

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

2007 No.

DEFENCE

**The Armed Forces (Alignment of Service Discipline Acts) Order
2007**

Made - - - - 2007
Coming into force - - 2007

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

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

1. This Order may be cited as the Armed Forces (Alignment of Service Discipline Acts) Order 2007 and shall come into force on the day after that on which it is made.
2. The Schedule to this Order shall have effect.

Date Under Secretary of State
Ministry of Defence

SCHEDULE Article 2

Amendments of Service Discipline Acts: trial of civilians by courts-martial

Army Act 1955

- 1.—(1) Section 209 of the Army Act 1955(b) (application of Act to civilians) is amended as follows.
 - (2) In subsection (3) paragraphs (fa) and (faa) are repealed.
 - (3) Before subsection (4) there is inserted—

(a) 2006 c. 52
(b) 1955 c.18

“(3D) Rules under section 103 may, in relation to a court-martial for the trial of a person mentioned in subsection (1) or (2) above (whether alone or with other persons), make provision—

- (a) as to the persons who may be appointed under section 84D(1)(a) or (c) or (2)(a) or (c) as members of the court-martial (and the rules may in particular provide that persons other than military officers or military warrant officers may be so appointed);
- (b) modifying the application of Part 2 of this Act in consequence of any provision made by virtue of paragraph (a).”

Air Force Act 1955

2.—(1) Section 209 of the Air Force Act 1955(a) (application of Act to civilians) is amended as follows.

(2) In subsection (3) paragraphs (fa) and (faa) are repealed.

(3) Before subsection (4) there is inserted—

“(3D) Rules under section 103 may, in relation to a court-martial for the trial of a person mentioned in subsection (1) or (2) above (whether alone or with other persons), make provision—

- (a) as to the persons who may be appointed under section 84D(1)(a) or (c) or (2)(a) or (c) as members of the court-martial (and the rules may in particular provide that persons other than air-force officers or air-force warrant officers may be so appointed);
- (b) modifying the application of Part 2 of this Act in consequence of any provision made by virtue of paragraph (a).”

Naval Discipline Act 1957

3.—(1) Section 118 of the Naval Discipline Act 1957(b) (application to certain civilians) is amended as follows.

(2) For subsection (3A) substitute—

“(3A) Rules under section 58 may, in relation to a court-martial for the trial of a person mentioned in subsection (1) or (2) above (whether alone or with other persons), make provision—

- (a) as to the persons who may be appointed under section 54(1)(a) or (c) as members of the court-martial (and the rules may in particular provide that persons other than naval officers or naval warrant officers may be so appointed);
- (b) modifying the application of Part 2 of this Act in consequence of any provision made by virtue of paragraph (a).”

(3) In subsection (3B) for “such a person” substitute “a person mentioned in subsection (1) or (2) above”.

(a) 1955 c. 19
(b) 1957 c.53

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 (commonly referred to as the “Service Discipline Acts”) to remove the current restrictions on the number of civilians who may sit as lay members of a court-martial when a civilian accused is to be tried. The amendments provide that rules dealing with courts-martial made under the Service Discipline Acts may provide for the different composition of courts-martial when dealing with civilian accused and in particular may provide for persons other than officers or warrant officers to sit as lay members of a court-martial. The amendments also provide for the modification of Part 2 of the Service Discipline Acts (discipline, trial and punishment) if it is consequent upon the new rules as to composition of courts-martial of civilian accused.

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