

SCHEDULES

SCHEDULE 22

TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS

PART 3

CRIMINAL EVIDENCE, INVESTIGATIONS AND PROCEDURE

Anonymity in investigations

- 14 In section 76(12)(a) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the [Criminal Justice Act 2003 \(c. 44\)](#).
- 15 (1) Notwithstanding subsection (4)(a) of section 84, references in that section to a service offence are to be treated as including a reference to—
- (a) an offence under Part 2 of the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#), Part 2 of the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) or Part 1 of the [Naval Discipline Act 1957 \(c. 53\)](#),
 - (b) an offence under paragraph 4(6) of Schedule 5A to the [Army Act 1955](#) or the [Air Force Act 1955](#) or of Schedule 4A to the [Naval Discipline Act 1957](#),
 - (c) an offence under section 47K of the [Naval Discipline Act 1957](#),
 - (d) an offence under section 18 or 20 of the [Armed Forces Act 1991 \(c. 62\)](#) committed before the commencement of section 50 of the [Armed Forces Act 2006 \(c. 52\)](#) (“the 2006 Act”),
 - (e) an offence under any of sections 95 to 97 of the [Reserve Forces Act 1996 \(c. 14\)](#) committed before the commencement of section 50 of the 2006 Act, and
 - (f) an offence under paragraph 5(1) of Schedule 1 to the [Reserve Forces Act 1996](#) committed before the commencement of section 50 of the 2006 Act which the Court Martial established by the 2006 Act has jurisdiction to try.
- (2) Notwithstanding subsection (4)(b) of section 84, references in that section to a charge are to be treated as including a reference to a charge that is not brought under Part 5 of the [Armed Forces Act 2006](#) but is to be regarded for the purposes of Part 5 as allocated for Court Martial trial, summary hearing or (as the case may be) Service Civilian Court trial.

Anonymity of witnesses

- 16 (1) The repeal of sections 1 to 9 of the [Criminal Evidence \(Witness Anonymity\) Act 2008 \(c. 15\)](#) (“the 2008 Act”) by section 96 does not affect the continuation in effect of a witness anonymity order made under the 2008 Act before 1 January 2010.

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- (2) An application under section 3 of the 2008 Act that falls to be heard on or after 1 January 2010 is to be treated as an application under section 87 of this Act and the conditions in section 88 must be satisfied in relation to it.
 - (3) The following provisions of this paragraph apply in relation to witness anonymity orders made under the 2008 Act before 1 January 2010.
 - (4) Sections 91 to 93 of this Act have effect on or after 1 January 2010 for the purpose of discharging or varying a witness anonymity order made under the 2008 Act.
 - (5) Accordingly, an application under section 6 of the 2008 Act that falls to be heard on or after 1 January 2010 is to be treated as an application under section 91 of this Act or (as the case may be) section 92.
 - (6) Where section 91 or 92 of this Act has effect for the purposes of discharging or varying a witness anonymity order made under the 2008 Act, the definition in that section of “the relevant time” is to be treated as including, in a case where a previous application has been made under section 6 of the 2008 Act, the time when the application under section 6 (or the last application under section 6) was made.
 - (7) Where section 91, 92 or 93 of this Act has effect in relation to a witness anonymity order made under the 2008 Act, the reference in that section to sections 88 and 89 of this Act has effect as a reference to sections 4 and 5 of the 2008 Act.
 - (8) Sections 90 and 94(3) of this Act have effect on or after 1 January 2010 in relation to a witness to whom a witness anonymity order under the 2008 Act applies as they have effect in relation to a witness to whom a witness anonymity order under Chapter 2 of Part 3 of this Act applies.
- 17 (1) Where an appeal court’s consideration of a relevant appeal commences before 1 January 2010, the repeal by section 96 of this Act of sections 1 to 9 of the 2008 Act is to be disregarded.
- (2) Where an appeal court’s consideration of a relevant appeal commences on or after 1 January 2010, the reference in section 11(2)(b)(i) to the 2008 Act is to be treated as a reference to Chapter 2 of Part 3 of this Act.
- (3) In this paragraph—
“appeal court” has the meaning given by section 11 of the 2008 Act;
“relevant appeal” means an appeal against conviction in relation to which that section applies.
- 18 (1) Section 92 of this Act has effect with the modifications made by this paragraph for the purposes of discharging or varying—
(a) a witness anonymity order made under the [Criminal Evidence \(Witness Anonymity\) Act 2008 \(c. 15\)](#) by a court-martial constituted under the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#), the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) or the [Naval Discipline Act 1957 \(c. 53\)](#), or
(b) a witness anonymity order made under Chapter 2 of Part 3 of this Act by a court-martial constituted under any of those Acts.
- (2) The references in section 92(2) to (5) to the court that made the order are to be treated—
(a) until the coming into force of section 154(1) of the [Armed Forces Act 2006 \(c. 52\)](#), as references to a court-martial constituted under the [Army Act 1955](#),

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- the [Air Force Act 1955](#) or, as the case may be, the [Naval Discipline Act 1957](#), and
- (b) after the coming into force of section 154(1) of the [Armed Forces Act 2006](#), as references to the Court Martial established by that Act.
- 19 (1) Section 92 has effect with the modifications made by this paragraph for the purposes of discharging or varying a witness anonymity order made under the [Criminal Evidence \(Witness Anonymity\) Act 2008](#) by—
- (a) a Summary Appeal Court established by the [Army Act 1955](#), the [Air Force Act 1955](#) or the [Naval Discipline Act 1957](#), or
- (b) a Standing Civilian Court established under the [Armed Forces Act 1976 \(c. 52\)](#).
- (2) The references in section 92(2) to (5) to the court that made the order are to be treated—
- (a) where the order was made by a Summary Appeal Court, as references to the Summary Appeal Court established by the [Armed Forces Act 2006 \(c. 52\)](#), and
- (b) where the order was made by a Standing Civilian Court, as references to the Service Civilian Court established by the [Armed Forces Act 2006](#).
- 20 (1) Notwithstanding section 97, references in Chapter 2 of Part 3 of this Act to a service court are to be treated as including a reference to—
- (a) a court-martial constituted under the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#), the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) or the [Naval Discipline Act 1957 \(c. 53\)](#);
- (b) the Summary Appeal Court established by any of those Acts;
- (c) a Standing Civilian Court established under the [Armed Forces Act 1976](#);
- (d) the Courts-Martial Appeal Court.
- (2) Notwithstanding subsection (6) of section 93 of this Act, the references in section 93 to an appeal court are to be treated as including a reference to the Courts-Martial Appeal Court.
- (3) Each of the provisions mentioned in sub-paragraph (4) has effect with the modification set out in that sub-paragraph in a case where—
- (a) a witness anonymity order is made under Chapter 2 of Part 3 of this Act by a relevant service court to which that provision applies, and
- (b) a person does anything in relation to the order which would, if the court had been a court of law having power to commit for contempt, have been contempt of that court.
- (4) In such a case—
- (a) section 101(1) of the [Army Act 1955](#) has effect with the omission of the words “not subject to military law”,
- (b) section 101(1) of the [Air Force Act 1955](#) has effect with the omission of the words “not subject to air-force law”, and
- (c) section 65(1) of the [Naval Discipline Act 1957](#) has effect with the omission of the words “not subject to this Act”.
- (5) In sub-paragraph (3) “relevant service court” means—
- (a) a court-martial constituted under the [Army Act 1955](#), the [Air Force Act 1955](#) or the [Naval Discipline Act 1957](#);

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- (b) the Summary Appeal Court established by any of those Acts.
- 21 Notwithstanding section 97, references in Chapter 2 of Part 3 of this Act to a service offence are to be treated as including a reference to—
- (a) an offence under Part 2 of the [Army Act 1955](#), Part 2 of the [Air Force Act 1955](#) or Part 1 of the [Naval Discipline Act 1957](#),
 - (b) an offence under paragraph 4(6) of Schedule 5A to the [Army Act 1955](#) or the [Air Force Act 1955](#) or of Schedule 4A to the [Naval Discipline Act 1957](#),
 - (c) an offence under section 47K of the [Naval Discipline Act 1957](#),
 - (d) an offence under section 18 or 20 of the [Armed Forces Act 1991 \(c. 62\)](#) committed before the commencement of section 50 of the [Armed Forces Act 2006 \(c. 52\)](#) (“the 2006 Act”),
 - (e) an offence under any of sections 95 to 97 of the [Reserve Forces Act 1996 \(c. 14\)](#) committed before the commencement of section 50 of the 2006 Act, and
 - (f) an offence under paragraph 5(1) of Schedule 1 to the [Reserve Forces Act 1996](#) committed before the commencement of section 50 of the 2006 Act which the Court Martial established by the 2006 Act has jurisdiction to try.
- 22 If paragraph 70 of Schedule 21 to this Act comes into force before the commencement of paragraph 53 of Schedule 8 to the [Armed Forces Act 2006](#), the reference in paragraph 70 to the Court Martial Appeals Act 1968 (c. 20) is to be read as a reference to the [Courts-Martial \(Appeals\) Act 1968 \(c. 20\)](#).

Vulnerable and intimidated witnesses

- 23 (1) The amendments made by sections 98 to 103 apply to proceedings instituted before the commencement of the amendment in question.
- (2) But the amendments made by sections 98 to 103 do not affect the continued operation of a special measures direction given before the commencement of the amendment in question.
- (3) Sub-paragraph (2) does not prevent an amendment made by sections 98 to 103 from applying after its commencement to—
- (a) the variation under section 20 of the [Youth Justice and Criminal Evidence Act 1999 \(c. 23\)](#) of a special measures direction that was given in relation to a witness before the commencement of the amendment, and
 - (b) the giving of a new special measures direction in relation to a witness (including the giving of a new direction in a case where a special measures direction given in relation to the witness in question has been discharged under section 20 of the [Youth Justice and Criminal Evidence Act 1999](#) after the commencement of the amendment).
- (4) In this paragraph, “special measures direction” means a direction under section 19 of the [Youth Justice and Criminal Evidence Act 1999](#).
- 24 The references in paragraphs 30 and 31 of Schedule 1A to the [Youth Justice and Criminal Evidence Act 1999](#) (inserted by Schedule 14 to this Act) to an offence under Part 2 of the [Serious Crime Act 2007 \(c. 27\)](#) include a reference to the common law offence of incitement.

Evidence of previous complaint

- 25 Section 112 does not have effect in relation to trials or hearings begun before the commencement of that section.

Indictment of offenders

- 26 (1) For the purposes of any proceedings before a court (including proceedings on an appeal to the court) after the passing of this Act, the amendments in subsections (1) and (2) of section 116 are to be deemed always to have had effect.
- (2) For the purposes of sub-paragraph (1), it is immaterial whether the proceedings were begun before or after the passing of this Act.