

**EXPLANATORY MEMORANDUM TO**  
**THE ARMED FORCES (ENHANCED LEARNING CREDIT SCHEME AND**  
**FURTHER AND HIGHER EDUCATION COMMITMENT SCHEME)**  
**(AMENDMENT) ORDER 2015**

**2015 No. 497**

**1.** This explanatory memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

The purpose of this amending instrument is to extend the Further and Higher Educational Commitment (“FHEC”) Scheme to Service Leavers resident in Northern Ireland.

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

None.

**4. Legislative Context**

4.1 Section 1(1) of the Armed Forces (Pensions and Compensation) Act 2004 (“the Act”) gives the Secretary of State a power to, by order, establish Schemes which, in respect of a person’s service in the armed forces, provide for payments to be made towards the provision of benefits to be payable to or in respect of that person on termination of service or on death or retirement. Pursuant to section 1(3) of the Act the Secretary of State may provide that any such Scheme be administered by another person.

4.2 This Order makes provision in accordance with sections 1(1) and 1(3) of the Act.

**5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

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

**7. Policy background**

7.1 Under the FHEC Scheme Service Leavers who have completed 4 years’ full-time service, are members of the ELC Scheme and have completed at least 4 years’ scheme membership may receive the total cost of tuition fees for a first full Level 3 qualification or a first higher education qualification. Eligibility to the payment is limited to those Service Leavers who left the armed forces on or after 17<sup>th</sup> July 2008 and who claim within 10 years of ceasing to be a member of the armed forces.

Eligibility is lost if the Service Leaver is in receipt of any other payment towards the relevant tuition fees.

7.2 FHEC Scheme funding may be transferred to the spouse, civil partner or eligible partner of an eligible Service Leaver where that Service Leaver has died or has been medically discharged and has suffered physical or mental injury or injuries that make it impossible to undertake qualification level learning, provided that third party satisfies residence conditions.

7.3 In placing the ELC and FHEC Schemes on a statutory basis by this Order under section 1(1) of the Act, payments under the Schemes will be excepted from Chapter 3, Part 6 of the Income Tax (Earnings and Pensions) Act 2003, pursuant to section 411(2) of that Act. Accordingly, the Service Leaver (or their surviving spouse, civil partner, or eligible partner where appropriate) will not be required to pay income tax on payments received under the Schemes. This is consistent with the Government's commitment to providing cross-government support to our armed forces, their families and veterans (made in the Command Paper 'The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans' published in July 2008), that all Service Leavers with over 4 years' service will have the opportunity to achieve their first Level 3 qualification, or first foundation or undergraduate degree, free from tuition fees.

## **8. Consultation outcome**

The NI Office, HMRC and BIS have been consulted over this issue and are content.

## **9. Guidance**

Service Leavers will be advised of this change by way of the single Service chains of command, the internet and via the various partnerships for Service Leavers operating under the Confederation of British Service and ex-Service Organisations (COBSEO) umbrella.

## **10. Impact**

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring & review**

The application and effect of the Order are continually monitored and reviewed.

## **13. Contact**

Tracy Sexton at the Ministry of Defence Tel: 0207 218 0564 can answer any queries regarding this Instrument.