



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 19

#### SUPPLEMENTARY

### CHAPTER 1

#### APPLICATION OF ACT

#### *Persons subject to service law*

#### **367 Persons subject to service law: regular and reserve forces**

- (1) Every member of the regular forces is subject to service law at all times.
- (2) Every member of the reserve forces is subject to service law while—
  - (a) in permanent service on call-out under any provision of the Reserve Forces Act 1980 (c. 9) or the Reserve Forces Act 1996 (c. 14) or under any other call-out obligation of an officer;
  - (b) in home defence service on call-out under section 22 of the Reserve Forces Act 1980;
  - (c) in full-time service under a commitment entered into under section 24 of the Reserve Forces Act 1996;
  - (d) undertaking any training or duty (whether or not in pursuance of an obligation); or
  - (e) serving on the permanent staff of a reserve force.

#### **Commencement Information**

- I1** S. 367 in force at 1.10.2008 for specified purposes by [S.I. 2008/1650, art. 2\(c\)](#)
- I2** S. 367 in force at 28.3.2009 for specified purposes by [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

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*Changes to legislation: Armed Forces Act 2006, Part 19 is up to date with all changes known to be in force on or before 13 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**I3** S. 367 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

### **368 References to members of the regular forces**

- (1) Subsections (2) and (3) apply for the purposes of this Act.
- (2) A person recalled to service under—
  - (a) any provision of the Reserve Forces Act 1980 or the Reserve Forces Act 1996, or
  - (b) any other recall obligation of an officer,
 is to be regarded as being a member of the regular forces from acceptance into service to release or discharge.
- (3) Subject to subsection (2), an officer who is not on the active list is not to be regarded as being a member of the regular forces.
- (4) For the purposes of subsection (3), an officer is on the active list if (and only if) any of the following provides that an officer of his description is on such a list—
  - (a) Queen's Regulations;
  - (b) Royal Warrant;
  - (c) an order under section 2 of the Air Force (Constitution) Act 1917 (c. 51).

### **369 Members of British overseas territories' forces serving with UK forces**

- (1) While a member of a British overseas territory force is undertaking any duty with or training with a regular or reserve force (“the relevant force”)—
  - (a) subsection (2) applies to him; and
  - (b) nothing in section 357 (power of British overseas territory to apply this Act, etc) applies in relation to him.
- (2) A person to whom this subsection applies—
  - (a) is subject to service law; and
  - (b) shall (subject to subsection (3)) be treated as if he were a member of the relevant force of relative rank or rate.
- (3) The Secretary of State may by order modify any provision of this Act in its application to a member of a British overseas territory force who is or has been within subsection (1).
- (4) In this section—
 

“British overseas territory force” means any of Her Majesty's forces that is raised under the law of a British overseas territory;

“relative rank or rate”, in relation to a person to whom subsection (2) applies, means such rank or rate of the relevant force as may be prescribed by Queen's Regulations for a person of his description.

*Civilians subject to service discipline*

### **370 Civilians subject to service discipline**

- (1) In this Act “civilian subject to service discipline” means a person who—

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- (a) is not subject to service law; and
  - (b) is within any paragraph of Part 1 of Schedule 15.
- (2) Part 2 of Schedule 15 (exclusion and definitions relating to Part 1) has effect.

#### Commencement Information

- I4** S. 370 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))
- I5** S. 370 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### *Naval chaplains*

#### **371 Naval chaplains**

- (1) The Secretary of State may by regulations provide that such references in this Act—
- (a) to an officer, or
  - (b) to an officer of a particular description,
- as may be prescribed by the regulations include references to a naval chaplain or to a naval chaplain of a description prescribed by the regulations.
- (2) The regulations may make such modifications of this Act as appear appropriate in consequence of the fact that naval chaplains do not have a rank.
- (3) In this section “naval chaplain” means a chaplain in the Royal Navy, the Royal Fleet Reserve or the Royal Naval Reserve.

#### Commencement Information

- I6** S. 371 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I7** S. 371 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### *<sup>F1</sup>Protected prisoners of war*

#### Textual Amendments

- F1** S. 371A and cross-heading inserted (8.3.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 23(1)**, 32(3); [S.I. 2012/669](#), **art. 3(a)**

#### **371A Power to make provision in relation to protected prisoners of war**

- (1) Her Majesty may by warrant make provision with respect to protected prisoners of war.
- (2) A Royal Warrant made under this section may in particular make provision in relation to protected prisoners of war which—
- (a) applies any relevant provision, or
  - (b) is equivalent to that made by any relevant provision,
- subject to such modifications as may be contained in the Royal Warrant.

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- (3) In subsection (2) “relevant provision” means any provision of or made under this Act (including any provision creating a service offence), other than any provision of or made under Part 14, 15 or 16.
- (4) The Secretary of State must publish a Royal Warrant made under this section in such a way as appears to the Secretary of State to be appropriate.
- (5) Section 373(5) (power to make supplementary provision etc) applies in relation to Royal Warrants under this section.
- (6) In this section “protected prisoner of war” means a person—
  - (a) who is a protected prisoner of war within the meaning given by section 7 of the Geneva Conventions Act 1957; and
  - (b) as respects whom the United Kingdom is the detaining power for the purposes of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 (set out in the Third Schedule to that Act).]

## CHAPTER 2

### OTHER SUPPLEMENTARY PROVISIONS

#### 372 Evidence in proceedings before civilian courts

The Secretary of State may by regulations make provision with respect to evidence, including the admissibility of evidence, in proceedings for an offence created by or under this Act before a civilian court in—

- (a) any part of the United Kingdom;
- (b) the Isle of Man; or
- (c) a British overseas territory.

#### Commencement Information

- I8** S. 372 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I9** S. 372 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### 373 Orders, regulations and rules

- (1) Any power to make orders, regulations or rules conferred by this Act on the Secretary of State is exercisable by statutory instrument.
- [<sup>F2</sup>(1A) The powers conferred by paragraphs 6 and 7 of Schedule 2A on the Lord Chancellor to make regulations are exercisable by statutory instrument.]
- (2) The powers conferred by sections [<sup>F3</sup>20A, ] 36, [<sup>F4</sup> 93F,] 132, 135, 164, 173, 174, 328 to 331 [<sup>F5</sup>, 340 and 340B] on the Defence Council to make regulations are exercisable by statutory instrument; and the Statutory Instruments Act 1946 (c. 36) applies in relation to those powers as if the Defence Council were a Minister of the Crown.
- (3) A statutory instrument containing—
  - (a) an order under section 53, 89, 113, [<sup>F6</sup>276A(7),] 324(2)(h), 379 or 381,

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- (b) an order under section 323 which by virtue of section 323(4)(c) makes any provision adding to, replacing or omitting any part of the text of an Act,
  - (c) regulations under section 128 which make provision of a kind mentioned in section 128(2)(c) or (e) or prescribe documents for the purposes of section 118(2)(b),
  - (d) regulations under section [F7 20A, ] 271, [F8 340A(4), 340E(1) or 340N],
  - (e) regulations under section 328 which make provision of a kind mentioned in section 328(2)(c),
  - (f) rules under section 163 which—
    - (i) by virtue of section 155 make provision about the constitution of the Court Martial, or
    - (ii) make provision authorised by section 165, or
  - (g) rules under section [F9 232F]<sup>F10</sup> ...,
- may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) Any other statutory instrument under this Act, except one containing only an order under any of sections 382 to 384, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (5) Any order, regulations or rules made under this Act may—
    - (a) contain incidental, supplemental, consequential, transitional, transitory and saving provision;
    - (b) make different provision for different cases.
  - (6) Where a provision of this Act confers a power to make an order containing provision equivalent to a provision of PACE, the order may apply that provision of PACE with modifications.

#### Textual Amendments

- F2** S. 373(1A) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 14 para. 7**; S.I. 2015/778, art. 3, Sch. 1 para. 80
- F3** Word in s. 373(2) inserted (8.3.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 4 para. 14(2)(a)**; S.I. 2012/669, art. 3(f)
- F4** Word in s. 373(2) inserted (8.3.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 4 para. 14(2)(b)**; S.I. 2012/669, art. 3(f)
- F5** Words in s. 373(2) substituted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 10(a)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F6** Word in s. 373(3)(a) inserted (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 25 para. 31**; S.I. 2009/1028, art. 2(b)
- F7** Word in s. 373(3)(d) inserted (8.3.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 4 para. 14(3)(a)**; S.I. 2012/669, art. 3(f)
- F8** Words in s. 373(3)(d) substituted (1.1.2016) by Armed Forces (Service Complaints and Financial Assistance) Act 2015 (c. 19), s. 7(1), **Sch. para. 10(b)**; S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F9** Words in s. 373(3)(g) inserted (8.3.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), **Sch. 4 para. 14(4)**; S.I. 2012/669, art. 3(f)
- F10** Words in s. 373(3)(g) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 13 para. 4**; S.I. 2012/2906, art. 2(k)

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**Modifications etc. (not altering text)**

- C1** S. 373(5) applied by 1984 c. 60, s. 113(14) (as added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 105\(10\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C2** S. 373(6) applied by 1984 c. 60, s. 113(14) (as added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 105\(10\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

## CHAPTER 3

### INTERPRETATION

#### 374 Definitions applying for purposes of whole Act

In this Act, unless the context otherwise requires—

“the 2003 Act” means the Criminal Justice Act 2003 (c. 44);

“absolute discharge” has the meaning given by section 185;

“additional duties commitment” means a commitment entered into under section 25 of the Reserve Forces Act 1996 (c. 14), and references to a person being subject to such a commitment are to be read in accordance with section 377(4) of this Act;

“aircraft” means any machine capable of flight (whether or not propelled by mechanical means), including any description of balloon;

“airman” means a person whose rank is junior technician, senior aircraftman, leading aircraftman or aircraftman;

“associated”, in relation to offences, is to be read in accordance with section 161(1) of the Sentencing Act;

“British overseas territory police force” has the meaning given by section 375;

“capable of being heard summarily”, in relation to a charge, is to be read in accordance with section 52;

“civilian court” means a court of ordinary criminal jurisdiction;

“civilian subject to service discipline” has the meaning given by section 370;

“commanding officer” is to be read in accordance with section 360;

“Commonwealth country” means a country, other than the United Kingdom, that is a member of the Commonwealth;

“Commonwealth force” means a force of a Commonwealth country;

“community punishment” means—

- (a) a service community order; or
- (b) an overseas community order;

“conditional discharge” has the meaning given by section 185;

“the corresponding offence under the law of England and Wales”, in relation to an offence under section 42, has the meaning given by that section;

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“the court administration officer” means the court administration officer for the Court Martial, the Service Civilian Court and the Summary Appeal Court appointed under section 363;

“Court Martial rules” has the meaning given by section 163(1);

“the Crown Court” means the Crown Court in England and Wales;

“custodial sentence” means—

- (a) a sentence of imprisonment (as to which, see section 208);
- (b) a sentence of detention under section 209 (certain young offenders);
- (c) an order under section 211 (detention and training for young offenders);
- (d) a sentence of detention during Her Majesty's pleasure under section 218;
- (e) a sentence of detention for public protection under section 226 of the 2003 Act passed as a result of section 221 of this Act;
- (ea) [<sup>F11</sup>a sentence of detention under section 226B of that Act passed as a result of section 221A of this Act;] or
- (f) a sentence of detention under section 228 of that Act passed as a result of section 222 of this Act;

“deserting” has the meaning given by section 8, and references to desertion are to be read accordingly;

“the Director of Service Prosecutions” means the person appointed under section 364;

“enemy” includes—

- (a) all persons engaged in armed operations against any of Her Majesty's forces or against any force co-operating with any of Her Majesty's forces;
- (b) all pirates; and
- (c) all armed mutineers, armed rebels and armed rioters;

“an ex-regular reserve force” means the Royal Fleet Reserve, the Army Reserve or the Royal Air Force Reserve;

“fit to stand trial” is to be read in accordance with section 166(2);

“guardian” has the same meaning as in the Children and Young Persons Act 1933 (c. 12);

“Her Majesty's air forces”, “Her Majesty's forces” and “Her Majesty's military forces” do not include any Commonwealth force;

“higher authority” has the meaning given by section 361;

“judge advocate” has the meaning given by section 362;

“mental disorder” has the same meaning as in the Mental Health Act 1983 (c. 20) and “mentally disordered” is to be read accordingly;

“minor punishment” means a punishment under row 7 of the Table in section 132 or row 11 of the Table in section 164;

“non-commissioned officer” includes a person whose rate is chief petty officer, petty officer or leading rate;

“officer” includes a midshipman;

“overseas community order” has the meaning given by section 182;

“overseas police force” has the meaning given by section 375;

“PACE” means the Police and Criminal Evidence Act 1984 (c. 60);

“the prescribed sum” has the meaning given by section 32(9) of the Magistrates' Courts Act 1980 (c. 43);

“property” includes—

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- (a) real property in England, Wales or Northern Ireland;
- (b) heritable property in Scotland;
- (c) property outside the United Kingdom in the nature of real property;
  - “provost officer” means an officer who is a service policeman;
  - “the regular army” means any of Her Majesty’s military forces other than—
    - (a) the Army Reserve;
    - (b) the Territorial Army; and
    - (c) forces raised under the law of a British overseas territory;
  - “the regular forces” means the Royal Navy, the Royal Marines, the regular army or the Royal Air Force, and references to “a regular force” are to be read accordingly;
  - “the reserve forces” means the Royal Fleet Reserve, the Royal Naval Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve or the Royal Auxiliary Air Force, and references to “a reserve force” are to be read accordingly;
  - “SAC rules” has the meaning given by section 151(1);
  - “SCC rules” has the meaning given by section 288(1);
  - “the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
  - “service community order” has the meaning given by section 178;
  - “service compensation order” has the meaning given by section 175;
  - F12  
...
  - [<sup>F13</sup>“the Service Complaints Ombudsman” means the person appointed under section 365B;]
  - “service detention” means detention under row 1 of the Table in section 132 or row 4 of the Table in section 164;
  - “service offence” has the meaning given by section 50;
  - “service police force” and “service policeman” have the meanings given by section 375;
  - “the Service Prosecuting Authority” means the Director of Service Prosecutions and the persons appointed under section 365 (prosecuting officers);
  - “service supervision and punishment order” has the meaning given by section 173;
  - “ship” includes a hovercraft and any description of vessel;
  - “standard scale” is to be read in accordance with section 377(5) and (7);
  - “statutory maximum” is to be read in accordance with section 377(6) and (7);
  - “subject to service law” is to be read in accordance with sections 367 to 369 of this Act and section 4(3)(a) (attached Commonwealth personnel) of the Visiting Forces (British Commonwealth) Act 1933 (c. 6);
  - “superior officer”, in relation to a person (“A”), means an officer, warrant officer or non-commissioned officer who is subject to service law and—
    - (a) is of superior rank or rate to A; or
    - (b) is of equal rank or rate to A and is exercising authority as A’s superior;
  - “suspended sentence of imprisonment” means a sentence to which an order under section 189(1) of the 2003 Act relates;
  - “suspended sentence of service detention” has the meaning given by section 190;



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“UK police force” has the meaning given by section 375;  
“unfit to stand trial” is to be read in accordance with section 166(2);  
“a volunteer reserve force” means the Royal Naval Reserve, the Royal Marines Reserve, the Territorial Army or the Royal Auxiliary Air Force.

#### Textual Amendments

- F11** Words in s. 374 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 37](#); S.I. 2012/2906, art. 2(t)
- F12** Words in s. 374 omitted (1.1.2016) by virtue of [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), [Sch. para. 11\(a\)](#); S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)
- F13** Words in s. 374 inserted (1.1.2016) by [Armed Forces \(Service Complaints and Financial Assistance\) Act 2015 \(c. 19\)](#), s. 7(1), [Sch. para. 11\(b\)](#); S.I. 2015/1957, reg. 2 (with savings and transitional provisions in S.I. 2015/1969)

#### Modifications etc. (not altering text)

- C3** S. 374 definition excluded (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, [4\(1\)\(2\)](#) (with [reg. 2\(c\)](#))
- C4** S. 374 definition extended (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by S.I. 2009/1059, art. 1, Sch. 2 para. 16 (as amended (E.W.) (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential and Saving Provisions\) Regulations 2012 \(S.I. 2012/2824\)](#), regs. 1, [5\(4\)](#))

#### Commencement Information

- I10** S. 374 in force at 1.10.2008 for specified purposes by [S.I. 2008/1650](#), [art. 2\(b\)](#)
- I11** S. 374 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)
- I12** S. 374 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

### 375 Definitions relating to police forces

- (1) In this Act “service police force” means—
- the Royal Navy Police;
  - the Royal Military Police; or
  - the Royal Air Force Police;
- and “service policeman” means a member of a service police force.
- (2) In this Act “UK police force” means—
- the Ministry of Defence Police;
  - any police force maintained under section 2 of the Police Act 1996 (c. 16) (police forces in England and Wales outside London);
  - the metropolitan police force;
  - the City of London police force;
  - <sup>F14</sup>(e) the Police Service of Scotland;]
  - the Police Service of Northern Ireland; or
  - the Isle of Man Constabulary.
- (3) In this Act “British overseas territory police force” means any force or body which—
- is constituted in a British overseas territory; and

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- (b) is engaged in the carrying on of activities similar to any carried on by a service police force or UK police force.
- (4) In this Act “overseas police force” means any force or body which—
- (a) is constituted outside the United Kingdom and the Isle of Man; and
- (b) is engaged in the carrying on of activities similar to any carried on by a service police force or UK police force.

<sup>F15</sup>(5) .....

#### Textual Amendments

**F14** S. 375(2)(e) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 56**

**F15** S. 375(5) repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), Sch. 3 para. 22, **Sch. 5**; S.I. 2012/669, art. 4(d)(f)(i)

#### Commencement Information

**I13** S. 375(2)-(4) in force at 1.10.2008 by [S.I. 2008/1650](#), art. 2(d)

### 376 “Conviction”, “sentence” etc in relation to summary hearings and the SAC

- (1) Where a charge against a person in respect of an offence is heard summarily by an officer, subsections (2) to (4) apply for the purposes of references in this Act to conviction, acquittal, sentence or passing sentence, or to any related expressions.
- (2) If the officer records a finding that the charge has been proved, or the Summary Appeal Court substitutes a finding that a charge in respect of another offence has been proved, that shall be treated as a conviction.
- (3) Any punishment awarded by the officer, or by the Summary Appeal Court, shall be treated as a sentence.
- (4) If the officer dismisses the charge under section 131, or the Summary Appeal Court quashes a finding that the charge has been proved, that shall be treated as an acquittal.
- (5) In this Act “in open court”, in relation to a summary hearing by an officer, means in the presence of the offender.

#### Modifications etc. (not altering text)

**C5** S. 376(1) applied by 1984 c. 60, s. 113(12A) (as inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 105(9)** (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

**C6** S. 376(1)-(3) applied by S.I. 1978/1908 (N.I. 27), art. 4(1A) (as inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 85** (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

**C7** S. 376(2) applied by 1984 c. 60, s. 113(12A) (as inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 105(9)** (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

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#### Commencement Information

- I14** S. 376 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I15** S. 376 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 377 Further interpretive provisions

- (1) For the purposes of any provision of this Act which requires the determination of the age of a person by the court, an officer or a judge advocate, his age is to be taken to be that which it appears to the court, officer or judge advocate to be after considering any available evidence.
- (2) Any reference in this Act to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed on the imprisonment of young offenders.
- (3) The question whether a member of a regular or reserve force (“force A”) is for the purposes of any provision of this Act of inferior, equal or superior rank or rate to a member of any other such force (“force B”) is to be decided by reference to any provision made by Queen's Regulations which lays down how the ranks or rates in force A relate to the ranks or rates in force B.
- (4) For the purposes of this Act, a person is subject to an additional duties commitment if—
  - (a) he has entered into such a commitment; and
  - (b) the commitment is still in force.
- (5) Any reference in this Act to a specified level on the standard scale is to the amount specified, in relation to that level, in the standard scale for the time being set out in section 37 of the Criminal Justice Act 1982 (c. 48).
- (6) Any reference in this Act to the statutory maximum is to the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (c. 43).
- (7) But subsections (5) and (6) do not apply in relation to any offence in Scotland or Northern Ireland under—
  - (a) section 344, 345 or 346; or
  - (b) regulations made by virtue of section 328(4)(b) or 343(5)(b).

#### Commencement Information

- I16** S. 377 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I17** S. 377 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

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## CHAPTER 4

### FINAL PROVISIONS

#### 378 Minor and consequential amendments and repeals

- (1) Schedule 16 (minor and consequential amendments) has effect.
- (2) The provisions specified in Schedule 17 are hereby repealed or revoked to the extent specified there.

#### Modifications etc. (not altering text)

- C8** S. 378(1) extended (Guernsey) (with modifications) (10.12.2009) by [The Police Act 1997 \(Criminal Records\) \(Guernsey\) Order 2009 \(S.I. 2009/3215\)](#), arts. 1(2), **5**,
- C9** S. 378(1) extended (Isle of Man) (with modifications) (18.3.2010) by [The Police Act 1997 \(Criminal Records\) \(Isle of Man\) Order 2010 \(S.I. 2010/764\)](#), arts. 1(2), **5**
- C10** S. 378(1) extended (Jersey) (with modifications) (18.3.2010) by [The Police Act 1997 \(Criminal Records\) \(Jersey\) Order 2010 \(S.I. 2010/765\)](#), arts. 1(2), **5**

#### Commencement Information

- I18** S. 378 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I19** S. 378 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**
- I20** S. 378(1) in force at 4.6.2007 for specified purposes by [S.I. 2007/1442](#), **art. 2(1)**
- I21** S. 378(1) in force at 15.10.2007 for specified purposes by [S.I. 2007/2913](#), **art. 2**
- I22** S. 378(1) in force at 1.1.2008 for specified purposes by [S.I. 2007/2913](#), **art. 3**
- I23** S. 378(2) in force at 1.1.2008 for specified purposes by [S.I. 2007/2913](#), **art. 3**
- I24** S. 378(2) in force at 24.6.2008 for specified purposes by [S.I. 2008/1650](#), **art. 4(c)**
- I25** S. 378(2) in force at 1.10.2008 for specified purposes by [S.I. 2008/1650](#), **art. 2(e)**

#### 379 Power to make further amendments and repeals

- (1) The Secretary of State may by order—
  - (a) amend or repeal any enactment passed before or in the same session as this Act;
  - (b) amend or revoke subordinate legislation made before the passing of this Act.
- (2) In subsection (1)—
  - (a) “enactment” includes an Act of the Scottish Parliament and Northern Ireland legislation;
  - (b) the reference to subordinate legislation includes an instrument made under such an Act or under Northern Ireland legislation.
- (3) An order under subsection (1) may be made only for the purposes of—
  - (a) supplementing or giving full effect to this Act; or
  - (b) making provision consequential on the passing of this Act.

#### Commencement Information

- I26** S. 379 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(2)**

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### **380 Power to make transitional and transitory provision**

- (1) The Secretary of State may by order make transitional provision in connection with the coming into force of any provision made by or under this Act, including savings from the effect of any repeal or revocation so made.
- (2) An order under subsection (1) may in particular make provision—
  - (a) about the effect of liabilities incurred and other things done before commencement, including provision for and about the investigation, trial and punishment of offences committed before commencement;
  - (b) for and about the continuation of any proceedings begun before commencement;
  - (c) about the punishments and orders available to courts or other persons before whom proceedings take place in respect of offences committed before commencement;
  - (d) about the effect of punishments awarded and orders made in respect of offences committed before commencement.
- (3) An order under subsection (1) may—
  - (a) confer jurisdiction on any court;
  - (b) confer functions on a person's commanding officer, the Director of Service Prosecutions, the prosecuting authority within the meaning of any of the Army Act 1955 (3 & 4 Eliz. 2 c. 18), the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or the Naval Discipline Act 1957 (c. 53), or on service policemen;
  - (c) confer powers of arrest, search and entry;
  - (d) authorise the keeping of persons in service custody, and the imposition of requirements on release from service custody (including provision applying section 107(5) and (6) with or without modifications).
- (4) The Secretary of State may by order provide that—
  - (a) until the coming into force of any enactment specified in the order, or
  - (b) in relation to any offence committed or other thing done before the coming into force of such an enactment,any provision of this Act or amended by or under this Act has effect with such modifications as may be specified by the order.
- (5) In subsection (4)(a) and (b) “enactment” includes any provision of this Act.
- (6) If any provision made by or under this Act is to come into force before the day on which section 61 of the Criminal Justice and Court Services Act 2000 (c. 43) (abolition of certain custodial sentences for young offenders) comes into force (or fully into force), an order under subsection (4) may provide for custodial punishments specified in the order to be available in respect of offenders who are convicted aged 18 or over but under 21.
- (7) The powers conferred by this section may not be exercised so as to allow the imposition in respect of an offence of a punishment more severe than that which was applicable when the offence was committed.
- (8) An order under this section may modify, exclude or apply (with or without modifications) any enactment or subordinate legislation, including—
  - (a) any provision of or made under this Act;
  - (b) any provision of or made under an enactment repealed by this Act.

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[<sup>F16</sup>(8A) The power under subsection (1) to make transitional provision in connection with the coming into force of any provision made by or under this Act includes power, where this Act or any provision made under it is amended, to amend any earlier order under this section.]

<sup>F17</sup>(9) .....

(10) In this section “commencement” means the commencement of such provisions of this Act as may be specified by the order.

#### Textual Amendments

**F16** S. 380(8A) inserted (8.3.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 3 para. 23**; [S.I. 2012/669](#), art. 3(e)

**F17** S. 380(9) repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 4 para. 15**, **Sch. 5**; [S.I. 2012/669](#), art. 4(f)(i)

#### Commencement Information

**I27** S. 380 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))

**I28** S. 380 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### 381 Alignment of SDAs etc with this Act

- (1) The Secretary of State may by order amend or repeal any provision of an enactment within subsection (3) for the purpose of reducing or eliminating any difference between the effect of the enactments within that subsection and the effect of this Act.
- (2) An order under subsection (1) may amend an enactment within subsection (3) in such a way as to confer on any person a power to make subordinate legislation.
- (3) The enactments are—
  - (a) the Army Act 1955;
  - (b) the Air Force Act 1955;
  - (c) the Naval Discipline Act 1957;
  - (d) the Army and Air Force Act 1961 (c. 52);
  - (e) the Armed Forces Act 1966 (c. 45);
  - (f) such provisions of the following Acts as are repealed by this Act—
    - (i) the Armed Forces Act 1976 (c. 52);
    - (ii) the Reserve Forces Act 1980 (c. 9);
    - (iii) the Armed Forces Act 1981 (c. 55);
    - (iv) the Armed Forces Act 1991 (c. 62);
    - (v) the Reserve Forces Act 1996 (c. 14);
    - (vi) the Armed Forces Act 2001 (c. 19).

#### Commencement Information

**I29** S. 381 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(2)**

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### **[<sup>F18</sup>382 Duration of this Act**

- (1) This Act expires at the end of one year beginning with the day on which the Armed Forces Act 2011 is passed (but this is subject to subsection (2)).
- (2) Her Majesty may by Order in Council provide that, instead of expiring at the time it would otherwise expire, this Act shall expire at the end of a period of not more than one year from that time.
- (3) Such an Order may not provide for the continuation of this Act beyond the end of the year 2016.
- (4) No recommendation may be made to Her Majesty in Council to make an Order under subsection (2) unless a draft of the Order has been laid before, and approved by resolution of, each House of Parliament.]

#### **Textual Amendments**

**F18** S. 382 substituted (3.11.2011) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 1, 32(1)**

### **383 Commencement**

- (1) This section and sections 359, 373, 382, 384 and 386, and the repeal by this Act of section 1 of the Armed Forces Act 2001 (c. 19), come into force on the day on which this Act is passed.
- (2) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint (and different days may be appointed for different purposes).

### **384 Extent to Channel Islands, Isle of Man and British overseas territories**

- (1) Her Majesty may by Order in Council provide for all or any of the provisions of this Act to extend to any of the Channel Islands with such modifications as may be specified in the Order.
- (2) This Act extends to—
  - (a) the Isle of Man, and
  - (b) the British overseas territories,subject to such modifications as Her Majesty may by Order in Council specify.

[<sup>F19</sup>(3) Paragraph 5(ba) of Schedule 9 does not extend to the Isle of Man or the British overseas territories.]

#### **Textual Amendments**

**F19** S. 384(3) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, **Sch. 2 para. 59(2)** (with art. 5)

#### **Modifications etc. (not altering text)**

**C11** S. 384 modified (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 152(9)**, 153(1)(g)

**C12** S. 384 applied by 2003 c. 44, s. 337(12A) (as inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 233(3)** (with



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- s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C13** S. 384 applied by 1991 c. 62, s. 24(4) (as substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 16 para. 122** (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C14** S. 384 applied by 1995 c. 35, s. 33(6) (as added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 11 para. 11** (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C15** S. 384 modified (12.11.2009) by **Coroners and Justice Act 2009 (c. 25)**, **ss. 181(8)**, 182(1)(f) (with s. 180)
- C16** S. 384 modified (1.5.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, ss. 151(2)(c), **153(4)**
- C17** S. 384(1) modified (28.1.2016) by **Psychoactive Substances Act 2016 (c. 2)**, **ss. 62(3)**, 63(1)(a)
- C18** S. 384(2) modified (28.1.2016) by **Psychoactive Substances Act 2016 (c. 2)**, **ss. 62(4)**, 63(1)(a)

### 385 Extent of applied enactments

- (1) Where a provision of or made under an Act is applied by or under this Act (by whatever words), the extent of the provision as so applied is not affected by anything that limits the extent of the provision as it applies apart from this Act.
- (2) The provision as so applied is to be treated for the purposes of section 384 as if it were contained in this Act.

#### Commencement Information

- I30** S. 385 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I31** S. 385 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

### 386 Short title

This Act may be cited as the Armed Forces Act 2006.



**Status:**

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**Changes to legislation:**

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