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

2008 No.

DEFENCE

The Armed Forces (Alignment of Service Discipline Acts) (No. 2) Order 2008

Made - - - -

Coming into force - -

The Secretary of State makes the following Order in exercise of the powers conferred by section 381(1) of the Armed Forces Act 2006(**1**):

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

Citation and commencement

1. This Order may be cited as the Armed Forces (Alignment of Service Discipline Acts) (No. 2) Order 2008 and shall come into force on the day after the day on which it is made.

Prosecuting authority for the Army

2. For section 83A of the Army Act 1955(**2**) (the prosecuting authority) substitute—

"**83A The prosecuting authority**

(1) Her Majesty may appoint a person as the prosecuting authority for the Army; and in this Act "the prosecuting authority" means the person so appointed.

(2) A person may be appointed as the prosecuting authority only if the person—

(a) has a ten 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 of at least ten years' standing;

(**1**) 2006 c. 52

(**2**) 1955 c. 18. Section 83A of the Army Act 1955 was inserted by the Armed Forces Act 1996 (c. 46), section 5 and Schedule 1, Part 2, paragraph 14

(c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least ten years' standing; or

(d) 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 ten years, and is subject to punishment or disability for breach of professional rules.

(3) The prosecuting authority shall hold and vacate office in accordance with the terms of that authority's appointment.

(4) In this section "relevant territory" means—

(a) any of the Channel Islands;

(b) the Isle of Man;

(c) a country other than the United Kingdom that is a member of the Commonwealth; or

(d) a British overseas territory."

Prosecuting authority for the Royal Air Force

3. For section 83A of the Air Force Act 1955(**3**) (the prosecuting authority) substitute—

"**83A The prosecuting authority**

(1) Her Majesty may appoint a person as the prosecuting authority for the Royal Air Force; and in this Act "the prosecuting authority" means the person so appointed.

(2) A person may be appointed as the prosecuting authority only if the person—

(a) has a ten 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 of at least ten years' standing;

(c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least ten years' standing; or

(d) 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 ten years, and is subject to punishment or disability for breach of professional rules.

(3) The prosecuting authority shall hold and vacate office in accordance with the terms of that authority's appointment.

(4) In this section "relevant territory" means—

(a) any of the Channel Islands;

(b) the Isle of Man;

(c) a country other than the United Kingdom that is a member of the Commonwealth; or

(d) a British overseas territory."

Prosecuting authority for the Royal Navy

4. For section 52H of the Naval Discipline Act 1957(**4**) (the prosecuting authority) substitute—

(**3**) 1955 c. 19. Section 83A of the Air Force Act 1955 was inserted by the Armed Forces Act 1996, section 5 and Schedule 1, Part 2, paragraph 15.

(**4**) 1957 c. 53. Section 52H of the Naval Discipline Act 1957 was inserted by the Armed Forces Act 1996, section 5 and Schedule 1, Part 2, paragraph 16.