EXPLANATORY MEMORANDUM TO

THE ARMED FORCES (DISCHARGE AND TRANSFER TO THE RESERVE FORCES) (AMENDMENT) REGULATIONS 2025

2025 No. 218

1. Introduction

1.1 This explanatory memorandum has been prepared by Ministry of Defence and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Alistair Carns, Minister for Veterans and People, at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

2.2 Brigadier Jim Taylor, Head of Personnel Policy, at the Army Personnel Directorate confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Colonel Steve Davies, Assistant Head Terms of Service, at the Army Personnel Directorate, telephone: 03001555320 or email: steve.davies160@mod.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument amends the Armed Forces (Discharge and Transfer to the Reserve Forces) (No. 2) Regulations 2009 ("the 2009 Regulations"). The amendments remove the requirement that the place of enlistment and a conduct and character assessment must be included in the Certificate of Discharge that is issued to Service personnel upon discharge from the Armed Forces.

4.2 The instrument also makes amendments to ensure gender-neutral language is used throughout the 2009 Regulations and updates the definition of competent military authority by replacing the title of Director of Manning (Army) with Head of Personnel Policy (Army).

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the UK, the Isle of Man and the British Overseas Territories (except Gibraltar).

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is to members of the regular Army, Royal Navy and Royal Air Force wherever they are in the world.

5. Policy Context

What is being done and why?

5.1 The Armed Forces (Discharge and Transfer to the Reserve Forces) (No. 2) Regulations 2009 require that a Certificate of Discharge ("Certificate"), is issued to those leaving Service upon discharge from the Armed Forces, and prescribe that this must contain their place of enlistment and a conduct and character assessment among other information. The Certificate provides proof of Service to aid with attaining civilian employment. However, the place of enlistment has limited bearing on future civilian employment and the character assessment is not suited to modern civilian employers who generally require bespoke references. By removing the requirement that the Certificate must include the place of enlistment and a conduct and character assessment, the instrument ensures that the Certificate only includes information that is relevant. It further allows the Certificate to be automatically generated from digital information held by the Ministry of Defence, thereby promoting efficiency and ensuring consistency across the Services.

What was the previous policy, how is this different?

5.2 Under the previous policy, the Certificate of Discharge would need to contain the service person's place of enlistment and a signed assessment of their conduct and character. The information is not held on the military HR system, which meant that certificates had to be manually produced, which was inefficient and labour intensive. The previous policy therefore resulted in certificates being produced which contained information that was of limited relevance for civilian employers and failed to realise the efficiencies of an automated process.

6. Legislative and Legal Context

How has the law changed?

6.1 The Armed Forces (Discharge and Transfer to the Reserve Forces) (No. 2) Regulations 2009 require that a Certificate of Discharge is given to service persons upon being discharged from the Armed Forces. The 2009 Regulations further prescribe that the Certificate must contain certain information, including the place of a service person's enlistment or of the commencement of their service; and for members of the regular forces a signed assessment of their conduct and character. The instrument amends the 2009 Regulations so as to remove the requirement that the Certificate of Discharge must include the place of enlistment and an assessment of character and conduct.

Why was this approach taken to change the law?

6.2 As the previous rules relating to Certificates of Discharge are contained in regulations made under section 331 of the Armed Forces Act 2006, which provides a power to make regulations relating to the discharge of members of the regular forces, they need to be amended by way of legislation. Given that the regulation-making power in section 331 of that Act contains an implied power to amend regulations, by virtue of section 14 of the Interpretation Act 1978, making these amendments by way of statutory instrument was considered to be the most expedient way of changing the law. The regulation-making power is exercisable by the Defence Council, which is the highest level of military command and administration under His Majesty. For the purpose of the Statutory Instruments Act 1946, the Defence Council is treated as a Minister of the Crown.

7. Consultation

Summary of consultation outcome and methodology

7.1 There has been no formal consultation on this instrument. Concerns over obsolete Certificate of Discharge practices and inefficiencies in the process were initially investigated within the Army, with opinions garnered from key stakeholders pan-Service. Tri-Service consultation was conducted between personnel policy teams, and the Army Review of G1 Administration Inefficiencies (REGAIN) team garnered tri-Service support for the revision of the Service Leavers' Certificate.

8. Applicable Guidance

8.1 Single Services will publish briefing notes providing policy guidance and supplementary information regarding the changes to the Certificate of Discharge for the awareness of all service personnel and their chain of command.

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, or no significant, impact on businesses, charities or the public sector.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the impact of the instrument concerns the Certificate of Discharge issued to Service Leavers upon discharge from the Armed Forces.

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 impact of the instrument concerns the Certificate of Discharge issued to Service Leavers upon discharge from the Armed Forces.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The single Service policies impacted by this change are subject to annual review.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

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").