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David Linden MSP
Convener
Criminal Justice Committee

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26 October 2026

Dear David,

ARMED FORCES BILL SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM

I refer to the Committee's recent consideration of the supplementary Legislative Consent Motion for the Armed Forces Bill.

In the chamber on Wednesday 7 October prior to legislative consent being agreed, Stephen Kerr MSP raised the issue of reviewing the operation of the clauses in the Armed Forces Bill and I agreed to write to the Committee on this.

As members will be aware, these clauses are vital in ensuring a victim protected by a service restraining order (SRO) continues to be protected should the individual against whom the SRO has been imposed leaves the armed forces. The day-to-day operation of the system of protection for victims will fall on the responsibilities of UK Government Ministry of Defence and Police Scotland rather than the Scottish Government.

In my letter of 15 September to the Committee, I explained the UK Government Ministry of Defence had advised that all Service Protection Orders, including SROs, are entered onto the Police National Computer (PNC). The PNC would flag this to Police Scotland, if they are called to an incident where an order may have been breached, who could then detain them. This legislation will enable the person to be charged for breaching the order, where currently they cannot. This is because breach of an NHO, which is how the SRO is treated as being for enforcement purposes, is a criminal offence in Scotland.

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I also advised that the UK Government Ministry of Defence have noted that since December 2022, there have been eight SROs issued in the Service Justice System. Of those eight, three were dismissed from Service, one of whom resided in Scotland. As such, while it is not possible to provide a precise estimate of the number that will transfer into Scottish jurisdiction each year (as this relates to decisions made whether to impose SROs and how often individuals subject to SROs leave the Armed Forces etc.), it is considered reasonable to assume the number will be very small, relative to the number of NHOs imposed by the criminal courts in Scotland each year (5,474 NHOs were imposed by criminal courts in 2025/26).

Within this overall context, the Scottish Government will continue to engage as needed with these independent bodies over how the protections are operating in the UK-wide Armed Forces Act.

I hope this is helpful.

Yours,

JAMIE HEPBURN

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