EXPLANATORY MEMORANDUM TO

THE MINISTRY OF DEFENCE POLICE (CONDUCT, PERFORMANCE AND APPEALS TRIBUNALS) (AMENDMENT) (NO. 2) REGULATIONS 2025

2025 No. 1360

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 Lord Coaker, Minister for the House of Lords at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

2.2 Harvey MOORE, SCS Grade 1 for Directorate of Security and Resilience, at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Mark Dudley at the Ministry of Defence Police can be contacted by email at the following address with any queries regarding the instrument: DOS-DSR-PhysicalSecurity@mod.gov.uk. Alternatively, the department can be contacted by telephone: 03001560728.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Instrument revokes changes made by the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) (Amendment) Regulations 2025 ("the 2025 Regulations") to the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020 (S.I. 2020/1087) ("the 2020 Regulations") apart from one amendment to the Appeals Tribunals Regulations set out in Schedule 5 to the 2020 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 England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The 2025 Regulations made changes to the Conduct Regulations set out in Schedule 1 to the 2020 Regulations, related amendments to the modifications to those Regulations for former MDP officers set out in Schedule 2 to the 2020 Regulations,

changes to the Performance Regulations set out in Schedule 4 to the 2020 Regulations and changes to the Appeals Tribunals Regulations set out in Schedule 5 to the 2020 Regulations as a consequence of the changes to the Performance Regulations, as well as a further change to the Appeals Tribunals Regulations set out in that Schedule as a result of the revocation of Scottish legislation relating to Police Appeals Tribunals in Scotland. The Department recognises that consultation with the Defence Police Federation is required and it would therefore not be appropriate for those changes to take effect until it has done so. It is therefore necessary to revoke the 2025 Regulations insofar as they make those changes. The change that relates to the revocation of Scottish legislation which comes into force on 29 December 2025 is not being revoked to ensure that there are eligible people who can be appointed to sit on appeals tribunals panels on or after that date.

What was the previous policy, how is this different?

5.2 This S.I. does not introduce new policy, it revokes all but a very small measure of the 2025 Regulations. The extant policy requires that MDP policies and processes will follow and accord with national UK policing doctrine, standards and manuals. Any changes to the conduct and performance procedures will be brought forward following consultation with the Defence Police Federation.

6. Legislative and Legal Context

How has the law changed?

6.1 This S.I.s revoke all but a very small measure of the 2025 Regulations. The existing procedures to deal with conduct matters and poor performance will continue to apply.

Why was this approach taken to change the law?

6.2 To ensure that before any changes are made, appropriate consultation with the Defence Police Federation can be carried out.

7. Consultation recorded and maintained

Summary of consultation outcome and methodology

7.1 Consultation regarding this S.I. has taken place with the Defence Police Federation via Teams calls between representatives of the Federation and officials representing the Directorate of Security and Resilience for the Ministry of Defence.

8. Applicable Guidance

8.1 No guidance is required for this instrument.

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 the SI relates to maintenance of existing regulatory standards and has a low level of impact on normal business.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 No monitoring is considered necessary.

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 The 21-day rule has not been met due to the need to urgently revoke most of the 2025 Regulations to ensure that those changes do not take effect.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative 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”).