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STATUTORY INSTRUMENTS

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**1997 No. 304 (C. 14)**

**DEFENCE**

**The Armed Forces Act 1996  
(Commencement No. 2) Order 1997**

*Made - - - - 12th February 1997*

The Secretary of State, in exercise of the powers conferred on him by section 36(2) and (5) of the Armed Forces Act 1996<sup>(1)</sup>, hereby makes the following Order:

1. This Order may be cited as the Armed Forces Act 1996 (Commencement No. 2) Order 1997.
2. Subject to article 3 of this Order, the following provisions of the Armed Forces Act 1996 (“the Act”) shall come into force on 1st April 1997—
  - section 5 and Schedule 1;
  - sections 9 and 10 and Schedule 3;
  - sections 15 to 17 and Schedule 5;
  - sections 28 and 29;
  - section 35 so far as is necessary to bring into force Schedules 6 and 7 to the extent specified below;
  - in Schedule 6, paragraphs 4, 7 to 9, 14 and 15;
  - in Schedule 7, Parts I and II, and Part III so far as it relates to the provisions specified in Schedule 1 to this Order.
- 3.—(1) Nothing in article 2 of this Order insofar as it relates to section 5 of and Schedule 1 to the Act shall have effect in relation to—
  - (a) any summary dealing or summary trial,
  - (b) any trial by a court-martial or a standing civilian court, or
  - (c) the hearing of any appeal by the Courts-Martial Appeal Court,which commenced before 1st April 1997.
- (2) Nothing in article 2 of this Order insofar as it relates to sections 15 to 17 of and Schedule 5 to the Act shall have effect in relation to any finding made, sentence passed or punishment awarded before 1st April 1997.

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(1) 1996 c. 46.

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(3) Nothing in article 2 insofar as it relates to provisions which repeal, amend or substitute provisions in enactments shall affect the validity of anything done before 1st April 1997 under the authority of the provisions which have been repealed, amended or substituted.

4. The transitional provisions contained in Schedule 2 to this Order shall have effect.

12th February 1997

*Nicholas Soames*  
Minister of State, Ministry of Defence

## SCHEDULE 1

Article 2

## REPEALS IN PART III OF SCHEDULE 7 TAKING EFFECT ON 1ST APRIL 1997

Chapter	Short title	Extent of repeal
1955 c. 18.	Army Act 1955.	Section 108.
1955 c. 19.	Air Force Act 1955.	Section 108.
1957 c. 53.	Naval Discipline Act 1957.	Section 72.
1968 c. 20.	Courts-Martial (Appeals) Act 1968.	In section 8, subsection (1A) (a), in subsection (2)(a) the words from “or (if” to “annulled” and subsection (5).  In section 32(2)(a), the words from “under” to “1968”.  Section 53.  In section 57(1), the words “and” after the definition of “prescribed”.
1968 c. 27.	Firearms Act 1968.	Section 11(3).
1976 c. 52.	Armed Forces Act 1976.	In Schedule 3, in paragraph 19, the words from “but” to “period”.
1995 c. 35.	Criminal Appeal Act 1995.	In Schedule 2, paragraphs 1 and 2.

## SCHEDULE 2

Article 4

## TRANSITIONAL PROVISIONS

**General**

1. Subject to paragraphs 2 to 5 below, where apart from this paragraph anything done under or for the purposes of any provision which is repealed, amended or substituted by the Act would cease to have effect by virtue of that repeal, amendment or substitution it shall have effect as if it had been done under or for the purposes of the corresponding provision in the 1955 Act or the 1957 Act, as the case may be, as amended by the Act.

**Prosecutions under the 1955 Act**

2. A person who has been remanded for trial by court-martial and served with a copy of the charge sheet and summary (or abstract) of evidence before 1st April 1997 shall be treated as if the prosecuting authority had preferred any charge contained in the charge sheet under section 83B(4) of the 1955 Act and the person had been notified by his commanding officer under section 83B(6) of the 1955 Act that he is to be tried by court-martial.

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3. A person who has been remanded for trial by court-martial before 1st April 1997 but has not been served with a copy of the charge sheet and summary (or abstract) of evidence shall be treated as if a case in respect of him had been referred to the prosecuting authority under section 76A(1) of the 1955 Act and the prosecuting authority has considered under section 83B(4) of the 1955 Act that court-martial proceedings should be instituted.

#### **Prosecutions under the 1957 Act**

4. A person who has been remanded for trial by court-martial and served with a copy of the charge sheet before 1st April 1997 shall be treated as if the prosecuting authority had preferred any charge contained in the charge sheet under section 52I(4) of the 1957 Act and the person had been notified by his commanding officer under section 52I(5) of the 1957 Act that he is to be tried by court-martial.

5. A person who has been remanded for trial by court-martial before 1st April 1997 but has not been served with a copy of the charge sheet shall be treated as if a case in respect of him had been referred to the prosecuting authority under section 52C(1) of the 1957 Act and the prosecuting authority has considered under section 52I(4) of the 1957 Act that court-martial proceedings should be instituted.

#### **Interpretation**

6. In this Schedule—

“the 1955 Act” means—

- (a) where the accused is being prosecuted under the Army Act 1955(2), that Act;
- (b) where the accused is being prosecuted under the Air Force Act 1955(3), that Act; and

“the 1957 Act” means the Naval Discipline Act 1957(4).

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force on 1st April 1997 the provisions of the Armed Forces Act 1996 referred to in article 2.

The following provisions of the Act have been brought into force before the date of this Order:

Provision	Date of Commencement	Authority
ss 1, 34 and 36	24 July 1996	Royal Assent
ss 2, 6 and 7, 11 to 14 and Sch 4, ss 18 and 19, 30 to 33, 35, Sch 6 (partially) and Sch 7 (partially)	1 October 1996	S.I.1996/2474 (C. 65)

(2) 1955 c. 18.

(3) 1955 c. 19.

(4) 1957 c. 53.

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