

# Income Tax Exemption: Armed Forces Continuity of Education Allowance

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## Who is likely to be affected?

Armed Forces Service Personnel, and their families, who receive the Ministry of Defence (MoD) continuity of education allowance (CEA).

## General description of the measure

This measure will exempt from income tax, payments of CEA to service personnel and payments in respect of the children of deceased service personnel.

## Policy objective

This measure aims to support the principles of the Armed Forces Covenant and in particular the principle that service personnel and their families should not be put at any disadvantage from entering into military life. It seeks to mitigate any financial impact of providing a secure and continuing education acknowledging the particular circumstances in which these men and women serve and the particular difficulties they face.

## Background to the measure

The CEA is paid to service personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas.

The CEA is currently liable to tax when paid to recipients based in the UK but the tax is paid by the MoD on behalf of CEA recipients. The financial impact of the measure will be neutral for service personnel and their families but the measure will simplify administration of the allowance.

This measure has not been previously announced.

## Detailed proposal

### Operative date

The measure will have effect for payments made on and after 6 April 2012.

### Current law

There is no current specific tax law relating to the CEA; it is taxable as employment income. This measure introduces a new employment income exemption.

### Proposed revisions

Legislation will be introduced in Finance Bill 2012 to exempt payments of the CEA from tax under the Income Tax Earnings and Pensions Act 2003 (ITEPA).

Consequential amendments will be made to sections 297A and 297B of ITEPA which provide income tax exemptions for payments of the Operational Allowance and Council Tax Relief to members of the Armed Forces. These consequential amendments are being made to align the wording of the Armed Forces exemptions.

Corresponding changes will be made in regulations to disregard the CEA for National Insurance contributions (NICs) and tax credits purposes.

### Summary of impacts

<b>Exchequer impact (£m)</b>	2011-12	2012-13	2013-14	2014-15	2015-16
	The tax and NICs forgone are around £45 million a year, which will be offset by departmental funding changes to produce a zero Exchequer impact.				
<b>Economic impact</b>	This measure has no significant economic impacts.				
<b>Impact on individuals and households</b>	This measure is not expected to have any general impact on individuals and households; it is a targeted measure relating to a very limited specific group of individuals.				
<b>Equalities impacts</b>	This measure is likely to predominately affect men but no specific impact is envisaged. There are no other impacts on other equality groups.				
<b>Impact on business including civil society organisations</b>	The Government does not anticipate any specific impact on businesses or civil society organisations, since government departments are the only bodies directly affected.				
<b>Operational impact (£m) (HMRC or other)</b>	Any additional costs or savings will be negligible.				
<b>Other impacts</b>	No other impacts are anticipated. This measure is targeted at a very limited specific group of individuals. It will ensure this group is not disadvantaged and seeks to mitigate the impact of providing a secure and continuing education.				

### Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

### Further advice

If you have any questions about this change, please contact Neil Chattell on 020 7147 3860 (email: [neil.chattell@hmrc.gsi.gov.uk](mailto:neil.chattell@hmrc.gsi.gov.uk)).

## **1 Employment income exemptions: armed forces**

- (1) Chapter 8 of Part 4 of ITEPA 2003 (exemptions: special kinds of employees) is amended as follows.
- (2) In section 297A (exemption for Operational Allowance), in subsection (2), for “by the Secretary of State” substitute “under a Royal Warrant made under section 333 of the Armed Forces Act 2006”.
- (3) In section 297B (exemption for Council Tax Relief), in subsection (2), for “by the Secretary of State” substitute “under a Royal Warrant made under section 333 of the Armed Forces Act 2006”.
- (4) After that section insert—

### **“297C Armed forces: Continuity of Education Allowance**

- (1) No liability to income tax arises in respect of payments of the Continuity of Education Allowance to or in respect of members of the armed forces of the Crown during their employment under the Crown or after their deaths.
  - (2) The Continuity of Education Allowance is an allowance designated as such under a Royal Warrant made under section 333 of the Armed Forces Act 2006.”
- (5) The amendments made by this section have effect in relation to payments made on or after 6 April 2012.

**EXPLANATORY NOTE**

**EMPLOYMENT INCOME EXEMPTIONS: ARMED FORCES**

**SUMMARY**

1. This clause will exempt from income tax, payments of the Continuity of Education Allowance (CEA) by the Ministry of Defence (MoD) to or in respect of serving and deceased members of the Armed Forces.
2. The clause also makes consequential amendments to the existing exemptions for payments of the Operational Allowance and Council Tax Relief to members of the Armed Forces to align the specifications of the legal authority under which these payments are made.

**DETAILS OF THE CLAUSE**

3. Subsection (1) introduces amendments to Chapter 8 of Part 4 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) (exemptions: special kinds of employees)
4. Subsection (2) amends section 297A of ITEPA (exemption for Operational Allowance) so that; “by the Secretary of State” is replaced with “under a Royal Warrant made under Section 333 of the Armed Forces Act 2006”.
5. Subsection (3) amends section 297B of ITEPA (exemption for Council Tax Relief) so that; “by the Secretary of State” is replaced with “under a Royal Warrant made under Section 333 of the Armed Forces Act 2006”.
6. Subsection (4) inserts new section 297C into ITEPA.
7. New section 297C(1) makes provision for payments of the CEA to or in respect of serving or deceased members of the Armed Forces to be exempt from income tax. New section 297C(2) specifies the legal authority under which payments of the CEA are made.
8. Subsection (5) provides that the amendments made by the clause have effect in relation to payments made on or after 6 April 2012.

**BACKGROUND NOTE**

9. The CEA is paid to service personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas.
10. The CEA is currently liable to tax but the tax is paid by the Ministry of Defence on behalf of CEA where paid to recipients based in the UK.
11. This new exemption aims to support the principles of the Armed Forces Covenant and in particular the principle that service personnel and their families should not be put at any disadvantage from entering into military life. It seeks to mitigate the financial impact of providing a secure and continuing education acknowledging the particular circumstances in which these men and women serve and the particular difficulties they face.
12. If you have any questions about this change, or comments on the legislation, please contact Neil Chattell on 020 71473860 (email: [neil.chattell@hmrc.gsi.gov.uk](mailto:neil.chattell@hmrc.gsi.gov.uk)).

**2012 No. XXXX**

**SOCIAL SECURITY**

**The Social Security (Contributions) (Amendment No. X)  
Regulations 2012**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - - - *6th April 2012*

The Treasury make these Regulations in exercise of the powers conferred by section 3(2) and (3) of the Social Security Contributions and Benefits Act 1992(a) and section 3(2) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and now exercisable by them.

The Secretary of State and the Department for Social Development(c) concur in the making of these Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Contributions) (Amendment No. X) Regulations 2012 and come into force on 6th April 2012.

**Amendment of the Social Security (Contributions) Regulations 2001**

2. The Social Security (Contributions) Regulations 2001(d) are amended as follows.

3. In Part 8 of Schedule 3 (travelling, relocation and other expenses and allowances to be disregarded in the calculation of employed earners' earnings)—

(a) for paragraph 12A (HM Forces' Operational Allowance) substitute—

**“HM Forces' Operational Allowance**

**12A.**—(1) A payment of the Operational Allowance to members of the armed forces of the Crown.

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(a) 1992 c. 4. Section 3 has been amended: the relevant amendment is that made by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).  
(b) 1992 c. 7 (“the 1992 Northern Ireland Act”). Section 3 has been amended: the relevant amendment is that made by paragraph 4 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).  
(c) The functions of the Department of Health and Social Services for Northern Ireland under the 1992 Northern Ireland Act were transferred to the Department for Social Development by article 8(b) of, and Part 2 of Schedule 6 to, the Departments (Transfer and Assignment of Functions) Order (Northern Ireland) 1999 (S.R. (NI) 1999 No. 481).  
(d) S.I. 2001/1004, amended by S.I. 2006/2924 and 2008/607; there are other amending instruments but none is relevant.

(2) The Operational Allowance is an allowance designated as such under a Royal Warrant made under section 333 of the Armed Forces Act 2006(a).”;

(b) for paragraph 12B (HM Forces’ Council Tax Relief) substitute—

**“HM Forces’ Council Tax Relief**

**12B.**—(1) A payment of Council Tax Relief to members of the armed forces of the Crown.

(2) Council Tax Relief is a payment designated as such under a Royal Warrant made under section 333 of the Armed Forces Act 2006.”; and

(c) after that paragraph insert—

**“HM Forces’ Continuity of Education Allowance**

**12C.**—(1) A payment of the Continuity of Education Allowance to or in respect of members of the armed forces of the Crown.

(2) The Continuity of Education Allowance is an allowance designated as such under a Royal Warrant made under section 333 of the Armed Forces Act 2006.”.

Date *Name*  
*Name*  
Two of the Lords Commissioners of Her Majesty’s Treasury

The Secretary of State concurs  
Signed by authority of the Secretary of State for Work and Pensions

Date *Name*  
Minister of State  
Department for Work and Pensions

The Department for Social Development concurs  
Sealed with the Official Seal of the Department for Social Development on



Date *Name*  
A senior officer of the Department for Social Development

**EXPLANATORY NOTE**

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

These Regulations amend the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (“the 2001 Regulations”).

Regulation 3 substitutes paragraphs 12A and 12B of Part 8 of Schedule 3 to the 2001 Regulations. It removes the reference to the Operational Allowance and Council Tax Relief being made and designated by the Secretary of State for Defence and instead refers to them being designated under a Royal Warrant made under the Armed Forces Act 2006 (c. 52) (“the 2006 Act”).

Regulation 3 also adds a new paragraph 12C to Part 8 of Schedule 3 to the 2001 Regulations. The new paragraph 12C provides that payments of the Continuity of Education Allowance to or in respect of members of the armed forces of the Crown are to be disregarded in the calculation of

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(a) 2006 c.52, continued in force by S.I. 2007/2123, 2008/1780, 2009/1752, 2010/2475 and section 1 of the Armed Forces Act 2011 c. 18.

earnings for National Insurance purposes. The Continuity of Education Allowance is an allowance that is designated as such under a Royal Warrant made under the 2006 Act.

A Tax Information and Impact Note covering this instrument was published on 6th December 2011 alongside the autumn statement and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

**EXPLANATORY MEMORANDUM TO  
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. X)  
REGULATIONS 2012**

**2012 No. [xxx]**

**1.** This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of the Treasury and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends the Social Security (Contributions) Regulations 2001 (S.I. 2001/1004) (the Principal Regulations) to introduce a disregard in the calculation of an employed earner's liability to Class 1 National Insurance contributions (NICs) for payments of the Continuity of Education Allowance (CEA) from the Ministry of Defence (MoD) to or in respect of members of the armed forces. It also updates the references to how payments of the Operational Allowance and Council Tax Relief are designated for the purposes of the disregard from NICs.

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

3.1 None.

**4. Legislative Context**

4.1 Regulation 3 inserts a new paragraph 12C in Part 8 of Schedule 3 to the Principal Regulations to provide a disregard from liability to pay Class 1 NICs for payments of the CEA from the MoD to or in respect of members of the armed forces.

4.2 Regulation 3 also amends paragraphs 12A and 12B of Part 8 of Schedule 3 to the Principal Regulations to include a reference to section 333 of the Armed Forces Act 2006 under which payments of the Operational Allowance and Council Tax Relief are now made.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

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

**7. Policy background**

- *What is being done and why*

7.1 The CEA is paid to service personnel to provide a continuity of education for their children that would not otherwise be possible if they accompanied their parents on frequent assignments both at home and overseas. Under the current legislation the CEA is subject to income tax and NICs.

7.2 These Regulations introduce a disregard for NICs for the payment of the CEA to or in respect of members of the armed forces. This policy aims to support the principles of the Armed Forces Covenant and in particular the principle that service personnel and their families should not be put at any disadvantage from entering into military life. It seeks to mitigate the financial impact of providing a secure and continuing education acknowledging the particular circumstances in which these men and women serve and the particular difficulties they face.

7.3 The primary legislation introducing a new tax exemption for the same payment will be introduced in the Finance Bill 2012.

7.4 These Regulations also update the disregards for payments of the Operational Allowance and Council Tax Relief to include a reference to section 333 of the Armed Forces Act 2006 under which payments are now made.

- ***Consolidation***

7.5 There are currently no plans to consolidate the Principal Regulations.

## **8. Consultation outcome**

8.1 The MoD has been consulted on the proposals but there has been no public or wider consultation.

8.2 In accordance with the Government's Tax Consultation Framework (<http://www.hmrc.gov.uk/consultations/tax-consultation-framework.pdf>), HMRC has published this instrument in draft.

## **9. Guidance**

9.1 These Regulations do not impose any new obligation.

9.2 The relevant HMRC guidance in the "CWG 2 Employer Further Guide to PAYE and NICs" and on HMRC's website will be amended to reflect these Regulations.

## **10. Impact**

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

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument was published on 6th December 2011 alongside the autumn statement and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 HMRC will monitor the practical effects of this legislation to ensure the objectives of it are met.

**13. Contact**

Raj Nayyar at HMRC, Tel: 0207 147 2521 or e-mail:  
raj.nayyar@hmrc.gsi.gov.uk can answer any queries regarding the instrument.