**EXPLANATORY MEMORANDUM TO**

**THE ARMED FORCES PENSION (AMENDMENT) REGULATIONS 2026**

**2026 No. 523**

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

## 2. Declaration

2.1 Louise Sandher-Jones MP, the Minister for Veterans and People at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

2.2 Brigadier Philip Bassingham-Searle, the Head of Armed Forces Remuneration at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Nazia Lodhi at the Ministry of Defence can be contacted by email at the following address with any queries regarding the instrument: AFPension-Policy@mod.gov.uk. Alternatively, the department can be contacted by telephone: 0303 384 6420.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 These Regulations make various changes to the rules around ill-health awards that can be made to service personnel under four Armed Forces pension schemes. It puts in place a right of review for certain awards, and enables both the cessation of existing payments and the set off against payments already made when a different ill-health pension award is made after review. It also corrects an error in S.I. 2014/2336.

***Where does the legislation extend to, and apply?***

4.2 The Regulations extend to the whole of the United Kingdom.

4.3 The territorial application is likewise the United Kingdom.

## 5. Policy Context

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

5.1 The Armed Forces Pension Scheme 2015 (AFPS 15) and the Early Departure Payment Scheme 2015 (EDP 15) provide financial support to members of the Armed Forces, including those medically discharged before reaching Normal Pension Age. The Ministry of Defence (MOD) has identified areas in the current regulations that require amendment to ensure fairness and consistency. There are three key changes:

First, under the current AFPS 15 rule members who receive an early departure payment (EDP) in lieu of a lumpsum ‘Tier 1 award’ (as an EDP may be more

generous and the scheme manager is permitted to give an EDP in lieu) do not have a right to request a review of their award under AFPS 15 if they believe they meet the criteria for an ill-health pension under that scheme instead. MOD considers that this was an oversight in the original drafting of the provision, which does not reflect the policy intent. MOD's policy is that all members who are medically discharged from the Armed Forces and who meet the conditions for a Tier 1 award should have the right to apply for a review of their award, irrespective of whether that is a Tier 1 award or an EDP in lieu. This amendment will grant members who receive an EDP in lieu the same right to request a review of their award as those who receive a Tier 1 award. It will be backdated to introduction of the scheme on 1st April 2015.

Secondly, under the current rules (set out above), if a member in receipt of a Tier 1 award successfully appeals that award due to a deterioration in health following discharge, an ill-health pension under the AFPS 15 (the 'Tier 2 pension') is payable from the date on which they first met the ill-health condition under the Finance Act 2004 and not from the date on which they met the different threshold for a Tier 2 pension. This means that a Tier 2 pension in such cases is payable in respect of periods during which the member did not actually meet the Tier 2 criteria. This differs from the position for members who successfully appeal from a Tier 2 pension to a Tier 3 pension due to a deterioration in health. In those cases, the Tier 3 pension is only payable from the date the review was requested. These regulations amend the scheme so that where a successful request for review of a Tier 1 award or EDP in lieu is made on grounds of deterioration, the Tier 2 pension will only be payable from the date on which the review was requested. This amendment will take effect when the Regulations come into force.

Thirdly, the Regulations amend the criteria for Tier 2 pensions so that they will be awarded where the member has suffered a breakdown in health such that their capacity for gainful employment is significantly impaired, and corrects a condition to replicate the ill-health condition in paragraph 1 of Schedule 28 to the Finance Act 2004. As currently drafted, the Regulations effectively impose a higher threshold test by requiring that the member's capacity for *any* gainful employment should be impaired. These amendments will be backdated to the introduction of the scheme on 1st April 2015.

***What was the previous policy, how is this different?***

5.2 Previously, the policy was not correctly reflected in the regulations, as set out above. The amendments made to the APFS 15 and the EDP 15, and the connected earlier schemes (for those individuals with transitional protection and continuity of service under an earlier scheme) will ensure that the policy intent is met.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 The law is being changed to reflect more accurately the policy intent and practice on the giving and review of ill-health awards under the AFPS 15 and EDP 15.

***Why was this approach taken to change the law?***

6.2 This is the only possible approach to make the necessary changes.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 A statutory consultation was undertaken in accordance with section 21 of the Public Service Pensions Act 2013.

The consultation was targeted at members of the Armed Forces Pension Scheme 2015 (AFPS 15, including Transitional members with Continuity of Service), individuals who have applied for a review of their ill-health award and stakeholders with an interest in Armed Forces pensions and ill-health awards as follows:

- The Confederation of Service Charities
- The Royal British Legion
- The Soldiers, Sailors, Airmen and Families Association
- The Royal Navy and Royal Marines Charity
- Army Benevolent Fund
- The RAF Benevolent Fund
- The RAF Association
- The Navy Families Federation
- The Army Families Federation
- The RAF Families Federation
- The War Widows' Association
- The Forces Pension Society
- The White Ensign Association
- The Veterans Advisory and Pensions Committee
- Armed Forces Pension Schemes, Pension Board
- Armed Forces Pension Schemes, Scheme Advisory Board
- The Pension Regulator
- British Limbless Ex-Servicemen's Association
- The Government Actuary's Department

Stakeholders were emailed directly and invited to respond and the consultation ran from 15 December 2025 until 13 February 2026.

Two responses to the consultation paper were received, both from veterans organisations. Both respondents supported and agreed with the proposed changes to the legislation.

## 8. Applicable Guidance

8.1 No guidance will be published. Updated internal guidance will be put in place.

## Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared because the instrument is technical, low-impact, and affects no commercial businesses. These changes clarify entitlements and ensure correct application of existing rules rather than introducing new burdens or reducing benefits.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument only concerns Armed Forces pension entitlements.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the only action required will be for the Ministry of Defence to update internal processes.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 The approach to monitoring this legislation is to record the effects of these amendments through ongoing casework and operational experience.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Louise Sandher-Jones MP has made the following statement: it would be inappropriate for a review clause to be included given that there is no impact on businesses. .

## Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 The Regulations make retrospective provision for certain of the amendments. This is because it is important that the individuals affected by the changes to the ill-health awards may have their awards reviewed with retrospective effect, and for government to be able to set off amounts payable against amounts already received. The Regulations rely on the power to make retrospective provision contained in section 3(3) of the Public Service Pensions Act 2013.

11.2 The instrument will be issued free of charge to all known recipients of the Armed Forces Pensions Regulations 2014 (S.I. 2014/2336), as it is made in part in consequence of defects in that instrument (see paragraph 5.1). In accordance with paragraph 4.7.6 of Statutory Instrument Practice, the Department has consulted with the Statutory Instrument Registrar on the use of this procedure in relation to this instrument.

## 12. European Convention on Human Rights

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

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).