EXPLANATORY MEMORANDUM TO

THE NAVAL, MILITARY AND AIR FORCES ETC. (DISABLEMENT AND DEATH) SERVICE PENSIONS (AMENDMENT) ORDER 2012

2012 No. 359

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

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"), and makes other amendments to the 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 (JCSI)

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 on or 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

The Order applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7.1 This instrument provides for the annual increase in rates of pension and allowances payable under the principal Order. In addition, three minor amendments are being made in order to clarify provision and comply with the Equality Act.

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 5.2% 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 substantially amended by this instrument there are no current plans to consolidate.

8. Consultation outcome

No consultation was required, as MOD is not seeking to make any changes to the SPO this year that would have a negative effect on those in receipt of pensions or allowances.

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

A Regulatory Impact Assessment has not been prepared for this Order as it is not expected to have an impact on business, charities or voluntary bodies.

11. Regulating Small Business

This legislation does not apply to small business.

12. Monitoring and review

These provisions are subject to continued monitoring and review.

13. Contact

Contact James Longworth, Ministry of Defence, 0207 218 0377, email CLS-LegC@mod.uk if you have any queries on this memorandum.