EXPLANATORY MEMORANDUM TO

THE NATIONAL SECURITY (STATE THREATS) ACT 2026 (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2026

2026 No. 785

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office 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 Dame Angela Eagle, Minister for Security, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 The Deputy Director of the State Threats Unit at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The State Threats Unit at the Home Office can be contacted by email at the following address with any queries regarding this instrument: STULegislationTeam@homeoffice.gov.uk. Alternatively, the department can be contacted by telephone: 020 7035 4848

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 Proscribed Organisations Appeal Commission (Procedural Rules) 2007 ("the Rules") so they apply to provisions in the National Security Act 2023 ("NS Act 2023"), as amended by the National Security (State Threats) Act 2026 ("the Act"). This ensures the rules governing appeals to the Proscribed Organisations Appeal Commission are extended and relevant to appeals made following the Secretary of State's refusal of an application to remove a designation, or alternative name ("alias") for a designated body, provided in the NS Act 2023.

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 Rules were introduced to provide the procedure for appealing to the Proscribed Organisations Appeal Commission ("POAC") under section 5 of the Terrorism Act 2000 ("TACT") following a refusal of a deproscription application made to the Secretary of State under section 4 TACT. This was done in line with procedural and rules changes to the Special Immigration Appeals Commission.

5.2 The Act, which received Royal Assent on 8 July 2026, introduced a power for the Secretary of State to designate bodies involved in foreign power threat activity where it is considered necessary to protect the safety or interests of the UK. This power is inserted by the Act into Part 1 NS Act 2023. Several criminal offences also inserted by the Act will then apply following designations by the Secretary of State. These offences include supporting a designated body, assisting a designated body and obtaining material benefits from a designated body. Each of these carry a maximum sentence of 14 years' imprisonment. The Act implemented a recommendation by Jonathan Hall KC, the Independent Reviewer of State Threats Legislation, to introduce a proscription-like power for state threat activity.

5.3 POAC is a specialist tribunal created by TACT to hear appeals of determinations by the Secretary of State of deproscription applications under section 5 TACT. POAC sits as a panel of three judges: one High Court judge, one legally qualified member, and one lay member with experience of intelligence matters. Proscription cases involve sensitive material, such as information relating to national security, and POAC has established procedures for dealing with such material securely as well as specialist expertise in national security matters.

5.4 The NS Act 2023, as amended by the Act, makes provision for an applicant to apply to the Secretary of State for a designation, or alias, to be removed. The determination of such an application may be appealed to POAC. It provides the parliamentary process for the Secretary of State to give effect to orders made by POAC where it allows an appeal.

5.5 This instrument makes consequential amendments to the Rules for appeal proceedings before POAC under NS Act 2023.

5.6 The effect is that the same rules apply to appeals in connection with designated bodies as for appeals in connection with organisations proscribed under TACT, including on matters such as how appeals are brought and managed, time limits, notices of appeal, the roles of the parties and a comprehensive system for handling sensitive national security material, including the use of closed hearings, special advocates, and restrictions on disclosure. This ensures that persons challenging designations under NS Act 2023 have access to a specialist statutory appeal mechanism that is broadly consistent with the approach taken under the terrorism proscription regime. Without this instrument, the statutory appeal route provided for in the Act would not be operationalised, risking confusion and jeopardising a statutory appeal route.

What was the previous policy, how is this different?

5.7 Prior to the Act and the consequential amendments in this instrument, the Rules only applied in relation to appeals of deproscription applications etc under TACT (sections 4 and 5). This instrument amends the Rules so as to apply to appeals where the Secretary of State has refused an application to remove a designation or alias under the NS Act 2023 (as amended by the Act).

6. Legislative and Legal Context

How has the law changed?

6.1 The Act inserts into the NS Act 2023 a new regime for the designation of bodies involved in foreign power threat activity and creates a right of appeal to POAC where the Secretary of State refuses an application to remove a designation or alias. The existing procedural framework for POAC appeals is set out in the Rules, which were designed for appeals under the terrorism proscription regime.

6.2 This instrument amends the Rules so that they apply to appeals arising under the NS Act 2023, as amended by the Act. The amendments ensure that the existing procedural framework operates effectively in relation to the new appeal rights and that POAC appeals under the state threats regime are governed by the same procedural structure.

Why was this approach taken to change the law?

6.3 All amendments made by this instrument are consequential on the new appeal rights created by the Act. The changes do not introduce new policy or alter substantive rights, but ensure that the Rules continue to function as intended following the extension of POAC's jurisdiction. It is therefore appropriate to rely on the power in section 4 of the Act to make consequential provision.

7. Consultation

Summary of consultation outcome and methodology

7.1 No consultation was undertaken for this instrument as it gives effect to provisions in the Act.

8. Applicable Guidance

8.1 Guidance on how to appeal to POAC is available on GOV.UK.[1]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as it is not expected to have a significant impact on business and any potential impacts are considered to fall below the de minimis threshold for producing an Impact Assessment. An Impact Assessment was produced for the National Security (State Threats) Act 2026, which is available on GOV.UK.[2]

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 businesses.

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

[1] https://www.gov.uk/guidance/appeal-against-a-ban-on-your-organisation
[2] https://www.gov.uk/government/publications/national-security-state-threats-bill-2026-impact-assessment

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Section 63 of the NS Act 2023 provides for the Secretary of State to appoint an Independent Reviewer of State Threats Legislation ("the Independent Reviewer") to review the operation of Parts 1 and 2 of the NS Act 2023. Part 1 of the NS Act 2023 concerns various offences and powers relating to espionage, sabotage and persons acting for foreign powers.

10.2 The Act inserted into Part 1 NS Act 2023 new provisions for the designation of bodies for involvement in foreign power threat activity and for appealing to POAC following an application challenging a designation or alias being refused by the Secretary of State. These Regulations are made under such provisions and so fall within the remit of the Independent Reviewer's functions under NS Act 2023.

10.3 The Independent Reviewer is required to carry out an annual review and send their report to the Secretary of State as soon as reasonably practicable after the review's completion, but may produce carry out such standalone reviews as they consider appropriate.

Reports received by the Secretary of State under section 63 NS Act 2023 must be laid before Parliament.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument breaches the 21-day rule convention because it is intended to come into force within several days of being laid. Whilst the Home Office acknowledges this convention, it is necessary to breach it on this occasion so the instrument comes into force at the same time as the National Security Act 2023 (Designated Bodies) Regulations 2026. Those Regulations are being brought forward as quickly as possible after Royal Assent of the Act for national security reasons. Without breaching the 21-day rule convention, the National Security Act 2023 (Designated Bodies) Regulations 2026, which designates a number of bodies, risk coming into force without a clear process for appealing refusals by the Secretary of State to remove designations or aliases of bodies.

11.2 This may translate to real life negative consequences for bodies and individuals associated with them who may, for example, be prosecuted for criminal offences or suffer reputational, social or economic damage. Therefore, it is not possible to wait 21 days for this instrument to come into force since the consequences of designation take effect immediately and it is only fair and reasonable that potential appeals to POAC can be made as soon as the National Security Act 2023 (Designated Bodies) Regulations 2026 come into force.

12. European Convention on Human Rights

12.1 As the instrument is subject to the 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").