EXPLANATORY MEMORANDUM TO

THE ARMED FORCES COMMISSIONER (SERVICE COMPLAINTS INVESTIGATIONS) REGULATIONS 2026

2026 No. 24

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Louise Sandher-Jones, Parliamentary Under-Secretary (Minister for Veterans and People) at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

2.2 Samantha des Forges, SCS, Director of Conduct, Equity and Justice, at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Kelly McClarey at the Ministry of Defence can be contacted by email at the following address with any queries regarding the instrument: people-cej-afc@mod.gov.uk. Alternatively, the department can be contacted by telephone: +44 303378 2039.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Armed Forces Act 2006 (AFA 06) was amended by the Armed Forces Commissioner Act 2025 (AFCA 25) to establish the Armed Forces Commissioner (the Commissioner), abolish the office of the Service Complaints Ombudsman (the Ombudsman) and transfer their functions to the new Commissioner because the Commissioner will exercise those functions instead. This instrument revokes and remakes the Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015 (the 2015 Regulations) and revokes the Armed Forces (Service Complaints Ombudsman Investigations) (Amendment) Regulations 2022 to reflect the establishment of the Commissioner and abolition of the Ombudsman. It also makes transitional and savings provision and consequential amendments as a result of the establishment of the Commissioner and abolition of the Ombudsman, and the related revocation and remaking of the 2015 Regulations.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The AFCA 25 fulfils a manifesto commitment to create a new office of the Commissioner to be a direct point of contact for the Armed Forces to raise welfare issues that impact on their service life.

5.2 The new office of the Commissioner will also take over the functions relating to the service complaints system currently exercised by the Ombudsman, and the office of the Ombudsman is accordingly abolished.

What was the previous policy, how is this different?

5.3 As a result of the Commissioner taking over the Ombudsman's functions it is necessary to amend references to the Ombudsman in legislation.

5.4 The Armed Forces Commissioner is a new office with broad powers. As well as the current functions undertaken by the Ombudsman, the Commissioner will also be able to access Defence sites, information and personnel to investigate general service welfare matters. They will also be able to look into the welfare issues facing the families of serving personnel, which was not included in the Ombudsman's functions.

6. Legislative and Legal Context

How has the law changed?

6.1 The AFCA 25 amends the AFA 06 to create the office of the Commissioner, abolish the office of the Ombudsman and transfer the functions of the Ombudsman to the Commissioner.

6.2 The purpose of this instrument is to make consequential changes in secondary legislation to ensure that certain of the Ombudsman's previous functions can be exercised by the new Commissioner. As the 2015 Regulations include the words "Service Complaints Ombudsman" in the title, which cannot be amended, it is necessary to revoke these regulations and remake them with a suitable title, referencing the Commissioner instead and including necessary amendments to the substance of the instrument. This instrument also makes transitional and savings provision in connection with those changes to clarify the status of actions taken by the Ombudsman under the 2015 Regulations prior to 1 April 2026 once their functions have been transferred to the Commissioner. It also makes consequential amendments to the Armed Forces (Service Complaints and Financial Assistance) Act 2015 (Transitional and Savings Provisions) Regulations 2015 in connection with the revocation of the 2015 Regulations. This instrument also revokes the Armed Forces (Service Complaints Ombudsman Investigations) (Amendment) Regulations 2022, which made amendments to the 2015 Regulations.

6.3 There are three related SIs: one negative SI and one affirmative SI that will similarly come into force on 1 April 2026 and one SI subject to no procedure containing commencement regulations. These SIs are required to implement the provisions of section 340IA AFA 06 and to make the necessary consequential, transitional and savings provisions required to reflect the transfer of functions from the Ombudsman to the Commissioner.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was required in respect of the amendments to reflect the change from the Ombudsman to the Commissioner as the changes are considered minor and technical and to ensure the service complaints system continues to function as intended.

8. Applicable Guidance

8.1 SI does not implement or require guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on business, charities or voluntary bodies.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the effect of this instrument is to ensure that the service complaints system can continue to operate as intended for the benefit of its users.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the effect of this instrument is to ensure that the service complaints system can continue to operate as intended for the benefit of its users.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that these provisions are subject to continued monitoring and review.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument is related to one other SI subject to the negative procedure, one SI subject to the affirmative procedure and one SI subject to no procedure that are required to implement the provisions of section 340IA AFA 06 and to make the necessary consequential, transitional and savings provisions required to reflect the transfer of functions from the Ombudsman to the Commissioner.

11.2 It was not possible to combine this instrument with the affirmative or no procedure SIs due to the lack of explicit power to use an alternative procedure in the relevant enabling Acts and that this SI is revoking and remaking The Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015. The reason for the separate negative SI is further that the enabling power(s) for that SI is conferred on the Defence Council instead of the Secretary of State.

12. European Convention on Human Rights

12.1 The Parliamentary Under-Secretary (Minister for Veterans and People) has made the following statement regarding Human Rights:
"In my view the provisions of the Armed Forces Commissioner (Service Complaints Investigations) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").