

## Ombudsman's Determination

Applicant	Mr L
Scheme	The Royal Ordnance Pension Scheme ( <b>the Scheme</b> )
Respondents	BAE Systems plc ( <b>the administrator</b> )  Royal Ordnance (Crown Service) Pension Scheme Trustees Limited ( <b>the Trustees</b> )  Royal Ordnance plc ( <b>the Employer</b> )

## Outcome

1. I do not uphold Mr L's complaint and no further action is required by the Respondents

## Complaint summary

2. Mr L has complained that his Incapacity pension, awarded in 2013, was not increased to a Full Medical Retirement pension on review in 2016.
3. I am not considering Mr L's second complaint, that he was not awarded the Full Medical Retirement pension in 2013. This was not accepted for investigation by My Office as it was brought more than three years after the event and is therefore out of time in accordance with Regulation 5 of The Personal and Occupational Pension Schemes (Pension Ombudsman) Regulations 1996 (SI 1996 No. 2475).

## Background information, including submissions from the parties

4. The Scheme is governed by Trust Deed and Rules (**the Rules**) originally dated 2 January 1985 and subsequently amended on 20 July 1999. The relevant rule is Rule A15, as set out in the Appendix.
5. Incapacity pension is payable when a member is unable to carry out his job or any comparable job offered by the Employer. Full Medical Retirement is granted where the member is incapable of carrying out any work of any type either then or in the future. This results in a higher pension.
6. The Rules say that, at a later date, an Incapacity pension can be increased to a Full Medical Retirement pension if it can be demonstrated, through subsequent medical

evidence, that the member's condition when they received the Incapacity pension was such that they should have been awarded a Full Medical Retirement pension.

7. However, the key factor here is that the medical evidence would have to show what the member's health was when they took the Incapacity pension and not what developed subsequently.
8. Mr L's date of birth is 8 July 1956. The Rules define Normal Pension Age (**NPA**) as age 65 for his category of membership and age.
9. Mr L joined the Employer in 1979. In 2002, following an accident at work he was reassigned to light duties. This continued until 2011 when, he says, he was moved to an unsuitable job which involved heavy lifting. This exacerbated his condition and he had to retire on ill health grounds in 2013.
10. Mr L applied for full medical retirement. In accordance with the Rules, his application was considered by the Trustees, acting on the advice of a Medical Officer (**MO**), Dr Kellerman.
11. In submitting its medical opinion to the Trustees, the MO must provide a Certificate which includes the following definitions:
  - 'Full Medical Retirement' means Retirement from Service due to the state of the Member's physical or mental health (resulting from accident or bodily or mental infirmity) which exists at the time the member's employment ends and which, in the opinion of the Trustees (acting on the advice of the Medical Officer or in reliance upon evidence produced by the Member), Permanently prevents the Member from performing his Duties.
  - 'Incapacity' means physical or mental deterioration which exists at the time the Member's employment ends and which, in the opinion of the Trustees (acting on the advice of the Medical Officer or in reliance upon evidence produced by the Member, is sufficiently serious to Permanently prevent the Member from following his normal employment. It does not mean simply a decline in energy or ability.
12. The definition of "Duties" in the Rules means:

"... in relation to a Member, the duties which the member is employed to perform at the time the Member's employment ends but which the Member was prevented from performing as a result of the state of the Member's physical or mental health (resulting from accident or bodily or mental infirmity) or any other duties, taking account of the state of the Member's physical and mental health at the time in question, that the Trustees consider, ignoring for this purpose any shortage or absence of work, could be found for the Member either with the Employer or with any other employer and which the Trustees consider it reasonable for the Member to undertake".
13. The MO certified that she had taken into account evidence, provided by registered medical practitioners, submitted by Mr L. In her opinion, Mr L was a suitable

candidate for Incapacity Retirement and that, as there remained “a fairly good prognosis for a resolution of his symptoms”, a further review should be undertaken in two to three years’ time.

14. Mr L was subsequently awarded an Incapacity pension payable from 1 February 2013.
15. Mr L’s case was reviewed in October 2016. Following the submission of a report, dated 5 October 2016, by a second MO, Dr Williams, who reviewed reports from Mr L’s GP and specialist, the Trustees decided to continue with the Incapacity pension with no further review planned.
16. In January 2017, Mr L requested that his case be reviewed from the outset as he believed he should have qualified for a Full Medical Retirement pension from 2013. He provided additional medical evidence to support his claim.
17. On 12 July 2017, the Trustees told Mr L that it had decided that the medical evidence presented did not support a change in the original decision to award an Incapacity pension.
18. In January 2018, Mr L appealed this decision through the Scheme’s Internal Dispute Resolution Procedure (**IDRP**).
19. The Trustees obtained a further opinion from another MO, Dr Evans.
20. Dr Evans submitted a comprehensive report, dated 22 February 2018, in which he set out the documents he had reviewed, including reports from Mr L’s GP and specialists; a job capability report from a registered general nurse, countersigned by a consultant occupational physician; and a letter from Mr L.
21. Dr Evans agreed that, at the time Mr L left employment, his medical condition prevented him from following his normal job. He also acknowledged that Mr L’s fitness for occupations other than his own was less clear. He said that:-
  - Despite Mr L’s spinal problems, the job capability report had indicated that he retained capacity for employment.
  - Dr Kellerman had pointed out that Mr L would have been expected to be capable of undertaking suitable office-based work, albeit that adjustments would be required to enable him to do so.
  - The key consideration was whether, at the time he left employment, Mr L’s incapacity was likely to have been permanent.
  - In Dr Evans’ opinion, it would have been reasonable to have considered that Mr L’s symptoms were likely to improve over time.
  - While this improvement was probably not going to be sufficient to have enabled Mr L to undertake physical work, it was likely to have been sufficient to have

enabled him to undertake suitable employment, perhaps of an office-based nature, as suggested by Dr Kellerman.

- Given that Mr L had over eight years remaining to his Normal Pension Age (NPA) at the time he left employment, it was more likely than not that this improvement would have occurred before he reached NPA.
- Even if the anticipated improvement did not occur, further treatment options were available which, it was reasonable to conclude, would have resulted in a reduction of Mr L's symptoms and an increase in his capacity for work before NPA.

22. In summary, Dr Evans agreed with previous MOs that, at the time Mr L left employment, the definition of Incapacity was likely to have been met and the definition of Full Medical Retirement was unlikely to have been met.

23. On 1 May 2018, the Trustees responded to Mr L's appeal under Stage 1 of the IDRP. They rejected his complaint, saying that:

- having considered medical advice received, the Trustees concluded that the existing medical evidence, together with the additional medical evidence that Mr L had provided, did not support an award of a Full Medical Retirement pension; and
- their decision to award an Incapacity pension effective from 1 February 2013 was correct.

24. The Trustees added that:-

- They must base their decision on the medical evidence available at the time of a member's original application for ill health retirement. Medical evidence that may subsequently become available that is relevant to the original application may also be considered.
- Under the Rules, there is no provision for an Incapacity pension that has been awarded correctly to be subsequently amended to a Full Medical Retirement pension in the event of a deterioration in the member's health.
- Mr L had provided insufficient detail regarding his job move in 2011, or explanation of why it was unsuitable and how it led to his early retirement, to enable the Trustees to comment further. In any event, this aspect of his complaint would ideally have been raised at the time with his line manager, Human Resources and Occupational Health teams.

25. On 2 October 2018, Mr L submitted a further appeal under Stage 2 of the IDRP. He provided details of the tasks he had to carry out when he moved job in 2011, together with a letter from his present GP, Dr Killeen, following a recent MRI lumbar scan. The GP's letter stated: "He will not be fit to work again".

26. His appeal was initially considered by the Administration and Audit Committee (the Committee), which then provided a report for the Trustees. The Committee sought

the advice of a further MO, Dr Goldsmith. In his report, dated 23 November 2018, Dr Goldsmith said:

“I have read the latest appeal from [Mr L], dated 02 October 2018 and it would appear from [Mr L’s] letter that he is not fully understanding of the fact that once an Incapacity Pension is awarded, it cannot be advanced to full medical retirement under any circumstances under the Royal Ordnance Pension Scheme”.

27. Dr Goldsmith reviewed all previous medical evidence and the recommendations made by the previous MOs. He said:

“I have looked carefully at the whole case, and both at the report from Dr Kellerman that led to, in our opinion, the correct decision to award an incapacity pension, and all the reviews including Dr Glyn Evans’ review in February of this year in which he makes it quite clear why he believes that incapacity pension was the right level of award in February 2013. I have looked at the new evidence provided and candidly, the GP opinion states that in her opinion he will not be fit to work again, and this ‘degeneration’ is eventually ‘progressive’.

I have rejected Dr Kileen’s opinion because she makes no effort to suggest that part-time or sedentary work cannot be undertaken safely by this man. Whilst I accept that his back pain is such that physical work involving movement in the back and manual labour would be impossible at this time, the fact is that there was no evidence given by the GP that this was the case in 2013 and none of the medical evidence that has been given to us suggests that this was the case”.

28. In its report to the Trustees, the Committee said:

” ...

- (i) [Mr L’s] L4/L5 disc prolapse that existing (sic) prior to retirement, would not have affected the TMA’s original recommendation to award an incapacity early retirement. This is because the prolapse is a treatable condition;
- (ii) There is no medical reason why, based on medical evidence available in 2013 and with adequate treatment available at that time, that he could not have continued with some work, even if not the original work that he was employed to do. Hence [Mr L] did not meet the eligibility criteria for a full medical retirement to be awarded at that time.

The Trustee’s legal advisers, Pinsent Masons, have also reviewed [Mr L’s] appeal. They conclude that the medical evidence provided with [Mr L’s] appeal can be discounted together with the injury claim correspondence as this does not form part of the medical test for incapacity / full medical retirement.

### **Proposal**

[Mr L’s] case has been extensively reviewed on a number of occasions since 2013 by various Medigold Trustee Medical Advisers and most recently by Medigold’s

most senior Occupational Physician Dr Mike Goldsmith. Legal advice has also been obtained from Pinsent Masons. Based on this professional advice, it is concluded that the original award of an incapacity pension in 2013 was correct and that [Mr L] did not qualify for a full medical retirement pension at that time. It is therefore recommended that [Mr L's] appeal is rejected".

29. In their response to Mr L's Stage 2 IDRP appeal, dated 20 December 2018, the Trustees said that they had taken account of an independent medical review of Mr L's case, undertaken by a Senior Occupational Health Physician. The Trustees rejected Mr L's appeal for the following reasons:-

- The additional medical evidence and Industrial Disablement Benefit Claim correspondence Mr L had provided did not, in the opinion of the Trustee's medical advisers and legal advisers, impact the decision made by the Trustees to award an Incapacity Pension from 1 February 2013. All relevant evidence available at that time and that which had subsequently become available and which was applicable to Mr L's state of health in 2013 had been taken into account.
- The relevant medical evidence indicated that in 2013 there was no reason not to believe that adequate treatment was available that would have allowed Mr L to continue some work, even if this were not the original work he was employed to undertake.
- Under the Rules, any subsequent deterioration in the state of Mr L's health since the original award were not grounds for an appeal. It was not possible to amend an Incapacity pension to a Full Medical Retirement pension when it had been determined that the award of an Incapacity pension was the correct decision for the Trustees to originally have made.

30. Mr L says:

- The Employer was fully aware of his neck and back problems from a works accident in 2002, when he was put on light duties to return to work after a long time off. He remained there until 2011, when the Employer moved him to a totally unsuitable job, involving heavy lifting and carrying, without doing a risk assessment. This exacerbated his condition and eventually he had to retire through ill health in 2013. Treatment was limited due to him also having had a heart attack in 1998, but he tried everything that was at all possible.
- He has appealed three times about granting him a Full Medical Retirement pension, but each time the Trustees have come back with the question of the permanence of his condition, even though he has submitted at least six letters from various dates and medical professionals, all stating that he will have this condition for the rest of his life.

## Adjudicator's Opinion

31. Mr L's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Respondents. The Adjudicator's findings are summarised below:-

- Members' entitlements to benefits when taking early retirement due to ill health are determined by the scheme rules or regulations. The scheme rules or regulations determine the circumstances in which members are eligible for ill health benefits, the conditions which they must satisfy, and the way in which decisions about ill health benefits must be taken.
- Clause 12 of the Rules (**Clause 12**), later replaced by a Deed dated 26th March 2004, gives the Trustees power to delegate to any one or more persons appointed by them such of their powers they consider necessary for the convenient administration of the Scheme.
- In Mr L's case, the pertinent rule is Rule A15 (see Appendix). To receive a Full Medical Retirement pension, Mr L would have to satisfy the conditions set out in Part a(ii) of this rule and be considered permanently incapable of undertaking:
  - any regular work that the Trustees believe is reasonable for him to undertake for the Employer; and
  - any work again (in any capacity) which the Trustees consider is reasonable (whether or not with the Employer).
- The decision as to whether Mr L met the requirement at the relevant time was for the Trustees to make. However, in this case the Trustees had delegated this responsibility to the Committee in accordance with Clause 12.
- The decision was a finding of fact. Mr L either met the requirement for a Full Medical Retirement pension or he did not. Given the nature of the decision, it was appropriate for the Committee to seek medical advice before making its decision. However, it was not bound by the advice it received and it should come to a properly considered decision of its own.
- The Committee was entitled to rely on the advice it received unless there was a good reason why it should not have done so or should not have done so without seeking clarification. The Committee was only expected to review the medical evidence from a lay perspective. It was not expected to challenge a medical opinion.
- The Adjudicator did not agree with Dr Goldsmith's interpretation of the Rules. In his view Rule A15 (d) (ii) makes clear that if a member is in retirement on grounds of incapacity his pension may be increased to Full Medical Retirement if the Trustees and the Principal Employer are both satisfied that, in the light of

subsequent medical evidence relating to the state of the member's physical or mental health, it is warranted.

- So, the Rules do allow for review of the original decision. The question was whether Dr Goldsmith's misinterpretation changed the outcome causing Mr L injustice.
- Dr Goldsmith had considered all the previous assessments, including the initial report from Dr Kellerman and Dr Evans' review in February 2018. As Dr Goldsmith pointed out, Dr Evans made it quite clear why he believed that an incapacity pension was the right level of award in February 2013.
- Dr Goldsmith also considered Dr Kileen's opinion and rejected it as she had made no effort to suggest that part-time or sedentary work could not be undertaken safely by Mr L, even though this was something that had been suggested previously.
- In the Adjudicator's opinion, the conclusion reached by Dr Goldsmith was not unreasonable and was supported by the comprehensive report produced by Dr Evans some nine months previously. Dr Evans had addressed the necessary eligibility test.
- The evidence indicated that, despite the flaw in Dr Goldsmith's report, the outcome was not adversely affected by it and, therefore, Mr L had not sustained injustice.

32. The Trustees accepted the Adjudicator's view, whereas Mr L did not and the complaint was passed to me to consider.

33. Mr L says:-

- He believes he was treated unfairly. His future income has been decided on the "balance of probability" and not true medical evidence.
- He was not capable of doing any job, which is why he had to retire and he has not worked since.
- The Employer could not find a job that he could do and he was extremely worried about it. Dr Evans's opinion that he would probably improve over time, was only speculation, which unfortunately proved to be incorrect.
- There was no other treatment that he could have had, and surgery was not an option. All medical evidence stated that his condition was permanent, but the Trustees preferred to base their decision on the balance of probability.
- His illness had started in 2002 with a works accident and progressed over the years. The Employer was aware of his limitations, and gave him jobs accordingly until 2011, when several weeks on a totally unsuitable job finished him off. The Employer even admitted liability and paid £6000 compensation.



- He was also able to claim industrial injuries benefit for life which requires a lot of investigation and medicals. He also suffered a heart attack at age 41, a year after he had finished work, which on the "balance of probability", would probably have happened in work.
- He is only trying to point out that his illnesses were declared permanent years before he finished, and the Employer was aware of this.

34. I have noted the points raised by Mr L however, I agree with the Adjudicator's Opinion for the reasons I have set out below.

### **Ombudsman's decision**

35. When considering how a decision has been made, I will generally look at whether:

- the correct questions have been asked;
- the applicable scheme rules or regulations have been correctly interpreted;
- all relevant but no irrelevant factors have been considered; and
- the decision arrived at must not be one that no reasonable body would make.

36. Providing the Trustees have acted in accordance with the above principles and within the powers given to them by the Rules, I cannot overturn the decision merely because I might have acted differently. It is not my role to review the medical evidence and come to a decision of my own as to Mr L's eligibility for payment of a Full Medical Retirement pension under the Rules. I am primarily concerned with the decision-making process.

37. The weight which is attached to any of the medical evidence is for the Trustees to decide, including giving some of it little or no weight. It is also open to the Trustees to prefer evidence from its own advisers unless there is a cogent reason why it should or should not, without seeking clarification first. For example, when an error or omission of fact or a misunderstanding of the relevant rules has been made by the medical adviser.

38. If I find that the decision-making process was in some way flawed or the decision reached was perverse, that is, one that no reasonable body would have taken, the appropriate course of action is for the decision to be remitted for the Trustees to reconsider.

39. The review in July 2017 was not to assess Mr L's condition at that time, but to consider whether, in the light of subsequent medical evidence, the original decision had been correct. Rule A15 (d) (ii) makes clear that any subsequent deterioration in the state of Mr L's health since the original award was not grounds for an appeal. The key consideration was whether, at the time he left employment, Mr L's incapacity was likely to have been permanent.

40. The decision made by the Trustees, following the review, to continue to decline Mr L's application for a Full Medical Retirement pension from the Scheme, was taken only after they had carefully considered all the available relevant evidence. The Trustees had weighed the evidence before them and considered that Mr L was, at the time of leaving employment, not permanently incapable of carrying out any regular work until his NPA.
41. Following Mr L's appeal, the Trustees obtained two further medical opinions which also supported their original decision.
42. I am satisfied that the Trustees gave proper consideration to Mr L's application by assessing all the relevant medical evidence available and that they acted in accordance with the Rules and the above principles. In my view, their decision not to award Mr L a Full Medical Retirement pension was therefore not one that no reasonable body would make, and it was within the bounds of reasonableness.
43. The fact that Mr L is still suffering from the same medical condition does not impact upon the validity of the original decision. The Trustees could only be expected to make their decision in February 2013 based on the condition as it was understood at the time and to reconsider that decision in light of the medical prognosis available at each stage of the review process. That Mr L's condition may not have followed the course anticipated at the time does not in itself provide evidence that the original decision was incorrect.
44. I do not uphold Mr L's complaint.

**Anthony Arter**

Pensions Ombudsman  
14 July 2021

## Appendix

Rule A15, 'Retirement on Medical Grounds' provides:

"(a) This Rule applies to a Crown Service Member who is either Retired on account of Incapacity not amounting to Full Medical Retirement or subject to Full Medical Retirement (as hereinafter defined). For the purposes of this Rule:

- (i) "Incapacity" means physical or mental deterioration in health which exists at the time the Member's employment ends and which, in the opinion of the Trustees (acting on the advice of the Medical Officer and/or in reliance upon evidence of a registered medical practitioner(s) produced by the Member), is sufficiently serious to Permanently prevent the Member from following his normal job, or any comparable job offered by the Employers which the Trustees consider is reasonable, without necessarily preventing him from working in any capacity in the future. It does not mean simply a decline in energy or ability; and
- (ii) "Full Medical Retirement" means Retirement from Service due to the state of the Member's physical or mental health (resulting from accident or bodily or mental infirmity) which exists at the time the Member's employment ends and which, in the opinion of the Trustees (acting on the advice of the Medical Officer and/or in reliance upon evidence of a registered medical practitioner(s) produced by the Member), Permanently prevents the Member from undertaking any regular work that the Trustees believe is reasonable for the Member to undertake for the Employers and is sufficiently serious such that the Member will be unable to undertake any work again (in any capacity) which the Trustees consider is reasonable (whether or not with the Employers);
- (iii) ...
- (iv) "Retirement" means retirement from Service:
  - (i) at the election of the Member; or
  - (ii) of the Member by the Member's Employer;and "Retired" shall be construed accordingly;
- (v) "Permanently" means on the balance of probabilities until at least the Member's Normal Pension Age. In determining the balance of probabilities regard should be given to existing medical treatments.

(b) If the Crown Service Member is Retired on account of Incapacity not qualifying the Member for Full Medical Retirement he will, subject to the approval of the Principal Employer and the Trustees, be paid an immediate pension and lump sum on retirement calculated in accordance with paragraph (a) of Rule A14 but as if the reference to "Longevity Adjustment Factor 1" in that paragraph were a reference to Longevity Adjustment

(c) If the Crown Service Member is subject to Full Medical Retirement and he has completed on retirement at least five years' Qualifying Service, he will be paid an immediate pension and lump sum on retirement calculated in accordance with Rule A14 (but as if the reference to "Longevity Adjustment Factor 1" in that paragraph were a reference to Longevity Adjustment Factor 2 and subject to the limits specified in Annex I), with Pensionable Service enhanced by the period which would have been included in Pensionable Service if he had stayed in Service working Full-time Hours until Normal Pension Age (treating the period of enhancement as Pensionable Service after 31 March 2006 but using the Normal Pension Age in force at the date on which his Pensionable Service ceases) subject to a minimum period equal to that which would have applied to him had he remained in membership of his Former Scheme (hereinafter the enhancement is called "Potential Service").

(d) (i) If a Crown Service Member who retired on grounds of Incapacity or Full Medical Retirement prior to 1 June 2011<sup>156</sup> and is in receipt of a pension in accordance with paragraph (b) or (c) of this Rule (as applicable) recovers before Normal Pension Age sufficiently to be able in the opinion of the Trustees to earn an income, which when taken together with the pension being paid in accordance with paragraph (b) or (c) of this Rule (as applicable) is at a level which exceeds or could be reasonably expected to exceed the level of his earnings had he remained in Service, then the Trustees may at their absolute discretion from time to time reduce or suspend his pension until Normal Pension Age. However, the Trustees will not reduce or suspend the pension described in this paragraph to the extent that doing so would result in the pension being treated as an "unauthorised payment" (as defined in section 160(5) of the Finance Act 2004).<sup>157</sup>

If a Crown Service Member who retires on grounds of Incapacity or Full Medical Retirement on or after 1 June 2011 and is in receipt of a pension in accordance with paragraph (b) or (c) of this Rule (as applicable) recovers before Normal Pension Age such that, in the opinion of the Trustees, he no longer meets the definition of Incapacity or Full Medical Retirement (as the case may be), then the Trustees may at their absolute discretion from time to time suspend his pension until Normal Pension Age. If a Crown Service Member has retired on grounds of Full Medical Retirement and no longer meets that definition but does meet the definition of Incapacity then the Trustees may choose to recalculate his

pension on the basis of Incapacity. However, the Trustees will not reduce or suspend the pension as described in this paragraph if or to the extent that doing so would result in the pension being treated as an "unauthorised payment" (as defined in section 160(5) of the Finance Act 2004).

(ii) If:

(A) a Crown Service Member is in retirement on grounds of Incapacity, and

(B) is in receipt of a pension in accordance with paragraph (b) of this Rule, and

(C) the Trustees and the Principal Employer are both satisfied that, in the light of subsequent medical evidence relating to the state of the Member's physical or mental health (resulting from accident or bodily or mental infirmity) existing at the time the Member's employment ended that it would have been appropriate to treat that Crown Service Member as being subject to Full Medical Retirement, with effect from such date as the Trustees and the Principal Employer may together determine, the Crown Service Member's pension shall be increased to such level as the Principal Employer and the Trustees determine it would have been at as at that date had the Crown Service Member been subject to full Medical Retirement under paragraph (c) of this Rule. For the avoidance of doubt:

- ◆ no additional lump sum shall be payable but the Principal Employer and the Trustees may determine that the pension payable to the Crown Service Member may be increased by the pension equivalent of the lump sum that would have been payable under paragraph (c) of this Rule, and
- ◆ paragraph (d)(i) of this Rule shall continue to apply to that Crown Service Member, and
- ◆ no increase shall be made beyond a level which would cause the pension to be treated as an "unauthorised payment" (as defined in section 160(5) of the Finance Act 2004).

(e) For a Transferred Past Service Member who attains State Pension Age before 28 September 2000, the pension payable under this Rule will be reduced from State Pension Age in accordance with the terms set out in Annex V.

(f) The pension payable under this Rule from State Pension Age shall be not less than the total of the Equivalent Pension Benefit and the Guaranteed Minimum Pension in accordance with Annex II.

(g) If the Trustees receive evidence from the Medical Officer that a Crown Service Member is expected to live for less than one year at the time a pension in accordance with paragraph (c) of this Rule is to begin to be paid to him, the Member may elect with the approval of the Trustees to commute the whole of his pension (but not that of his Adult Dependant or Eligible Children) in exchange for a single lump sum. Where such commutation takes place on or after 14 June 2006, it shall include the Member's Guaranteed Minimum Pension. The amount of the lump sum will be calculated on a basis certified as reasonable by the Actuary. This will be allowed only if payment of a "serious ill-health lump sum" is permitted under Part 4 of the Finance Act 2004.

The commutation of benefits under this Rule A15(g) will not affect any pensions payable to the Member's Adult Dependant or Eligible Children. Such pensions shall be payable under, and payable from, a separate arrangement in respect of the Member for the purposes of the Finance Act 2004."