

ARMED FORCES ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: Armed forces covenant report

17. The nature of service in the armed forces means that their members are subject to exceptional demands, including deployment at short notice to operational theatres and other places abroad. This may directly or indirectly affect the ability of members of the armed forces and their families to obtain the full benefit of welfare and other provision made in the United Kingdom. The main purpose of this section is to respond to the ways in which the demands of their service may affect current and former members of the armed forces and others connected with them in relation to that provision. Some effects may be limited to the immediate children or partners of members of the armed forces. In other circumstances, such as the death of a member of the armed forces, those affected may include a wider group of people connected with the member of the armed forces who has died.
18. The section inserts into AFA 2006 new sections 343A and 343B in a new Part 16A. The new section 343A requires the Secretary of State to lay before Parliament an annual report on effects of membership (or former membership) of the armed forces on members and former members of the armed forces, and on such persons connected with them as the Secretary of State may decide. The former members covered by new section 343A include both those who have left the armed forces before the section comes into force and those who leave subsequently. But former members are covered by new section 343A only if they are ordinarily resident in the United Kingdom. This reflects the purpose referred to in paragraph 17 of responding to the effects of service on the ability to benefit from provision made in the United Kingdom. The members, former members and connected persons covered are referred to in the new section as “service people”. The definition of “service people” is set out in new section 343B(1). Each annual report must address effects of membership or former membership in the fields of healthcare, education and housing and in the operation of inquests; but new section 343A does not require each report to cover all the effects of membership in these fields, and the effects the Secretary of State chooses to report on may relate to particular descriptions of service people. If the Secretary of State considers that any of the fields of healthcare, education and housing is not relevant to a particular description of people covered in a report, the requirement to report on each of those fields is relaxed to that extent. The Secretary of State may also decide to cover in a report effects in fields additional to the mandatory fields.
19. A report under new section 343A is referred to as an “armed forces covenant report”. With reference to this, new section 343A(3) requires the Secretary of State, in preparing the reports, to have regard in particular to the unique obligations and sacrifices of the armed forces, to the principle of the desirability of removing disadvantages arising from membership of the armed forces and to the principle that special provision for service people may be justified by the effects of membership, or former membership, of the armed forces. Under new section 343A(4) the Secretary of State must obtain the views of any relevant government department and seek the views of any relevant

*These notes refer to the Armed Forces Act 2011 (c.18)
which received Royal Assent on 3 November 2011*

devolved administration in relation to the effects to be covered by the report. The report must set out in full or summarise those views or, where the views of a relevant devolved administration have been sought but not obtained, the report must say so. Any summary of views must be approved by the relevant government department or devolved administration. Under new section 343A(7) each report must state whether, in the Secretary of State's opinion, any effects in a particular field covered by the report put service people, or a category of them, at a disadvantage compared with other people. Where such a disadvantage is thought to exist the report must, under new section 343A(8), set out the Secretary of State's response. Under new section 343A(9) the Secretary of State must also consider whether effects covered by the report would justify making special provision for service people, or a category of them. If the Secretary of State does consider that to be the case, the report must say so.