Draft Order laid before Parliament under section 373(3) of the Armed Forces Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

DEFENCE

The Armed Forces Act 2006 (Consequential Amendments) Order 2009

Made - - - - ***

Coming into force - - *31st October 2009*

The Secretary of State makes the following order in exercise of the powers conferred by section 379(1) of the Armed Forces Act 2006(**1**):

In accordance with section 373(3)(a) of the Armed Forces Act 2006 a draft of this instrument was laid before, and approved by resolution of, each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Armed Forces Act 2006 (Consequential Amendments) Order 2009.

(2) This Order shall come into force on 31st October 2009.

Amendments

2. Schedule 1 shall have effect.

Transitional provisions

3. Schedule 2 shall have effect.

Parliamentary Under Secretary of State
Ministry of Defence

Date

(**1**) 2006 c. 52. Previously the Regimental Debts Act 1893 but renamed by paragraph 10 of Schedule 16 to the Armed Forces Act 2006.

SCHEDULE 1 Article 2

AMENDMENTS

Debts (Deceased Servicemen etc) Act 1893

1. In section 2(2) of the Debts (Deceased Servicemen etc) Act 1893(**2**) (preferential charges) for "Military" wherever it appears is substituted "Service".

Visiting Forces (Military Courts-Martial) Order 1942

2. In the preamble to, and article 1 of, the Visiting Forces (Military Courts-Martial) Order 1942(**3**) for "the Army Act 1955" is substituted "the Armed Forces Act 2006".

Visiting Forces (Canadian Military and Air Forces) Order 1960

3.—(1) The Visiting Forces (Canadian Military and Air Forces) Order 1960(**4**) is amended as follows.

(2) In article 2(2) for the words from ""military establishment"" to "Air Force Act 1955" is substituted ""service custody premises" in this Order has the same meaning as in section 300(7) of the Armed Forces Act 2006.".

(3) In article 3—

(a) for "the Army Act 1955, or the Air Force Act 1955" is substituted "the Armed Forces Act 2006";

(b) for "conviction by court-martial, be liable to suffer death, imprisonment, cashiering or dismissal" is substituted "conviction by the Court Martial, be liable to suffer imprisonment, dismissal with disgrace or dismissal";

(c) for "death or imprisonment" is substituted "imprisonment"; and

(d) the words "in the case of death by the Governor-General of Canada in Council and in other cases" are omitted.

(4) In article 4(1)—

(a) in the first line, for "the Army Act 1955, or the Air Force Act 1955" is substituted "the Armed Forces Act 2006";

(b) for "a court-martial held under the Army Act 1955 or the Air Force Act 1955" is substituted "the Court Martial";

(c) the words "such sentence has been duly confirmed and" are omitted;

(d) after "punishment thereby inflicted" and before "been given" is inserted "has";

(e) for "such period or periods" to "with the provisions of the said Acts" is substituted "the time limit (including any additional time limit allowed by leave of the court) for an appeal under that Act has expired or, if an appeal has been made, when the appeal has been disposed of in accordance with the provisions of that Act and of the Court Martial Appeals Act 1968"(**5**);

(f) for "a military or air-force establishment" is substituted "service custody premises"; and

(**2**) 1893 c. 5. Previously the Regimental Debts Act 1893 but renamed by paragraph 10 of Schedule 16 to the Armed Forces Act 2006.
(**3**) S.R. & O. 1942/270, amended by S.I. 1956/2043.
(**4**) S.I. 1960/1956.
(**5**) 1968 c. 20. Previously the Courts-Martial (Appeals) Act 1968 but renamed by paragraph 53 of Schedule 8 to the Armed Forces Act 2006.

(g) for "section 113 and 114 of the Army Act 1955" to "section 122 thereof" is substituted "the provisions of or made under Parts 8 and 12 of the Armed Forces Act 2006 (sentencing powers etc, and service and effect of certain sentences)".

Foreign Marriage (Armed Forces) Order 1964

4.—(1) The Foreign Marriage (Armed Forces) Order 1964(**6**) is amended as follows.

(2) In article 1(1) for "in the case of persons" to the end is substituted "in the case of a civilian serving or employed under Her Majesty's Government in the United Kingdom in the territory where the marriage is solemnized, be employment in a prescribed capacity.".

(3) In article 2 for "are capacities involving" is substituted "are capacities connected with Her Majesty's forces (within the meaning of the Armed Forces Act 2006) involving".

United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965

5. In article 2(2) of the United Kingdom (Jurisdiction of Colonial Courts) Order 1965(**7**) (application and interpretation), in the definition of "service court", for "Naval Discipline Act" to "those Acts" is substituted "Armed Forces Act 2006".

Law Reform (Miscellaneous Provisions) (Scotland) Act 1968

6.—(1) The Law Reform (Miscellaneous Provisions) (Scotland) Act 1968(**8**) is amended as follows.

(2) In section 10(1) (convictions as evidence in civil proceedings) for "by a court-martial there or elsewhere" is substituted "of a service offence (anywhere)".

(3) In section 10(2) for "by a court-martial there or elsewhere" is substituted "of a service offence".

(4) In section 10(5) after paragraph (a) is inserted—

"(aa) section 187 of the Armed Forces Act 2006 (which makes similar provision in respect of service convictions);".

(5) For section 10(6) is substituted—

"(6) 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."

(6) In section 12(3) (conclusiveness of convictions for the purposes of defamation actions) for "by a court martial there or elsewhere" is substituted "(in the case of a service offence) a conviction (anywhere) of that service offence".

Social Security (Benefit) (Members of the Forces) Regulations 1975

7. In regulation 3(1) of the Social Security (Benefit) (Members of the Forces) Regulations 1975(**9**) (unemployment benefit) ", cashiered" is omitted, and for "Naval Discipline Act" to "or the Air Force Act 1955" is substituted "Armed Forces Act 2006".

(**6**) S.I. 1964/1000, amended by S.I. 1990/2592.
(**7**) S.I. 1965/1203, to which there are amendments not relevant to this Order.
(**8**) 1968 c. 70.
(**9**) S.I. 1975/493, to which there are amendments not relevant to this Order.

Magistrates' Courts Rules 1981

8. In rule 47(4) of the Magistrates' Court Rules 1981(**10**) (registration and notification of financial penalty enforcement order) for the words from "section 133A (1) of the Army Act 1955" to "1957" is substituted "section 322 of the Armed Forces Act 2006".

Social Security (General Benefit) Regulations 1982

9. In regulation 2(8)(a) of the Social Security (General Benefit) Regulations 1982(**11**) (exceptions from disqualification for imprisonment etc) for the words from "or any naval" to "Appeal Court" is substituted "or the Court Martial, or the Court Martial Appeal Court".

Legal Advice and Assistance Regulations 1989

10. In regulation 3(1) of the Legal Advice and Assistance Regulations 1989(**12**) (interpretation), in the definition of "serious service offence", for "any of the Army Act" to "1957" is substituted "the Armed Forces Act 2006".

Criminal Justice Act 1991

11. In section 65(1) of the Criminal Justice Act 1991(**13**) (supervision of young offenders after release) after "section 91 of the Powers of Criminal Courts (Sentencing) Act 2000" is inserted "or under section 209 of the Armed Forces Act 2006".

Solicitors' Incorporated Practices Order 1991

12.—(1) Schedule 1 to the Solicitors' Incorporated Practices Order 1991(**14**) is amended as follows.

(2) Under the heading "Statutory instruments which apply to recognised bodies" the entry relating to the Imprisonment and Detention (Army) Rules 1979(**15**) is omitted and at the end the following entry is inserted—

(a) in the left hand column insert "S.I. 2009/1096";

(b) in the middle column insert "Service Custody and Service of Relevant Sentences Rules 2009";

(c) in the right hand column insert "Rule 1".

Council Tax (Discount Disregards) Order 1992

13. In article 2 of the Council Tax (Discount Disregards) Order 1992(**16**) (persons in detention), for paragraphs (1) to (3) is substituted "Under paragraph 1(6) of Schedule 1 to the Act, a person is to be disregarded for the purposes of discount on a particular day if on the day he is imprisoned under, or in service custody for the purposes of, the Armed Forces Act 2006 and, where a person is in custody, the custody forms part of a continuous period exceeding 48 hours.".

(**10**) S.I. 1981/552, to which there are amendments not relevant to this Order.
(**11**) S.I. 1982/1408, to which there are amendments not relevant to this Order.
(**12**) S.I. 1989/340, to which there are amendments not relevant to this Order.
(**13**) 1991 c. 53.
(**14**) S.I. 1991/2684.
(**15**) S.I. 1979/1456.
(**16**) S.I. 1992/548.

United Nations (International Tribunal) (Rwanda) Order 1996

14. In article 2(1) of the United Nations (International Tribunal) (Rwanda) Order 1996(**17**) (interpretation) for the definition of "service court" is substituted the following definition—""service court" means the Court Martial".

Employment Rights (Northern Ireland) Order 1996

15. In article 237 of the Employment Rights (Northern Ireland) Order 1996(**18**) (armed forces)—

(a) in its paragraphs (4) and (5) for "service redress procedures" is substituted "service complaint procedures"; and

(b) in its paragraph (6) for the definition of "the service redress procedures" there is substituted —

> ""the service complaint procedures" means the procedures prescribed by regulations under section 334 of the Armed Forces Act 2006."

Jobseeker's Allowance (Members of the Forces) (Northern Ireland) Regulations 1997

16. In regulation 4 of the Jobseeker's Allowance (Members of the Forces) (Northern Ireland) Regulations 1997(**19**) (entitlement to jobseeker's allowance) ", cashiered" is omitted, and for "Naval Discipline Act" to "Air Force Act 1955" is substituted "Armed Forces Act 2006".

Race Relations (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1997

17.—(1) The Race Relations (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1997(**20**) is amended as follows.

(2) In regulation 2(1)(a) for "service redress procedures" is substituted "service complaint procedures".

(3) For regulation 2(2) is substituted—

> "(2) For the purposes of paragraph (1)(b), a person shall be treated as having withdrawn his complaint if, having made a complaint to an officer under the service complaint procedures, neither that officer nor a superior officer has decided to refer the complaint to the Defence Council, and the complainant fails to apply for such a reference to be made."

(4) After regulation 2(2) is inserted—

> "(3) In this regulation "the service complaint procedures" means the procedures prescribed by regulations under section 334 of the Armed Forces Act 2006."

Equal Pay (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1997

18.—(1) The Equal Pay (Complaints to Industrial Tribunals) (Armed Forces) Regulations 1997(**21**) is amended as follows.

(2) In regulation 2(2)(a) for "service redress procedures" is substituted "service complaint procedures".

(3) For regulation 2(3) is substituted—

(**17**) S.I. 1996/1296.
(**18**) S.I. 1996/1919 (N.I.16), to which there are amendments not relevant to this Order.
(**19**) S.I. 1997/932, amended by S.I. 2001/998.
(**20**) S.I. 1997/2161.
(**21**) S.I. 1997/2162.