
STATUTORY INSTRUMENTS

2006 No. 2309 (C. 79)

DEFENCE

The Armed Forces Act 2001
(Commencement No. 7) Order 2006

Made - - - - 24th August 2006

The Secretary of State makes the following Order in exercise of the powers conferred by section 39(2) of the Armed Forces Act 2001⁽¹⁾:

1. This Order may be cited as the Armed Forces Act 2001 (Commencement No. 7) Order 2006.
2. The following provisions of the Armed Forces Act 2001 shall come into force on 25th August 2006—
 - (a) section 29 (Custody);
 - (b) section 30 (Conditional release from custody).

24th August 2006

Tom Watson
Parliamentary Under Secretary of State
Ministry of Defence

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force section 29 (and thereby Schedule 4) and section 30 of the Armed Forces Act 2001 (c.19). Section 29 simply gives effect to Schedule 4 to the 2001 Act. Schedule 4 brings into force amendments to the Army Act 1955(c.18), the Air Force Act 1955 (c.19) and the Naval Discipline Act 1957(c.53), which concern the circumstances in which a person may continue to be held in custody, and, where a person is released, the requirements which may be imposed on him in order to secure his attendance at any future hearing. The amendments make provision for when matters relating to custody shall be dealt with by a judicial officer or by the judge advocate in relation to a court-martial, and also when a person is released from custody after charge or during court-martial proceedings.

Section 30 enables the Secretary of State by order to make provision for conditional release from custody pending the outcome of an appeal from a court-martial, a summary appeal court or a Standing Civilian Court hearing. This is equivalent to the award of bail pending appeal in the civilian system, but as the term “bail” does not apply in the Service system the term “conditional release” is used instead. Section 30 also amends section 42 of the Courts-Martial (Appeals) Act 1968 (c.46) by removing any restriction on who may be granted “bail” pending an appeal from the Courts-Martial Appeal Court to the House of Lords. The right to be granted “bail” was hitherto restricted to civilians subject to service law.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Armed Forces Act 2001 have been brought into force by Commencement Orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
ss 1, 34 and Sch. 6 (partially), 35, 36, 37, 38 and Sch. 7 (partially), and 39	11 th May 2001	Royal Assent
ss 34 and Sch. 6 (partially), and 38 and Sch. 7 (partially)	1 st October 2001	2001/3234 (C.104)
ss 17 and Sch. 1, 18, 19 and Sch. 2, 23, 24, 32(9) and Sch. 5 (partially), 34 and Sch. 6 (partially), 38 and Sch. 7 (partially)	28 th February 2002	2002/345 (C.8)
ss 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 31 and 34 and Sch. 6 (partially)	30 th September 2003	2003/2268 (C.89)
s 20	21 st July 2004	2004/1938 (C.83)
ss 26, 27 and 28	14 th October 2005	2005/2861 (C.120)
ss 32, 33 and Sch.5 (partially)	1 st February 2006	2006/235 (C.6)

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