

2007 No. 2913 (C. 115)

DEFENCE

**The Armed Forces Act 2006 (Commencement No. 2) Order
2007**

Made - - - -

8th October 2007

The Secretary of State makes the following Order in exercise of the powers conferred on him by section 383(2) of the Armed Forces Act 2006(a):

1. This order may be cited as the Armed Forces Act 2006 (Commencement No. 2) Order 2007.

2. The following provisions of the Armed Forces Act 2006 shall come into force on 15th October 2007—

section 358 so far as is necessary to bring into force paragraphs 33 to 36 of Schedule 14;

section 378(1) so far as is necessary to bring into force paragraphs 22 and 25 of Schedule 16; and

section 360.

3. The following provisions of the Armed Forces Act 2006 shall come into force on 1st January 2008—

section 272(2) so far as is necessary to bring into force paragraphs 9 and 36(a)(ii) and (iii) of Schedule 8;

sections 334 to 339, 366, 367 (so far as it relates to sections 334 to 338), 368 and 369;

section 374 so far as is necessary to bring into force the definitions of “officer”, “service police force”, “service policeman”, “subject to service law”, “the regular forces” and “the reserve forces”;

section 375(1) and (5);

section 378(1) so far as is necessary to bring into force 16, 20, 21, 23, 24, 26, 27, 29 to 38, 54 to 58, 71, 80, 82, 100 (so far as not already in force), 136, 150, 178 and 187 (so far as not already in force) of Schedule 16; and

section 378(2) so far as is necessary to bring into force Schedule 17 to the extent specified below:

in the Courts-Martial (Appeals) Act 1951(b), the repeal of section 28;

in the Army Act 1955(c), the repeal of section 180;

in the Air Force Act 1955(a), the repeal of section 180;

(a) 2006 c.52
(b) 1951 c.46
(c) 1955 c.18

in the Naval Discipline Act 1957**(b)**, the repeal of section 130;

in the Courts-Martial (Appeals) Act 1968**(c)**, in sections 11(1) and 34(1)(a) the repeal of the words “the Judge Advocate of Her Majesty’s Fleet or”;

in the House of Commons Disqualification Act 1975**(d)**, in Part 3 of Schedule 1 the repeal of the words “Judge Advocate of the Fleet”;

in the Northern Ireland Assembly Disqualification Act 1975**(e)**, in Part 3 of Schedule 1 the repeal of the words “Judge Advocate of the Fleet”;

in the Judicial Pensions and Retirement Act 1993**(f)**, in Part 2 of Schedule 1 and in Schedule 5 the repeal of the words “Judge Advocate of Her Majesty’s Fleet”;

in the Criminal Justice and Police Act 2001**(g)**, the repeal of section 88(8)(j); and

in the Constitutional Reform Act 2005**(h)**, in the table in Part 1 of Schedule 14 the repeal of the entry relating to the Judge Advocate of Her Majesty’s Fleet.

4.—(1) The repeal of section 180 of the Army Act 1955, of section 180 of the Air Force Act 1955 and of section 130 of the Naval Discipline Act 1957 shall not have effect in relation to a complaint that was made before 1st January 2008.

(2) Without prejudice to paragraph (1), the repeal of section 180(2) of the Army Act 1955, of section 180(2) of the Air Force Act 1955 and of section 130(2) of the Naval Discipline Act 1957 shall not have effect in relation to a matter of complaint that occurred before 1st January 2008, or which began before, and continues to occur after, that date.

(3) The repeals in the Judicial Pensions and Retirement Act 1993 do not affect the operation of any provision of or made under that Act, or anything done under such provision, in relation to the office of, or service of, the Judge Advocate of Her Majesty’s Fleet.

Derek Twigg
Parliamentary Under Secretary of State
Ministry of Defence

8th October 2007

(a) 1955 c.19
(b) 1957 c.53
(c) 1968 c.20
(d) 1975 c.24
(e) 1975 c.25
(f) 1993 c.24
(g) 2001 c.16
(h) 2005 c.4

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.

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.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
ss 359, 373, 382 to 384 and 386 and s.378(2) and Sch 17 (in so far as they provide for the repeal of section 1 of the Armed Forces Act 2001 (c.19))	8 November 2006	Royal Assent
s 378(1) (partially) and Sch 16 (partially) and ss 379 and 381	4 June 2007	S.I. 2007/1442 (C.60)

£3.00

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E1433 10/2007 171433T 19585

