EXPLANATORY MEMORANDUM TO

THE ARMED FORCES (SERVICE COMPLAINTS) (AMENDMENT) REGULATIONS 2026

2026 No. 21

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 This instrument makes consequential amendments to the Armed Forces (Service Complaints) Regulations 2015 ("the 2015 Regulations") to reflect the establishment of the office of the Armed Forces Commissioner under the Armed Forces Commissioner Act 2025, which also abolishes the office of the Service Complaints Ombudsman and transfers their functions to the new Commissioner. The instrument replaces all references in the 2015 Regulations to the Service Complaints Ombudsman with "Commissioner" and removes the obsolete definition of "Ombudsman".

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 policy objective is to enable the Armed Forces Commissioner to exercise the functions previously exercised by the Ombudsman in relation to the service complaints system. These changes ensure continuity in the service complaints system

following the transfer of functions to the new statutory office, without altering the substantive rights or processes for service personnel.

What was the previous policy, how is this different?

5.2 At present, the Ombudsman has functions including assisting service personnel with accessing the service complaints system (referral of certain allegations); investigating complaints into maladministration, substance and undue delay; making binding admissibility decisions, and reporting to the Secretary of State for Defence annually on their functions and the operation of the service complaints system. The new office of the Commissioner will take over these functions relating to the service complaints system currently exercised by the Ombudsman.

6. Legislative and Legal Context

How has the law changed?

6.1 The Ombudsman was established in statute under section 365B Armed Forces Act 2006 (AFA 06), with functions in relation to the service complaints system contained in Part 14A AFA 06, as well as in secondary legislation. 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 2015 regulations make provision about the procedure for making and dealing with service complaints. The purpose of this instrument is to make consequential amendments to the 2015 Regulations to ensure that the functions previously exercised by the Service Complaints Ombudsman in relation to the service complaints system can be exercised by the new Commissioner.

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 bring into force the provisions of the Armed Forces Commissioner Act 2025 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 No Impact Assessment required, as the net impact of the instrument on businesses and charities is under the £10million threshold.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on businesses, charities or voluntary bodies because the effect of this instrument to ensure that the service complaints system can continue to operate as intended for the benefit of its users by transferring relevant functions previously exercised by the Ombudsman to the new Commissioner. It also establishes transitional arrangements for transferring responsibilities from the Service Complaints Ombudsman to the newly created Armed Forces Commissioner.

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 by activating the remaining parts of the AFCA 25 and establishing transitional provisions to transfer functions from the Service Complaints Ombudsman to the new Armed Forces Commissioner.

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, and one SI subject to the draft affirmative procedure and one SI subject to no procedure that are required to make the necessary consequential, and transitional 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. The reason for the other negative SI is that it is revoking and remaking the Armed Forces (Service Complaints Ombudsman Investigations) Regulations 2015 and that the enabling power(s) for this 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 (Service Complaints) (Amendment) 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”).