

**EXPLANATORY MEMORANDUM TO**  
**THE INCOME TAX (ACCOMMODATION ALLOWANCES OF ARMED FORCES)**  
**REGULATIONS 2019**

**2019 No. 1007**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by HM Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The new armed forces accommodation allowance is exempted from income tax. These Regulations set out the detailed conditions that will have to be met for the exemption to apply.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Select Committee on Statutory Instruments*

- 3.1 This is the first use of the power contained in section 297D(2)(c) of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (ITEPA).
- 3.2 A separate set of commencement Regulations will be made to bring section 297D of ITEPA into effect in September 2019. This will bring in the tax exemption for payments of armed forces accommodation allowance. These commencement Regulations are not subject to Parliamentary procedure.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

**6. Legislative Context**

- 6.1 Section 8(1) of the Finance Act 2018 introduced a new income tax exemption for accommodation allowance payments made to members of the armed forces in section 297D of ITEPA. Section 297D(2) of ITEPA defines an accommodation allowance.

6.2 Section 297D(2)(c) of ITEPA contains a power enabling the Treasury to set out further conditions in Regulations which a payment must meet in order to qualify as an accommodation allowance for this purpose.

## 7. Policy background

### *What is being done and why?*

- 7.1 The Ministry of Defence (MoD) are changing their accommodation model<sup>1</sup>. This is part of a large strategic programme, known as the Future Accommodation Model, which the MoD are introducing to offer their service personnel greater freedom of where they live and to reduce the number of service personnel living in MoD provided accommodation.
- 7.2 The MoD currently provides living accommodation for service personnel. The provision of this accommodation is exempt from income tax and National Insurance contributions (NICs). Under the Future Accommodation Model, the MoD intends to move some of their service personnel to private accommodation and to pay a cash allowance to these personnel towards the costs of renting and maintaining this accommodation.
- 7.3 The model will be piloted in a handful of locations from September 2019. The pilot will be evaluated in due course before a decision is made whether it should be rolled out more widely.
- 7.4 To facilitate this pilot and to support the wider strategic programme, legislation was passed in Finance Act 2018 that provides for certain types of payments that will be made to service personnel under this new model, known as “accommodation allowances”, to be exempt from income tax (section 297D of ITEPA). This legislation effectively continues the current tax position under which the MoD provides accommodation free of income tax to service personnel. There are separate Regulations being laid that will provide a NICs disregard.
- 7.5 The Finance Act legislation did not specify the full details of the conditions that must be met in order for a payment to be within the definition of an accommodation allowance. These Regulations provide further detail on the types of payments that meet this definition and which therefore fall within the scope of this exemption.
- 7.6 The following types of payments will be included in the definition of an accommodation allowance:
- Payment toward rental costs and mortgage costs. This will cover payments towards service personnel living accommodation, situations where there is an obligation for service personnel to pay two rents due to school commitments and allowances to cover the cost of living in different areas in the UK.
  - Payments to compensate service personnel for the difference in their rate of council tax to the UK average.
  - Costs incurred in the course of sourcing and signing a tenancy agreement related to accommodation provided under the Future Accommodation Model.

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<sup>1</sup> <https://www.gov.uk/government/publications/future-accommodation-model-what-you-need-to-know/what-you-need-to-know-about-fam>

7.7 Further details of these types of payments and the Future Accommodation Model can be found at the Joint Service Publication 464 Tri-Service Accommodation Regulations Volume 4: Future Accommodation Model (FAM) Pilot – UK which is published at: <https://www.gov.uk/government/publications/jsp-464-tri-service-accommodation-regulations-tsars>.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

9.1 There are no plans for consolidation as this is a stand-alone instrument.

## **10. Consultation outcome**

10.1 No formal consultation exercise was conducted as this instrument effectively continues an existing exemption. However, the MoD have been consulted during the drafting of these Regulations.

10.2 The MoD have conducted a survey on the Future Accommodation Model that was sent out to all serving personnel. The results of the survey can be found here:

<https://www.gov.uk/government/statistics/mod-future-accommodation-model-survey-2016>

## **11. Guidance**

11.1 Guidance will be available on gov.uk when the Regulations come into effect.

## **12. Impact**

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

12.2 The impact on the public sector is limited to MoD personnel only. There will be limited impact to MoD personnel as this new exemption effectively continues the existing employer provided living accommodation tax exemption.

12.3 A Tax Impact and Information Note for the Employee Benefits and Expenses Exemption was published on 22 November 2017 and is available on the website at:

<https://www.gov.uk/government/publications/income-tax-armed-forces-accommodation-allowance-exemption/income-tax-armed-forces-accommodation-allowance-exemption>

It remains an accurate summary of the impacts that apply to this instrument.

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is to monitor and review it, as appropriate, within the context of the wider tax framework.

14.2 The regulation does not include a statutory review clause because of a tax exemption in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015

## **15. Contact**

- 15.1 Jeremy Pearson at HM Revenue and Customs Telephone: 03000 542455 or email: [employmentincome.policy@hmrc.gov.uk](mailto:employmentincome.policy@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Jackie McGeehan, Deputy Director for Income Tax policy at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Jesse Norman MP Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.