EXPLANATORY MEMORANDUM TO

THE NAVAL, MILITARY AND AIR FORCES ETC. (DISABLEMENT AND DEATH) SERVICE PENSIONS (AMENDMENT) ORDER 2011

2011 No. 235

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

2. Purpose of the instrument

This instrument provides for the increase (i.e. the uprating) of the rates of retired pay, pensions, gratuities and allowances, payable under The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 ("the principal Order"). The rates which are to be uprated appear in Schedules 1 and 2 of the principal Order.

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

None.

4. Legislative Context

4.1 The principal Order makes provision for the payment of pensions and other awards to or in respect of service personnel who have died or have been injured as a result of service in the naval, military or air forces before 6 April 2005. Compensation is payable under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 (AFCS) where the death or injury occurs after this date.

4.2 Pensions and allowances payable under the principal Order are traditionally uprated each year and the rates in this instrument have been approved by the Treasury.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The instrument is required to be laid before Parliament but is not subject to any procedure. The instrument does not amend primary legislation and therefore no statement is required.

7. Policy background

- ***What is being done and why***

7.1 This instrument provides for the annual increase in rates of pension and allowances payable under the principal Order. No article in the principle Order is amended by this instrument.

7.2 Uprating is discretionary but the long established practice is to increase the rates annually in April, applying the same principle that the Department of Work and Pensions uses for uprating social security disability benefits.

7.3 The basic war pension and war widow(er)s pension will therefore rise by 3.1% together with all the allowances payable.

- ***Consolidation***

7.4 The principal Order was a consolidation instrument and only minor amendments have been made to its articles since it was made. The number of persons receiving war pensions and other allowances under this Order falls each year as compensation is payable under the AFCS where death or injury occurs on or after 6 April 2005. Given also that no articles within the principal Order are to be amended by this instrument there are no current plans to consolidate.

8. Consultation outcome

No consultation was required, as MOD is not seeking to amend any articles in the SPO this year.

9. Guidance

All persons in receipt of a pension or allowance will be notified of the annual increase in the rates by letter.

10. Impact

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

10.2 There is no impact on the public sector in relation to administering the principal Order.

10.3 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 only amendments made under this instrument are the annual increases in rates of pension and allowances payable under the principal Order. No amendments have been made to any of the articles. However, the application and effect of the Order are continually monitored and reviewed.

13. Contact

James Longworth at the Ministry of Defence tel: 020 7218 0377 or email: CLS-LegC@mod.uk can answer any queries regarding the instrument.