

**EXPLANATORY MEMORANDUM TO
THE ARMED FORCES AND RESERVE FORCES (COMPENSATION SCHEME)
(AMENDMENT) ORDER 2012**

2012 No. 1573

1. This explanatory memorandum has been prepared by the Ministry of Defence (MOD) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

The Order amends the Armed Forces Compensation Scheme for the regular and reserve Armed Forces.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

The Armed Forces Compensation Scheme is established by the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) “the February 2011 Order”), which revoked and re-enacted with amendments the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005. The Scheme provides for benefits to be payable to or in respect of a person by reason of his or her illness, injury or death caused (wholly or partly) by service in the regular armed forces or reserve forces on or since 6 April 2005. The benefits constitute a lump sum and, for more serious injury, a Guaranteed Income Payment payable for life. Awards are based on a Tariff which lists the various forms of injury or illness for which compensation is available under the Scheme, specifies a numerical level referable to each type of injury or disease, and specifies for each numerical level the amount of compensation payable.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the Order is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The February 2011 Order provides for a temporary award to be made where the injury is sufficiently serious to warrant an award of compensation but there is no appropriate tariff descriptor for that injury. The provision stipulates that, for the temporary award to be made permanent, the Tariff must be amended within one year of the award to include the injury for which the temporary award was made. Amendment to the Tariff is now required in order to make permanent four temporary awards that have been made. This will give affected claimants rights to reconsideration and appeal that were not there previously.

7.2 This amending order also makes amendments to refine provisions and corrects a minor drafting error that has come to light since the last legislative

amendment in October 2011. The amendments made by the Order are described in the explanatory note to the Order.

7.3 The proposed amendments and Tariff changes can only be achieved through amendment to the legislation.

8. Consultation Outcome

The proposed amendments were notified to members of the Central Advisory Committee on Pensions and Compensation (CAC) in a consultation exercise which began on 4 May 2012 and closed on 9 June 2012. This external advisory body was established in 1921 to advise the Minister on matters of pensions and compensation relevant to the Armed Forces. Membership consists of representatives of key ex-service organisations, including The Royal British Legion, the War Widows Association, the British Limbless Ex-Service Men's Association (BLESMA) and Combat Stress as well as Service members and MOD officials. When the consultation exercise, concluded on 9 June no CAC members had raised any concerns with the proposed amendments.

9. Guidance

Information about the new provisions, including a copy of the revised Tariff, will be made available on the MOD website: <http://www.mod.uk/DefenceInternet/AboutDefence/WhatWeDo/Personnel/Pensions/TheArmedForcesCompensationScheme.htm> and the Service Personnel and Veterans Agency website: <http://veterans-uk.info/pensions/afcs> Guidance will also be provided to the Service Personnel Veterans Agency, the Scheme's delivery body, about how best to apply the new Scheme rules. In addition, the CAC members will receive a copy of the amended Order with an explanatory paper.

10. Impact

10.1 The impact on business, charities and voluntary bodies is not significant.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring and Review

The MOD will continue to review the Armed Forces Compensation Scheme as part of its day-to-day management. In the event that anomalies or inaccuracies are identified every effort will be made to amend existing legislation as soon as it is practically possible. Members of the CAC will be updated on potential changes to the legislation as and when they are identified. This will include monitoring the impact of the changes made in this amending Order.

13. Contact

Tracy Sexton at the Ministry of Defence Tel: 0207 218 0564 E-mail: CLS-Sec1@mod.uk can answer any queries regarding this Instrument.