

EXPLANATORY MEMORANDUM TO
THE ARMED FORCES REDUNDANCY SCHEME ORDER 2020
2020 No. 1298

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Armed Forces (Pensions and Compensation) Act 2004 (“the 2004 Act”) gives the Secretary of State power to establish schemes in respect of a person’s service in the armed forces and to make provision for benefits payable on the termination of service, or on death or retirement. Such schemes are made by Order. This Order establishes a new redundancy scheme known as the Armed Forces Redundancy Scheme 2020 (“AFRS20”), for those eligible for membership of the Armed Forces Pension Scheme 2015 (“AFPS15”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The 2004 Act contains a statutory framework to enable provision to be made to establish new pension and compensation schemes for the armed forces, with the scheme rules set out in statutory instruments.
6.2 On 1st April 2015 the AFPS15 was introduced for Regular and Reserve members of the armed forces (SI 2014/2336). Previously, compensation for redundancy has been paid to Regular armed forces personnel, under statutory schemes, in certain circumstances, which are defined in those schemes. Those schemes cover members of the pension schemes for armed forces personnel prior to the introduction of AFPS15,

namely the Armed Forces Redundancy Scheme 2006 (“AFRS06”) (made under S.I. 2006/55) for members of the Armed Forces Pension Scheme 2005 (“AFPS05”) and the Armed Forces Redundancy Scheme 2010 (“AFRS10”) (made under S.I. 2010/832) for members of the Armed Forces Pension Scheme 1975 (“AFPS75”). There is also a smaller bespoke redundancy scheme for members of the Non Regular Permanent Staff (“NRPS”) which was introduced in 2012, under Defence Council Regulations.

- 6.3 This instrument will provide redundancy compensation to those eligible for membership of the AFPS15.
- 6.4 This instrument also contains transitional provisions for persons who, before 1st April 2015, were entitled to membership of AFPS75 or AFPS05.

7. Policy background

What is being done and why?

- 7.1 A new redundancy scheme is being introduced for armed forces personnel who are eligible for membership of AFPS15. This new redundancy scheme will ensure that redundancy payments will align with the pension points of AFPS15, as has been done with previous redundancy schemes which align with corresponding pension schemes.
- 7.2 This will continue to ensure that the armed forces pension schemes have a corresponding redundancy scheme. If AFRS20 were not introduced, this would mean that compensation for those eligible for membership of AFPS15 would not align with their pension points.
- 7.3 The provisions of AFRS20 are not significantly different to those of AFRS06 or AFRS10 but as a result of HM Treasury requirements, the percentage used to calculate the redundancy payment is lower than that under AFRS06 or AFRS10.
- 7.4 The AFRS06 and the AFRS10 have been modified to acknowledge the effect of flexible working in the armed forces on redundancy compensation. Similar flexible working provisions are incorporated in AFRS20. This ensures consistency between the three redundancy schemes. The AFRS06 and the AFRS10 have also been modified to clarify the eligibility requirements for a payment under the schemes, which now refer to receipt of notification that service is terminated, rather than notification that a person will be treated as having become redundant. This eligibility requirement will incorporate those whose service is terminated under a manning control measure. The eligibility requirements have also been updated to reflect the existence of AFPS15 and to ensure that an individual will not be entitled to redundancy compensation from more than one redundancy scheme.
- 7.5 The amendments to AFRS06 and AFRS10 will also ensure consistency between the three main redundancy compensation schemes AFRS06, AFRS10 and AFRS20.
- 7.6 The provisions of AFRS20 include a mechanism for calculating compensation for those members of the armed forces who are eligible for compensation under AFRS20 but who also had a period of service in the armed forces before 1st April 2015 which entitled them to membership of AFPS75 or AFPS05. A proportion of their redundancy compensation, equal to the amount of their service completed prior to 1st April 2015, will be calculated as though they were being compensated from the redundancy scheme associated with their corresponding legacy pension scheme. The remaining proportion of their compensation will be calculated according to the

AFRS20 rules for members who entered service on or after 1st April 2015. This will ensure that those members who have service in the armed forces prior to 1st April 2015 which entitled them to membership of AFPS75 or AFPS05 are treated fairly for the purposes of redundancy compensation.

- 7.7 AFRS20, unlike AFRS06 and AFRS10, also makes provision for Reserve members of AFPS15 (or those who opted out of AFPS15) on Full-Time Reserve Service (“FTRS”) or Additional Duties Commitments (“ADCs”) to receive compensation, if their commitment is terminated. Compensation will be paid in relation to their latest period of service. These Reserve members are entitled to membership of AFPS15, and are therefore included in AFRS20. Members of the Non Regular Permanent Staff (“NRPS”) will continue to receive redundancy compensation from the existing NRPS redundancy scheme. No other Reserve service will qualify for redundancy compensation because the intention is to compensate those on short, fixed term commitments.
- 7.8 The AFRS20 is consistent with Government’s policy and with the Department’s concern to ensure proportionate arrangements are put in place adequately to compensate those who are required to leave the armed forces prematurely because of redundancy.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 There are no plans to consolidate legislation governing armed forces redundancy compensation at this time.

10. Consultation outcome

- 10.1 Internal stakeholders including Senior Officers with responsibility for Pay and Pensions within each of the three armed forces Services (the Army, the Royal Navy and the Royal Air Force) have been involved in the design of AFRS20. Additionally, the Department has engaged with key external stakeholders including the Forces Pension Society, the Royal British Legion and the Armed Forces Pay Review Body to review the draft proposals.

11. Guidance

- 11.1 Information about the new provisions will be made available by means of a Joint Service Publication on www.gov.uk.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sectors is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Department will continue to review the armed forces redundancy schemes as part of its day to day management and in order to monitor the impact of changes in this legislation.

14.2 The Armed Forces Pension Board, along with other supporting governance processes, provide a consultative mechanism for this policy.

15. Contact

15.1 Simon Pearce at the MOD Telephone: 0207 2189615 or email: Simon.Pearce 592@mod.gov.uk can be contacted with any queries regarding the instrument.

15.2 Matthew Leon, Assistant Head for Armed Forces Pension Schemes, at the MOD can confirm that this Explanatory Memorandum meets the required standard.

15.3 Ben Wallace MP, Secretary of State for Defence at the MOD can confirm that this Explanatory Memorandum meets the required standard.