

EXPLANATORY MEMORANDUM TO
THE ARMED FORCES PENSION SCHEME etc. AMENDMENT ORDER 2006

2006 No. 717

1. This explanatory memorandum has been prepared by the Ministry of Defence (MOD) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. The Armed Forces Pension Scheme Order 2005 (S.I. 2005/438), made under the provisions of the Armed Forces (Pensions and Compensation) Act 2004 (“the 2004 Act”), came into effect on 6 April 2005. The Armed Forces Pension Scheme etc. Amendment Order 2006 contains amendments to the rules set out in S.I. 2005/438 which are, in the main, consequential on the provisions of other legislation.

3. Matters of special interest to the Joint Committee on Statutory Instruments (JCSI)

3.1. The JCSI will note that, while the Order features Articles which are numerically sequenced, rules referred to in the Articles follow lettered parts. This is unusual for a statutory instrument but is the common form of numbering for pension schemes, and is adopted in this case because S.I. 2005/438 is sequenced in lettered parts.

3.2. Particular attention is drawn to Article 12, which arises from JCSI comments on S.I. 2006/55. It amends the description of Gurkhas which appears in S.I. 2005/437, S.I. 2005/348 and S.I. 2006/55.

4. Legislative background

4.1. The 2004 Act establishes a new statutory framework for Armed Forces pensions, with the scheme rules set out in statutory instruments, as for most other public service schemes. This allows routine changes, including those implementing wider Government policies that have been subject to Parliamentary scrutiny and debate, to be implemented quickly and economically; it also allows substantial Parliamentary debate, where either House judges there to be policy issues of significant concern.

4.2. The Order contains amendments consequential on the replacement on 6 April 2006 of the tax regime applying in respect of pensions under Part 14 of the Income and Corporation Taxes Act 1998 by Part 4 of the Finance Act 2004. It also contains some minor amendments of the Armed Forces Early Departure Payments Scheme Order 2005 (S.I. 2005/437) and the Armed Forces Redundancy Scheme Order 2006 (S.I. 2006/55).

5. Extent

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1. As the Order is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

7.1. S.I. 2005/438 built in as many of the relevant provisions of the Finance Act 2004 as possible into Schedule 1. Schedule 2 contained modifications to maintain the pre-6 April 2006 tax position for the S.I.'s first year of effect, and stands to be revoked by this Order. Subsequent amendment to the Finance Act 2004 by the Finance Act 2005, and fine tuning of Treasury, Revenue and Department for Work and Pensions guidance, has given rise to amendments in Schedule 1 which would have been difficult to include with any confidence prior to 6 April 2005.

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument, as it has no significant impact on business, charities or voluntary bodies.

9. Contact

9.1. Contact Sue McIntosh, Ministry of Defence, 0207 218 0564, email sue.mcintosh641@mod.uk if you have any queries on the memorandum.