

*Status: Point in time view as at 02/04/2012. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2011, Cross Heading: Armed Forces Act 2006 (c. 52). (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

#### CONSEQUENTIAL AMENDMENTS

#### *Armed Forces Act 2006 (c. 52)*

VALID FROM 01/11/2013

- 3
- (1) Section 50(2) of AFA 2006 (definition of “service offence”) is amended as follows.
  - (2) After paragraph (a) insert—
    - “(aa) an offence under section 93A, 93E or 93G (testing for alcohol or drugs on suspicion);”.
  - (3) After paragraph (c) insert—
    - “(ca) an offence under section 232G (breach of service sexual offences prevention order or extended prohibitions order);”.
  - (4) For paragraph (e) substitute—
    - “(e) an offence under section 305 (random drug testing);”.

VALID FROM 01/11/2013

- 4
- (1) Section 53(1) of AFA 2006 (offences that may be dealt with at a summary hearing) is amended as follows.
  - (2) After paragraph (g) insert—
    - “(ga) an offence under section 93A, 93E or 93G (testing for alcohol or drugs on suspicion);”.
  - (3) For paragraph (i) substitute—
    - “(i) an offence under section 305 (random drug testing);”.

VALID FROM 14/12/2012

- 5
- In section 58 of AFA 2006 (time limit for charging civilian formerly subject to service discipline)—
- (a) in subsection (5)(a), after sub-paragraph (i) insert—
    - “(ia) leaving a country in which he fell within paragraph 5 of that Schedule;”;
  - (b) in subsection (7), after paragraph (a) insert—
    - “(aa) in relation to a person who falls within subsection (5)(a) by reason of leaving a country in which he fell within

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paragraph 5 of that Schedule, in that country or any other country in which he falls within that paragraph;”;

(c) after subsection (7) insert—

“(8) In subsections (5)(a)(ia) and (7)(aa) “country” is to be read in accordance with paragraph 14 of Schedule 15.”

VALID FROM 14/12/2012

6

In section 87(1) of AFA 2006 (power of CO to authorise entry and search by service policeman), for paragraphs (a) and (b) substitute—

- “(a) that a relevant offence within the meaning of section 84 has been committed;
- (b) that material which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence is on the premises;
- (c) that the material would be likely to be admissible in evidence at a trial for the offence;
- (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material (within the meaning given by section 84);
- (e) that at least one of the conditions specified in section 83(4) applies; and
- (f) that it is likely that the purpose of the search would be frustrated or seriously prejudiced if no search could be carried out before the time mentioned in subsection (2).”

VALID FROM 14/12/2012

7

In section 88(1) of AFA 2006 (power of CO to authorise entry and search by person other than service policeman), for paragraphs (a) and (b) substitute—

- “(a) that a relevant offence within the meaning of section 84 has been committed;
- (b) that material which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence is on the premises;
- (c) that the material would be likely to be admissible in evidence at a trial for the offence;
- (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material (within the meaning given by section 84);
- (e) that at least one of the conditions specified in section 83(4) applies (the reference in section 83(4)(e) to a service policeman being read as a reference to a person authorised under this subsection); and
- (f) that it is likely that the purpose of the search would be frustrated or seriously prejudiced if no search could be carried out before the time mentioned in subsection (2).”

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8 (1) Section 97 of AFA 2006 (power to use reasonable force) becomes subsection (1) of that section.

(2) After that subsection insert—

“(2) Subsection (1) does not apply in relation to powers conferred by Chapter 3A of this Part.”

9 In section 164(3) of AFA 2006 (provisions to which section 164 is subject)—

- (a) omit the entry relating to section 165 of the Act;
- (b) omit the “and” after the entry relating to Chapters 4 to 6 of Part 8; and
- (c) after the entry relating to Part 9 insert “; and

Schedule 3A (offender elected Court Martial trial).”

#### Commencement Information

**II** Sch. 4 para. 9 in force at 2.4.2012 by S.I. 2012/669, art. 4(e)

VALID FROM 01/11/2013

10 In Part 13 of AFA 2006, for the heading to Chapter 1 substitute— “ RANDOM DRUG TESTING ”.

VALID FROM 01/11/2013

11 In section 305 of AFA 2006 (testing for drugs)—

- (a) for the heading substitute “ Random drug testing ”;
- (b) in subsection (2)(b) omit the words from “or an investigation” to the end.

VALID FROM 01/11/2013

12 (1) Section 308 of AFA 2006 (provisions supplementary to sections 305 and 306) is amended as follows.

(2) In the heading, for “Sections 305 and 306” substitute “ Section 305 ”.

(3) In subsection (1)—

- (a) for “sections 305(1) and 306(2)” substitute “ section 305(1) ”;
- (b) omit paragraph (b);
- (c) in paragraph (c), omit “or 306(2)”; and
- (d) in paragraph (d), omit “or 306(2)”.

(4) Omit subsection (2).

(5) In subsection (3), omit “or section 306(2)”.

(6) In subsection (4), before paragraph (a) insert—

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“(za) Chapter 3A of Part 3,”.

VALID FROM 01/11/2013

13 In section 325(1) of AFA 2006 (evidential burden as respects excuses)—  
 (a) after “41,” insert “ 93A, 93E, 93G, ”;  
 (b) for “266 and 306” substitute “ 232G and 266 ”.

14 (1) Section 373 of AFA 2006 (orders, regulations and rules) is amended as follows.

(2) In subsection (2)—

- (a) after “sections” insert “ 20A, ”;
- (b) after “36,” insert “ 93F, ”.

(3) In subsection (3)(d)—

- (a) after “section” insert “ 20A, ”;
- (b) after “336(5)(a)” insert “ , 336A ”.

(4) In subsection (3)(g), after “section” insert “ 232F or ”.

**Commencement Information**

**I2** Sch. 4 para. 14 in force at 8.3.2012 by S.I. 2012/669, art. 3(f)

15 Omit section 380(9) of AFA 2006.

**Commencement Information**

**I3** Sch. 4 para. 15 in force at 8.3.2012 by S.I. 2012/669, art. 3(f)

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