# EXPLANATORY MEMORANDUM TO

# THE ARMED FORCES (SERVICE COMPLAINTS MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATIONS 2026

## 2026. No. 1066

## 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.

## 2. Declaration

2.1 Calvin Bailey, 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 These Regulations amend the Armed Forces (Service Complaints Miscellaneous Provisions) Regulations 2015 (S.I. 2015/2064) ("the 2015 Regulations").

4.2 Regulation 2 amends regulations 2 and 6 of the 2015 Regulations to replace references to the “appropriate officer” with references to the “appropriate person”. This amendment is made as a consequence of changes to section 340N of the Armed Forces Act 2006 introduced by the Armed Forces Commissioner Act 2025.

4.3 Regulation 2 amends regulation 3 of the 2015 Regulations to include an additional matter about which a person may not make a service complaint.

***Where does the legislation extend to, and apply?***

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

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom, the Isle of Man and the British Overseas Territories except Gibraltar.

## 5. Policy Context

***What is being done and why?***

5.1 Where the Service Complaints Ombudsman determines that a matter that has been communicated to them might be a matter about which a service complaint might be made, they are required to refer the matter to the appropriate officer. That officer has certain administrative duties under regulation 6 of the 2015 Regulations, including finding out from the person who may have been wronged whether they want to make a service complaint, and informing the Ombudsman of their decision.

5.2 To clarify that this role can be carried out by a competent civilian as well as an officer in the Armed Forces, an amendment was made to section 340N of the Armed Forces Act 2006 which replaced the reference to the 'appropriate officer' with a reference to the 'appropriate person'. The amendment to the 2015 Regulations is needed as a consequence of the amendment to that section to place relevant functions under the regulations on the appropriate person.

5.3 The change will make the service complaints system more streamlined by allowing any competent person to act in this role rather than just a military officer, easing resourcing pressures and delivering better value for money.

5.4 These Regulations also amend regulation 3 of the 2015 Regulations to include an additional matter about which a person may not make a service complaint. This change is required to ensure that the service complaints system is not burdened with complaints about decisions refusing permission for an appeal to proceed where the appeal was not brought on valid grounds. Excluding such matters from the complaints process helps the system to operate effectively and efficiently.

***What was the previous policy, how is this different?***

5.5 Regulation 6 of the 2015 Regulations stated that the Ombudsman should refer matters to the appropriate officer, and the natural interpretation of "officer" used in this context is a military officer. The change ensures that civilians may also carry out the role which was previously only exercisable by military officers.

5.6 Regulation 3 of the 2015 Regulations states that a person may not make a service complaint about various matters and sets out these matters. This SI amends Regulation 3 to include an additional matter, so that a person cannot make a service complaint about a decision relating to whether an appeal has been brought on grounds permitted under the regulations for the purposes of s.340D(2)(ca).

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 Section 5 of, and paragraph 22 of Schedule 2 to, the Armed Forces Commissioner Act 2025 amends section 340N of the Armed Forces Act 2006 to change references from the 'the appropriate officer' to the 'appropriate person'.

6.2 The purpose of this instrument is to make consequential changes to the secondary legislation in light of the amendment to s.340N by the Armed Forces Commissioner Act 2025.

6.3 This SI also amends regulation 3 of the 2015 Regulations to include an additional matter about which a person may not make a service complaint.

***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 officer to person, 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 None.

## 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 Miscellaneous Provisions) (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").