

*Status: Point in time view as at 13/05/2014.*

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## SCHEDULES

### SCHEDULE 1

Sections 53, 54

#### CRIMINAL CONDUCT OFFENCES THAT MAY BE DEALT WITH AT A SUMMARY HEARING

#### PART 1

##### OFFENCES THAT MAY BE DEALT WITH WITHOUT PERMISSION

1 An offence under section 1 of the Theft Act 1968 (c. 60) (theft).

##### Commencement Information

- I1** Sch. 1 para. 1 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](#))
- I2** Sch. 1 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

2 An offence under section 12 of that Act (taking vehicle etc without consent).

##### Commencement Information

- I3** Sch. 1 para. 2 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](#))
- I4** Sch. 1 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

3 An offence under section 5(2) of the Misuse of Drugs Act 1971 (c. 38) (possession of controlled drug).

##### Commencement Information

- I5** Sch. 1 para. 3 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](#))
- I6** Sch. 1 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

4 An offence under section 1(1) of the Criminal Damage Act 1971 (c. 48) (criminal damage).

##### Commencement Information

- I7** Sch. 1 para. 4 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](#))
- I8** Sch. 1 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

5 An offence under section 3 of the Theft Act 1978 (c. 31) (making off without payment) where the payment required or expected did not exceed £100.

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**Commencement Information**

- I9** Sch. 1 para. 5 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](#))
- I10** Sch. 1 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 6 An offence under section 9 of the Criminal Attempts Act 1981 (c. 47) (interference with vehicles).

**Commencement Information**

- I11** Sch. 1 para. 6 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](#))
- I12** Sch. 1 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 7 An offence under section 39 of the Criminal Justice Act 1988 (c. 33) (assault and battery).

**Commencement Information**

- I13** Sch. 1 para. 7 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](#))
- I14** Sch. 1 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 8 An offence under section 3 of the Road Traffic Act 1988 (c. 52) (careless driving etc).

**Commencement Information**

- I15** Sch. 1 para. 8 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](#))
- I16** Sch. 1 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 9 An offence under section 5 of that Act (driving a vehicle where driver has consumed excessive amount of alcohol etc).

**Commencement Information**

- I17** Sch. 1 para. 9 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](#))
- I18** Sch. 1 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 10 An offence under section 25 of that Act (tampering with vehicles etc) where the vehicle was on a road.

**Commencement Information**

- I19** Sch. 1 para. 10 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](#))
- I20** Sch. 1 para. 10 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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11 An offence under section 28 of that Act (dangerous cycling).

**Commencement Information**

- I21** Sch. 1 para. 11 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](#))  
**I22** Sch. 1 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

12 An offence under section 29 of that Act (careless cycling etc).

**Commencement Information**

- I23** Sch. 1 para. 12 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](#))  
**I24** Sch. 1 para. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

**PART 2**

OFFENCES THAT MAY BE DEALT WITH ONLY WITH PERMISSION

13 An offence under section 47 of the Offences against the Person Act 1861 (c. 100) (assault occasioning actual bodily harm).

**Commencement Information**

- I25** Sch. 1 para. 13 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](#))  
**I26** Sch. 1 para. 13 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

14 An offence under section 1 of the Prevention of Crime Act 1953 (c. 14) (possession in public place of offensive weapon).

**Commencement Information**

- I27** Sch. 1 para. 14 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** Sch. 1 para. 14 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

15 An offence under section 13 of the Theft Act 1968 (c. 60) (abstracting of electricity).

**Commencement Information**

- I29** Sch. 1 para. 15 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](#))  
**I30** Sch. 1 para. 15 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

16 An offence under section 139 of the Criminal Justice Act 1988 (c. 33) (possession in public place of point or blade).

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**Commencement Information**

- I31** Sch. 1 para. 16 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](#))  
**I32** Sch. 1 para. 16 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 17 An offence under section 125 of the Communications Act 2003 (c. 21) (dishonestly obtaining electronic communications services).

**Commencement Information**

- I33** Sch. 1 para. 17 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](#))  
**I34** Sch. 1 para. 17 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 18 An offence under section 126 of that Act (possession or supply of apparatus etc for contravening s.125 of that Act).

**Commencement Information**

- I35** Sch. 1 para. 18 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](#))  
**I36** Sch. 1 para. 18 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 19 An offence under section 1 of the Fraud Act 2006 (fraud).

**Commencement Information**

- I37** Sch. 1 para. 19 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](#))  
**I38** Sch. 1 para. 19 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 20 An offence under section 11 of that Act (dishonestly obtaining services).

**Commencement Information**

- I39** Sch. 1 para. 20 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](#))  
**I40** Sch. 1 para. 20 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

SCHEDULE 2

Sections 113, 116

“SCHEDULE 2 OFFENCES”

- 1 An offence under section 1 (assisting an enemy).

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**Commencement Information**

- I41** Sch. 2 para. 1 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](#))
- I42** Sch. 2 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

2 An offence under section 2(1) (misconduct on operations).

**Commencement Information**

- I43** Sch. 2 para. 2 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](#))
- I44** Sch. 2 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

3 An offence under section 3 (obstructing operations) which relates to an action or operation against an enemy.

**Commencement Information**

- I45** Sch. 2 para. 3 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](#))
- I46** Sch. 2 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

4 An offence under section 4(1) or (2) (looting).

**Commencement Information**

- I47** Sch. 2 para. 4 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](#))
- I48** Sch. 2 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

5 An offence under section 6 (mutiny).

**Commencement Information**

- I49** Sch. 2 para. 5 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](#))
- I50** Sch. 2 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

6 An offence under section 7 (failure to suppress mutiny).

**Commencement Information**

- I51** Sch. 2 para. 6 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](#))
- I52** Sch. 2 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

7 An offence under section 8 (desertion) where the accused intended to avoid a period of active service (within the meaning of that section).

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#### Commencement Information

- I53** Sch. 2 para. 7 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](#))
- I54** Sch. 2 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

8 An offence under section 31(1) (hazarding of ship).

#### Commencement Information

- I55** Sch. 2 para. 8 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](#))
- I56** Sch. 2 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

9 An offence under section 33(1) (dangerous flying etc).

#### Commencement Information

- I57** Sch. 2 para. 9 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](#))
- I58** Sch. 2 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

10 An offence under section 39 of attempting to commit an offence within any of paragraphs 1 to 9.

#### Commencement Information

- I59** Sch. 2 para. 10 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](#))
- I60** Sch. 2 para. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

11 An offence under section 40 of [<sup>F1</sup>encouraging or assisting the commission of] an offence within any of paragraphs 1 to 9.

#### Textual Amendments

- F1** Words in Sch. 2 para. 11 substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 13\(a\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)

#### Commencement Information

- I61** Sch. 2 para. 11 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](#))
- I62** Sch. 2 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

12 An offence under section 42 (criminal conduct) as respects which the corresponding offence under the law of England and Wales is—

- (a) murder;
- (b) manslaughter;
- (c) kidnapping;
- (d) high treason;

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- (e) piracy;
- (f) cheating the public revenue;
- (g) an offence under section 2 of the Treason Act 1842 (c. 51) (attempt to injure or alarm the Sovereign);
- (h) an offence under section 3 of the Treason Felony Act 1848 (c. 12) (compassing the deposition of the Sovereign etc);
- (i) an offence under section 4, 18, 22, 23, 28 or 29 of the Offences against the Person Act 1861 (c. 100) (soliciting murder, wounding with intent, using chloroform etc to commit indictable offence, administering poison, causing injury by explosives, using explosives etc with intent);
- (j) an offence under section 20 of that Act of inflicting grievous bodily harm;
- (k) an offence under section 2 or 3 of the Explosive Substances Act 1883 (c. 3) (causing explosion likely to endanger life or property etc);
- <sup>F2</sup>(l) .....
- <sup>F2</sup>(m) .....
- (n) an offence under section 1 or 2 of the Perjury Act 1911 (c. 6) (perjury or false statements on oath);
- (o) an offence under section 1 or 7 of the Official Secrets Act 1911 (c. 28) (spying or harbouring spies);
- (p) an offence under section 1 of the Infant Life (Preservation) Act 1929 (c. 34) (child destruction);
- (q) an offence under section 1 of the Children and Young Persons Act 1933 (c. 12) (cruelty to children);
- (r) an offence under section 1 of the Infanticide Act 1938 (c. 36) (infanticide);
- [<sup>F3</sup>(ra) an offence under section 1A of the Prevention of Crime Act 1953 (threatening with offensive weapon in public);]
- (s) an offence under section 33 or 33A of the Sexual Offences Act 1956 (c. 69) (keeping a brothel etc);
- (t) an offence under section 1 of the Geneva Conventions Act 1957 (c. 52) (grave breaches of conventions);
- (u) an offence under section 2 of the Suicide Act 1961 (c. 60) (assisting suicide etc);
- (v) an offence under section 5, 16, 16A, 17, 18 or 20 of the Firearms Act 1968 (c. 27) (unlawful possession or use of firearm etc);
- (w) an offence under section 8, 10 or 21 of the Theft Act 1968 (c. 60) (robbery, aggravated burglary, blackmail);
- (x) an offence under section 12A of that Act (aggravated vehicle taking) involving an accident which caused the death of any person;
- (y) an offence under section 4, 5(3) or 8 of the Misuse of Drugs Act 1971 (c. 38) (production and supply of controlled drugs, possession of such drugs with intent to supply, permitting production of such drugs);
- (z) an offence under section 1(2) of the Criminal Damage Act 1971 (c. 48) (destroying or damaging property with intent to endanger life);
- (aa) an offence under section 1 of the Biological Weapons Act 1974 (c. 6) (developing biological agents etc);
- (ab) an offence under section 51 of the Criminal Law Act 1977 (c. 45) (bomb hoaxes);

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- (ac) an offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children);
- (ad) an offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty etc);
- (ae) an offence under section 1 of the Taking of Hostages Act 1982 (c. 28) (hostage-taking);
- (af) an offence under any of sections 1 to 4 of the Aviation Security Act 1982 (c. 36) (hijacking, destroying, damaging or endangering safety of aircraft etc);
- (ag) an offence under section 1 or 2 of the Child Abduction Act 1984 (c. 37) (abduction of child);
- (ah) an offence under any of sections 1 [F<sup>4</sup>, 18 to 23 and 29B to 29G] of the Public Order Act 1986 (c. 64) (riot, stirring up [F<sup>5</sup>hatred by reference to race], possession of inflammatory material);
- (ai) an offence under section 134 [F<sup>6</sup>, 139AA] or 160 of the Criminal Justice Act 1988 (c. 33) (torture, [F<sup>7</sup>threatening with article with blade or point or offensive weapon,] possession of indecent photograph of child);
- (aj) an offence under section 1, [F<sup>8</sup>1A,] 3A or 22A of the Road Traffic Act 1988 (c. 52) (causing death by dangerous driving, [F<sup>9</sup>causing serious injury by dangerous driving,] causing death by careless driving when under the influence of drink or drugs, causing danger to road-users);
- (ak) an offence under any of sections 1 to 6 or 8(6) of the Official Secrets Act 1989 (c. 6) (disclosure of information relating to security, intelligence, defence, international relations etc);
- (al) an offence under any of sections 1 or 9 to 13 of the Aviation and Maritime Security Act 1990 (c. 31) (endangering safety at aerodromes, offences against the safety of ships and fixed platforms);
- (am) an offence under section 72 of the Value Added Tax Act 1994 (c. 23) (evasion of VAT);
- (an) an offence under Part II of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (offences relating to Channel Tunnel trains and the tunnel system);
- (ao) an offence under section 2 of the Chemical Weapons Act 1996 (c. 6) (use etc of chemical weapons);
- (ap) an offence under section 11, 12, 15, 16, 17, 18, 38B, 39, 54, 56, 57 or 58 of the Terrorism Act 2000 (c. 11);
- (aq) an offence under section 51 or 52 of the International Criminal Court Act 2001 (c. 17) (genocide, crimes against humanity, war crimes etc);
- (ar) an offence under section 47, 79, 80, 113 or 114 of the Anti-terrorism, Crime and Security Act 2001 (c. 24);
- (as) an offence under section 1 of the Dealing in Cultural Objects (Offences) Act 2003 (c. 27) (dealing in tainted cultural objects);
- (at) any offence under Part 1 of the Sexual Offences Act 2003 (c. 42) except one under section 3, 66, 67 or 71;
- (au) an offence under any of sections 1, 2, 5, 6 or 8 to 11 of the Terrorism Act 2006.
- [F<sup>10</sup>(av) an offence under section 62(1) of the Coroners and Justice Act 2009 (possession of prohibited images of children).]



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[<sup>F11</sup>(aw) an offence under section 1, 2 or 6 of the Bribery Act 2010.]

#### Textual Amendments

- F2** Sch. 2 para. 12(l)(m) repealed (1.7.2011) by Bribery Act 2010 (c. 23), s. 19(1), **Sch. 2** (with ss. 16, 18(3), 19(5)); S.I. 2011/1418, art. 2
- F3** Sch. 2 para. 12(ra) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 30(2)**; S.I. 2012/2770, art. 2(f)
- F4** Words in Sch. 2 para. 12(ah) substituted (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 82(2)(a)**; S.I. 2009/2606, art. 3(i)
- F5** Words in Sch. 2 para. 12(ah) substituted (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 82(2)(b)**; S.I. 2009/2606, art. 3(i)
- F6** Word in Sch. 2 para. 12(ai) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 30(3)(a)**; S.I. 2012/2770, art. 2(f)
- F7** Words in Sch. 2 para. 12(ai) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 30(3)(b)**; S.I. 2012/2770, art. 2(f)
- F8** Word in Sch. 2 para. 12(aj) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 27 para. 11(a)**; S.I. 2012/2770, art. 2(g)
- F9** Words in Sch. 2 para. 12(aj) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 27 para. 11(b)**; S.I. 2012/2770, art. 2(g)
- F10** Sch. 2 para. 12(av) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 21 para. 64** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 20(a)
- F11** Sch. 2 para. 12(aw) inserted (1.7.2011) by Bribery Act 2010 (c. 23), s. 19(1), **Sch. 1 para. 11** (with ss. 16, 18(3), 19(5)); S.I. 2011/1418, art. 2

#### Commencement Information

- I63** Sch. 2 para. 12 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)
- I64** Sch. 2 para. 12 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

- 13 An offence under section 42 as respects which the corresponding offence under the law of England and Wales is—
- (a) an offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit an offence within a sub-paragraph of paragraph 12;
  - (b) an offence under section 1 of the Criminal Law Act 1977 (c. 45) of conspiracy to commit such an offence;
  - (c) an offence [<sup>F12</sup>under Part 2 of the Serious Crime Act 2007 of encouraging or assisting the commission of] such an offence.

#### Textual Amendments

- F12** Words in Sch. 2 para. 13 substituted (1.10.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 5 para. 13(b)** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

#### Commencement Information

- I65** Sch. 2 para. 13 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)
- I66** Sch. 2 para. 13 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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## SCHEDULE 3

Section 164

### CIVILIANS ETC: MODIFICATIONS OF COURT MARTIAL SENTENCING POWERS

#### PART 1

##### CIVILIAN OFFENDERS

- 1 (1) In relation to a civilian offender, section 164 (punishments available to Court Martial) has effect as if subsections (4), (6) and (7) were omitted and as if for the Table there were substituted—

*“TABLE*

<i>Row Number</i>	<i>Punishment</i>	<i>Limitation</i>
1	imprisonment	
2	a fine	
3	a service community order (defined by section 178)	only if subsection (5) permits
4	an overseas community order (defined by section 182)	only if it appears to the court that the offender will reside outside the United Kingdom when the order is in force
5	a conditional discharge (defined by section 185)	
6	an absolute discharge (defined by section 185)	
7	a service compensation order (defined by section 175)	”

- (2) A person is a “civilian offender” for the purposes of this Part of this Schedule if he has committed a service offence and—
- (a) he was a civilian when he committed the offence;
  - (b) he is a civilian when sentenced for the offence; and
  - (c) he remained a civilian throughout the period between committing the offence and being sentenced.
- (3) In sub-paragraph (2) “a civilian” means a person who is—
- (a) not a member of the regular forces;
  - (b) not a member of the reserve forces; and
  - (c) not liable to recall.
- (4) For the purposes of this paragraph a person is “liable to recall” if—
- (a) under section 65(1) of the Reserve Forces Act 1996 (c. 14) he is liable to be recalled for service; or
  - (b) he is liable to be recalled as mentioned in section 35(1) of the Reserve Forces Act 1980 (c. 9).

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*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

- I67** Sch. 3 para. 1 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](#))
- I68** Sch. 3 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 2 For the purposes of determining the Court Martial's powers when sentencing a civilian offender for an offence under section 42, section 42(3) (maximum penalties) has effect as if the reference to rows 5 to 12 were to rows 2 to 7.

#### Commencement Information

- I69** Sch. 3 para. 2 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](#))
- I70** Sch. 3 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## PART 2

### EX-SERVICEMEN ETC

- 3 (1) In relation to an offender to whom this Part of this Schedule applies, section 164 (punishments available to Court Martial) has effect as if subsections (6) and (7) were omitted and as if for the Table there were substituted—

#### “TABLE

<i>Row Number</i>	<i>Punishment</i>	<i>Limitation</i>
1	imprisonment	
2	dismissal with disgrace from Her Majesty's service	only if the person being sentenced is an officer or a member of the reserve forces
3	dismissal from Her Majesty's service	only if the person being sentenced is an officer or a member of the reserve forces
4	detention for a term not exceeding two years	not if the person being sentenced is an officer, or was an officer when last a member of Her Majesty's forces
5	reduction in rank, or disrating	only if the person being sentenced is a warrant officer or non-commissioned officer, and not to an extent prohibited by regulations under subsection (4)
6	a fine	

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7	a service community order (defined by section 178)	only if subsection (5) permits
8	a severe reprimand or a reprimand	only if the person being sentenced is, or was at the time of the offence, an officer, warrant officer or non-commissioned officer
9	an absolute discharge (defined by section 185)	
10	a service compensation order (defined by section 175)	”

(2) A person is an offender to whom this Part of this Schedule applies if when sentenced he is—

- (a) not subject to service law;
- (b) not a member of a volunteer reserve force;
- (c) not a member of an ex-regular reserve force who is subject to an additional duties commitment; and
- (d) not a civilian offender for the purposes of Part 1 of this Schedule.

#### Commencement Information

- I71** Sch. 3 para. 3 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](#))
- I72** Sch. 3 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

4 For the purposes of determining the Court Martial's powers when sentencing an offender to whom this Part of this Schedule applies—

- (a) section 25(2) (penalty for misapplying public property etc) has effect as if the reference to rows 2 to 12 were to rows 2 to 10;
- (b) section 35(3) (penalty for annoyance by flying) has effect as if the reference to rows 3 to 12 were to rows 3 to 10;
- (c) section 42(3) (penalties for criminal conduct offences) has effect as if the reference to rows 5 to 12 were to rows 5 to 10;
- (d) any provision of regulations under section 328 (enlistment) which provides that an offence is punishable by any punishment mentioned in rows 2 to 12 of the Table in section 164 has effect as if the reference to rows 2 to 12 were to rows 2 to 10;
- (e) any provision of regulations under section 343 (service inquiries) which provides that an offence is punishable by any punishment mentioned in rows 7 to 12 of the Table in section 164 has effect as if the reference to rows 7 to 12 were to rows 6 to 10.

#### Commencement Information

- I73** Sch. 3 para. 4 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](#))
- I74** Sch. 3 para. 4 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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## [<sup>F13</sup>SCHEDULE 3A

Section 165

### COURT MARTIAL SENTENCING POWERS WHERE ELECTION FOR TRIAL BY THAT COURT INSTEAD OF CO

#### Textual Amendments

**F13** Sch. 3A inserted (2.4.2012) by Armed Forces Act 2011 (c. 18), ss. 14(2), 32(3), **Sch. 1**; S.I. 2012/669, art. 4(b) (with arts. 6(3), 10-12)

#### PART 1

##### RELEVANT OFFENCES

- 1 For the purposes of this Schedule an offence is “relevant” if it falls within any of cases A to D (see paragraphs 2 to 5); and references in this Schedule to a particular case of offence are to be read accordingly.
- 2 An offence of which a person is convicted falls within case A if the charge in respect of the offence is one in respect of which the person elected Court Martial trial under section 129 (whether or not the charge was amended after election).
- 3 An offence of which a person (“the accused”) is convicted falls within case B if—
- (a) the charge in respect of the offence was substituted under section 125(2)
  - (b) for a charge in respect of which the accused elected Court Martial trial under section 129; and
  - (b) the substitution was not one for which the accused’s written consent was required by section 130A(2).
- 4 Where—
- (a) a person (“the accused”) elects Court Martial trial under section 129 in respect of a charge,
  - (b) at the time of the election, another charge brought against the accused (“the relevant charge”) is regarded for the purposes of Part 5 as allocated for summary hearing,
  - (c) the relevant charge is referred to the Director of Service Prosecutions under section 123(2)(e) without the accused having been given the opportunity to elect Court Martial trial of the charge, and
  - (d) the Court Martial convicts the accused of an offence alleged in the relevant charge,
- that offence falls within case C.
- 5 Where—
- (a) a person (“the accused”) is charged with an offence which, if the accused were convicted of it, would fall within case C,
  - (b) another charge (“the new charge”) is substituted under section 125(2)(b) for the charge,
  - (c) the substitution is not one for which the accused’s written consent is required by section 130A(2), and
  - (d) the Court Martial convicts the accused of an offence alleged in the new charge,

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that offence falls within case D.

## PART 2

### SENTENCING POWERS ETC

#### *Sentencing powers: single relevant offence*

- 6 (1) This paragraph applies where—
- (a) the Court Martial convicts a person (“the offender”) of a case A offence or a case B offence; and
  - (b) paragraph 8 (multiple relevant offences) does not apply.
- (2) The sentence passed in respect of the offence must be such that the offender’s commanding officer could have awarded the punishments awarded by that sentence if the commanding officer—
- (a) had heard summarily the charge in respect of which the offender elected Court Martial trial; and
  - (b) had recorded a finding that the charge had been proved.
- 7 (1) This paragraph applies where—
- (a) the Court Martial convicts a person (“the offender”) of a case C offence or a case D offence; and
  - (b) paragraph 8 does not apply.
- (2) The sentence passed in respect of the offence must be such that the offender’s commanding officer could have awarded the punishments awarded by that sentence if the commanding officer—
- (a) had heard summarily the charge referred as mentioned in paragraph 4(c); and
  - (b) had recorded a finding that the charge had been proved.

#### *Multiple relevant offences*

- 8 (1) This paragraph applies where—
- (a) the Court Martial convicts a person (“the offender”) of two or more relevant offences; and
  - (b) condition 1 or 2 is met in relation to any two or more of the offences.
- (2) Condition 1, in relation to any two or more offences, is that—
- (a) each of the offences is a case A offence or a case B offence; and
  - (b) the relevant charges would have been heard summarily together if the offender had not elected Court Martial trial.
- (3) In sub-paragraph (2) “relevant charge” means—
- (a) in relation to a case A offence, the charge in respect of that offence; and
  - (b) in relation to a case B offence, the charge in respect of which the offender elected Court Martial trial and for which the charge in respect of the case B offence was substituted.
- (4) Condition 2, in relation to any two or more offences, is that—
- (a) each of the offences is a case C offence or a case D offence; and

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- (b) the referred charges would have been heard summarily together if they had not been referred as mentioned in paragraph 4(c).
- (5) In sub-paragraph (4) “referred charge” means—
- (a) in relation to a case C offence, the charge in respect of that offence; and
  - (b) in relation to a case D offence, the charge referred as mentioned in paragraph 4(c) for which the charge in respect of the case D offence was substituted.

#### *Sentencing powers: multiple relevant offences*

- 9 (1) This paragraph applies where paragraph 8 applies by virtue of a condition in that paragraph being met in relation to any two or more relevant offences.
- (2) The offences in relation to which the condition is met (“the joined offences”) are to be treated for the purposes of section 255 (individual sentence for each offence) as a single offence; and references in this paragraph to “the sentence” are to the sentence passed by the Court Martial in respect of the joined offences.
- (3) Where condition 1 in paragraph 8 is met in relation to the joined offences, the sentence must be such that the offender’s commanding officer could have awarded the punishments awarded by that sentence if the commanding officer—
- (a) had heard the relevant charges (as defined by paragraph 8(3)) summarily together; and
  - (b) had recorded findings that the charges had been proved.
- (4) Where condition 2 in paragraph 8 is met in relation to the joined offences, the sentence must be such that the offender’s commanding officer could have awarded the punishments awarded by that sentence if the commanding officer—
- (a) had heard the referred charges (as defined by paragraph 8(5)) summarily together; and
  - (b) had recorded findings that the charges had been proved.

#### *Further provision about sentencing*

- 10 Where paragraph 9 applies, the following provisions apply in relation to the sentence as if it were a sentence being passed by an officer at a summary hearing—
- section 242 (service detention: general restriction);
  - section 243 (length of term of service detention);
  - section 248 (forfeiture of seniority, reduction in rank or disrating).
- 11 Where the Court Martial is dealing with an offender for an offence with which a relevant offence is associated, the offences are to be treated for the purposes of Part 9 (sentencing: principles and procedures) as not being associated.

#### *Activation of suspended sentence of detention*

- 12 (1) This paragraph applies where—
- (a) the Court Martial, on convicting a person (“the offender”) of a relevant offence, makes an order under section 191(3) in relation to a suspended sentence of service detention passed on the offender; and
  - (b) the suspended sentence was passed by an officer or the Summary Appeal Court.

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- (2) The term of the suspended sentence as it takes effect by virtue of the order must not exceed 28 days unless the offender’s commanding officer would have had extended powers for the purposes of section 194 if—
- (a) where the offence is a case A offence or a case B offence, the offender had not elected Court Martial trial; or
  - (b) where the offence is a case C offence or a case D offence, the charge referred as mentioned in paragraph 4(c) had not been so referred.
- (3) If—
- (a) the Court Martial awards a term of service detention (“the new sentence”) in respect of the offence (or, where paragraph 9 applies, in respect of the offence and one or more other relevant offences), and
  - (b) the order under section 191(3) provides for the suspended sentence to take effect from the end of the new sentence,
- the aggregate of the terms of the two sentences must not exceed 28 days or, where the extended powers condition is met, 90 days.
- (4) The extended powers condition is—
- (a) where the offence is a case A offence or a case B offence, that the offender’s commanding officer would have had extended powers for the purposes of section 194 if the offender had not elected Court Martial trial;
  - (b) where the offence is a case C offence or a case D offence, that the offender’s commanding officer would have had extended powers for the purposes of section 194 if the charge referred as mentioned in paragraph 4(c) had not been so referred.
- (5) In determining for the purposes of sub-paragraph (2) or (4) whether the offender’s commanding officer would have had extended powers for the purposes of section 194 if, as the case may be—
- (a) the offender had not elected Court Martial trial, or
  - (b) the charge referred as mentioned in paragraph 4(c) had not been so referred,
- no account is to be taken of any of the matters mentioned in sub-paragraph (6).
- (6) Those matters are—
- (a) any change in the commanding officer’s rank after the election or referral;
  - (b) in the case of sub-paragraph (2)(a) or (4)(a), any possibility that, if the offender had declined Court Martial trial, the commanding officer might subsequently have been granted extended powers for the purposes of section 194; and
  - (c) in the case of sub-paragraph (2)(b) or (4)(b), any possibility that, if the charge referred as mentioned in paragraph 4(c) had not been so referred, the commanding officer might have been granted extended powers for those purposes after the time when the charge was in fact referred.

*Court orders other than sentences*

- 13 (1) The Court Martial may not make an order under section 229 (service restraining order) by virtue of—
- (a) convicting a person of a relevant offence; or
  - (b) acquitting a person of an offence which would be a relevant offence if the person were convicted of it.



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- (2) The Court Martial may not make an order under section 232A (service sexual offences prevention order) by virtue of dealing with a person in respect of—
- (a) a relevant offence of which the person has been convicted; or
  - (b) a relevant finding in relation to an offence which, if the person were convicted of it, would be a relevant offence.
- (3) In sub-paragraph (2) “relevant finding” has the same meaning as in section 232A.

#### *Review of unduly lenient sentences*

- 14 In section 273 (review of unduly lenient sentence by Court Martial Appeal Court), the reference in subsection (1)(a) to an offence under section 42 does not include a relevant offence.

#### *Appeals: application of Court Martial Appeals Act 1968 to multiple relevant offences*

- 15 (1) This paragraph applies where, by virtue of paragraph 9(2), the Court Martial passed a single sentence in respect of two or more relevant offences (“the joined offences”); and references in this paragraph to “the 1968 Act” are to the Court Martial Appeals Act 1968.
- (2) Where—
- (a) section 13 of the 1968 Act (power to re-sentence when some but not all convictions successfully appealed) applies in relation to the sentence, but
  - (b) the appellant remains convicted of two or more of the joined offences,
- those offences are to be treated for the purposes of section 13(2) of the 1968 Act as a single offence.
- (3) Sub-paragraph (4) applies where section 14 of the 1968 Act (substitution of conviction on different charge after plea of not guilty) applies in relation to a conviction of any of the joined offences.
- (4) The reference in section 14(2)(b) to a sentence that the Court Martial would have had power to pass in respect of the offence mentioned in section 14(1)(b) is to be read as a reference to a sentence that the Court Martial would have had power to pass in respect of all the applicable offences.
- (5) For the purposes of sub-paragraph (4) an offence is an “applicable offence” if it is—
- (a) a joined offence of which the appellant remains convicted;
  - (b) an offence a finding of guilty of which has been substituted under section 14 of the 1968 Act for a finding of guilty of a joined offence; or
  - (c) an offence a plea of guilty of which has been substituted under section 14A of that Act for a plea of guilty of a joined offence.
- (6) Sub-paragraph (7) applies where—
- (a) section 14A of the 1968 Act (substitution of conviction on different charge after guilty plea) applies in relation to a conviction of any of the joined offences; and
  - (b) section 14 of that Act does not so apply.
- (7) The reference in section 14A(2)(b) to a sentence that the Court Martial would have had power to pass in respect of the offence mentioned in section 14A(1)(b) is to be

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read as a reference to a sentence that the Court Martial would have had power to pass in respect of—

- (a) all the joined offences of which the appellant remains convicted; and
- (b) the offence a plea of guilty of which has been substituted under section 14A for a plea of guilty of a joined offence.

(8) Where sub-paragraph (4) or (7) applies and the case also falls within section 13(1) of the 1968 Act, section 13 of that Act shall not apply.

(9) In section 16A of the 1968 Act (appeals against sentence), the reference in subsection (2)(b) to the offence is to be read as a reference to the joined offences.

### PART 3

#### INTERPRETATION

##### *“Commanding officer”*

- 16 (1) References in this Schedule to a person’s commanding officer are to the person’s commanding officer at the time the person elected Court Martial trial.
- (2) In determining for the purposes of paragraph 6(2), 7(2) or 9(3) or (4) the punishments that a person’s commanding officer could have awarded in respect of a charge or charges, no account is to be taken of—
- (a) any change in the commanding officer’s rank after the person elected Court Martial trial or (as the case may be) after the charge or charges referred as mentioned in paragraph 4(c) were so referred;
  - (b) in the case of paragraph 6(2) or 9(3), any possibility that, if the person had declined Court Martial trial, the commanding officer might subsequently have been granted extended powers for the purposes of any provision of Chapter 1 of Part 6; or
  - (c) in the case of paragraph 7(2) or 9(4), any possibility that, if the charge or charges referred as mentioned in paragraph 4(c) had not been so referred, the commanding officer might have been granted extended powers for the purposes of any provision of Chapter 1 of Part 6 after the time when the referral in fact took place.

##### *Substituted charges*

- 17 References in this Schedule to a charge substituted under section 125(2)(b) for another charge (“the original charge”) include—
- (a) a charge substituted for a charge that was itself substituted for the original charge,
  - (b) a charge substituted for a charge within paragraph (a),
- and so on.]

*Status: Point in time view as at 13/05/2014.*

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## SCHEDULE 4

Section 169

### UNFITNESS AND INSANITY: MODIFICATIONS OF MENTAL HEALTH ACT 1983

#### *Hospital orders*

- 1 For the purposes of section 169(2)(a) of this Act, section 37 of the Mental Health Act 1983 (c. 20) (“the 1983 Act”) has effect as if—
- (a) for subsection (1) there were substituted—
    - “(1) Where—
      - (a) section 169 of the Armed Forces Act 2006 applies,
      - (b) the offence to which the finding relates is an offence punishable with imprisonment, and
      - (c) the conditions in subsection (2) below are satisfied,the court may by order authorise the defendant's admission to and detention in such hospital as may be specified in the order.”;
    - (b) subsections (1A), (1B), (3), (5), (6) and (8) were omitted;
    - (c) in subsection (2)(a) there were omitted—
      - (i) the word “either” before sub-paragraph (i);
      - (ii) the word “or” at the end of that sub-paragraph; and
      - (iii) sub-paragraph (ii) (but not the word “and” at the end of it);
    - (d) for subsection (4) there were substituted—
      - “(4) Where an order is made under this section requiring a person to be admitted to a hospital (“a hospital order”), it shall be the duty of the managers of the hospital specified in the order to admit him in accordance with it.”;
    - (e) in subsection (7) the reference to a guardianship order were omitted; and
    - (f) any reference to the offender were to the defendant (the reference in subsection (2)(b) to the offence being construed accordingly).

#### **Commencement Information**

- I75** Sch. 4 para. 1 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](#))
- I76** Sch. 4 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Restriction orders*

- 2 For the purposes of section 169(2)(a) of this Act, section 41(1) of the 1983 Act (power to make a restriction order) has effect as if—
- (a) the reference to the Crown Court were to the Court Martial; and
  - (b) any reference to an offender were to a person in whose case section 169 applies (references to an offence being construed accordingly).

#### **Commencement Information**

- I77** Sch. 4 para. 2 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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**I78** Sch. 4 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Remand orders*

- 3 In relation to a case where section 169 applies but the court has not yet made one of the disposals mentioned in section 169(2), section 35 of the 1983 Act (remand to hospital for report on mental condition) has effect as if—
- (a) the reference in subsection (1) to the Crown Court or a magistrates' court were to the Court Martial;
  - (b) for the purposes of that section an “accused person” meant a person in whose case this paragraph applies;
  - (c) subsection (2) and the words after paragraph (b) in subsection (3) were omitted;
  - (d) in subsection (3)(b) for the words “if he were remanded on bail” there were substituted “ if he were not remanded under this section ”;
  - (e) in subsection (4) the reference to a place of safety were to any place that the court may direct; and
  - (f) the reference in subsection (10) to a constable included a reference to a service policeman.

#### **Commencement Information**

- I79** Sch. 4 para. 3 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](#))
- I80** Sch. 4 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 4 In relation to a case where section 169 applies but the court has not yet made one of the disposals mentioned in section 169(2), section 36 of the 1983 Act (remand to hospital for treatment) has effect as if—
- (a) in subsection (1) for the words “the Crown Court may, instead of remanding an accused person in custody, remand him” there were substituted “ the Court Martial may remand an accused person ”;
  - (b) for the purposes of that section an “accused person” meant a person in whose case this paragraph applies;
  - (c) subsection (2) were omitted; and
  - (d) in subsection (3) the reference to a place of safety were to any place that the court may direct.

#### **Commencement Information**

- I81** Sch. 4 para. 4 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](#))
- I82** Sch. 4 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Interim hospital orders*

- 5 (1) In relation to a case where section 169 applies but the court has not yet made one of the disposals mentioned in section 169(2), section 38 of the 1983 Act (interim hospital orders) has effect as if—

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- (a) in subsection (1) for the words from the beginning to “he is convicted” there were substituted “ Where section 169 of the Armed Forces Act 2006 applies, the offence to which the finding relates is an offence punishable with imprisonment and the court ”;
  - (b) any reference to an offender were to a person in whose case this paragraph applies;
  - (c) in subsection (4) the reference to a place of safety were to any place that the court may direct; and
  - (d) in subsection (7) the reference to a constable included a service policeman.
- (2) Where an interim hospital order is made under section 38 of the 1983 Act as modified by this paragraph, the references in section 40(3) of that Act to an offender are to be read in accordance with sub-paragraph (1)(b) above.

#### Commencement Information

- I83** Sch. 4 para. 5 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](#))
- I84** Sch. 4 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## SCHEDULE 5

Sections 181, 184

### BREACH, REVOCATION AND AMENDMENT OF COMMUNITY PUNISHMENTS

#### PART 1

#### SERVICE COMMUNITY ORDERS

##### *General*

- 1 (1) In Schedule 8 to the 2003 Act (breach, revocation or amendment of community order), “community order” includes a service community order under this Act.
- (2) In its application to such an order, that Schedule has effect as if paragraphs 2(b), 4, 5(4), 6(2), 7, 9, [<sup>F14</sup>13, 16(5), 17(6)], 18(4), [<sup>F15</sup>19A(5),] 20(2), 21 [<sup>F16</sup>, 25A] and 27(1)(b)(ii) and (d), (2) and (3)(a) were omitted.

#### Textual Amendments

- F14** Words in Sch. 5 para. 1(2) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 82\(3\)\(a\)](#); [S.I. 2009/2606](#), art. 3(i)
- F15** Word in Sch. 5 para. 1(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 78\(6\)](#), 151(1); [S.I. 2012/2906](#), art. 2(a)
- F16** Word in Sch. 5 para. 1(2) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 82\(3\)\(b\)](#); [S.I. 2009/2606](#), art. 3(i)

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**Commencement Information**

- I85** Sch. 5 para. 1 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](#))
- I86** Sch. 5 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Breach of requirement of order*

- 2 Paragraphs 5(1)(b) and 6(1) of that Schedule (warning and laying of information) have effect in relation to a service community order under this Act as if the references to a justice of the peace were to the Crown Court.

**Commencement Information**

- I87** Sch. 5 para. 2 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](#))
- I88** Sch. 5 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3 Paragraph 8 of that Schedule (issue of summons or warrant for breach) applies to such an order as it applies to an order mentioned in sub-paragraph (1) of that paragraph.

**Commencement Information**

- I89** Sch. 5 para. 3 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](#))
- I90** Sch. 5 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Revocation of order*

- 4 Paragraph 14 of that Schedule (Crown Court's powers of revocation) has effect as if the reference in sub-paragraph (1)(a) to a community order as there mentioned included a service community order under this Act.

**Commencement Information**

- I91** Sch. 5 para. 4 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](#))
- I92** Sch. 5 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Amendment of order*

- 5 In Part 4 of that Schedule (amendment of order) as it applies to a service community order under this Act, “the appropriate court” means the Crown Court.

**Commencement Information**

- I93** Sch. 5 para. 5 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](#))
- I94** Sch. 5 para. 5 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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- 6 In paragraph 19 of that Schedule (amendment in relation to review of drug rehabilitation requirement) as it applies to such an order, “the court responsible for the order” means the Crown Court.

**Commencement Information**

- 195** Sch. 5 para. 6 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](#))
- 196** Sch. 5 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Powers of civilian courts in relation to order following subsequent conviction*

- 7 Paragraph 22 of that Schedule (committal to Crown Court on subsequent conviction by magistrates' court in England or Wales) has effect as if the reference in subparagraph (1) to a community order made by the Crown Court included a service community order under this Act.

**Commencement Information**

- 197** Sch. 5 para. 7 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](#))
- 198** Sch. 5 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Re-sentencing powers*

- 8 (1) This paragraph applies for the purposes of construing the powers conferred on the Crown Court by paragraphs 10(1)(b), 14(2)(b)(ii), 17(3)(b) and 23(2)(b)(ii) of Schedule 8 to the 2003 Act to deal with the offender, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order.
- (2) Each of those powers shall be construed in relation to a service community order under this Act as a power to deal with the offender, for the offence in respect of which the order was made—
- (a) if that offence is an offence punishable with imprisonment, in any way in which the Crown Court could deal with him if he had just been convicted before that court of an offence punishable with imprisonment;
- (b) if it is not an offence punishable with imprisonment, in any way in which the Crown Court could deal with him if he had just been convicted before that court of an offence not punishable with imprisonment.
- (3) A term of imprisonment or fine imposed by virtue of this paragraph—
- (a) must not exceed the maximum permitted for the offence in respect of which the order was made; and
- (b) where the order was made by the Service Civilian Court, must not exceed—
- (i) in the case of a term of imprisonment, 12 months;
- (ii) in the case of a fine, the prescribed sum.
- (4) In relation to a service community order under this Act, the references in paragraphs 10(4) and 17(4)(b) of that Schedule to a custodial sentence are to be read as references to a sentence of imprisonment.

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

- I99** Sch. 5 para. 8 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](#))
- I100** Sch. 5 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 9 Where a sentence is passed by virtue of paragraph 8 above, section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.

#### Commencement Information

- I101** Sch. 5 para. 9 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](#))
- I102** Sch. 5 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## PART 2

### OVERSEAS COMMUNITY ORDERS

#### *General*

- 10 (1) In Schedule 8 to the 2003 Act (breach, revocation or amendment of community order), “community order” includes an overseas community order.
- (2) In its application to such an order, that Schedule has effect as if there were omitted—
- (a) in paragraph 1, the definitions of “the local justice area concerned” and “the responsible officer”; and
  - (b) paragraphs 2, 3(b), 4, 5(4), 6(2), 7, 9, 10(6), [<sup>F17</sup>13, 16(5), 17(6)], 18(4), 19, [<sup>F18</sup>19A(5),] 20(2), 21(4), 22 [<sup>F19</sup>, 23(1)(a)(ii) and 25A].

#### Textual Amendments

- F17** Words in Sch. 5 para. 10(2)(b) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008](#) (c. 4), s. 153(7), [Sch. 26 para. 82\(4\)\(a\)](#); [S.I. 2009/2606](#), art. 3(i)
- F18** Word in Sch. 5 para. 10(2)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 78\(8\)](#), 151(1); [S.I. 2012/2906](#), art. 2(a)
- F19** Words in Sch. 5 para. 10(2)(b) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008](#) (c. 4), s. 153(7), [Sch. 26 para. 82\(4\)\(b\)](#); [S.I. 2009/2606](#), art. 3(i)

#### Commencement Information

- I103** Sch. 5 para. 10 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](#))
- I104** Sch. 5 para. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 11 (1) For the purposes of that Schedule as it applies in relation to an overseas community order, “court” includes—
- (a) the Court Martial;
  - (b) the Service Civilian Court.



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- (2) For the purposes of that Schedule as it applies in relation to such an order, and for the purposes of this Part of this Schedule, an overseas community order made on appeal is to be treated as having been made by the Court Martial.

**Commencement Information**

- I105** Sch. 5 para. 11 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](#))  
**I106** Sch. 5 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Breach of requirement of order*

- 12 Paragraphs 5(1)(b) and 6(1) of that Schedule (warning and laying of information) have effect in relation to an overseas community order as if the references to causing an information to be laid before a justice of the peace in respect of the failure were references to applying to the court that made the order for the exercise of its powers in relation to the failure.

**Commencement Information**

- I107** Sch. 5 para. 12 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](#))  
**I108** Sch. 5 para. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 13 Paragraph 8 of that Schedule (issue of summons or warrant for breach) has effect in relation to such an order as if for it and the cross-heading before it there were substituted—

*“Issue of summons or warrant*

- 8 (1) If at any time while an overseas community order under the Armed Forces Act 2006 is in force it appears to the appropriate court, on an application by the responsible officer, that the offender has failed to comply with any of the requirements of the order, that court may—
- (a) issue a summons requiring the offender to appear at the time and place specified in it, or
  - (b) issue a warrant for his arrest.
- (2) In sub-paragraph (1) “the appropriate court” means the court that made the order.
- (3) Any summons or warrant issued under this paragraph must direct the offender to appear or be brought before the court issuing the summons or warrant.
- (4) Where a summons issued under sub-paragraph (1)(a) requires the offender to appear before the court and he does not appear in answer to the summons, the court may issue a warrant for his arrest.”

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#### Commencement Information

- I109** Sch. 5 para. 13 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](#))
- I110** Sch. 5 para. 13 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 14 Paragraph 10 of that Schedule (powers of Crown Court on breach of community order) has effect in relation to an overseas community order as if—
- (a) the cross-heading before it were “Powers of court that made the order”;
  - (b) any reference to the Crown Court in sub-paragraphs (1) to [<sup>F20</sup>(3A)] and (5) were to the court that made the overseas community order; and
  - (c) for sub-paragraph (4) there were substituted—
    - “(4) In dealing with an offender under sub-paragraph (1)(b) the court may, in the case of an offender who has wilfully and persistently failed to comply with the requirements of the order, impose a custodial sentence within the meaning of the Armed Forces Act 2006 (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 260(2) of that Act.”

#### Textual Amendments

- F20** Word in Sch. 5 para. 14(b) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 32](#); [S.I. 2009/1028](#), [art. 2\(b\)](#)

#### Commencement Information

- I111** Sch. 5 para. 14 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](#))
- I112** Sch. 5 para. 14 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- [<sup>F21</sup>14A(1) The following provisions apply where the Court Martial or the Service Civilian Court imposes a fine under paragraph 10(1)(aa) of that Schedule as applied by this Part of this Schedule.
- (2) Section 251 of this Act (power to order payment of fine by instalments) applies in relation to the fine as it applies in relation to a fine imposed by a court for a service offence.
  - (3) Where the offender is aged under 18 when the fine is imposed and has a service parent or service guardian (within the meaning of section 268 of this Act), subsections (2) to (4) of that section (payment of fine by service parent or service guardian) apply in relation to the fine as they apply in relation to a fine imposed in the circumstances mentioned in subsection (1) of that section.
  - (4) In the application of subsection (2) of section 268 by virtue of sub-paragraph (3) of this paragraph, the reference in that subsection to the time of conviction is to be read as a reference to the time the fine is imposed.
  - (5) Section 269(2) of this Act (power of court to make financial statement order before making order under section 268) does not apply in relation to an order under section 268 which is made by virtue of sub-paragraph (3) of this paragraph.]

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#### Textual Amendments

- F21** Sch. 5 para. 14A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 78\(9\)](#), 151(1); [S.I. 2012/2906](#), [art. 2\(a\)](#)

#### *Revocation of order*

- 15 Paragraph 14 of that Schedule (Crown Court's powers of revocation) has effect in relation to an overseas community order as if—
- (a) the reference in sub-paragraph (1)(a) to a community order as there mentioned were to an overseas community order; and
  - (b) in the other provisions of paragraph 14, and in the cross-heading before it, any reference to the Crown Court were to the court that made the overseas community order.

#### Commencement Information

- I113** Sch. 5 para. 15 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](#))
- I114** Sch. 5 para. 15 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Amendment of order*

- 16 In Part 4 of that Schedule (amendment of order) as it applies to an overseas community order, “the appropriate court” means the court that made the order.

#### Commencement Information

- I115** Sch. 5 para. 16 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](#))
- I116** Sch. 5 para. 16 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 17 Paragraph 17 of that Schedule has effect in relation to an overseas community order as if for sub-paragraph (4)(b) there were substituted—
- “(b) may impose a custodial sentence within the meaning of the Armed Forces Act 2006 (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 260(2) of that Act.”

#### Commencement Information

- I117** Sch. 5 para. 17 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](#))
- I118** Sch. 5 para. 17 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Powers in relation to order following subsequent conviction*

- 18 Paragraph 21 of that Schedule (powers of magistrates' court on subsequent conviction) has effect in relation to an overseas community order as if—

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- (a) the cross-heading before it were “Powers of Service Civilian Court on subsequent conviction”; and
- (b) any reference in that paragraph to a magistrates' court were to the Service Civilian Court.

**Commencement Information**

**I119** Sch. 5 para. 18 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](#))

**I120** Sch. 5 para. 18 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 19 Paragraph 23 of that Schedule (powers of Crown Court on subsequent conviction) has effect in relation to an overseas community order as if—
- (a) the cross-heading before it were “Powers of Court Martial on subsequent conviction”; and
  - (b) any reference in that paragraph to the Crown Court (except the references in sub-paragraph (1)(a)(ii), which is treated as omitted) were to the Court Martial.

**Commencement Information**

**I121** Sch. 5 para. 19 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](#))

**I122** Sch. 5 para. 19 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Supplementary provisions relating to orders*

- 20 In paragraph 26 of that Schedule as it applies to an overseas community order, the reference to section 177(3) of the 2003 Act shall be treated as omitted.

**Commencement Information**

**I123** Sch. 5 para. 20 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](#))

**I124** Sch. 5 para. 20 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 21 Paragraph 27 of that Schedule has effect in relation to an overseas community order as if it read—

- “27 On the making under this Schedule of an order revoking or amending an overseas community order, the court administration officer (within the meaning of the Armed Forces Act 2006) must—
- (a) provide copies of the revoking or amending order—
    - (i) to the offender;
    - (ii) to the responsible officer;
    - (iii) to the offender's commanding officer; and
    - (iv) if the offender is aged under 14, to his parent or guardian;
  - (b) in the case of an amending order which imposes or amends a requirement specified in the first column of Schedule 14,

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- provide a copy of so much of the amending order as relates to that requirement to the person specified in relation to that requirement in the second column of that Schedule; and
- (c) in the case of an amending order which imposes or amends an education requirement, provide to Service Children's Education a copy of so much of the amending order as relates to that requirement.”

#### Commencement Information

- I125** Sch. 5 para. 21 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](#))
- I126** Sch. 5 para. 21 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Court Martial rules*

- 22 If Court Martial rules provide that powers of the Court Martial under Schedule 8 to the 2003 Act as applied by this Part of this Schedule are to be exercised by a judge advocate, the rules may also disapply section 160 of this Act in relation to sentences passed under that Schedule.

#### Commencement Information

- I127** Sch. 5 para. 22 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](#))
- I128** Sch. 5 para. 22 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Appeals*

- 23 A person who—
- (a) is sentenced by the Court Martial under paragraph 23(2)(b)(ii) of Schedule 8 to the 2003 Act as applied by this Part of this Schedule, and
- (b) was not convicted by the Court Martial of the offence in respect of which the sentence is passed,
- is to be treated, for the purpose of enabling him to appeal under the Court Martial Appeals Act 1968 (c. 20) against the sentence, as if he had been so convicted.

#### Commencement Information

- I129** Sch. 5 para. 23 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](#))
- I130** Sch. 5 para. 23 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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## SCHEDULE 6

Section 182

### OVERSEAS COMMUNITY ORDERS: YOUNG OFFENDERS

#### *Unpaid work requirement*

- 1 An unpaid work requirement, as defined by section 199 of the 2003 Act, may not be included in an overseas community order if the offender is aged under 16 on conviction.

#### **Commencement Information**

- I131** Sch. 6 para. 1 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](#))
- I132** Sch. 6 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Exclusion requirement*

- 2 Where an exclusion requirement, as defined by section 205 of the 2003 Act, is included in an overseas community order made in respect of an offender aged under 18 on conviction, the period specified in the order must not exceed three months.

#### **Commencement Information**

- I133** Sch. 6 para. 2 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](#))
- I134** Sch. 6 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Residence requirement*

- 3
- (1) In relation to an overseas community order made in respect of an offender aged under 18 on conviction, section 206(1) of the 2003 Act (residence requirement) has effect as if after the words “at a place specified in the order” there were added “or with an individual so specified”.
  - (2) A requirement that a person reside with an individual must not be included in an overseas community order unless the individual has consented to the requirement.
  - (3) Nothing in section 206(2) to (4) of the 2003 Act applies in relation to a requirement in an overseas community order that a person reside with an individual.
  - (4) A requirement that a person reside at a specified place must not be included in an overseas community order if the offender is aged under 16 on conviction.
  - (5) In sub-paragraphs (2) to (4), references to a requirement are to a requirement under section 206(1) of the 2003 Act as modified by this paragraph.

#### **Commencement Information**

- I135** Sch. 6 para. 3 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](#))
- I136** Sch. 6 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### *Mental health requirement*

- 4 (1) In section 207(3) of the 2003 Act as it applies in relation to an overseas community order, paragraph (c) (consent of offender to mental health requirement) does not apply if the offender is aged under 14.
- (2) In section 208(1) of the 2003 Act as it applies in relation to an overseas community order (mental health treatment at place not specified in order), the words “with the consent of the offender” do not apply if the offender is aged under 14.

#### **Commencement Information**

**I137** Sch. 6 para. 4 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](#))

**I138** Sch. 6 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Drug rehabilitation requirement*

- 5 (1) In relation to an overseas community order made in respect of an offender aged under 18 on conviction, section 209(1) of the 2003 Act (drug rehabilitation requirement) has effect as if paragraph (b) (requirement to provide samples) were omitted.
- (2) But sub-paragraph (1) does not apply where—
- (a) the offender is aged 14 or over; and
  - (b) has expressed his willingness to provide samples as mentioned in section 209(1)(b) of the 2003 Act.
- (3) In section 209(2) of the 2003 Act as it applies in relation to an overseas community order, paragraph (d) (consent of offender to drug rehabilitation requirement) does not apply if the offender is aged under 14.

<sup>F22</sup>(4) . . . . .

#### **Textual Amendments**

**F22** Sch. 6 para. 5(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 78\(10\)](#), 151(1); [S.I. 2012/2906](#), [art. 2\(a\)](#)

#### **Commencement Information**

**I139** Sch. 6 para. 5 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](#))

**I140** Sch. 6 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Alcohol treatment requirement*

- 6 An alcohol treatment requirement, as defined by section 212 of the 2003 Act, may not be included in an overseas community order if the offender is aged under 18 on conviction.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I141** Sch. 6 para. 6 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](#))
- I142** Sch. 6 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Education requirement*

- 7 (1) An overseas community order made in respect of an offender aged under 18 on conviction may include a requirement (an “education requirement”) requiring the offender to comply, during a period or periods specified in the order, with arrangements for his education—
- (a) made for the time being by his parent or guardian; and
  - (b) approved by Service Children's Education (“SCE”).
- (2) A court may not include an education requirement in an overseas community order unless it has consulted SCE and is satisfied—
- (a) that, in the view of SCE, arrangements exist for the offender to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational need he may have; and
  - (b) that, having regard to the circumstances of the case, the inclusion of the requirement is necessary for securing the good conduct of the offender or for preventing the commission of further offences.
- (3) Any period specified in an overseas community order as one during which the offender must comply with arrangements made for his education must not include any period after he has ceased to be of compulsory school age (within the meaning of section 8 of the Education Act 1996 (c. 56)).
- (4) An education requirement under this paragraph may (despite section 182(1)(a)) be the only requirement imposed by an overseas community order.

**Commencement Information**

- I143** Sch. 6 para. 7 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](#))
- I144** Sch. 6 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Power to amend*

- 8 The powers of the Secretary of State under section 223 of the 2003 Act (powers to amend limits) include power by order to amend paragraph 2 of this Schedule by substituting for the maximum period for the time being specified in that paragraph such other period as may be specified in the order.

**Commencement Information**

- I145** Sch. 6 para. 8 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](#))
- I146** Sch. 6 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)



*Status: Point in time view as at 13/05/2014.*

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## SCHEDULE 7

Section 206

### SUSPENDED PRISON SENTENCE: FURTHER CONVICTION OR BREACH OF REQUIREMENT

#### PART 1

##### INTRODUCTORY

*[<sup>F23</sup> Modifications of Part 2 of Schedule 12 to the 2003 Act]*

##### Textual Amendments

**F23** Sch. 7 para. 1 cross-heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 9 para. 18(2)** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

- 1 Part 2 of Schedule 12 to the 2003 Act (breach of community requirement, or further conviction) has effect in its application to a suspended sentence order <sup>F24</sup>... made by a relevant service court—
- (a) as if paragraphs 3, 4(4), 5(2), 6, 8(4A), (6) and (7) and 12(4) of that Schedule were omitted; and
  - (b) with the modifications in paragraphs 4 to 9 of this Schedule.

##### Textual Amendments

**F24** Words in Sch. 7 para. 1 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 9 para. 18(3)** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

##### Commencement Information

- I147** Sch. 7 para. 1 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](#))
- I148** Sch. 7 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*F25*  
...

##### Textual Amendments

**F25** Sch. 7 para. 2 and cross-heading omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 9 para. 18(4)** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

<sup>F25</sup><sub>2</sub> .....

##### Commencement Information

- I149** Sch. 7 para. 2 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](#))
- I150** Sch. 7 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Status: Point in time view as at 13/05/2014.*

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### *Meaning of “court”*

- 3 A relevant service court is a “court” for the purposes of—
- (a) Part 2 of Schedule 12 to the 2003 Act as it applies in relation to a suspended sentence passed by a relevant service court;
  - (b) paragraph 22 of that Schedule (as modified by section 205(1) of this Act) as it applies to an order under Part 2 of that Schedule amending a suspended sentence order with community requirements made by a relevant service court.

#### **Commencement Information**

**I151** Sch. 7 para. 3 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](#))

**I152** Sch. 7 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## **PART 2**

### MODIFICATIONS REFERRED TO IN PART 1

#### *Breach of community requirements*

- 4 Paragraphs 4(1)(b) and 5(1) of Schedule 12 to the 2003 Act (warning and laying of information) have effect in relation to a suspended sentence order with community requirements made by a relevant service court as if the references to a justice of the peace were to the Crown Court.

#### **Commencement Information**

**I153** Sch. 7 para. 4 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](#))

**I154** Sch. 7 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 5 Paragraph 7 of that Schedule (issue of summons or warrant for breach) applies to such an order as it applies to an order mentioned in sub-paragraph (1) of that paragraph.

#### **Commencement Information**

**I155** Sch. 7 para. 5 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](#))

**I156** Sch. 7 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Conviction of further offence*

- 6 <sup>[F26]</sup>(1) Paragraph 8(1)(b) of that Schedule (powers on conviction of further offence) has effect in relation to a suspended sentence passed by a relevant service court as if—
- (a) the reference to an offence were to a service offence or <sup>[F27]</sup>an offence under the law of any part of the British Islands;

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- (b) in sub-paragraph (i) the reference to a court having power under paragraph 11 to deal with the offender in respect of the suspended sentence were to the Crown Court, the Court Martial or the Service Civilian Court;
- (c) in sub-paragraph (ii) the reference to such a court were to the Court Martial.

[<sup>F28</sup>(2) Anything that under section 376(1) and (2) of this Act is to be treated as a conviction for the purposes of this Act is also to be treated as a conviction for the purposes of paragraph 8(1)(b) of that Schedule as modified by this paragraph.]

#### Textual Amendments

- F26** Sch. 7 para. 6 renumbered as Sch. 7 para. 6(1) (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 24\(2\)](#); S.I. 2012/669, art. 4(d)
- F27** Words in Sch. 7 para. 6(1)(a) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 24\(3\)](#); S.I. 2012/669, art. 4(d)
- F28** Sch. 7 para. 6(2) inserted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 24\(4\)](#); S.I. 2012/669, art. 4(d)

#### Commencement Information

- I157** Sch. 7 para. 6 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](#))
- I158** Sch. 7 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

[<sup>F29</sup>6A Paragraph 8(2)(ba) of that Schedule has effect as if at the beginning there were inserted “where the court dealing with the offender is the Crown Court,”.]

#### Textual Amendments

- F29** Sch. 7 para. 6A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 9 para. 18\(5\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)

7 Paragraph 11 of that Schedule (courts with powers under paragraph 8(1)(b), etc) has effect in relation to a suspended sentence passed by a relevant service court as if for it and the heading before it there were substituted—

*“Conviction by magistrates' court of further offence*

11 Where a magistrates' court in England or Wales convicts an offender of any offence and is satisfied that the offence was committed during the operational period of a suspended sentence passed by a relevant service court (within the meaning of the Armed Forces Act 2006), it must notify the appropriate officer of the Court Martial of the conviction.”

#### Commencement Information

- I159** Sch. 7 para. 7 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](#))
- I160** Sch. 7 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

8 (1) Paragraph 12 of that Schedule (procedure where convicting court does not deal with suspended sentence) has effect in relation to a suspended sentence passed by a relevant service court as if for sub-paragraphs (1) and (2) there were substituted—

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“(2A) If it appears to the Court Martial—

- (a) that an offender has been convicted in the British Islands of an offence committed during the operational period of a suspended sentence passed by a relevant service court, or has been convicted of a service offence committed during that period, and
- (b) that he has not been dealt with in respect of the suspended sentence,

the court may issue a summons requiring him to appear at the place and time specified in it, or a warrant for his arrest.

(2B) In sub-paragraph (2A) “relevant service court” and “service offence” have the same meanings as in the Armed Forces Act 2006.”

(2) In paragraph 12(3) of that Schedule (Scottish or Northern Ireland court convicting of further offence must notify English court)—

- (a) the reference to a suspended sentence passed in England or Wales includes a reference to a suspended sentence passed (anywhere) by a relevant service court; and
- (b) the reference to the court by which the suspended sentence was passed has effect, in relation to a suspended sentence passed by any relevant service court, as a reference to the Court Martial.

(3) Paragraph 12(5) of that Schedule has effect in relation to a summons or warrant issued under paragraph 12(2A) as if the reference to the court by which the suspended sentence was passed were a reference to the Court Martial.

#### **Commencement Information**

**I161** Sch. 7 para. 8 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](#))

**I162** Sch. 7 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Activation of suspended sentence: appeals etc*

9 (1) Where an order under paragraph 8(2)(a) or (b) of that Schedule is made by the Court Martial or the Service Civilian Court, paragraph 9 of that Schedule has effect as if—

<sup>F30</sup>(a) .....

(b) for sub-paragraphs (2) and (3) there were substituted—

“(2) The reference in sub-paragraph (1)(b) to another term of imprisonment does not include a term from which the offender has been released early under Chapter 6 of Part 12 [<sup>F31</sup>of this Act or under Part 2 of the Criminal Justice Act 1991].

(3) For the purposes of sections 285 to 287 [<sup>F32</sup>of the Armed Forces Act 2006] (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968 (c. 20)—

- (a) an order made by the Court Martial or the Service Civilian Court under paragraph 8(2)(a) or (b) is to be treated as a sentence passed on the offender, by the court that made that

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- order, for the offence for which the suspended sentence was passed; and
- (b) if the offender was not convicted of that offence by that court he is to be treated for the purpose of enabling him to appeal against the order as if he had been so convicted.
- (4) For the purposes of any appeal against the order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.”
- (2) Where an order under paragraph 8(2)(a) or (b) of that Schedule is made by the Crown Court in relation to a suspended sentence passed by a relevant service court, paragraph 9 of that Schedule has effect as if for sub-paragraph (3) there were substituted—
- “(3) For the purposes of any enactment conferring rights of appeal against sentence in criminal cases—
- (a) an order made by the Crown Court under paragraph 8(2)(a) or (b) is to be treated as a sentence passed on the offender by the Crown Court for the offence for which the suspended sentence was passed; and
- (b) the offender is to be treated as if he had been convicted on indictment of that offence.”

#### Textual Amendments

- F30** Sch. 7 para. 9(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 41\(5\)](#); S.I. 2012/2906, art. 2(h)
- F31** Words in Sch. 7 para. 9(1)(b) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 33\(a\)](#); S.I. 2009/1028, art. 2(b)
- F32** Words in Sch. 7 para. 9(1)(b) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 33\(b\)](#); S.I. 2009/1028, art. 2(b)

#### Commencement Information

- I163** Sch. 7 para. 9 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](#))
- I164** Sch. 7 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## SCHEDULE 8

Section 272

### AMENDMENT OF THE COURTS-MARTIAL (APPEALS) ACT 1968

1 The Courts-Martial (Appeals) Act 1968 (c. 20) is amended as follows.

#### Commencement Information

- I165** Sch. 8 para. 1 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](#))
- I166** Sch. 8 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

2 For the heading to Part 1 substitute “ THE COURT MARTIAL APPEAL COURT ”.

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**Commencement Information**

- I167** Sch. 8 para. 2 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](#))
- I168** Sch. 8 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3 In section 1(1) (the court) for the words from the beginning to “air-force courts-martial,” substitute “ The Court Martial Appeal Court ”.

**Commencement Information**

- I169** Sch. 8 para. 3 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](#))
- I170** Sch. 8 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 4 In section 4 (sittings) omit subsection (2).

**Commencement Information**

- I171** Sch. 8 para. 4 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](#))
- I172** Sch. 8 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 5 In section 5 (constitution of court for particular sittings), in subsection (3)(a)(iii) at the end insert “ or that the defendant did the act or made the omission charged against him ”.

**Commencement Information**

- I173** Sch. 8 para. 5 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](#))
- I174** Sch. 8 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 6 For the heading to Part 2 substitute “ APPEALS FROM THE COURT MARTIAL ”.

**Commencement Information**

- I175** Sch. 8 para. 6 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](#))
- I176** Sch. 8 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 7 In section 8 (right of appeal against conviction or sentence)—
- (a) in subsection (1)—
    - (i) for “court-martial” substitute “ the Court Martial ”;
    - (ii) in paragraph (b) at the end add “ , whether passed on conviction or in subsequent proceedings ”;
  - (b) omit subsections (1A) to (4).

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

**I177** Sch. 8 para. 7 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](#))

**I178** Sch. 8 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

8 Omit section 10 (alternative procedure for appeal from court-martial abroad).

**Commencement Information**

**I179** Sch. 8 para. 8 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](#))

**I180** Sch. 8 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

9 In section 11(1) (consideration of application by Appeal Court) omit “the Judge Advocate of Her Majesty’s Fleet or”.

10 In section 12 (power to quash conviction as unsafe)—

(a) in subsection (1)(a) for “court-martial” substitute “ the Court Martial ”;

(b) after subsection (2) add—

“(3) Where the Appeal Court quash a conviction, the appellant is to be treated as if he had been acquitted by the Court Martial; but this does not apply if an order under section 19 authorising the appellant to be retried is made.”

**Commencement Information**

**I181** Sch. 8 para. 10 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](#))

**I182** Sch. 8 para. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

11 For section 13 (adjustment of sentence in case of conviction on two or more charges) substitute—

**“13 Power to re-sentence when some but not all convictions successfully appealed**

(1) This section applies where—

(a) on a single occasion a person is sentenced by the Court Martial in respect of two or more offences; and

(b) the Appeal Court allow an appeal against conviction in respect of some but not all of the offences.

(2) The Court may in respect of any offence of which the appellant remains convicted pass, in substitution for the sentence passed by the Court Martial, any sentence that—

(a) they think appropriate; and

(b) is a sentence that the Court Martial had power to pass.

(3) But the Court may not exercise their powers under subsection (2) in such a way that the appellant’s sentences (taken together) for all the offences

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of which he remains convicted are more severe than the sentences (taken together) passed on him by the Court Martial on the occasion mentioned in subsection (1)(a).

- (4) The reference in subsection (3) to the sentences passed by the Court Martial includes those passed by that court in respect of offences as respects which appeals against conviction have been allowed.”

#### Commencement Information

**I183** Sch. 8 para. 11 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](#))

**I184** Sch. 8 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 12 (1) Section 14 (substitution of conviction on different charge) is amended as follows.
- (2) In the sidenote, at the end add “ otherwise than after guilty plea ”.
- (3) For subsection (1) substitute—
- “(1) This section applies where—
- (a) an appellant has been convicted of an offence to which he did not plead guilty;
- (b) the Court Martial could lawfully have found him guilty of some other offence; and
- (c) it appears to the Appeal Court on an appeal against conviction that the Court Martial must have been satisfied of facts which prove him guilty of that other offence.”
- (4) In subsection (2)—
- (a) for “court-martial” in both places substitute “ Court Martial ”;
- (b) for the words from “such sentence as” to the end substitute “any sentence that—
- (a) they think appropriate;
- (b) is a sentence that the Court Martial would have had power to pass in respect of that other offence; and
- (c) is not more severe than the sentence passed by the Court Martial.”

#### Commencement Information

**I185** Sch. 8 para. 12 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](#))

**I186** Sch. 8 para. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 13 In section 14A (substitution of conviction on different charge after guilty plea), in subsection (2) for the words from “court-martial” to the end substitute “Court Martial, any sentence that—
- (a) they think appropriate;
- (b) is a sentence that the Court Martial would have had power to pass in respect of that other offence; and
- (c) is not more severe than the sentence passed by the Court Martial.”



*Status: Point in time view as at 13/05/2014.*

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**Commencement Information**

**I187** Sch. 8 para. 13 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)

**I188** Sch. 8 para. 13 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

14 Omit section 15 (variation of conviction so as to attract different sentence).

**Commencement Information**

**I189** Sch. 8 para. 14 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)

**I190** Sch. 8 para. 14 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

15 In section 16 (substitution of finding of insanity etc)—

- (a) in subsection (1) after “are of” insert “ the ”;
- (b) for subsections (2) to (4) substitute—

“(1A) The Appeal Court shall, instead of allowing or dismissing the appeal, substitute for the finding appealed against—

- (a) a finding of not guilty by reason of insanity; or
- (b) findings that the appellant was unfit to stand trial and that he did the act or made the omission charged against him.

(2) Sections 169(2) to (5) and 170 of, and Schedule 4 to, the 2006 Act apply (with any necessary modifications) in relation to the Appeal Court as they apply in relation to the Court Martial in a case in which section 169 of that Act applies.

(3) Section 172 of that Act (meaning of “duly approved” etc) applies for the purposes of this section (and references there to the defendant are to be read as references to the appellant).”;

- (c) in subsection (5) for “a judicial officer” in both places substitute “ the Court Martial ”;
- (d) omit subsection (6).

**Commencement Information**

**I191** Sch. 8 para. 15 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)

**I192** Sch. 8 para. 15 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

16 For section 16A (powers on appeals against sentence) substitute—

**“16A Appeals against sentence**

- (1) Where, on a single occasion, the Court Martial passes two or more sentences on a person, an appeal or application for leave to appeal against any of those sentences is to be treated as an appeal or application in respect of both or all of them.

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- (2) On an appeal against sentence the Appeal Court may quash the sentence passed by the Court Martial and pass in substitution for it any sentence that—
- (a) they think appropriate; and
  - (b) is a sentence that the Court Martial had power to pass in respect of the offence.
- (3) But the Court may not exercise their powers under subsection (2) in such a way that, taking the case as a whole, the appellant is dealt with more severely on appeal than he was dealt with by the Court Martial.”

#### Commencement Information

**I193** Sch. 8 para. 16 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](#))

**I194** Sch. 8 para. 16 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 17 In section 17 (sentences passed by the Appeal Court)—
- (a) in the sidenote for “or 15” substitute “ , 14A or 16A ”;
  - (b) for subsection (1) substitute—
 

“(1) Unless the Court otherwise direct, a sentence passed by the Appeal Court under section 13, 14, 14A or 16A takes effect from the beginning of the day on which the Court Martial passed sentence.”;
  - (c) omit subsection (2).

#### Commencement Information

**I195** Sch. 8 para. 17 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](#))

**I196** Sch. 8 para. 17 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 18 Omit section 17A (application of certain provisions of SDAs in relation to appeals by civilians).

#### Commencement Information

**I197** Sch. 8 para. 18 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](#))

**I198** Sch. 8 para. 18 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 19 Omit section 18 (retrial generally excluded).

#### Commencement Information

**I199** Sch. 8 para. 19 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](#))

**I200** Sch. 8 para. 19 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 20 In section 19 (power to authorise retrial in certain cases)—
- (a) in subsection (1) for “court-martial” substitute “ the Court Martial ”;

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- (b) in subsection (2) for the words from “the restrictions” to the end substitute “ section 63 of the 2006 Act (service proceedings barring subsequent service proceedings). ”;
- (c) in subsection (3)—
  - (i) for the words from the beginning to “other than” substitute “ An order under this section may authorise the appellant to be retried for ”;
  - (ii) in paragraph (a) for “original court-martial” substitute “ Court Martial ”;
  - (iii) in paragraph (b) for “at the original court-martial” substitute “ by the Court Martial ”;
  - (iv) in paragraph (c) for “court-martial” substitute “ Court Martial ”;
- (d) in subsection (4) for the words from “but whether” to the end substitute “ if any such direction is made the Director of Service Prosecutions must bring the charge or charges so specified (which are to be regarded for the purposes of Part 5 of the 2006 Act as allocated for Court Martial trial). ”;
- (e) after that subsection add—
  - “(5) Section 125 of the 2006 Act (powers of DSP after charge) has effect in relation to a charge on which a person is to be retried under this section (whether or not a fresh charge) subject to such modifications as may be contained in Court Martial rules (within the meaning of that Act).”

#### Commencement Information

**I201** Sch. 8 para. 20 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](#))

**I202** Sch. 8 para. 20 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

21 In section 20 (implementation of authority for retrial etc)—

(a) for subsection (1) substitute—

“(1) Where—

- (a) an order under section 19 authorising the retrial of a person has been made, and
- (b) the person has not been arraigned (in pursuance of the order) within three months beginning with the date of the order,

the person may not be arraigned unless the Appeal Court give leave.

(1A) A person who may not be arraigned without the leave of the Appeal Court may apply to the Court to set aside the order under section 19.

(1B) On an application under subsection (1) or (1A) the Appeal Court may—

- (a) grant leave to arraign; or
- (b) set aside the order under section 19.

(1C) But leave to arraign may be granted only if the Appeal Court are satisfied—

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- (a) that the prosecution has acted with all due expedition; and
  - (b) that there is a good and sufficient reason for a retrial in spite of the lapse of time since the order under section 19 was made.
- (1D) Where an order under section 19 authorising the retrial of a person for an offence is set aside, the person is to be treated as if he had been acquitted by the Court Martial of the offence.
- (1E) Where the Appeal Court authorise the retrial of a person they may—
- (a) by order authorise the keeping of that person in service custody—
    - (i) for such period, ending not later than 8 days after the date the order is made, as the Court think appropriate; or
    - (ii) if the person is legally represented and consents, for such period, not exceeding 28 days, as the Court think appropriate; or
  - (b) require that person to comply with such requirements as seem to the Court to be necessary for a purpose mentioned in section 107(3) of the 2006 Act.
- (1F) Where the person is in service custody the Appeal Court may under subsection (1E)(b) impose a requirement that must be complied with before the person may be released.
- (1G) An order under subsection (1E)(a) is to be treated, for the purposes of Part 4 of the 2006 Act, as made under section 105(2) of that Act.
- (1H) A requirement imposed under subsection (1E)(b) is to be treated, for the purposes of Part 4 of the 2006 Act, as imposed under section 107(3) of that Act (and, where appropriate, by virtue of section 107(3)(a) of that Act).”;
- (b) after subsection (2) insert—
- “(2A) In subsection (2) “relevant time” means—
- (a) where arraignment takes place within the three months referred to in subsection (1)—
    - (i) if the defendant is convicted on his retrial, the end of 28 days beginning with the date of conviction;
    - (ii) otherwise, the time when the case is finally disposed of;
  - (b) where arraignment does not take place within those three months, the end of those three months.”;
- (c) in subsection (3)—
- (i) for “a direction” substitute “ an order or direction ”;
  - (ii) after “that” insert “ order or ”;
- (d) after that subsection insert—
- “(3A) In subsection (3) “relevant time” means—

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- (a) where arraignment takes place within the three months referred to in subsection (1), the time when the case is finally disposed of;
- (b) otherwise, the end of those three months.”;
- (e) in subsection (4) for “Part VI of the Mental Health (Scotland) Act 1984” substitute “ the Mental Health (Care and Treatment) (Scotland) Act 2003 ”;
- (f) omit subsection (5);
- (g) in subsection (6) omit the words from “of this Act” to the end.

#### Commencement Information

- I203** Sch. 8 para. 21(a)(b)(d)-(g) 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](#))
- I204** Sch. 8 para. 21(a)(b)(d)-(g) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)
- I205** Sch. 8 para. 21(c) in force at 24.6.2008 by [S.I. 2008/1650](#), [art. 4\(a\)](#)

- 22 In section 21 (appeal against finding of not guilty by reason of insanity)—
- (a) in subsection (1)—
    - (i) for “court-martial” substitute “ the Court Martial ”;
    - (ii) omit the words from “; and in relation to” to the end;
  - (b) after that subsection insert—

“(1A) On an appeal under this section the Appeal Court—

    - (a) shall (subject to subsection (2)) allow the appeal if they think the finding is unsafe; and
    - (b) shall dismiss the appeal in any other case.

(1B) Sections 19 and 20 and paragraph 2 of Schedule 1 apply in relation to appeals under this section as they apply in relation to appeals against conviction (and references there to conviction, and to related expressions, are to be read accordingly).”;
  - (c) in subsection (2) before “opinion” insert “ the ”.

#### Commencement Information

- I206** Sch. 8 para. 22 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](#))
- I207** Sch. 8 para. 22 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 23 In section 22 (consequences where appeal under section 21 allowed)—
- (a) in subsection (2)—
    - (i) before “opinion” insert “ the ”;
    - (ii) for “court-martial” in both places substitute “ Court Martial ”;
  - (b) in subsection (3)—
    - (i) for “court-martial which tried him” substitute “ Court Martial ”;
    - (ii) for the words “section 13, 14 or 15 of this Act” substitute “ a provision mentioned in section 17(1) ”;
  - (c) for subsection (4) substitute—

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- “(3A) If the Appeal Court, on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved, are of the opinion mentioned in section 16(1)(b) (court below ought to have found defendant unfit to stand trial etc)—
- (a) the Court shall substitute for the finding of the Court Martial findings that the appellant was unfit to stand trial and that he did the act or made the omission charged against him; and
  - (b) section 16(2) to (5) apply as they apply for the purposes of section 16.
- (3B) Section 172 of the 2006 Act (meaning of “duly approved” etc) applies for the purposes of subsection (3A) (and references there to the defendant are to be read as references to the appellant).
- (4) If the case is not within subsection (2) or (3A), the Appeal Court must quash the finding appealed against.
- (5) Where the Appeal Court quash a finding of not guilty by reason of insanity, the appellant is to be treated as if he had been acquitted by the Court Martial; but this does not apply if an order under section 19 authorising the appellant to be retried is made.”

**Commencement Information**

- I208** Sch. 8 para. 23 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](#))
- I209** Sch. 8 para. 23 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

24 Omit section 23 (substitution of finding of unfitness to stand trial etc).

**Commencement Information**

- I210** Sch. 8 para. 24 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](#))
- I211** Sch. 8 para. 24 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

25 In section 24 (appeal against finding of unfitness)—

- (a) in subsection (1) for “a court-martial” substitute “ the Court Martial ”;
- (b) omit subsection (2).

**Commencement Information**

- I212** Sch. 8 para. 25 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](#))
- I213** Sch. 8 para. 25 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

26 (1) Section 25 (disposal of appeals under section 24) is amended as follows.

(2) After subsection (1) insert—

“(1A) The Appeal Court—

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- (a) shall allow an appeal against a finding if they think the finding is unsafe; and
- (b) shall dismiss such an appeal in any other case.

(1B) If the Appeal Court allow an appeal against a finding they shall quash the finding.”

(3) In subsection (2)—

- (a) for “allow an appeal against” substitute “ quash ”;
- (b) in paragraph (a) for “appellant may be tried accordingly” substitute “ Court may make an order authorising the appellant to be tried ”;
- (c) for paragraph (b) substitute—
  - “(b) if such an order is made, section 20 and paragraph 2 of Schedule 1 apply in relation to the case as they apply in relation to a case in which an order under section 19 is made (and references there to conviction, and to related expressions, are to be read accordingly).”

(4) For subsection (3) substitute—

“(3) Where the Appeal Court quash a finding that the defendant did the act or made the omission charged, the appellant is to be treated as if he had been acquitted by the Court Martial; but this does not apply if an order under subsection (2)(a) authorising the appellant to be tried is made.”

#### Commencement Information

**I214** Sch. 8 para. 26 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](#))

**I215** Sch. 8 para. 26 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

27 For section 25A (right of appeal against hospital order etc) substitute—

#### “25A Right of appeal against hospital order etc

- (1) A person may, with the leave of the Appeal Court, appeal against the making by the Court Martial of an order within subsection (2) in respect of him.
- (2) The orders are—
  - (a) a hospital order;
  - (b) an interim hospital order;
  - (c) a service supervision order (as defined by section 170 of the 2006 Act).”

#### Commencement Information

**I216** Sch. 8 para. 27 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](#))

**I217** Sch. 8 para. 27 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

28 In section 25B (disposal of appeals under section 25A)—

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- (a) in subsections (1) and (2) for “court below” in each place substitute “ Court Martial ”;
- (b) in subsection (2) omit “under the Mental Health Act 1983”;
- (c) for subsections (3) to (5) substitute—
  - “(3) Section 16(5) applies in relation to interim hospital orders made by virtue of this section as it applies in relation to such orders made by virtue of section 16.
  - (4) The fact that an appeal is pending against a service supervision order (as defined by section 170 of the 2006 Act) shall not affect any power conferred on any other court to revoke or amend the order.”

**Commencement Information**

**I218** Sch. 8 para. 28 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](#))

**I219** Sch. 8 para. 28 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

29 Omit section 26 (presentation of appellant's case).

**Commencement Information**

**I220** Sch. 8 para. 29 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](#))

**I221** Sch. 8 para. 29 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

30 For section 27 (presence of appellant at hearing) substitute—

**“27 Right of appellant to be present**

- (1) An appellant (whether or not in custody) is entitled to be present on the hearing of his appeal.
- (2) Subsection (1) does not apply to an appellant in custody—
  - (a) where his appeal is on a ground involving only a question of law,
  - (b) on an application by him for leave to appeal, or
  - (c) on any proceedings preliminary or incidental to an appeal,
 unless the Appeal Court give him leave to be present.”

**Commencement Information**

**I222** Sch. 8 para. 30 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](#))

**I223** Sch. 8 para. 30 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

31 In section 28 (evidence)—
 

- (a) in subsection (1)—



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- (i) in paragraph (b), for “at the trial” in the first place where it occurs substitute “ in the proceedings from which the appeal lies ” and in the second place where it occurs substitute “ in those proceedings ”;
- (ii) in paragraph (c) for “at the trial” substitute “ in the proceedings from which the appeal lies ”;
- (b) in subsection (2)—
  - (i) in paragraph (c) for “at the trial” substitute “ in the proceedings from which the appeal lies ”;
  - (ii) in paragraph (d) for “at the trial” substitute “ in those proceedings ”.

#### Commencement Information

**I224** Sch. 8 para. 31 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](#))

**I225** Sch. 8 para. 31 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 32 In section 29 (power to call for report by member of trial court)—
- (a) in the sidenote for “trial court” substitute “ the Court Martial ”;
  - (b) in subsection (1) for the words from “court-martial” to “trial,” substitute “ court in the proceedings from which the appeal lies ”;
  - (c) omit subsection (2).

#### Commencement Information

**I226** Sch. 8 para. 32 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](#))

**I227** Sch. 8 para. 32 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 33 In section 31 (costs of successful appeal) in subsection (2), for the words from “case” to the end substitute “ proceedings (in the Appeal Court and below). ”

#### Commencement Information

**I228** Sch. 8 para. 33 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](#))

**I229** Sch. 8 para. 33 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 34 In section 32 (costs against appellant) in subsection (2) for paragraph (b) substitute—
- “(b) if the appellant or applicant is a member of the regular or reserve forces (as defined by section 374 of the 2006 Act), by making deductions from pay due to him,”.

#### Commencement Information

**I230** Sch. 8 para. 34 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](#))

**I231** Sch. 8 para. 34 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 35 In section 33 (witnesses' expenses) after subsection (1) insert—

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“(1A) Subsection (1) applies in relation to a registered medical practitioner who makes a written report to the Appeal Court in pursuance of a request made by the court as it applies in relation to a person who is called to give evidence at the instance of the court.”

**Commencement Information**

**I232** Sch. 8 para. 35 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](#))

**I233** Sch. 8 para. 35 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

36 In section 34 (reference of cases by service authorities)—

(a) in subsection (1)—

(i) for “court-martial” in the first place where it occurs substitute “the Court Martial ” and in the other three places where it occurs substitute “ Court Martial ”;

(ii) in paragraph (a) omit “the Judge Advocate of Her Majesty's Fleet or”;

(iii) for “the Judge Advocate of Her Majesty's Fleet, the Judge Advocate General” substitute “ the Judge Advocate General ”;

(b) omit subsection (3);

(c) in subsection (4) for “a court-martial” substitute “ the Court Martial ”.

**Commencement Information**

**I234** Sch. 8 para. 36(a)(i)(b)(c) 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](#))

**I235** Sch. 8 para. 36(a)(i)(b)(c) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

37 In section 36 (powers exercisable by single judge) in subsection (1)—

(a) omit “under this Part of this Act”;

(b) omit paragraph (a);

(c) after paragraph (c) insert—

“(ca) to make orders, or impose requirements, under section 20(1E);”;

(d) in paragraph (g) omit the words from “and the power” to the end;

(e) after paragraph (h) insert—

“(i) to give a direction under section 3(4) of the Sexual Offences (Amendment) Act 1992 (direction disapplying provision as to anonymity of victim);

(j) to give leave under section 14(4B) of the Criminal Appeal Act 1995 (leave to add grounds of appeal on reference by Criminal Cases Review Commission);”.

**Commencement Information**

**I236** Sch. 8 para. 37(a) in force at 24.6.2008 by [S.I. 2008/1650](#), [art. 4\(a\)](#)

**I237** Sch. 8 para. 37(b)-(e) 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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**I238** Sch. 8 para. 37(b)-(e) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 38 In section 36C (appeals against procedural directions) in subsection (5)(b)—
- (a) for “Defence Council” substitute “ Director of Service Prosecutions ”;
  - (b) for “Defence Council's” substitute “ Director of Service Prosecutions' ”.

#### Commencement Information

**I239** Sch. 8 para. 38 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](#))

**I240** Sch. 8 para. 38 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 39 For section 37 (provision of documents relating to trial) substitute—

#### “37 Provision of record of proceedings of the Court Martial

In the case of every appeal or application for leave to appeal to the Appeal Court, the Judge Advocate General must provide the registrar, in accordance with rules of court, with a record of the proceedings of the Court Martial.”

#### Commencement Information

**I241** Sch. 8 para. 39 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](#))

**I242** Sch. 8 para. 39 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 40 In section 38 (defence of appeals) for “Defence Council” substitute “ Director of Service Prosecutions ”.

#### Commencement Information

**I243** Sch. 8 para. 40 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](#))

**I244** Sch. 8 para. 40 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 41 For the heading to Part 3 substitute “ APPEAL FROM COURT MARTIAL APPEAL COURT TO SUPREME COURT ”.

#### Commencement Information

**I245** Sch. 8 para. 41 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](#))

**I246** Sch. 8 para. 41 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 42 In section 39 (right of appeal to Supreme Court) in subsection (1) for “Defence Council” substitute “ Director of Service Prosecutions ”.

#### Commencement Information

**I247** Sch. 8 para. 42 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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**I248** Sch. 8 para. 42 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 43 In section 43 (detention of accused)—
- (a) for subsection (1) substitute—
- “(1) The Appeal Court may make an order under this section where—
- (a) but for the decision of the Appeal Court, the accused would be liable to be detained; and
- (b) immediately after that decision, the Director of Service Prosecutions is granted leave to appeal or gives notice that he intends to apply for leave to appeal.
- (1A) An order under this section is—
- (a) an order providing for the detention of the accused so long as any appeal to the Supreme Court is pending; or
- (b) an order directing that, so long as any appeal to the Supreme Court is pending, the accused is not to be released except on bail.
- (1B) Where an order within subsection (1A)(b) is made, the Appeal Court may grant the accused bail pending the appeal.”;
- (b) in subsection (4) for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

**Commencement Information**

- I249** Sch. 8 para. 43(a) 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](#))
- I250** Sch. 8 para. 43(a) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**
- I251** Sch. 8 para. 43(b) in force at 24.6.2008 by [S.I. 2008/1650](#), **art. 4(a)**

- 44 Omit section 46 (restitution of property).

**Commencement Information**

- I252** Sch. 8 para. 44 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](#))
- I253** Sch. 8 para. 44 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 45 In section 47 (costs)—
- (a) in subsection (1) for “Secretary of State” in the first place where it occurs substitute “Director of Service Prosecutions”;
- (b) in subsection (3) for the words from “case up to” to the end substitute “proceedings (in the Supreme Court and below).”

**Commencement Information**

- I254** Sch. 8 para. 45 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](#))
- I255** Sch. 8 para. 45 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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- 46 (1) Section 48A (appeals on behalf of deceased persons) is amended as follows.
- (2) In subsection (1)(b) after “above” insert “ or by a reference by the Criminal Cases Review Commission ”.
- (3) In subsection (3)(c) for “Court of Appeal” substitute “ Appeal Court ”.
- (4) In subsection (4) at the beginning insert “ Except in the case of an appeal begun by a reference by the Criminal Cases Review Commission, ”.

**Commencement Information**

**I256** Sch. 8 para. 46 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](#))

**I257** Sch. 8 para. 46 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 47 In section 50 (duties of registrar with respect to appeals etc)—
- (a) in subsection (1) for “court-martial by which the appellant or applicant was tried” substitute “ Court Martial ”;
- (b) in subsection (2) for “court-martial” substitute “ the Court Martial ”.

**Commencement Information**

**I258** Sch. 8 para. 47 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](#))

**I259** Sch. 8 para. 47 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 48 In section 52 (removal of prisoners) for paragraphs (a) to (c) substitute—
- “(a) section 300 of the 2006 Act;”.

**Commencement Information**

**I260** Sch. 8 para. 48 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](#))

**I261** Sch. 8 para. 48 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 49 In section 54 (saving for prerogative) in subsection (1) for “court-martial” substitute “ the Court Martial ”.

**Commencement Information**

**I262** Sch. 8 para. 49 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](#))

**I263** Sch. 8 para. 49 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 50 For section 56 substitute—

**“56 Modifications for protected prisoners of war**

As respects a protected prisoner of war (as defined by section 7(1) of the Geneva Conventions Act 1957), this Act applies in relation to a prisoner of war court-martial constituted under a Royal Warrant as it applies in relation

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to the Court Martial, subject to such modifications as may be contained in the Royal Warrant.”

**Commencement Information**

**I264** Sch. 8 para. 50 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](#))

**I265** Sch. 8 para. 50 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 51 (1) Section 57 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) after “unless the context otherwise requires,—” insert—
- ““the 2006 Act” means the Armed Forces Act 2006;”;
- (b) omit the definitions of—
- “the Air Force Act”;
- “air force court-martial”;
- “the Army Act”;
- “army court-martial”;
- “court-martial”;
- “duly approved”;
- “the Judge Advocate General”;
- “judicial officer”;
- “the Naval Discipline Act”;
- “naval court-martial”;
- “restriction order”;
- “supervision order”;
- (c) in the definition of “appellant” omit “has been tried by court-martial and”;
- (d) after the definition of “court-martial” (omitted by virtue of subparagraph (b)) insert—
- ““Director of Service Prosecutions” has the meaning given by section 374 of the 2006 Act;”.
- (3) Omit subsections (2) to (2B).
- (4) In subsection (3) for the words from “the accused in the court-martial” to the end substitute “ the appellant in the Appeal Court. ”

**Commencement Information**

**I266** Sch. 8 para. 51 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](#))

**I267** Sch. 8 para. 51 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 52 Omit section 58 (consequential amendments).

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**Commencement Information**

**I268** Sch. 8 para. 52 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)

**I269** Sch. 8 para. 52 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

53 In section 61 (short title and commencement), in subsection (1) for “Courts-Martial (Appeals) Act 1968” substitute “ Court Martial Appeals Act 1968 ”.

**Commencement Information**

**I270** Sch. 8 para. 53 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)

**I271** Sch. 8 para. 53 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

54 For Schedule 1 (provisions as to retrial) substitute—

“SCHEDULE 1

Section 20

PROVISIONS AS TO RETRIAL

- 1 This Schedule applies where an order under section 19 is made authorising the retrial of a person.
- 2 Evidence given at the retrial must be given orally if it was given orally at the original trial, unless—
  - (a) all parties to the retrial agree otherwise;
  - (b) section 116 of the Criminal Justice Act 2003 applies (admissibility of hearsay evidence where a witness is unavailable); or
  - (c) the witness is unavailable to give evidence, otherwise than as mentioned in subsection (2) of that section, and section 114(1)(d) of that Act applies (admission of hearsay evidence under residual discretion).
- 3 If the person is convicted on the retrial, the Court Martial may not pass a sentence that is (or sentences that, taken together, are) more severe than the sentence (or the sentences, taken together) passed at the original trial.
- 4 In sections 246 and 247 of the 2006 Act (crediting of time in service custody) as they apply in relation to the retrial, references to the offender being kept in service custody include references to his being kept in custody (whether service or otherwise) in pursuance of a sentence passed at the original trial.”

**Commencement Information**

**I272** Sch. 8 para. 54 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)

**I273** Sch. 8 para. 54 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

55 Omit Schedule 3 (modifications in relation to prisoners of war).

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**Commencement Information**

- I274** Sch. 8 para. 55 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](#))
- I275** Sch. 8 para. 55 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

56 Omit Schedule 4 (consequential amendments).

**Commencement Information**

- I276** Sch. 8 para. 56 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](#))
- I277** Sch. 8 para. 56 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

SCHEDULE 9

Section 276

ASSESSORS OF COMPENSATION FOR MISCARRIAGES OF JUSTICE

- 1 (1) A person is qualified for appointment as an assessor for the purposes of section 276 if he—
- (a) has a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41);
  - (b) is an advocate or solicitor in Scotland;
  - (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least seven years' standing;
  - (d) holds or has held judicial office in any part of the United Kingdom;
  - (e) is a member (whether the chairman or not) of the Criminal Injuries Compensation Board; or
  - (f) has in a relevant territory rights and duties similar to those of a barrister or solicitor in England and Wales, has had those rights and duties for at least seven years, and is subject to punishment or disability for breach of professional rules.
- (2) In this paragraph “relevant territory” means—
- (a) any of the Channel Islands;
  - (b) the Isle of Man;
  - (c) a Commonwealth country; or
  - (d) a British overseas territory.

**Commencement Information**

- I278** Sch. 9 para. 1 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](#))
- I279** Sch. 9 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

2 A person shall hold and vacate office as an assessor in accordance with the terms of his appointment.



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#### Commencement Information

- I280** Sch. 9 para. 2 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](#))
- I281** Sch. 9 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3 A person shall vacate office as an assessor—
- (a) if he ceases to be qualified for appointment as an assessor, or
  - (b) on attaining the age of 72,
- unless the Secretary of State considers that it is in the interests of the efficient operation of section 276 that he should continue to hold office.

#### Commencement Information

- I282** Sch. 9 para. 3 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](#))
- I283** Sch. 9 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 4 A person may at any time resign his office as an assessor by notice in writing given to the Secretary of State.

#### Commencement Information

- I284** Sch. 9 para. 4 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](#))
- I285** Sch. 9 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 5 Subject to paragraph 6, the Secretary of State may at any time remove a person from office as an assessor if satisfied that—
- (a) he has been convicted of a criminal offence;
  - (b) he has become bankrupt, has made an arrangement with his creditors, has had his estate sequestrated or has granted a trust deed for his creditors or a composition contract;<sup>F33</sup> ...
  - [<sup>F34</sup>(ba) has had a debt relief order made in respect of him (under Part 7A of the Insolvency Act 1986); or]
  - (c) he is unable or unfit to perform his duties.

#### Textual Amendments

- F33** Word in [Sch. 9 para. 5\(b\)](#) omitted (1.10.2012) by virtue of [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), [art. 1](#), [Sch. 2 para. 59\(3\)\(a\)](#) (with [art. 5](#))
- F34** [Sch. 9 para. 5\(ba\)](#) 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\(3\)\(b\)](#) (with [art. 5](#))

#### Commencement Information

- I286** Sch. 9 para. 5 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](#))
- I287** Sch. 9 para. 5 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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- 6 (1) The exercise of the power conferred by paragraph 5 is subject to the following provisions of this paragraph.
- (2) In the case of a person who qualifies for appointment under—
- (a) paragraph 1(1)(a), or
  - (b) paragraph 1(1)(d) by virtue of holding or having held judicial office in England and Wales,
- that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of England and Wales.
- (3) In the case of a person who qualifies for appointment under—
- (a) paragraph 1(1)(b), or
  - (b) paragraph 1(1)(d) by virtue of holding or having held judicial office in Scotland,
- that power shall only be exercisable with the consent of the Lord President of the Court of Session.
- (4) In the case of a person who qualifies for appointment under—
- (a) paragraph 1(1)(c), or
  - (b) paragraph 1(1)(d) by virtue of holding or having held judicial office in Northern Ireland,
- that power shall only be exercisable with the consent of the Lord Chancellor, which may only be given with the concurrence of the Lord Chief Justice of Northern Ireland.

**Commencement Information**

- I288** Sch. 9 para. 6 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](#))
- I289** Sch. 9 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 7 An assessor shall be paid such remuneration and allowances as the Secretary of State may determine.

**Commencement Information**

- I290** Sch. 9 para. 7 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](#))
- I291** Sch. 9 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

SCHEDULE 10

Section 278

PROCEEDINGS OF THE SERVICE CIVILIAN COURT

*Court to sit in public*

- 1 Subject to any provision made by SCC rules, the Service Civilian Court must sit in open court.

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#### Commencement Information

- I292** Sch. 10 para. 1 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)
- I293** Sch. 10 para. 1 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

#### *Unfitness to stand trial and insanity*

- 2 Where on a trial of a charge by the Service Civilian Court any question arises (whether at the instance of the defence or otherwise)—
- (a) whether the defendant is fit to stand trial, or
  - (b) where it appears that the defendant did the act or made the omission charged against him as the offence, whether he was insane at the time of the act or omission,
- the court must refer the charge to the Court Martial for trial by that court.

#### Commencement Information

- I294** Sch. 10 para. 2 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)
- I295** Sch. 10 para. 2 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

#### *Privilege of witnesses and others*

- 3 A witness before the Service Civilian Court or any other person whose duty it is to attend the court is entitled to the same immunities and privileges as a witness before a magistrates' court in England or Wales.

#### Commencement Information

- I296** Sch. 10 para. 3 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)
- I297** Sch. 10 para. 3 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

## SCHEDULE 11

Section 321

### POWERS OF THE CRIMINAL CASES REVIEW COMMISSION

#### *Amendment of the Court Martial Appeals Act 1968*

- 1 After section 29 of the Court Martial Appeals Act 1968 insert—

#### **“29A Power to order investigation by Criminal Cases Review Commission**

- (1) On an appeal against conviction or an application for leave to appeal against conviction, the Appeal Court may direct the Criminal Cases Review

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Commission to investigate and report to the Court on any matter if it appears to the Court that—

- (a) in the case of an appeal, the matter is relevant to the determination of the appeal and ought, if possible, to be resolved before the appeal is determined;
  - (b) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;
  - (c) an investigation of the matter by the Commission is likely to result in the Court's being able to resolve it; and
  - (d) the matter cannot be resolved by the Court without an investigation by the Commission.
- (2) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 36 of this Act.
- (3) A direction by the Appeal Court under subsection (1) above shall be given in writing and shall specify the matter to be investigated.
- (4) Copies of such a direction shall be made available to the appellant and the respondent.
- (5) Where the Commission have reported to the Appeal Court on any matter which they have been directed under subsection (1) above to investigate, the Court—
- (a) shall notify the appellant and the respondent that the Commission have reported; and
  - (b) may make available to the appellant and the respondent the report of the Commission and any statements, opinions and reports which accompanied it.
- (6) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

**Commencement Information**

**I298** Sch. 11 para. 1 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](#))

**I299** Sch. 11 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Amendments of the Criminal Appeal Act 1995*

2 After section 12 of the Criminal Appeal Act 1995 (c. 35) insert—

**“12A Cases dealt with by the Court Martial**

- (1) Where a person has been convicted by the Court Martial (including on an appeal brought from the Service Civilian Court), the Commission—
  - (a) may at any time refer the conviction to the Court Martial Appeal Court, and

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- (b) (whether or not they refer the conviction) may at any time refer to the Court Martial Appeal Court any sentence (other than one fixed by law) imposed by the Court Martial on, or in subsequent proceedings relating to, the conviction.
- (2) Where a person has been convicted by the Service Civilian Court and sentenced by the Court Martial on an appeal against sentence only, the Commission may at any time refer to the Court Martial Appeal Court that sentence of the Court Martial and any other sentence imposed by the Court Martial in respect of a connected conviction within the meaning given by section 12B(6).
- (3) A reference under subsection (1) of a person's conviction shall be treated for all purposes as an appeal by the person under section 8 of the Court Martial Appeals Act against the conviction.
- (4) On a reference under subsection (1) of a person's conviction, the Commission may give notice to the Court Martial Appeal Court that any related conviction specified in the notice is to be treated as referred to that court under subsection (1).
- (5) A reference under subsection (1) of a sentence imposed on, or in subsequent proceedings relating to, a person's conviction shall be treated for all purposes as an appeal by the person under section 8 of the Court Martial Appeals Act against—
  - (a) the sentence, and
  - (b) any other sentence (other than one fixed by law) imposed by the Court Martial on, or in subsequent proceedings relating to, the conviction or any related conviction.
- (6) A reference under subsection (2) of a person's sentence shall be treated for all purposes as an appeal by the person under section 8 of the Court Martial Appeals Act against—
  - (a) the sentence, and
  - (b) any other sentence imposed by the Court Martial in respect of a connected conviction within the meaning given by section 12B(6).
- (7) Where a finding of not guilty by reason of insanity has been made by the Court Martial in the case of a person, the Commission may at any time refer the finding to the Court Martial Appeal Court; and a reference under this subsection shall be treated for all purposes as an appeal by the person under section 21 of the Court Martial Appeals Act against the finding.
- (8) Where the Court Martial has found that a person is under a disability and that he did the act or made the omission charged against him, the Commission may at any time refer either or both of those findings to the Court Martial Appeal Court; and a reference under this subsection shall be treated for all purposes as an appeal by the person under section 24 of the Court Martial Appeals Act against the finding or findings referred.
- (9) For the purposes of this section convictions are “related” if they are of the same person in the same proceedings.

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## 12B Cases dealt with by the Service Civilian Court

- (1) Where a person has been convicted of an offence by the Service Civilian Court, the Commission—
  - (a) may at any time refer the conviction to the Court Martial; and
  - (b) (whether or not they refer the conviction) may at any time refer to the Court Martial any sentence imposed by the Service Civilian Court on, or in subsequent proceedings relating to, the conviction.
- (2) A reference under subsection (1) of a person's conviction shall be treated for all purposes as an appeal by the person under section 285 of the Armed Forces Act 2006 against the conviction (whether or not he pleaded guilty).
- (3) A reference under subsection (1) of a sentence imposed on, or in subsequent proceedings relating to, a person's conviction shall be treated for all purposes as an appeal by the person under section 285 of the Armed Forces Act 2006 against—
  - (a) the sentence, and
  - (b) any other sentence imposed by the Service Civilian Court on, or in subsequent proceedings relating to, the conviction or any connected conviction.
- (4) On a reference under subsection (1) of a person's conviction, the Commission may give notice to the Court Martial that any connected conviction which is specified in the notice is to be treated as referred to the Court Martial under subsection (1).
- (5) On a reference under this section the Court Martial may not impose a sentence more severe than that imposed by the Service Civilian Court.
- (6) For the purposes of this section convictions are “connected” if they are of the same person by the same court on the same day.”

### Commencement Information

**I300** Sch. 11 para. 2 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](#))

**I301** Sch. 11 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3            In section 13(1) of that Act (conditions for making of references), for “12” substitute “ 12B ”.

### Commencement Information

**I302** Sch. 11 para. 3 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](#))

**I303** Sch. 11 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 4            (1) Section 14 of that Act (further provisions about references) is amended as follows.
- (2) In subsection (1) for “12” substitute “ 12B ”.
- (3) In subsection (2) for “12” substitute “ 12B ”.

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*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (4) In subsection (3)—
  - (a) for “9 or 10” substitute “ 9, 10 or 12A ”;
  - (b) after “Court of Appeal”, in the first place where it occurs, insert “ or, as the case may be, of the Court Martial Appeal Court ”;
  - (c) for “Court of Appeal”, in the second place where it occurs, substitute “ court to which the reference is made ”.
- (5) In subsection (4) for “12” substitute “ 12B ”.
- (6) In subsection (4A) for “9 or 10” substitute “ 9, 10 or 12A ”.
- (7) In subsection (4B) after “Court of Appeal” insert “ or, as the case may be, the Court Martial Appeal Court ”.
- (8) In subsection (5) for “11 or 12” substitute “ 11, 12 or 12B ”.
- (9) In subsection (6) for “12” substitute “ 12B ”.

#### Commencement Information

**I304** Sch. 11 para. 4 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](#))

**I305** Sch. 11 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 5 (1) Section 15 of that Act (investigations for Court of Appeal) is amended as follows.
  - (2) In the sidenote after “Court of Appeal” insert “ and Court Martial Appeal Court ”.
  - (3) In subsection (1)—
    - (a) after “a direction” insert “ (a relevant direction) ”;
    - (b) after “1980 Act” insert “ or by the Court Martial Appeal Court under section 29A(1) of the Court Martial Appeals Act, ”.
  - (4) In subsection (2) for “Court of Appeal” substitute “ relevant Court ”.
  - (5) In subsection (3)—
    - (a) in paragraph (a)—
      - (i) for “Court of Appeal” substitute “ relevant Court ”;
      - (ii) for the words from “direction” to “1980 Act” substitute “ relevant direction ”;
    - (b) in paragraph (b) for “Court of Appeal” substitute “ relevant Court ”.
  - (6) In subsection (4)—
    - (a) for the words from “report to” to “1980 Act” substitute “ report to the relevant Court on the investigation of any matter specified in a relevant direction ”;
    - (b) for “Court of Appeal”, in the second place where it occurs, substitute “ relevant Court ”.
  - (7) After subsection (7) add—
    - “(8) In this section “relevant Court”, in relation to a direction, means the court that gave the direction.”

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**Commencement Information**

- I306** Sch. 11 para. 5 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](#))  
**I307** Sch. 11 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 6 In section 16 of that Act (assistance in connection with prerogative of mercy), after subsection (2) add—

“(3) In subsection (1) “conviction” includes a conviction by the Court Martial or the Service Civilian Court, and in subsection (2) “case” includes the case of such a conviction.”

**Commencement Information**

- I308** Sch. 11 para. 6 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](#))  
**I309** Sch. 11 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 7 (1) Section 18 of that Act (Government documents etc relating to current or old cases) is amended as follows.

- (2) In subsection (2) at the end of paragraph (b) add “or

(c) is considering the case, or has at any earlier time considered the case, with a view to deciding whether to make a reference under section 34 of the Court Martial Appeals Act or whether to recommend the exercise of Her Majesty's prerogative of mercy in relation to a conviction by the Court Martial or the Service Civilian Court.”

- (3) After subsection (4) add—

“(5) The Secretary of State shall, if required by the Commission to do so, give to the Commission any document or other material which—

- (a) contains representations made to him in relation to any case to which this subsection applies, or  
 (b) was received by him in connection with any such case otherwise than from a person serving in a government department,

and may give to the Commission any document or other material which is relevant to any such case but does not fall within paragraph (a) or (b).

- (6) Subsection (5) applies to a case if the Secretary of State is considering the case, or has at any earlier time considered the case, as mentioned in subsection (2)(c).”

**Commencement Information**

- I310** Sch. 11 para. 7 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](#))  
**I311** Sch. 11 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 8 (1) Section 19 of that Act (power to require appointment of investigating officers) is amended as follows.



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- (2) In subsection (3) after “police” insert “ or Provost Marshal ”.
- (3) In subsection (4)(b) for the words from “in another” to the end substitute “ either in another police force selected by the chief officer or in a service police force selected by him. ”.
- (4) After subsection (4) insert—
  - “(4A) A requirement under this section imposed on a Provost Marshal may be—
    - (a) a requirement to appoint a person serving in the service police force in relation to which he is Provost Marshal, or
    - (b) a requirement to appoint a person serving either in a police force selected by the Provost Marshal or in another service police force selected by him.”
- (5) In subsection (5)—
  - (a) for the words from “imposed” to “may be” substitute “ imposed otherwise than on a chief officer of police or a Provost Marshal may be ”;
  - (b) in paragraph (a) after “body” insert “ in relation to which the person on whom the requirement is imposed is the appropriate person ”;
  - (c) in paragraph (b) for the words from “police force” to “having” substitute “ police force or service police force, or in a public body (other than such a force) having ”.
- (6) In subsection (6)—
  - (a) after “police force” insert “ or service police force ”;
  - (b) after “(4)” insert “ , (4A) ”.

#### Commencement Information

**I312** Sch. 11 para. 8 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](#))

**I313** Sch. 11 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 9
- (1) Section 22 of that Act (meaning of “public body” etc) is amended as follows.
  - (2) In subsection (4) (meaning of “the appropriate person”), after “means” insert “ , subject to subsection (4B) ”.
  - (3) After subsection (4) add—
    - “(4A) Subsection (4B) applies in relation to—
      - (a) the Royal Navy, the Royal Marines, the Royal Fleet Reserve, the Royal Naval Reserve and the Royal Marines Reserve,
      - (b) the regular army (within the meaning of the Armed Forces Act 2006), the Army Reserve and the Territorial Army, and
      - (c) the Royal Air Force, the Royal Air Force Reserve and the Royal Auxiliary Air Force.
    - (4B) In relation to a public body mentioned in subsection (4A), “the appropriate person” means—
      - (a) in section 17, the Secretary of State;
      - (b) in sections 19 and 20—

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- (i) in the case of a body mentioned in subsection (4A)(a), the Provost Marshal for the Royal Navy Police,
- (ii) in the case of a body mentioned in subsection (4A)(b), the Provost Marshal for the Royal Military Police,
- (iii) in the case of a body mentioned in subsection (4A)(c), the Provost Marshal for the Royal Air Force Police.

(4C) In section 19 “service police force” has the same meaning as in the Armed Forces Act 2006.”

**Commencement Information**

**I314** Sch. 11 para. 9 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](#))

**I315** Sch. 11 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

10 (1) Section 30 of that Act is amended as follows.

(2) In subsection (1) after the definition of “the Commission” insert—

““the Court Martial Appeals Act” means the Court Martial Appeals Act 1968,”.

(3) In subsection (2) (meaning of “sentence”), after paragraph (d) add—

- “(e) in section 12A has the same meaning as in the Court Martial Appeals Act,
- (f) in section 12B has the same meaning as in section 285 of the Armed Forces Act 2006.”

**Commencement Information**

**I316** Sch. 11 para. 10 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](#))

**I317** Sch. 11 para. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

11 (1) In section 33 of that Act (extent), after subsection (4) add—

“(5) Nothing in this section affects the extent of—

- (a) section 12A or 12B;
- (b) section 14(4A) and (4B) so far as relating to the Court Martial Appeal Court; or
- (c) section 14(5) so far as relating to the Service Civilian Court.

(6) Section 384 of the Armed Forces Act 2006 (Channel Islands, Isle of Man and British overseas territories) applies in relation to the provisions mentioned in subsection (5) above as it applies in relation to that Act.”

**Commencement Information**

**I318** Sch. 11 para. 11 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](#))

**I319** Sch. 11 para. 11 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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## SCHEDULE 12

Section 351

### DETENTION ETC OF PERSONS IN OVERSEAS SERVICE HOSPITALS

#### *The relevant conditions*

- 1 (1) In this Schedule references to the relevant conditions, in relation to a person, are to the following conditions.
- (2) Condition A is that the person is suffering from mental disorder.
- (3) Condition B is that the mental disorder is of such a nature or degree as to warrant his detention in a hospital for assessment or treatment for at least a limited period.
- (4) Condition C is that it is necessary that the person be so detained—
- (a) in the interests of his own health or safety; or
  - (b) with a view to the protection of others.

#### **Commencement Information**

**I320** Sch. 12 para. 1 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

#### *Order for person's detention in overseas service hospital*

- 2 (1) This paragraph has effect in relation to—
- (a) a person subject to service law, or
  - (b) a civilian subject to service discipline,
- outside the British Islands.
- (2) Sub-paragraph (3) applies if it appears to the person's commanding officer that all the relevant conditions are met in the case of the person and—
- (a) two registered medical practitioners make recommendations that an order under that sub-paragraph should be made in relation to the person; or
  - (b) the case is urgent and one registered medical practitioner makes a recommendation that such an order should be made in relation to the person.
- (3) The commanding officer may make an order—
- (a) in a case where, at the time the order is made, the person has been admitted to an overseas service hospital and has not been discharged—
    - (i) for the person's detention in that service hospital for assessment or treatment; or
    - (ii) for the person's admission to and detention in another overseas service hospital specified in the order for assessment or treatment;
  - (b) otherwise, for the person's admission to and detention in an overseas service hospital specified in the order for assessment or treatment.
- (4) Sub-paragraph (5) applies if—
- (a) the person's commanding officer makes an order under sub-paragraph (3) for the person's detention in (or admission to and detention in) a service hospital on the recommendation of one registered medical practitioner; and

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- (b) while the order is in force, there is produced to him a recommendation of another registered medical practitioner that an order under sub-paragraph (5) should be made in relation to the person.
- (5) The commanding officer may make an order—
  - (a) for the person's further detention in that service hospital for assessment or treatment; or
  - (b) for the person's admission to and detention in another overseas service hospital specified in the order for assessment or treatment.
- (6) See paragraph 4 for requirements as to recommendations under this paragraph.

**Commencement Information**

**I321** Sch. 12 para. 2 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Effect of order under paragraph 2*

- 3 (1) This paragraph makes provision as to the effect of an order of a person's commanding officer under paragraph 2.
- (2) An order under paragraph 2(3) has effect—
- (a) if made by virtue of paragraph 2(2)(a), for 28 days;
  - (b) if made by virtue of paragraph 2(2)(b), for 5 days.
- (3) An order under paragraph 2(5) has effect for 28 days from the date of the order under paragraph 2(3) referred to in paragraph 2(4).
- (4) While in force, the order is sufficient authority—
- (a) in a case where the order is made under paragraph 2(3)(a)(ii) or (b) or (5) (b), for the person to be taken and conveyed to the service hospital specified in the order;
  - (b) in any case, for the person to be detained in the service hospital specified in the order; and
  - (c) in a case where arrangements are made for the person to be removed to the United Kingdom for further assessment or treatment, for him to be—
    - (i) taken from the service hospital specified in the order and conveyed to the United Kingdom; and
    - (ii) for that purpose, detained in any place or on board any ship or aircraft.
- (5) Where the person is removed to the United Kingdom on the authority of the order, he must not after arriving in the United Kingdom be detained, on that authority, for longer than 24 hours.

**Commencement Information**

**I322** Sch. 12 para. 3 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Status: Point in time view as at 13/05/2014.*

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*Requirements as to recommendations under paragraph 2*

- 4 (1) A recommendation under paragraph 2 must include a statement that the person making it is satisfied that all the relevant conditions are met in the case of the person to whom it relates.
- (2) A recommendation under paragraph 2(2)(b) must also include a statement that—
- (a) the person needs to be detained in (or admitted to and detained in) a hospital urgently; and
  - (b) the urgency makes it impracticable for another recommendation to be sought before making an order under paragraph 2(3) in relation to the person.

**Commencement Information**

**I323** Sch. 12 para. 4 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Exercise of powers under paragraph 2 where person's commanding officer is absent etc*

- 5 (1) This paragraph has effect in relation to a person subject to service law outside the British Islands.
- (2) If the person's commanding officer is absent or otherwise not available, any authorised officer may exercise in relation to the person the powers conferred by paragraph 2.
- (3) For the purposes of this paragraph, an officer is “authorised” if he is—
- (a) subject to service law;
  - (b) of or above the rank of naval lieutenant, military or marine captain or flight lieutenant; and
  - (c) under the command of the person's commanding officer.

**Commencement Information**

**I324** Sch. 12 para. 5 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Power to review order under paragraph 2*

- 6 (1) The Secretary of State may make regulations for enabling a person to apply for the revocation of an order under paragraph 2 as soon as the order is made.
- (2) The regulations may in particular make provision as to—
- (a) who may make an application;
  - (b) the persons who are to hear the application;
  - (c) the procedure for hearing the application (including evidence);
  - (d) the grounds on which the order may be revoked;
  - (e) the functions of the persons hearing the application.
- (3) Regulations under sub-paragraph (2)(e) may in particular confer on the persons hearing the application—

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- (a) power to confirm an order under paragraph 2;
- (b) power to revoke such an order and order the immediate release of the person subject to the order.

**Commencement Information**

**I325** Sch. 12 para. 6 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Detention of resident patients in overseas service  
hospitals pending order under paragraph 2(3)*

- 7 (1) This paragraph applies if—
- (a) a registered medical practitioner determines that all the relevant conditions are met in the case of a patient in an overseas service hospital who is a person subject to service law or a civilian subject to service discipline; or
  - (b) a prescribed person determines that all the relevant conditions appear to be met in the case of such a patient.
- (2) The person making the determination must, as soon as practicable—
- (a) make a record of the determination and the reasons for it; and
  - (b) make a request for an order under paragraph 2(3) to be made in relation to the patient.
- (3) The commanding officer of the service hospital may detain the patient at the service hospital for the purpose of enabling such an order to be sought in relation to him.
- (4) But the patient may not be detained under this paragraph beyond—
- (a) the end of the detention period (see sub-paragraphs (5) to (7)); or
  - (b) if sooner, the making of a determination whether or not to make such an order in relation to him.
- (5) If the person making the determination under sub-paragraph (1) is a registered medical practitioner, the detention period is 24 hours beginning with the time when the record required by sub-paragraph (2) was made.
- (6) If that person is not a registered medical practitioner, the detention period is—
- (a) 6 hours beginning with that time; or
  - (b) if before the end of that 6 hour period a registered medical practitioner determines that all the relevant conditions are met in the case of the patient, 24 hours beginning with that time.
- (7) But if during that 6 hour period a registered medical practitioner determines that one or more of the relevant conditions are not met in the case of the patient—
- (a) the patient must be released immediately; and
  - (b) the detention period ends with his release.
- (8) The person making a determination under sub-paragraph (6)(b) must, as soon as practicable, make a record of the determination and the reasons for it.
- (9) In this paragraph “prescribed person” means a person of a description prescribed by regulations made by the Secretary of State.

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

**I326** Sch. 12 para. 7 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(b) (with transitional provisions in S.I. 2009/1059)

#### *Urgent removal from service living accommodation to overseas service hospital*

- 8 (1) This paragraph applies if a service policeman has reasonable grounds for believing that—
- (a) there is in any service living accommodation outside the British Islands a person (“the patient”) who is a person subject to service law or a civilian subject to service discipline;
  - (b) the patient is suffering from mental disorder;
  - (c) the patient is in urgent need of care or control to prevent him causing serious harm to himself or others; and
  - (d) the urgent need to remove the patient to and detain him in a service hospital makes it impracticable for an order under paragraph 2(3) to be sought before removing and detaining him.
- (2) The service policeman may—
- (a) enter the service living accommodation; and
  - (b) remove the patient to an overseas service hospital.
- (3) The service policeman must if reasonably practicable be accompanied by—
- (a) a registered medical practitioner, or
  - (b) a person of a description prescribed by regulations made by the Secretary of State,
- who may assist the service policeman to exercise the power conferred on him by sub-paragraph (2).
- (4) The commanding officer of the service hospital to which the patient is removed may detain him at the service hospital for the purpose of enabling an order under paragraph 2(3) to be sought in relation to him.
- (5) But the patient may not be detained under this paragraph beyond—
- (a) the end of the detention period (see sub-paragraphs (6) and (7)); or
  - (b) if sooner, the making of a determination whether or not to make such an order in relation to him.
- (6) The detention period is—
- (a) 6 hours beginning with his arrival at the service hospital; or
  - (b) if before the end of that 6 hour period a registered medical practitioner determines that all the relevant conditions are met in the case of the patient, 24 hours beginning with that time.
- (7) But if during that 6 hour period a registered medical practitioner determines that one or more of the relevant conditions are not met in the case of the patient—
- (a) the patient must be released immediately; and
  - (b) the detention period ends with his release.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (8) The person making a determination under sub-paragraph (6)(b) must, as soon as practicable, make a record of the determination and the reasons for it.

**Commencement Information**

**I327** Sch. 12 para. 8 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Urgent removal from other places to overseas service hospital*

- 9 (1) This paragraph applies if a service policeman finds a person (“the patient”) in a relevant place outside the British Islands and it appears to the service policeman that—
- (a) the patient is a person subject to service law or a civilian subject to service discipline;
  - (b) the patient is suffering from mental disorder; and
  - (c) the urgent need to remove the patient to and detain him in a service hospital makes it impracticable for an order under paragraph 2(3) to be sought before removing and detaining him.
- (2) The service policeman may remove the patient to an overseas service hospital.
- (3) The commanding officer of the service hospital to which the patient is removed may detain him at the service hospital for the purpose of enabling an order under paragraph 2(3) to be sought in relation to him.
- (4) But the patient may not be detained under this paragraph beyond—
- (a) the end of the detention period (see sub-paragraphs (5) and (6)); or
  - (b) if sooner, the making of a determination whether or not to make such an order in relation to him.
- (5) The detention period is—
- (a) 6 hours beginning with his arrival at the service hospital; or
  - (b) if before the end of that 6 hour period a registered medical practitioner determines that all the relevant conditions are met in the case of the patient, 24 hours beginning with that time.
- (6) But if during that 6 hour period a registered medical practitioner determines that one or more of the relevant conditions are not met in the case of the patient—
- (a) the patient must be released immediately; and
  - (b) the detention period ends with his release.
- (7) The person making a determination under sub-paragraph (5)(b) must, as soon as practicable, make a record of the determination and the reasons for it.
- (8) In this paragraph “relevant place” means—
- (a) a place to which the public have access; or
  - (b) any premises (within the meaning of Part 3) which are permanently or temporarily occupied or controlled for the purposes of any of Her Majesty's forces but are not service living accommodation.



*Status: Point in time view as at 13/05/2014.*

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**Commencement Information**

**I328** Sch. 12 para. 9 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Use of force*

- 10 Where a power is conferred on any person by virtue of this Schedule, he may use reasonable force, if necessary, in the exercise of the power.

**Commencement Information**

**I329** Sch. 12 para. 10 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Service custody*

- 11 While a person is being conveyed, removed or detained by virtue of any provision of this Schedule, the person is deemed to be in service custody.

**Commencement Information**

**I330** Sch. 12 para. 11 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Definitions*

- 12 (1) In this Schedule “overseas service hospital” means a service hospital outside the British Islands.
- (2) In this Schedule “service hospital” means—
- (a) a military, air-force or naval unit or establishment, or
  - (b) a ship,
- at or in which medical or surgical treatment is provided for persons subject to service law.
- (3) In this Schedule “service living accommodation” has the same meaning as in Part 3 (see section 96).

**Commencement Information**

**I331** Sch. 12 para. 12 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(b)** (with transitional provisions in [S.I. 2009/1059](#))

*Status: Point in time view as at 13/05/2014.*

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## SCHEDULE 13

Section 353

### PROTECTION OF CHILDREN OF SERVICE FAMILIES

- 1 (1) Section 17 of the Armed Forces Act 1991 (power to make service family child assessment orders) is amended as follows.
- (2) In subsection (1)(a) for “civilian in a corresponding position” substitute “ civilian subject to service discipline ”
- (3) In subsection (3) for “the officer having jurisdiction” substitute “ a judge advocate ”.
- (4) In subsection (5)—
- (a) for “the officer” substitute “ the judge advocate ”;
  - (b) for “an officer” substitute “ a judge advocate ”.

#### Commencement Information

**I332** Sch. 13 para. 1 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](#))

**I333** Sch. 13 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 2 (1) Section 18 of that Act (content, effect, variation and discharge of assessment orders) is amended as follows.
- (2) In subsection (2)(b) for “officer” substitute “ judge advocate ”.
- (3) In subsection (6) for “officer” substitute “ judge advocate ”.
- (4) In subsection (8)—
- (a) for “or a civilian in a corresponding position who” substitute “ , or a civilian subject to service discipline, commits an offence if he ”;
  - (b) omit the words “on him”;
  - (c) omit the words from “shall be liable” to the end.
- (5) After that subsection insert—
- “(8A) A person guilty of an offence under this section is liable to any punishment mentioned in rows 5 to 12 of the Table in section 164 of the Armed Forces Act 2006.
- (8B) For the purposes of determining the court's powers when sentencing a civilian offender (within the meaning of Part 1 of Schedule 3 to the Armed Forces Act 2006) for an offence under this section, subsection (8A) has effect as if the reference to rows 5 to 12 were to rows 2 to 7.
- (8C) For the purposes of determining the court's powers when sentencing an offender to whom Part 2 of that Schedule applies (ex-servicemen etc) for an offence under this section, subsection (8A) has effect as if the reference to rows 5 to 12 were to rows 5 to 10.”
- (6) Omit subsection (9).

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

**I334** Sch. 13 para. 2 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](#))

**I335** Sch. 13 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3
- (1) Section 19 of that Act (power to make orders for the emergency protection of children of service families) is amended as follows.
  - (2) In subsection (1)(a) for “civilian in a corresponding position” substitute “ civilian subject to service discipline ”.
  - (3) In subsection (3) for “the officer having jurisdiction” substitute “ a judge advocate ”.
  - (4) In subsection (4) for “officer”, in both places, substitute “ judge advocate ”.

#### Commencement Information

**I336** Sch. 13 para. 3 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](#))

**I337** Sch. 13 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 4
- (1) Section 20 of that Act (content and effect of protection orders) is amended as follows.
  - (2) In subsection (4) for “officer” substitute “ judge advocate ”.
  - (3) In subsection (6)(b)(iii) for “the officer having jurisdiction” substitute “ a judge advocate ”.
  - (4) For subsections (9) and (10) substitute—
    - “(9) A person subject to service law, or a civilian subject to service discipline, commits an offence if he—
      - (a) intentionally obstructs any person exercising the power under subsection (2)(b) above to remove, or prevent the removal of, a child; or
      - (b) intentionally fails to comply with an exclusion requirement included in a protection order by virtue of section 20A below.
    - (9A) A person guilty of an offence under this section is liable to any punishment mentioned in rows 5 to 12 of the Table in section 164 of the Armed Forces Act 2006.
    - (9B) For the purposes of determining the court's powers when sentencing a civilian offender (within the meaning of Part 1 of Schedule 3 to the Armed Forces Act 2006) for an offence under this section, subsection (9A) has effect as if the reference to rows 5 to 12 were to rows 2 to 7.
    - (9C) For the purposes of determining the court's powers when sentencing an offender to whom Part 2 of that Schedule applies (ex-servicemen etc) for an offence under this section, subsection (9A) has effect as if the reference to rows 5 to 12 were to rows 5 to 10.”

*Status: Point in time view as at 13/05/2014.*

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#### **Commencement Information**

- I338** Sch. 13 para. 4 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](#))
- I339** Sch. 13 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

5 After that section insert—

#### **“20A Power to include exclusion requirement in protection order**

- (1) Where—
  - (a) a judge advocate (on being satisfied as mentioned in section 19(3) (a), (b) or (c)) makes a protection order with respect to a child, and
  - (b) conditions A, B and C are satisfied,
 the judge advocate may include an exclusion requirement in the protection order.
- (2) An exclusion requirement is any one or more of the following—
  - (a) a provision requiring a person who is subject to service law or is a civilian subject to service discipline to leave relevant premises in which he is living with the child;
  - (b) a provision prohibiting a person who is subject to service law or is a civilian subject to service discipline from entering relevant premises in which the child lives;
  - (c) a provision excluding such a person from a defined area in which relevant premises in which the child lives are situated.
- (3) Condition A is that there is reasonable cause to believe that, if the person to whom the exclusion requirement would relate (“the relevant person”) is excluded from relevant premises in which the child lives—
  - (a) in the case of an order made on the ground mentioned in section 19(3)(a) or (b), the child will not be likely to suffer significant harm, even though not removed as mentioned in section 19(3)(a) or not remaining as mentioned in section 19(3)(b);
  - (b) in the case of an order made on the ground mentioned in section 19(3)(c), the enquiries referred to there will cease to be frustrated.
- (4) Condition B is that a person (other than the relevant person) living in the relevant premises in which the child lives, whether or not he is the child's parent—
  - (a) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him; and
  - (b) consents to the inclusion of the exclusion requirement.
- (5) Condition C is that the judge advocate is satisfied—
  - (a) that, throughout the duration of the requirement, alternative accommodation which the judge advocate considers appropriate will be available to the relevant person; and

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- (b) where the relevant person is subject to service law, that the relevant person's commanding officer also considers that that accommodation is appropriate.
- (6) If, while a protection order containing an exclusion requirement is in force, the child has in pursuance of the order been removed from the relevant premises to which the requirement relates to other accommodation for a continuous period of more than 24 hours, the order shall cease to have effect so far as it imposes the exclusion requirement.
- (7) In this section “relevant premises” means premises occupied as a residence by a person subject to service law or a civilian subject to service discipline.
- (8) Who is the relevant person's “commanding officer” for the purposes of subsection (5)(b) shall be determined by or under regulations made by the Defence Council.”

#### Commencement Information

- I340** Sch. 13 para. 5 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](#))
- I341** Sch. 13 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 6 (1) Section 21 of that Act (duration of protection orders) is amended as follows.
- (2) In subsection (1) for the words from “being” to the end substitute “ which must be a period of not more than 28 days beginning with the date of the order. ”
- (3) In subsection (2)—
  - (a) for “the officer having jurisdiction” substitute “ a judge advocate ”;
  - (b) in paragraph (a), for the words from “applicable” to “that officer” substitute “ permitted by subsection (1) above ”;
  - (c) in the words after paragraph (b) for “that officer” substitute “ the judge advocate ”.
- (4) In subsection (3) for “officer”, in both places, substitute “ judge advocate ”.
- (5) In subsection (5) for “an officer” substitute “ a judge advocate ”.

#### Commencement Information

- I342** Sch. 13 para. 6 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](#))
- I343** Sch. 13 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 7 (1) Section 22 of that Act (review and discharge of protection orders) is amended as follows.
- (2) In subsection (2) for “superior officer” substitute “ judge advocate ”.
- (3) In subsection (4)—
  - (a) for “superior officer” substitute “ judge advocate ”;
  - (b) for the words from “consider whether” to the end of paragraph (b) substitute “consider whether, if the order were discharged and—

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- (a) (where the power under section 20(2)(b)(i) has been exercised) if the child were returned by the responsible person, or
- (b) (where the power under section 20(2)(b)(ii) has been exercised) if the child were allowed to be removed from the place in which he was being accommodated immediately before the making of the order.”.

(4) In subsection (5) for “the officer having jurisdiction” substitute “ a judge advocate ”.

(5) After that subsection insert—

“(5A) On the application of the person to whom an exclusion requirement contained in a protection order relates, a judge advocate may, in such circumstances and subject to such conditions as may be prescribed by regulations, vary the exclusion requirement or discharge the order so far as it imposes the exclusion requirement.”

(6) In subsection (7) for “officer” substitute “ judge advocate ”.

#### **Commencement Information**

**I344** Sch. 13 para. 7 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](#))

**I345** Sch. 13 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

8 After that section insert—

#### **“22A Removal and accommodation of children by service police in emergency**

- (1) Where a service policeman has reasonable cause to believe that a relevant child would otherwise be likely to suffer significant harm, he may, if authorised—
  - (a) remove the child to suitable accommodation and keep him there; or
  - (b) take such steps as are reasonable to ensure that the child's removal from any service hospital, or other place, in which he is then being accommodated is prevented.
- (2) In this section, a child with respect to whom a service policeman has exercised the power under subsection (1) is referred to as having been taken into service police protection.
- (3) As soon as is reasonably practicable after taking a child into service police protection, the service policeman concerned shall—
  - (a) inform the appropriate service police officer of the steps that have been and are proposed to be taken under this Part of this Act with respect to the child and the reasons for taking them;
  - (b) give details to the appropriate service police officer of the place at which the child is being accommodated;
  - (c) inform the child (if he appears capable of understanding)—
    - (i) of the steps that have been taken with respect to him under this section and of the reasons for taking them; and

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- (ii) of the further steps that may be taken with respect to him under this Part of this Act;
  - (d) take such steps as are reasonably practicable to discover the wishes and feelings of the child;
  - (e) secure that the case is inquired into by the appropriate service police officer;
  - (f) secure that the child is moved to accommodation approved for the purpose by the appropriate service police officer (unless that officer approves the child's remaining where he is currently being accommodated);
  - (g) take such steps as are reasonably practicable to inform—
    - (i) the child's parents,
    - (ii) every person who is not a parent of the child but has parental responsibility for him, and
    - (iii) any other person with whom the child was residing immediately before being taken into service police protection,of the steps that he has taken under this section with respect to the child, the reasons for taking them and the further steps that may be taken with respect to him under this Part of this Act.
- (4) On completing any inquiry under subsection (3)(e) the officer conducting it shall release the child from service police protection unless he considers that there is still reasonable cause for believing that the child would be likely to suffer significant harm if released.
- (5) No child may be kept in service police protection for more than 72 hours.
- (6) While a child is being kept in service police protection—
- (a) the appropriate service police officer shall do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare (having regard in particular to the length of the period during which the child will be kept in service police protection); but
  - (b) neither he nor the service policeman who took the child into service police protection has any parental responsibility for him.
- (7) Where a child has been taken into service police protection, the appropriate service police officer shall allow—
- (a) the child's parents,
  - (b) any person who is not a parent of the child but has parental responsibility for him,
  - (c) any person with whom the child was residing immediately before he was taken into service police protection,
  - (d) any person in whose favour a contact order is in force with respect to the child, and
  - (e) any person acting on behalf of any of those persons,
- to have such contact (if any) with the child as, in the opinion of the appropriate service police officer, is both reasonable and in the child's best interests.

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(8) In this section—

“authorised”, in relation to a service policeman, means authorised, by an authorising service police officer and in accordance with regulations, to exercise the power under subsection (1) in the case in question;

“an authorising service police officer”, and “the appropriate service police officer” have the meanings given by regulations;

“relevant child” means a child who falls within paragraph (a) or (b) of section 19(1) above;

“service policeman” has the same meaning as in the Armed Forces Act 1996.”

#### Commencement Information

**I346** Sch. 13 para. 8 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](#))

**I347** Sch. 13 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

9 (1) Section 23 of that Act (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “accommodation”, for the words from “means” to “relates,” substitute “, in relation to a child to whom a protection order relates, means any service hospital or other suitable place the occupier of which is willing temporarily to receive the child, ”;

(b) for the definition of “civilian in a corresponding position” substitute—

““civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006;”;

(c) after the definition of “contact order” insert—

““exclusion requirement” has the meaning given by section 20A above;”;

(d) after the definition of “extension order” insert—

““harm” and “significant harm” have the same meanings as in the Children Act 1989;”;

(e) for the definitions of “officer having jurisdiction” and “superior officer” substitute—

““judge advocate” has the same meaning as in the Armed Forces Act 2006;”;

(f) in the definition of “regulations”, after “ “regulations”” insert “ (except in section 20A(8)) ”;

(g) for the definition of “service law” substitute—

““subject to service law” has the same meaning as in the Armed Forces Act 2006.”

(3) After that subsection insert—

“(1A) Section 164(2) and (3) of the Armed Forces Act 2006 apply in relation to section 18(8A) and 20(9A) of this Act.”



*Status: Point in time view as at 13/05/2014.*

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(4) Omit subsection (2).

**Commencement Information**

**I348** Sch. 13 para. 9 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](#))

**I349** Sch. 13 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

SCHEDULE 14

Section 358

AMENDMENTS RELATING TO RESERVE FORCES

*Reserve Forces Act 1980 (c. 9)*

1 In section 10 of the Reserve Forces Act 1980 (call out for national danger) omit subsection (5).

**Commencement Information**

**I350** Sch. 14 para. 1 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](#))

**I351** Sch. 14 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

2 In section 11(2)(a) of that Act (call out for warlike operations), for “regular air force” substitute “ Royal Air Force ”.

**Commencement Information**

**I352** Sch. 14 para. 2 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](#))

**I353** Sch. 14 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

3 In section 18(2) of that Act (permanent service call out of Army Reserve) omit paragraph (b).

**Commencement Information**

**I354** Sch. 14 para. 3 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](#))

**I355** Sch. 14 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

4 In section 19 of that Act (duration of Army Reserve permanent service)—  
(a) omit subsection (4);  
(b) in subsection (5) for “subsections (3) and (4) above” substitute “ subsection (3) ”.

*Status: Point in time view as at 13/05/2014.*

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**Commencement Information**

- I356** Sch. 14 para. 4 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](#))  
**I357** Sch. 14 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

5 In section 19A of that Act (postponement of discharge of members of Army Reserve during call out), for subsection (7) substitute—

“(7) In subsections (3) to (5)—

“the competent military authority” means the Defence Council or any officer of a description prescribed by regulations of the Defence Council;

“prescribed” means prescribed by regulations of the Defence Council.”

**Commencement Information**

- I358** Sch. 14 para. 5 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](#))  
**I359** Sch. 14 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

6 In section 21 of that Act (duration of Air Force Reserve permanent service)—

(a) omit subsection (4);

(b) in subsection (5) for “subsections (3) and (4) above” substitute “subsection (3)”.

**Commencement Information**

- I360** Sch. 14 para. 6 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](#))  
**I361** Sch. 14 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

7 In section 21A of that Act (postponement of discharge of members of Royal Air Force Reserve during call out), for subsection (7) substitute—

“(7) In subsections (3) to (5)—

“the competent air force authority” means the Defence Council or any officer of a description prescribed by regulations of the Defence Council;

“prescribed” means prescribed by regulations of the Defence Council.”

**Commencement Information**

- I362** Sch. 14 para. 7 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](#))  
**I363** Sch. 14 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

8 Omit section 24 of that Act (permanent service call out of Ulster Defence Regiment).

*Status: Point in time view as at 13/05/2014.*

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**Commencement Information**

**I364** Sch. 14 para. 8 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](#))

**I365** Sch. 14 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 9 Omit section 25 of that Act (emergency service call out of Ulster Defence Regiment).

**Commencement Information**

**I366** Sch. 14 para. 9 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](#))

**I367** Sch. 14 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 10 In section 26(2) of that Act (call out notices), omit paragraph (g).

**Commencement Information**

**I368** Sch. 14 para. 10 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](#))

**I369** Sch. 14 para. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 11 In section 30(2) of that Act (liability of naval and marine pensioners to recall), for “The enactments concerning” substitute “ Provision made under section 331 of the Armed Forces Act 2006 that applies in relation to ”.

**Commencement Information**

**I370** Sch. 14 para. 11 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](#))

**I371** Sch. 14 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 12 (1) Section 31 of that Act (liability of army and air force pensioners to recall) is amended as follows.

- (2) In subsection (6)—

(a) in the definition of “service pension”—

(i) for “regular forces” substitute “ regular army ”;

(ii) for “regular air force” substitute “ Royal Air Force ”;

(b) for the words from “and other expressions” to the end substitute—

““soldier” and “airman” include a warrant officer and a non-commissioned officer.”

- (3) In subsection (7) for “those sections” substitute “ this section and section 32 ”.

**Commencement Information**

**I372** Sch. 14 para. 12 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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**I373** Sch. 14 para. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

13 (1) Section 32 of that Act (occasion for and period of recall under section 31) is amended as follows.

(2) In subsection (3)—

- (a) in paragraph (a) for “regular forces or the regular air force” substitute “regular army or the Royal Air Force”;
- (b) in paragraph (b) for the words from “section 2 of the Army” to “require” substitute “regulations under section 328 of the Armed Forces Act 2006”.

(3) In subsection (4)(a) for “as from which a person is recalled for” substitute “the person is accepted (by virtue of section 36) into”.

(4) For subsection (5) substitute—

“(5) No regulation under section 329 of the Armed Forces Act 2006 as to the term for which a person may be enlisted affects the operation of subsections (3) and (4) of this section.”

**Commencement Information**

**I374** Sch. 14 para. 13 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](#))

**I375** Sch. 14 para. 13 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

14 In section 34(3) of that Act (liability of certain former soldiers to recall)—

- (a) for “regular forces within the meaning of the Army Act 1955” substitute “regular army”;
- (b) in paragraph (a) for “specified in the notice” substitute “he is accepted into service”.

**Commencement Information**

**I376** Sch. 14 para. 14 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](#))

**I377** Sch. 14 para. 14 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

15 In section 39(1)(a) of that Act (application of section 38) for “regular air force” substitute “Royal Air Force”.

**Commencement Information**

**I378** Sch. 14 para. 15 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](#))

**I379** Sch. 14 para. 15 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

16 Omit section 44 of that Act (requirement as to training of Ulster Defence Regiment).

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#### Commencement Information

**I380** Sch. 14 para. 16 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](#))

**I381** Sch. 14 para. 16 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 17 In section 48 of that Act (void enlistment in the regular forces)—
- (a) in the sidenote, for “regular forces” substitute “ Royal Marines or regular army ”;
  - (b) for “Her Majesty's regular forces” substitute “ the Royal Marines or the regular army ”.

#### Commencement Information

**I382** Sch. 14 para. 17 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](#))

**I383** Sch. 14 para. 17 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 18 Omit section 139 of that Act (enrolment etc of members of Ulster Defence Regiment).

#### Commencement Information

**I384** Sch. 14 para. 18 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](#))

**I385** Sch. 14 para. 18 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 19 In section 140 of that Act (orders and regulations as to service in Ulster Defence Regiment)—
- (a) in the sidenote, for “acceptance and service” substitute “ pensions and other grants ”;
  - (b) for subsections (1) and (2) substitute—
    - “(1) The conditions as to pensions and other grants in respect of death or disablement arising out of service in the Ulster Defence Regiment shall be such as may be prescribed by orders or regulations.
    - (1A) The reference in subsection (1) to service in the Ulster Defence Regiment includes service in the regular army by a relevant person during the relevant period.
    - (1B) In subsection (1A)—
      - “regular army” has the meaning given by section 374 of the Armed Forces Act 2006;
      - “relevant person” means a person who, immediately before 1 July 1992, was a member of the Ulster Defence Regiment;
      - “relevant period”, in relation to a relevant person, means the period beginning with 1 July 1992 and ending at the end of his term of service which was current on that date.”;
  - (c) in subsection (3)—
    - (i) for “Part of this Act” substitute “ section ”;

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(ii) in the words after paragraph (b) for “Part” substitute “ section ”.

**Commencement Information**

**I386** Sch. 14 para. 19 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](#))

**I387** Sch. 14 para. 19 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

20 Omit sections 141 to 144 of that Act (provisions relating to Ulster Defence Regiment).

**Commencement Information**

**I388** Sch. 14 para. 20 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](#))

**I389** Sch. 14 para. 20 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

21 In section 145 of that Act (reinstatement in civil employment) omit subsection (2).

**Commencement Information**

**I390** Sch. 14 para. 21 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](#))

**I391** Sch. 14 para. 21 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

22 In section 146 of that Act (protection of other civil interests) omit subsection (2).

**Commencement Information**

**I392** Sch. 14 para. 22 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](#))

**I393** Sch. 14 para. 22 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

23 (1) Section 156 (interpretation) is amended as follows.

(2) In subsection (1)—

- (a) in the definition of “prescribed” after “ “prescribed”” insert “ (except in subsections (3) to (5) and (7) of sections 19A and 21A and in section 140) ”;
- (b) omit the definition of “regular air force”;
- (c) for the definition of “regular army” substitute—

““the regular army” has the meaning given by section 374 of the Armed Forces Act 2006.”

(3) Omit subsection (2).

**Commencement Information**

**I394** Sch. 14 para. 23 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](#))

**I395** Sch. 14 para. 23 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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- 24 (1) Schedule 8 to that Act (saving and transitional provisions) is amended as follows.
- (2) Omit paragraph 5(3).
- (3) Omit paragraph 10.
- (4) In paragraph 16—
- (a) omit sub-paragraph (2);
  - (b) omit sub-paragraph (5);
  - (c) in sub-paragraph (9) for “regular forces or for the regular air force” substitute “regular army or for the Royal Air Force”.
- (5) Omit paragraph 19.

**Commencement Information**

**I396** Sch. 14 para. 24 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](#))

**I397** Sch. 14 para. 24 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Reserve Forces Act 1996 (c. 14)*

- 25 In section 2(2)(a) of the Reserve Forces Act 1996 (membership of the reserve forces), for the words from “the Army Act 1955” to the end substitute “regulations made under section 331 of the Armed Forces Act 2006;”.

**Commencement Information**

**I398** Sch. 14 para. 25 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](#))

**I399** Sch. 14 para. 25 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 26 In section 4(1)(b) of that Act (orders and regulations concerning reserve forces), after “force” insert “(except pay, bounty and allowances)”.

**Commencement Information**

**I400** Sch. 14 para. 26 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](#))

**I401** Sch. 14 para. 26 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 27 Omit section 7 of that Act (provision with respect to pay, bounty and allowances).

**Commencement Information**

**I402** Sch. 14 para. 27 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](#))

**I403** Sch. 14 para. 27 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 28 In section 13(7) of that Act (transfer of non-officers between reserve forces), for the words from “by or under” to the end substitute “under the Armed Forces Act 2006.”

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**Commencement Information**

- I404** Sch. 14 para. 28 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](#))
- I405** Sch. 14 para. 28 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 29 In section 15(1) of that Act (discharge by commanding officer) for the words “A commanding officer” to “his command,” substitute “A man of a reserve force may be discharged by his commanding officer”.

**Commencement Information**

- I406** Sch. 14 para. 29 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](#))
- I407** Sch. 14 para. 29 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 30 In section 24(2) of that Act (commitment to a period of full-time service) omit paragraph (b).

**Commencement Information**

- I408** Sch. 14 para. 30 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](#))
- I409** Sch. 14 para. 30 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 31 In section 25(2) of that Act (additional duties commitments)—
- (a) omit paragraph (a);
  - (b) in paragraph (b), for “while subject to service law, shall” substitute “shall, from any time specified in the commitment as the time at which he is to begin that period of duty until released from duty,”.

**Commencement Information**

- I410** Sch. 14 para. 31 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](#))
- I411** Sch. 14 para. 31 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 32 In section 27 of that Act (voluntary training and other duties) omit subsection (3).

**Commencement Information**

- I412** Sch. 14 para. 32 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](#))
- I413** Sch. 14 para. 32 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 33 In each of sections 53, 55 and 57 of that Act (maximum duration of service on call-out), in subsection (8)—
- (a) at the end of paragraph (a) insert “ or ”;
  - (b) omit paragraph (b).



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**Commencement Information**

**I414** Sch. 14 para. 33 in force at 15.10.2007 by [S.I. 2007/2913](#), [art. 2](#)

34 After section 53 of that Act insert—

**“53A Agreement to alter limits in section 53**

- (1) This section applies to a person if—
  - (a) he is not in service under a call-out order under section 52; and
  - (b) if accepted into service under such a call-out order, he would be immediately entitled to release under section 53(6) or (10).
- (2) The person may agree in writing that, if he is accepted into service under a call-out order under section 52, in calculating when he is entitled to be released by virtue of section 53(6) or (10) any service of his under this Part or Part 4, 5 or 7 that occurred before he entered into the agreement is to be treated as not having occurred.
- (3) An agreement under subsection (2) may also provide that, if the person is accepted into service under a call-out order under section 52, section 53 shall apply in his case as if for the period of 3 years specified in subsection (6) there were substituted a shorter period specified in the agreement.
- (4) If an order under section 53(11) applies in relation to the person, subsection (3) above has effect as if the reference to the period of 3 years were to the period of 5 years.”

**Commencement Information**

**I415** Sch. 14 para. 34 in force at 15.10.2007 by [S.I. 2007/2913](#), [art. 2](#)

35 After section 55 of that Act insert—

**“55A Agreement to alter limits in section 55**

- (1) This section applies to a person if—
  - (a) he is not in service under a call-out order under section 54; and
  - (b) if accepted into service under such a call-out order, he would be immediately entitled to release under section 55(6) or (10).
- (2) The person may agree in writing that, if he is accepted into service under a call-out order under section 54, in calculating when he is entitled to be released by virtue of section 55(6) or (10) any service of his under this Part or Part 4, 5 or 7 that occurred before he entered into the agreement is to be treated as not having occurred.
- (3) An agreement under subsection (2) may also provide that, if the person is accepted into service under a call-out order under section 54, section 55 shall apply in his case as if for the period of 12 months specified in subsection (6) there were substituted a shorter period specified in the agreement.

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- (4) If an order under section 55(11) applies in relation to the person, subsection (3) above has effect as if the reference to the period of 12 months were to the period of 2 years.”

**Commencement Information**

**I416** Sch. 14 para. 35 in force at 15.10.2007 by [S.I. 2007/2913](#), **art. 2**

36 After section 57 of that Act insert—

**“57A Agreement to alter limits in section 57**

- (1) This section applies to a person if—
- (a) he is not in service under a call-out order under section 56; and
  - (b) if accepted into service under such a call-out order, he would be immediately entitled to release under section 57(6) or (10).
- (2) The person may agree in writing that, if he is accepted into service under a call-out order under section 56, in calculating when he is entitled to be released by virtue of section 57(6) or (10) any service of his under this Part or Part 4, 5 or 7 that occurred before he entered into the agreement is to be treated as not having occurred.
- (3) An agreement under subsection (2) may also provide that, if the person is accepted into service under a call-out order under section 56, section 57 shall apply in his case as if for the period of 9 months specified in subsection (6) there were substituted a shorter period specified in the agreement.”

**Commencement Information**

**I417** Sch. 14 para. 36 in force at 15.10.2007 by [S.I. 2007/2913](#), **art. 2**

37 In section 66(2)(b) of that Act (persons who may be recalled) for “regular air force” substitute “ Royal Air Force ”.

**Commencement Information**

**I418** Sch. 14 para. 37 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](#))

**I419** Sch. 14 para. 37 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

38 In section 72 of that Act (release and discharge from service under recall order) omit subsections (5) and (6).

**Commencement Information**

**I420** Sch. 14 para. 38 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](#))

**I421** Sch. 14 para. 38 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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- 39 (1) Section 95 of that Act (offences against orders and regulations under section 4) is amended as follows.
- (2) In subsection (1)—
- (a) omit paragraph (b);
  - (b) in the words after paragraph (e), omit “triable by court-martial or summarily by a civil court”.
- (3) After that subsection insert—
- “(1A) A member of a reserve force (“A”) commits an offence if—
- (a) a superior officer (“B”), in pursuance of orders or regulations under section 4, is acting in the execution of his office;
  - (b) A's behaviour towards B is threatening or disrespectful; and
  - (c) A knows or has reasonable cause to believe that B is a superior officer.
- (1B) For the purposes of subsection (1A)—
- (a) “superior officer” has the same meaning as in the Armed Forces Act 2006;
  - (b) section 11(3) of that Act (meaning of “behaviour” and “threatening”) applies.
- (1C) An offence under this section is triable summarily by a civil court (as well as being triable by the Court Martial).”
- (4) In subsection (2)—
- (a) in paragraph (a) for the words from “court-martial” to the end substitute “the Court Martial—
    - (i) in the case of an offence under subsection (1)(a) or (e) or (1A), to any punishment mentioned in rows 5 to 12 of the Table in section 164 of the Armed Forces Act 2006;
    - (ii) in the case of an offence under subsection (1)(c) or (d), to any punishment mentioned in that Table, but any sentence of imprisonment or service detention imposed in respect of the offence must not exceed 51 weeks;”;
  - (b) in paragraph (b)(i)—
    - (i) omit “, (b),”;
    - (ii) after “(e)” insert “ or (1A) ”.
- (5) For subsection (3) substitute—
- “(2A) For the purposes of determining the Court Martial's powers when sentencing an offender to whom Part 2 of Schedule 3 to the Armed Forces Act 2006 applies (ex-servicemen etc) for an offence under subsection (1)(a) or (e) or (1A), subsection (2)(a)(i) has effect as if the reference to rows 5 to 12 were to rows 5 to 10.”

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**Commencement Information**

- I422** Sch. 14 para. 39 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](#))
- I423** Sch. 14 para. 39 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 40 (1) Section 96 of that Act (failure to attend for service on call out or recall) is amended as follows.
- (2) In subsection (1), for the words (after paragraph (c)) from “is guilty” to the end substitute “ is guilty of desertion (if section 8(2)(a) or (b) of the Armed Forces Act 2006 applies to him) or absence without leave (if neither of those provisions applies to him). ”
- (3) In subsection (3) for the words from “by court-martial” to the end substitute “ summarily by a civil court (as well as being triable by the Court Martial). ”

**Commencement Information**

- I424** Sch. 14 para. 40 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](#))
- I425** Sch. 14 para. 40 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 41 (1) Section 97 of that Act (failure to attend for duty or training) is amended as follows.
- (2) In subsection (1), for the words (after paragraph (b)) from “is guilty” to the end substitute “ is guilty of desertion (if section 8(2)(a) or (b) of the Armed Forces Act 2006 applies to him) or absence without leave (if neither of those provisions applies to him). ”
- (3) In subsection (3) for the words from “by court-martial” to the end substitute “ summarily by a civil court (as well as being triable by the Court Martial). ”

**Commencement Information**

- I426** Sch. 14 para. 41 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](#))
- I427** Sch. 14 para. 41 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 42 (1) Section 98 of that Act (trial and punishment of offences of desertion or absence without leave) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “section 37” to “1957” substitute “ section 8 or 9 of the Armed Forces Act 2006 ”;
- (b) for “as well as by court-martial” substitute “ (as well as being triable by the Court Martial) ”.
- (3) In subsection (2)—
- (a) for “court-martial” substitute “ the Court Martial ”;
- (b) for the words from “service law” to the end substitute “ section 8 or 9 (as the case may be) of the Armed Forces Act 2006. ”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (4) In subsection (3)(b) for “service law of desertion or absence without leave” substitute “ section 8 or 9 of the Armed Forces Act 2006 ”.
- (5) In subsection (4)(a)—
- (a) for “court-martial” substitute “ the Court Martial ”;
  - (b) for “service law of absence without leave” substitute “ section 9 of the Armed Forces Act 2006 ”.
- (6) Omit subsection (5).
- (7) After subsection (6) insert—
- “(7) Orders or regulations under section 4 may include provision for enabling a determination to be made in prescribed circumstances that subsection (6) is to cease to have effect in relation to a period of time or a part of a period of time.”

**Commencement Information**

- I428** Sch. 14 para. 42 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](#))
- I429** Sch. 14 para. 42 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

43 Omit section 99 of that Act (false pretence of illegal absence).

**Commencement Information**

- I430** Sch. 14 para. 43 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](#))
- I431** Sch. 14 para. 43 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

44 For section 100 of that Act (arrest of deserters etc) substitute—

**“100A Arrest by civilian police of deserters and absentees without leave**

- (1) An officer of a UK police force may arrest without warrant a person who is reasonably suspected of being a member of a reserve force, or a person liable to recall, who has deserted or is absent without leave.
- (2) If an authorised person is satisfied by evidence given under oath or affirmation that a relevant suspect is or is reasonably suspected of being within his jurisdiction, he may issue a warrant for the arrest of the relevant suspect.
- (3) In subsection (2)—
  - “authorised person” means a person who has authority in England and Wales, Scotland or Northern Ireland to issue a warrant for the arrest of a person suspected of an offence;
  - “relevant suspect” means a person reasonably suspected of being a member of a reserve force, or a person liable to recall, who has deserted, is absent without leave or has committed an offence under section 95.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

(4) In this section “UK police force” has the meaning given by section 375 of the Armed Forces Act 2006.”

**Commencement Information**

**I432** Sch. 14 para. 44 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](#))

**I433** Sch. 14 para. 44 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

45 Omit section 102 of that Act (record of illegal absence).

**Commencement Information**

**I434** Sch. 14 para. 45 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](#))

**I435** Sch. 14 para. 45 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

46 In section 104 of that Act, omit subsection (3).

**Commencement Information**

**I436** Sch. 14 para. 46 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](#))

**I437** Sch. 14 para. 46 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

47 (1) Section 105 of that Act (trial of offences by civil court) is amended as follows.

(2) In subsection (1) for “which is triable by court-martial is also” substitute “is (as well as being triable by the Court Martial) ”.

(3) Omit subsection (2).

(4) In subsection (3) for “an offence under service law (other than an offence of desertion or absence without leave)” substitute “ any service offence (other than an offence under this Act or an offence mentioned in section 98(1)) ”.

**Commencement Information**

**I438** Sch. 14 para. 47 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](#))

**I439** Sch. 14 para. 47 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

48 Omit section 106 of that Act.

**Commencement Information**

**I440** Sch. 14 para. 48 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](#))

**I441** Sch. 14 para. 48 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

49 In section 107 of that Act (time for institution of proceedings)—

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- (a) in subsection (1)—
  - (i) omit the words from “either—” to the end of paragraph (a);
  - (ii) for “under service law” substitute “a service offence”;
- (b) after subsection (2) add—
  - “(3) Subsection (2) applies to proceedings for an offence under section 96(1) committed by a person liable to recall as it applies to proceedings mentioned in subsection (1) of this section.”

**Commencement Information**

**I442** Sch. 14 para. 49 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](#))

**I443** Sch. 14 para. 49 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

50 In section 108 of that Act (evidence) for subsections (1) and (2) substitute—

“(1A) The Secretary of State may by regulations make provision with respect to evidence, including the admissibility of evidence, in proceedings before a civil court for an offence under this Act.

(1B) Regulations under subsection (1A) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I444** Sch. 14 para. 50 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](#))

**I445** Sch. 14 para. 50 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

51 Omit section 124 of that Act (exemption from tolls etc).

**Commencement Information**

**I446** Sch. 14 para. 51 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](#))

**I447** Sch. 14 para. 51 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

52 Omit section 126 of that Act (amendments relating to transfers to reserves etc).

**Commencement Information**

**I448** Sch. 14 para. 52 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](#))

**I449** Sch. 14 para. 52 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

53 (1) Section 127 of that Act (interpretation) is amended as follows.

(2) In subsection (1)—

- (a) omit the definition of “regular air force”;
- (b) for the definition of “regular army” substitute—

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- ““the regular army” has the meaning given by section 374 of the Armed Forces Act 2006;”;
- (c) in the definition of “regular services” for “regular air force” substitute “Royal Air Force”;
- (d) for the definition of “service law” substitute—
- ““service offence” has the meaning given by section 50 of the Armed Forces Act 2006;”.
- (3) After subsection (2) add—
- “(3) The officer who is the “commanding officer” of a person for the purposes of any provision of this Act shall be determined by or under regulations made by the Defence Council under this subsection.
- (4) Section 164(2) and (3) of the Armed Forces Act 2006 apply in relation to section 95(2)(a) of, and paragraph 5(3) of Schedule 1 to, this Act.”

#### **Commencement Information**

**I450** Sch. 14 para. 53 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](#))

**I451** Sch. 14 para. 53 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 54 (1) Schedule 1 to that Act (enlistment) is amended as follows.
- (2) For paragraph 2(1) substitute—
- “(1) An enlisting officer shall not enlist a person under the age of 18 unless consent to the enlistment has been given in writing by—
- (a) an appropriate person; or
- (b) if the person offering to enlist is living with more than one appropriate person, each of those appropriate persons.
- (1A) In this paragraph “appropriate person” means, in relation to a person offering to enlist, a person with—
- (a) parental responsibility (within the meaning of the Children Act 1989 or the Children (Northern Ireland) Order 1995) for him; or
- (b) parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him.”
- (3) In paragraph 2(2) for “appropriate minimum age” substitute “age of 18”.
- (4) In paragraph 4(4) for “appropriate minimum age” substitute “age of 18”.
- (5) In paragraph 5—
- (a) in sub-paragraph (1) omit “or recklessly”;
- (b) in sub-paragraph (2) for “subject to service law” substitute “a member of the reserve forces”;
- (c) in sub-paragraph (3) for the words from “has since” to the end substitute “becomes a member of the reserve forces is liable on conviction by the Court Martial to any punishment mentioned in rows 2 to 12 of the Table in section 164 of the Armed Forces Act 2006.”;



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(d) after that sub-paragraph add—

“(4) For the purposes of determining the Court Martial's powers when sentencing an offender to whom Part 2 of Schedule 3 to the Armed Forces Act 2006 (ex-servicemen etc) applies for an offence under sub-paragraph (1), sub-paragraph (3) has effect as if the reference to rows 2 to 12 were to rows 2 to 10.

(5) Where an offence under sub-paragraph (1) is committed by a person within sub-paragraph (3), the time for which he is for the purposes of section 62 of the Armed Forces Act 2006 (time limits for charging) to be regarded as being a relevant reservist (within the meaning of that section) includes the period from (and including) the time he committed the offence to the time he became a member of the reserve forces.”

(6) In paragraph 6(1) for “a court-martial” substitute “ the Court Martial ”.

(7) Omit paragraph 7 and the heading before it.

**Commencement Information**

**I452** Sch. 14 para. 54 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](#))

**I453** Sch. 14 para. 54 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

55 Omit Schedule 2 to that Act (deserters and absentees without leave).

**Commencement Information**

**I454** Sch. 14 para. 55 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](#))

**I455** Sch. 14 para. 55 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

56 Omit Schedule 3 to that Act (evidence).

**Commencement Information**

**I456** Sch. 14 para. 56 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](#))

**I457** Sch. 14 para. 56 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

57 Omit Schedule 7 to that Act (postponement of transfer to the reserves or discharge from the reserves).

**Commencement Information**

**I458** Sch. 14 para. 57 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](#))

**I459** Sch. 14 para. 57 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

58 In Part 2 of Schedule 9 to that Act (transitional provisions) omit paragraphs 22 and 23.

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**Commencement Information**

- I460** Sch. 14 para. 58 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](#))
- I461** Sch. 14 para. 58 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 59 In Schedule 10 to that Act (minor and consequential amendments) omit paragraphs 1 to 13 and 23.

**Commencement Information**

- I462** Sch. 14 para. 59 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](#))
- I463** Sch. 14 para. 59 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

SCHEDULE 15

Section 370

CIVILIANS SUBJECT TO SERVICE DISCIPLINE

**PART 1**

CIVILIANS SUBJECT TO SERVICE DISCIPLINE

*Persons in one of Her Majesty's aircraft in flight*

- 1 (1) A person is within this paragraph if he is in one of Her Majesty's aircraft in flight.
- (2) For the purposes of sub-paragraph (1) the period during which an aircraft is in flight includes—
- (a) any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends;
  - (b) any period when the aircraft is on the surface of the sea or navigable waters.
- (3) In sub-paragraph (2)(a) a “flight” means a journey by air beginning when the aircraft takes off and ending when it next lands.
- (4) In this paragraph “Her Majesty's aircraft” means all aircraft belonging to or used for the purposes of any of Her Majesty's forces.

**Commencement Information**

- I464** Sch. 15 para. 1 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))
- I465** Sch. 15 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Status: Point in time view as at 13/05/2014.*

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*Persons in one of Her Majesty's ships afloat*

- 2 (1) A person is within this paragraph if he is in one of Her Majesty's ships afloat.
- (2) In this paragraph “Her Majesty's ships” means all ships belonging to or used for the purposes of any of Her Majesty's forces.
- (3) For the purposes of this paragraph “afloat” means not on shore.

**Commencement Information**

**I466** Sch. 15 para. 2 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#))

**I467** Sch. 15 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Persons in service custody etc*

- 3 (1) A person is within this paragraph if—
- (a) he is in service custody; and
- (b) his being in service custody is lawful by virtue of any provision of or made under this Act.
- (2) A person is also within this paragraph if he is in the course of being arrested, or of having an attempted arrest made of him, by a person who has a duty under service law to apprehend him.

**Commencement Information**

**I468** Sch. 15 para. 3 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#))

**I469** Sch. 15 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Crown servants in designated area working in support of Her Majesty's forces*

- 4 (1) A person is within this paragraph (subject to paragraph 11) if—
- (a) he is a Crown servant;
- (b) his sole or main role is to work in support of any of Her Majesty's forces; and
- <sup>F35</sup>(c) either—
- (i) he is in a designated area, and his normal place of work in that role is in that designated area; or
- (ii) sub-paragraph (i) does not apply, but he is in a designated area and he came there wholly or partly for the purposes of his work in that role.]
- (2) In this paragraph “Crown servant” means a person employed by or in the service of the Government of the United Kingdom.

**Textual Amendments**

**F35** Sch. 15 para. 4(1)(c) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\)](#), [ss. 22\(2\)](#), [32\(3\)](#); [S.I. 2012/2921](#), [art. 3\(a\)](#)

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

- I470** Sch. 15 para. 4 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))
- I471** Sch. 15 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Persons working for specified military organisations*

- 5 (1) A person is within this paragraph (subject to paragraph 11) if—
- (a) he is employed by or in the service of a specified naval, military or air-force organisation of which the United Kingdom is a member;
  - (b) he is so employed by reason of the United Kingdom's membership of that organisation; and
  - [<sup>F36</sup>(c) either—
    - (i) he is in a country outside the British Islands, and his normal place of work under that employment is in that country; or
    - (ii) sub-paragraph (i) does not apply, but he is in a country outside the British Islands and he came there wholly or partly for the purposes of his work under that employment.]
- (2) In this paragraph “specified” means specified by order of the Secretary of State under this paragraph.

#### Textual Amendments

- F36** Sch. 15 para. 5(1)(c) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 22(3), 32(3)**; [S.I. 2012/2921](#), **art. 3(a)**

#### Commencement Information

- I472** Sch. 15 para. 5 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))
- I473** Sch. 15 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Persons in designated area who are members or employees of other specified organisations*

- 6 (1) A person is within this paragraph (subject to paragraph 11) if—
- (a) he belongs to or is employed by a specified organisation; and
  - [<sup>F37</sup>(b) either—
    - (i) he is in a designated area, and his normal place of work for that organisation is in that designated area; or
    - (ii) sub-paragraph (i) does not apply, but he is in a designated area and he came there wholly or partly for the purposes of work for that organisation.]
- (2) In this paragraph “specified organisation” means an organisation which—
- (a) does not fall within paragraph 5; and
  - (b) is specified by order of the Secretary of State under this paragraph.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Textual Amendments

**F37** Sch. 15 para. 6(1)(b) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 22(4)**, 32(3); [S.I. 2012/2921](#), **art. 3(a)**

#### Commencement Information

**I474** Sch. 15 para. 6 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))

**I475** Sch. 15 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Persons designated by or on behalf of Defence Council*

- 7 (1) A person is within this paragraph (subject to paragraph 11) if—
- (a) he is designated for the purposes of this paragraph by or on behalf of the Defence Council or by an officer authorised by the Defence Council; and
  - (b) he is outside the British Islands.
- (2) A person may be designated for the purposes of this paragraph only if it appears to the Defence Council or the authorised officer that it is desirable to do so—
- (a) in the interests of the person;
  - (b) for the protection of other persons (whether or not members of any of Her Majesty's forces); or
  - (c) for the purpose of maintaining good order and discipline.
- (3) In deciding whether to designate a person for the purposes of this paragraph, the Defence Council or the authorised officer must have regard in particular to—
- (a) the characteristics of the justice system (if any) in any country or territory where the person is or is likely to be;
  - (b) the terms of any treaty, agreement or arrangement relating to the legal status, or the treatment, of visiting forces to which the United Kingdom and any such country or territory are parties;
  - (c) the likelihood of the person's being subject to the law applicable to the armed forces of any country or territory outside the British Islands.
- (4) A designation under this paragraph—
- (a) may designate persons by name or by description;
  - (b) may provide, in relation to any person designated by it, that it applies to him only for a specified period or in specified circumstances;
  - (c) may be withdrawn by any person entitled to make designations under this paragraph.
- (5) In sub-paragraph (4) “specified” means specified by the designation.

#### Commencement Information

**I476** Sch. 15 para. 7 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))

**I477** Sch. 15 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Status: Point in time view as at 13/05/2014.*

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*Persons residing or staying with person subject to service law in designated area*

- 8 A person is within this paragraph (subject to paragraph 11) if—
- (a) he resides or is staying with a person subject to service law in a designated area; and
  - (b) he is in that designated area.

**Commencement Information**

**I478** Sch. 15 para. 8 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#))

**I479** Sch. 15 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Persons residing or staying with person falling within paragraph 4 or 6 in designated area*

- 9 (1) A person is within this paragraph (subject to paragraph 11) if—
- (a) he resides or is staying with a relevant person in a designated area; and
  - (b) he is in that designated area.
- (2) In this paragraph a “relevant person” means a person who—
- (a) falls within paragraph 4 or 6; or
  - (b) would fall within paragraph 4 or 6, but for paragraph 11 or his not being in a designated area.

**Commencement Information**

**I480** Sch. 15 para. 9 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#))

**I481** Sch. 15 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Persons residing or staying with person falling within paragraph 5*

- 10 (1) A person is within this paragraph (subject to paragraph 11) if—
- (a) he resides or is staying with [<sup>F38</sup>a qualifying person in a relevant country]; and
  - (b) he is [<sup>F39</sup>in that country].
- (2) In this paragraph a [<sup>F40</sup>qualifying person] means a person who—
- (a) falls within paragraph 5; or
  - (b) would fall within paragraph 5, but for paragraph 11 or his [<sup>F41</sup>not being in a relevant country].
- [<sup>F42</sup>(3) For the purposes of this paragraph, a country is “relevant” in relation to a person employed as mentioned in paragraph 5 if it is outside the British Islands and—
- (a) is where that person's normal place of work under that employment is situated; or
  - (b) is a country to which that person came wholly or partly for the purposes of his work under that employment.]

*Status: Point in time view as at 13/05/2014.*

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### Textual Amendments

- F38** Words in Sch. 15 para. 10(1)(a) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\), ss. 22\(5\)\(a\)\(i\)](#), 32(3); S.I. 2012/2921, art. 3(a)
- F39** Words in Sch. 15 para. 10(1)(b) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\), ss. 22\(5\)\(a\)\(ii\)](#), 32(3); S.I. 2012/2921, art. 3(a)
- F40** Words in Sch. 15 para. 10(2) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\), ss. 22\(5\)\(b\)\(i\)](#), 32(3); S.I. 2012/2921, art. 3(a)
- F41** Words in Sch. 15 para. 10(2)(b) substituted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\), ss. 22\(5\)\(b\)\(ii\)](#), 32(3); S.I. 2012/2921, art. 3(a)
- F42** Sch. 15 para. 10(3) inserted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\), ss. 22\(5\)\(c\)](#), 32(3); S.I. 2012/2921, art. 3(a)

### Commencement Information

- I482** Sch. 15 para. 10 in force at 28.3.2009 for specified purposes by [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#))
- I483** Sch. 15 para. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

## PART 2

### EXCLUSION AND DEFINITIONS

#### *Exclusion*

- 11 (1) A person who is not a United Kingdom national is not within any of paragraphs 4 to 10 at any time when he is in a country—
- (a) of which he is a national; or
  - (b) in which he is ordinarily resident.
- (2) In this paragraph a “United Kingdom national” means an individual who is—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
  - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject; or
  - (c) a British protected person within the meaning of that Act.
- (3) In determining for the purposes of this paragraph whether a person is ordinarily resident in a country, no account shall be taken of any period during which he has been or intends to be present there while falling (apart from this paragraph) within any of paragraphs 4 to 10.

### Commencement Information

- I484** Sch. 15 para. 11 in force at 28.3.2009 for specified purposes by [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#))
- I485** Sch. 15 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

#### *Definitions*

- 12 (1) In this Schedule “designated area” means an area which—

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- (a) is outside the British Islands; and
- (b) is designated for the purposes of this Schedule by an order made by the Secretary of State.

(2) An area designated for the purposes of this Schedule may consist of two or more areas (whether or not contiguous).

**Commencement Information**

**I486** Sch. 15 para. 12 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))

**I487** Sch. 15 para. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

13 In this Schedule references to a person residing or staying with another person include references to the person—

- (a) being about to reside or stay with the other person; and
- (b) departing after residing or staying with him.

**Commencement Information**

**I488** Sch. 15 para. 13 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3** (with transitional provisions in [S.I. 2009/1059](#))

**I489** Sch. 15 para. 13 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

[<sup>F43</sup>14 For the purposes of paragraphs 5(1)(c), 10 and 11, a territory that is not within a country is to be treated as a country.]

**Textual Amendments**

**F43** Sch. 15 para. 14 inserted (14.12.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 22(6)**, 32(3); [S.I. 2012/2921](#), **art. 3(a)**

SCHEDULE 16

Section 378

MINOR AND CONSEQUENTIAL AMENDMENTS

*Metropolitan Police Act 1860 (c. 135)*

1 In section 2 of the Metropolitan Police Act 1860 (swearing of constables to act on military land etc), for “subject to naval or marine or military or air force discipline” substitute “ who are subject to service law, or are civilians subject to service discipline, within the meaning of the Armed Forces Act 2006 ”.

**Commencement Information**

**I490** Sch. 16 para. 1 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](#))

**I491** Sch. 16 para. 1 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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*Naval and Marine Pay and Pensions Act 1865 (c. 73)*

- 2 In section 3 of the Naval and Marine Pay and Pensions Act 1865 (payment of naval and marine pay and pensions according to Order in Council) for the words from “pay” to “thereof” substitute “pensions and grants”.

**Commencement Information**

**I492** Sch. 16 para. 2 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](#))

**I493** Sch. 16 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3 In section 9 of that Act (Order in Council not to contain provision inconsistent with Naval Discipline Act), for the words from “pay” to the end substitute “pensions contained in the Armed Forces Act 2006.”

**Commencement Information**

**I494** Sch. 16 para. 3 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](#))

**I495** Sch. 16 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Naval Pensions Act 1884 (c. 44)*

- 4 In section 2 of the Naval Pensions Act 1884 (application of certain enactments to Greenwich Hospital pensions), for “or section 128G of the Naval Discipline Act 1957” substitute “or section 356 of the Armed Forces Act 2006”.

**Commencement Information**

**I496** Sch. 16 para. 4 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](#))

**I497** Sch. 16 para. 4 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Foreign Marriage Act 1892 (c. 23)*

- 5 In section 22 of the Foreign Marriage Act 1892 (marriages abroad by members of armed forces etc)—

(a) in subsection (1A)—

(i) in paragraph (a)(i) for the words from “employed” to the end substitute “a relevant civilian who is employed in that territory; or”;

(ii) in paragraph (b) for “so prescribed” substitute “prescribed by Order in Council”;

(b) after that subsection insert—

“(1AA) In subsection (1A)(a)(i) “relevant civilian” means a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006) of a description prescribed by Order in Council.”

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**Commencement Information**

- I498** Sch. 16 para. 5 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](#))
- I499** Sch. 16 para. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Regimental Debts Act 1893 (c. 5)*

- 6 In the Regimental Debts Act 1893, for the words “military law”, in each place, substitute “service law”.

**Commencement Information**

- I500** Sch. 16 para. 6 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](#))
- I501** Sch. 16 para. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 7 In section 23 of that Act (application of Act to deserters etc), omit the words “is sentenced to death or”.

**Commencement Information**

- I502** Sch. 16 para. 7 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](#))
- I503** Sch. 16 para. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 8 In section 29 of that Act (definitions)—
- (a) in the definition of “desert” for the words from “against paragraph (a)” to the end substitute “under section 8 of the Armed Forces Act 2006;”;
  - (b) for the words after that definition substitute—

““Subject to service law” has the same meaning as in the Armed Forces Act 2006.”

**Commencement Information**

- I504** Sch. 16 para. 8 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](#))
- I505** Sch. 16 para. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 9 After that section insert—

**“29A Application of Act to members of naval, marine or air forces**

- (1) Regulations may provide that any provision of this Act does not apply, or applies with prescribed modifications, in relation to a relevant person.
- (2) In this section “relevant person” means a person subject to service law who is not a member of Her Majesty's military forces.”

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**Commencement Information**

**I506** Sch. 16 para. 9 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](#))

**I507** Sch. 16 para. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 10 In section 33 of that Act (short title) for “Regimental Debts Act 1893” substitute “Debts (Deceased Servicemen etc) Act 1893”.

**Commencement Information**

**I508** Sch. 16 para. 10 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](#))

**I509** Sch. 16 para. 10 in force at 6.5.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 3\(b\)](#)

*Uniforms Act 1894 (c. 45)*

- 11 In section 4 of the Uniforms Act 1894 (interpretation)—
- (a) in the definition of “Her Majesty's Military Forces”, for “Army Act 1955” substitute “Armed Forces Act 2006”;
  - (b) for the definition of “Her Majesty's Naval Forces” substitute—  
““Her Majesty's Naval Forces” does not include any Commonwealth force.”

**Commencement Information**

**I510** Sch. 16 para. 11 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](#))

**I511** Sch. 16 para. 11 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Criminal Evidence Act 1898 (c. 36)*

- 12 (1) Section 6 of the Criminal Evidence Act 1898 (application of Act) is amended as follows.
- (2) In subsection (1) omit the words from “including” to the end.
  - (3) After that subsection insert—
    - “(1A) This Act applies in relation to service proceedings as it applies in relation to criminal proceedings before a court in England and Wales.
    - (1B) In this section “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”

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**Commencement Information**

- I512** Sch. 16 para. 12 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](#))
- I513** Sch. 16 para. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Air Force (Constitution) Act 1917 (c. 51)*

- 13 In section 2(1) of the Air Force (Constitution) Act 1917 (government, discipline and pay of the Royal Air Force)—
- (a) omit “, pay, allowances,”;
  - (b) after “Air Force”, in the second place where it occurs, insert “ (except pay and allowances) ”.

**Commencement Information**

- I514** Sch. 16 para. 13 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](#))
- I515** Sch. 16 para. 13 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Visiting Forces (British Commonwealth) Act 1933 (c. 6)*

- 14 (1) Section 4 of the Visiting Forces (British Commonwealth) Act 1933 (attached personnel) is amended as follows.
- (2) In subsection (2)(ii), for the words from the beginning to “may” substitute “ may, with his consent, ”.
  - (3) In subsection (3)—
    - (a) for the words before the proviso substitute—
 

“(3) While a member of another force is by virtue of this section attached temporarily to a home force—

      - (a) he is subject to service law for the purposes of the Armed Forces Act 2006 at all times at which he would be so subject if he were a member of that force; and
      - (b) he shall be treated as if he were a member of the home force of relative rank:”;
    - (b) in the proviso, for the words from “the Naval Discipline Act” to “as the case may be,” substitute “ the Armed Forces Act 2006 ”.

**Commencement Information**

- I516** Sch. 16 para. 14 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](#))
- I517** Sch. 16 para. 14 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Defence (Armed Forces) Regulations 1939 (S.I. 1939/1304)*

- 15 In Regulation 6 of the Defence (Armed Forces) Regulations 1939—

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- (a) for “the Naval Discipline Act, military law or air-force law” substitute “service law within the meaning of the Armed Forces Act 2006”;
  - (b) omit the words from “within the meaning of” to the end;
- and the text of the Regulation set out in Part C of Schedule 2 to the Emergency Laws (Repeal) Act 1959 (c. 19) is amended accordingly.

**Commencement Information**

**I518** Sch. 16 para. 15 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](#))

**I519** Sch. 16 para. 15 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Courts-Martial (Appeals) Act 1951 (c. 46)*

- 16 In section 29 of the Courts-Martial (Appeal) Act 1951 (appointment of Judge Advocate General) for “His Majesty's regular, auxiliary and reserve land and air forces” substitute “ Her Majesty's regular and reserve naval, land and air forces ”.

*Prison Act 1952 (c. 52)*

- 17 In section 43 of the Prison Act 1952 (young offender institutions etc), after subsection (7) add—
- “(8) The application of this Act to a person on whom a custodial sentence (within the meaning of the Armed Forces Act 2006) has been passed in respect of a service offence (within the meaning of that Act) is not affected by the omission from subsection (1) of a reference to that sentence.”

**Commencement Information**

**I520** Sch. 16 para. 17 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](#))

**I521** Sch. 16 para. 17 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Visiting Forces Act 1952 (c. 67)*

- 18 (1) Section 13 of the Visiting Forces Act 1952 (apprehension etc of deserters and absentees of visiting forces) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “sections one hundred and eighty-six” to “regular forces)” substitute “ sections 314 to 317 of the Armed Forces Act 2006 (which relate to the apprehension and transfer to service custody of deserters and absentees without leave who are subject to service law) ”;
  - (b) for “from the regular forces” substitute “ who are subject to service law ”.
- (3) In subsection (2) for the words from “the said sections” to “eighty-eight” substitute “ sections 314 and 315 of that Act ”.
- (4) For subsection (3) substitute—
- “(3) In sections 315 to 317 of that Act as applied by subsection (1) above—

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- (a) references to the transfer of a person to service custody are to be read as references to the handing over of that person to such authority of the country to which he belongs, at such place in the United Kingdom, as may be designated by the appropriate authority of that country;
- (b) references to the taking of a person into service custody are to be read as references to the taking of a person into the custody of such authority of the country to which he belongs as may be designated by the appropriate authority of that country.”

**Commencement Information**

- I522** Sch. 16 para. 18 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](#))
- I523** Sch. 16 para. 18 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

19 In section 14 of that Act (evidence for purposes of section 13) for “Army Act 1955” substitute “ Armed Forces Act 2006 ”.

**Commencement Information**

- I524** Sch. 16 para. 19 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](#))
- I525** Sch. 16 para. 19 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

*Army Act 1955 (3 & 4 Eliz. 2 c. 18)*

F4420 .....

**Textual Amendments**

- F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

F4421 .....

**Textual Amendments**

- F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

F4422 .....

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**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

*Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)*

**F44**23 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**24 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**25 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

*Naval Discipline Act 1957 (c. 53)*

**F44**26 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**27 .....

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**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**28 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**29 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**30 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**31 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**32 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**33 .....



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**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**34 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**35 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**36 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**37 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**F44**38 .....

**Textual Amendments**

**F44** Sch. 16 paras. 20-38 repealed (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. 17](#); [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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*Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58)*

- 39 (1) Section 1 of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (records of births, marriages and deaths among armed forces etc overseas) is amended as follows.
- (2) In subsection (1)—
- (a) omit the words “, or among the families of”;
  - (b) for paragraph (b) substitute—  
“ (b) civilians subject to service discipline.”
- (3) In subsection (3)—
- (a) for the words from “, or the family” to “of this section” substitute “ a civilian subject to service discipline ”;
  - (b) for “more particular description” substitute “ particular description of such civilians ”.
- (4) For subsection (5) substitute—  
“(6) In this section “civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006.”

**Commencement Information**

**I526** Sch. 16 para. 39 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](#))

**I527** Sch. 16 para. 39 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 40 In section 2(1) of that Act (records of births and deaths in HM ships and aircraft etc)—
- (a) omit paragraphs (a) and (b);
  - (b) in paragraph (c) for “such an aircraft” substitute “ one of Her Majesty's aircraft (as defined by paragraph 1(4) of Schedule 15 to the Armed Forces Act 2006) ”.

**Commencement Information**

**I528** Sch. 16 para. 40 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](#))

**I529** Sch. 16 para. 40 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 41 In section 4 of that Act (validation of certain entries)—
- (a) in subsection (1) for the words from “of any description” to “section one of this Act” substitute “ within subsection (1A) below ”;
  - (b) after that subsection insert—  
“(1A) A person is within this subsection if—
    - (a) he serves Her Majesty in, or is otherwise employed in any capacity connected with, Her Majesty's naval, military or air forces; or
    - (b) he belongs to or is employed by any organisation concerned with the welfare of members of those forces.”

*Status: Point in time view as at 13/05/2014.*

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**Commencement Information**

**I530** Sch. 16 para. 41 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](#))

**I531** Sch. 16 para. 41 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 42 In section 5(1)(b) of that Act (registration of births of legitimated persons), for the words from “a person of” to the end substitute “ a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006), ”.

**Commencement Information**

**I532** Sch. 16 para. 42 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](#))

**I533** Sch. 16 para. 42 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Public Records Act 1958 (c. 51)*

- 43 In Schedule 1 to the Public Records Act 1958 (definition of public records), in paragraph 4(1), after paragraph (f) insert—  
“(fa) records of the Court Martial, the Summary Appeal Court or the Service Civilian Court;”.

**Commencement Information**

**I534** Sch. 16 para. 43 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](#))

**I535** Sch. 16 para. 43 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Coroners Act (Northern Ireland) 1959 (c. 15)*

- 44 In section 18 of the Coroners Act (Northern Ireland) 1959 (jury to be summoned in certain cases), after subsection (3) add—  
“(4) This section and section 39(3) of the Prison Act (Northern Ireland) 1953 (prison officers etc not to be jurors) shall apply where a death occurs on service custody premises within the meaning of section 300 of the Armed Forces Act 2006 as they apply where a death occurs in prison.”

**Commencement Information**

**I536** Sch. 16 para. 44 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](#))

**I537** Sch. 16 para. 44 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Administration of Justice Act 1960 (c. 65)*

- 45 (1) Section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court) is amended as follows.

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- (2) In subsection (2)(c) for “and from an order or decision of the Court of Criminal Appeal or the Courts-Martial Appeal Court” substitute “ and from an order or decision (except one made in Scotland or Northern Ireland) of the Court Martial Appeal Court ”.
- (3) In subsection (5) after paragraph (c) insert—
- “(d) to an order or decision (except one made in Scotland or Northern Ireland) of the Court Martial, the Summary Appeal Court or the Service Civilian Court under section 309 of the Armed Forces Act 2006,”.

**Commencement Information**

**I538** Sch. 16 para. 45 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](#))

**I539** Sch. 16 para. 45 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Criminal Justice Act 1961 (c. 39)*

- 46 In section 22 of the Criminal Justice Act 1961 (assisting escaped prisoners etc), for subsection (3) substitute—
- “(2A) The reference in subsection (2) to a person who has been sentenced as mentioned there includes—
- (a) a person on whom a custodial sentence within the meaning of the Armed Forces Act 2006 has been passed (anywhere) in respect of a service offence within the meaning of that Act;
- (b) a person in respect of whom an order under section 214 of that Act (detention for commission of offence during currency of order) has been made.”

**Commencement Information**

**I540** Sch. 16 para. 46 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](#))

**I541** Sch. 16 para. 46 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 47 In section 39 of that Act (interpretation) for subsection (2) substitute—
- “(2) Except as otherwise expressly provided, references in this Act to a court do not include the Court Martial, the Summary Appeal Court, the Service Civilian Court, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

**Commencement Information**

**I542** Sch. 16 para. 47 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](#))

**I543** Sch. 16 para. 47 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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*Parliamentary Commissioner Act 1967 (c. 13)*

- 48 In Schedule 3 to the Parliamentary Commissioner Act 1967 (matters not subject to investigation)—
- (a) in paragraph 6 for the words from “proceedings at any place” to “Air Force Act 1955” substitute “ service law proceedings (as defined by section 324(5) of the Armed Forces Act 2006) (anywhere) ”;
  - (b) in paragraph 7 for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”.

**Commencement Information**

**I544** Sch. 16 para. 48 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](#))

**I545** Sch. 16 para. 48 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Criminal Justice Act 1967 (c. 80)*

- 49 In section 72 of the Criminal Justice Act 1967 (power to issue warrant for arrest of escaped prisoners etc) after subsection (5) add—
- “(6) References in this section to offences include service offences within the meaning of the Armed Forces Act 2006.”

**Commencement Information**

**I546** Sch. 16 para. 49 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](#))

**I547** Sch. 16 para. 49 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 50 In section 104(1) of that Act (interpretation), in the definition of “court” for “a court-martial” substitute “ the Court Martial, the Summary Appeal Court, the Service Civilian Court, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court ”.

**Commencement Information**

**I548** Sch. 16 para. 50 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](#))

**I549** Sch. 16 para. 50 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Civil Evidence Act 1968 (c. 64)*

- 51 (1) Section 11 of the Civil Evidence Act 1968 (convictions as evidence in civil proceedings) is amended as follows.
- (2) In subsection (1) for “by a court-martial there or elsewhere” substitute “ of a service offence (anywhere) ”.
  - (3) In subsection (2) for “by a court-martial there or elsewhere” substitute “ of a service offence ”.

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(4) In subsection (5) after paragraph (a) insert—

“(aa) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);”.

(5) For subsection (6) substitute—

“(7) In this section—

“service offence” has the same meaning as in the Armed Forces Act 2006;

“conviction” includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction, and “convicted” is to be read accordingly.”

#### **Commencement Information**

**I550** Sch. 16 para. 51 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](#))

**I551** Sch. 16 para. 51 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

52 In section 13 of that Act (conclusiveness of convictions for purposes of defamation actions)—

(a) in subsection (3) for “by a court-martial there or elsewhere” substitute “(in the case of a service offence) a conviction (anywhere) of that service offence”;

(b) in subsection (4) for “(6)” substitute “(7)”.

#### **Commencement Information**

**I552** Sch. 16 para. 52 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](#))

**I553** Sch. 16 para. 52 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

53 In section 18 of that Act (general interpretation etc)—

(a) in subsection (2), in the definition of “court” for “court-martial” substitute “service court”;

(b) after that subsection insert—

“(2A) In subsection (2) “service court” means the Court Martial, the Summary Appeal Court, the Service Civilian Court, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

#### **Commencement Information**

**I554** Sch. 16 para. 53 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](#))

**I555** Sch. 16 para. 53 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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*Equal Pay Act 1970 (c. 41)*

- 54 (1) Section 7A of the Equal Pay Act 1970 (service pay and conditions) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a) for the words from “a complaint” to “those procedures” substitute “ a service complaint in respect of the claim ”;
- (b) in paragraph (b) for “complaint” substitute “ service complaint ”.
- (3) In subsection (7), for “the service redress procedures” substitute “ the service complaint procedures ”.
- (4) In subsection (12), for the definition of “the service redress procedures” substitute—
- ““service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
- “the service complaint procedures” means the procedures prescribed by regulations under that section.”
- 55 In section 7AB of that Act (“arrear date” for purposes of section 7A(9)(a) (proceedings in England and Wales))—
- (a) in subsection (2), in paragraph (b) of the definitions of “concealment case” and “disability case”, for “complaint under the service redress procedures” substitute “ service complaint ”;
- (b) in subsection (3) for “complaint under the service redress procedures” substitute “ service complaint ”;
- (c) in subsection (5) for the words from “complaint” to the end substitute “ service complaint having been made. ”;
- (d) in subsection (6) for “complaint under the service redress procedures” substitute “ service complaint ”.
- 56 In section 7AC of that Act (determination of “period” for purposes of section 7A(9) (b) (proceedings in Scotland))—
- (a) in subsection (2) for “complaint under the service redress procedures” substitute “ service complaint ”;
- (b) in subsection (4) for the words from “complaint” to the end substitute “ service complaint having been made. ”;
- (c) in subsection (5) for “complaint under the service redress procedures” substitute “ service complaint ”.

*Equal Pay Act (Northern Ireland) 1970 (c. 32)*

- 57 (1) Section 6A of the Equal Pay Act (Northern Ireland) 1970 (service pay and conditions) is amended as follows.
- (2) In subsection (5)—
- (a) in paragraph (a) for the words from “a complaint” to “those procedures” substitute “ a service complaint in respect of the claim ”;
- (b) in paragraph (b) for “complaint” substitute “ service complaint ”.
- (3) In subsection (7), for “the service redress procedures” substitute “ the service complaint procedures ”.

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- (4) In subsection (12), for the definition of “the service redress procedures” substitute—
- ““service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
- “the service complaint procedures” means the procedures prescribed by regulations under that section.”
- 58 In section 6AB of that Act (“arrears date” in proceedings under section 6A(9))—
- (a) in subsection (2), in paragraph (b) of the definitions of “concealment case” and “disability case”, for “complaint under the service redress procedures” substitute “service complaint”;
  - (b) in subsection (3) for “complaint under the service redress procedures” substitute “service complaint”;
  - (c) in subsection (5) for the words from “complaint” to the end substitute “service complaint having been made.”;
  - (d) in subsection (6) for “complaint under the service redress procedures” substitute “service complaint”.

*Civil Evidence Act (Northern Ireland) 1971 (c. 36)*

- 59 (1) Section 7 of the Civil Evidence Act (Northern Ireland) 1971 (convictions as evidence in civil proceedings) is amended as follows.
- (2) In subsection (1) for “by a court-martial there or elsewhere” substitute “of a service offence (anywhere)”.
  - (3) In subsection (2) for “by a court-martial there or elsewhere” substitute “of a service offence”.
  - (4) In subsection (5) after paragraph (b) insert—
 

“(bb) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);”.
  - (5) For subsection (6) substitute—
 

“(7) In this section—

“service offence” has the same meaning as in the Armed Forces Act 2006;

“conviction” includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction, and “convicted” is to be read accordingly.”

**Commencement Information**

**I556** Sch. 16 para. 59 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](#))

**I557** Sch. 16 para. 59 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 60 In section 9 of that Act (conclusiveness of convictions for purposes of defamation actions)—



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- (a) in subsection (3) for “by a court-martial there or elsewhere” substitute “(in the case of a service offence) a conviction (anywhere) of that service offence”;
- (b) in subsection (4) for “(6)” substitute “(7)”.

**Commencement Information**

**I558** Sch. 16 para. 60 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](#))

**I559** Sch. 16 para. 60 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 61 In section 14 of that Act (general interpretation etc)—
- (a) in subsection (2), in the definition of “court” for “court-martial” substitute “service court”;
  - (b) after that subsection insert—

“(2A) In subsection (2) “service court” means the Court Martial, the Summary Appeal Court, the Service Civilian Court, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

**Commencement Information**

**I560** Sch. 16 para. 61 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](#))

**I561** Sch. 16 para. 61 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Juries Act 1974 (c. 23)*

- 62 In Schedule 1 to the Juries Act 1974 (persons disqualified from jury service, etc)—
- (a) in paragraph 7(c) after “Channel Islands” insert “or a service community order or overseas community order under the Armed Forces Act 2006”;
  - (b) in paragraph 8(a) for “by a court-martial” substitute “(anywhere) in respect of a service offence within the meaning of the Armed Forces Act 2006”.

**Commencement Information**

**I562** Sch. 16 para. 62 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](#))

**I563** Sch. 16 para. 62 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 63 In section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions), in subsection (4) after “2000” insert “or section 187 of the Armed Forces Act 2006”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I564** Sch. 16 para. 63 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](#))
- I565** Sch. 16 para. 63 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 64 In section 2 of that Act (rehabilitation of persons dealt with in service disciplinary proceedings)—
- (a) in subsection (5) after “any of the following—” insert—
    - “(za) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (except proceedings before a civilian court within the meaning of that Act);”;
  - (b) after that subsection add—
    - “(6) Section 376(1) to (3) of the Armed Forces Act 2006 (“conviction” and “sentence” in relation to summary hearings and the SAC) apply for the purposes of this Act as they apply for the purposes of that Act.”

**Commencement Information**

- I566** Sch. 16 para. 64 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](#))
- I567** Sch. 16 para. 64 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 65 (1) Section 5 of that Act (rehabilitation periods for particular sentences) is amended as follows.
- (2) In subsection (1)—
    - (a) in paragraph (d)—
      - (i) after “Powers of Criminal Courts (Sentencing) Act 2000,” insert “ or under section 209 or 218 of the Armed Forces Act 2006, ”;
      - (ii) after “said Act of 2000” insert “ or section 209 of the said Act of 2006 ”;
      - (iii) omit “or a corresponding court-martial punishment”;
    - (b) in paragraph (f), at the end insert “ (including any sentence within this paragraph passed as a result of any of sections 219 to 222 of the Armed Forces Act 2006) ”.
  - (3) For subsection (1A) substitute—
    - “(1A) In subsection (1)(d)—
      - (a) references to section 209 of the Armed Forces Act 2006 include references to section 71A(4) of the Army Act 1955 or Air Force Act 1955 or section 43A(4) of the Naval Discipline Act 1957;
      - (b) the reference to section 218 of the Armed Forces Act 2006 includes a reference to section 71A(3) of the Army Act 1955 or Air Force Act 1955 or section 43A(3) of the Naval Discipline Act 1957.”

<sup>F45</sup>(4) .....

*Status: Point in time view as at 13/05/2014.*

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- F<sup>45</sup>(5) .....
- F<sup>45</sup>(6) .....
- F<sup>45</sup>(7) .....
- F<sup>45</sup>(8) .....

#### Textual Amendments

**F45** Sch. 16 para. 65(4)-(8) repealed (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

#### Commencement Information

**I568** Sch. 16 para. 65 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](#))  
**I569** Sch. 16 para. 65 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

66 [F<sup>46</sup>In the Schedule to that Act (service disciplinary convictions referred to in section 6(6)(bb)), after paragraph 6 add—

*“Provisions of the Armed Forces Act 2006*

7 Any service offence within the meaning of the Armed Forces Act 2006 except one punishable in the case of an offender aged 18 or over with imprisonment for more than two years.”]

#### Textual Amendments

**F46** Sch. 16 para. 66 repealed (E.W.) (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

*House of Commons Disqualification Act 1975 (c. 24)*

67 In section 1 of the House of Commons Disqualification Act 1975 (disqualification of holders of certain offices)—

- (a) in subsection (1)(c) omit “or the Ulster Defence Regiment”;
- (b) in subsection (3), in the definition of “regular armed forces of the Crown”, for the words from “the regular forces” to the end substitute “ the Royal Marines, the regular army (as defined by section 374 of the Armed Forces Act 2006) or the Royal Air Force. ”

#### Commencement Information

**I570** Sch. 16 para. 67 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](#))  
**I571** Sch. 16 para. 67 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- 68 In Part 1 of Schedule 1 to that Act (judicial offices disqualifying for membership), for “Judge of the Courts-Martial Appeal Court.” substitute “ Judge of the Court Martial Appeal Court. ”

**Commencement Information**

- I572** Sch. 16 para. 68 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](#))  
**I573** Sch. 16 para. 68 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 69 In section 1 of the Northern Ireland Assembly Disqualification Act 1975 (disqualification of holders of certain offices)—
- (a) in subsection (1)(c) omit the words from “or” to the end;
  - (b) in subsection (2), in the definition of “regular armed forces of the Crown”, for the words from “the regular forces” to the end substitute “ the Royal Marines, the regular army (as defined by section 374 of the Armed Forces Act 2006) or the Royal Air Force. ”

**Commencement Information**

- I574** Sch. 16 para. 69 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](#))  
**I575** Sch. 16 para. 69 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 70 In Part 1 of Schedule 1 to that Act (judicial offices disqualifying for membership), for “Judge of the Courts-Martial Appeal Court.” substitute “ Judge of the Court Martial Appeal Court. ”

**Commencement Information**

- I576** Sch. 16 para. 70 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](#))  
**I577** Sch. 16 para. 70 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Sex Discrimination Act 1975 (c. 65)*

- 71 (1) Section 85 of the Sex Discrimination Act 1975 (application to Crown etc) is amended as follows.
- (2) In subsection (9B)—
    - (a) in paragraph (a) for the words from “a complaint” to “those procedures” substitute “ a service complaint in respect of the act complained of ”;
    - (b) in paragraph (b) for “complaint” substitute “ service complaint ”.
  - (3) In subsection (9D) for “the service redress procedures” substitute “ the service complaint procedures ”.
  - (4) In subsection (10) for the definition of “the service redress procedures” substitute—

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*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

““service complaint” means a complaint under section 334 of the Armed Forces Act 2006;

“the service complaint procedures” means the procedures prescribed by regulations under that section;”.

*Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c. 14)*

72 In section 1(4) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (investigation of death and application for public inquiry)—

(a) after paragraph (b) insert—

“(ba) he is detained in, or is subject to detention in, service custody premises (within the meaning of section 300 of the Armed Forces Act 2006);”;

(b) in paragraph (c)(i) for “and (b)” substitute “, (b) and (ba) ”.

**Commencement Information**

**I578** Sch. 16 para. 72 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](#))

**I579** Sch. 16 para. 72 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Bail Act 1976 (c. 63)*

73 In section 2(2) of the Bail Act 1976 (definitions), for the definition of “Courts-Martial Appeal rules” substitute—

“Court Martial Appeal Rules” means rules made under section 49 of the Court Martial Appeals Act 1968;”.

**Commencement Information**

**I580** Sch. 16 para. 73 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](#))

**I581** Sch. 16 para. 73 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

74 In section 5(10) of that Act (meaning of “prescribed” for purposes of section 5), for “Courts-Martial Appeal rules” substitute “ Court Martial Appeal Rules ”.

**Commencement Information**

**I582** Sch. 16 para. 74 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](#))

**I583** Sch. 16 para. 74 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

75 In section 6(9)(c)(v) of that Act (meaning of the “appropriate officer” of the court), for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I584** Sch. 16 para. 75 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](#))
- I585** Sch. 16 para. 75 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

76 In section 8(4) of that Act (persons before whom recognizance may be entered into)

- (a) in paragraph (d)—
- (i) for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”;
- (ii) for “Courts-Martial Appeal rules” substitute “ Court Martial Appeal Rules ”;
- (b) in the words after paragraph (d) for “Courts-Martial Appeal rules” substitute “ Court Martial Appeal Rules ”.

**Commencement Information**

- I586** Sch. 16 para. 76 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](#))
- I587** Sch. 16 para. 76 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

77 In section 13(3) of that Act (application of Act), for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”.

**Commencement Information**

- I588** Sch. 16 para. 77 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](#))
- I589** Sch. 16 para. 77 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

78 In Schedule 1 to that Act (persons entitled to bail: supplementary provisions)—

- (a) in paragraph 4 of each of Parts 1 and 2, for the words from “the sentence” to the end substitute “ a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006. ”; and
- (b) in paragraph 4 of Part 3 omit the definition of “the Services Acts”.

**Commencement Information**

- I590** Sch. 16 para. 78 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](#))
- I591** Sch. 16 para. 78 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Race Relations Act 1976 (c. 74)*

79 In section 57(4B) of the Race Relations Act 1976 (claims under Part 3), in the words after the definition of “public investigator functions”, for the words from “any offence” to “1957” substitute “ any service offence within the meaning of the Armed Forces Act 2006 ”.

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

**I592** Sch. 16 para. 79 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](#))

**I593** Sch. 16 para. 79 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 80 (1) Section 75 of that Act (application to Crown etc) is amended as follows.
- (2) In subsection (9)—
- (a) in paragraph (a) for the words from “a complaint” to “those procedures” substitute “ a service complaint in respect of the act complained of ”;
- (b) in paragraph (b) for “complaint” substitute “ service complaint ”.
- (3) In subsection (9B) for “the service redress procedures” substitute “ the service complaint procedures ”.
- (4) In subsection (10), for paragraph (ab) substitute—
- “(ac) “service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
- (ad) “the service complaint procedures” means the procedures prescribed by regulations under that section;”.
- 81 In section 78(1) of that Act (general interpretation provisions), for the definition of “criminal proceedings” substitute—
- ““criminal proceedings” includes service law proceedings (as defined by section 324(5) of the Armed Forces Act 2006);”.

#### Commencement Information

**I594** Sch. 16 para. 81 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](#))

**I595** Sch. 16 para. 81 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))*

- 82 (1) Article 82 of the Sex Discrimination (Northern Ireland) Order 1976 (application to Crown etc) is amended as follows.
- (2) In paragraph (9B)—
- (a) in sub-paragraph (a) for the words from “a complaint” to “those procedures” substitute “ a service complaint in respect of the act complained of ”;
- (b) in sub-paragraph (b) for “complaint” substitute “ service complaint ”.
- (3) In paragraph (9D) for “the service redress procedures” substitute “ the service complaint procedures ”.
- (4) In paragraph (10) for the definition of “the service redress procedures” substitute—
- ““service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
- “the service complaint procedures” means the procedures prescribed by regulations under that section;”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

*Judicature (Northern Ireland) Act 1978 (c. 23)*

- 83 In section 44 of the Judicature (Northern Ireland) Act 1978 (appeals in cases of contempt of court)—
- (a) in subsection (2)(b) for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”;
  - (b) in subsection (5) after paragraph (c) insert—
    - “(d) to an order or decision of the Court Martial or the Summary Appeal Court under section 309 of the Armed Forces Act 2006;”.

**Commencement Information**

- I596** Sch. 16 para. 83 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](#))
- I597** Sch. 16 para. 83 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))*

- 84 In Article 2 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (interpretation), in paragraph (2), in the definition of “service disciplinary proceedings”, after “any of the following—” insert—
- “(za) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (except proceedings before a civilian court within the meaning of that Act);”.

**Commencement Information**

- I598** Sch. 16 para. 84 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](#))
- I599** Sch. 16 para. 84 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 85 In Article 4 of that Order (rehabilitation of persons dealt with in service disciplinary proceedings), after paragraph (1) insert—
- “(1A) Section 376(1) to (3) of the Armed Forces Act 2006 (“conviction” and “sentence” in relation to summary hearings and the SAC) apply for the purposes of this Order as they apply for the purposes of that Act.”

**Commencement Information**

- I600** Sch. 16 para. 85 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](#))
- I601** Sch. 16 para. 85 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 86 (1) Article 6 of that Order (rehabilitation periods for particular sentences) is amended as follows.
- (2) In paragraph (1)—
    - (a) in sub-paragraph (c) omit the “and” at the end;



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- (b) in sub-paragraph (d) omit “or a corresponding court-martial punishment”;
  - (c) after that sub-paragraph insert—
    - “(e) a sentence of detention for life, or for a term exceeding thirty months, passed under section 209 of the Armed Forces Act 2006;
    - (f) a sentence of detention during Her Majesty's pleasure under section 218 of that Act; and
    - (g) any of the following passed as a result of any of sections 219 to 222 of that Act—
      - (i) a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003;
      - (ii) a sentence of detention for public protection under section 226 of that Act;
      - (iii) an extended sentence under section 227 or 228 of that Act.”.
- (3) In paragraph (2)—
- (a) in Table A, in the fifth entry for “Any sentence of detention” substitute “Any sentence of service detention within the meaning of the Armed Forces Act 2006, or any sentence of detention corresponding to such a sentence, ”;
  - (b) in Table B—
    - (i) in the fourth entry, after “1998” insert “ or under section 209 of the Armed Forces Act 2006 ”;
    - (ii) in the fifth entry, after “Article 45” insert “ or that section 209 ”.
- (4) After paragraph (4) insert—
- “(4A) Where in respect of a conviction an order under section 211 of the Armed Forces Act 2006 (detention and training order) was made, the rehabilitation period applicable to the sentence shall be—
- (a) in the case of a person aged 15 or over on conviction, five years if the order was for a term exceeding six months, or three and a half years if it was for six months or less;
  - (b) in the case of a person aged under 15 on conviction, a period beginning with the date of conviction and ending one year after the date on which the order ceases to have effect.
- (4B) Where in respect of a conviction a service community order under the Armed Forces Act 2006 or an overseas community order under that Act was made, the rehabilitation period applicable to the sentence shall be—
- (a) in the case of a person aged 18 or over on conviction, 5 years from the date of conviction;
  - (b) in the case of a person aged under 18 on conviction, two and a half years from the date of conviction or a period beginning with the date of conviction and ending when the order ceases to have effect, whichever is the longer.”

(5) In paragraph (9)—

    - (a) omit sub-paragraph (a);
    - (b) in sub-paragraph (c) after “1998” insert “ or section 209 of the Armed Forces Act 2006 ”.

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(6) After paragraph (9) insert—

“(9A) In this Article—

- (a) references in paragraphs (1) and (2) to section 209 of the Armed Forces Act 2006 include references to section 71A(4) of the Army Act 1955 or Air Force Act 1955 or section 43A(4) of the Naval Discipline Act 1957;
- (b) the reference in paragraph (1) to section 218 of the Armed Forces Act 2006 includes a reference to section 71A(3) of the Army Act 1955 or Air Force Act 1955 or section 43A(3) of the Naval Discipline Act 1957.”

**Commencement Information**

**I602** Sch. 16 para. 86 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](#))

**I603** Sch. 16 para. 86 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

87 In the Schedule to that Order (service disciplinary convictions referred to in Article 7(6)(bb)), after paragraph 6 add—

*“Provisions of the Armed Forces Act 2006*

- 7 Any service offence within the meaning of the Armed Forces Act 2006 except one punishable in the case of an offender aged 18 or over with imprisonment for more than two years.”

**Commencement Information**

**I604** Sch. 16 para. 87 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](#))

**I605** Sch. 16 para. 87 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Magistrates' Courts Act 1980 (c. 43)*

88 In section 19(5) of the Magistrates' Courts Act 1980 (decision as to allocation), for paragraph (b) substitute—

- “(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 (“conviction” here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).”

**Commencement Information**

**I606** Sch. 16 para. 88 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](#))

**I607** Sch. 16 para. 88 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

89 In section 125D(3) of that Act (execution by person not in possession of warrant), for paragraph (b) substitute—

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“(b) a warrant under section 313, 314 or 317 of the Armed Forces Act 2006;”.

**Commencement Information**

**I608** Sch. 16 para. 89 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](#))

**I609** Sch. 16 para. 89 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Public Passenger Vehicles Act 1981 (c. 14)*

90 In Schedule 3 to the Public Passenger Vehicles Act 1981 (supplementary provisions as to qualifications for PSV operator's licence), in paragraph 1—

(a) in sub-paragraph (6) after “1978” insert “ or a service community order or overseas community order under the Armed Forces Act 2006 ”;

(b) in sub-paragraph (7) for the words from “a civil offence” to the end substitute “ an offence under section 42 of the Armed Forces Act 2006. ”

**Commencement Information**

**I610** Sch. 16 para. 90 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](#))

**I611** Sch. 16 para. 90 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Contempt of Court Act 1981 (c. 49)*

91 In section 19 of the Contempt of Court Act 1981 (interpretation), for “Courts-Martial Appeal Court”, in both places, substitute “ Court Martial Appeal Court ”.

**Commencement Information**

**I612** Sch. 16 para. 91 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](#))

**I613** Sch. 16 para. 91 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

92 In Schedule 1 to that Act (times when proceedings are active for purposes of section 2), after paragraph 1 insert—

“**1A** In paragraph 1 the reference to an offence includes a service offence within the meaning of the Armed Forces Act 2006.”

**Commencement Information**

**I614** Sch. 16 para. 92 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](#))

**I615** Sch. 16 para. 92 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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*Senior Courts Act 1981 (c. 54)*

93 In section 29 of the Senior Courts Act 1981 (mandatory, prohibiting and quashing orders), for subsection (3A) substitute—

“(3A) The High Court shall have no jurisdiction to make mandatory, prohibiting or quashing orders in relation to the jurisdiction of the Court Martial in matters relating to—

- (a) trial by the Court Martial for an offence; or
- (b) appeals from the Service Civilian Court.”

**Commencement Information**

**I616** Sch. 16 para. 93 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](#))

**I617** Sch. 16 para. 93 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Criminal Justice Act 1982 (c. 48)*

94 (1) Section 32 of the Criminal Justice Act 1982 (early release of prisoners) is amended as follows.

(2) In subsection (1) at the end of paragraph (b) add “or

(c) imprisonment to which they were sentenced for an offence under section 42 of the Armed Forces Act 2006 (criminal conduct) as respects which the corresponding offence under the law of England and Wales (within the meaning of that section) is—

- (i) an excluded offence;
- (ii) an attempt to commit an excluded offence;
- (iii) conspiracy to commit an excluded offence; or
- (iv) aiding or abetting, counselling, procuring or inciting the commission of an excluded offence.”

(3) After that subsection insert—

“(1A) The reference in subsection (1)(a) to sentences of imprisonment for public protection under section 225 of the Criminal Justice Act 2003 and to extended sentences under 227 of that Act includes such sentences passed as a result of section 219 or 220 of the Armed Forces Act 2006.”

(4) After subsection (2) insert—

“(2A) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of subsection (1)(c)(ii) to (iv) above as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (1)(c)(ii) to (iv).”

(5) In subsection (3)(b) after “(iv)” insert “ or (1)(c) ”.

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

- I618** Sch. 16 para. 94 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](#))
- I619** Sch. 16 para. 94 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Representation of the People Act 1983 (c. 2)*

- 95 In section 3(2)(a) of the Representation of the People Act 1983 (disenfranchisement of offenders in prison etc), for the words from “court-martial” to “1976” substitute “ court of a service offence within the meaning of the Armed Forces Act 2006 ”.

#### Commencement Information

- I620** Sch. 16 para. 95 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](#))
- I621** Sch. 16 para. 95 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 96 In section 3A of that Act (disenfranchisement of offenders detained in mental hospitals), for subsection (5) substitute—

“(5) The reference in subsection (2)(a)(i) to an order under section 37 or 38 of the Mental Health Act 1983 includes such an order made by virtue of Schedule 4 to the Armed Forces Act 2006 (including as applied by section 16(2) of the Court Martial Appeals Act 1968).”

#### Commencement Information

- I622** Sch. 16 para. 96 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](#))
- I623** Sch. 16 para. 96 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Mental Health Act 1983 (c. 20)*

- 97 (1) Section 47 of the Mental Health Act 1983 (removal to hospital of prisoners etc) is amended as follows.

(2) In subsection (5)(a)—

- (a) after “proceedings” insert “ or service disciplinary proceedings ”;
- (b) after “trial” insert “ or a sentence of service detention within the meaning of the Armed Forces Act 2006 ”.

(3) After subsection (5) add—

“(6) In subsection (5)(a) “service disciplinary proceedings” means proceedings in respect of a service offence within the meaning of the Armed Forces Act 2006.”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I624** Sch. 16 para. 97 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](#))
- I625** Sch. 16 para. 97 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Repatriation of Prisoners Act 1984 (c. 47)*

- 98 In section 1 of the Repatriation of Prisoners Act 1984 (warrants for transfer of prisoners etc into or out of UK), after subsection (7) insert—

“(7A) In subsection (7)(a) the reference to an order made by a court or tribunal in the United Kingdom in the course of the exercise of its criminal jurisdiction includes an order made (anywhere) by—

- (a) the Court Martial;
- (b) the Service Civilian Court;
- (c) the Court Martial Appeal Court; or
- (d) the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

**Commencement Information**

- I626** Sch. 16 para. 98 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](#))
- I627** Sch. 16 para. 98 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Inheritance Tax Act 1984 (c. 51)*

- 99 In section 154(2) of the Inheritance Tax Act 1984 (death on active service etc), for the words from “(not being a member” to “any body of those forces” substitute “a civilian subject to service discipline within the meaning of the Armed Forces Act 2006”.

**Commencement Information**

- I628** Sch. 16 para. 99 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](#))
- I629** Sch. 16 para. 99 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Police and Criminal Evidence Act 1984 (c. 60)*

- 100 In section 63A(1B) of the Police and Criminal Evidence Act 1984 (fingerprints and samples: supplementary provisions)—

- (a) in paragraph (h) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”;
- (b) omit paragraph (k).

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

**I630** Sch. 16 para. 100(a) in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

**I631** Sch. 16 para. 100(b) in force at 1.1.2008 by [S.I. 2007/2913](#), **art. 3**

101 In section 67 of that Act (codes of practice: supplementary), for subsection (12) substitute—

“(12) In subsection (11) “criminal proceedings” includes service proceedings.

(13) In this section “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”

#### Commencement Information

**I632** Sch. 16 para. 101 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](#))

**I633** Sch. 16 para. 101 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

102 (1) Section 72 of that Act (provision supplementary to Part 7 (documentary evidence in criminal proceedings)) is amended as follows.

(2) In subsection (1), in the definition of “proceedings”, for paragraphs (a) to (c) substitute “ service proceedings. ”

(3) After that subsection insert—

“(1A) In subsection (1) “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”

#### Commencement Information

**I634** Sch. 16 para. 102 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](#))

**I635** Sch. 16 para. 102 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

103 In section 75(3) of that Act (supplementary provision about conviction as evidence of commission of offence), after paragraph (a) insert—

“(aa) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);”.

#### Commencement Information

**I636** Sch. 16 para. 103 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](#))

**I637** Sch. 16 para. 103 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

104 (1) Section 82 of that Act (interpretation of Part 8 (evidence in criminal proceedings: general)) is amended as follows.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (2) In subsection (1)—
- (a) omit the definition of “court-martial”;
  - (b) in the definition of “proceedings”, for paragraphs (a) to (c) substitute “service proceedings;”;
  - (c) in the definition of “Service court” for “a court-martial or a Standing Civilian Court” substitute “the Court Martial or the Service Civilian Court”.
- (3) After that subsection insert—
- “(1A) In subsection (1) “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”
- (4) Omit subsection (2).

**Commencement Information**

**I638** Sch. 16 para. 104 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](#))

**I639** Sch. 16 para. 104 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 105 (1) Section 113 of that Act (application of Act to armed forces) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The Secretary of State may by order make provision in relation to—
- (a) investigations of service offences,
  - (b) persons arrested under a power conferred by or under the Armed Forces Act 2006,
  - (c) persons charged under that Act with service offences,
  - (d) persons in service custody, or
  - (e) persons convicted of service offences,
- which is equivalent to that made by any provision of Part 5 of this Act (or this Part of this Act so far as relating to that Part), subject to such modifications as the Secretary of State considers appropriate.”
- (3) In subsection (2) for the words from “offences” to the end substitute “service offences”.
- (4) In subsection (3) for the words from “concerned with” to the end substitute “concerned with—
- (a) the exercise of powers conferred by or under Part 3 of the Armed Forces Act 2006; or
  - (b) investigations of service offences.”
- (5) In subsection (4) for “enquiries” substitute “investigations”.
- (6) For subsection (9) substitute—
- “(9) Subsection (8) above applies to proceedings in respect of an offence under a provision of Part 1 of the Armed Forces Act 2006 other than section 42 (criminal conduct).”



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*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (7) Omit subsection (11).
- (8) In subsection (12) for the words from “proceedings” to the end of paragraph (c) substitute “ service proceedings ”.
- (9) After that subsection insert—
- “(12A) In this section—
- “service offence” has the meaning given by section 50 of the Armed Forces Act 2006;
- “criminal proceedings” includes service proceedings;
- “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and
- “civilian court” has the meaning given by section 374 of the Armed Forces Act 2006;
- and section 376(1) and (2) of that Act (meaning of “convicted” in relation to summary hearings and the SAC) apply for the purposes of subsection (1) (e) above as they apply for the purposes of that Act.”
- (10) After subsection (13) add—
- “(14) Section 373(5) and (6) of the Armed Forces Act 2006 (supplementary provisions) apply in relation to an order under this section as they apply in relation to an order under that Act.”

#### Commencement Information

- I640** Sch. 16 para. 105 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](#))
- I641** Sch. 16 para. 105 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 106 (1) Section 120 of that Act (extent) is amended as follows.
- (2) For subsections (6) and (7) substitute—
- “(6) Nothing in subsection (1) affects—
- (a) the extent of section 113(1) to (7) and (12) to (14);
- (b) the extent of the relevant provisions so far as they relate to service proceedings.”
- (3) In subsection (8)—
- (a) for paragraphs (a) and (b) substitute—
- “(a) section 67(11) to (13);”;
- (b) for paragraphs (d) and (e) substitute—
- “(d) section 113(8) to (10).”
- (4) For subsection (9) substitute—
- “(8A) In this section “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

(8B) Section 384 of the Armed Forces Act 2006 (Channel Islands, Isle of Man and British overseas territories) applies in relation to the provisions mentioned in subsection (6)(a) and (b) above as it applies in relation to that Act.”

**Commencement Information**

**I642** Sch. 16 para. 106 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](#))

**I643** Sch. 16 para. 106 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Prosecution of Offences Act 1985 (c. 23)*

107 In section 19 of the Prosecution of Offences Act 1985 (provision for orders as to costs in other circumstances)—

- (a) in subsection (3)(c)(ii) for the words from “to which” to the end substitute “ within subsection (3B) below; ”;
- (b) after subsection (3A) insert—

“(3B) A request is within this subsection if—

- (a) it is a request to a registered medical practitioner to make a written or oral report on the medical condition of an offender or defendant; and
- (b) it is made by a court—
  - (i) for the purpose of determining whether or not to include in a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) a mental health treatment requirement under section 207 of that Act or make an order under section 37 of the Mental Health Act 1983 (hospital orders and guardianship orders) or otherwise for the purpose of determining the most suitable method of dealing with an offender; or
  - (ii) in exercise of the powers conferred by section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand of a defendant for medical examination).”

**Commencement Information**

**I644** Sch. 16 para. 107 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](#))

**I645** Sch. 16 para. 107 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Housing Act 1985 (c. 68)*

108 In section 622(1) of the Housing Act 1985 (minor definitions), for the definition of “regular armed forces of the Crown” substitute—

“ “regular armed forces of the Crown” means the regular forces as defined by section 374 of the Armed Forces Act 2006;”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

**I646** Sch. 16 para. 108 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](#))

**I647** Sch. 16 para. 108 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Debtors (Scotland) Act 1987 (c. 18)*

109 In section 73(3)(b) of the Debtors (Scotland) Act 1987, for the words from “section 203” to “Council” substitute “section 356 of the Armed Forces Act 2006”.

**Commencement Information**

**I648** Sch. 16 para. 109 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](#))

**I649** Sch. 16 para. 109 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Coroners Act 1988 (c. 13)*

110 In section 8 of the Coroners Act 1988 (duty to hold inquest) after subsection (6) add—

“(7) This section applies in relation to service custody premises (within the meaning of section 300 of the Armed Forces Act 2006) and persons detained in such premises as it applies in relation to prisons and prisoners.”

**Commencement Information**

**I650** Sch. 16 para. 110 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](#))

**I651** Sch. 16 para. 110 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

111 In section 19 of that Act (post-mortem examination without inquest) in subsection (4)(b) after “prison” insert “ or in service custody premises (within the meaning of section 300 of the Armed Forces Act 2006), ”.

**Commencement Information**

**I652** Sch. 16 para. 111 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](#))

**I653** Sch. 16 para. 111 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Criminal Justice Act 1988 (c. 33)*

112 In the Criminal Justice Act 1988, omit section 50 (suspended sentences on certain civilians in service courts).

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I654** Sch. 16 para. 112 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](#))
- I655** Sch. 16 para. 112 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 113 In section 146 of that Act (evidence before service courts)—
- (a) in the sidenote, for “courts-martial etc” substitute “ certain service courts ”; and
  - (b) for “courts-martial, the Courts-Martial Appeal Court and Standing Civilian Courts” substitute “ certain service courts ”.

**Commencement Information**

- I656** Sch. 16 para. 113 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](#))
- I657** Sch. 16 para. 113 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 114 In section 172 of that Act (extent), for subsections (7) to (9) substitute—
- “(7) Nothing in subsection (1) above affects the extent of section 146 or Schedule 13.”

**Commencement Information**

- I658** Sch. 16 para. 114 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](#))
- I659** Sch. 16 para. 114 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 115 (1) Schedule 13 to that Act (evidence before service courts) is amended as follows.
- (2) In the title for “courts-martial etc” substitute “ service courts ”.
  - (3) In paragraph 1—
    - (a) in the definition of “procedural instruments”, for paragraphs (a) to (d) substitute—
      - “(a) Court Martial rules within the meaning of the Armed Forces Act 2006;
      - (b) SCC rules within the meaning of that Act; and
      - (c) rules under section 49 of the Court Martial Appeals Act 1968;”;
    - (b) in the definition of “Service courts”, for paragraphs (a) to (d) substitute—
      - “(a) the Court Martial;
      - (b) the Service Civilian Court; and
      - (c) the Court Martial Appeal Court.”
  - (4) Omit paragraphs 7, 9 and 10.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

- I660** Sch. 16 para. 115 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](#))
- I661** Sch. 16 para. 115 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Road Traffic Act 1988 (c. 52)*

- 116 In section 183 of the Road Traffic Act 1988 (application to the Crown), in subsection (6) for the words from “subject to” to “air force law” substitute “ subject to service law (within the meaning of the Armed Forces Act 2006) ”.

#### Commencement Information

- I662** Sch. 16 para. 116 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](#))
- I663** Sch. 16 para. 116 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 117 (1) Section 184 of that Act (application of sections 5 to 10 to persons subject to service discipline) is amended as follows.

(2) In subsection (1)—

- (a) in the words before paragraph (a) for “persons subject to service discipline” substitute “ persons subject to service law and civilians subject to service discipline ”;
- (b) in paragraph (a) for “the corresponding service offence” substitute “ an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales is that offence ”;
- (c) in paragraph (b) for “naval, military or air force authority” substitute “ officer ”;
- (d) in paragraph (e)—
- (i) for “persons subject to service discipline” substitute “ persons subject to service law or civilians subject to service discipline ”;
- (ii) omit “and” at the end of the paragraph;
- (e) in paragraph (f) for “the corresponding service offence” substitute “ an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales is a traffic offence within the meaning of section 6 ”;
- (f) after that paragraph add—
- “(g) in section 6E as it applies by virtue of paragraph (c) above, subsection (2) were omitted and the reference in subsection (1) to any place were to—
- (i) service living accommodation (as defined by section 96 of the Armed Forces Act 2006), or
- (ii) premises occupied as a residence (alone or with other persons) by the person on whom the requirement is to be imposed or the person to be arrested.”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (3) In subsection (2), for the words from “a person” to “without warrant” substitute “without warrant a person who is subject to service law or is a civilian subject to service discipline”.
- (4) For subsection (3) substitute—
- “(3) In this section—
- “civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006;
- “corresponding offence under the law of England and Wales”, in relation to an offence under section 42 of that Act, has the meaning given by that section;
- “member of the provost staff” means—
- (a) anyone who is, or by reason of section 375(5) of that Act is to be treated as, a service policeman for the purposes of that Act; or
- (b) a person lawfully exercising authority on behalf of a provost officer (within the meaning of that Act);
- “subject to service law” has the same meaning as in that Act.”

**Commencement Information**

**I664** Sch. 16 para. 117 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](#))

**I665** Sch. 16 para. 117 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

- 118 In Article 66 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (codes of practice – supplementary), for paragraph 11 substitute—
- “(11) In paragraph (10) “criminal proceedings” includes service proceedings.
- (11A) In this Article “service proceedings” means proceedings before a court (other than a civilian court) in respect of a service offence; and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”

**Commencement Information**

**I666** Sch. 16 para. 118 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](#))

**I667** Sch. 16 para. 118 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 119 In Article 70 of that Order (interpretation of Part IX (evidence in criminal proceedings – general))—
- (a) in paragraph (1), in the definition of “Service court” for “a court-martial or a Standing Civilian Court” substitute “ the Court Martial or the Service Civilian Court ”;
- (b) omit paragraph (2).

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

**I668** Sch. 16 para. 119 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](#))

**I669** Sch. 16 para. 119 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

120 In Article 73(3) of that Order (supplementary provision about conviction as evidence of commission of offence), before sub-paragraph (b) insert—

“(aa) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);”.

**Commencement Information**

**I670** Sch. 16 para. 120 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](#))

**I671** Sch. 16 para. 120 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Courts and Legal Services Act 1990 (c. 41)*

121 In section 119(1) of the Courts and Legal Services Act 1990 (interpretation), in the definition of “court”—

(a) in paragraph (a), at the end insert “ and ”;

(b) omit paragraph (b).

**Commencement Information**

**I672** Sch. 16 para. 121 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](#))

*Armed Forces Act 1991 (c. 62)*

122 In section 24 of the Armed Forces Act 1991 (extent etc) for subsections (4) and (5) substitute—

“(4) Section 384 of the Armed Forces Act 2006 applies in relation to Part 3 of this Act as it applies in relation to that Act.”

**Commencement Information**

**I673** Sch. 16 para. 122 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](#))

**I674** Sch. 16 para. 122 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Local Government Finance Act 1992 (c. 14)*

123 (1) Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1)(a) for “of a court” substitute “ or award ”;

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(b) for sub-paragraph (2) substitute—

“(2) This sub-paragraph applies to—

- (a) an order of a court in the United Kingdom;
- (b) an order or award (whether or not of a court) made (anywhere) in proceedings in respect of a service offence within the meaning of the Armed Forces Act 2006.”;
- (c) in sub-paragraph (3), omit “or” at the end of paragraph (a) and after that paragraph insert—
  - “(aa) is temporarily released under rules under section 300 of the Armed Forces Act 2006; or”;
- (d) in sub-paragraph (6)(a) for the words from “imprisoned” to the end substitute “in service custody; and”.

(3) In paragraph 6(2)(b) for the words from “subject to” to the end substitute “subject to service law within the meaning of the Armed Forces Act 2006.”

#### Commencement Information

**I675** Sch. 16 para. 123 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](#))

**I676** Sch. 16 para. 123 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Sexual Offences (Amendment) Act 1992 (c. 34)*

124 In section 2 of the Sexual Offences (Amendment) Act 1992 (offences to which the Act applies), for subsection (4) substitute—

“(4) This Act applies to an offence under section 42 of the Armed Forces Act 2006 if the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence within a paragraph of subsection (1) above.”

#### Commencement Information

**I677** Sch. 16 para. 124 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](#))

**I678** Sch. 16 para. 124 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

125 In section 3 of that Act (power to displace restrictions in section 1), after subsection (6A) insert—

“(6B) Where a person is charged with an offence to which this Act applies by virtue of section 2(4), this section applies as if—

- (a) in subsections (1) and (2) for any reference to the judge there were substituted a reference to the court; and
- (b) subsections (6) and (6A) were omitted.”



*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

**I679** Sch. 16 para. 125 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](#))

**I680** Sch. 16 para. 125 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

126 In section 4 of that Act (special rules for cases of incest or buggery), omit subsection (9).

#### Commencement Information

**I681** Sch. 16 para. 126 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](#))

**I682** Sch. 16 para. 126 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 127 (1) Section 6 of that Act (interpretation etc) is amended as follows.
- (2) In subsection (1) omit the definitions of “corresponding civil offence” and “service offence”.
- (3) After that subsection insert—
- “(1A) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of this Act as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to any provision of this Act.”
- (4) In subsection (3) for “a service offence” substitute “ an offence under section 42 of the Armed Forces Act 2006 ”.
- (5) In subsection (3A) for the words from “a service offence” to “ as charged with the offence ” substitute “ an offence under section 42 of the Armed Forces Act 2006 if he is charged (under Part 5 of that Act) with the offence ”.

#### Commencement Information

**I683** Sch. 16 para. 127 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](#))

**I684** Sch. 16 para. 127 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

128 Omit section 7 of that Act (courts-martial).

#### Commencement Information

**I685** Sch. 16 para. 128 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](#))

**I686** Sch. 16 para. 128 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

129 In section 8 of that Act (short title, commencement and extent, etc) omit subsection (7).

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**Commencement Information**

- I687** Sch. 16 para. 129 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](#))
- I688** Sch. 16 para. 129 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Criminal Justice and Public Order Act 1994 (c. 33)*

- 130 In section 39 of the Criminal Justice and Public Order Act 1994 (power to apply sections 34 to 38 to armed forces), for subsection (2) substitute—

“(2) This section applies to any proceedings before an officer or court in respect of a service offence (other than proceedings before a civilian court); and “service offence” and “civilian court” here have the same meanings as in the Armed Forces Act 2006.”

**Commencement Information**

- I689** Sch. 16 para. 130 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](#))
- I690** Sch. 16 para. 130 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Goods Vehicles (Licensing of Operators) Act 1995 (c. 23)*

- 131 In Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995, in paragraph 5 for sub-paragraph (1) substitute—

“(1) In paragraph 1(3)(a) the reference to an offence mentioned in paragraph 5 of Schedule 2 includes an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence mentioned in that paragraph.

(1A) In paragraphs 3 and 4, references to an offence under the law of any part of the United Kingdom include an offence under section 42 of that Act.

(1B) In paragraph 3(2)(c) the reference to a community order includes a service community order or overseas community order under that Act.”

**Commencement Information**

- I691** Sch. 16 para. 131 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](#))
- I692** Sch. 16 para. 131 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Pensions Act 1995 (c. 26)*

- 132 In section 166(5)(a) of the Pensions Act 1995 (pensions on divorce etc), for the words from “section 203(1) and (2) of the Army Act 1955” to “1957” substitute “section 356 of the Armed Forces Act 2006”.

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

- I693** Sch. 16 para. 132 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](#))
- I694** Sch. 16 para. 132 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 133 In section 307 of the Criminal Procedure (Scotland) Act 1995 (interpretation)—
- (a) in subsection (2)—
- (i) for “court-martial”, both times it occurs, substitute “ service court ”;
- (ii) for the words “under the” to the end substitute “ for an offence under section 42 of the Armed Forces Act 2006. ”;
- (b) after that subsection insert—
- “(2A) In subsection (2), “service court” means—
- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Court Martial Appeal Court; or
- (d) the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

#### Commencement Information

- I695** Sch. 16 para. 133 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](#))
- I696** Sch. 16 para. 133 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### *Disability Discrimination Act 1995 (c. 50)*

- 134 In section 68 of the Disability Discrimination Act 1995 (interpretation)—
- (a) in subsection (1) for the definition of “criminal proceedings” substitute—
- ““criminal proceedings” includes service law proceedings (as defined by section 324(5) of the Armed Forces Act 2006);”;
- (b) in subsection (1C), in the definition of “offence” for the words from “any offence” to “1957” substitute “ any service offence within the meaning of the Armed Forces Act 2006 ”.

#### Commencement Information

- I697** Sch. 16 para. 134 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](#))
- I698** Sch. 16 para. 134 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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*Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))*

- 135 In Article 162(5)(a) of the Pensions (Northern Ireland) Order 1995 (pensions on divorce etc), for the words from “section 203(1) and (2) of the Army Act 1955” to “1957” substitute “ section 356 of the Armed Forces Act 2006 ”.

**Commencement Information**

**I699** Sch. 16 para. 135 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](#))

**I700** Sch. 16 para. 135 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Employment Rights Act 1996 (c. 18)*

- 136 In section 192 of the Employment Rights Act 1996 (armed forces)—
- (a) in subsection (4)—
    - (i) in paragraph (a) for the words from “a complaint” to “those procedures” substitute “ a service complaint ”;
    - (ii) in paragraph (b) for “complaint” substitute “ service complaint ”;
  - (b) in subsection (5)(b) for “the service procedures for the redress of complaints” substitute “ the service complaint procedures ”;
  - (c) for subsection (6) substitute—
    - “(6A) In subsections (4) and (5)—
    - “service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
    - “the service complaint procedures” means the procedures prescribed by regulations under that section.”

*Criminal Procedure and Investigations Act 1996 (c. 25)*

- 137 For section 78 of the Criminal Procedure and Investigations Act 1996 substitute—

**“78 Application to armed forces**

- (1) Subject to subsection (2), nothing in this Act applies in relation to—
  - (a) proceedings before a court (other than a civilian court) in respect of a service offence; or
  - (b) any investigation conducted with a view to its being ascertained whether a person should be charged with a service offence or whether a person charged with such an offence is guilty of it.
- (2) The Secretary of State may by order—
  - (a) make as regards any proceedings mentioned in subsection (1)(a) provision equivalent to the provisions contained in or made under Part 1, subject to such modifications as he considers appropriate;
  - (b) make as regards any investigation mentioned in subsection (1)(b) provision equivalent to the provisions contained in or made under Part 2, subject to such modifications as he considers appropriate.

*Status: Point in time view as at 13/05/2014.*

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- (3) An order under this section may make provision in such way as the Secretary of State considers appropriate, and may in particular apply any of the provisions concerned, with or without modifications.
- (4) In this section—
- (a) “civilian court” and “service offence” have the same meanings as in the Armed Forces Act 2006;
  - (b) references to charges are to charges brought under Part 5 of that Act.”

**Commencement Information**

**I701** Sch. 16 para. 137 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](#))

**I702** Sch. 16 para. 137 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Armed Forces Act 1996 (c. 46)*

- 138 In section 6 of the Armed Forces Act 1996 (abrogation of common law corroboration rules), in subsection (3) for the words from “for any offence” to the end substitute “before—
- (a) the Court Martial;
  - (b) the Summary Appeal Court;
  - (c) the Service Civilian Court;
  - (d) the Court Martial Appeal Court; or
  - (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

**Commencement Information**

**I703** Sch. 16 para. 138 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](#))

**I704** Sch. 16 para. 138 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

F47 ...

**Textual Amendments**

**F47** Sch. 16 para. 139 and cross-heading repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 16](#); [S.I. 2008/3068](#), [art. 5](#), [Sch.](#) (with arts. 6-13)

F47 139 .....

**Commencement Information**

**I705** Sch. 16 para. 139 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](#))

**I706** Sch. 16 para. 139 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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*Social Security (Recovery of Benefits) Act 1997 (c. 27)*

- 140 In Part 1 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997 (compensation payments), in paragraph 2 after “2000” insert “ or section 175 of the Armed Forces Act 2006 ”.

**Commencement Information**

- I707** Sch. 16 para. 140 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](#))
- I708** Sch. 16 para. 140 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Crime (Sentences) Act 1997 (c. 43)*

- 141 In section 31A(5) of the Crime (Sentences) Act 1997 (termination of licences of persons serving preventive sentences), in the definition of “preventive sentence”, at the end insert “ (including such a sentence of imprisonment or detention passed as a result of section 219 or 221 of the Armed Forces Act 2006) ”.

**Commencement Information**

- I709** Sch. 16 para. 141 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](#))
- I710** Sch. 16 para. 141 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 142 (1) Section 34 of that Act (meaning of “life sentence” for purposes of Chapter 2 of Part 2) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (d) at the end insert “ (including one passed as a result of section 219 of the Armed Forces Act 2006 )”;
- (b) in paragraph (e) at the end insert “ (including one passed as a result of section 221 of the Armed Forces Act 2006 )”;
- (c) after that paragraph add—
- “(f) a sentence of detention for life under section 209 of the Armed Forces Act 2006;
- (g) a sentence under section 218 of that Act (detention at Her Majesty's pleasure).”
- (3) Omit subsection (3).

**Commencement Information**

- I711** Sch. 16 para. 142 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](#))
- I712** Sch. 16 para. 142 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 143 In section 47(4) of that Act (application of section 47), at the end of paragraph (b) insert “ or ” and for paragraphs (c) and (d) substitute—
- “(c) Schedule 4 to the Armed Forces Act 2006 (including as applied by section 16(2) of the Court Martial Appeals Act 1968).”

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**Commencement Information**

**I713** Sch. 16 para. 143 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](#))

**I714** Sch. 16 para. 143 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

144 In section 57 of that Act (extent etc), for subsection (8) substitute—

“(8) Nothing in subsection (4) above affects the extent of section 47 of this Act so far as it confers a power on the Court Martial or the Court Martial Appeal Court.”

**Commencement Information**

**I715** Sch. 16 para. 144 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](#))

**I716** Sch. 16 para. 144 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

145 In Schedule 1 to that Act (transfer of prisoners within the British Islands), in paragraph 20(1) (interpretation)—

(a) before the definition of “prison” insert—

“detention and training order” includes an order under section 211 of the Armed Forces Act 2006;”;

(b) in the definition of “sentence of imprisonment”, after “detention” insert “(except a sentence of service detention within the meaning of the Armed Forces Act 2006)”.

**Commencement Information**

**I717** Sch. 16 para. 145 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](#))

**I718** Sch. 16 para. 145 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Police Act 1997 (c. 50)*

146 (1) Section 93 of the Police Act 1997 (authorisations to interfere with property etc) is amended as follows.

(2) In subsection (3)(aa) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”.

(3) In subsection (5)(eb) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”.

(4) In subsection (6A)(a) for “subject to service discipline” substitute “ who is subject to service law or is a civilian subject to service discipline ”.

(5) For subsection (6B) substitute—

“(6B) In subsection (6A) “subject to service law” and “civilian subject to service discipline” have the same meanings as in the Armed Forces Act 2006.”

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**Commencement Information**

- I719** Sch. 16 para. 146(1) in force at 4.6.2007 for specified purposes by [S.I. 2007/1442](#), **art. 2(1)**  
**I720** Sch. 16 para. 146(1)(4)(5) 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](#))  
**I721** Sch. 16 para. 146(1)(4)(5) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**  
**I722** Sch. 16 para. 146(2)(3) in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 147 In section 94(2)(db) of that Act (authorisations given in absence of authorising officer), for “Royal Navy Regulating Branch” substitute “Royal Navy Police”.

**Commencement Information**

- I723** Sch. 16 para. 147 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 148 In section 108(1) of that Act (interpretation of Part 3), in the definition of “criminal proceedings”, for paragraphs (a) to (c) substitute “proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006;”.

**Commencement Information**

- I724** Sch. 16 para. 148 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](#))  
**I725** Sch. 16 para. 148 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 149 In section 113B(10) of that Act (enhanced criminal record certificates: meaning of “police force”), for paragraphs (a) and (b) substitute—  
“(a) the Royal Navy Police;”.

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

- C1** Sch. 16 para. 149 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**  
**C2** Sch. 16 para. 149 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**  
**C3** Sch. 16 para. 149 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**

**Commencement Information**

- I726** Sch. 16 para. 149 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

*Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6))*

- 150 (1) Article 71 of the Race Relations (Northern Ireland) Order 1997 (application to Crown etc) is amended as follows.

(2) In paragraph (8)—

- (a) in sub-paragraph (a) for the words from “a complaint” to “those procedures” substitute “a service complaint in respect of the act complained of”;



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- (b) in sub-paragraph (b) for “complaint” substitute “ service complaint ”.
- (3) In paragraph (10) for “the service redress procedures” substitute “ the service complaint procedures ”.
- (4) In paragraph (12), for the definition of “the service redress procedures” substitute—
- ““service complaint” means a complaint under section 334 of the Armed Forces Act 2006;
- “the service complaint procedures” means the procedures prescribed by regulations under that section;”.

*Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (S.I. 1997/1183 (N.I. 12))*

- 151 In Part 1 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997 (compensation payments), in paragraph 2 after “1994” insert “ or section 175 of the Armed Forces Act 2006 ”.

**Commencement Information**

- I727** Sch. 16 para. 151 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](#))
- I728** Sch. 16 para. 151 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Landmines Act 1998 (c. 33)*

- 152 In section 5(7) of the Landmines Act 1998 (international military operations), in the definition of “Her Majesty's armed forces” for “Army Act 1955” substitute “ Armed Forces Act 2006 ”.

**Commencement Information**

- I729** Sch. 16 para. 152 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](#))
- I730** Sch. 16 para. 152 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Crime and Disorder Act 1998 (c. 37)*

- 153 In section 38(4)(h) of the Crime and Disorder Act 1998 (youth justice services), after “detention and training order” insert “ (including an order under section 211 of the Armed Forces Act 2006) ”.

**Commencement Information**

- I731** Sch. 16 para. 153 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](#))
- I732** Sch. 16 para. 153 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 154 In section 41(5) of that Act (functions of Youth Justice Board)—
- (a) in paragraph (i), for sub-paragraphs (i) and (ii) substitute—

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- “(i) secure accommodation, within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, for the purpose of detaining persons subject to orders under section 100, 104(3)(a) or 105(2) of that Act or section 211 or 214 of the Armed Forces Act 2006;
- (ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 or 218 of the Armed Forces Act 2006;”;
- (b) in paragraph (j), for sub-paragraphs (i) and (ii) substitute—
- “(i) secure accommodation, within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, to be used for detaining a person in accordance with a determination under section 102(1), 104(3)(a) or 105(2) of that Act or section 214(3) of the Armed Forces Act 2006; or
- (ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 or a determination by the Secretary of State under section 210 or 218(3) of the Armed Forces Act 2006;”.

**Commencement Information**

- I733** Sch. 16 para. 154 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](#))
- I734** Sch. 16 para. 154 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 155 In Schedule 3 to that Act (procedure where persons sent for trial under section 51), in paragraph 9(5) (definition of “previous conviction”) for paragraph (b) substitute—
- “(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 (“conviction” here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).”

**Commencement Information**

- I735** Sch. 16 para. 155 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](#))
- I736** Sch. 16 para. 155 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Human Rights Act 1998 (c. 42)*

- 156 In section 4(5)(c) of the Human Rights Act 1998 (declaration of incompatibility), for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

**I737** Sch. 16 para. 156 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](#))

**I738** Sch. 16 para. 156 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

157 In section 5(5) of that Act (right of Crown to intervene), for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”.

**Commencement Information**

**I739** Sch. 16 para. 157 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](#))

**I740** Sch. 16 para. 157 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

158 In section 44(13)(c) of the Youth Justice and Criminal Evidence Act 1999 (reporting restrictions on alleged offences involving persons under 18: meaning of “person subject to service law”), for sub-paragraphs (i) and (ii) substitute—

“(i) a person subject to service law within the meaning of the Armed Forces Act 2006; or

(ii) a civilian subject to service discipline within the meaning of that Act.”

**Commencement Information**

**I741** Sch. 16 para. 158 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](#))

**I742** Sch. 16 para. 158 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

159 In section 63(1) of that Act (interpretation of Part 2), in the definition of “service court”, for paragraphs (a) to (c) substitute—

“(a) the Court Martial;

(b) the Service Civilian Court; or

(c) the Court Martial Appeal Court.”

**Commencement Information**

**I743** Sch. 16 para. 159 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](#))

**I744** Sch. 16 para. 159 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

160 In section 68 of that Act (extent etc), omit subsection (10).

**Commencement Information**

**I745** Sch. 16 para. 160 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](#))

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**I746** Sch. 16 para. 160 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 161 In Schedule 7 to that Act (transitional provision), in paragraph 6(6)—
- (a) in paragraph (a) for the words from “the prosecuting authority” to the end substitute “ the charge is brought under section 122 of the Armed Forces Act 2006; ”.
  - (b) for paragraph (b) substitute—
    - “(b) proceedings on appeal are to be taken to be instituted—
      - (i) in the case of an appeal under the Court Martial Appeals Act 1968, when the application for leave to appeal is lodged in accordance with section 9 of that Act;
      - (ii) in the case of an appeal under section 285 of the Armed Forces Act 2006 (except one for which leave is required), when the notice of appeal is given;
      - (iii) in the case of an appeal under that section for which leave is required, when the application for leave to appeal is lodged;
      - (iv) in the case of a reference under section 34 of the Court Martial Appeals Act 1968 or section 12A or 12B of the Criminal Appeal Act 1995, when the reference is made.”

**Commencement Information**

- I747** Sch. 16 para. 161 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](#))
- I748** Sch. 16 para. 161 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Welfare Reform and Pensions Act 1999 (c. 30)*

- 162 In section 44(1)(a) of the Welfare Reform and Pensions Act 1999 (disapplication of restrictions on alienation), for the words from “section 203(1) and (2) of the Army Act 1955” to “1957” substitute “ section 356 of the Armed Forces Act 2006 ”.

**Commencement Information**

- I749** Sch. 16 para. 162 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](#))
- I750** Sch. 16 para. 162 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

- 163 (1) Section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of tariffs for discretionary life sentences) is amended as follows.
- (2) In subsection (3)(b) for the words from “below” to “custody)” substitute “ (crediting periods of remand in custody) or under section 246 of the Armed Forces Act 2006 (equivalent provision for service courts) ”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (3) In each of subsections (7) and (8) for “a court-martial” substitute “ the Court Martial ”.

**Commencement Information**

**I751** Sch. 16 para. 163 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](#))

**I752** Sch. 16 para. 163 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 164 In section 99 of that Act (conversion of sentence of detention to sentence of imprisonment)—

(a) in subsection (5) after paragraph (a) insert—

“(aa) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006,”;

(b) after that subsection add—

“(6) References in this section to a sentence under section 226 or 228 of the Criminal Justice Act 2003 include such a sentence passed as a result of section 221 or 222 of the Armed Forces Act 2006.”

**Commencement Information**

**I753** Sch. 16 para. 164 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](#))

**I754** Sch. 16 para. 164 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 165 (1) Section 106A of that Act (which relates to the interaction of detention and training orders with sentences of detention, and is modified by section 213 of this Act) is amended as follows.

(2) In subsection (1) (definitions)—

(a) in paragraph (a) of the definition of “sentence of detention”, after “above” insert “ or section 209 of the Armed Forces Act 2006 ”;

(b) after that definition insert “ and references in this section to a sentence of detention under section 228 of the 2003 Act include such a sentence passed as a result of section 222 of the Armed Forces Act 2006. ”

(3) In subsection (8) (provisions for the purposes of which a person subject to a sentence of detention and a detention and training order is to be treated as subject only to the sentence of detention)—

(a) in paragraph (b), for “and section 235” to the end substitute “ , section 235 of the 2003 Act and section 210 of the Armed Forces Act 2006 (place of detention etc), ”;

(b) at the end of paragraph (c) add “, and

(d) section 214 of the Armed Forces Act 2006 (offences committed during a detention and training order under that Act).”

*Status: Point in time view as at 13/05/2014.*

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#### Commencement Information

- I755** Sch. 16 para. 165 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](#))
- I756** Sch. 16 para. 165 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

166 For section 114 of that Act substitute—

#### “114 Offences under service law

- (1) Where—
- (a) a person has at any time been convicted of an offence under section 42 of the Armed Forces Act 2006, and
  - (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) was a class A drug trafficking offence or a domestic burglary,
- the relevant section of this Chapter shall have effect as if he had at that time been convicted in England and Wales of that corresponding offence.
- (2) Subsection (3) of section 113 applies for the purposes of this section as it applies for the purposes of that section.
- (3) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of this section as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to this section.”

#### Commencement Information

- I757** Sch. 16 para. 166 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](#))
- I758** Sch. 16 para. 166 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

167 (1) Section 134 of that Act (effect of compensation order on subsequent award of damages in civil proceedings) is amended as follows.

(2) In subsections (1) and (2) omit “or award”.

(3) For subsection (3) substitute—

“(3) In this section “service compensation order” means a service compensation order under the Armed Forces Act 2006.”

#### Commencement Information

- I759** Sch. 16 para. 167 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](#))
- I760** Sch. 16 para. 167 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

168 In section 163 of that Act (general definitions), in the definition of “court”, for “a court-martial” substitute “ the Court Martial ”.

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*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I761** Sch. 16 para. 168 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](#))
- I762** Sch. 16 para. 168 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Regulation of Investigatory Powers Act 2000 (c. 23)*

- 169 In section 18(11) of the Regulation of Investigatory Powers Act 2000 (exceptions to section 17: meaning of “relevant judge”), for paragraph (c) substitute—
- “(c) in relation to proceedings before the Court Martial, the judge advocate for those proceedings; or”.

**Commencement Information**

- I763** Sch. 16 para. 169 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](#))
- I764** Sch. 16 para. 169 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 170 In section 32(6)(g) of that Act (senior authorising officers for intrusive surveillance), for “Royal Navy Regulating Branch” substitute “Royal Navy Police”.

**Commencement Information**

- I765** Sch. 16 para. 170 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 171 (1) Section 33 of that Act (rules for grant of authorisations of surveillance etc) is amended as follows.
- (2) In subsection (6)(d)—
- (a) for “Royal Navy Regulating Branch,” substitute “Royal Navy Police”;
- (b) for “person subject to service discipline” substitute “person subject to service law or a civilian subject to service discipline”.
- (3) For subsection (7) substitute—
- “(7) In subsection (6) “subject to service law” and “civilian subject to service discipline” have the same meanings as in the Armed Forces Act 2006.”

**Commencement Information**

- I766** Sch. 16 para. 171(1) in force at 4.6.2007 for specified purposes by [S.I. 2007/1442](#), **art. 2(1)**
- I767** Sch. 16 para. 171(1) (2)(b) (3) 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](#))
- I768** Sch. 16 para. 171(1) (2)(b) (3) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**
- I769** Sch. 16 para. 171(2)(a) in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 172 In section 34(4)(g) of that Act (persons entitled to grant authorisation in the senior officer's absence)—

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- (a) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”;
- (b) for “that Branch” substitute “ that force ”.

**Commencement Information**

**I770** Sch. 16 para. 172 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 173 In section 41(7) of that Act (Secretary of State authorisations), for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”.

**Commencement Information**

**I771** Sch. 16 para. 173 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 174 In section 56(1) of that Act (interpretation of Part 3 (investigation of certain electronic data)), in the definition of “chief officer of police”, in paragraph (f) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”.

**Commencement Information**

**I772** Sch. 16 para. 174 in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**

- 175 (1) Section 81 of that Act (general interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “Her Majesty's forces”, for “Army Act 1955” substitute “ Armed Forces Act 2006 ”;
  - (b) in the definition of “legal proceedings” after “tribunal” insert “ or proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006 ”;
  - (c) in the definition of “police force”, in paragraph (g) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”.
- (3) In subsection (4), for paragraphs (a) to (c) substitute “ proceedings before a court in respect of a service offence within the meaning of the Armed Forces Act 2006, ”.
- (4) In subsection (6)(b)—
- (a) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”;
  - (b) for the words from “that Branch” to the end substitute “ that force who is not for the time being attached to or serving either with that force or with another of those police forces ”.

**Commencement Information**

**I773** Sch. 16 para. 175(1) in force at 4.6.2007 for specified purposes by [S.I. 2007/1442](#), **art. 2(1)**

**I774** Sch. 16 para. 175(1)(2)(a)(b)(3) 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](#))

**I775** Sch. 16 para. 175(1)(2)(a)(b)(3) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

**I776** Sch. 16 para. 175(2)(c)(4) in force at 4.6.2007 by [S.I. 2007/1442](#), **art. 2(1)**



*Status: Point in time view as at 13/05/2014.*

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*Freedom of Information Act 2000 (c. 36)*

- 176 In section 30 of the Freedom of Information Act 2000 (investigations and proceedings conducted by public authorities), for subsection (5) substitute—
- “(5) In this section—
- “criminal proceedings” includes service law proceedings (as defined by section 324(5) of the Armed Forces Act 2006);
- “offence” includes a service offence (as defined by section 50 of that Act).”

**Commencement Information**

- I777** Sch. 16 para. 176 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](#))
- I778** Sch. 16 para. 176 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Criminal Justice and Court Services Act 2000 (c. 43)*

- 177 In section 1 of the Criminal Justice and Court Services Act 2000 (purposes of Chapter 1 of Part 1 (national probation service)), in subsection (2)(a) after “2003” insert “ and service community orders and overseas community orders under the Armed Forces Act 2006 ”.

**Commencement Information**

- I779** Sch. 16 para. 177 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](#))
- I780** Sch. 16 para. 177 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

<sup>F48</sup>178 . . . . .

**Textual Amendments**

- F48** Sch. 16 para. 178 repealed (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. 17](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

- 179 (1) Section 27 of that Act (armed forces offences equivalent to “an offence against a child”) is amended as follows.
- (2) In subsection (2) for “an armed forces offence” substitute “ an offence under section 42 of the Armed Forces Act 2006 ”.
- (3) For subsections (3) to (5) substitute—
- “(3) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of subsection (2) of this section as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (2) of this section.”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

- I781** Sch. 16 para. 179 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](#))
- I782** Sch. 16 para. 179 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 180 (1) Section 30 of that Act (disqualification from working with children: supplemental) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “guardianship order”, omit the words from “the Army” to “1957 or”;
  - (b) in the definition of “qualifying sentence”—
    - (i) in paragraph (d) after “2000” insert “ or section 209 of the Armed Forces Act 2006 ”;
    - (ii) in paragraph (e) after “or more” insert “ under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 211 of the Armed Forces Act 2006 ”;
    - (iii) omit paragraph (f);
  - (c) in the definition of “relevant order”, for “a court-martial or the Courts-Martial Appeal Court” substitute “ the Court Martial or the Court Martial Appeal Court ”;
  - (d) in the definition of “superior court”, for “a court-martial or the Courts-Martial Appeal Court” substitute “ the Court Martial or the Court Martial Appeal Court ”.
- (3) Omit subsection (2).
- (4) In subsection (3), omit “, or to a sentence of detention imposed by a court-martial or the Courts-Martial Appeal Court”.

#### Commencement Information

- I783** Sch. 16 para. 180 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](#))
- I784** Sch. 16 para. 180 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 181 In section 31(2) of that Act (appeals) for “a court-martial”, in both places, substitute “ the Court Martial ”.

#### Commencement Information

- I785** Sch. 16 para. 181 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](#))
- I786** Sch. 16 para. 181 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 182 In section 33 of that Act (provisions relating to application for review of disqualification)—
- (a) in subsection (7), in the definition of “order for admission to hospital”, omit paragraph (a);
  - (b) in subsection (8)(a), for “(f)” substitute “ (e) ”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

**I787** Sch. 16 para. 182 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](#))

**I788** Sch. 16 para. 182 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 183 In section 42 of that Act (interpretation of Part 2 (protection of children)) omit—
- (a) in subsection (1), the definition of “armed forces offence”;
  - (b) subsection (2).

#### Commencement Information

**I789** Sch. 16 para. 183 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](#))

**I790** Sch. 16 para. 183 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 184 In section 62(5) of that Act (meaning of “sentence of imprisonment” for purposes of section 62)—
- (a) in paragraph (f) at the end insert “ (including one passed as a result of section 221 or 222 of the Armed Forces Act 2006) ”;
  - (b) after that paragraph insert—
    - “(g) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006, and
    - (h) an order under section 211 of that Act.”.

#### Commencement Information

**I791** Sch. 16 para. 184 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](#))

**I792** Sch. 16 para. 184 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 185 In section 64(5) of that Act (meaning of “sentence of imprisonment” for purposes of section 64)—
- (a) in paragraph (f) at the end insert “ (including one passed as a result of section 221 or 222 of the Armed Forces Act 2006) ”;
  - (b) after that paragraph insert—
    - “(g) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006, and
    - (h) an order under section 211 of that Act.”.

#### Commencement Information

**I793** Sch. 16 para. 185 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](#))

**I794** Sch. 16 para. 185 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 186 In section 81(2) of that Act (extent)—
- (a) in paragraph (a) for “courts-martial or the Courts-Martial Appeal Court” substitute “ the Court Martial or the Court Martial Appeal Court ”;

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(b) omit paragraph (h).

**Commencement Information**

**I795** Sch. 16 para. 186 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](#))

**I796** Sch. 16 para. 186 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

*Criminal Justice and Police Act 2001 (c. 16)*

187 In section 88(8) of the Criminal Justice and Police Act 2001 (functions of Central Police Training and Development Authority)—

(a) in paragraph (g) for “Royal Navy Regulating Branch” substitute “ Royal Navy Police ”;

(b) omit paragraph (j).

**Commencement Information**

**I797** Sch. 16 para. 187(a) in force at 4.6.2007 by [S.I. 2007/1442, art. 2\(1\)](#)

**I798** Sch. 16 para. 187(b) in force at 1.1.2008 by [S.I. 2007/2913, art. 3](#)

*International Criminal Court Act 2001 (c. 17)*

188 In section 32(6) of the International Criminal Court Act 2001 (meaning of “prisoner” in that section) for “detention” substitute “ service detention (within the meaning of the Armed Forces Act 2006) ”.

**Commencement Information**

**I799** Sch. 16 para. 188 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](#))

**I800** Sch. 16 para. 188 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

189 In section 67(3) of that Act (definition of person subject to UK service jurisdiction), for paragraphs (a) to (c) substitute “ a person subject to service law, or a civilian subject to service discipline, within the meaning of the Armed Forces Act 2006. ”

**Commencement Information**

**I801** Sch. 16 para. 189 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](#))

**I802** Sch. 16 para. 189 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

190 In section 75 of that Act (meaning of “national court” and “service court” in that Act) for the definition of “service court” substitute—

““service court” means—

(a) the Court Martial;

(b) the Service Civilian Court;

(c) the Court Martial Appeal Court; or

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(d) the Supreme Court on an appeal brought from the Court Martial Appeal Court.”

**Commencement Information**

**I803** Sch. 16 para. 190 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](#))

**I804** Sch. 16 para. 190 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

191 In Part 1 of Schedule 2 to that Act (delivery up of persons subject to criminal proceedings etc), in paragraph 5(5)(b) (meaning of “prisoner” in paragraph 5) for “detention” substitute “service detention (within the meaning of the Armed Forces Act 2006)”.

**Commencement Information**

**I805** Sch. 16 para. 191 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](#))

**I806** Sch. 16 para. 191 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

*Armed Forces Act 2001 (c. 19)*

192 (1) Section 26 of the Armed Forces Act 2001 (power to make provision for orders as to costs) is amended as follows.

(2) In subsection (1) for the words from “courts-martial” to “services Acts” substitute “any of the Court Martial, the Summary Appeal Court, the Service Civilian Court and the Court Martial Appeal Court, in any case where the court is satisfied that one party to proceedings before that court”.

(3) In subsection (2)(d) for “a Standing Civilian Court” substitute “the Service Civilian Court”.

(4) In subsection (3)—

(a) in paragraph (a) for the words from “a court-martial” to the end substitute “the Court Martial under the regulations may appeal to the Court Martial Appeal Court;”;

(b) in paragraph (b) for “a summary appeal court or a Standing Civilian Court” substitute “the Summary Appeal Court or the Service Civilian Court”.

(5) Omit subsection (4).

**Commencement Information**

**I807** Sch. 16 para. 192 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](#))

**I808** Sch. 16 para. 192 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

193 (1) Section 27 of that Act (costs against legal representatives) is amended as follows.

(2) In subsection (1) for the words from the beginning to “may disallow” substitute “In any proceedings before—

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- (a) the Court Martial,
- (b) the Summary Appeal Court,
- (c) the Service Civilian Court, or
- (d) the Court Martial Appeal Court,

the court may disallow ”.

- (3) In subsection (2)—
  - (a) in paragraph (a) for the words from “a court-martial” to the end substitute “ the Court Martial under subsection (1) may appeal to the Court Martial Appeal Court; ”;
  - (b) in paragraph (b) for “a summary appeal court or a Standing Civilian Court” substitute “ the Summary Appeal Court or the Service Civilian Court ”.
- (4) In subsection (3), in the definition of “legal or other representative” for paragraph (b) substitute—
  - “(b) a person appointed under section 365 of the Armed Forces Act 2006 (prosecuting officers);”.

#### Commencement Information

**1809** Sch. 16 para. 193 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](#))

**1810** Sch. 16 para. 193 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

194 (1) Section 28 of that Act (provisions supplementary to sections 26 and 27) is amended as follows.

- (2) In subsection (1)—
  - (a) for “prosecuting authority of its” substitute “ Director of Service Prosecutions (“the Director”) of his ”;
  - (b) for “under the services Acts” substitute “ before a court mentioned in section 27(1) ”;
  - (c) for “prosecuting authority” in the second place where it occurs substitute “ Director ”.

(3) In subsection (2) for “prosecuting authority” in both places substitute “ Director ”.

(4) Omit subsections (3) to (5).

#### Commencement Information

**1811** Sch. 16 para. 194 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](#))

**1812** Sch. 16 para. 194 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

195 (1) Section 30 of that Act (conditional release from custody) is amended as follows.

(2) In subsection (1) for “a court-martial, a summary appeal court or a Standing Civilian Court” substitute “ the Court Martial, the Summary Appeal Court or the Service Civilian Court ”.

(3) In subsection (2)—

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- (a) in paragraph (a) for the words from “a court-martial” to the end substitute “the Court Martial, the determination of an appeal to the Court Martial Appeal Court, ”;
  - (b) in paragraph (b) for the words from “a summary appeal court” to “1957 Act” substitute “ the Summary Appeal Court, the determination of an appeal to the High Court under section 149(2) of the Armed Forces Act 2006 ”;
  - (c) in paragraph (c) for the words from “a Standing Civilian Court” to the end substitute “ the Service Civilian Court, the determination of an appeal to the Court Martial or of an appeal from the Court Martial to the Court Martial Appeal Court. ”
- (4) In subsection (4)—
- (a) for paragraph (d) substitute—
    - “(d) create service offences punishable by any of the punishments mentioned in the Table in section 164 of the Armed Forces Act 2006,”;
  - (b) in paragraph (e) for the words from “1955 Acts” to “Armed Forces Act 1976 (c. 52)” substitute “ Court Martial Appeals Act 1968 or the Armed Forces Act 2006 ”.
- (5) For subsections (5) and (6) substitute—
- “(5A) Where an order under this section creates an offence punishable with imprisonment, the maximum term it may authorise is two years.”

**Commencement Information**

**1813** Sch. 16 para. 195 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](#))

**1814** Sch. 16 para. 195 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

*Anti-terrorism, Crime and Security Act 2001 (c. 24)*

- 196 In Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash), in paragraph 16(3)(a) (case where compensation order made), after “2000 (c. 6),” insert “ or in pursuance of a service compensation order under the Armed Forces Act 2006, ”.

**Commencement Information**

**1815** Sch. 16 para. 196 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](#))

**1816** Sch. 16 para. 196 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

*Proceeds of Crime Act 2002 (c. 29)*

- 197 In section 308(4)(a) of the Proceeds of Crime Act 2002 (general exceptions), after “2000 (c. 6)” insert “ or in pursuance of a service compensation order under the Armed Forces Act 2006 ”.

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**Commencement Information**

- I817** Sch. 16 para. 197 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](#))
- I818** Sch. 16 para. 197 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Railways and Transport Safety Act 2003 (c. 20)*

- 198 In section 90(1) of the Railways and Transport Safety Act 2003 (Crown application etc), for the words from “Her Majesty’s” to “Army Act 1955 (c. 18),” substitute “any of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006)”.

**Commencement Information**

- I819** Sch. 16 para. 198 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](#))
- I820** Sch. 16 para. 198 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 199 In section 101(1) of that Act (military application), for the words from “Her Majesty’s” to “Army Act 1955 (c. 18)” substitute “any of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006)”.

**Commencement Information**

- I821** Sch. 16 para. 199 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](#))
- I822** Sch. 16 para. 199 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Extradition Act 2003 (c. 41)*

- 200 In section 3 of the Extradition Act 2003 (arrest under certified Part 1 warrant)—
- (a) for subsections (3) and (4) substitute—
- “(3) The warrant may be executed by a service policeman anywhere, but only if the person is subject to service law or is a civilian subject to service discipline.”;
- (b) omit subsection (6).

**Commencement Information**

- I823** Sch. 16 para. 200 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](#))
- I824** Sch. 16 para. 200 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

- 201 In section 5 of that Act (provisional arrest), for subsections (3) to (5) substitute—
- “(3) A service policeman may arrest a person under subsection (1) only if the person is subject to service law or is a civilian subject to service discipline.
- (4) If a service policeman has power to arrest a person under subsection (1) he may exercise the power anywhere.”



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**Commencement Information**

**1825** Sch. 16 para. 201 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](#))

**1826** Sch. 16 para. 201 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

202 In section 71 of that Act (arrest warrant following extradition request)—

(a) for subsection (6) substitute—

“(6) If a warrant issued under this section—

(a) is directed to a service policeman, and

(b) is in respect of a person subject to service law or a civilian subject to service discipline,

it may be executed anywhere.”;

(b) omit subsection (8).

**Commencement Information**

**1827** Sch. 16 para. 202 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](#))

**1828** Sch. 16 para. 202 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

203 In section 73 of that Act (provisional warrant)—

(a) for subsection (7) substitute—

“(7) If a warrant issued under this section—

(a) is directed to a service policeman, and

(b) is in respect of a person subject to service law or a civilian subject to service discipline,

it may be executed anywhere.”;

(b) omit subsection (9).

**Commencement Information**

**1829** Sch. 16 para. 203 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](#))

**1830** Sch. 16 para. 203 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

204 In section 155 of that Act (service personnel) for the words from “military law” to the end substitute “service law.”

**Commencement Information**

**1831** Sch. 16 para. 204 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](#))

**1832** Sch. 16 para. 204 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

205 In section 216 of that Act (interpretative provisions)—

(a) after subsection (7) insert—

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“(7A) “Civilian subject to service discipline” has the same meaning as in the Armed Forces Act 2006.”

(b) for subsections (13) and (14) substitute—

“(13) “Service policeman” means anyone who is, or by reason of section 375(5) of the Armed Forces Act 2006 is to be treated as, a service policeman for the purposes of that Act.

(13A) “Subject to service law” has the same meaning as in that Act.”

**Commencement Information**

**I833** Sch. 16 para. 205 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](#))

**I834** Sch. 16 para. 205 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Sexual Offences Act 2003 (c. 42)*

206 In section 81(3)(b) of the Sexual Offences Act 2003 (persons formerly subject to Part 1 of Sex Offenders Act 1997), omit “or a term of service detention”.

**Commencement Information**

**I835** Sch. 16 para. 206 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](#))

**I836** Sch. 16 para. 206 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

207 In section 116 of that Act (qualifying offenders for purposes of section 114)—

(a) in subsection (2)(c), after “93” insert “ or 93A ”;

(b) after subsection (2) insert—

“(2A) In subsection (2)(c) references to the corresponding civil offence are to be read, in relation to an offence within paragraph 93A of Schedule 3, as references to the corresponding offence under the law of England and Wales.”

**Commencement Information**

**I837** Sch. 16 para. 207 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](#))

**I838** Sch. 16 para. 207 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

208 (1) Section 131 of that Act (young offenders: application) is amended as follows.

(2) In paragraph (a) after “detention and training order” insert “ (including an order under section 211 of the Armed Forces Act 2006) ”.

(3) In paragraph (h) after “2000 (c. 6),” insert “ section 209 or 218 of the Armed Forces Act 2006, ”.

(4) In paragraph (k) after “2003” insert “ (including one passed as a result of section 221 of the Armed Forces Act 2006) ”.

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- (5) In paragraph (1) for “that Act” substitute “ the Criminal Justice Act 2003 (including one passed as a result of section 222 of the Armed Forces Act 2006) ”.

#### Commencement Information

**1839** Sch. 16 para. 208 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](#))

**1840** Sch. 16 para. 208 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

- 209 (1) Section 133 (Part 2: general interpretation) is amended as follows.

- (2) In subsection (1)—

- (a) for the definition of “order for conditional discharge” substitute—

““order for conditional discharge” means an order under any of the following provisions discharging the offender conditionally—

- (a) section 12 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (b) Article 4 of the Criminal Justice (Northern Ireland) Order 1996;
- (c) section 185 of the Armed Forces Act 2006;
- (d) paragraph 3 of Schedule 5A to the Army Act 1955 or Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957;”;
- (b) in the definition of “the period of conditional discharge” for paragraphs (c) to (e) substitute—
- “(c) section 185(2) of the Armed Forces Act 2006;”;
- (c) after the definition of “risk of sexual harm order” insert—
- ““service detention” has the meaning given by section 374 of the Armed Forces Act 2006;”;
- (d) omit the definition of “term of service detention”.

- (3) In subsection (1A) after paragraph (b) insert—

“(ba) Schedule 4 to the Armed Forces Act 2006 (including as applied by section 16(2) of the Court Martial Appeals Act 1968),”.

#### Commencement Information

**1841** Sch. 16 para. 209 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](#))

**1842** Sch. 16 para. 209 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

- 210 In section 134(1) of that Act (conditional discharges and probation orders), after paragraph (c) insert—

“(ca) section 187(1) of the Armed Forces Act 2006 (conviction with absolute or conditional discharge deemed not to be a conviction);”.

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#### Commencement Information

- 1843** Sch. 16 para. 210 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](#))
- 1844** Sch. 16 para. 210 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 211 (1) Section 137 of that Act (service courts) is amended as follows.
- (2) In subsection (1)(d), for the words from “the offence under section 70” to the end substitute “ an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is that offence. ”
- (3) In subsection (4) for “a court-martial or Standing Civilian Court” substitute “ the Court Martial or the Service Civilian Court ”.
- (4) After that subsection add—
- “(5) In subsection (1)(a) the reference to a service court includes a reference to the following—
- (a) the Court Martial Appeal Court;
- (b) the Supreme Court on an appeal brought from the Court Martial Appeal Court;
- (c) a court-martial;
- (d) a Standing Civilian Court.”

#### Commencement Information

- 1845** Sch. 16 para. 211 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](#))
- 1846** Sch. 16 para. 211 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 212 (1) Schedule 3 to that Act (sexual offences for purposes of Part 2) is amended as follows.
- (2) In paragraph 93—
- (a) in sub-paragraph (2) omit “service”;
- (b) after that sub-paragraph add—
- “(3) In sub-paragraph (2), the reference to detention is to detention awarded under section 71(1)(e) of the Army Act 1955 or Air Force Act 1955 or section 43(1)(e) of the Naval Discipline Act 1957.”
- (3) After that paragraph insert—
- “93A(1) An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence listed in any of paragraphs 1 to 35.
- (2) A reference in any of those paragraphs to being made the subject of a community sentence of at least 12 months is to be read, in relation to an offence under that section, as a reference to—

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- (a) being made the subject of a service community order or overseas community order under the Armed Forces Act 2006 of at least 12 months; or
  - (b) being sentenced to a term of service detention of at least 112 days.
- (3) Section 48 of that Act (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of this paragraph as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to this paragraph.”

#### Commencement Information

**1847** Sch. 16 para. 212 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](#))

**1848** Sch. 16 para. 212 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

213 In Schedule 5 to that Act (other offences for purposes of Part 2), after paragraph 172 insert—

“172A (1) An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence listed in any of paragraphs 1 to 63A.

(2) Section 48 of that Act (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of this paragraph as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to this paragraph.”

#### Commencement Information

**1849** Sch. 16 para. 213 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](#))

**1850** Sch. 16 para. 213 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Criminal Justice Act 2003 (c. 44)*

214 (1) Section 94 of the Criminal Justice Act 2003 (extension of section 31 of the Armed Forces Act 2001) is amended as follows.

(2) For subsection (1) substitute—

“(1) Section 323 of the Armed Forces Act 2006 (provision in consequence of criminal justice enactments) applies in relation to an enactment contained in this Part so far as relating to matters not specified in subsection (2) of section 324 of that Act as it applies in relation to a criminal justice enactment (within the meaning given by that section).”

(3) In subsection (2) for “that section” substitute “ section 323 of that Act ”.

(4) For subsection (3) substitute—

“(3) In subsection (2) “service offence” has the same meaning as in the Armed Forces Act 2006.”

*Status: Point in time view as at 13/05/2014.*

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**Commencement Information**

- I851** Sch. 16 para. 214 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](#))
- I852** Sch. 16 para. 214 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

215 In section 112(1) of that Act (interpretation of Chapter 1 of Part 11 (evidence of bad character)), for the definition of “service offence” substitute—

““service offence” has the same meaning as in the Armed Forces Act 2006;”.

**Commencement Information**

- I853** Sch. 16 para. 215 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](#))
- I854** Sch. 16 para. 215 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

216 In section 143(4) of that Act (meaning of “previous conviction”), for paragraph (b) substitute—

“(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 (“conviction” here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).”

**Commencement Information**

- I855** Sch. 16 para. 216 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](#))
- I856** Sch. 16 para. 216 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

217 (1) Section 151 of that Act (community order for persistent offender previously fined) is amended as follows.

(2) In subsection (4) for the words from “the finding of guilt” to the end substitute “conviction in service disciplinary proceedings”.

(3) In subsection (5) after “compensation order” insert “, or a service compensation order awarded in service disciplinary proceedings, ”.

(4) After subsection (7) add—

“(8) In this section—

- (a) “service disciplinary proceedings” means proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006; and
- (b) any reference to conviction or sentence, in the context of service disciplinary proceedings, includes anything that under section 376(1) to (3) of that Act is to be treated as a conviction or sentence.”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

**I857** Sch. 16 para. 217 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](#))

**I858** Sch. 16 para. 217 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**F49** 218 .....

#### Textual Amendments

**F49** Sch. 16 para. 218 repealed (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 28 Pt. 2](#); [S.I. 2009/2606](#), [art. 3\(j\)\(ii\)](#)

219 In section 237 of that Act (meaning of “ fixed-term prisoner ”), at the end of the title insert “ etc ” and after subsection (1) insert—

“(1B) In this Chapter—

- (a) references to a sentence of imprisonment include such a sentence passed by a service court;
- (b) references to a sentence of detention under section 91 of the Sentencing Act include a sentence of detention under section 209 of the Armed Forces Act 2006;
- (c) references to a sentence under section 227 of this Act include a sentence under that section passed as a result of section 220 of the Armed Forces Act 2006; and
- (d) references to a sentence under section 228 of this Act include a sentence under that section passed as a result of section 222 of that Act.

(1C) Nothing in subsection (1B) has the effect that section 240 or 265 (provision equivalent to which is made by the Armed Forces Act 2006) applies to a service court.”

#### Commencement Information

**I859** Sch. 16 para. 219 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](#))

**I860** Sch. 16 para. 219 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

220 In section 241 of that Act (effect of direction under section 240 on release on licence), after subsection (1) insert—

“(1A) In subsection (1) the reference to a direction under section 240 includes a direction under section 246 of the Armed Forces Act 2006.”

#### Commencement Information

**I861** Sch. 16 para. 220 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](#))

**I862** Sch. 16 para. 220 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

221 In section 246 of that Act (disapplication of power to release prisoners on licence early), after subsection (4) insert—

“(4A) In subsection (4)—

- (a) the reference in paragraph (d) to a community order includes a service community order or overseas community order under the Armed Forces Act 2006; and
- (b) the reference in paragraph (i) to a direction under section 240 includes a direction under section 246 of that Act.”

**Commencement Information**

**I863** Sch. 16 para. 221 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](#))

**I864** Sch. 16 para. 221 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

<sup>F50</sup>222 . . . . .

**Textual Amendments**

**F50** Sch. 16 para. 222 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 41\(6\)](#); [S.I. 2012/2906, art. 2\(h\)](#)

<sup>F51</sup>223 . . . . .

**Textual Amendments**

**F51** Sch. 16 para. 223 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 41\(6\)](#); [S.I. 2012/2906, art. 2\(h\)](#)

224 (1) Section 252 of that Act (duty to comply with licence conditions) is renumbered as subsection (1) of that section.

(2) After that subsection insert—

“(2) But where—

- (a) the licence relates to a sentence of imprisonment passed by a service court,
  - (b) no custody plus order was made in relation to the sentence, or such an order was made but subsequently revoked, and
  - (c) the person is residing outside the British Islands,
- the conditions specified in the licence apply to him only so far as it is practicable for him to comply with them where he is residing.”

**Commencement Information**

**I865** Sch. 16 para. 224 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](#))

**I866** Sch. 16 para. 224 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

<sup>F52</sup>225 . . . . .



*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Textual Amendments**

**F52** Sch. 16 para. 225 repealed (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 28 Pt. 2](#); S.I. 2009/2606, art. 3(j)(ii)

226 In section 263(1)(a) of that Act (concurrent terms), omit “by any court”.

**Commencement Information**

**I867** Sch. 16 para. 226 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](#))

**I868** Sch. 16 para. 226 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

227 In section 268 of that Act (interpretation of Chapter 6 of Part 12), in the definition of “fixed-term prisoner” after “237(1)” insert “ (as extended by section 237(1B)) ”.

**Commencement Information**

**I869** Sch. 16 para. 227 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](#))

**I870** Sch. 16 para. 227 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

<sup>F53</sup>228 .....

**Textual Amendments**

**F53** Sch. 16 para. 228 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 13 para. 5](#); S.I. 2012/2906, art. 2(k)

229 In section 272 of that Act (review of minimum term on a reference by the Attorney General), omit subsections (2) and (3).

**Commencement Information**

**I871** Sch. 16 para. 229 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](#))

**I872** Sch. 16 para. 229 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

230 In section 277 of that Act (interpretation of Chapter 7 of Part 12 (effect of life sentence)), in the definition of “court”, for “a court-martial” substitute “ the Court Martial ”.

**Commencement Information**

**I873** Sch. 16 para. 230 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](#))

**I874** Sch. 16 para. 230 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

231 In section 305(1) of that Act (interpretation of Part 12)—

*Status: Point in time view as at 13/05/2014.*

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- (a) at the end of the definition of “court” insert “, but this does not apply where a contrary intention appears from any provision of the Armed Forces Act 2006; ”; and
- (b) for the definitions of “service court” and “service disciplinary proceedings” substitute—

““service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court;
- (d) the Court Martial Appeal Court; or
- (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court;”.

**Commencement Information**

**1875** Sch. 16 para. 231 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](#))

**1876** Sch. 16 para. 231 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 232 In section 329 of that Act (civil proceedings for trespass to the person brought by offender), for subsection (7) substitute—

“(7) Where—

- (a) a person is convicted of an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), and
- (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) is an imprisonable offence,

he is to be treated for the purposes of this section as having been convicted in the United Kingdom of that corresponding offence; and in paragraph (a) the reference to conviction includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction.”

**Commencement Information**

**1877** Sch. 16 para. 232 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](#))

**1878** Sch. 16 para. 232 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 233 (1) Section 337 of that Act (extent) is amended as follows.

(2) In subsection (12)—

- (a) in paragraph (a) for “by a court-martial” substitute “ in respect of service offences within the meaning of the Armed Forces Act 2006 ”;
- (b) in paragraph (b) for “courts-martial or the Courts-Martial Appeal Court” substitute “ the Court Martial or the Court Martial Appeal Court ”.

(3) After that subsection insert—

*Status: Point in time view as at 13/05/2014.*

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“(12A) Nothing in subsection (1) affects the extent of section 94; and section 384 of the Armed Forces Act 2006 applies in relation to section 94 of this Act as it applies in relation to that Act.”

- (4) In subsection (13)—
- (a) in paragraph (a)—
    - (i) omit sub-paragraphs (i) to (iii), (v), (vii) and (viii);
    - (ii) in sub-paragraph (iv) for “Courts-Martial (Appeals) Act 1968” substitute “ Court Martial Appeals Act 1968 ”, and at the end of that sub-paragraph insert “ or ”;
  - (b) omit paragraph (b).

#### Commencement Information

**1879** Sch. 16 para. 233 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](#))

**1880** Sch. 16 para. 233 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

234 (1) Schedule 6 to that Act (modifications for armed forces of provisions about evidence of bad character) is amended as follows.

- (2) In paragraph 3—
- (a) in sub-paragraph (1) for “courts-martial” substitute “ the Court Martial ”;
  - (b) in sub-paragraph (2)—
    - (i) in paragraph (a) for “judge and jury” substitute “ a judge and jury ”;
    - (ii) also in paragraph (a) for “court-martial” substitute “ the Court Martial ”;
    - (iii) in paragraph (c) for “dissolve” substitute “ discharge ”;
  - (c) in sub-paragraph (4)—
    - (i) in the paragraph substituted by paragraph (a), for the words from “section 115B(2) of the Army” to “1957” substitute “ section 167 of the Armed Forces Act 2006 ”;
    - (ii) in paragraph (c) for “dissolve” substitute “ discharge ”;
  - (d) in the subsection substituted by sub-paragraph (5), for “dissolve” substitute “ discharge ”.
- (3) In the subsection substituted by paragraph 4 of that Schedule—
- (a) in paragraph (a) for “a court-martial” substitute “ the Court Martial ”;
  - (b) in paragraph (b) for “a Standing Civilian Court” substitute “ the Summary Appeal Court or the Service Civilian Court ”.
- (4) For paragraph 6 substitute—
- “6 In this Schedule “service court” means—
- (a) the Court Martial;
  - (b) the Summary Appeal Court;
  - (c) the Service Civilian Court; or
  - (d) the Court Martial Appeal Court.”

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

#### Commencement Information

- 1881** Sch. 16 para. 234 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](#))
- 1882** Sch. 16 para. 234 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

235 (1) Schedule 7 to that Act (modifications for armed forces of provisions about hearsay evidence) is amended as follows.

(2) In paragraph 2—

(a) for sub-paragraph (2) substitute—

“(2) In section 116(2) for paragraph (c) substitute—

“(c) that either of the following applies—

(i) the court is sitting neither in the United Kingdom nor in a British overseas territory and it is not reasonably practicable to secure the attendance of the relevant person; or

(ii) the court is sitting in the United Kingdom or a British overseas territory but the relevant person is outside the United Kingdom or outside that territory (as the case may be) and it is not reasonably practicable to secure his attendance.”

(b) in the subsection inserted by sub-paragraph (3), for the words from “ “criminal proceedings”” to the end substitute “ the reference to criminal proceedings includes proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006. ”;

(c) in the paragraph substituted by sub-paragraph (4), for “a court-martial” substitute “ the Court Martial ”;

(d) for sub-paragraph (5) substitute—

“(5) In section 127—

(a) in subsection (1)(c)—

(i) for “the appropriate rules” substitute “ rules made under the Armed Forces Act 2006 or the Court Martial Appeals Act 1968 ”;

(ii) for “section 9 of the Criminal Justice Act 1967 (c. 80)” substitute “ such rules ”;

(b) omit subsection (7).”;

(e) in the subsection inserted by sub-paragraph (7), for paragraphs (a) and (b) substitute “ to proceedings before an officer, the Court Martial or the Service Civilian Court in respect of a service offence within the meaning of the Armed Forces Act 2006. ”

(3) In paragraph 3—

(a) in sub-paragraph (1) for “courts-martial” substitute “ the Court Martial ”;

(b) in sub-paragraph (2)—

(i) for “judge and jury” substitute “ a judge and jury ”;

(ii) for “court-martial” substitute “ the Court Martial ”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

- (4) In paragraph 4—
- (a) in sub-paragraph (1) for “courts-martial” substitute “ the Court Martial ”;
  - (b) in sub-paragraph (2)—
    - (i) in paragraph (a) for “judge and jury” substitute “ a judge and jury ”;
    - (ii) also in paragraph (a) for “court-martial” substitute “ the Court Martial ”;
    - (iii) in paragraph (c) for “dissolve” substitute “ discharge ”;
  - (c) in sub-paragraph (4)—
    - (i) in the paragraph substituted by paragraph (a), for the words from “section 115B(2) of the Army” to “1957” substitute “ section 167 of the Armed Forces Act 2006 ”;
    - (ii) in paragraph (c) for “dissolve” substitute “ discharge ”;
  - (d) in the subsection substituted by sub-paragraph (5), for “dissolve” substitute “ discharge ”.
- (5) Omit paragraphs 5 to 7.
- (6) For paragraph 8 substitute—
- “8 In this Schedule, and in any provision of this Part as applied by this Schedule, “service court” means—
- (a) the Court Martial;
  - (b) the Summary Appeal Court;
  - (c) the Service Civilian Court; or
  - (d) the Court Martial Appeal Court.”

**Commencement Information**

**1883** Sch. 16 para. 235 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](#))

**1884** Sch. 16 para. 235 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 236 In Schedule 21 to that Act (determination of minimum term in relation to mandatory life sentence), at the end of paragraph 12 (but not as part of sub-paragraph (c)) insert “ or of section 238(1)(b) or (c) or 239 of the Armed Forces Act 2006. ”

**Commencement Information**

**1885** Sch. 16 para. 236 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](#))

**1886** Sch. 16 para. 236 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Crime (International Co-operation) Act 2003 (c. 32)*

- 237 In section 47(9) of the Crime (International Co-operation) Act 2003 (transfer of UK prisoner to assist investigation abroad) for “(3A)” substitute “ (4) ”.

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**Commencement Information**

- I887** Sch. 16 para. 237 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](#))
- I888** Sch. 16 para. 237 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Domestic Violence, Crime and Victims Act 2004 (c. 28)*

238 (1) Section 8 of the Domestic Violence, Crime and Victims Act 2004 (evidence and procedure: courts-martial) is amended as follows.

- (2) In the sidenote for “courts-martial” substitute “ the Court Martial ”.
- (3) In subsection (1) for “courts-martial” substitute “ the Court Martial ”.
- (4) For subsection (2) substitute—

“(2) A reference to an offence—

- (a) of murder,  
 (b) of manslaughter, or  
 (c) under section 5,

is to be read as a reference to an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is that offence.”

**Commencement Information**

- I889** Sch. 16 para. 238 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](#))
- I890** Sch. 16 para. 238 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

239 In section 45(1) of that Act (interpretation of sections 35 to 44), in the definition of “court”, for “a court-martial or the Courts-Martial Appeal Court” substitute “ the Court Martial or the Court Martial Appeal Court ”.

**Commencement Information**

- I891** Sch. 16 para. 239 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](#))
- I892** Sch. 16 para. 239 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

240 For section 62(4) of that Act (extent) substitute—

“(4) Nothing in subsection (1) affects the extent of section 8 or of any provision of section 6 as applied by section 8.”

**Commencement Information**

- I893** Sch. 16 para. 240 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](#))

*Status: Point in time view as at 13/05/2014.*

**Changes to legislation:** Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)

**1894** Sch. 16 para. 240 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Human Tissue Act 2004 (c. 30)*

241 In section 39(6)(c) of the Human Tissue Act 2004 (criminal justice purposes), for the words from “offences” to the end substitute “ service offences within the meaning of the Armed Forces Act 2006. ”

**Commencement Information**

**1895** Sch. 16 para. 241 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](#))

**1896** Sch. 16 para. 241 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

242 In Part 2 of Schedule 4 to that Act (use for an excepted purpose), in paragraph 5(4) (c) for the words from “offences” to the end substitute “ service offences within the meaning of the Armed Forces Act 2006. ”

**Commencement Information**

**1897** Sch. 16 para. 242 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](#))

**1898** Sch. 16 para. 242 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Civil Partnership Act 2004 (c. 33)*

243 In section 245(2) of the Civil Partnership Act 2004 (interpretation), for “Army Act 1955 (3 & 4 Eliz 2 c. 18)” substitute “ Armed Forces Act 2006 ”.

**Commencement Information**

**1899** Sch. 16 para. 243 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](#))

**1900** Sch. 16 para. 243 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Constitutional Reform Act 2005 (c. 4)*

244 In Part 2 of Schedule 14 to the Constitutional Reform Act 2005 (the Judicial Appointments Commission: relevant offices and enactments), in the table, in the entry relating to a judge of the Courts-Martial Appeal Court—

- (a) in the first column for “Courts-Martial Appeal Court” substitute “ Court Martial Appeal Court ”;
- (b) in the second column for “Courts-Martial (Appeals) Act 1968 (c. 20)” substitute “ Court Martial Appeals Act 1968 (c. 20) ”.

**Commencement Information**

**1901** Sch. 16 para. 244 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](#))

*Status: Point in time view as at 13/05/2014.*

*Changes to legislation: Armed Forces Act 2006 is up to date with all changes known to be in force on or before 05 August 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)*

**I902** Sch. 16 para. 244 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Gambling Act 2005 (c. 19)*

245 In section 354(2) of the Gambling Act 2005 (Crown application), for the words from “Her Majesty's” to the end substitute “ any of Her Majesty's forces (within the meaning of the Armed Forces Act 2006).”

#### **Commencement Information**

**I903** Sch. 16 para. 245 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](#))

**I904** Sch. 16 para. 245 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

246 In Part 1 of Schedule 7 to that Act (relevant offences)—

(a) for paragraphs 14 to 16 substitute—

“14A An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence listed elsewhere in this Schedule.”;

(b) after paragraph 22 insert—

“22A Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of this Act as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to any provision of this Act.”

#### **Commencement Information**

**I905** Sch. 16 para. 246 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](#))

**I906** Sch. 16 para. 246 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## SCHEDULE 17

Section 378

### REPEALS AND REVOCATIONS

#### **Commencement Information**

**I907** Sch. 17 in force at Royal Assent for specified purposes, see s. 383(1)

**I908** Sch. 17 in force at 1.1.2008 for specified purposes by [S.I. 2007/2913](#), [art. 3](#) (with [art. 4](#))

**I909** Sch. 17 in force at 24.6.2008 for specified purposes by [S.I. 2008/1650](#), [art. 4\(c\)](#)

**I910** Sch. 17 in force at 1.10.2008 for specified purposes by [S.I. 2008/1650](#), [art. 2\(e\)](#) (with [art. 3](#))

**I911** Sch. 17 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](#))

**I912** Sch. 17 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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<b>Reference</b>	<b>Extent of repeal or revocation</b>
Naval Agency and Distribution Act 1864 (c. 24)	Section 16.
Naval and Marine Pay and Pensions Act 1865 (c. 73)	Section 6. Section 8.
Regimental Debts Act 1893 (c. 5)	In section 23, the words “is sentenced to death or”.
Criminal Evidence Act 1898 (c. 36)	In section 6(1), the words from “including” to the end.
Air Force (Constitution) Act 1917 (c. 51)	In section 2(1), the words “, pay, allowances,”. In section 3, in the sidenote the words “and attaching”, in subsection (1) the words from “, or attached” to “four years:”, and subsection (4).
Coastguard Act 1925 (c. 88)	Section 2.
Colonial Naval Defence Act 1931 (c. 9)	The whole Act.
Visiting Forces (British Commonwealth) Act 1933 (c. 6)	Sections 6 and 7.
Defence (Armed Forces) Regulations 1939 (S.I. 1939/1304)	In Regulation 6, the words from “within the meaning of” to the end.
Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 (c. 24)	The whole Act.
Army and Air Force (Women's Service) Act 1948 (c. 21)	The whole Act.
Criminal Justice Act 1948 (c. 58)	In section 80(1), the definition of “Court”.
Colonial Naval Defence Act 1949 (c. 18)	The whole Act.
Courts-Martial (Appeals) Act 1951 (c. 46)	Section 28.
Emergency Laws (Miscellaneous Provisions) Act 1953 (c. 47)	Section 10.
Army Act 1955 (3 & 4 Eliz. 2 c. 18)	The whole Act.
Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)	The whole Act.
Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 (3 & 4 Eliz. 2 c. 20)	Sections 1 and 2. Schedule 1. In Schedule 2, paragraphs 5 and 9.
Ghana Independence Act 1957 (c. 6)	Section 4(2) and (3).
Homicide Act 1957 (c. 11)	Section 13(3). In section 17(3), the words “, except as regards courts-martial,”.
Naval Discipline Act 1957 (c. 53)	The whole Act.
Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58)	In section 1(1), the words “, or among the families of”.

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	Section 2(1)(a) and (b).
Federation of Malaya Independence Act 1957 (c. 60)	In Schedule 1, paragraph 2.
Emergency Laws (Repeal) Act 1959 (c. 19)	In Part C of Schedule 2, in the text of Regulation 6 of the Defence (Armed Forces) Regulations 1939, the words from “within the meaning of” to the end.
Cyprus Act 1960 (c. 52)	In the Schedule, paragraph 4.
Nigeria Independence Act 1960 (c. 55)	Section 3(2) and (3).
Sierra Leone Independence Act 1961 (c. 16)	Section 3(2).
Criminal Justice Act 1961 (c. 39)	In section 38, in subsection (2)(b) the words from “a sentence passed by a court-martial” to “1955), and”, and in subsection (3)(b) the words “a sentence passed by a court-martial for any offence, and”. In section 39(1), the definition of “court martial”.
Army and Air Force Act 1961 (c. 52)	The whole Act.
Tanganyika Independence Act 1961 (c. 1)	Section 3(2) and (3).
Jamaica Independence Act 1962 (c. 40)	Section 3(2).
Trinidad and Tobago Independence Act 1962 (c. 54)	Section 3(2).
Uganda Independence Act 1962 (c. 57)	Section 3(2) and (3).
Malaysia Act 1963 (c. 35)	In Schedule 2, paragraph 3.
Kenya Independence Act 1963 (c. 54)	Section 4(2) and (3).
Zanzibar Act 1963 (c. 55)	In Schedule 1, paragraph 5.
Defence (Transfer of Functions) Act 1964 (c. 15)	In section 1— (a) in subsection (3), paragraph (b) and the word “or” immediately before it; (b) subsection (4); (c) in subsection (5), the words “of reviewing the findings or sentences of courts-martial and other functions”.
Malawi Independence Act 1964 (c. 46)	Section 4(2) and (3).
Zambia Independence Act 1964 (c. 65)	In Schedule 1, paragraphs 5 and 11.
Malta Independence Act 1964 (c. 86)	Section 4(2) and (3).
Gambia Independence Act 1964 (c. 93)	Section 4(2) and (3).
Murder (Abolition of Death Penalty) Act 1965 (c. 71)	Section 1(4). In section 3(3), the words “, except as regards courts-martial,”.
Guyana Independence Act 1966 (c. 14)	Section 5(2).
Botswana Independence Act 1966 (c. 23)	In the Schedule, paragraphs 5 and 10.

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Lesotho Independence Act 1966 (c. 24)	In the Schedule, paragraphs 5 and 11.
Singapore Act 1966 (c. 29)	In the Schedule, paragraph 2.
Barbados Independence Act 1966 (c. 37)	Section 4(2) and (3).
Armed Forces Act 1966 (c. 45)	The whole Act.
Criminal Law Act 1967 (c. 58)	Section 11(2)(a)(ii).
Criminal Justice Act 1967 (c. 80)	Sections 11 and 12. Section 32. In section 89(1), the words from “or in proceedings” to “Air Force Act 1955”.
Mauritius Independence Act 1968 (c. 8)	Section 4(2).
Courts-Martial (Appeals) Act 1968 (c. 20)	Section 4(2). Section 8(1A) to (4). Section 10. In section 11(1), the words “the Judge Advocate of Her Majesty's Fleet or”. Section 15. Section 16(6). Section 17(2). Sections 17A and 18. In section 20, subsection (5) and in subsection (6) the words from “of this Act” to the end. In section 21(1), the words from “; and in relation to” to the end. Section 23. Section 24(2). In section 25B(2), the words “under the Mental Health Act 1983”. Section 26. Section 29(2). In section 34, in subsection (1)(a) the words “the Judge Advocate of Her Majesty's Fleet or”, and subsection (3). In section 36(1), the words “under this Part of this Act”, paragraph (a) and in paragraph (g) the words from “and the power” to the end. Section 46. In section 57, in subsection (1) the definitions of— (a) “the Air Force Act”; (b) “air force court-martial”; (c) “the Army Act”; (d) “army court-martial”; (e) “court-martial”; (f) “duly approved”; (g) “the Judge Advocate General”; (h) “judicial officer”; (i) “the Naval Discipline Act”;

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	(j) “naval court-martial”; (k) “restriction order”; (l) “supervision order”; and in the definition of “appellant” the words “has been tried by court-martial and”, and subsections (2) to (2B). Section 58. Schedules 3 and 4.
Swaziland Independence Act 1968 (c. 56)	In the Schedule, paragraphs 5 and 11(a).
Tonga Act 1970 (c. 22)	In the Schedule, paragraphs 4 and 9(a).
Fiji Independence Act 1970 (c. 50)	Section 4(2).
Armed Forces Act 1971 (c. 33)	Sections 2 to 25. Sections 27 to 48. Section 49(1) and (2). Sections 50 to 68. Sections 70 to 72. Section 73(3). Section 74. Section 76. Section 77(2). Schedule 1. In Schedule 2, paragraphs 1(2) to (5), 2 and 3. In Schedule 3, paragraphs 4, 5 and 7.
Criminal Justice Act 1972 (c. 71)	In section 66(2), the words “ “court” does not include a court-martial;”.
Bahamas Independence Act 1973 (c. 27)	Section 4(2).
Bangladesh Act 1973 (c. 49)	In the Schedule, paragraph 1.
Rehabilitation of Offenders Act 1974 (c. 53)	In section 5(1)(d), the words “or a corresponding court-martial punishment”.
House of Commons Disqualification Act 1975 (c. 24)	In section 1(1)(c), the words “or the Ulster Defence Regiment”. In Schedule 1, in Part 3 the words “Judge Advocate of the Fleet.”
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In section 1(1)(c), the words from “or” to the end. In Schedule 1, in Part 3 the words “Judge Advocate of the Fleet.”
Seychelles Act 1976 (c. 19)	In the Schedule, paragraph 2.
Armed Forces Act 1976 (c. 52)	Sections 2 to 4. Sections 6 to 16. Sections 18 and 19. Schedules 1 to 8. In Schedule 9, paragraphs 3 to 8, 10, 11, 13, 14, 16 and 17.

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Bail Act 1976 (c. 63)	In Part 3 of Schedule 1, in paragraph 4 the definition of “the Services Acts”.
Solomon Islands Act 1978 (c. 15)	Section 7(2) and (3).
Oaths Act 1978 (c. 19)	Section 7(4) and (5). Section 8(4).
Tuvalu Act 1978 (c. 20)	Section 4(2).
Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))	Article 4(5). In Article 6, in paragraph (1), the word “and” at the end of sub-paragraph (c), and in sub-paragraph (d) the words “or a corresponding court-martial punishment”, and paragraph (9) (a).
Kiribati Act 1979 (c. 27)	In the Schedule, paragraph 2.
Papua New Guinea, Western Samoa and Nauru (Miscellaneous Provisions) Act 1980 (c. 2)	In the Schedule, paragraphs 10 to 12.
Reserve Forces Act 1980 (c. 9)	Section 10(5). Section 18(2)(b). Section 19(4). Section 21(4). Sections 24 and 25. Section 26(2)(g). Section 44. Section 139. Sections 141 to 144. Section 145(2). Section 146(2). In section 156, in subsection (1) the definition of “regular air force”, and subsection (2). In Schedule 8, paragraphs 5(3), 10, 16(2) and (5) and 19.
New Hebrides Act 1980 (c. 16)	In Schedule 1, paragraph 2.
Magistrates' Courts Act 1980 (c. 43)	Section 143(2)(g), (h) and (k).
Contempt of Court Act 1981 (c. 49)	In Schedule 1, paragraph 8.
Belize Act 1981 (c. 52)	In Schedule 2, paragraph 1.
Armed Forces Act 1981 (c. 55)	Sections 2 to 8. Sections 10 and 11. Section 13. Sections 15 to 19. Section 21. Section 23. Section 25. Section 27. Schedules 1 and 2. In Part 1 of Schedule 3, paragraph 2.

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	In Schedule 4, paragraph 1.
Criminal Justice Act 1982 (c. 48)	Section 58. Section 81(9) and (10). Schedule 8. In Schedule 16, the entries relating to the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957 and the Armed Forces Act 1976.
Police and Criminal Evidence Act 1984 (c. 60)	Section 51(c). Section 63A(1B)(k). In section 82, in subsection (1) the definition of “court-martial”, and subsection (2). Section 113(11). In Schedule 2, the entries relating to the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957. In Schedule 6, paragraphs 8, 28 and 29.
Brunei and Maldives Act 1985 (c. 3)	In the Schedule, paragraph 4.
Armed Forces Act 1986 (c. 21)	The whole Act.
Criminal Justice Act 1988 (c. 33)	Section 50. In Schedule 13, paragraphs 7, 9 and 10.
Road Traffic Act 1988 (c. 52)	Section 144(2)(d). In section 184(1)(e), the word “and” at the end.
Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))	Article 51(c). Article 70(2).
Criminal Justice (International Co-operation) Act 1990 (c. 5)	Section 5(3A).
Pakistan Act 1990 (c. 14)	In the Schedule, paragraph 3.
Courts and Legal Services Act 1990 (c. 41)	In section 119(1), in the definition of “court”, paragraph (b).
Namibia Act 1991 (c. 4)	In the Schedule, paragraph 2.
Criminal Justice Act 1991 (c. 53)	Section 71. In Part 1 of Schedule 4, the entry relating to the Army Act 1955 and Air Force Act 1955 and the entry relating to the Armed Forces Act 1976. Schedule 9.
Armed Forces Act 1991 (c. 62)	Sections 2 to 15. Section 16(1) and (2). In section 18, in subsection (8) the words “on him” and the words from “shall be liable” to the end, and subsection (9). Section 19(7). Section 23(2).

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	Section 24(1) to (3). Section 25. Schedule 1. In Schedule 2, paragraphs 1, 2, 4 to 7, 10 and 11.
Local Government Finance Act 1992 (c. 14)	In Schedule 1, in paragraph 1(3)(a), the word “or” at the end.
Sexual Offences (Amendment) Act 1992 (c. 34)	Section 4(9). In section 6(1), the definitions of “corresponding civil offence” and “service offence”. Section 7. Section 8(7).
Army Act 1992 (c. 39)	The whole Act.
Judicial Pensions and Retirement Act 1993 (c. 8)	In Schedule 1, in Part 2 the words “Judge Advocate of Her Majesty's Fleet”. In Schedule 5, the words “Judge Advocate of Her Majesty's Fleet”.
Criminal Justice and Public Order Act 1994 (c. 33)	In section 146(4), the words from “or, in the case” to the end. In section 147(3), the words from “or, in the case” to the end.
South Africa Act 1995 (c. 3)	In the Schedule, paragraph 3.
Criminal Appeal Act 1995 (c. 35)	In section 30(2)(c), the word “and” at the end.
Reserve Forces Act 1996 (c. 14)	Section 7. Section 9(5). Section 24(2)(b). Section 25(2)(a). Section 27(3). Section 53(8)(b). Section 55(8)(b). Section 57(8)(b). Section 72(5) and (6). In section 95, in subsection (1) paragraph (b) and in the words after paragraph (e) the words “triable by court-martial or summarily by a civil court”, and in subsection (2)(b)(i) the words “, (b),”. Section 98(5). Section 99. Sections 102 and 103. Section 104(3). Section 105(2). Section 106. In section 107(1), the words from “either—” to the end of paragraph (a). Sections 123 and 124. Section 126.

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	In section 127(1), the definition of “regular air force”.
	In Schedule 1—
	(a) in paragraph 5(1), the words “or recklessly”;
	(b) paragraph 7 and the heading before it.
	Schedules 2 and 3.
	Schedule 7.
	In Schedule 9, in Part 2, paragraphs 22 and 23.
	In Schedule 10, paragraphs 1 to 13 and 23.
Criminal Procedure and Investigations Act 1996 (c. 25)	Section 74(2) and (3). Section 79(5) and (6).
Armed Forces Act 1996 (c. 46)	Sections 2 to 4. Section 6(2). Sections 9 to 12. Sections 15 and 16. Section 17(3), (5) and (6). Section 20. Section 32. Section 34. Section 36(6). In Schedule 1, paragraphs 1 to 64, 66 to 99, 102 to 107 and 110. Schedule 3. Schedule 5. In Schedule 6, paragraphs 2 to 15.
Crime (Sentences) Act 1997 (c. 43)	In section 34, in subsection (2)(d) the word “and” at the end, and subsection (3).
Human Rights Act 1998 (c. 42)	Section 21(5). Section 22(7).
Youth Justice and Criminal Evidence Act 1999 (c. 23)	Section 68(10).
Armed Forces Discipline Act 2000 (c. 4)	The whole Act.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 134, in subsections (1) and (2) the words “or award”.
Criminal Justice and Court Services Act 2000 (c. 43)	In section 30—
	(a) in subsection (1), in the definition of “guardianship order” the words from “the Army” to “1957 or”, and in the definition of “qualifying sentence” paragraph (f);
	(b) subsection (2);
	(c) in subsection (3), the words “, or to a sentence of detention imposed by a court-martial or the Courts-Martial Appeal Court,”.
	In section 33(7), in the definition of “order for admission to hospital”, paragraph (a).



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	<p>In section 42, in subsection (1) the definition of “armed forces offence”, and subsection (2). In section 62(5), the word “and” at the end of paragraph (e). In section 64(5), the word “and” immediately before paragraph (f). Section 81(2)(h).</p>
Criminal Justice and Police Act 2001 (c. 16)	Section 88(8)(j).
International Criminal Court Act 2001 (c. 17)	Section 74. Section 79(5). In Schedule 10, the entries relating to the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.
Armed Forces Act 2001 (c. 19)	Sections 1 to 12. Section 13(2) and (3). Sections 14 to 22. Sections 24 and 25. Section 26(4). Section 28(3) to (5). Section 29. Sections 31 to 33. In section 35— (a) in subsection (2), paragraphs (a) and (b) and in paragraph (c) the words “or 31(3)” and “or 31(6)(c)”; (b) subsection (3)(a)(i), (ii), (iv) and (v) (except the “or” at the end of (v)) and (b)(i). Section 36(1) and (3)(a), (d) and (e). Section 37. Schedules 1 to 5. In Schedule 6, paragraphs 14 to 27 and 33 to 56.
Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 4, paragraphs 10 to 12.
Commonwealth Act 2002 (c. 39)	In Schedule 2, paragraph 1.
Communications Act 2003 (c. 21)	In Schedule 17, paragraphs 23, 24 and 26.
Extradition Act 2003 (c. 41)	Section 3(6). Section 71(8). Section 73(9).
Sexual Offences Act 2003 (c. 42)	In section 81(3)(b), the words “or a term of service detention”. In section 133(1), the definition of “term of service detention”. In Schedule 3, in paragraph 93(2) the word “service”. In Schedule 6, paragraphs 9, 10 and 12.

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Criminal Justice Act 2003 (c. 44)	<p>In section 263(1)(a), the words “by any court”.</p> <p>Section 272(2) and (3).</p> <p>In section 337(13), in paragraph (a) sub-paragraphs (i) to (iii), (v), (vii) and (viii), and paragraph (b).</p> <p>In Schedule 1, paragraph 15.</p> <p>In Schedule 3, paragraphs 37, 38, 40 and 65.</p> <p>In Schedule 7, paragraphs 5 to 7.</p> <p>In Schedule 25, paragraphs 36 to 51.</p> <p>In Schedule 32, paragraphs 19, 140, 155 to 157 and 162.</p> <p>In Schedule 36, paragraphs 81 to 84.</p>
Domestic Violence, Crime and Victims Act 2004 (c. 28)	In Schedule 3, paragraphs 1 to 5, 9, 10, 14(3) and 15.
Constitutional Reform Act 2005 (c. 4)	<p>In Schedule 11, in Part 2, in paragraph 4(3) the entries relating to the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.</p> <p>In Schedule 14, in Part 1, in the table the entry relating to the Judge Advocate of Her Majesty's Fleet.</p>
Serious Organised Crime and Police Act 2005 (c. 15)	<p>Section 170.</p> <p>In Part 3 of Schedule 7, paragraph 50.</p>
Armed Forces Act 2006	In Schedule 16, paragraphs 20 to 38 and 178.

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