

## **ARMED FORCES ACT 2006**

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### **EXPLANATORY NOTES**

#### **THIRD GROUP OF PARTS – GENERAL**

##### **Part 19 – Supplementary**

##### *Chapter 1 – Application of Act*

##### **Persons subject to service law**

##### *Section 367: Persons subject to service law: regular and reserve forces*

742. This section provides for when members of the armed forces are “subject to service law”. The test whether a person is “subject to service law” is a key one for most of the provisions of the Act. For example the various disciplinary offences under Part 1 of the Act are defined so that they relate to conduct of persons “subject to service law” (Some provisions of the Act also relate , and a few only relate, to “civilians subject to service discipline”: that term is defined by section 370 and Schedule 15).
743. All members of the armed forces are in the “regular forces” or the “reserve forces” (These expressions are defined in section 374). Under this section all members of the regular forces are subject to service law at all times. Member of the reserve forces are, broadly speaking, subject to service law only when carrying out training or duties or when “called out” for service under the legislation relating to the Reserve Forces (the Reserve Forces Acts 1980 and 1996).

##### *Section 368: References to members of the regular forces*

744. This section makes further provision about who, for the purposes of this Act, is a member of the regular forces. Members of the regular forces generally have an obligation to join the reserve forces after they leave the regulars. Some of them have a further commitment, after being in the reserves, under which they may be “recalled to service”. This section provides that, where such a person is recalled to service, he again becomes a member of the regular forces. In such a case he becomes a member of the regular forces from acceptance back into service until he is released or discharged. As a member of the regular forces he is (by virtue of section 367) subject to service law at all times.
745. This section also deals further with the position of officers. Officers who have been granted permanent commissions normally retain them for life. However, unless he has been recalled to regular service under this section, an officer is only to be regarded as being a member of the regular forces if he is on the “active list”. An officer is “on the active list” only if he comes within a description provided in Queen’s Regulations, Royal Warrant or an order under section 2 of the Air Force (Constitution) Act 1917.

##### *Section 369: Members of British overseas territories’ forces serving with UK forces*

746. This section provides that when a member of a British overseas territory force undertakes any duty or training with a regular or reserve force he becomes subject

*These notes refer to the Armed Forces Act 2006 (c.52)  
which received Royal Assent on 8 November 2006*

to service law as if he were a member of that force of an equivalent rank or rate (subsections (1) and (2)). The section also empowers the Secretary of State to make orders (by statutory instrument) that modify any of the Act's provisions with respect to members of a British overseas territory force who fall or have fallen within the provisions of this section (subsection (3)).

## **Civilians subject to service discipline**

### ***Section 370: Civilians subject to service discipline***

747. This section defines a “civilian subject to service discipline” as a person who is not subject to service law and who satisfies the requirements of any paragraph of Part 1 of Schedule 15. It also gives effect to Part 2 of that Schedule, which makes further provision in relation to the requirements in Part 1.

## **Naval Chaplains**

### ***Section 371: Naval chaplains***

748. This section enables provision to be made for Naval Chaplains. Naval chaplains are unique in that they have no rank and are commissioned simply as a “chaplain” rather than as an officer within a chaplains’ branch. This section enables the Secretary of State to make regulations (by statutory instrument) which apply any of the provisions of the Act which apply to officers generally, to naval chaplains in particular. The regulations may determine the rank a chaplain is to be considered as holding in those circumstances where a provision affects an officer differently depending on his rank.