EXPLANATORY MEMORANDUM TO THE

ARMED FORCES (PROTECTION OF CHILDREN OF SERVICE FAMILIES)

REGULATIONS 2009 No. 1107

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 These Regulations make provision in relation to the protection of children of service families, and children of the families of civilians subject to service discipline, outside the United Kingdom, the Channel Islands and the Isle of Man.

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

3.1 None**.**

4. Legislative context

4.1 Part 3 of the Armed Forces Act 1991 makes provision for the protection of children of service families, and children of the families of certain civilians, outside the United Kingdom, the Channel Islands and the Isle of Man. Part 3 includes powers to make assessment and protection orders with respect to such children. The Secretary of State is empowered to make regulations for the purposes of Part 3, and the current regulations are the Armed Forces (Protection of Children of Service Families) Regulations of 1996 (SI 1996/1174). The Armed Forces Act 2006 amends Part 3 of the 1991 Act, and the Armed Forces (Protection of Children of Service Families) Regulations 2009 replace the 1996 Regulations, taking into account the amendments to the primary legislation.

5. Territorial extent and application

5.1 This instrument extends to the United Kingdom, the Isle of Man and British overseas territories and applies in relation to service (etc) children outside the United Kingdom, the Channel Islands and the Isle of Man.

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 The key changes made to the 1991 Act by the 2006 Act are: (1) a judge advocate, rather than an officer of Her Majesty's forces, has the power to make assessment and protection orders; (2) there is now a power to include exclusion requirements in protection orders; (3) there are new service police powers to remove a child to suitable accommodation and keep him there, or to take steps to ensure that the child's removal from any service hospital, or other place, in which he is being accommodated is prevented.

8. Consultation outcome

8.1 There has been consultation with the Services (including the Service Police) and the Judge Advocate General on this Instrument. A memorandum about consultation on the 2006 Act was submitted in written evidence to the Select Committee on the Armed Forces Bill and published on 9 May 2006 in its Special Report of Session 2005-06 (HC 828-II, page Ev 136). This memorandum explained how stakeholder consultation had been carried out and listed the individuals and organisations consulted. The individual instruments under the 2006 Act have been the subject of rigorous consultation with relevant stakeholders (such as the Services, the Service police, the Judge Advocate General and the Military Court Service) over a period of many months, to ensure that the policy goals have been achieved and that the provisions of each instrument will work in practice.

9. Guidance

9.1 A new Manual of Service Law will provide guidance and supplementary information to Armed Forces personnel on the single system of Service law established under the Armed Forces Act 2006. The first volume of three within the Manual, which is intended for commanding officers and those who administer the Service justice system, includes a chapter on Safeguarding Children. The Manual of Service Law will be available in time to allow Service personnel to be trained ahead of full implementation of the 2006 Act and will subsequently be available to the general public on the internet. Guidance will be promulgated to judge advocates through the Judge Advocate General's practice memoranda.

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 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Armed Forces Act 2006 is subject to quinquennial review. Following full implementation of the Act in October 2009 the provisions will be monitored and reviewed leading up to the first quinquennial review in 2011.

13. Contact

13.1 Mr Nick Shaw at the Ministry of Defence, telephone 020 7218 0564 or email nick.shaw460@mod.uk, is the point of contact regarding this instrument.