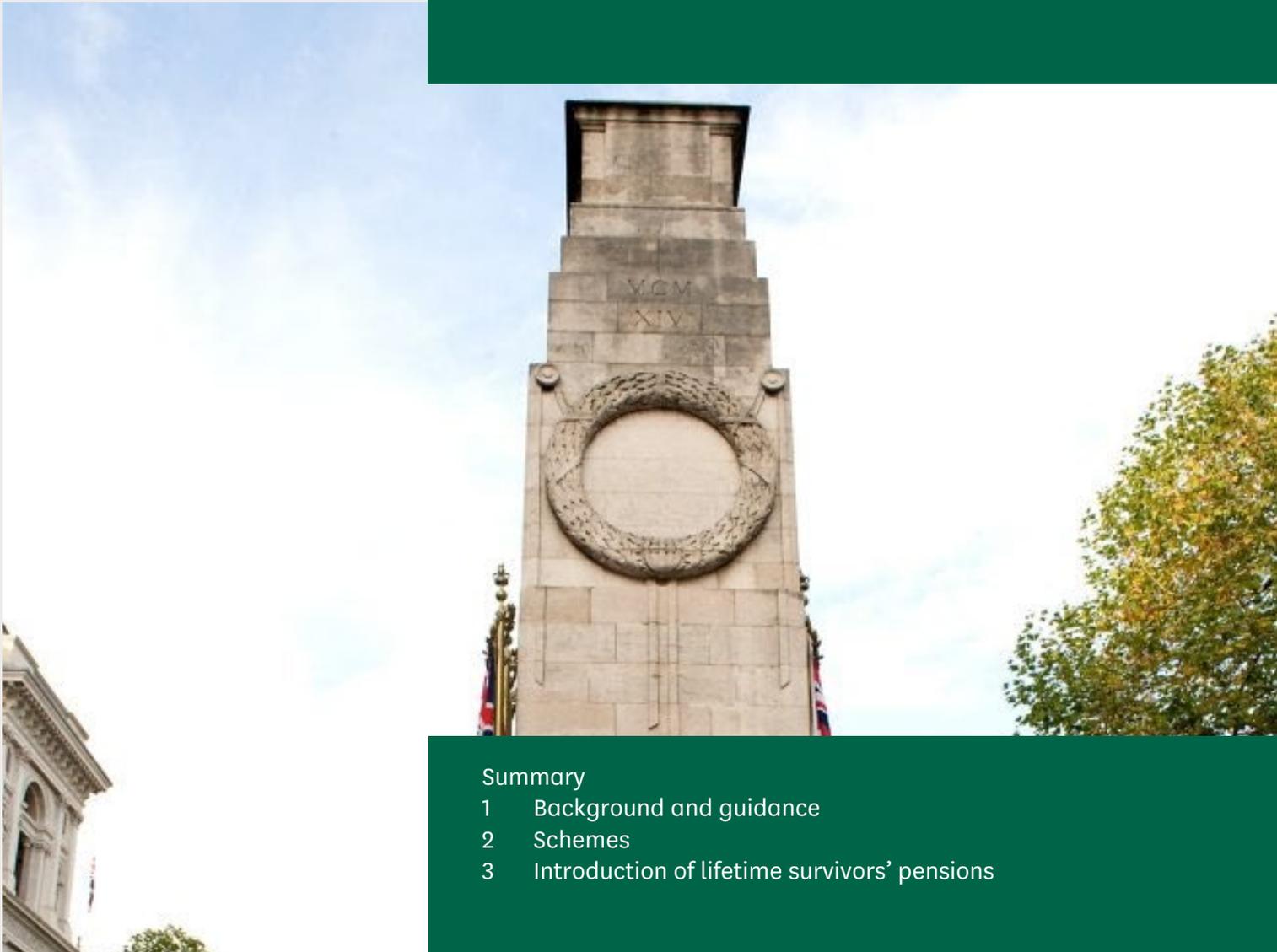


Research Briefing

29 September 2023

By James Mirza-Davies

War widows' pensions



Summary

- 1 Background and guidance
- 2 Schemes
- 3 Introduction of lifetime survivors' pensions

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Summary

Where a surviving partner receives compensation payments, these might change if they remarry, enter into a civil partnership, or start cohabiting with another person. The rules have changed over time, resulting in a complicated picture.

Deaths attributable to service from 6 April 2005

In the [Armed Forces Compensation Scheme \(AFCS\)](#), survivors' benefits are unaffected by any subsequent marriage, civil partnership or cohabitation for partners of service personnel whose death was attributable to their service from 6 April 2005.

Deaths attributable to service before 6 April 2005

For deaths occurring before 6 April 2005, the overall payment may be made up of a non-attributable pension from Armed Forces Pension Scheme ([AFPS 75](#)) and a compensation award. The compensation award may be made up of two parts:

- [War Widow\(er\)'s Pension](#) under the War Pensions scheme
- Armed Forces Attributable Benefits Scheme (AFABS) survivors' benefits

Changes to survivors' pensions

Under both schemes, the original policy was to withdraw survivors' benefits in the event of remarriage or cohabitation. The rules have changed so that:

- [War widow\(er\)s](#) whose spouse died before 31 March 1973 could keep their War Widow(er)'s Pension if they remarried, formed a civil partnership or started cohabiting with another person after 6 April 2005. However, those who had remarried or began cohabiting before this date did not have their pension reinstated.

- A War widow(er) whose spouse died after 31 March 1973 whose War Widow(er)'s Pension had been withdrawn because of remarriage or cohabitation could get the pension reinstated if their new partner died or the relationship ended.
- Since 31 October 2000, [AFABS pensions](#) have been paid for life, regardless of remarriage, the formation of a civil partnership or cohabitation. This didn't apply to people who remarried or started cohabiting before this date (although their pension could be reinstated if their new partner died or the relationship ended).
- [Everyone receiving a survivors' pensions](#) (whether under the War Pensions Scheme or AFABS) who remarried, formed a civil partnership or started cohabiting after 1 April 2015 have been able to keep their pension.

The change introduced on 1 April 2015 did not extend to those who had already surrendered a War Widows' Pension on remarriage, entering into a civil partnership or cohabitation.

War Widows Ex-gratia payment scheme

The Minister for Defence People, Veterans and Service Families, Dr Andrew Murrison, [announced in May 2023](#) that the Government would establish a scheme to cover those who forfeited their pension by remarrying or cohabiting before the rules changed in 2015. The new scheme will make a tax exempt one-off payment of £87,500 to each eligible widow(er) from winter 2023.

1

Background and guidance

Pensions may be payable to widow(er)s and surviving partners of armed forces personnel whose deaths result from their service. The rules have changed over time resulting in a complicated picture.

The Armed Forces Compensation Scheme (AFCS) provides survivors' benefits to the partners of service personnel whose death was attributable to service from 6 April 2005.¹

For deaths occurring before 6 April 2005, surviving partners may receive a pension from the Armed Forces Pension Scheme (AFPS 75) and a compensation award. Compensation may be awarded from:

- The War Pension Scheme (WPS)²
- The Armed Forces Attributable Benefits Scheme (AFABS)³

The schemes have different requirements and compensation may be paid from both or only one of the schemes.

Guidance is available from GOV.UK including:

- [War widows' pensions](#)
- [AFPS 75: family pension benefits](#)
- [War Pension Scheme](#)

¹ Ministry of Defence, [Guidance: Armed Forces Compensation Scheme \(AFCS\)](#), 7 November 2022

² Ministry of Defence, [Guidance: War Pension scheme \(WPS\)](#), 7 November 2022

³ Ministry of Defence, [Guidance: Armed Forces Pension Scheme 1975 \(JSP 854\)](#), 17 March 2023

2 Schemes

2.1 The Armed Forces Compensation Scheme

The Armed Forces Compensation Scheme applies to injuries, illnesses or deaths from 6 April 2005.⁴

All current and former members of the UK Armed forces, including reservists, may claim compensation. The AFCS provides lifetime survivors' benefits for a surviving spouse, civil partner or surviving adult dependant. This is someone who was cohabiting in a substantial and exclusive relationship with the deceased person, was not prevented from forming a civil partnership with or marrying them and was financially dependent or interdependent on them.⁵

The schemes are administered by Veterans UK, which sits within Defence Business Services in the Ministry of Defence.

Further information is available in the Library briefing [The Armed Forces Compensation Scheme](#).⁶

2.2 The War Pensions Scheme

War Widow(er)s' pensions are paid under the War Pensions Scheme for members of the armed forces whose death was due to, or hastened by, their military service. They must have served before 6 April 2005, but someone may be eligible if they died of an illness or injury later.⁷

A War Widow(er)s' pension usually requires the couple to have been married or in a civil partnership. Unmarried partners are only eligible where the relationship began six months prior to the deceased's entry into the Service and they are responsible for a child of the deceased.⁸ Widows and widowers have been treated equally since a review in 2001; before, widowers receive a lower amount.⁹

⁴ Ministry of Defence, [Guidance: Armed Forces Compensation Scheme \(AFCS\)](#), 7 November 2022

⁵ Ministry of Defence, [JSP 756, Armed Forces Compensation Scheme – Statement of Policy](#), July 2022

⁶ Commons Library briefing CBP 7923, [The Armed Forces Compensation Scheme](#)

⁷ GOV.UK, [War Widow\(er\) Pension](#)

⁸ [Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions Order 1983](#), Article 30

⁹ MoD, [Joint compensation review – a consultation document](#), March 2001, para 7.2 MoD, [New Armed Forces Compensation Scheme – Report on Consultation Process](#), September 2003

War Widow(er)s' Pensions are non-contributory and tax-free. The amount someone receives depends on their age and circumstances. In addition to a basic tax-free War Widow(er)s pension, depending on individual circumstances, someone might receive:

- A supplementary pension for veterans discharged from service before 31 March 1973 to compensate eligible survivors who do not benefit on the improvements made to survivor pensions since then.
- An age allowance which is paid at age 65 and increased at 70 and 80.
- Temporary allowances for up to 26 weeks if the partner received [Constant Attendance Allowance](#), [Unemployability Supplement](#) or had underlying entitlement to Unemployability Supplement with [Allowance for Lowered Standard of Occupation](#) at the time of death.¹⁰
- A child allowance for children up to the age of 16, which may be paid after 16 if the child continues in education.
- A rent allowance for survivors who receive a child allowance.¹¹

There is no statutory requirement to uprate the benefits available for from the War Pensions Scheme, but successive governments have honoured the commitment made in 1971 by the then Secretary of State for Social Services, Sir Keith Joseph, to review their level on an annual basis to protect their purchasing power.¹²

2.3

Armed Forces Attributable Benefits

War Widow(er)s' Pensions may also be supplemented by payments from the Armed Forces Attributable Benefits Scheme (AFABS), which is administered under the Armed Forces Pension Scheme 1975 (AFPS 75).

Like other public service pension schemes, the AFPS initially only provided survivors' pensions for spouses. However, in 2003 these were extended to unmarried partners where death was attributable to service.¹³

AFPS pensions are increased annually in line with prices (the Consumer Prices Index).¹⁴

¹⁰ Ministry of Defence, [Guidance: War Widows or War Widowers Pension: Supplementary Allowances](#), 19 February 2020

¹¹ [As above](#)

¹² [HC Deb 16 December 1971 cc852-53](#)

¹³ [HC Deb, 20 March 2003, c54WS](#); Further information is available in the Library briefing [Occupational pensions: survivors benefits for cohabitants](#)

¹⁴ HM Treasury, [Guidance on the operation of pensions increase legislation](#), April 2016, para 1.3; Further information is available in the Library briefing [Public service pension increases](#).

3 Introduction of lifetime survivors' pensions

3.1 Overview

Where a surviving partner receives compensation payments, these might change if they remarry, enter a civil partnership, or start cohabiting with another person. The rules have changed over time, resulting in a complicated picture.

In the Armed Forces Compensation Scheme (AFCS), survivors' benefits are unaffected by any subsequent marriage, civil partnership or cohabitation for partners of service personnel whose death was attributable to their service from 6 April 2005.¹⁵

As covered above, for deaths occurring before 6 April 2005, the overall payment may be made up of a non-attributable pension from Armed Forces Pension Scheme (AFPS 75) and a compensation award. The compensation award may be made up of two parts:

- War Widow(er)'s Pension under the War Pensions scheme
- Armed Forces Attributable Benefits Scheme (AFABS) survivors' benefits

Under both schemes, the original policy was to withdraw survivors' benefits in the event of remarriage or cohabitation. The rules have changed so that:

- War widow(er)s whose spouse died before 31 March 1973 could keep their War Widow(er)'s Pension if they remarried, formed a civil partnership or started cohabiting with another person after 6 April 2005. However, those who had remarried or began cohabiting before this date did not have their pension reinstated.¹⁶
- A War widow(er) whose spouse died after 31 March 1973 whose War Widow(er)'s Pension had been withdrawn because of remarriage or cohabitation could get the pension reinstated if their new partner died or the relationship ended.¹⁷
- Since 31 October 2000, AFABS pensions have been paid for life, regardless of remarriage, the formation of a civil partnership or

¹⁵ Ministry of Defence, [Armed Forces compensation Scheme Statement of Policy](#), 27 July 2022

¹⁶ Ministry of Defence, [War Pension Scheme: War Widows or War Widowers Pension](#), 6 March 2020

¹⁷ [As above](#)

cohabitation. This didn't apply to people who remarried or started cohabiting before this date (although their pension could be reinstated if their new partner died or the relationship ended).¹⁸

- Everyone receiving a survivors' pensions (whether under the War Pensions Scheme or AFABS) who remarried, formed a civil partnership or started cohabiting after 1 April 2015 have been able to keep their pension.¹⁹

The change introduced on 1 April 2015 did not extend to those who had already surrendered a War Widows' Pension on remarriage, entering into a civil partnership or cohabitation.

The Minister for Defence People, Veterans and Service Families, Dr Andrew Murrison, announced in May 2023 that the Government would establish a scheme to cover those who forfeited their pension by remarrying or cohabiting before the rules changed in 2015.²⁰ The new scheme will make a one-off payment of £87,500 to each eligible widow(er) from winter 2023.

3.2 Attributable benefits

The Armed Forces Pension Scheme changed its rules from 31 October 2000, to allow payment of attributable survivors' pensions for life.

The change followed an independent review of career and remuneration structures in the Armed Forces under Sir Michael Betts in 1995. This recommended, among other things, that the pension for widows and widowers should be payable for life in line with private sector practice.²¹

Backbench amendments

During the passage of the [Pensions Act 1995](#), the Conservative MP Sir Jim Spicer introduced an amendment which would have provided for a widow in receipt of an attributable pension under the AFPS to receive that pension for life.²² The Conservative government of the time opposed the amendment and it was defeated. William Hague, then Social Security Minister, said that "widows' pensions are intended to give financial support for as long as the state of widowhood continues".²³ He announced that the rules of the AFPS were to be amended to automatically reinstate the attributable widow's

¹⁸ Ministry of Defence, [Armed Forces Pension Scheme 1975: family benefits explained](#), February 2015, para 2.6

¹⁹ [Armed Forces Pension Scheme 1975: family benefits explained](#), para 2.7

²⁰ [HC Deb 17 May 2023 HCWS777](#)

²¹ Independent Review of the Armed Forces' Manpower, Career and Remuneration Structures: managing people in tomorrow's armed forces, Report to the Secretary of State under the chairmanship of Michael Betts, March 1995, p 71

²² [HC Deb 4 July 1995 cc 248-265](#)

²³ [HC Deb 17 July 1995 c 260](#)

pension if the subsequent relationship ended. Previously, widows had had to apply for their pensions to be reinstated and reinstatement was discretionary.²⁴

Following the 1997 election, the Labour Government initially maintained the line of the previous administration and argued that the AFPS could not be treated in isolation from other public service schemes. In July 1998, Lord Haskel, then Minister of State at the MoD argued this in response to a Bill introduced in the House of Lords by Lord Morris of Manchester.²⁵ He went on to say that the issue would be considered as part of a review of compensation arrangements for death or injury to service personnel.²⁶ During the debate, supporters of Lord Morris' Bill pointed to changes to the Local Government Pension Scheme which allowed spouses' pensions for life. The Bill did not complete its passage through Parliament.

On 23 September 1998, the government launched a review of the AFPS which would consider the recommendations made by Sir Michael Betts in his report in March 1995.²⁷ In a written answer in March 1999, John Spellar, Minister of State at the MoD, said that he could not predict the outcome but said that "it would be a departure from normal practice to make retrospective improvements to the terms of pensions already in payment."²⁸

Both the review of compensation arrangements for death or injury to service personnel and the MoD review of the AFPS were delayed. In October 1999, Baroness Strange introduced an amendment to the Welfare Reform and Pensions Bill 1998-99.²⁹ This amendment would have allowed those widows whose death was attributable to service to keep their AFPS attributable pension for life. The amendment was accepted in the Lords but the Government overturned it when the Bill returned to the Commons.

In May 2000, Baroness Strange introduced a similar amendment during the Lords Committee Stage of the Child Support, Pensions and Social Security Bill 1999-2000.³⁰ The Government again opposed the amendment on the grounds that it was a matter for the MoD and the AFPS review. Baroness Hollis, Social Security Minister in the House of Lords, argued that the issue should wait until the review was completed.³¹ She also said that the government needed to consider the possible implications for other public service occupational pension schemes if the rules are changed for the AFPS.³² The Government was defeated and the amendment was included in the Bill when it returned to the Commons.

²⁴ [HC Deb 17 July 1995 c 260](#)

²⁵ [HL Deb 10 July 1998 c 1554](#)

²⁶ [HC Deb 8 December 1997 c440-441W](#)

²⁷ MoD press release, Review of Armed Forces Pension Scheme, 23 September 1998

²⁸ [HC Deb 18 March 1999 c 811W](#)

²⁹ See [HL Deb 27 October 1999 cc 303-314](#)

³⁰ See [HL Deb 22 May 2000 cc 494-511](#)

³¹ [HL Deb 22 May 2000 c 506](#)

³² [HL Deb 22 May 2000 c 505](#)

On 20 July 2000, the Government announced that it had decided to allow attributable benefits to be paid for life. The announcement came ahead of the results of the AFPS review. The argument was that there was special case for more urgent action for the widows and widowers whose spouses died as a direct result of their service for their country. The change contained an element of retrospection in it apply to those widowed since 1973 and who were in receipt of an attributable pension (although not to those who had already remarried).³³

Jeff Rooker, the then Minister of State at the DSS, confirmed the proposed change when the Commons considered the Lords Amendment to the Child Support, Pensions and Social Security Bill 1999-2000. He said:

In the exceptional circumstances when a spouse's death is attributable to service, we have decided that widows and widowers who already receive an attributable armed forces pension should be allowed to keep it if they remarry in future.³⁴

The amendment was defeated, after all parties supported allowing the change to be introduced though the correct legislative route in autumn 2000. Although the Government's announcement was widely supported during the Commons debate on the Lords amendment, some MPs raised the position of those who had already remarried since 1973 and therefore given up their attributable pensions.³⁵ The then Social Security Minister, Jeff Rooker, confirmed that the change would not apply "to widows who remarried in the light of the circumstances that prevailed at the time" and said that "it is not possible to change that".³⁶

Government support for change

The Labour Government published its Framework document for the new Armed Forces Pension Scheme in October 2003. Features of the new pension scheme to be introduced included lifetime widow(er)s' pensions, whether or not death was attributable to service.³⁷ This was provided for in the [Armed Forces Pension Scheme 2005](#) (AFPS 05) – introduced for new entrants from 6 April 2005.³⁸

³³ [DSS Press release, Pensions for Life for Widows and Widowers of Armed Forces Personnel, 20 July 2000](#)

³⁴ [HC Deb 24 July 2000 c817](#)

³⁵ [HC Deb 24 July 2000 c 818](#)

³⁶ [HC Deb 24 July 2000 c 819](#)

³⁷ Ministry of Defence, A Framework Document for the new Armed Forces Pension Scheme, October 2003 (Dep 03/2568)

³⁸ [SI 2005/438](#), Schedule 1 (E.1)

3.3

War Widows' Pensions

Under the War Pensions Scheme, it was a long-standing rule that War Widows who remarried or started cohabiting lost entitlement to their War Widow's Pension.

Provision to restore pension

Originally the loss of pension on remarriage/cohabitation was permanent, but section 168 of the [Pensions Act 1995](#) contained a provision to restore the pension to former widows if they were widowed for a second time, or if they were divorced or legally separated, or if their partnership ended.³⁹ This had effect from 19 July 1995 and was extended to those who had lived with a partner from 7 April 1997.⁴⁰

A Court of Appeal decision in March 2019 found that payment of restored pension should be made from the end of the relationship that caused the pension to stop rather than the date of application.⁴¹ The MoD explained that the judgement applied if:

- The War Widow or Widower first received their pension because their spouse or civil partner had died whilst they were still serving in HM Forces **and**
- Pension stopped due to a new relationship **and**
- There was a delay in claiming the pension either when the legislation which allowed restoration was introduced or following the end of the later relationship.⁴²

A legislative amendment was made on 9 April 2018 to restore the original policy intent and to make it clear that a claim for restoration is required in all cases.⁴³

Veterans UK said in February 2021 that it was checking to see if the correct commencing date had been used when the Restored War Widows/War Widowers Pensions (RWP) was paid following the end of a subsequent relationship.⁴⁴

³⁹ Article 42 of the Service Pensions Order The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (SI 1983/883) as amended

⁴⁰ Ministry of Defence and Veterans UK, [Additional period of Restored War Widows/War Widowers Pension](#), February 2021

⁴¹ Deakin v Secretary of State for Defence ECWA [2019] Civ 571

⁴² Ministry of Defence and Veterans UK, [Additional period of Restored War Widows/War Widowers Pension](#), February 2021

⁴³ [As above](#)

⁴⁴ [As above](#)

Pre-1973 widows

Further changes to the War Pensions Scheme rules took effect from 6 April 2005, which affected war widows whose spouse's service ended before 31 March 1973. During the Lords Report Stage of the Armed Forces (Pensions and Compensation) Bill 2003-04, Baroness Strange tabled an amendment to restore War Widows' Pensions to all pre-1973 war widows who had had their pensions withdrawn because of remarriage or cohabitation. She explained that this would put pre-1973 widows in the same situation as those eligible to attributable benefits from AFPS 75 who, since October 2000, had been able to keep their pension if they remarried or began cohabiting.⁴⁵

The then Defence Minister Lord Bach responded that the Government would change the rules for widows whose spouses' left service or died before 1973. This was in recognition of the fact that they had special needs because their spouses' service ended before major improvements were made to occupational benefits in 1973.⁴⁶

The position after this announcement was that War Widow(er)s whose late spouse left service before 31 March 1973 could keep them if they remarried/cohabited after 6 April 2005.⁴⁷

Lifetime survivors' pensions for those in receipt from 1 April 2015

Organisations such as the War Widows' Association of Great Britain continued to campaign for a change in the rules for those whose spouse died between 31 March 1973 and 5 April 2005. It said that a small number, 4,200 cases, were affected and that it would "only cost £70,000 a year to right this wrong".⁴⁸

In January 2014, the Government estimated that the cost of not suspending pensions on remarriage or cohabitation to those in receipt of a War Widows' Pension was £70,000 a year, or some £30 million over 25 years.⁴⁹

In November 2014, the government announced that that all those in receipt of a War Widows pension or survivors' pension from the AFPS would be able to keep them for life regardless of remarriage or cohabitation.⁵⁰ The change was made in the [Naval, Military and Air Forces Etc. \(Disablement and Death\) Service Pensions \(Amendment\) Order 2015 \(SI 2015/208\)](#) and the [Army Pensions \(Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme\) \(Amendment\) Warrant 2015](#).

⁴⁵ [HL Deb 8 September 2004 c606](#)

⁴⁶ [HL Deb 8 September 2004 cc611-612](#)

⁴⁷ Service Personnel and Veterans Agency, [Factsheet 5: War Widow\(er\)s – War Pensions Scheme only](#)

⁴⁸ [The War Widows' Association of Great Britain – Campaign](#)

⁴⁹ [HL Deb 21 January 2014 c573](#)

⁵⁰ Ministry of Defence, [Pensions for life for surviving spouses and civil partners of personnel](#), 8 November 2014

3.4 Campaign for reinstatement of pensions already surrendered

The change announced on 8 November 2014 did not apply to those who had remarried or cohabited between 1973 and 2005 and had already surrendered their pension on remarriage or cohabitation before 1 April 2015. The War Widows' Association has called upon the Government to reinstate pensions to this group, estimating that between 200 and 300 war widows fell outside the announcement.⁵¹

In response to a Parliamentary Question (PQ) in July 2015 Defence Minister Mark Lancaster said the Government had no plans to change the rules for this group, as it would be a retrospective change.⁵²

In May 2016, the then Prime Minister, Theresa May, said the Government would continue to look at the issue but was of present of the view that such changes should not be made retrospectively⁵³

In February 2019, the then Defence Secretary Gavin Williamson described this as a 'burning injustice' to which he was determined to find a solution.⁵⁴

3.5 War Widows Ex-gratia Payment Scheme

On 30 January 2020, Defence Minister Johnny Mercer said that the War Widow's Association had accepted in 2015 "that new legislation never has a retrospective effect, and that the change would apply only to those who were receiving the pension when the new legislation came into force that April."⁵⁵ However, on 15 March 2021, he said the Government continued to explore options, such as the ex-gratia scheme.⁵⁶

The Minister for Defence People, Veterans and Service Families, Dr Andrew Murrison, announced in May 2023 that the Government would establish a scheme to cover those who forfeited their pension by remarriage or cohabiting before the rules changed in 2015.⁵⁷ The new scheme will make a one-off payment of £87,500 to each eligible widow(er) from winter 2023. These payments will be exempt from income tax and national insurance contributions and will not affect benefits means testing.⁵⁸

⁵¹ [War Widows' Association, Reinstatement of the War Widows' Pension \(10 June 2016\)](#)

⁵² [PQ 6523 15 July 2015](#); See also [HL Deb 11 January 2016 cc3-4](#); and [PQ 212562, 18 November 2014](#)

⁵³ [HC Deb 4 May 2016 c172](#)

⁵⁴ [HC Deb 18 February 2019, c1187](#)

⁵⁵ [HC Deb 30 January 2020 c1044](#)

⁵⁶ [HC Deb 15 March 2021 c22](#)

⁵⁷ [HC Deb 17 May 2023 HCWS777](#)

⁵⁸ Ministry of Defence, [Guidance: War Widows Recognition Payment Q&A](#), 20 September 2023

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