

SCHEDULE 1

Article 2(1)

APPLICATION AND MODIFICATION OF THE ACT

<i>Column 1</i>	<i>Column 2</i>
<i>Provisions applied</i>	<i>Modifications</i>
In section 34— subsection (1)	(i) for the words “an offence” substitute the words “a service offence”; (ii) in paragraph (a) for the word “constable” substitute the words “service policeman”; (iii) in paragraph (a) before the word “offence” wherever it occurs insert the word “service”; (iv) for paragraph (b) substitute the following— “(b) on being informed by a service policeman that the case would be referred either to the Director of Service Prosecutions or to the person’s commanding officer under section 116(2) or (3) of the Armed Forces Act 2006 (as the case may be), failed to mention any such fact”;
subsection (2), except paragraphs (a) and (b)	(v) for the words “questioned, charged or informed” substitute “questioned or informed”;
subsection (2A)	in paragraph (d) omit the words “or jury”, and before the word “offence” insert “service”;
subsections (3) and (5)	for the word “solicitor” substitute the words “legal representative”, and for the words “questioned, charged or informed” substitute “questioned or informed”;
subsection (6)	for the words in subsection (6) substitute the words “This section does not apply in relation to a failure to mention a fact if the failure occurred before the coming into force of the 1997 Order”;
In section 35— subsection (1)	after the word “trial” substitute “or appellate proceedings”; before the word “offence” insert “service”;

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subsection (2)	omit the words “(in the case of proceedings on indictment, in the presence of the jury)”; omit the words “or jury”;
subsection (3)	omit the words “or jury”; before the word “offence” insert “service”;
subsections (4),(5)	
In section 36—	
subsection (1)	for the word “constable” wherever it occurs substitute the words “service policeman”; in paragraph (b) for the words “an offence” substitute “a service offence”; after paragraph (d) before the word “offence” insert “service”;
subsection (2), except paragraphs (a) and (b)	in paragraph (d) omit the words “or jury” and before the word “offence” insert “service”;
subsection (3)	
subsection (4)	for the word “constable” substitute the words “service policeman”;
subsection (4A)	for the word “solicitor” substitute the words “legal representative”;
subsection (6)	
subsection (7)	for the words in subsection (7) substitute the words “This section does not apply in relation to a failure or refusal which occurred before the coming into force of the 1997 Order”;

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In section 37— subsection (1)	for the word “constable” wherever it occurs substitute the words “service policeman”; for the words “the offence” wherever they occur substitute the words “the service offence”;
subsection (2), except paragraphs (a) and (b)	in paragraph (d) omit the words “or jury” and before the word “offence” insert “service”;
subsection (3)	for the word “constable” substitute the words “service policeman”;
subsection (3A)	for the word “solicitor” substitute the words “legal representative”;
subsection (5)	
subsection (6)	for the words in subsection (6) substitute the words “This section does not apply in relation to a failure or refusal which occurred before the coming into force of the 1997 Order”;
In section 38— subsection (1)	(i) omit the definition of “legal representative”; and (ii) insert the following definitions in the appropriate places— “appellate proceedings” means any of— (a) the Summary Appeal Court hearing an appeal from a summary hearing; (b) the Court Martial hearing an appeal from the Service Civilian Court; or (c) the Court Martial Appeal Court hearing an appeal from the Court Martial;

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	<p>“legal representative ” means (a) a person who has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990⁽¹⁾; (b) an advocate or solicitor in Scotland; (c) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland; or (d) a person having in any of the Channels Islands, the Isle of Man, a Commonwealth country or a British overseas territory rights and duties similar to those of a barrister or solicitor in England and subject to punishment or disability for a breach of professional rules; “service policeman” has the same meaning as in section 375(1) of the Armed Forces Act 2006; “the 1997 Order” means the Criminal Justice and Public Order Act 1994 (Application to the Armed Forces) Order 1997 (S.I. 1997/16).</p>
subsection (2)	for the words “an offence” there shall be substituted “a service offence” and after the word “other” there shall be inserted “service”;
subsection (2A)	after the words “a police station;” omit the word “or” and after paragraph (b) insert the words “(c) any building or part of the building, any structure, or any room (whether on land or on a ship) which is used by a service policeman for the performance of his duties”;
subsection (3)	the omission of the words “have the proceedings against him transferred to the Crown Court for

(1) 1990 c. 41. Subsection (6) of section 71 of the Courts and Legal Services Act 1990 was substituted by the Access to Justice Act 1999 (c. 22), section 32, Schedule 6, paragraphs 4 and 9. Subsections (7) and (8) of section 71 of the 1990 Act were repealed by section 106, Schedule 15, Part 2, of the 1999 Act. Prospective amendments to section 71 of the 1990 Act are made to subsections (1) and (3) by the Constitutional Reform Act 2005 (c. 4), section 59(5). Schedule 11, part 2, paragraph 4(1), (3). Prospective amendments are made to subsections (4) and (6) and a new subsection (6A) is inserted into section 71 of the 1990 Act by the Legal Services Act 2007 (c. 29), section 208(1), Schedule 21, paragraphs 83 and 94(a), (b) and (c).

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subsections (5) and (6)	trial,” and for the words “an offence” there shall be substituted “a service offence”;