
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Armed Forces and Reserve Forces Compensation Scheme Order 2005 (“the Scheme”) which provides for benefits to be payable to or in respect of a person by reason of his illness or injury (whether physical or mental), or his death, which is caused (wholly or partly) by his service in the armed forces or the reserve forces.

This Order is principally for the purpose of substituting a revised Tariff as contained in Tables 1 to 9 of Schedule 4 to the Scheme but it also amends article 20 of the Scheme (temporary awards). At present, where a temporary award has been made, the Secretary of State can only issue a decision making that award permanent where, within the period of one year starting with the date on which the temporary award is made, he amends the Tariff by including the injury for which the temporary award is made in the level of the Tariff which he considers appropriate for that injury. When making a determination in respect of a claim for benefit the Secretary of State applies the Tariff in force on the date on which the claim for benefit was made. It may be that having regard to the version of the Tariff in force on the date the claim was made, the requirements of article 20(1) are made out and thus the Secretary of State determines that a temporary award should be made – but that by this time the Tariff has been amended such that a relevant descriptor at the appropriate level of the Tariff has now been included. Article 20(4) could not then apply since the amending Order has been made before, rather than after, the making of the temporary award. Accordingly, article 2(b) of this Order inserts new paragraphs (5) and (6) into article 20 to cater for this scenario.

The new Tariff inserted by article 3 of this Order replaces the previous version inserted by the Armed Forces and Reserve Forces Compensation Scheme (Amendment) Order 2006 ([S.I. 2006/1438](#)) (“the 2006 Order”). The Tariff lists the various forms of injury or disease for which compensation is available under the Scheme; specifies a numerical level referable to each type of injury or disease and specifies for each numerical level the amount of compensation payable.

The revised Tariff incorporates some additional table entries and amends the content of certain pre-existing table entries (a significant number of entries remain as per Schedule 4 inserted by the 2006 Order). In some cases the amendment is to the numerical level referable to the particular injury or disorder rather than to the descriptor of that injury or disorder. A number of the amendments are as a consequence of the making of temporary awards under article 20 of the Scheme.

Article 3(2) of this Order provides that in general the revised Tariff does not affect a claim made before the coming into force of this Order. These claims will therefore be determined in accordance with the Tariff as inserted by the 2006 Order. The exception to this (as set out in article 3(3)) is where the effect of the amendment to the Schedule is to include the injury or an injury of a description which is the same as the injury in respect of which a temporary award is made.

A full regulatory impact has not been produced for this instrument as it has no significant impact on the costs of business, charities or voluntary bodies.