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| MOD_CMYK_AW.jpg JPG (72.8 KB). Opens in a new window.   | Brigadier Philip Bassingham-Searle Head of Armed Forces Remuneration Ministry of Defence Main BuildingWhitehall LONDON SW1A 2HB |
| See Distribution  | AF Rem/AFPS 15/AWE |
|  | 11 April 2024 |

Dear Stakeholders,

**Average Weekly Earning Remedy Consultation**

I invited your views on the proposed amendment to the Armed Forces Pension Scheme 2015 (Armed Forces Pension Scheme Regulations 2014 (S.I. 2014/2336)). The amendment provides for additional pension indexation for members in the scheme in 2020/21 and 2021/22 due to provisional Average Weekly Earnings figures being used in the Order made HM Treasury in 2021 and 2022.

Enclosed is our response to the consultation which ran between 22 January 2024 and 4 March 2024. Stakeholders are invited to note:

1. MOD received one consultation response from the Forces Pension Society, and no major objections were raised. Three policy issues were raised which are addressed in our response.
2. The Armed Forces Pensions (Amendment) Regulations 2024 will come into effect on 6th May and will apply to all Armed Forces personnel, who were active members of AFPS 15 in the relevant years.

Thank you for your assistance.

*Yours sincerely,*





**Amendments to the Armed Forces Pension Scheme Regulations 2014 (S.I. 2014/2336)**

Proposed amendment to correct errors in the 2021 and 2022 Revaluation Orders

Consultation Response

11 April 2024

1. This is MOD’s response to the stakeholder consultation which was conducted between 22January 2024 and 4 March 2024. MOD received one response to the consultation. While the respondent supported the proposed legislative change being made to address the discrepancies, there were concerns about the application of interest and the effect on members’ McCloud election. The comments raised in response to the questions asked in the consultation are detailed below, followed by MOD’s response.

**Question 1**

Do the proposed changes to regulation ensure that affected scheme members have the correct revaluation rates applied to their pension benefits for 2021 and 2022?

1. Stakeholder response: Yes, but please note that it is our opinion that a contributing reason for this error is the lack of transparency as to which ONS index is used to provide the Average Weekly Earnings (AWE) rates published in the Treasury Order. Whilst the methodology for the index supplement calculation is understood, without a clear reference/link to the relevant ONS index it is not possible to say with any certainty that affected members will have the correct revaluation rates applied.
2. MOD’s response: Under the 2013 Act, MOD is required to implement the index rate prescribed in the Treasury Order for that year. Should there be concerns about the index figure used, the concerns should be raised with HM Treasury as the responsible body for these Orders.

**Question 2**

Do the proposed changes ensure any receiving scheme as a club transfer includes the index supplement and retirement index supplement when relevant?

1. Stakeholder response: This is not strictly our area of competence. However, by passing across an additional amount of transfer value, it would seem to be as much as the MoD can be expected to do to correct the mistake.
2. MOD’s response: no response required.

**Question 3**

Are there any affected members for whom these proposed changes to the 2015 Scheme will not provide a remedy to address the error in 2021 and 2022 Orders?

1. Stakeholder response: It is our view that there are three groups of affected members for whom the proposed changes do not appear to address the error in the 2021 and 2022 Orders:
2. First, there is no mention of how the indexation will be applied for members who have died since the errors occurred and whose relatives are in receipt of AFPS 15 dependant benefits. How will the death benefits be dealt with?
3. Second, it is assumed that retired members (with EDP or AFPS15 pension) will receive some form of interest for the indexation not paid to them. We also need reassurance that members who benefitted from the indexation supplement or the retirement indexation supplement, will receive all subsequent increases as if the original error had not occurred.
4. Third, it is conceivable that some members might have altered their 2015 remedy election choice had the correct AWE rates been applied originally. We recognise that the numbers to whom this might apply will likely be small, but we believe it needs to be addressed.
5. MOD’s response:
6. The pension entitlements of members who died since the errors occurred will be treated no differently to pensioner members who are currently in receipt of a pension.
7. No interest will be payable to retired members with an EDP 15 or AFPS 15 pension in payment for the indexation (up to 0.6%) not paid during the affected years. This is because there is no power in the scheme regulations to pay interest on pension corrections. Even if there were, the cohort to whom interest would be payable is small and the amount payable so nominal per member that the administrative expense of the calculations would outweigh any interest payable. For example, using an interest rate of 8%, the interest calculation for an individual who retired the day after the 2022 uplift was applied (the maximum number of days), with a pension in payment of £10,000 per annum would amount to only £9.60. For a part time volunteer reservist retiring the same day, with a pension of £2000 per annum, the interest owed would be £1.92. Any interest paid would also be taxable at the member’s marginal rate, further reducing its value.
8. A paper was produced for the Armed Forces Pension Board outlining MOD’s approach to applying the 2015 Remedy. A comprehensive FAQ document has been developed and will shortly feature on RSSs moving forward. Due to the level of the AWE correction and the approach taken, as outlined in the paper, MOD do not believe that the correction would have a material impact on a member’s remedy choice. However, there is mitigation in place to ensure no members are disadvantaged. Members may apply to the scheme manager to have their election period extended if they believe they are unable to make their election or members may apply for compensation if they believe they have suffered a financial loss (i.e., the impact of the correction influenced their decision and they are now subsequently better off under the alternative option).



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