The dependants of former active members of the GPS who had submitted an election form as part of the GOTT and died before 1 March 2008 will be within the scope of the GOTT: irrespective of the former active member's choice of scheme, the dependants will be entitled to consider the election afresh.

1132. There are three categories of deceased former active members whose dependants are within scope of the GOTT. They are:

- (a) those who died in service on or after 6 April 2005 but before 1 October 2007;
- (b) those who died having left service on or after 6 April 2006 with more than two years' **reckonable service** but no pension; and
- (c) those who died having left on or after 6 April 2006 with a GPS pension.

Although active members are only entitled to transfer to AFPS 05 if they were still in service on 6 April 2006 (which was the transfer date for the OTT for members of AFPS 75), the effective date for dependants of those who die in service is 6 April 2005. That is because the dependants of AFPS 75 members who died between 6 April 2005 and 5 April 2006 were offered whichever benefit package was most advantageous to them.

1133. Where the GPS dependants of those described in para 1132 choose to transfer to AFPS 05, benefits will be awarded under the rules current at the time of the member's death. All benefits for persons described in para 1132 were assessed individually by the **Scheme Actuary** but the following sets out the rationale for each group.

Death-In-Service Of GPS Member Before 1 October 2007

1134. For the dependants for those described in para 1132 (a), where the member has less than two years' reckonable service AFPS 05 benefits are confined to the difference between any lump sum they have already received in respect of the member's death and the lump sum which would have been payable under AFPS 05. However, there is nobody within the scope of the AFPS 05 GOTT who falls into this category.

1135. If the deceased member had given more than two years' **reckonable service**, the **spouse, eligible partner or civil partner** will receive a pension based on the member's service, adjusted, if necessary, to reflect the making of a PSO. The amount of pension due under AFPS 05 will be determined by the **Scheme Actuary** and payments will be backdated to the date of the member's death. Any difference between the **GPS** family pension and the AFPS 05 survivor's pension will be paid as taxable arrears. If the death-in-service lump sum in AFPS 05 is larger than the one awarded under GPS rules, it will only be awarded as a tax-free lump sum if the death occurred within two years of the date of transfer to AFPS 05. Otherwise it will be included in any taxable arrears which may be due.

Those Who Died Having Left Service On Or After 6 April 2006 With More Than Two Years' Reckonable Service But No Pension

1136. For individuals described in para 1132 (b) no **dependants** benefits will have been payable from GPS (because GPS has no provision for deferred members) but dependants' benefits will be payable in accordance with normal AFPS 05 rules. There may be a lump sum if the preserved **pension lump sum** he would have been entitled to under AFPS 75 exceeds the amount the Scheme Actuary assesses needs to be recovered in respect of sums paid in terms of grants and gratuities on discharge from the Brigade of Gurkhas. If the deceased former member has no spouse, civil partner or eligible partner and no beneficiaries have been established by 29 February 2008, no GOTT decision can be made in respect of the deceased and no transfer to AFPS 05 may take place. However, there is nobody within the scope of the AFPS 05 GOTT who falls into this category.

Those Who Died Having Left With A GPS Pension

1137. For those described in para 1132 (c) there are two possible categories of pensioner to be considered. Those who:

- (a) Left with an disability pension; or
- (b) Left with a GPS pension (ie not a disability pension).

If he meets either of these criteria, his dependants will be entitled to pension benefits in accordance with normal AFPS 05 rules.

1138. For those described in para 1137 (a), dependants' benefits will be reassessed and they will receive a pension based on the member's service adjusted by the Scheme Actuary in accordance with paras 1116 and 1118 above plus an adjustment in accordance with Part 1, paras 0319 and 0320 of this JSP. This means that, if the former **active member** left with a condition which falls into Tier 2 or 3, his reckonable service will be enhanced, and that total will be the basis of the calculation of dependants' benefits. As benefits for dependants were worked out by the Scheme Actuary to assist dependants in reaching an informed decision, it is safe to assume that none of the deceased former **active members** would have fallen into Tier 1 and been entitled to a lump sum and **preserved pension** and **pension lump sum**.

1139. For those described at para 1137 (b), **dependants'** benefits will be reassessed under AFPS 05 rules, using the amount of **reckonable service** determined by the **Scheme Actuary** only (ie no enhancement) as the basis of the calculation.

1140. For those described in paras 1137 (a) and (b), the entitlement to AFPS 05 benefits will be backdated to the date of the member's death and any arrears due will

be paid as a lump sum. There is no lump sum due under Part 1, paras 0409 (death-in-service) or 0411 (death of a preserved member) of this JSP because the member left **GPS** before his death and received a lump sum at the time of his retirement. However, if he died within two years of leaving GPS, a defined benefit death benefit lump sum becomes payable under Part 1, para 0412 of this JSP.

Deliberately Blank