

*These notes refer to the Armed Forces Act 2001
(c.19) which received Royal Assent on 11 May 2001*

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 1 – Continuance of Services Acts

11. The need for the periodic renewal of the SDAs originates in the Bill of Rights of 1688, which declared the raising or keeping of a standing army within the United Kingdom in time of peace, unless with the consent of Parliament, to be against the law. Since then, the maintenance of a standing army in peacetime has depended on the consent of Parliament, with this consent being renewed from time to time. At one time, the consent derived from annual Acts of Parliament, but the present practice is for the Army Act 1955 to be continued in force annually by Orders in Council for up to five years in total.
12. The legal basis for the existence of the Royal Navy and the Royal Air Force is different from that of the Army. The Naval Discipline Act 1957 and the Air Force Act 1955 are continued in force and periodically re-enacted in the same way as the Army Act.

Section 1: Continuance of Services Acts

13. Section 1 of the Armed Forces Act 1996 provided that the SDAs would expire in the following year unless extended by Order in Council for a further 12 months. It allowed similar extensions until, but not beyond, the end of 2001. That is why a further Armed Forces Act is now necessary, to continue the life of the SDAs for another five years beyond 31 December 2001.
14. **Section 1** provides for the continuation of the SDAs on the same basis as in previous Armed Forces Acts.
 - Subsection (1) provides for the SDAs to continue in force until 31 August 2002, instead of expiring on 31 August 2001. The last Order in Council made under the 1996 Act expires on 21 August 2001.
 - Subsection (2) provides for the continuance in force of the SDAs for further periods, each of no more than 12 months. This is to be done by Order in Council. Under subsection (4) drafts of the Orders in Council must be approved by each House of Parliament. This provides each House with the opportunity to debate the orders in every year except those in which a five-yearly Armed Forces Act re-enacts the SDAs.
 - Subsection (3) prevents the continuance of the SDAs by Order beyond the end of 2006. By then, Parliament will have been asked to consider and pass a further Armed Forces Bill.