
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st January 2008 the provisions of the Armed Forces Act 2006 (“the Act”) specified in articles 2 and 3. Sections 334 to 339 provide for a complaints system for members or former members of the armed forces. The procedure for making and dealing with such complaints, the prescription of matters about which a service complaint may not be made and the role of the Service Complaints Commissioner to receive allegations are all provided for in these sections.

Section 360 of the Act provides for regulations to be made that will define the term ‘commanding officer’ for the purposes of the Act.

Section 366 provides for the appointment by the Secretary of State of a Service Complaints Commissioner. Section 367 provides for when members of the armed forces are subject to service law. Section 368 makes provision as to who are to be regarded as being members of the regular forces and section 369 makes provision as to members of British overseas territories’ forces serving with United Kingdom forces.

Section 375(1) and (5) of the Act provide for the definition of the terms ‘service police force’ and ‘service policeman’ for the purposes of the Act.

Paragraphs 9 and 36(a)(ii) and (iii) of Schedule 8 and paragraphs 16, 26, 29 to 32, 35, 36 and 38 of Schedule 16 to the Act make amendments to primary legislation in consequence of the ending of the separate office of Judge Advocate of Her Majesty’s Fleet.

Paragraphs 33 to 36 of Schedule 14 to the Act widen the circumstances in which reservists may agree to extend a period of permanent service.

Paragraphs 20, 23 and 34 of Schedule 16 to the Act make provision for arraignment of the accused at a preliminary hearing before a judge advocate and for court-martial rules to provide for the making of orders and rulings by the judge advocate at the hearing.

Paragraphs 21, 24 and 33 of Schedule 16 to the Act make provision for the amendment of court-martial rules to provide for appeals against orders or rulings made in preliminary proceedings and appeals against orders restricting the public access to or publication of court-martial proceedings.

Paragraphs 22 and 25 of Schedule 16 to the Act deal with where a person under a suspended sentence of imprisonment or detention from a court-martial is tried by court-martial for a further offence. Paragraphs 22 and 25 provide so that the court-martial dealing with the further offence cannot activate the suspended sentence if the accused chose trial by court-martial (instead of summary trial) for the further offence.

Paragraph 27 of Schedule 16 amends section 52C(4) of the Naval Discipline Act 1957 so that a case cannot be referred back to an appropriate superior authority when the accused has not withdrawn his election for court-martial.

Paragraph 37 of Schedule 16 to the Act repeals the provision of the Naval Discipline Act 1957 under which a court administration officer may issue a notice summoning a person to give evidence before a court martial and applies the witness expense provisions to witnesses summoned in accordance with court-martial rules.

Paragraphs 54 to 58, 71, 80, 82, 136 and 150 of Schedule 16 to the Act make consequential amendments to primary legislation to take account of the introduction by sections 334 to 339 of the Act of a new service complaints system.

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

The elements of paragraphs 100 and 187 of Schedule 16 to the Act brought into force by this Order amend primary legislation by deleting references to the Royal Marines Police, as that force is being subsumed into the Royal Navy Police.

Paragraph 178 of Schedule 16 to the Act empowers local probation boards to prepare reports in relation to persons who are or have been subject to proceedings before service courts.

Article 4 makes saving provision.