

**EXPLANATORY MEMORANDUM TO
THE ARMED FORCES AND RESERVE FORCES
(COMPENSATION SCHEME) (AMENDMENT) ORDER 2013**

2013 No. 436

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 a new benefit to be known as armed forces independence payment (AFIP) from 8 April 2013.

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

This Order will amend the Armed Forces Compensation Scheme provided for under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(S.I.2011/517) (“Principal Order”) to provide for a new benefit to be known as armed forces independence payment which is to be made available to seriously injured members of the armed forces and ex-Service personnel who meet the eligibility criteria. Recipients of AFIP will not also be able to claim Personal Independence Payment (PIP), Disability Living Allowance (DLA) or Attendance Allowance (AA).

4. **Legislative Context**

This Instrument, which is made under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (c.32), amends the Principal Order to take account 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 DLA would be reformed and a new benefit, PIP, introduced from 8 April 2013. The PIP eligibility criteria are different from DLA.

7.2 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.

7.3 AFIP eligibility will be linked to the Armed Forces Compensation Scheme, determined by MOD. DWP will administer and pay AFIP on an ongoing basis. AFIP will be introduced at the same time as PIP.

8. Consultation Outcome

8.1 The Central Advisory Committee (CAC) on Pensions and Compensation were 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 and 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.