

SCHEDULE 1

Article 205

Minor and consequential amendments and repeals

Debts (Deceased Servicemen etc) Act 1893

1.—(1) In the Debts (Deceased Servicemen etc) Act 1893(1), “subject to service law” is to be read, in relation to any time before commencement, as “subject to military law or air-force law”.

(2) In section 23 of that Act (application of Act to deserters etc), the reference to deserting is to be read, in relation to any time before commencement, as a reference to committing an offence under section 37 of AA 1955 by virtue of subsection (2)(a) of that section.

(3) In section 29A(1) of that Act (application of Act to members of naval, marine or air forces), the reference to a relevant person includes a person who was subject to air-force law.

Criminal Evidence Act 1898

2. In section 6(1B) of the Criminal Evidence Act 1898(2) (application of Act), the reference to a service offence includes an SDA offence.

Army and Air Force (Women’s Service) Act 1948

3. The amendment made to section 4 of the Pensions and Yeomanry Pay Act 1884(3) (distribution of money not exceeding £5,000 without probate) by the Army and Air Force (Women’s Service) (Adaptation of Enactments) Order 1949(4) shall continue to have effect notwithstanding the repeal of the Army and Air Force (Women’s Service) Act 1948(5).

Prison Act 1952

4. In section 43(8) of the Prison Act 1952(6) (centres for detention of young offenders), the reference to a custodial sentence passed in respect of a service offence includes—

- (a) an SDA custodial sentence; and
- (b) a custodial sentence passed in respect of an SDA offence.

Emergency Laws (Miscellaneous Provisions) Act 1953

5. Section 10(2) of the Emergency Laws (Miscellaneous Provisions) Act 1953(7) (admission in evidence of affidavit taken under section 10) shall continue to apply in relation to an affidavit or declaration taken in pursuance of the power conferred by section 10(1) of that Act, notwithstanding its repeal by AFA 2006.

Registration of Births, Deaths and Marriages (Special Provisions) Act 1957

6.—(1) Sections 1, 2 and 5 of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(8) (records of births, deaths and marriages among armed forces and service

(1) 1893 c. 5. The Act was formerly known as the Regimental Debts Act 1893. Section 33 is amended by AFA 2006, Schedule 16, paragraph 10, so as to provide that the Act may be cited as the Debts (Deceased Servicemen etc) Act 1893.

(2) 1898 c. 36.

(3) 1884 c. 55.

(4) S.I. 1949/61, made by virtue of section 3(2) of the Army and Air Force (Women’s Service) Act 1948 (c. 21).

(5) 1948 c. 21.

(6) 1952 c. 52.

(7) 1953 c. 47.

(8) 1957 c. 58.

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civilians, and registration of births of legitimated persons in the service department registers) shall continue to apply, in relation to an event within paragraph (2) occurring before commencement, without the amendments to those sections made by AFA 2006.

- (2) The events are—
- (a) birth;
 - (b) death;
 - (c) marriage;
 - (d) formation of civil partnership.

Coroners Act (Northern Ireland) 1959

7. Section 18(4) of the Coroners Act (Northern Ireland) 1959⁽⁹⁾ (jury not to be summoned in certain cases: deaths on service custody premises) shall have effect, in relation to a death occurring before commencement on premises which would, if section 300 of AFA 2006 had been in force at the time of the death, have been service custody premises, as if the reference to service custody premises included those premises.

Criminal Justice Act 1961

8. In section 22 of the Criminal Justice Act 1961⁽¹⁰⁾ (assisting escaped prisoners etc), the reference in subsection (2) to a person who has been sentenced as mentioned there includes—

- (a) a person on whom an SDA custodial sentence has been passed (anywhere); and
- (b) a person on whom a custodial sentence has been passed (anywhere) in respect of an SDA offence.

Parliamentary Commissioner Act 1967

9. In paragraph 6 of Schedule 3 to the Parliamentary Commissioner Act 1967⁽¹¹⁾ (matters not subject to investigation), the reference to service law proceedings includes proceedings under AA 1955, AFA 1955, NDA 1957 or AFA 1976.

Criminal Justice Act 1967

10. In section 72 of the Criminal Justice Act 1967⁽¹²⁾ (power to issue warrant for arrest of escaped prisoners etc), references to offences include SDA offences.

Civil Evidence Act 1968

11.—(1) In sections 11 and 13 of the Civil Evidence Act 1968⁽¹³⁾ (convictions as evidence in civil proceedings)—

- (a) references to a service offence include an SDA offence; and
- (b) references to a conviction, in relation to SDA offences, include—
 - (i) a conviction by a court-martial (anywhere);
 - (ii) a conviction by a Standing Civilian Court;

(9) 1959 c. 15.
(10) 1961 c. 39.
(11) 1967 c. 13.
(12) 1967 c. 80.
(13) 1968 c. 64.

- (iii) a finding which, under AA 1955, AFA 1955, NDA 1957 or CMAA 1968 falls to be treated as a conviction by a court-martial;
- (iv) a finding which, under paragraph 20 of Schedule 3 to AFA 1976, falls to be treated as a conviction by a Standing Civilian Court;
- (v) a finding at a summary hearing under AA 1955 or AFA 1955 that a charge has been proved;
- (vi) a finding by a summary appeal court under AA 1955 or AFA 1955 that a charge has been proved;
- (vii) a finding of guilt at a summary trial under NDA 1957, or by the summary appeal court under that Act.

(2) In section 11(5)(aa) of the Civil Evidence Act 1968, the reference to section 187 of AFA 2006 includes paragraph 5 of each of Schedule 5A to AA 1955, Schedule 5A to AFA 1955 and Schedule 4A to NDA 1957.

Civil Evidence Act (Northern Ireland) 1971

12.—(1) In sections 7 and 9 of the Civil Evidence Act (Northern Ireland) 1971(**14**) (convictions as evidence in civil proceedings)—

- (a) references to a service offence include an SDA offence; and
- (b) references to a conviction, in relation to SDA offences, include—
 - (i) a conviction by a court-martial (anywhere);
 - (ii) a conviction by a Standing Civilian Court;
 - (iii) a finding which, under AA 1955, AFA 1955, NDA 1957 or CMAA 1968 falls to be treated as a conviction by a court-martial;
 - (iv) a finding which, under paragraph 20 of Schedule 3 to AFA 1976, falls to be treated as a conviction by a Standing Civilian Court;
 - (v) a finding at a summary hearing under AA 1955 or AFA 1955 that a charge has been proved;
 - (vi) a finding by a summary appeal court under AA 1955 or AFA 1955 that a charge has been proved;
 - (vii) a finding of guilt at a summary trial under NDA 1957, or by the summary appeal court under that Act.

(2) In section 7(5)(bb) of the Civil Evidence Act (Northern Ireland) 1971, the reference to section 187 of AFA 2006 includes paragraph 5 of each of Schedule 5A to AA 1955, Schedule 5A to AFA 1955 and Schedule 4A to NDA 1957.

Juries Act 1974

13. In paragraph 8(a) of Schedule 1 to the Juries Act 1974(**15**) (persons disqualified for jury service), the reference to a service offence includes an SDA offence.

Rehabilitation of Offenders Act 1974

14. No amendment by AFA 2006 of the Rehabilitation of Offenders Act 1974(**16**)—

(14) 1971 c. 36.

(15) 1974 c. 23.

(16) 1974 c. 53.

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- (a) causes a conviction which, immediately before the amendment came into force, was spent (within the meaning of that Act) to cease to be spent; or
- (b) has the effect of increasing the rehabilitation period (within the meaning of that Act) in respect of a conviction which occurred before commencement.

Bail Act 1976

15. In paragraph 4 of each of Parts 1 and 2 of Schedule 1 to the Bail Act 1976⁽¹⁷⁾ (provisions relating to persons entitled to bail), the reference to a sentence imposed by an officer under AFA 2006 includes a sentence imposed by any authority acting under AA 1955, AFA 1955, NDA 1957 or AFA 1976.

Race Relations Act 1976

16.—(1) In section 57(4B) of the Race Relations Act 1976⁽¹⁸⁾ (claims under Part 3), the reference to a service offence includes an SDA offence.

(2) In section 78(1) of that Act (general interpretative provisions), in the definition of “criminal proceedings” the reference to service law proceedings includes—

- (a) proceedings on dealing summarily with a charge under AA 1955 or AFA 1955;
- (b) proceedings on summary trial under NDA 1957;
- (c) proceedings before a summary appeal court constituted under AA 1955, AFA 1955 or NDA 1957;
- (d) proceedings before a court-martial constituted under any of those Acts or a disciplinary court constituted under section 52G of NDA 1957⁽¹⁹⁾;
- (e) proceedings before the Appeal Court before commencement; and
- (f) proceedings before a Standing Civilian Court.

Rehabilitation of Offenders (Northern Ireland) Order 1978

17. No amendment by AFA 2006 of the Rehabilitation of Offenders (Northern Ireland) Order 1978⁽²⁰⁾—

- (a) causes a conviction which, immediately before the amendment came into force, was spent (within the meaning of that Order) to cease to be spent; or
- (b) has the effect of increasing the rehabilitation period (within the meaning of that Order) in respect of a conviction which occurred before commencement.

Magistrates’ Courts Act 1980

18.—(1) In section 19(5) of the Magistrates’ Courts Act 1980⁽²¹⁾ (decision as to allocation)—

- (a) the reference to a service offence includes an SDA offence; and
- (b) the reference to a previous conviction, in relation to an SDA offence, includes—

(17) 1976 c. 63.

(18) 1976 c. 74.

(19) Section 52G of NDA 1957 was inserted by AFA 1996, section 5 and Schedule 1, Part 1, paragraphs 11 and 13, and repealed by AFA 2001, sections 18 and 38, and Schedule 7, Part 1.

(20) S.I. 1978/1908 (N.I. 27).

(21) 1980 c. 43.

- (i) a previous finding of guilt in proceedings under AA 1955, AFA 1955 or NDA 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence);
- (ii) a previous finding of guilt in any proceedings before a Standing Civilian Court.

(2) In section 125D(3)(b) of the Magistrates' Courts Act 1980 (execution of warrants), the reference to a warrant includes a warrant under section 186(3) of AA 1955 or AFA 1955, section 105(3) of NDA 1957 or paragraph 2(3) of Schedule 2 to RFA 1996.

Public Passenger Vehicles Act 1981

19. In paragraph 1(7) of Schedule 3 to the Public Passenger Vehicles Act 1981(**22**) (supplementary provisions as to qualifications for PSV operator's licence) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence.

Contempt of Court Act 1981

20. In paragraph 1A of Schedule 1 to the Contempt of Court Act 1981(**23**) (times when proceedings are active for purposes of section 2), the reference to a service offence includes an SDA offence.

Senior Courts Act 1981

21. In section 29(3A) of the Senior Courts Act 1981(**24**) (mandatory, prohibiting and quashing orders)—

- (a) the reference to the Service Civilian Court includes a Standing Civilian Court; and
- (b) the reference to the jurisdiction of the Court Martial in the matters mentioned there includes the jurisdiction of a court-martial in matters relating to—
 - (i) trial by court-martial for an offence; or
 - (ii) appeals from a Standing Civilian Court.

Armed Forces Act 1981

22. Any enactment which was passed after AFA 1981 and before or in the same session as AFA 2006 shall continue to have effect as if paragraph 2 of Schedule 3 to AFA 1981 (women's services: application of paragraph 1(1) to future enactments) had not been repealed.

Criminal Justice Act 1982

23. In section 32(1)(c) of the Criminal Justice Act 1982(**25**) (early release of prisoners)—

- (a) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
- (b) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence.

(22) 1981 c. 14.

(23) 1981 c. 49.

(24) 1981 c. 54. The Act was formerly known as the Supreme Court Act 1981. The Constitutional Reform Act 2005 (c. 4), section 59(5) and Schedule 11, paragraph 1, provides for it to be cited as the Senior Courts Act 1981.

(25) 1982 c. 48.

Representation of the People Act 1983

24.—(1) In section 3(2)(a) of the Representation of the People Act 1983(26) (disenfranchisement of offenders in prison etc), the reference to a service offence includes an SDA offence.

(2) In section 3A(5) of that Act (disenfranchisement of offenders detained in mental hospitals), the reference to Schedule 4 to AFA 2006 includes sections 116A(2) and 116B(2)(d) of AA 1955 and AFA 1955, sections 63A(2) and 63B(2)(d) of NDA 1957, and sections 16 and 23 of CMAA 1968 as they had effect before the amendments made by AFA 2006.

Mental Health Act 1983

25. In section 47(5)(a) of the Mental Health Act 1983(27) (removal to hospital of prisoners etc)—

- (a) the reference to service disciplinary proceedings includes proceedings in respect of an SDA offence (whether proceedings under AFA 2006 or an earlier enactment); and
- (b) the reference to a sentence of service detention includes an SDA sentence of service detention.

Repatriation of Prisoners Act 1984

26. In section 1(7)(a) of the Repatriation of Prisoners Act 1984(28) (warrants for transfer of prisoners etc into or out of UK), the reference to an order made by a court or tribunal in the United Kingdom in the course of the exercise of its criminal jurisdiction includes an order made (anywhere) by a court-martial or a Standing Civilian Court.

Inheritance Tax Act 1984

27. Section 154(2) of the Inheritance Tax Act 1984(29) (death on active service etc) shall have effect, in relation to any time before commencement, as if the amendment made to it by paragraph 99 of Schedule 16 to AFA 2006 had not been made.

Police and Criminal Evidence Act 1984

28.—(1) In section 82(1) of the Police and Criminal Evidence Act 1984(30) (interpretation of Part 8)—

- (a) in the definition of “proceedings” the reference to service proceedings includes proceedings before a court (other than a civilian court) in respect of an SDA offence; and
- (b) in the definition of “Service court” the reference to the Court Martial or the Service Civilian Court includes a court-martial or a Standing Civilian Court.

(2) In section 113(1) of that Act (application of Act to armed forces)—

- (a) references to service offences include SDA offences;
- (b) the reference in paragraph (b) to a power conferred by or under AFA 2006 includes a power conferred by or under AA 1955, AFA 1955 or NDA 1957; and
- (c) the persons referred to in paragraph (c) are to be taken to include persons charged under AA 1955, AFA 1955, NDA 1957 or AFA 1976 with SDA offences.

(3) In section 113(2) and (3)(b) of the Police and Criminal Evidence Act 1984, the references to service offences include SDA offences.

(26) 1983 c. 2.

(27) 1983 c. 20.

(28) 1984 c. 47.

(29) 1984 c. 51.

(30) 1984 c. 60.

Coroners Act 1988

29. In section 8(7) of the Coroners Act 1988(**31**) (duty to hold inquest), the reference to service custody premises includes—

- (a) in relation to a death which appears to the coroner to have occurred at a time before commencement, premises in the United Kingdom which at that time would have been service custody premises within the meaning of section 300 of AFA 2006 if that section had been in force then; and
- (b) in relation to a death where it appears to the coroner that the death may have occurred after commencement, premises in or outside the United Kingdom which are service custody premises (within the meaning of that section) at a time after commencement when it appears the death may have occurred.

Road Traffic Act 1988

30. In section 184(1) of the Road Traffic Act 1988(**32**) (application to persons subject to service discipline)—

- (a) references to an offence under section 42 of AFA 2006 include an SDA civil offence; and
- (b) references to the corresponding offence under the law of England and Wales include the corresponding civil offence.

Police and Criminal Evidence (Northern Ireland) Order 1989

31. In Article 70 of the Police and Criminal Evidence (Northern Ireland) Order 1989(**33**) (interpretation), the reference to the Court Martial or the Service Civilian Court includes a court-martial or a Standing Civilian Court.

Sexual Offences (Amendment) Act 1992

32.—(1) In section 2(4) of the Sexual Offences (Amendment) Act 1992(**34**) (offences to which the Act applies)—

- (a) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
- (b) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence.

(2) Section 4(9) of the Sexual Offences (Amendment) Act 1992 (special rules for cases of incest or buggery) shall continue to have effect in relation to an SDA civil offence notwithstanding its repeal by AFA 2006.

(3) In section 6(3A) of the Sexual Offences (Amendment) Act 1992 (interpretation etc)—

- (a) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
- (b) the reference to being charged under Part 5 of AFA 2006 with the offence includes being treated by section 75(4) of AA 1955 or AFA 1955 or section 47A(4) of NDA 1957 as charged with the offence.

(31) 1988 c. 13.

(32) 1988 c. 52.

(33) S.I. 1989/1341 (N.I. 12).

(34) 1992 c. 34.

Criminal Justice and Public Order Act 1994

33. In section 39(2) of the Criminal Justice and Public Order Act 1994⁽³⁵⁾ (power to apply sections 34 to 38 to armed forces), the reference to a service offence includes an SDA offence.

Goods Vehicles (Licensing of Operators) Act 1995

34. In paragraph 5 of Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995⁽³⁶⁾ (qualifications for standard licence)—

- (a) in sub-paragraph (1)—
 - (i) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
 - (ii) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence; and
- (b) in sub-paragraph (1A) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence.

Criminal Procedure (Scotland) Act 1995

35. In section 307(2) of the Criminal Procedure (Scotland) Act 1995⁽³⁷⁾ (interpretation), the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence.

Disability Discrimination Act 1995

36.—(1) In section 68(1) of the Disability Discrimination Act 1995⁽³⁸⁾ (interpretation), in the definition of “criminal proceedings” the reference to service law proceedings includes, for the purposes of section 56(6)(b) of, and paragraphs 6A(1)(c) and 6B(2)(b) of Schedule 3 to, that Act—

- (a) proceedings on dealing summarily with a charge under AA 1955 or AFA 1955;
- (b) proceedings on summary trial under NDA 1957;
- (c) proceedings before a summary appeal court under AA 1955, AFA 1955 or NDA 1957;
- (d) proceedings before a court-martial constituted under any of those Acts, or a disciplinary court constituted under section 52G of NDA 1957;
- (e) proceedings before the Appeal Court before commencement;
- (f) proceedings before a Standing Civilian Court.

(2) In section 68(1C) of the Disability Discrimination Act 1995, the reference to any service offence includes any SDA offence.

Criminal Procedure and Investigations Act 1996

37. In section 78(1) of the Criminal Procedure and Investigations Act 1996⁽³⁹⁾ (application to armed forces) the references to a service offence include an SDA offence.

⁽³⁵⁾ 1994 c. 33.

⁽³⁶⁾ 1995 c. 23.

⁽³⁷⁾ 1995 c. 46.

⁽³⁸⁾ 1995 c. 50.

⁽³⁹⁾ 1996 c. 25.

Armed Forces Act 1996

38.—(1) Section 6(2) of AFA 1996 (law applicable to certain service disciplinary proceedings) shall continue to have effect, notwithstanding its repeal by AFA 2006, in relation to the determination of any question as to the law applicable to service disciplinary proceedings which began before 1st October 1996.

(2) In paragraph (1) “service disciplinary proceedings” means proceedings for any offence taking place under AA 1955, AFA 1955 or NDA 1957 and proceedings before the Appeal Court.

Social Security (Recovery of Benefits) Act 1997

39. In paragraph 2 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997(40) (exempted payments), the reference to a payment to or for the injured person under section 175 of AFA 2006 includes—

- (a) a payment under a compensation order under paragraph 11 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957; and
- (b) a payment under an award of stoppages under any of those Acts.

Crime (Sentences) Act 1997

40. In section 34(2) of the Crime (Sentences) Act 1997(41) (meaning of “life sentence”)—

- (a) the reference to section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000(42) (detention at Her Majesty’s pleasure etc) includes section 71A(3) and (4) of AA 1955 and AFA 1955 and section 43A(3) and (4) of NDA 1957; and
- (b) the reference to section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 (custody for life) includes section 71A(1A) and (1B) of AA 1955 and AFA 1955 and section 43A(1A) and (1B) of NDA 1957.

Police Act 1997

41. In the definition of “criminal proceedings” in section 108(1) of the Police Act 1997(43) (interpretation of Part 3), the reference to a service offence includes an SDA offence.

Social Security (Recovery of Benefits) (Northern Ireland) Order 1997

42. In paragraph 2 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(44) (exempted payments), the reference to a payment to or for the injured person under section 175 of AFA 2006 includes—

- (a) a payment under a compensation order under paragraph 11 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957; and
- (b) a payment under an award of stoppages under any of those Acts.

Crime and Disorder Act 1998

43. In paragraph 9(5)(b) of Schedule 3 to the Crime and Disorder Act 1998(45) (procedure where persons sent for trial under section 51)—

(40) 1997 c. 27.

(41) 1997 c. 43.

(42) 2000 c. 6.

(43) 1997 c. 50.

(44) S.I. 1997/1183 (N.I. 12).

(45) 1998 c. 37.

Status: This is the original version (as it was originally made).

- (a) the reference to a service offence includes an SDA offence; and
- (b) the reference to a previous conviction includes, in relation to an SDA offence, a previous finding of guilt in—
 - (i) any proceedings under AA 1955, AFA 1955 or NDA 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence); or
 - (ii) any proceedings before a Standing Civilian Court.

Youth Justice and Criminal Evidence Act 1999

44.—(1) In section 44(1)(b) and (9) of the Youth Justice and Criminal Evidence Act 1999⁽⁴⁶⁾ (restrictions on reporting alleged offences involving persons under 18), the references to a person subject to service law include a person who, at the time of the alleged offence, was subject to military law or air-force law or to NDA 1957, or was a civilian subject to the SDAs.

(2) For the purposes of paragraph 6(3) of Schedule 7 to the Youth Justice and Criminal Evidence Act 1999 (transitional provision), proceedings on appeal from a Standing Civilian Court are to be taken to have been instituted when notice of appeal was given under paragraph 18(3) of Schedule 3 to AFA 1976.

Powers of Criminal Courts (Sentencing) Act 2000

45.—(1) In section 99(5)(aa) of the Powers of Criminal Courts (Sentencing) Act 2000⁽⁴⁷⁾ (conversion of sentence of detention to sentence of imprisonment), the reference to a sentence of detention under section 209 or 218 of AFA 2006 includes a sentence of detention under section 71A(3) or (4) of AA 1955 or AFA 1955 or section 43A(3) or (4) of NDA 1957.

(2) In section 106A of the Powers of Criminal Courts (Sentencing) Act 2000 (interaction of detention and training orders with sentences of detention), references to a sentence of detention include a sentence under section 71A(4) of AA 1955 or AFA 1955 or section 43A(4) of NDA 1957.

(3) In section 114(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (offences under service law)—

- (a) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
- (b) the references to the corresponding offence under the law of England and Wales include a reference to the corresponding civil offence.

(4) In section 134(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (effect of compensation order on award of damages in civil proceedings), the reference to a service compensation order includes—

- (a) a compensation order under paragraph 11 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957; and
- (b) an award of stoppages under any of those Acts.

Freedom of Information Act 2000

46.—(1) In section 30 of the Freedom of Information Act 2000⁽⁴⁸⁾ (investigations and proceedings conducted by public authority), references to criminal proceedings include—

- (a) proceedings before a court-martial under AA 1955, AFA 1955 or NDA 1957;

⁽⁴⁶⁾ 1999 c. 23.

⁽⁴⁷⁾ 2000 c. 6.

⁽⁴⁸⁾ 2000 c. 36.

- (b) proceedings on dealing summarily with a charge under AA 1955 or AFA 1955;
- (c) proceedings on summary trial under NDA 1957;
- (d) proceedings before a summary appeal court under AA 1955, AFA 1955 or NDA 1957;
- (e) proceedings before the Appeal Court before commencement; and
- (f) proceedings before a Standing Civilian Court.

(2) In section 30(5) of the Freedom of Information Act 2000, in the definition of “offence”, the reference to a service offence includes an SDA offence.

Criminal Justice and Court Services Act 2000

47. In section 5A of the Criminal Justice and Court Services Act 2000(**49**) (local probation boards and service justice) (substituted by section 327 of AFA 2006), the reference to proceedings before the Court Martial, the Summary Appeal Court or the Service Civilian Court includes proceedings before—

- (a) a court-martial under AA 1955, AFA 1955 or NDA 1957;
- (b) a summary appeal court under AA 1955, AFA 1955 or NDA 1957; or
- (c) a Standing Civilian Court.

International Criminal Court Act 2001

48.—(1) In section 32(6)(c) of the International Criminal Court Act 2001(**50**) (transfer of prisoner), the reference to a person serving a sentence of service detention or imprisonment imposed by a service court includes a person serving an SDA sentence of service detention or a sentence of imprisonment imposed by—

- (a) a court-martial constituted under AA 1955, AFA 1955 or NDA 1957;
- (b) a disciplinary court constituted under section 52G of NDA 1957;
- (c) a Standing Civilian Court; or
- (d) the Appeal Court before commencement.

(2) In sections 54(4) and 68(1) of the International Criminal Court Act 2001 (offences in relation to the International Criminal Court), the references to a person subject to UK service jurisdiction include a person who was, at the time when the act in question was committed, subject to military or air-force law or to NDA 1957 or a civilian subject to the SDAs.

Armed Forces Act 2001

49. In section 28(1) of AFA 2001 (costs), the reference to costs incurred as mentioned there by any of Her Majesty’s forces includes costs incurred by any of Her Majesty’s forces before commencement in respect of the exercise by a prosecuting authority of its functions as a party to proceedings under AA 1955, AFA 1955 or NDA 1957.

Anti-terrorism, Crime and Security Act 2001

50. In paragraph 16(3) of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001(**51**) (forfeiture of terrorist cash), the reference to a service compensation order under AFA 2006 includes—

(49) 2000 c. 43.

(50) 2001 c. 17.

(51) 2001 c. 24.

Status: This is the original version (as it was originally made).

- (a) a compensation order under paragraph 11 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957; and
- (b) an award of stoppages under any of those Acts.

Proceeds of Crime Act 2002

51. In section 308(4) of the Proceeds of Crime Act 2002(**52**) (general exceptions), the reference to a service compensation order under AFA 2006 includes—

- (a) a compensation order under paragraph 11 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957; and
- (b) an award of stoppages under any of those Acts.

Sexual Offences Act 2003

52.—(1) In section 133(1) of the Sexual Offences Act 2003(**53**) (interpretation of Part 2)—

- (a) the definition of “the period of conditional discharge” shall have effect, in relation to a person in respect of whom an order for conditional discharge was made before commencement, without the amendment made by paragraph 209(2)(b) of Schedule 16 to AFA 2006; and
- (b) the definition of “service detention” is to be taken to include detention awarded under section 71(1)(e) of AA 1955 or AFA 1955 or section 43(1)(e) of NDA 1957.

(2) In section 137 of the Sexual Offences Act 2003 (service courts)—

- (a) in subsection (1)(d) —
 - (i) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
 - (ii) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence;
- (b) in subsection (2), so far as that subsection applies for the purposes of section 92 of the Sexual Offences Act 2003, the reference to a service court includes a court-martial and a Standing Civilian Court; and
- (c) in subsection (3) the reference to a service court, so far as it applies for the purposes of paragraphs (b) and (c) of that subsection, includes a court-martial and a Standing Civilian Court.

(3) In paragraph 93A of Schedule 3 to the Sexual Offences Act 2003 (sexual offences for purposes of Part 2)—

- (a) in sub-paragraph (1)—
 - (i) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence of which the offender is convicted under AFA 2006; and
 - (ii) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence; and
- (b) in sub-paragraph (2) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence of which the offender is convicted under AFA 2006.

(52) 2002 c. 29.

(53) 2003 c. 42.

Criminal Justice Act 2003

53.—(1) In this paragraph “CJA 2003” means the Criminal Justice Act 2003(**54**).

(2) In section 112(1) of CJA 2003 (interpretation of Chapter 1 of Part 11), “service offence” includes an SDA offence.

(3) In section 117(8) of CJA 2003 (documents), treated as inserted by paragraph 2 of Schedule 7 to that Act, the reference to proceedings before an officer in respect of a service offence includes any proceedings in respect of an SDA offence (whether under AFA 2006 or an earlier enactment, and including any summary proceedings).

(4) In section 134(1A) of CJA 2003 (interpretation), treated as inserted by paragraph 2 of Schedule 7 to that Act, the reference to proceedings as mentioned there includes any proceedings in respect of an SDA offence (whether under AFA 2006 or an earlier enactment, and including any summary proceedings).

(5) In section 143(4) of CJA 2003 (meaning of “previous conviction”)—

- (a) the reference in paragraph (b) to a service offence includes an SDA offence; and
- (b) the previous convictions referred to by paragraph (b) are to be taken to include a previous finding of guilt in—
 - (i) proceedings under AA 1955, AFA 1955 or NDA 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence); or
 - (ii) proceedings before a Standing Civilian Court.

(6) In section 151 of CJA 2003 (community order or youth rehabilitation order for persistent offender)—

- (a) in subsection (4) the reference to conviction in service disciplinary proceedings includes a finding of guilt in—
 - (i) proceedings under AA 1955, AFA 1955 or NDA 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence); or
 - (ii) proceedings before a Standing Civilian Court; and
- (b) in subsection (8), in the definition of “service disciplinary proceedings”, the reference to a service offence includes an SDA offence.

(7) In section 229(2A)(b) of CJA 2003(**55**) (assessment of dangerousness), the reference to a service offence includes an SDA offence.

(8) In section 237(1B) of CJA 2003 (meaning of “fixed-term prisoner” etc)—

- (a) the reference in paragraph (a) to a sentence of imprisonment passed by a service court includes such a sentence passed by a court-martial or a Standing Civilian Court; and
- (b) the reference in paragraph (b) to a sentence of detention under section 209 of AFA 2006 includes a sentence of detention under section 71A(4) of AA 1955 or AFA 1955 or section 43A(4) of NDA 1957.

(9) Section 329(7) of CJA 2003 (civil proceedings for trespass), as enacted, shall continue to have effect in relation to a person who before commencement was found guilty of an SDA civil offence in service disciplinary proceedings as if the amendments made to sections 329 and 305 of CJA 2003 by Schedule 16 to AFA 2006 had not been made.

(10) In sub-paragraph (9) above “service disciplinary proceedings” means—

(54) 2003 c. 44.

(55) Section 229(2A) of CJA 2003 is inserted by the Criminal Justice and Immigration Act 2008 (c. 4), section 17(1) and (3).

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- (a) proceedings under AA 1955, AFA 1955 or NDA 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence); or
 - (b) proceedings before a Standing Civilian Court.
- (11) In section 329(7) of CJA 2003 (as substituted by AFA 2006)—
- (a) the reference to an offence under section 42 of AFA 2006 includes an SDA civil offence; and
 - (b) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence.
- (12) In section 337(12) of CJA 2003 (extent)—
- (a) the reference in paragraph (a) to service offences includes SDA offences; and
 - (b) the reference in paragraph (b) to the Court Martial includes courts-martial.
- (13) Paragraph 10 of Schedule 22 to CJA 2003 (mandatory life sentences: transitional provision) applies to the Court Martial in any case where—
- (a) the Court Martial passes a life sentence fixed by law; and
 - (b) the offence to which the sentence relates was committed before 18th December 2003.

Domestic Violence, Crime and Victims Act 2004

- 54.** Section 8(2) of the Domestic Violence, Crime and Victims Act 2004⁽⁵⁶⁾ (evidence and procedure) has effect as if—
- (a) the reference to an offence under section 42 of AFA 2006 included an SDA civil offence; and
 - (b) the reference to the corresponding offence under the law of England and Wales included the corresponding civil offence.

Human Tissue Act 2004

- 55.** In section 39(6)(c) of, and paragraph 5(4)(c) of Schedule 4 to, the Human Tissue Act 2004⁽⁵⁷⁾ (criminal justice and use for excepted purpose), the references to service offences include SDA offences.

Gambling Act 2005

- 56.** In sections 69 and 71 of the Gambling Act 2005⁽⁵⁸⁾ (application for operating licence and consideration of application), the references to a relevant offence include any offence within paragraph 14, 15 or 16 of Schedule 7 to that Act as enacted.

⁽⁵⁶⁾ 2004 c. 28.

⁽⁵⁷⁾ 2004 c. 30.

⁽⁵⁸⁾ 2005 c. 19.

SCHEDULE 2

Article 206

Transitory provisions

Definitions

1. In this Schedule—

“the 2005 Order” means the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005⁽⁵⁹⁾;

“CJA 2003” means the Criminal Justice Act 2003⁽⁶⁰⁾;

“CJCSA 2000” means the Criminal Justice and Court Services Act 2000⁽⁶¹⁾;

“PCC(S)A 2000” means the Powers of Criminal Courts (Sentencing) Act 2000⁽⁶²⁾.

Punishments available to Service Civilian Court

2.—(1) Until the coming into force of the repeal by CJA 2003 of section 78 of PCC(S)A 2000 (limits on magistrates’ courts’ sentencing powers), section 283 of AFA 2006 (punishments available to Service Civilian Court) has effect as if—

(a) in subsection (1), the reference to 12 months were to 6 months;

(b) in subsection (2), the reference to 65 weeks were to 12 months.

(2) The modifications of section 189 of CJA 2003 made by sub-paragraphs (a) and (b) of article 2(2) of the 2005 Order shall each have effect as if the reference to a magistrates’ court included the Service Civilian Court.

Powers of Crown Court in relation to orders made by Service Civilian Court

3. Until the coming into force of the repeal by CJA 2003 of section 78 of PCC(S)A 2000, each of the following provisions has effect as if the reference in it to 12 months were to 6 months—

(a) paragraph 8(3)(b)(i) of Schedule 5 to AFA 2006;

(b) the subsection (3C)(b)(i) treated as inserted in section 211 of CJA 2003 by section 179(2) of AFA 2006;

(c) the subsection (4A)(b)(i) treated as inserted in section 211 of CJA 2003 by section 203(3) of AFA 2006;

(d) the sub-paragraph (5A)(b)(i) treated as inserted in paragraph 15 of Schedule 12 to CJA 2003 by section 205(2) of AFA 2006.

Testing for alcohol and drugs

4. In relation to an offence committed before the coming into force of section 281(5) of CJA 2003, sections 305(5) and 306(5) of AFA 2006 have effect as if the references to 51 weeks were to 6 months.

⁽⁵⁹⁾ S.I. 2005/643.

⁽⁶⁰⁾ 2003 c. 44.

⁽⁶¹⁾ 2000 c. 43.

⁽⁶²⁾ 2000 c. 6.

Age at which imprisonment available

5. Until the coming into force of section 61 of CJCSA 2000 (abolition of certain sentences for offenders aged between 18 and 21), “21” shall be treated as substituted for “18” in each of the following provisions of AFA 2006—

- (a) section 208 (prohibition on imposing imprisonment on persons under 18);
- (b) section 209(2)(a) and (6);
- (c) the reference in section 211(1)(a) to an offence punishable with imprisonment in the case of a person aged 18 or over;
- (d) section 212(1)(b) and (2)(c);
- (e) section 222(3)(d).

Mandatory custody for life

6.—(1) This paragraph applies until the coming into force of section 61 of CJCSA 2000, where—

- (a) section 217 of AFA 2006 (conviction of offence for which sentence fixed by law as life imprisonment) applies;
- (b) the offender is aged under 21 on conviction; and
- (c) section 218(1) of that Act (detention at Her Majesty’s pleasure) does not apply.

(2) Where this paragraph applies, the Court Martial must pass on the offender a sentence of custody for life under section 93 of PCC(S)A 2000.

Discretionary custody for life

7.—(1) This paragraph applies until the coming into force of section 61 of CJCSA 2000, where a person aged at least 18 but under 21 is convicted by the Court Martial of an offence—

- (a) for which the sentence is not fixed by law; but
- (b) for which a person aged 21 or over would be liable to imprisonment for life.

(2) Where this paragraph applies the court shall, if it considers that a sentence for life would be appropriate, pass a sentence of custody for life under section 94 of PCC(S)A 2000 (but this is subject to sections 260 and 261 of AFA 2006, unless paragraph 8 applies).

Custody for life where custodial sentence would have been required by SDAs

8.—(1) This paragraph applies until the coming into force of section 61 of CJCSA 2000, where—

- (a) article 89 (sentences required by SDAs) applies; and
- (b) the offender is aged under 21 on conviction.

(2) Where this paragraph applies, the references in article 89(2) and (4) to a sentence of life imprisonment are to be read as to a sentence of custody for life under section 94 of PCC(S)A 2000.

Power to impose detention in a young offender institution

9.—(1) This paragraph applies until the coming into force of section 61 of CJCSA 2000, where—

- (a) a person aged at least 18 but under 21 is convicted by the Court Martial or the Service Civilian Court of an offence punishable with imprisonment; and
- (b) the court is not required to pass a sentence of custody for life or of detention during Her Majesty’s pleasure.

(2) Where this paragraph applies the court may, subject to section 260 of AFA 2006, pass a sentence of detention in a young offender institution under section 96 of PCC(S)A 2000 (and section 97(1) and (2) of that Act apply).

(3) In section 283 of AFA 2006 (limits on term of imprisonment available to Service Civilian Court), references to imprisonment include detention in a young offender institution.

Interaction of detention in a young offender institution with detention and training order

10. In section 106(1) of PCC(S)A 2000 (sentence of detention in a young offender institution passed on offender subject to detention and training order)—

- (a) “court” includes a relevant service court within the meaning given by section 196(2) of AFA 2006; and
- (b) references to a detention and training order include an order under section 211 of that Act.

Consecutive sentences

11.—(1) A determinate sentence of detention in a young offender institution is a “qualifying custodial sentence” for the purposes of section 188 of AFA 2006 (consecutive sentences).

(2) In subsection (4) of that section—

- (a) the reference in paragraph (a) to imprisonment includes detention in a young offender institution; and
- (b) the sentences referred to in paragraph (a) are to be taken to include a custodial order under section 71AA of AA 1955 or AFA 1955 or section 43AA of NDA 1957 or paragraph 10 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957.

Restriction on imposing custodial sentence on unrepresented offender

12. Until the coming into force of section 61 of CJCSA 2000, section 263 of AFA 2006 (restriction on imposing custodial sentence on unrepresented offender) has effect as if the actions mentioned in subsection (3)(a) included passing any custodial sentence (within the meaning of AFA 2006 as modified by this Schedule) on an offender who is aged under 21 on conviction.

Crediting of time in service custody

13. Until the coming into force of section 61 of CJCSA 2000, section 246 of AFA 2006 (crediting of time in service custody) has effect as if the sentences mentioned in paragraphs (a) and (b) of subsection (6) included a determinate sentence of detention in a young offender institution.

Re-sentencing powers

14.—(1) This paragraph applies until the coming into force of section 61 of CJCSA 2000.

(2) Until that time—

- (a) each of the provisions mentioned in sub-paragraph (3) has effect as if any reference in it to imprisonment included detention in a young offender institution; and
- (b) paragraph 8(4) of Schedule 5 to AFA 2006 is to be treated as omitted.

(3) Those provisions are—

- (a) paragraph 8(3) of Schedule 5 to AFA 2006 (breach etc of community punishments);
- (b) the subsections (3B) and (3C) treated as inserted in section 211 of CJA 2003 by section 179(2) of AFA 2006 (periodic review of drug rehabilitation requirement);

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- (c) the subsection (4A) treated as inserted in section 211 of CJA 2003 by section 203(3)(c) of AFA 2006 (review of suspended sentence order with community requirements);
- (d) the sub-paragraph (5A) treated as inserted in paragraph 15 of Schedule 12 to CJA 2003 by section 205(2)(b) of AFA 2006 (amendment of suspended sentence order with community requirements).

Sentences passed by civilian courts

15. In section 304(1) of AFA 2006 (which excludes civilian sentences of imprisonment from the sentences to which Part 12 of the Act applies), the reference to a sentence of imprisonment passed by a civilian court in respect of a service offence includes any sentence passed by a civilian court in respect of such an offence.

Meaning of “custodial sentence”

16. The sentences mentioned in the definition of “custodial sentence” in section 374 of AFA 2006 are to be taken to include—

- (a) a sentence of custody for life under section 93 or 94 of PCC(S)A 2000 (including a sentence of custody for life passed under section 225 of CJA 2003 as a result of section 219 of AFA 2006);
- (b) a sentence of detention in a young offender institution under section 96 of PCC(S)A 2000;
- (c) a sentence of detention in a young offender institution passed under section 225 of CJA 2003 as a result of section 219 of AFA 2006;
- (d) a sentence of detention in a young offender institution passed under section 227 of CJA 2003 as a result of section 220 of AFA 2006.

Notification requirements under Counter-Terrorism Act 2008

17. In each of the following provisions of Schedule 6 to the Counter-Terrorism Act 2008⁽⁶³⁾ (application of notification requirements to service offences), the reference to imprisonment includes detention in a young offender institution—

- (a) paragraph 5(1)(a)(ii);
- (b) paragraph 7(2)(b) and (3).

The Supreme Court

18.—(1) In relation to any time before the coming into force of section 23 of the Constitutional Reform Act 2005⁽⁶⁴⁾—

- (a) references to the Supreme Court in AFA 2006 and article 92 are to be read as to the House of Lords; and
- (b) references to the Supreme Court inserted by AFA 2006 in any other enactment are to be read as to the House of Lords.

(2) In relation to any time before the coming into force of section 59(2) of the Constitutional Reform Act 2005, references in AFA 2006 to the Court of Judicature of Northern Ireland are to be read as to the Supreme Court of Judicature of Northern Ireland.

⁽⁶³⁾ 2008 c. 28.

⁽⁶⁴⁾ 2005 c. 4.

