EXPLANATORY MEMORANDUM TO

THE ARMED FORCES (ENHANCED LEARNING CREDIT SCHEME AND FURTHER AND HIGHER EDUCATION COMMITMENT SCHEME) (AMENDMENT) ORDER 2016

2016 No. 310

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 This instrument amends The Armed Forces (Enhanced Learning Credit and Further and Higher Education Commitment Scheme) Order 2012. It generally increases the length of qualifying service required to be completed by members of the Armed Forces to be eligible for certain payments under the schemes from 4 years to 6 years, and decreases the duration of the period in which Service leavers must start their course of learning from 10 years to 5 years. The instrument provides transitional arrangements for current and former Service personnel in relation to these changes, and makes special provision for service leavers who are medically discharged.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument amends The Armed Forces (Enhanced Learning Credit and Further and Higher Education Commitment Scheme) Order 2012.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 This instrument amends The Armed Forces (Enhanced Learning Credit and Further and Higher Education Commitment Scheme) Order 2012 ("the 2012 Order"). The 2012 Order was made under the Armed Forces (Pensions and Compensation) Act 2004, which enables schemes to be established conferring benefits on members of the Armed Forces.

7.2 The 2012 Order established schemes to provide financial assistance to eligible members of the Armed Forces after they leave service:

- to complete higher level learning ('A' level equivalent or higher) under the Enhanced Learning Credit Scheme; or
- to complete qualification level learning (undergraduate degree level) under the Further and Higher Education Commitment Scheme.

7.3 The Enhanced Learning Credit Scheme contributes up to 80% of the cost of higher education learning for current Service personnel and to Service leavers, up to a maximum of three claims of £2000 per claim over three financial years. The Further and Higher Education Commitment Scheme allows Service leavers to undertake a first undergraduate degree in the UK free of all tuition fees, subject to fee caps defined in the 2012 Order.

7.4 A member may also be eligible for payments while in service under the non-statutory enhanced learning credit scheme established by the Secretary of State and set out in the Defence Direction and Guidance on Training, Education and Skills (Joint Service Publication 898) available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/433761/20141126-JS_898_Part1_Direction_v1_1.pdf.

7.5 This instrument is supported by the three services (Royal Navy, Army, and Royal Air Force) comprising the Armed Forces ("the Services").

7.6 The instrument has three policy aims:

- to control costs of the Schemes borne by each of the Services by decreasing the length of the period in which a person who is eligible under the Schemes must commence their course of learning ("the entitlement time period") from 10 years to 5 years;
- to better focus funding to achieve its original intent of supporting education in-service and to assist Service leavers to transition to a civilian career; and
- to enhance retention in the Services by increasing the length of qualifying service a member of the Scheme must complete to be eligible for payments under the Schemes from 4 years to 6 years.

7.7 Under the 2012 Order, the entitlement time period during which payments may be made under the Schemes is up to 10 years after a member leaves service, which is well beyond the period for transition to a civilian career. Reducing the entitlement time period from 10 years to 5 years should encourage greater use of the in-service enhanced learning credit scheme, and focus spending under the Schemes on the transition to (and increasing skills in) a civilian career.

7.8 This instrument provides for a tapering of the reduction in the entitlement time period. Service leavers who have fewer than 5 years left to commence learning as at 1st April 2016 continue to have that period to commence learning. Service leavers who have more than 5 years to commence learning as at 1st April 2016 will now have 5 years to commence learning. Service leavers who leave on or after 1st April 2016 will have 5 years from their leaving date to commence learning. Members who are medically discharged and receive a disablement pension under the War Pensions Scheme or Guaranteed Income Payment under the Armed Forces Compensation Scheme will continue to have a 10 year entitlement time period.

7.9 Thirdly, there will be an increase in the length of qualifying service required from 4 years to 6 years. This increase is intended to encourage many Service personnel to remain in service for longer, which offers a better return on investment, lowers training and recruiting costs, and creates a more effective Armed Forces.

7.10 This instrument introduces an added incentive for Service personnel by allowing aggregation of lower tier Enhanced Learning Credit Scheme claims into a new type of payment called an aggregated lower tier payment at the 6 year point. For the Further and Higher Education Commitment Scheme the move to 6 years is in line with the commitment set out in The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans (Command Paper 7424, June 2008, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238719/7424.pdf).

7.11 Transitional arrangements have been put into place for 12 months to protect the entitlements of service leavers who have already completed, or are close to completing, 4 years' qualifying service. The increase from 4 to 6 years' qualifying service does not apply to service leavers who have completed 4 years' qualifying service before 1st April 2017. .

7.12 There is a new requirement that members of the Schemes who are medically discharged must also receive a disablement pension under the War Pensions Scheme or Guaranteed Income Payment under the Armed Forces Compensation Scheme for their eligible adult dependant (such as their spouse or civil partner) to be eligible for payments under the Schemes. This demonstrates a level of disablement that makes it more likely that the member would be unable to undertake qualification level or higher level learning themselves. This will apply to members of the Schemes who are medically discharged on or after 1st April 2017.

7.13 The instrument also enhances the membership of the Enhanced Learning Credit Scheme by providing that Service personnel who are not members of the scheme on 1st April 2016 will now automatically become members of the scheme on completing Phase 1 training.

7.14 The instrument also amends the definition of "capped fees" that applies as a maximum cap on payments made under the Further and Higher Education Commitment Scheme.

Consolidation

7.15 As there have only been two instruments that made minor amendments to the 2012 Order, the Department did not consider it necessary to consolidate the 2012 Order when preparing this instrument.

8. Consultation outcome

8.1 The Services were consulted over an extended period from May to October 2015 culminating in a final decision by the New Employment Model Programme Steering Board with the Services represented at 3* and 2* level (Lieutenant General and Major General or the equivalent) and chaired by the Chief of Defence People.

9. Guidance

9.1 Guidance will be given to the three Services in the form of a Defence Internal Brief. Serving personnel will be given guidance by updating the Defence Direction and Guidance on Training, Education and Skills referred to in paragraph 7.4. For Service leavers, the website of the administrator of the Schemes (www.enhancedlearningcredits.com) will be updated with notices sent out on the annual pension statement in April 2016. In addition, the Career Transition Partnership, Veterans UK and COBSEO (The Confederation of Service Charities) will publicise the changes and signpost the new policy for Service leavers.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

- The anticipated impact on approved learning providers will be minimal given that the total Ministry of Defence spend under these Schemes was around £30m in 2013/14, which comprised less than 0.2% of the total Higher Education sector tuition fees of £13.7 billion (figures taken from https://www.hesa.ac.uk/stats-finance), which includes payments made to Service personnel during service under the non-statutory scheme.
- Charities and voluntary bodies that assist veterans may be asked to provide additional support for Service leavers who are ineligible for financial assistance for learning under the Schemes. However, the Department anticipates there will be a low level of demand for such support, as in most cases such a person would have left service more than 5 years beforehand and would be well past their transition to civilian life.
- Some businesses have asked employees to use the Enhanced Learning Credit Scheme for upskilling, but beyond the 5 year post service point business should have no expectation of financial support from the Ministry of Defence to upskill their employees.

10.2 The impact on the public sector is extremely limited and linked to the possible drop in take up of learning courses set out above.

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

11. Regulating small business

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

12. Monitoring & review

12.1 This policy will be reviewed by the Department's New Employment Model Implementation Team, which will continue to monitor the impact of policy changes into 2017/18 and beyond.

12.2 Policy on education and training as a whole, including this policy, will be reviewed under the New Offer for New Joiners announced in the Strategic Defence and Security Review 2015. (Strategic Defence and Security Review 2015, Factsheet 7, People, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492800/20150118-SDSR_Factsheets_1_to_17_ver_13.pdf)

13. Contact

13.1 Lieutenant Colonel Jonathan Brinn at the Ministry of Defence Telephone: 0207 218 3886 or email: People-TESRR-NEMSO1@mod.uk can answer any queries regarding the instrument.