

EXPLANATORY NOTES

Armed Forces Commissioner Act 2025

Chapter 23

£8.90

ARMED FORCES COMMISSIONER ACT 2025

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Armed Forces Commissioner Act 2025 which received Royal Assent on 3 September 2025.

- These Explanatory Notes have been prepared by the Ministry of Defence in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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These Explanatory Notes relate to the Armed Forces Commissioner Act 2025 which received Royal Assent on 3 September 2025.

Overview of the Act

1 The primary purpose of this Act is to establish the role and functions of the Armed Forces Commissioner and to provide the Commissioner with the powers and duties required to carry out those functions.

2 The Act addresses the following matters:

- Establishes the Armed Forces Commissioner role and their office.
- Provides the Commissioner with new functions to investigate general Service welfare matters in the Armed Forces.
- Establishes powers of entry for the Commissioner to Ministry of Defence sites and access to information for the purposes of carrying out investigations.
- Sets out the process by which the Commissioner reports their findings and recommendations following an investigation.
- Abolishes the role of the Service Complaints Ombudsman for the Armed Forces and transfers their functions and responsibilities to the newly established Commissioner.

Policy background

3 This Act delivers the Government's manifesto commitment to strengthen support for Armed Forces communities by establishing an independent Armed Forces Commissioner to improve service life. The Armed Forces Continuous Attitude Survey[1] has shown a fall in morale in the UK Armed Forces over the last decade and has also indicated systemic challenges in terms of retaining personnel. The German Parliamentary Commissioner for the Armed Forces has provided the inspiration for this Act Feedback on the German Commissioner demonstrates strong support from German personnel for this role. The Service Complaints Ombudsman for the Armed Forces established by the Armed Forces (Service Complaints and Financial Assistance) Act 2015 provides independent and impartial oversight to the Service Complaints System, helps Armed Forces personnel access the complaints system and provides oversight for specific service complaints. The Ombudsman does not however have wider reaching functions to allow broader matters impacting welfare of serving personnel to be considered.

4 This Act establishes an independent Commissioner to serve as a direct point of contact for Armed Forces personnel and their families. The Commissioner considers, investigates and makes recommendations to address welfare issues faced by serving personnel and their families during the course of their service life. To achieve this, the Armed Forces Commissioner has a wide remit to carry out their own investigations into issues facing Service Personnel and set out their recommendations in reports to be laid before Parliament. The Commissioner also absorbs the functions of the existing Service Complaints Ombudsman.

[1] Armed Forces Continuous Attitude Survey: 2024 - GOV.UK

5 The Act gives the Commissioner the following powers to carry out this function. The Commissioner:

- receives representations from Service Personnel and their families wishing to raise issues which impact on service life.
- has the powers and discretion necessary to decide what matters they investigate and make recommendations to the Secretary of State for Defence. Investigations will be into matters that materially impact the welfare of Service personnel or their families, which occur in connection with Service life.
- strengthens parliamentary oversight of issues facing Armed Forces personnel. The Commissioner is subject to pre-appointment scrutiny by the Commons Defence Select Committee and is able to highlight concerns to Parliament through their Annual and Thematic Reports. It is anticipated that not every investigation will require a Thematic Report and findings of smaller investigations will instead be included in the Annual Report.
- has powers to access Service premises in the United Kingdom unannounced and perform any necessary investigations whilst there, including viewing and taking copies of documents. These visits will also enable them to understand the realities of service life and engage informally with Service Personnel and their families. Premises are any place, including any vehicle, ship or aircraft and any tent or movable structure occupied for the purposes of UK Armed Forces, however the Commissioner is not able to access any private dwelling or Service accommodation without the invitation of the person(s) living there.
- the Commissioner will only be denied access to an establishment and the information within (generally or in a particular case) by the Secretary of State if it is in the interest of national security or for the safety of any person. The Commissioner may also not investigate anything they believe is subject to legal privilege nor can they require a person to do anything that the person could not be compelled to do in civil proceedings before the High Court (or, in Scotland, the Court of session).

Legal background

6 The Act inserts new provisions establishing the Commissioner into the Armed Forces Act 2006 (AFA 2006).

7 Part 14A of the AFA 2006 sets out the Service Complaints system for the Armed Forces. The current service complaints system has been in place since 2008 and was subject to amendment by the Armed Forces (Service Complaints and Financial Assistance) Act 2015. The system provides a means for persons subject to service law to obtain redress where they think themselves wronged in any matter relating to their service (see section 340A of the AFA 2006). The system is currently overseen by the Service Complaints Ombudsman for the Armed Forces established under section 365B of the AFA 2006. This Act abolishes the office of the Service Complaints Ombudsman and transfers all related functions to the Commissioner. In addition to the minor consequential amendments required to effect this change, this Act only makes one further technical amendment to the procedure for making a service complaint under section 340B of the AFA 2006. Otherwise, this Act makes no changes to the existing system.

Territorial extent and application

8 Section 6 sets out the territorial extent of the Act, that is the jurisdictions in which the Act forms part of the law. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect.

9 However, it should be noted that the provisions in the Act enable a general Service welfare matter to be raised, wherever in the world the welfare matter may have taken place.

Territorial application of the Act in the United Kingdom

10 This Act extends to the whole of the United Kingdom subject to the following:

- Paragraph 1 of Schedule 1 (and section 1(4), so far as it relates to that paragraph), so far as they insert paragraph 1 of Schedule 14ZA to AFA 2006 (status of Armed Forces Commissioner as corporation sole), extend in the United Kingdom to England and Wales and Northern Ireland only. This is because Scots law does not have the concept of a "corporation sole".

Territorial application of the Act outside the United Kingdom

11 Section 6 also outlines the territorial extent of the Act as it relates to the British Overseas Territories and Crown Dependencies. Section 6 subsection (4) provides that His Majesty may by Order in Council provide for relevant sections to extend to the Channel Islands, the Isle of Man or any of the British Overseas Territories (except for Gibraltar).

12 If such an Order is made, it can modify those changes (so that the law of the British Overseas Territories and Crown Dependencies is not the same as that of the United Kingdom).

Commentary on provisions of the Act

Section 1 and Schedule 1: Armed Forces Commissioner

13 Section 1 inserts new section 365AA into the AFA 2006. This new section establishes the Armed Forces Commissioner and their general functions and objectives.

14 Subsections (2) and (3) abolishes the Service Complaints Ombudsman and repeals section 365B (which established the Service Complaints Ombudsman in AFA 2006).

15 Subsection (4) introduces Schedule 1 (which inserts new Schedule 14ZA into AFA 2006).

Schedule 1

16 Paragraph 1 inserts new Schedule 14ZA into AFA 2006 (detail below).

17 Paragraphs 2-6 list the amendments to be made to existing primary legislation, including amendments to the following Acts:

- Public Records Act 1958
- House of Commons Disqualification Act 1975
- Northern Ireland Assembly Disqualification Act 1975
- Freedom of Information Act 2000
- Equality Act 2010

New Schedule 14ZA

18 Status: Paragraph 1 establishes the Armed Forces Commissioner as a corporation sole, or legal entity comprising of a single incorporated office. Paragraph 2 outlines the distinction in status between the Commissioner and the Crown.

19 Appointment: Paragraph 3 provides that the appointment of the Commissioner is to be made by His Majesty, following the recommendation of the Secretary of State.

20 Disqualification: Paragraph 4 outlines the circumstances in which a person is disqualified from being the Commissioner. This includes any individual who is a member of the regular or reserve forces or who is a civil servant.

21 Term of office: Paragraph 5 provides that the Commissioner's term of office may not exceed a total period of seven years. The Commissioner must provide written notice to the Secretary of State should they wish to resign. The Secretary of State may dismiss the Commissioner if the specified criteria are fulfilled. In the event the Secretary of State dismisses the Commissioner, they must specify their reasons for doing so via a statement to the relevant House of Parliament.

22 Deputy Commissioners: Paragraph 6 provides that the Commissioner may appoint one or more of their staff to serve in their office as Deputy Commissioners. A Deputy Commissioner cannot be a member of the regular or reserve forces.

23 Vacancy or incapacity: Paragraph 7 establishes the role of the Secretary of State in circumstances where the Commissioner's office is vacant. The Secretary of State may appoint a Deputy Commissioner or such other person as the Secretary of State thinks fit during this vacancy period. In this scenario, the Deputy or acting Commissioner is to be regarded as the Commissioner (except for matters relating to appointment, disqualification, term of office and the Commissioner's vacancy or incapacity).

24 Staff: Paragraph 8 enables the Commissioner to make arrangements for their staff. The Commissioner's staff are not to be employed directly by the Commissioner, however payments can be made directly by the Commissioner to their staff. Prior agreement must be sought by the Commissioner from the Secretary of State to agree the policies outlined relating to the number of staff, their payments and terms and conditions.

25 Delegation of functions: Paragraph 9 enables the Commissioner to delegate their functions to their Deputy or another member of their staff. The Commissioner may specify which of their functions and the extent to which they are delegated. Despite a function being delegated, the Commissioner may still perform said function.

26 Liability: Paragraph 10 is applicable where an individual is part of the Commissioner's staff, however is not employed directly by the Commissioner. In this instance, the Commissioner remains liable for the staff member and any associated unlawful conduct, akin to an employer's liability for an employee's unlawful conduct during their employment.

27 Financial and other assistance from the Secretary of State: Paragraph 11 enables the Secretary of State to make payments and provide other financial assistance to the Commissioner. The Secretary of State may also provide the Commissioner with staff (see Paragraph 8), premises, facilities and other assistance as required.

Section 2: Commissioner's functions in relation to Service Complaints

28 The current functions of the Service Complaints Ombudsman set out under Part 14A of the AFA 2006, are transferred to the new Armed Forces Commissioner.

Section 3: Procedure for making Service Complaints

29 Section 3 amends the references in section 340B(2)(a) and (4)(a), (b) and (c) AFA 2006 from a specified "officer" to a specified "person". Currently, admissibility decisions relating to service complaints must be made by "an officer of a specified description", which excludes civilians from being able to undertake this task.

Section 4: Commissioner's role in relation to general Service welfare

30 Subsection (2) inserts new sections 340IA and 340IB into AFA 2006, while subsection (3) inserts new section 340LA. Commentary of the new sections are set out below in paragraphs 34 to 40.

31 Subsection (4) amends the current requirement under section 340O of the AFA 2006, for the Service Complaints Ombudsman to prepare an annual report on the service complaints system. This existing function is transferred to the Commissioner (see Section 2) but broadened to include the Commissioner's new functions. Subsection (4)(b) places an additional requirement on the Commissioner to include in the annual report a summary of any findings and recommendations made by the Commissioner in connection with an investigation carried out under new section 340IA during that reporting year. This must be included in the annual report regardless of whether these findings and recommendations have already been contained in a report under new section 340LA (see paragraph 48 below).

32 Subsection (5) ensures that the power to make regulations under new section 340IA(4) or (5)(e) (see commentary below) is covered by section 373(3) of the AFA 2006. This means any statutory instrument containing regulations under section 340IA(4) or (5)(e) are to be laid in draft and must be approved by both Houses of Parliament before coming into effect (i.e. the statutory instrument must follow the "affirmative resolution" procedure).

New Section 340IA – Commissioner investigations of general Service welfare matters

33 This new section enables the Commissioner to investigate a "general service welfare matter". The intent of this section is to ensure a scope broad enough to capture issues that may have been brought to the Commissioner's attention through oversight of the service complaints system, but also issues that can be raised directly by Service personnel and their families, provided it relates in some way to the Service person in question.

34 Subsection (2) states that a "general service welfare matter" is any matter which might, in the opinion of the Commissioner, materially affect the everyday lives of service personnel and their families, where those issues have arisen as a result of the relevant service person's service. 'Materially affect' means a matter must be sufficiently serious to warrant investigation.

35 Subsection (3) requires the Commissioner to consider a request from any person subject to Service law or a relevant family member to carry out an investigation into a "general service welfare matter" under subsection (1). A 'relevant family member' is to be defined and set out in regulations made by the Secretary of State (see subsection 4).

36 Subsection (4) states that "relevant family members" are individuals connected to a person subject to service law, as may be specified. Section 4, subsection (5) of this Act, ensures that the power to make this regulation is covered by section 373(3) of the AFA 2006. This means any statutory instrument brought forward containing regulations under this subsection must be debated in both Houses of Parliament, allowing Parliament to scrutinise the definition (see paragraph 33 above).

37 Subsections (5), (6) and (7) exclude certain matters that cannot be investigated under this section, but still enables issues that may have been brought to the Commissioner's attention in connection with a particular service complaint, service inquiry, criminal investigation or proceedings, or public inquiry to be investigated as a "general service welfare matter" under subsection (1). For example, where an issue is referred to the Commissioner through the Service Complaint system that would be more appropriate for them to investigate in accordance with the existing legislation governing the Service Complaint system, this should be conducted by the Commissioner as a separate process under section 340H AFA 06. However, a Service Complaint may indicate wider systemic issues that could potentially affect the welfare of other Service personnel. These wider systemic issues could then be a matter that can be investigated under this provision. The Secretary of State may further specify in regulations matters to be excluded under subsection (5)(e) only where they consider the investigation of such a matter would be against the interests of national security or might jeopardise someone's safety, stated in subsection (7). Whilst the remit of the Commissioner is limited to welfare issues connected to service life, there may be some unforeseen circumstances where a particular investigation topic might impinge on these areas. This power provides a mechanism to respond and update the Commissioner's remit in a way that still provides Parliamentary oversight via affirmative regulations.

38 Subsection (8) places a requirement on the Secretary of State to co-operate with, and give reasonable assistance to, the Commissioner in relation to an investigation under this section. The Secretary of State must also consider any findings or recommendations made by the Commissioner in connection with an investigation under this section.

39 Subsection (9) states that a "public inquiry" means an inquiry under the Inquiries Act 2005, and that "specified" means specified in regulations made by the Secretary of State.

40 This new section confers on the Commissioner powers of entry to Ministry of Defence sites. It specifies that this power of entry includes certain actions, including to observe activities at those sites and to inspect and take copies of documentation. These actions are set out in subsection (1).

41 Subsection (2) makes reference to subsection (1)(c) and provides that when inspecting and taking copies of any document kept in electronic form, the Commissioner can require such document to be produced in a form which is legible or which can readily be made legible, and can be taken away.

42 Subsections (3) and (4) require that prior to relying on their powers of entry the Commissioner should provide such notice to the Secretary of State as they consider appropriate. Where they consider that to provide such notice would defeat the object of their powers of entry, they may provide no notice at all only where their visit relates to service premises within the UK. For service premises outside of the UK the Commissioner must give notice of the proposal to visit within such a period as the Commissioner considers appropriate.

43 Subsection (5) enables the Commissioner to be accompanied by any person of their choosing to the premises and bring anything required for the purpose of exercising their powers of entry. It also places an obligation on the Commissioner to provide evidence of their identity and outline the purpose of exercising their power, should this be requested by a person on the premises.

44 Subsection (6) ensures that national security and personal safety considerations can be considered, even in instances where no notice of a visit is provided by the Commissioner. To achieve this subsection (6) enables the Secretary of State to prevent or restrict the Commissioner's powers of entry and related actions under subsection (1) (generally or in a particular case) where they consider it necessary to do so in the interests of national security or for the safety of any person (which could include the safety of service personnel on the site, or the Commissioner themselves).

45 Subsection (7) sets out the instances in which the Commissioner may not exercise the powers under subsection (1). This includes when the Commissioner has reasonable grounds to believe an item is subject to legal privilege; and also prohibits exercising the power to require a person to do anything that they could not be compelled to do in civil proceedings before the High Court (or, in Scotland, the Court of Session).

46 For the purposes of this section, subsection (8) defines:

- "item subject to legal privilege" in England and Wales as the definition provided in the Police and Criminal Evidence Act 1984. In Scotland as the definition provided in section 412 of the Proceeds of Crime Act 2002. In Northern Ireland as the definition provided in the Police and Criminal Evidence (Northern Ireland) Order 1989.
- "premises" as including any place and in particular includes any vehicle, ship, aircraft, tent or movable structure.
- "service living accommodation" as defined by section 96 AFA 06.
- "service premises" as any premises which (at the time of exercise of the power under subsection (1)) are permanently or temporarily occupied or controlled for the purposes of any UK force but are not service living accommodation. "For the purposes of" has not been further defined and should be given its ordinary meaning. For example, where premises are commonly understood to be occupied for the purposes of non-UK armed forces, this would not be captured by the definition.

New Section 340LA – Report and recommendations: general service welfare investigations

47 Subsection (1) enables the Commissioner to prepare one or more reports setting out their findings and any recommendations, resulting from a general service welfare investigation carried out under new section 340IA. As previously noted (paragraph 32 above) there is a requirement for the Commissioner to include in their annual report a summary of any findings and recommendations made by the Commissioner in connection with an investigation under new section 340IA during that reporting year, even if these findings and recommendations were not contained in a report prepared under this section.

48 Subsection (2) provides that subsection (3) detailed below, applies if the investigation was carried out wholly or partly in response to a request made by an individual.

49 Subsection (3) ensures that reports published by the Armed Forces Commissioner after carrying out an investigation into a general service wellbeing matter will not include identifying information about the individual in subsection (2), unless they have consented to this.

50 Subsection (4) sets out that where a report is prepared under subsection (1), the Commissioner's reasons for each of the findings and recommendations must be included in the report, and that the Commissioner must give the report to the Secretary of State as soon as is practical.

51 Subsection (5) sets out that the Secretary of State must, on receiving the report, lay it before Parliament promptly and in any event, within 30 sitting days.

52 Subsection (6) enables the Secretary of State to exclude from any report any material where they consider its publication would be against the interests of national security or might jeopardise someone's safety.

Section 5 and Schedule 2: Consequential amendments

53 This section introduces Schedule 2. Schedule 2 makes consequential amendments to the AFA 2006 in consequence of the establishment of the Armed Forces Commissioner.

Section 6: Extent

54 This Act extends to the whole of the United Kingdom subject to the following:

- Paragraph 1 of Schedule 1 (and section 1(4), so far as it relates to that paragraph), so far as they insert paragraph 1 of Schedule 14ZA to AFA 2006 (status of Armed Forces Commissioner as corporation sole), extend in the United Kingdom to England and Wales and Northern Ireland only. This is because Scots law does not have the concept of a "corporation sole".

55 This section provides that the Act's provisions may be extended by Order in Council to the Channel Islands, British Overseas Territories (except Gibraltar) and the Isle of Man.

Section 7: Commencement

56 There are provisions in sections 6 to 8 which come into force on the passing of the Act, which are largely technical provisions relating to definitions, extent (including the provision about extent in section 6), commencement, and the short title.

57 Sections 1 to 5 come into force on a day (or days) appointed by the Secretary of State in regulations, which are not subject to parliamentary procedure.

58 Under subsection (3), the Secretary of State may make transitional, transitory or saving provision by regulations in connection with the coming into force of provisions of the Act. This can include provision for the exercise of the functions of the Armed Forces Commissioner in relation to pre-commencement complaints, i.e. complaints made under Part 14A of AFA 2006 made before the coming into force of section 2.

59 Subsection (4) states that regulations under section 7 are to be made by statutory instrument and that they may make different provision for different purposes.

Section 8: Short Title

60 This section establishes that this Act may be cited as the Armed Forces Commissioner Act 2025.

Schedule 2: Consequential Amendments

61 Schedule 2 makes consequential amendments to other Acts in consequence of the establishment of the Armed Forces Commissioner:

- Amendments to the Equal Pay Act (Northern Ireland) 1970 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".
- Amendments to the House of Commons Disqualification Act 1975 include omitting reference to the "Service Complaints Ombudsman".
- Amendments to the Sex Discrimination (Northern Ireland) Order 1976 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".
- Amendments to the Race Relations (Northern Ireland) Order 1997 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".
- Amendments to the Working Time Regulations 1998 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".
- Amendments to the Freedom of Information Act 2000 include omitting reference to the "Service Complaints Ombudsman".
- Amendments to the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".

62 Amendments to the AFA 06 include:

- Substituting the heading of Part 14A with "addressing service complaints and service welfare matters".
- Replacing references to "Service Complaints Ombudsman" with "Armed Forces Commissioner".
- Replacing references to "Ombudsman[s]" with "Commissioner[s]".

- Inserting the term "[of] service complaints" to distinguish between the different types of investigation that the Commissioner can undertake.
- Adding the heading "Armed Forces Commissioner investigations: supplementary matters".
- Expanding section 340J and section 340K to include the Commissioner's investigations under new section 340IA, as well as clarify the distinction between this type of investigation and the existing investigative function under section 340H.
- Inserting additional reference to "service complaints investigations" and investigations "under section 340H" to section 340L to clarify which type of investigation is relevant for that provision.
- Inserting additional reference to section 340L into section 340M to clarify which types of reports the Commissioner can produce are relevant for that provision.
- Omitting the "Service Complaints Ombudsman" definition.
- Amendments to the Equality Act 2010 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".
- Amendments to the Working Time Regulations (Northern Ireland) 2016 include substituting references to the "Service Complaints Ombudsman" with "Armed Forces Commissioner".

Commencement

63 Sections 1 to 5 come into force on a day (or days) to be appointed by the Secretary of State in regulations. The remaining provisions came into force when the Act received Royal Assent, on 3 September 2025.

Annex A - Hansard References

64 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
House of Commons		
Introduction	6 November 2024	House of Commons Vol. 756 Col. 318
Second Reading	18 November 2024	House of Commons Vol. 757 Col. 73-120
Public Bill Committee – 1st Sitting	10 December 2024	House of Commons Col. 1-36
Public Bill Committee – 2nd Sitting	10 December 2024	House of Commons Col. 37-75
Public Bill Committee – 3rd Sitting	12 December 2024	House of Commons Col. 77-104
Public Bill Committee – 4th Sitting	12 December 2024	House of Commons Col. 105-136
Report Stage	21 January 2025	House of Commons Vol. 760 Col. 897-944
Third Reading	21 January 2025	House of Commons Vol. 760 Col. 945-948
House of Lords		
Introduction	23 January 2025	House of Lords Vol. 842
Second Reading	5 March 2025	House of Lords Vol. 844 Col. 301-346
Grand Committee – Day 1	19 March 2025	House of Lords Vol. 844 Col. 328GC-378GC
Grand Committee – Day 2	24 March 2025	House of Lords Vol. 844 Col. 444GC-480GC
Report Stage	30 April 2025	House of Lords Vol. 845 Col. 1247-1288
Third Reading	12 May 2025	House of Lords Vol. 845 Col. 1883-1884
House of Commons		
Commons Consideration of Lords Amendments	3 June 2025	House of Commons Vol. 768 Col. 186-212
House of Lords		
Consideration of Commons Amendments and / or Reasons	11 June 2025	House of Lords Vol. 846 Col. 1374-1387
House of Commons		
Consideration of Lords Message	2 July 2025	House of Commons Vol. 770 Col. 311-325
House of Lords		
Consideration of Commons Amendments and / or Reasons	23 July 2025	House of Lords Vol. 848 Col. 304-310
Royal Assent	3 September 2025	House of Commons Vol. 772
		House of Lords Vol. 848

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