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DRAFT STATUTORY INSTRUMENTS

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**2017 No.**

**The Criminal Justice (Scotland) Act 2016  
(Consequential Provisions) Order 2017**

*Service offences etc.*

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**8.**—(1) Schedule 4 makes provision about the application of the 2016 Act in relation to persons in police custody by virtue of sections 313 to 318 of the Armed Forces Act 2006<sup>(1)</sup> (arrest and detention by civil authorities).

(2) Nothing in Schedule 4 causes a provision of the 2016 Act to apply in relation to a case in which, before this article comes into force, a person—

- (a) is arrested; or
- (b) surrenders to a constable as being a person subject to service law who has deserted or is absent without leave.

(3) Nothing in Schedule 4 causes a provision of the 2016 Act to apply in relation to a case—

- (a) in which a person is arrested, if the provision would not apply in relation to the case had the arrest been effected under section 1 of that Act; or
- (b) in which a person surrenders to a constable as being a person subject to service law who has deserted or is absent without leave, if the provision would not apply in relation to the case had the person instead been arrested under section 1 of that Act at the time the person surrendered to the constable.

(4) For the purposes of paragraph (3), it is irrelevant that the hypothetical arrest under section 1 of the 2016 Act which is referred to in that paragraph could not be lawfully effected.