

EXPLANATORY MEMORANDUM TO
THE ARMED FORCES (CIVILIANS SUBJECT TO SERVICE DISCIPLINE)
(AMENDMENT) ORDER 2024

2024 No. 614

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 The Rt Hon. Dr Andrew Murrison MP, Parliamentary Under-Secretary of State for Defence People and Families at the Ministry of Defence confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Caron Tassel, Deputy Director for Service Justice, Discipline and Conduct, at the Ministry of Defence, can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 David Harvey at the Ministry of Defence, email: David.Harvey118@mod.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The Armed Forces (Civilians Subject to Service Discipline) Order 2009 (“the 2009 Order”) specifies organisations and designates areas for the purposes of the application of service discipline to certain categories of civilians.
- 4.2 This Instrument makes amendments to the 2009 Order to update the list of specified organisations and designated areas.

Where does the legislation extend to, and apply?

- 4.3 This instrument extends to the United Kingdom, the Isle of Man and the British overseas territories (except Gibraltar) and applies to civilians subject to service discipline wherever they are in the world.
- 4.4 Civilians subject to service discipline are defined groups (the groups are defined in Schedule 15 to Armed Forces Act 2006 (the “2006 Act”)) principally of persons who work or reside with the armed forces in certain areas outside the United Kingdom or are travelling on service ships or aircraft.

5. Policy Context

What is being done and why?

- 5.1 Since the coming into force of the 2009 Order, changes to both the United Kingdom’s global defence commitments and organisational names listed in the initial instrument,

mean the 2009 Order requires revision. This Order amends Schedule 2 (Other Specified Organisations) and Schedule 3 (Designated Areas) to reflect these changes and thereby ensure the legislation remains current and relevant in its application.

What was the previous policy, how is this different?

- 5.2 There has been no change in policy since the 2009 Order came into force. However, since 2009 the United Kingdom's defence commitments have changed along with the names of organisations listed in the 2009 Order. As such, this Order updates the 2009 Order and its associated schedules to reflect these changes.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The 2006 Act received Royal Assent on 8 November 2006. Schedule 15 of the Act defines the groups of civilians that are subject to service discipline for the purposes of the Act. The effect is that certain civilians can be prosecuted for some service offences (principally those which reflect criminal offences under the law of England and Wales) and are subject to some other provisions in the Act.
- 6.2 The 2009 Order outlines the designated areas and the specified organisations for the purposes of the application of service discipline to certain categories of civilians. This Order is intended to update the 2009 Order, making changes to the list of designated areas and specified organisations.
- 6.3 There is a separate power under paragraph 7 of Schedule 15 to the 2006 Act, under which the Defence Council (or an officer authorised by the Defence Council) may designate a person as being subject to service discipline – for example to designate a contractor in an operational area. This power is a separate designation process.

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 The Order has been the subject of consultation with relevant stakeholders (including the individual Service legal teams, Strategic Command Legal Team, Army Personnel Services Group (Conduct), Defence International Agreements Team and relevant defence attachés) to ensure that the policy goal has been achieved.

8. Applicable Guidance

- 8.1 Guidance on service law is contained in the Manual of Service Law (Joint Services Publication 830 (JSP 830)). This provides guidance and supplementary information to Armed Forces personnel and civilians subject to service discipline on the single system of service law established under the Armed Forces Act 2006. For example, the Manual of Service Law explains that a civilian subject to service discipline may be tried for an offence in the Court Martial or the Service Civilian Court. The Manual of Service Law is available to the public at:

<https://www.gov.uk/government/publications/joint-services-publication-jsp-830-manual-of-service-law-msl>.

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 service discipline. As such there is no impact on the public sector nor is there an 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 this relates to service discipline.
- 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 Order relates to service discipline.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is via the 2006 Act which is subject to quinquennial review. The 2006 Act must be kept in force by an annual continuation order and requires a further Act of Parliament at least every 5 years to keep it in force. The last such Act was the Armed Forces Act 2021 and the next must be passed before the end of 2026.

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 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

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”).