**EXPLANATORY MEMORANDUM TO**

**THE ARMED FORCES AND RESERVE FORCES (COMPENSATION SCHEME) (AMENDMENT) ORDER 2022**

**2022 No. 267**

## 1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 The Armed Forces Compensation Scheme ("the AFCS") provides benefits 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.

2.2 The Instrument makes three amendments to the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) ("the principal Order") and comes into force on 11 April 2022. It increases the value of the Armed Forces Independence Payment ("AFIP") including the Motability allowance, and amends two descriptors in the Tariff.

## 3. Matters of special interest to Parliament

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

3.1 None.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the whole of the United Kingdom and it applies to members of the armed forces wherever they are in the world.

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 This instrument, which is made under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (c.32), amends the principal Order. The principal Order revoked and re-enacted, with amendments, the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 (S.I. 2005/439) ("the original AFCS").

6.2 The principal Order provides that benefits are 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. Benefits for injury

under the AFCS are based on a tariff, contained in Schedule 3 to the principal Order, which describes the injuries for which awards are made.

6.3 There is provision in the principal Order (Article 24A) for the award of AFIP. This instrument will increase the value of AFIP from £152.15 to £156.90 in line with the Government's general approach of increasing disability-related benefits in line with inflation (calculated using the Consumer Price Index). The principal Order provides (Article 24D) for a maximum amount to be deducted from AFIP and paid to Motability. This instrument will increase this maximum amount from £62.55 to £64.50 per week.

6.4 This instrument also clarifies a descriptor in Table 1 (Burns) and amends a descriptor in Table 9 (Musculoskeletal disorders).

## 7. Policy background

***What is being done and why?***

7.1 The original AFCS came into force on 6 April 2005 and provided for benefits to be payable to Regular and Reserve Service personnel for injury, illness or death which is caused (wholly or partly) by service on or after that date.

7.2 An independently chaired review of the AFCS was presented to Parliament by the Secretary of State for Defence on 10 February 2010, Hansard Column 926 refers. All recommendations from the review were accepted and the original AFCS was revoked and re-enacted with amendments by the principal Order.

7.3 The AFCS is a modern, fit-for-purpose scheme that offers value for money for the taxpayer, provides awards to injured Service personnel and conforms to medical best practice, with recommendations by the Independent Medical Expert Group ("IMEG") who advise ministers on the medical and scientific aspects of the Scheme.

## 8. European Union Withdrawal and Future Relationship

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 The principal Order was the consequence of the review of the original AFCS. Since enactment in 2011, the principal Order has been subject to annual amendment for the purposes of uprating and also to address issues that have been identified by the scheme administrators, the Tribunals and as a consequence of recommendations made by IMEG.

9.2 It is intended that the AFCS remain flexible to reflect contemporary medical opinion and to adapt to changing circumstances and consequently, requires amendment from time to time. There are no plans to consolidate the principal Order at present but a consolidated version of the principal Order is available to the public free of charge on: http://www.legislation.gov.uk/uksi/2011/517/contents.

## 10. Consultation outcome

10.1 A public consultation has not been undertaken on this instrument. The Central Advisory Committee on Compensation ("CAC") provides an on-going opportunity for

Armed Forces Charities, Single Services and the Independent Medical Expert Group to discuss all aspects of compensation.

## 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 there is no significant impact on business, charities or voluntary bodies.

## 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 approach to monitoring of this legislation is MOD will continue to review the AFCS as part of its day-to day management and in order to monitor the impact of changes in this instrument.

14.2 The CAC provides a consultative mechanism for the AFCS. The CAC will continue to act as a policy advisory and consultative body for all AFCS compensation issues.

## 15. Contact

15.1 Zena Prescott at the Ministry of Defence Telephone: 0207 218 9571 or email: afcompensation-policy@mod.gov.uk can be contacted with any queries regarding the instrument.

15.2 James Greenrod, Head of Armed Forces People Support, at the Ministry of Defence can confirm that this Explanatory Memorandum meets the required standard. Email: afcompensation-policy@mod.gov.uk

15.3 Leo Docherty MP at the Ministry of Defence can confirm that this Explanatory Memorandum meets the required standard.