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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The provisions contained in this Order are made to give full effect to section 1(2) of the Armed Forces (Pensions and Compensation Scheme) Act 2004 (c.32) consequential upon the Armed Forces and Reserve Forces (Compensation Scheme) (Amendment Order) 2013 (S.I. 2013/436) (“2013 Order”) which amends the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517) (“2011 Order”). Both Orders are made under that section. The 2011 Order provides for a scheme of compensation payments to be payable to, or in respect of, a person by reason of illness or injury (whether physical or mental), or death, which is caused (wholly or partly) by service in the armed forces or the reserve forces. The 2013 Order provides for a new payment called the armed forces independence payment under the scheme.

Paragraph 1 of the Schedule amends the Social Security Benefit (Persons Abroad) Regulations 1975. This amendment provides that persons in receipt of armed forces independence payment will not be disqualified from receiving a benefit in respect of incapacity by reason of temporary absence from Great Britain in certain circumstances.

Paragraph 2 of the Schedule amends the Social Security (Invalid Care Allowance) Regulations 1976 to provide that entitlement to Carer’s Allowance can continue where the claimant is not present in Great Britain provided the absence is temporary and for the purpose of caring for a severely disabled person in receipt of (amongst other payments) armed forces personal independence payment.

Paragraph 3 of the Schedule amends the Social Security (Overlapping Benefits) Regulations 1979. Regulation 6 is amended to allow for adjustment under Schedule 1 where both armed forces independence payment and any benefit to be adjusted by reference to armed forces independence payment are payable in respect of the same person (whether or not one or both of them are payable to that person). Item 5 of Schedule 1 is amended to allow for the adjustment of armed forces independence payment where certain other benefits are payable in respect of the same person.

Paragraph 4 of the Schedule makes a number of consequential amendments to the Income Support (General) Regulations 1987, including amendments to the entitlement conditions for certain premiums so that those premiums may be awarded to certain persons in receipt of armed forces independence payment. The Regulations are also amended so that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations in certain circumstances.

Paragraph 5 of the Schedule amends the Council Tax (Discount Disregards) Order 1992 to include armed forces independence payment in the definition of a “qualifying benefit”. People who receive a qualifying benefit and meet certain other conditions are disregarded for the purposes of calculating a council tax discount.

Paragraph 6 of the Schedule amends the Council Tax (Additional Provision for Discount Disregards) Regulations 1992 which makes provision for care workers in relation to council tax disregards. Armed forces independence payment is added to the list of qualifying benefits in respect of the person being cared for.

Paragraph 7 of the Schedule amends the Child Support (Maintenance Assessments and Special Cases) Regulations 1992. Amendments to Schedule 2 of those Regulations provide that armed forces independence payment, or any other payment (whether concessionary or otherwise) to compensate for the non-payment of armed forces independence payment, is disregarded when calculating the net income of a non-resident parent and parent with care. An amendment to Schedule 4 provides

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that child maintenance is not payable by a non-resident parent who is in receipt of armed forces independence payment.

Paragraph 8 of the Schedule amends the National Assistance (Assessment of Resources) Regulations 1992 and makes provision for how armed forces independence payment is to be treated in the calculation of income and earnings, and requires local authorities to disregard armed forces independence payment in the financial assessment of what a person pays for their residential care.

Paragraph 9 of the Schedule amends the Social Security (Incapacity Benefit) Regulations 1994. The amendment provides that persons in receipt of armed forces independence payment shall not have their incapacity benefit reduced under section 30DD(1) of the Social Security Contributions and Benefits Act 1992.

Paragraph 10 of the Schedule makes a number of consequential amendments to the Jobseeker's Allowance Regulation 1996, including amendments to the entitlement conditions for certain premiums so that those premiums may be awarded to certain persons in receipt of armed forces independence payment. The Regulations are also amended so that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations in certain circumstances.

Paragraph 11 of the Schedule makes consequential amendments to the Housing Renewal Grants Regulations 1996 to deal with the impact of armed forces independence payment on means testing for receipt of disabled facilities grants. These include: amendments concerning the reduction of assessed income to take account of child care payments, amendments concerning the entitlement to certain premiums where disabled persons or members of their household are in receipt of armed forces independence payment, and an amendment to disregard armed forces independence payment in calculating income other than earnings.

Paragraph 12 of the Schedule amends the Social Security Benefits (Computation of Earnings) Regulations 1996. The amendment provides that a member of a couple is deemed to be incapacitated if they are in receipt of armed forces independence payment.

Paragraph 13 of the Schedule amends the Child Support Departure Direction and Consequential Amendments Regulations 1996. The amendments make provision for payments of armed forces independence payment to be taken into account in the determination of applications for departures from the standard child maintenance formula under the 1993 statutory scheme.

Paragraph 14 of the Schedule amends the Education (Student Loans) Regulations 1998. The amendment adds the armed forces independence payment to the definition of "disability related benefits" for the purposes of those Regulations.

Paragraph 15 of the Schedule amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999. The amendments make provision for the date upon which certain decisions regarding entitlement to armed forces independence payment take effect for the purposes of those Regulations.

Paragraph 16 of the Schedule amends the Maternity and Parental Leave etc Regulations 1999. These amendments provide that where an employee is a parent of a person in receipt of armed forces independence payment, they are entitled to certain additional rights in respect of parental leave.

Paragraph 17 of the Schedule amends the Child Support (Variations) Regulations 2000. The amendments provide that a person receiving armed forces independence payment comes within the definition of a "disabled" person for the purposes of those Regulations. The Regulations are also amended to allow armed forces independence payment to be taken into account when calculating special expenses for the purposes of the Child Support Act 1991.

Paragraph 18 of the Schedule amends the Community Legal Service (Financial) Regulations 2000 to include armed forces independence payment in the list of payments to be disregarded when calculating disposable income for the purposes of those Regulations.

Paragraph 19 of the Schedule amends the Criminal Defence Service (General) (No.2) Regulations 2001 to include armed forces independence payment in the list of payments to be disregarded when calculating disposable income for the purposes of those Regulations.

Paragraph 20 of the Schedule amends the Representation of the People (England and Wales) Regulations 2001 to provide that, where a person is in receipt of armed forces independence payment, they are exempted from the requirement to obtain medical attestation when applying to vote by proxy.

Paragraph 21 of the Schedule amends the Representation of the People (Scotland) Regulations 2001 to provide that, where a person is in receipt of armed forces independence payment, they are exempted from the requirement to obtain medical attestation when applying to vote by proxy.

Paragraph 22 of the Schedule amends the Social Security (Loss of Benefit) Regulations 2001 to provide that the definition of a “person in hardship” and a “couple in hardship”, for the purposes of those Regulations, includes persons in receipt of armed forces independence payment.

Paragraph 23 of the Schedule makes a number of consequential amendments to the State Pension Credit Regulations 2002, including amendments to the entitlement conditions for the additional amount of pension credit which can be awarded to persons who are severely disabled. The Regulations are also amended so that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations in certain circumstances.

Paragraph 24 of the Schedule amends the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 to provide that persons in receipt of armed forces independence payment may be entitled to a disability element or a severe disability element for the purposes of working tax credit. The amendments also provide that a claimant or a child in receipt of armed forces independence payment is defined as incapacitated or disabled respectively for the purpose of the childcare element of working tax credit.

Paragraph 25 of the Schedule amends the Tax Credits (Definition and Calculation of Income) Regulations 2002 to provide that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations.

Paragraph 26 of the Schedule amends the Child Tax Credit Regulations 2002 to provide that, for the purposes of child tax credit, where a child or qualifying young person is in receipt of armed forces independence payment a severe disability element may be payable.

Paragraph 27 of the Schedule amends the Tax Credits (Claims and Notifications) Regulations 2002. The amendments make provision for the date upon which decisions regarding entitlement to armed forces independence payment take effect for the purposes of entitlement to the severe disability element of child tax credit.

Paragraph 28 of the Schedule amends the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 so that the definition of “disabled” for the purposes of those Regulations includes someone entitled to armed forces independence payment.

Paragraph 29 of the Schedule amends the Government Resources and Accounts Act 2000 (Rights of Access of Comptroller and Auditor General) Order 2003 to provide that the Comptroller and Auditor General cannot access documents in the custody or control of an individual relating to grants of armed forces independence payment to individuals.

Paragraph 30 of the Schedule amends the European Parliamentary Elections Regulations 2004 to provide that, where a person is in receipt of armed forces independence payment, they are exempted from the requirement to obtain medical attestation when applying to vote by proxy in European Parliamentary elections.

Paragraph 31 of the Schedule amends the Non-Contentious Probate Fees Order 2004 to include armed forces independence payment in the definition of “excluded benefits” for the purposes of that Order.

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Paragraph 32 of the Schedule amends the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 to include armed forces independence payment in the definition of “arrears of benefits excluded” from a deceased’s assets for the purposes of those Regulations.

Paragraph 33 of the Schedule amends the Criminal Defence Service (Financial Eligibility) Regulations 2006 to include armed forces independence payment in the list of payments to be disregarded when calculating gross annual income for the purposes of those Regulations.

Paragraph 34 of the Schedule makes a number of consequential amendments to the Housing Benefit Regulations 2006, including amendments to the entitlement conditions for certain premiums so that those premiums may be awarded to certain persons in receipt of armed forces independence payment. The Regulations are also amended so that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations in certain circumstances.

Paragraph 35 of the Schedule makes a number of consequential amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, including amendments to the entitlement conditions for certain premiums so that those premiums may be awarded to certain persons in receipt of armed forces independence payment. The Regulations are also amended so that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations in certain circumstances.

Paragraph 36 of the Schedule amends the National Assembly for Wales (Representation of the People) Order 2007 to provide that, where a person is in receipt of armed forces personal independence payment, they are exempted from the requirement to obtain medical attestation when applying to vote by proxy in National Assembly for Wales elections.

Paragraph 37 of the Schedule makes a number of amendments to the Employment and Support Allowance Regulations 2008, including amendments to the entitlement conditions for certain premiums so that those premiums may be awarded to certain persons in receipt of armed forces independence payment. The Regulations are also amended so that armed forces independence payment is disregarded when calculating income for the purposes of those Regulations in certain circumstances.

Paragraph 38 of the Schedule amends the Magistrates’ Court Fees Order 2008 to include armed forces independence payment in the definition of “excluded benefits” for the purposes of that Order.

Paragraph 39 of the Schedule amends the Civil Proceedings Fees Order 2008 to include armed forces independence payment in the definition of “excluded benefits” for the purposes of that Order.

Paragraph 40 of the Schedule amends the Family Proceedings Fees Order 2008 to include armed forces independence payment in the definition of “excluded benefits” for the purposes of that Order.

Paragraph 41 of the Schedule amends the Criminal Defence Service (Contribution Orders) Regulations 2009 to include armed forces independence payment in the list of payments to be disregarded when calculating gross annual income for the purposes of those Regulations.

Paragraph 42 of the Schedule amends the Education (Student Loans) (Repayment) Regulations 2009 to include armed forces independence payment in the definition of “disability-related benefits” for the purposes of those Regulations.

Paragraph 43 of the Schedule amends the Supreme Court Fees Order 2009 to include armed forces independence payment in the definition of “excluded benefits” for the purposes of that Order.

Paragraph 44 of the Schedule amends the Social Security (Contributions Credits for Parents and Carers) Regulations 2010 to include armed forces independence payment in the definition of “relevant benefit” for the purposes of those Regulations.

Paragraph 45 of the Schedule amends the Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011 to include armed forces independence payment in the definition of “excluded benefits” for the purposes of that Order.

Paragraph 46 of the Schedule amends the Police and Crime Commissioner Elections Order 2012 to provide that, where a person is in receipt of armed forces independence payment, they are exempted from the requirement to obtain medical attestation when applying to vote by proxy in Police and Crime Commissioner Elections.

Paragraph 47 of the Schedule amends the Child Support Maintenance Calculation Regulations 2012 to provide that the definition of a “disabled” person, for the purposes of those Regulations, includes persons in receipt of armed forces independence payment.

Paragraph 48 of the Schedule amends the Benefit Cap (Housing Benefit) Regulations 2012 to provide that a person will not be subject to the housing benefit cap in accordance with those regulations where that person, their partner or a young person for whom they or their partner is responsible is in receipt of armed forces independence payment.

Paragraph 49 of the Schedule amends the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 to provide that armed forces independence payments are to be disregarded in the calculation of disposable income or gross income under those Regulations.

Paragraph 50 of the Schedule amends the Criminal Legal Aid (Financial Resources) Regulations 2013 to provide that armed forces independence payments are to be deducted in the calculation of disposable income under Part 2 and gross annual income under Part 3 of those Regulations.

Paragraph 51 of the Schedule amends the Employment and Support Allowances Regulations 2013 to provide that the definition of a “person in hardship”, for the purposes of those Regulations, includes persons in receipt of armed forces independence payment.

Paragraph 52 of the Schedule amends the Jobseeker’s Allowance Regulations 2013 to provide that armed forces independence payment is included in the definition of “remunerative work” for the purposes of that Order.

Paragraph 53 of the Schedule amends the Universal Credit (Transitional Provisions) Regulations 2013 to provide that armed forces independence payment is included in the definitions of “existing benefits” and “other incapacity benefits” for the purposes of those Regulations.

Paragraph 54 of the Schedule amends the Universal Credit Regulations 2013 to provide that armed forces independence payment is included in the list of universal benefits for the purposes of those Regulations.