

**EXPLANATORY MEMORANDUM TO  
THE ARMED FORCES AND RESERVE FORCES (COMPENSATION  
SCHEME) (CONSEQUENTIAL PROVISIONS: SUBORDINATE  
LEGISLATION) ORDER 2013**

**2013 No. 591**

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**

The Instrument provides access to additional benefits for recipients of a new benefit to be known as armed forces independence payment (AFIP) from 8 April 2013 in order to give seriously injured Service and ex-Service personnel who qualify for AFIP similar access as those who qualify for the Department for Work and Pensions Personal Independence Payment (PIP).

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

AFIP was introduced by way of an amendment to the Armed Forces Compensation Scheme provided for under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(S.I.2011/517) on 4 Mar 13 SI 2013/436 refers. AFIP is to be made available to seriously injured members of the armed forces and ex-Service personnel who meet the eligibility criteria.

4. **Legislative Context**

This Instrument contains provisions to give full effect to section 1(2) of the Armed Forces and Reserve Forces (Compensation Scheme) Act 2004 (c.32) consequential on the provision of AFIP.

5. **Territorial Extent and Application**

This instrument extends to the United Kingdom.

6. **European Convention on Human Rights**

The Minister of State for Defence has made the following statement regarding Human Rights: In my view the provisions of The Armed Forces and Reserve Forces (Compensation Scheme)(Consequential Provisions) Order 2013 are compatible with the Convention rights.

## **7. Policy background**

7.1 In 2010, the DWP announced, as part of a package of Welfare Reform, that Disability Living Allowance (DLA) would be reformed and a new benefit, PIP, introduced from April 2013. The PIP eligibility criteria are different from DLA.

7.2 During the PIP public consultations, concerns were raised by Service and veterans' organisations about how PIP would impact financially upon injured Service and ex-Service personnel, and in particular those that have been seriously injured as a result of service.

7.3 In order to provide ongoing support to the most severely injured Service and ex-Service personnel a new benefit, AFIP, will be established as an alternative to PIP. This upholds Armed Forces Covenant commitments. AFIP was announced by the Prime Minister in July 2012.

7.4 This Instrument will provide passports to other benefits in a similar way to PIP. DWP will administer and pay AFIP on an ongoing basis.

## **8. Consultation Outcome**

8.1 The Central Advisory Committee (CAC) on Pensions and Compensation was consulted on the design of AFIP. The consultation exercise began on 8 October 2012 and closed 30 November 2012. This external advisory body advises the Minister of State for Defence Personnel, Welfare and Veterans on matters of pensions and compensation relevant to the Armed Forces. Membership consists of representatives of key ex-Service organisations, including The Royal British Legion, the War Widows Association, the British Limbless Ex-Service Men's Association (BLESMA) and Combat Stress as well as Service members and MOD officials. All groups welcomed the proposals in principle. Four responses were received.

8.2 The organisations that responded to the consultation recommended change to only the eligibility criteria. Furthermore, the organisations differed with each other, some considering the eligibility criteria too narrow, others too broad. Setting criteria for injured Service and ex-Service personnel is not always straightforward and it was recognised there would always be cases near the entitlement threshold that challenge the criteria. However, the agreed eligibility criteria were deemed to be the most appropriate in order to ensure that support was targeted on those most severely injured as a result of service. The Minister agreed the design of AFIP should remain unchanged following consultation.

## **9. Guidance**

Information about the new provisions will be made available by means of placing a copy of the Instrument on the Gov.UK website. In addition information will be available externally via Armed Forces magazines and other publications and internally through the Armed Forces Chain of Command and

intranet sites. Those eligible for AFIP will be sent a letter setting out the changes explaining next steps. CAC members consulted will also receive a copy of the Instrument with an explanatory paper.

## **10. Impact**

10.1 The impact on business, charities and voluntary bodies is not significant.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument.

10.4 An Equality Assessment has been prepared for AFIP.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring and Review**

The MOD will continue to review the Armed Forces Compensation Scheme as part of its day-to-day management and to liaise with members of the CAC. This will include monitoring the impact of the changes made in this Instrument.

## **13. Contact**

Tracy Sexton at the Ministry of Defence Tel: 0207 218 0564 can answer any queries regarding this Instrument.