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STATUTORY INSTRUMENTS

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**1999 No. 1736**

**The Visiting Forces and International  
Headquarters (Application of Law) Order 1999**

**Citation and commencement**

1. This Order may be cited as the Visiting Forces and International Headquarters (Application of Law) Order 1999 and shall come into force on the day after the date on which it is made.

**Interpretation**

2. In this Order—

“military member of a headquarters” shall be construed in accordance with paragraph 1 of the Schedule to the International Headquarters and Defence Organisations Act 1964; and

“service court” means a service court of a country in respect of which section 8 of the Visiting Forces Act 1952 has effect.

**Visiting forces and headquarters to which the Order applies**

3.—(1) This Order applies to a visiting force of—

(a) any country specified in Part I of Schedule 1, or

(b) any country specified in Part II of that Schedule, where that country has been designated by Order in Council under section 1(2) of the Visiting Forces Act 1952 for the purposes of giving effect to section 8 of that Act with respect to that country.

(2) This Order applies to the headquarters specified in Schedule 2.

**Provision of supplies**

4.—(1) For the purposes of the Supply Powers Act 1975<sup>(1)</sup> (which enables the Secretary of State to acquire, produce, dispose etc. of articles required for the public service and to exercise certain other powers in relation to such articles), any reference to articles required for the public service shall, subject to paragraph (2), include a reference to articles required for the purposes of a visiting force or headquarters; and the expression “works required for the public service” shall be construed accordingly.

(2) Paragraph (1) shall only enable the Secretary of State to exercise his powers under the Supply Powers Act 1975 in relation to articles required for the purposes of a visiting force or headquarters to the extent that those powers would be exercisable if the visiting force or headquarters were a part of any of the home forces.

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(1) 1975 c. 9.

### **Exercise of powers by the Secretary of State in relation to land**

5.—(1) Any power in relation to land or other premises conferred upon the Secretary of State by the Defence Acts, the Military Lands Acts 1892 to 1903<sup>(2)</sup>, or sections 36 to 39 of the Requisitioned Land and War Works Act 1945<sup>(3)</sup> (which relate to the acquisition of easements or other rights restrictive of the user of any land), may be exercised for the purposes of a visiting force or headquarters to the extent that those powers would be exercisable if the visiting force or headquarters were a part of any of the home forces.

(2) For the purposes of the exercise of the powers conferred by paragraph (1), the enactments specified in that paragraph shall have effect subject to the modifications set out in Schedule 3.

(3) The powers conferred on the Secretary of State by the Land Powers (Defence) Act 1958<sup>(4)</sup> may be exercised for the purposes of a headquarters to the extent that those powers would be exercisable if the headquarters were a part of any of the home forces; and accordingly in that Act any reference to defence purposes shall include a reference to any purpose of a headquarters.

(4) In this Article the “Defence Acts” means the Defence Acts 1842 to 1873, the Ordnance Board Transfer Act 1855<sup>(5)</sup>, section 7 of the Lands Clauses Consolidation Acts Amendment Act 1860<sup>(6)</sup>, the Defence Act Amendment Act 1864<sup>(7)</sup>, and section 7 of the Militia (Lands and Buildings) Act 1873<sup>(8)</sup>.

### **Use of intellectual property rights**

6. Schedule 4 shall have effect with respect to the use for the purposes of a visiting force or headquarters of intellectual property rights.

### **Wireless telegraphy, postal service and telecommunication systems**

7.—(1) The establishment or use of a station for wireless telegraphy, and the installation or use of any apparatus for wireless telegraphy, by—

- (a) a member of a visiting force or any person working in support of such a force, or
- (b) a member of a headquarters,

if done in the course of his duties as such, shall be exempt from the operation of Part I of the Wireless Telegraphy Act 1949<sup>(9)</sup> (which provides for the licensing etc. of wireless telegraphy).

(2) Section 10 of the Wireless Telegraphy Act 1949 (which is concerned with regulating the radiation of electro-magnetic energy from apparatus), and any regulations made thereunder, shall not apply to the use of any apparatus by a member of a visiting force or headquarters, if done in the course of his duties as such.

(3) Section 66 of the British Telecommunications Act 1981<sup>(10)</sup> (which confers on the Post Office the exclusive privilege of conveying etc. letters in the United Kingdom) shall not have effect to prohibit a visiting force or headquarters from conveying letters from one place to another in the United Kingdom, or from performing the incidental services of receiving, collecting and delivering letters in the United Kingdom.

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(2) 1892 c. 43, 1897 c. 6, 1900 c. 56 and 1903 c. 47.  
(3) 1945 c. 43.  
(4) 1958 c. 30.  
(5) 1855 c. 117.  
(6) 1860 c. 106.  
(7) 1864 c. 89.  
(8) 1873 c. 68.  
(9) 1949 c. 54.  
(10) 1981 c. 38.

(4) The running of a telecommunications system by a visiting force or headquarters for service purposes shall be exempt from the operation of Part II of the Telecommunications Act 1984<sup>(11)</sup> (which provides for the licensing etc. of telecommunications systems).

(5) The provisions of this article shall only have effect in relation to a visiting force or headquarters, or a member of such a force or headquarters, or a person working in support of such a force, to the extent provided by an agreement for the time being in force made by or on behalf of Her Majesty's Government in the United Kingdom with (as the case may be)—

- (a) the Government or the service authorities of the country to which the visiting force belongs, or
- (b) the headquarters.

(6) Where a provision of this article has effect by virtue of such an agreement, it shall be subject to such conditions and restrictions as may be specified in the agreement.

(7) In this article, "service purposes" means naval, military or air force purposes.

### **Road vehicles**

**8.**—(1) Subject to paragraphs (6) and (7)—

- (a) Part VI of the Transport Act 1968<sup>(12)</sup> (which is concerned with the regulation of drivers' hours), and
- (b) the provisions of the Road Traffic Regulation Act 1984<sup>(13)</sup> ("the 1984 Act") and the Road Traffic Act 1988<sup>(14)</sup> ("the 1988 Act") specified in paragraph (2),

shall not apply to a person or vehicle in the service of a visiting force or headquarters.

(2) The provisions referred to in paragraph (1)(b) are—

- (a) sections 6 to 8, 19, 20, 102 and 103 of the 1984 Act; and
- (b) sections 68 to 74, 123 to 162, 165, 170(5) to (7) and 171 of the 1988 Act.

(3) Section 130(3) of the 1984 Act (which enables the Secretary of State to vary in relation to certain vehicles provisions imposing speed limits) shall have effect in relation to vehicles used for the purposes of a visiting force or headquarters, while being driven by a person subject to the orders of a member of such a force or headquarters, as it has effect in relation to vehicles used for naval, military or air force purposes, while being driven as mentioned in that subsection.

(4) Neither section 97(3) nor section 98(3) of the 1988 Act, in so far as they prevent such a licence as is there mentioned from authorising a person to drive certain motor cycles, shall apply in the case of motor cycles in the service of a visiting force.

(5) Subject to any regulations made under section 101(2) of the 1988 Act, that section (in so far as it prohibits persons under 21 from holding or obtaining a licence to drive motor vehicles or persons under 18 from holding or obtaining a licence to drive medium-sized goods vehicles) shall not apply in the case of vehicles in the service of a visiting force.

(6) Section 165 of the 1988 Act, in so far as it provides for the production of test certificates and the giving of names and addresses, shall apply to a person in connection with a vehicle to which section 47 of the 1988 Act applies notwithstanding that he or the driver is or was at any material time a person in the service of a visiting force or headquarters.

(7) Section 165(1) of the 1988 Act, in so far as it provides for the production of any certificate mentioned in subsection (2)(c) of that section, shall apply to a person in connection with a goods

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<sup>(11)</sup> 1984 c. 12

<sup>(12)</sup> 1968 c. 73.

<sup>(13)</sup> 1984 c. 27.

<sup>(14)</sup> 1988 c. 52.

vehicle so mentioned notwithstanding that he or the driver is or was at any material time a person in the service of a visiting force or headquarters.

(8) No vehicle excise duty shall be charged under the Vehicle Excise and Registration Act 1994<sup>(15)</sup> in respect of any vehicle in the service of a visiting force.

(9) In this article and in article 9—

- (a) any reference to a person in the service of a visiting force or headquarters is a reference to—
  - (i) a member of a visiting force or headquarters, or
  - (ii) a person employed in the service of such a force, when acting in the course of his duties as such; and
- (b) any reference to a vehicle in the service of a visiting force or headquarters is a reference to a vehicle (including a motorcycle)—
  - (i) which belongs to a visiting force or headquarters and is used for the purposes of that force or headquarters, or
  - (ii) which is used for the purposes of a visiting force or headquarters, while being driven by a person for the time being subject to the orders of a member of a visiting force or headquarters.

### **Road vehicles (Northern Ireland)**

9.—(1) The following provisions shall not apply to a person or vehicle in the service of a visiting force or headquarters—

- (a) articles 56 and 58(2) and Part VIII of the Road Traffic (Northern Ireland) Order 1981<sup>(16)</sup>, and
- (b) articles 76 to 82 of the Road Traffic (Northern Ireland) Order 1995<sup>(17)</sup>.

(2) In Article 214(1) of the Road Traffic (Northern Ireland) Order 1981 (which gives the Department of the Environment power to make regulations to exempt from the provisions of that Order vehicles owned or used for the purposes of any service of the Crown and persons driving such vehicles) the reference to vehicles owned or used for the purposes of any service of the Crown and persons driving such vehicles shall include a reference to vehicles or persons in the service of a visiting force or headquarters.

### **Exemption from harbour dues**

10.—(1) For the purposes of any special Act within the meaning of the Harbours, Docks and Piers Clauses Act 1847<sup>(18)</sup> (“the 1847 Act”), section 28 of the 1847 Act (which exempts vessels in Her Majesty’s service etc. from the payment of rates or duties) shall have effect as if—

- (a) members of a visiting force or headquarters,
- (b) persons employed in the service of such a force, and
- (c) vessels, aircraft, stores and goods used for the purposes of such a force or headquarters,

were entitled to the same exemptions and immunities and privileges as such members, persons or property would enjoy under that section if the visiting force or headquarters were a part of any of the home forces.

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<sup>(15)</sup> 1994 c. 22.

<sup>(16)</sup> S.I. 1981/154 (N.I. 1).

<sup>(17)</sup> S.I. 1995/2994 (N.I. 18).

<sup>(18)</sup> 1847 c. 27.

(2) Where in relation to any harbour, dock or pier there is an agreement in force made on behalf of Her Majesty under which sums are payable on account of rates and duties to which section 28 of the 1847 Act applies, a visiting force or headquarters shall be liable to pay an amount equal to the amount that would be payable under that agreement if the force or headquarters were a part of any of the home forces.

(3) Any sums payable under paragraph (2) shall be payable to the person to whom the sums would be payable under the agreement referred to in that paragraph.

### **Town and country planning**

**11.**—(1) The Town and Country Planning Act 1990(**19**), the Planning (Listed Buildings and Conservation Areas) Act 1990(**20**) and the Planning (Hazardous Substances) Act 1990(**21**) (referred to collectively below as “the Planning Acts”) shall apply to land—

- (a) in which an interest is held by or on behalf of a visiting force or headquarters, and
- (b) which is used for the purposes of that force or headquarters,

to the extent that it applies to Crown land within the meaning of respectively section 293(1) of the Town and Country Planning Act 1990, section 83(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and section 31(3) of the Planning (Hazardous Substances) Act 1990.

(2) In their application to land such as is mentioned in paragraph (1), the Planning Acts shall have effect as if in those Acts—

- (a) any reference to Crown land included a reference to such land;
- (b) any reference to the Crown included a reference to the visiting force or headquarters; and
- (c) any reference to the appropriate authority was a reference to the Ministry of Defence.

(3) Paragraphs (1) and (2) shall apply to Scotland with the substitution—

- (a) for references to the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, and the Planning (Hazardous Substances) Act 1990 of references respectively to the Town and Country Planning (Scotland) Act 1997(**22**), the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(**23**) and the Planning (Hazardous Substances) (Scotland) Act 1997(**24**); and
- (b) in paragraph (1), for the words from “Crown land” to the end of the paragraph of the words—

“Crown land within the meaning of respectively section 242(1) of the Town and Country Planning (Scotland) Act 1997, section 74(6) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and section 31(3) of the Planning (Hazardous Substances) (Scotland) Act 1997.”

(4) Paragraphs (1) and (2) shall apply to Northern Ireland with—

- (a) the omission of references to the Planning (Listed Buildings and Conservation Areas) Act 1990, and the Planning (Hazardous Substances) Act 1990; and
- (b) the substitution—
  - (i) for the reference to the Town and Country Planning Act 1990 of a reference to the Planning (Northern Ireland) Order 1991(**25**); and

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(19) 1990 c. 8.

(20) 1990 c. 9.

(21) 1990 c. 10.

(22) 1997 c. 8.

(23) 1997 c. 9.

(24) 1997 c. 10.

(25) S.I. 1991/1220 (N.I. 11).

- (ii) in paragraph (1), for the reference to section 293(1) of that Act of a reference to section 118(1) of that Order.

### **Miscellaneous exemptions, immunities and privileges**

**12.—**(1) A visiting force or headquarters, members of such a force or headquarters, persons employed in the service of such a force, and property used for the purposes of such a force or headquarters shall be exempt from the operation of the enactments specified in Schedule 5 to the extent that, by virtue of the rule of law whereby enactments do not bind the Crown, such a force or headquarters, such members, such persons, or such property, would be so exempt if the force or headquarters were a part of any of the home forces.

(2) The enactments specified in the left hand column of Schedule 6 shall have effect subject to the modifications set out in the right hand column of that Schedule (being modifications which have the effect of conferring on a visiting force or headquarters, members of such a force or headquarters, persons employed in the service of such a force, or property used for the purposes of such a force or headquarters, the same exemptions, privileges and immunities which they would enjoy under those enactments if the force or headquarters formed a part of any of the home forces).

### **Application of Factories Acts**

**13.—**(1) For the purposes of the Factories Act 1961(**26**) (“the 1961 Act”) and the Factories Act (Northern Ireland) 1965(**27**) (“the 1965 Act”)—

- (a) any premises in the occupation of a visiting force or headquarters shall not be deemed not to be a factory, and
- (b) any building operations or works of engineering construction undertaken by or on behalf of a visiting force or headquarters shall not be excluded from the operation of those Acts,

by reason only that the work carried on there is not carried on by way of trade or for the purposes of gain.

(2) The power under section 173(1) of the 1961 Act, or under section 173(1) of the 1965 Act, to exempt by order certain factories, building operations or works of engineering construction shall apply to—

- (a) a factory belonging to, and in the occupation of, a visiting force as it applies to a factory belonging to the Crown; and
- (b) any building operations or works of engineering construction undertaken by or on behalf of a visiting force or headquarters as it applies to any such operations or works where undertaken by or on behalf of the Crown.

### **Notification of diseases**

**14.** Any reference—

- (a) in section 11 of the Public Health (Control of Disease) Act 1984(**28**) (which requires cases of notifiable diseases and food poisoning to be reported) to a registered medical practitioner, or
- (b) in section 2 of the Public Health Act (Northern Ireland) 1967(**29**) (which specifies the duties of a medical practitioner on diagnosis of notifiable diseases) to a medical practitioner,

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(26) 1961 c. 34.

(27) 1965 c. 20 (N.I.).

(28) 1984 c. 22; section 11 was amended by paragraph 108(1) and (3) of Schedule 1 to the Health Authorities Act 1995 (c. 17).

(29) 1967 c. 36 (N.I.).

shall include a reference to a person who holds an appointment as a medical officer in the service of a visiting force or headquarters.

#### **Application of Clean Air legislation**

15. The Clean Air Act 1993<sup>(30)</sup> (except Parts IV and V) and the Clean Air (Northern Ireland) Order 1981<sup>(31)</sup> shall have effect in relation to premises occupied for the purposes of a headquarters as if the premises were occupied for the public service of the Crown and were under the control of the government department by arrangement with whom the premises are occupied.

#### **Attendance of witnesses before service courts**

16. Schedule 7 shall have effect with respect to the attendance of witnesses before service courts, and with respect to the privileges and immunities of such witnesses and courts.

#### **Temporary detention of persons sentenced by service courts**

17. Schedule 8 shall have effect with respect to the temporary detention in the United Kingdom of persons sentenced by service courts.

#### **Punishment for inducing or assisting desertion**

18. Section 192 of the Army Act 1955<sup>(32)</sup> (punishment for procuring and assisting desertion or absence without leave) shall have effect as if any reference to a member of any of Her Majesty's regular military forces included a reference to a member of a visiting force or a military member of a headquarters.

#### **Revocations**

19. The instruments specified in column 1 of Schedule 9 are hereby revoked to the extent specified in column 3 of that Schedule.

*A. K. Galloway*  
Clerk of the Privy Council

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<sup>(30)</sup> 1993 c. 11.  
<sup>(31)</sup> 1981/158 (N.I. 4).  
<sup>(32)</sup> 1955 c. 18.