

**EXPLANATORY MEMORANDUM TO
THE RESERVE FORCES (CALL-OUT AND RECALL) (FINANCIAL ASSISTANCE)
(AMENDMENT) REGULATIONS 2015**

2015 No. 460

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

2. Purpose of the instrument

2.1 The instrument makes amendments to the Reserve Forces (Call-out and Recall) (Financial Assistance) Regulations 2005 (SI 2005/859) (“the 2005 Regulations”). The 2005 Regulations give effect to a scheme for providing financial assistance to members of the reserve forces and their employers who suffer financial loss as a result of the call out of members of the reserve forces for service in the armed forces.

2.2 The instrument extends the financial assistance available to employers under the 2005 Regulations. It also makes additional financial assistance available to self-employed members of the reserve forces by allowing them to claim for certain business expenses that they incur in respect of a period during which they are called out for service in the armed forces. It reduces the maximum amount which may be claimed under the 2005 Regulations by members of the reserve forces (other than those serving as accredited medical consultants) to mitigate financial losses resulting from their service pay during call out being lower than their civilian pay.

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

3.1 None.

4. Legislative background

4.1 Section 83 of the Reserve Forces Act 1996 (“the 1996 Act”) Act gives the Secretary of State a power to make regulations which provide for the making of payments by him to any persons in respect of financial loss suffered by them and attributable to their being called out or recalled for service. Section 84 of the 1996 Act gives the Secretary of State a power to

make regulations which provide for the making of payments by him to employers in respect of financial loss suffered by them and attributable to any of their employees being called out or recalled for service. The 2005 Regulations were made in exercise of the powers conferred by sections 83 and 84 of the 1996 Act. This instrument is also made in exercise of those powers.

4.2 Section 85(3) of the 1996 Act imposes an obligation on the Secretary of State to consult the following before making any regulations under section 83, 84 or 84A of the 1996 Act:

- a body appearing to him to represent the interests of employers
- a body appearing to him to represent the interests of employees
- a body appearing to him to represent the interests of the self-employed, and
- the associations established under Part 11 of the 1996 Act (reserve associations) or a body appearing to him to represent those associations.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 A Consultation Paper on the future of the reserve forces, “Future Reserves 2020: Delivering the Nation’s Security Together”, was published in November 2012. Responses to that Paper indicated that many employers feel that having reservist employees absent from work on reserve service disadvantages them in ways which the ability to claim for financial loss under the 2005 Regulations does not currently address.

7.2 Recognising this, and that the support of employers is integral to enabling the reserve forces to function effectively, a commitment was made in the White Paper “Reserves in the Future Force 2020: Valuable and Valued” (presented to Parliament in July 2013 by the Secretary of State for Defence by Command of Her Majesty) to review the regulations which

govern the financial assistance available to the employers of members of the reserve forces who are called out for service in the armed forces. This review concluded that the financial assistance available to such employers should be extended.

7.3 The aim of the award which a reservist may claim under regulation 3 of the 2005 Regulations is to prevent reservists who are called out for service suffering financial disadvantage during that service if their service pay is lower than their lost civilian pay. However, the amount payable is subject to a cap. Examination of payment records for the financial years 2012-13 and 2013-14 show that reducing the cap (for reservists who were not accredited medical consultants) to £400 per day would not have financially disadvantaged any reservist who was called out in that period. Accordingly, the instrument reduces that cap to £400 per day.

7.4 The changes made by this instrument apply only to applications for financial assistance made under the 2005 Regulations in relation to periods of service in the armed forces which begin on or after 27th March 2015.

8. Consultation outcome

8.1 As required by section 85(3) of the 1996 Act, the Secretary of State has consulted the following bodies about the provision made in this instrument:

- the Confederation of British Industry
- the Institute of Directors
- the National Employer Advisory Board
- the Federation of Small Businesses, and
- the Council of the Reserve Forces and Cadets Associations

These bodies were consulted over a period of 30 days from 18 November 2014 to 17 December 2014.

8.2 A response was received from the Confederation of British Industry and from members of the other bodies to whom our consultation document had been forwarded by those bodies. The Ministry of Defence received 59 responses from such members (34 from employers, 15 from employees and 10 from self-employed persons). The responses welcomed the extension of the financial assistance available to employers under the 2005 Regulations. They also supported extending the provision made in the 2005 Regulations so that additional expenses

may be recovered by self-employed reservists. The consultation stressed the importance of publicising the changes to reservists and employers.

8.3 The Secretary of State also consulted Defence Relationship Management (DRM) (an organisation funded by the Ministry of Defence that aims to build support for defence personnel (including veterans) among employers) about the provision made in this instrument. They generally supported the changes.

9. Guidance

9.1 When a member of the reserve forces is called out for service in the armed forces, their employer will receive guidance about the financial assistance available under the scheme established by the 2005 Regulations and the changes made to it by this instrument and how to make a claim under the scheme. The guidance will include contact details for the Adjudication Officers (who determine claims under the 2005 Regulations) who are available to provide further information.

10. Impact

10.1 A Regulatory Impact Assessment is attached to this memorandum.

10.2 The impact on the public sector is minimal - the cost of processing claims for the additional financial assistance which this instrument introduces - and that slight impact will be offset in part by improvements to claim forms and processes.

10.3 The impact on business, charities and voluntary bodies is estimated to be of minimal cost as the purpose of this instrument is to extend financial assistance available to employers who suffer financial loss when their employees are called out for service in the armed forces. It is estimated that the changes made by this instrument will save business £0.39m per year (Estimated Annual Net Cost to Business in 2009 prices) as stated in the Impact Assessment attached.

11. Regulating small business

11.1 The legislation applies to small business. The scheme which is modified by this instrument provides financial assistance to members of the reserve forces and employers of members of the reserve forces who suffer financial loss as a result of the calling out of members of the reserve forces for service in the armed forces.

12. Monitoring and review

12.1 The scheme introduced by this instrument will be subject to internal review after five years and the legislation may be amended accordingly.

13. Contact

13.1 In the event of any inquiries about this instrument, please contact Tracy Sexton of Central Legal Services at the Ministry of Defence by telephoning 0207 218 0564 or by e-mailing tracy.sexton743@mod.uk.