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STATUTORY INSTRUMENTS

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**2019 No. 961 (C. 27)**

**DEFENCE**

**The Armed Forces Act 2016  
(Commencement No. 3) Regulations 2019**

*Made - - - - 21st May 2019*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 19(1) and (4) of the Armed Forces Act 2016<sup>(1)</sup>.

**Citation**

1. These Regulations may be cited as the Armed Forces Act 2016 (Commencement No. 3) Regulations 2019.

**Commencement of sections 3 to 6 of the Armed Forces Act 2016**

2.—(1) Sections 3 to 5 of the Armed Forces Act 2016 (investigation and charging) come into force—

- (a) on the day after the day on which these Regulations are made for the purpose only of conferring power to make Part 5 regulations in connection with the coming into force of those sections of the Act; and
- (b) on 1st July 2019 in so far as they are not already in force.

(2) Section 6 of the Armed Forces Act 2016 (period for which sentence of service detention may be suspended) comes into force on 1st July 2019.

(3) In this regulation “Part 5 regulations” means regulations under section 128 of the Armed Forces Act 2006<sup>(2)</sup> (regulations for purposes of Part 5).

**Transitional arrangements**

3.—(1) The amendments made by sections 3 to 5 of the Armed Forces Act 2016 do not have effect in relation to—

- (a) a case referred by a service policeman before 1st July 2019 to—
  - (i) the Director of Service Prosecutions under section 116(2) of the Armed Forces Act 2006 (referral of case following investigation by service or civilian police); or

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(1) 2016 c. 21.  
(2) 2006 c. 52.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (ii) a person's commanding officer under section 116(3) of the Act; or
  - (b) a case where the investigation that gives rise to it has also given rise to a case mentioned in sub-paragraph (a).
- (2) For the purposes of this regulation, an investigation gives rise to two or more cases if the investigation relates to incidents or conduct that are to be regarded as giving rise to each of those cases under section 117(2) of the Armed Forces Act 2006.
- (3) In this regulation—
- (a) “investigation” means an investigation mentioned in section 116(1) of the Armed Forces Act 2006; and
  - (b) references to section 116 of the Act are to that section as it had effect before 1st July 2019.

21st May 2019

*Tobias Ellwood*  
Parliamentary Under Secretary of State  
Ministry of Defence

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## EXPLANATORY NOTE

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

These Regulations bring sections 3 to 5 of the Armed Forces Act 2016 (“the 2016 Act”) into force on the day after they are made to enable regulations to be made under section 128 of the Armed Forces Act 2006 (“the 2006 Act”) in connection with the commencement of sections 3 to 5 of the 2016 Act. The Regulations bring sections 3 to 5 of the 2016 Act fully into force on 1st July 2019 and section 6 of the Act is also brought into force on that date.

Sections 3 to 5 of the 2016 Act amend Part 5 of the 2006 Act which deals with the investigation of service offences and the procedure for charging and mode of trial in proceedings relating to service offences (there are also minor amendments to related provisions elsewhere in the 2006 Act). The amendments change the procedure for the referral of cases by service police to the Director of Service Prosecutions (“the Director”) or commanding officers and for referrals by commanding officers to the Director. The amendments also give the Director new powers to charge a person with a service offence.

Section 6 amends section 190 of the 2006 Act to change the maximum operational period that a court may specify when imposing a suspended sentence of service detention (this is the period during which the suspended sentence may be imposed if another offence is committed). The amendment increases the maximum permitted operational period from 12 to 24 months where the sentence is imposed by the Court Martial, Court Martial Appeal Court or the Supreme Court.

## NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

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

The following provisions of the Armed Forces Act 2016 have been brought into force by commencement regulations made before these Regulations, as indicated in the table below.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 15	21.11.2017	S.I. 2017/1131 (C.105)
Section 2 (partially)	19.07.2018	S.I. 2018/876 (C.67)
Section 2 (remainder)	01.01.2019	S.I. 2018/876 (C.67)