Armed Forces Bill

[AS AMENDED ON REPORT]

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[AS AMENDED ON REPORT]

A

B I L L

TO

Continue the Armed Forces Act 2006; to amend that Act and other enactments relating to the armed forces; to make provision about the reserve forces; to make provision about visiting forces; to make provision about the Ministry of Defence Police; to make provision about the defence functions of the Oil and Pipelines Agency; to make provision about the protection of military remains; and for connected purposes.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Duration of Armed Forces Act 2006

1 Duration of Armed Forces Act 2006

(1) For section 382 of AFA 2006 substitute—

"382 Duration of this Act

(1) This Act expires at the end of one year beginning with the day on which the Armed Forces Act 2026 is passed (but this is subject to subsection (2)). 5

(2) His Majesty may by Order in Council provide that, instead of expiring at the time it would otherwise expire, this Act expires at the end of a period of not more than one year from that time. 10

(3) Such an Order may not provide for the continuation of this Act beyond the end of the year 2031.

(4) No recommendation may be made to His Majesty in Council to make an Order under subsection (2) unless a draft of the Order has been laid before, and approved by a resolution of, each House of Parliament." 15

(2) In consequence of subsection (1), omit section 1 of the Armed Forces Act 2021.

Armed forces covenant

2 Armed forces covenant

(1) AFA 2006 is amended as follows.

(2) After section 343A insert—

"343AZA Duty to have due regard to the covenant

(1) This section applies where, and so far as, a person specified in subsection (4) exercises a public function which relates to a matter which—
  (a) is specified in subsection (5), and
  (b) is a relevant matter in relation to that person.

(2) In exercising the function, the person must have due regard to—
  (a) the unique obligations of, and sacrifices made by, the armed forces,
  (b) the principle that it is desirable to remove disadvantages arising for service people from membership, or former membership, of the armed forces, and
  (c) the principle that special provision for service people may be justified by the effects on such people of membership, or former membership, of the armed forces.

(3) For the purposes of this section, disadvantage arising for service people from membership, or former membership, of the armed forces is to be assessed by reference to others in comparable circumstances who are not, or were not, service people.

(4) The specified persons are—
  (a) a national authority;
  (b) a local authority;
  (c) an education body;
  (d) a health body.

(5) The specified matters are—
  (a) childcare;
  (b) education and training;
  (c) employment;
  (d) health and social care;
  (e) housing;
  (f) social security benefits;
  (g) personal taxation;
  (h) criminal justice;
  (i) transport;
  (j) pensions;
  (k) immigration and citizenship;
  (l) armed forces compensation.

(6) The "relevant matters" are—

(a) in relation to a national authority, each matter specified in subsection (5);

(b) in relation to a local authority other than the Northern Ireland Housing Executive, the matters specified in paragraphs (a) to (i) of subsection (5);

(c) in relation to the Northern Ireland Housing Executive, the matters specified in paragraphs (c) and (e) of subsection (5);

(d) in relation to an education body, the matters specified in paragraphs (a) to (c) of subsection (5);

(e) in relation to a health body, the matters specified in paragraphs (c) and (d) of subsection (5).

(7) In this section—

"armed forces compensation" means compensation in respect of a matter arising in consequence of a service member's membership of the armed forces that is payable to—

(a) that service member, or

(b) a person who is a relevant family member by reason of connection with that service member;

"public function" means a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

(8) See section 343AZB for the meaning of other terms used in this section.

343AZB Meaning of "national authority" etc

(1) This section applies for the purposes of section 343AZA.

(2) "National authority" means—

(a) a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975;

(b) the Welsh Ministers;

(c) the Scottish Ministers;

(d) the First Minister and deputy First Minister in Northern Ireland acting jointly, a Northern Ireland Minister or a Northern Ireland department.

(3) "Local authority" means—

(a) in relation to England—

(i) a county council in England,

(ii) a district council,

(iii) a London borough council,

(iv) the Greater London Authority,

(v) the Common Council of the City of London,

(vi) the Council of the Isles of Scilly,

(vii) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009, or

(viii) a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;

(b) in relation to Wales, the council of a county or county borough in Wales;

(c) in relation to Scotland—

(i) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(ii) a local authority landlord, within the meaning of the Housing (Scotland) Act 2001 (asp 10) (see section 11(3) of that Act);

(iii) an integration authority, within the meaning of section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014 (asp 9);

(d) in relation to Northern Ireland, the Northern Ireland Housing Executive.

(4) "Education body" means—

(a) in relation to England—

(i) the governing body of a maintained school;

(ii) the proprietor of an Academy, within the meaning of the Education Act 1996 (see section 579(1) of that Act);

(iii) a school which is approved under section 342 of the Education Act 1996 (non-maintained special schools);

(iv) the governing body of an institution within the further education sector in England, within the meaning of the Further and Higher Education Act 1992 (see sections 90 and 91 of that Act);

(v) a special post-16 institution, within the meaning of Part 3 of the Children and Families Act 2014 (see section 83 of that Act);

(b) in relation to Wales, the governing body of a maintained school;

(c) in relation to Scotland, a person in their capacity as an appropriate agency for the purposes of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (see section 23 of that Act);

(d) in relation to Northern Ireland—

(i) the Education Authority established under section 1(1) of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.));

(ii) the Board of Governors of a grant-aided school, within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)) (see Article 2(2) of that Order).

(5) "Health body" means—

(a) in relation to England—

(i) NHS England;

(ii) an integrated care board established under section 14Z25 of the National Health Service Act 2006;

(iii) a National Health Service trust in England;

(iv) an NHS foundation trust;

(b) in relation to Wales—

(i) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

(ii) a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006, other than a cross-border Special Health Authority;

(iii) a National Health Service trust in Wales;

(c) in relation to Scotland—

(i) a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978;

(ii) a Special Health Board constituted under section 2 of that Act;

(iii) the Common Services Agency for the Scottish Health Service;

(d) in relation to Northern Ireland—

(i) a Local Commissioning Group appointed under section 9 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1 (N.I.));

(ii) a Health and Social Care trust established by virtue of Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)), other than the Northern Ireland Ambulance Service Health and Social Care Trust.

(6) In this section—

"cross-border Special Health Authority" means a Special Health Authority which is established under the National Health Service Act 2006 and the National Health Service (Wales) Act 2006 by virtue of—

(a) paragraph 1(2) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006, or

(b) the power under section 28 of the National Health Service Act 2006 and the power under section 22 of the National Health Service (Wales) Act 2006 being exercised together;

"maintained school" has the same meaning as in the School Standards and Framework Act 1998 (see section 20 of that Act)."

(3) Omit sections 343AA to 343AD (due regard to principles: England, Wales, Scotland and Northern Ireland).

(4) In section 343AE (sections 343AA to 343AD: guidance)—

(a) in the heading, for "Sections 343AA to 343AD" substitute "Section 343AZA";

(b) in subsection (1), for "duties imposed by sections 343AA(1), 343AB(1), 343AC(1) and 343AD(1)" substitute "duty imposed by section 343AZA";

(c) in subsection (2)—

(i) for "person or body specified in subsection (3) of section 343AA, 343AB, 343AC or 343AD" substitute "person specified in section 343AZA(4)";

(ii) for "relevant function" substitute "function in respect of which the duty in section 343AZA applies".

(5) In section 343AF (sections 343AA to 343AD: power to add bodies and functions)—

(a) in the heading—

(i) for "343AA to 343AD" substitute "343AZA and 343AZB";

(ii) for "bodies and functions" substitute "etc persons and matters";

(b) in subsection (1)—

(i) before paragraph (a), insert—

"(za) amend section 343AZA(4) or 343AZB by—

(i) specifying additional persons, or

(ii) omitting, or modifying the description of, a person;

(zb) amend section 343AZA(5) by—

(i) specifying additional matters;

(ii) omitting, or modifying the description of, a matter;

(zc) amend section 343AZA(6)—

(i) so as to change the matters specified in section 343AZA(5) that are relevant matters in relation to a person specified in section 343AZA(4), or

(ii) in consequence of amendments made by virtue of paragraph (za) or (zb).";

(ii) omit paragraphs (a) to (d);

(c) omit subsections (3) and (4);

(d) in subsection (5)—

(i) for "sections 343AA to 343AD" substitute "section 343AZA or 343AZB";

(ii) for "functions" substitute "matters";

(iii) for "(1)" substitute "(1)(zb)(i)";

(e) in subsection (6), for "343AA" substitute "343AZA";

(f) omit subsection (11).

(6) In section 343B (interpretation of Part 16A), in subsection (4), omit the definition of "relevant function".

Defence housing and other property

3 Defence housing and other property

(1) After Part 16B of AFA 2006 (inserted by section 1 of the Veterans Advisory and Pensions Committees Act 2023) insert—

"PART 16C

DEFENCE HOUSING AND OTHER PROPERTY

CHAPTER 1

DEFENCE HOUSING SERVICE

343D Defence Housing Service

(1) A body corporate called the Defence Housing Service is established.

(2) The Defence Housing Service has—
  (a) the functions mentioned in section 343E, and
  (b) the powers mentioned in section 343F.

(3) Part 1 of Schedule 11A contains further provision about the Defence Housing Service.

343E Functions

(1) The Defence Housing Service has the general functions of—
  (a) improving the supply and quality of defence housing,
  (b) managing land or other property used (or formerly used) for defence purposes,
  (c) securing the regeneration or development of such land or other property, and
  (d) supporting in other ways—
    (i) the creation, regeneration or development of service communities, and
    (ii) the continued wellbeing of those communities.

(2) The Defence Housing Service has such further functions as are conferred—
  (a) by or under this Act or any other enactment, or
  (b) in the case of functions exercisable by a Minister of the Crown, by a direction in writing given by the Secretary of State for the purposes of this Part.

(3) The ways in which the Defence Housing Service may exercise its functions include (for example)—
  (a) generating, or collecting, income or profit from land or other property;

(b) managing land or other property on behalf of the Secretary of State or any other person.

(4) Functions conferred by direction under subsection (2)(b) may include particular functions to be carried out as part of the Defence Housing Service's general functions.

(5) In exercising its functions the Defence Housing Service must—

(a) comply with any requirement contained in an agreement entered into between it and the Secretary of State for the purposes of this Part, and

(b) have regard to guidance issued by the Secretary of State for those purposes.

(6) The requirements mentioned in subsection (5)(a) must (in particular) include requirements to ensure that service family accommodation provided by or on behalf of the Defence Housing Service meets such standards as may be set out in, or otherwise provided for by, the agreement.

(7) A direction given by the Secretary of State for the purposes of this Part—

(a) must be published in such manner as the Secretary of State thinks appropriate;

(b) may be varied or revoked by a further direction.

(8) In this section—

"defence housing" means—

(a) service family accommodation,

(b) other premises used as living accommodation—

(i) for, or in connection with, defence purposes, or

(ii) in accordance with an authorisation given by the Secretary of State with responsibility for defence, or

(c) premises used for, or in connection with, the provision of services or facilities to persons living in service family accommodation or in premises mentioned in paragraph (b);

"defence purposes" means the purposes of—

(a) any of His Majesty's forces, or

(b) a body, contingent or detachment of the forces of a country that is a visiting force for the purposes of any provision of the Visiting Forces Act 1952,

or any other purposes of the department of the Secretary of State with responsibility for defence;

"premises" has the same meaning as in Part 3 (see section 96(3));

"requirement" includes any prohibition or restriction;

"service community" means a community consisting of or including—

(a) service families, or

(b) others who live in defence housing;

"service family" means—

(a) a person who is subject to service law, or who was formerly subject to service law, and members, or former members, of their family, or

(b) a person who is a civilian subject to service discipline, or who was formerly subject to service discipline, and members, or former members, of their family;

"service family accommodation" means any building or part of a building which is provided for the use of service families (or any members of such families) as living accommodation.

343F Powers

(1) The Defence Housing Service may do anything it thinks appropriate for the purposes of, or in connection with, the exercise of its functions.

(2) Under the power conferred by subsection (1) the Defence Housing Service may (among other things)—

(a) enter into contracts and other agreements (whether legally binding or not);

(b) acquire and dispose of land or other property;

(c) borrow or lend money;

(d) accept gifts of money, land or other property;

(e) give assistance (including financial assistance) to other persons;

(f) form, participate in forming, or invest in, a company, partnership, joint venture or other similar form of organisation.

(3) The Defence Housing Service may borrow money (as mentioned in subsection (2)(c)) only with the consent of the Treasury.

343G Transfer of property and staff

(1) The Secretary of State may make one or more schemes for the transfer to the Defence Housing Service of property, rights or liabilities specified in the scheme.

(2) A scheme under this section may not specify property, rights or liabilities belonging to—

(a) His Majesty in right of the Crown and forming part of the Crown Estate,

(b) His Majesty in right of His private estates, as construed in accordance with section 1 of the Crown Private Estates Act 1862,

(c) His Majesty in right of the Duchy of Lancaster, or

(d) the Duchy of Cornwall.

(3) The reference in subsection (1) to the Defence Housing Service includes a company formed by the Defence Housing Service.

(4) In Schedule 11A—

(a) Part 2 makes further provision about schemes under this section;

(b) Part 3 makes provision for the Treasury to make regulations about the tax treatment of transfers under such schemes. 5

CHAPTER 2

COMPULSORY PURCHASE FOR DEFENCE HOUSING AND OTHER PURPOSES

343H Compulsory purchase powers of Defence Housing Service

(1) The Defence Housing Service may acquire land in England, Wales or Scotland compulsorily if the Secretary of State authorises it to do so. 10

(2) Where the Defence Housing Service proposes to acquire land in Northern Ireland otherwise than by agreement—

(a) it may apply to the Secretary of State for an order vesting the land in the Defence Housing Service, and

(b) on an application under paragraph (a), the Secretary of State may make such an order. 15

(3) References in this section to the acquisition of land or rights over land include the vesting of the land or rights under an order made under subsection (2).

(4) The powers under subsections (1) and (2) may be exercised in relation to land only if the Defence Housing Service requires the land for purposes connected with any of its functions. 20

(5) The powers under subsections (1) and (2) include power to acquire new rights over land.

(6) Subsection (7) applies where— 25

(a) land or new rights over land are being acquired compulsorily under subsection (1) or (2), and

(b) any of the land which is being acquired, or over which new rights are being acquired, is land which has been acquired by statutory undertakers for the purposes of their undertaking. 30

(7) The powers under subsections (1) and (2) include power to acquire land compulsorily for giving in replacement for the land or (as the case may be) new rights mentioned in subsection (6)(b).

(8) Subsection (9) applies where—

(a) land or new rights over land are being acquired compulsorily in England, Wales or Scotland under subsection (1), and 35

(b) any of the land which is being acquired, or over which new rights are being acquired, is or forms part of a common, open space or (in relation to England or Wales) fuel or field garden allotment. 40

(9) The power under subsection (1) includes power to acquire land compulsorily for giving in exchange for the land or (as the case may be) new rights mentioned in subsection (8)(b).

(10) Further provision in relation to compulsory acquisition by the Defence Housing Service under this section is made by—

(a) Part 4 of Schedule 11A, in relation to England and Wales;

(b) Part 5 of that Schedule, in relation to Scotland;

(c) Part 6 of that Schedule, in relation to Northern Ireland.

(11) This section does not apply in relation to Crown land.

(12) In this section—

"common" and "open space"—

(a) in relation to England or Wales, have the same meanings as in section 19 of the Acquisition of Land Act 1981;

(b) in relation to Scotland, have the same meanings as in the Town and Country Planning (Scotland) Act 1997 (see section 277(1) of that Act);

"Crown land"—

(a) in relation to England or Wales, has the same meaning as in Part 13 of the Town and Country Planning Act 1990 (see section 293 of that Act);

(b) in relation to Scotland, is to be construed in accordance with Part 12 of the Town and Country Planning (Scotland) Act 1997;

(c) in relation to Northern Ireland, has the same meaning as in Part 12 of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11));

"fuel or field garden allotment" has the same meaning as in section 19 of the Acquisition of Land Act 1981;

"land", in relation to Northern Ireland, has the meaning given by section 45(1)(a) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.));

"statutory undertaker"—

(a) in relation to England or Wales, has the same meaning as in section 16 of the Acquisition of Land Act 1981;

(b) in relation to Scotland, has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (see section 214 of that Act);

(c) in relation to Northern Ireland, has the same meaning as in the Planning Act (Northern Ireland) 2011 (c.11 (N.I.)).

343I Compulsory purchase powers of Secretary of State

(1) The Secretary of State may acquire land in England, Wales or Scotland compulsorily if the Secretary of State requires the land for defence purposes.

(2) Section 343H(5) to (12) and Parts 4 and 5 of Schedule 11A apply in relation to (or to matters connected with) the compulsory acquisition of land by the Secretary of State under subsection (1) as they apply in relation to (or to matters connected with) the compulsory acquisition of land by the Defence Housing Service.

(3) If the Secretary of State—

(a) requires land in Northern Ireland for defence purposes, and

(b) proposes to acquire the land otherwise than by agreement,

the Secretary of State may make an order vesting the land in the Secretary of State.

(4) Subsections (3) to (10) of section 343H apply in relation to (or to matters connected with) the compulsory acquisition of land by the Secretary of State by means of an order under subsection (3) as they apply in relation to (or to matters connected with) the compulsory acquisition of land by the Defence Housing Service.

(5) Part 7 of Schedule 11A makes further provision in relation to the compulsory acquisition of land by the Secretary of State by means of an order under subsection (3).

(6) In this section "defence purposes" has the meaning given by section 343E(8)."

(2) Schedule 1 makes provision as follows—

(a) Part 1 inserts the new Schedule 11A to AFA 2006 referred to in the amendments made by subsection (1);

(b) Part 2 makes consequential and related amendments of AFA 2006 and other legislation.

4 Military homes standard

(1) The Secretary of State must by regulations specify requirements to be met by military housing (the "military homes standard").

(2) The military homes standard must apply to single living accommodation and may apply to such other descriptions of military housing as the Secretary of State may by regulations specify.

(3) The requirements specified under subsection (1) must secure a standard no lower than the requirements specified under section 2A of the Housing Act 2004 (power to set standards for qualifying residential premises) in relation to qualifying residential premises.

(4) The first regulations under subsection (1) must be made within six months of the day on which this Act is passed.

(5) Regulations under this section are to be made by statutory instrument.

(6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Prevention etc of drones and similar devices 5

5 Interference with uncrewed devices

(1) After Part 16C of AFA 2006 (inserted by section 3 of this Act) insert—

"PART 16D

UNCREWED DEVICES

343J Authorisations to interfere with uncrewed devices 10

(1) An authorising officer may authorise the use of approved equipment for the purpose of—

(a) preventing or detecting the use of an uncrewed device in the commission of a relevant offence in relation to a defence area or defence property, or 15

(b) mitigating the risk of an uncrewed device being so used.

(2) An authorisation may be given under subsection (1) only if the authorising officer believes—

(a) an uncrewed device has been or is being used in the commission of a relevant offence in relation to a defence area or defence property or there is a risk of it being so used, and 20

(b) it is appropriate in the interests of national security for the authorisation to be given.

(3) An authorisation under this Part—

(a) must be given in writing; 25

(b) must specify the defence area, or the defence property or description of property, in relation to which the use of the approved equipment is authorised;

(c) must specify the required seniority of the person who is to act as the responsible person in relation to the specified defence area or defence property (see section 343M); 30

(d) must specify the period for which the authorisation has effect;

(e) may be given generally in respect of approved equipment or only in respect of such descriptions of approved equipment as are specified in the authorisation. 35

(4) The required seniority specified under subsection (3)(c) must be such as to secure that the person who acts as the responsible person is—

(a) a member of His Majesty's Forces of at least the rank of Lieutenant Commander, Major or Squadron Leader, or

(b) a member of the civil service of the State of a description of seniority specified in a notice published by the Secretary of State for the purposes of this section.

(5) The period specified under subsection (3)(d) may not be more than 12 months beginning with the day on which the authorisation takes effect.

(6) An application for an authorisation under this Part may be made only by—

(a) a person subject to service law,

(b) a civilian subject to service discipline, or

(c) a member of the civil service of the State working in the Ministry of Defence.

(7) In this Part—

"approved equipment" means any equipment approved by notice in writing for the purposes of this Part by the Secretary of State;

"authorising officer" means—

(a) a member of His Majesty's forces of at least the rank of Rear-Admiral, Major General or Air Vice-Marshal, or

(b) a member of the Senior Civil Service of a description of seniority specified in a notice published by the Secretary of State for the purposes of this section;

"defence area" and "defence property" have the meanings given by section 343P;

"relevant offence" has the meaning given by section 343Q;

"uncrewed device" means any device operating or designed to operate autonomously, or to be controlled remotely without a natural person on board.

343K Testing or training activities

(1) An authorisation under this Part may be given for purposes relating to testing activities or training activities in addition to, or instead of, the purposes mentioned in section 343J(1).

(2) "Testing activities" are activities relating to the testing, maintenance or development of the approved equipment to which the authorisation relates.

(3) "Training activities" are activities relating to the training of persons to use approved equipment for the purpose of—

(a) preventing or detecting the use of an uncrewed device in the commission of a relevant offence, or

(b) mitigating the risk of an uncrewed device being so used.

(4) Section 343J(2) does not apply so far as relating to an authorisation given for purposes relating to testing activities or training activities.

343L Effect of authorisation

(1) Any action is for all purposes lawful so far as it is authorised by an authorisation under this Part that is given for the purposes mentioned in section 343J(1).

(2) The action mentioned in subsection (1) includes (but is not limited to) interference with an uncrewed device at any place in the United Kingdom (including in, above or below the territorial sea adjacent to the United Kingdom).

(3) Interference with an uncrewed device may include its seizure and retention.

(4) Where an uncrewed device is seized and retained, it must (if not returned sooner to the device's owner or other appropriate person) be delivered to a constable before the end of—

(a) 72 hours beginning with the time of its seizure, or

(b) if the device was seized in, above or below the territorial sea adjacent to the United Kingdom, 72 hours beginning with the time when the device first reaches land in the United Kingdom.

(5) In relation to property which is in the possession of a constable by virtue of subsection (4)—

(a) the Police (Property) Act 1897 applies as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act;

(b) Part 6 of the Civic Government (Scotland) Act 1982 applies as it applies to property which has come into the possession of a constable in the circumstances mentioned in that Part (but references in that Part to action which may or must be taken in relation to the finder of property are to be disregarded);

(c) section 31 of the Police (Northern Ireland) Act 1998 applies as it applies to property which has come into the possession of the police in the circumstances mentioned in that section.

(6) No criminal liability is incurred in respect of any action so far as it is authorised by an authorisation under this Part that is given for purposes relating to testing activities or training activities, within the meaning of section 343K.

(7) Nothing in this Part authorises the taking of any action that is prohibited by any of Parts 1 to 7, or Chapter 1 of Part 9, of the Investigatory Powers Act 2016.

343M Responsible person

(1) This section applies where an authorisation under this Part is given to use approved equipment in relation to a defence area or defence property.

(2) The equipment may be used only if a responsible person in relation to the area or property is satisfied that—

(a) the equipment will at all times be used in accordance with the authorisation, and

(b) so far as the authorisation is given for the purposes mentioned in section 343J(1), it is necessary and proportionate for the equipment to be so used for those purposes.

(3) The reference in subsection (2) to a "responsible person" is to a person of the required seniority specified in the authorisation in relation to the defence area or defence property (see section 343J(3)(c)).

343N Authorisation in absence of authorising officer

(1) This section applies where—

(a) an application for an authorisation under this Part requires urgent consideration, and

(b) it is not reasonably practicable for an authorising officer to consider the application.

(2) The power conferred by section 343J on an authorising officer to give an authorisation under this Part may instead be exercised by a person designated for the purposes of this Part by an authorising officer (and for this purpose the reference to the authorising officer in section 343J(2) is to be taken as a reference to the designated person).

(3) A person may be designated under subsection (2) only if the person is—

(a) a member of His Majesty's forces of at least the rank of commodore, brigadier or air commodore, or

(b) a member of the Senior Civil Service of a description of seniority specified in a notice published by the Secretary of State for the purposes of this section.

(4) An authorisation under this Part given by virtue of this section—

(a) may be given orally;

(b) ceases to have effect at the end of 72 hours beginning with the time when the authorisation takes effect,

(and section 343J(3)(a) and (5) do not apply to such an authorisation).

343O Renewal etc of authorisations

(1) An authorisation under this Part given by an authorising officer may be renewed—

(a) by an authorising officer, for a period of no more than 12 months beginning with the day on which the authorisation would otherwise cease to have effect;

(b) by a designated person, on one occasion only for a period of no more than 72 hours beginning with the time when the authorisation would otherwise cease to have effect.

(2) An authorisation under this Part given by a designated person may be renewed—

(a) by an authorising officer, for a period of no more than 12 months beginning with the day on which the authorisation would otherwise cease to have effect;

(b) by a designated person, on one occasion only for a period of no more than 72 hours beginning with the time when the authorisation would otherwise cease to have effect.

(3) An authorisation under this Part may be varied or revoked by an authorising officer.

(4) The requirements of this Part apply to the renewal or variation of an authorisation as they apply when an authorisation is first given.

(5) In this section "designated person" means a person designated for the purposes of this Part under section 343N.

343P "Defence area" and "defence property"

(1) In this Part "defence area" means an area of a description mentioned in subsection (3) which is used—

(a) for UK defence purposes, or

(b) for the purposes of the defence of a foreign country or territory.

(2) In this Part "defence property" means any property in the United Kingdom used for the purposes mentioned in subsection (1)(a) or (b).

(3) The descriptions of area referred to in subsection (1) are—

(a) any land (including Crown land) or building in the United Kingdom;

(b) any area of sea, tidal water or shore to which a byelaw has effect by virtue of—

(i) section 2 of the Military Lands Act 1900, or

(ii) section 7 of the Land Powers (Defence) Act 1958;

(c) any area of water within a dockyard port, within the meaning of the Dockyard Ports Regulation Act 1865, to which an Order in Council under section 5 of that Act has effect.

(4) In subsection (1), "used for UK defence purposes" means used for the purposes of—

(a) the activities of any of His Majesty's forces,

(b) the invention, development, production, operation, storage or disposal of weapons or other equipment or capabilities of those forces and research relating to it,

(c) United Kingdom defence policy and strategy and military planning and intelligence, or

(d) plans and measures for the maintenance of essential supplies and services that are or would be needed by the United Kingdom in time of war.

(5) In subsection (1), "used for the purposes of the defence of a foreign country or territory" means used for the purposes of—

(a) the activities of the armed forces of the foreign country or territory,

(b) the invention, development, production, operation, storage or disposal of weapons or other equipment or capabilities of those forces and research relating to it, or

(c) the development of the capabilities of those forces.

(6) In this section—

"building" includes any part of a building;

"Crown interest" means—

(a) an interest belonging to His Majesty in right of the Crown or in right of His Majesty's private estates, or

(b) an interest belonging to a United Kingdom government department or held in trust for His Majesty for the purposes of a United Kingdom government department;

"Crown land" means any land or building in which there is a Crown interest or Duchy interest;

"Duchy interest" means an interest belonging to His Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall;

"foreign country or territory" means a country or territory outside the United Kingdom, the Channel Islands, the Isle of Man or the British Overseas Territories.

(7) In subsection (6) the reference to His Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

343Q Relevant offences

(1) In this Part "relevant offence" means—

(a) an offence under any of the following provisions of the National Security Act 2023—

(i) section 1 (obtaining or disclosing protected information);

(ii) section 3 (assisting a foreign intelligence service);

(iii) section 4 (entering etc a prohibited place for a purpose prejudicial to the UK);

(iv) section 5 (unauthorised entry etc to a prohibited place);

(v) section 6(4) (breach of an order under section 6(1) of that Act);

(vi) section 11(4) (breach of order under section 11(1) of that Act);

(vii) section 12 (sabotage);

(viii) section 18 (preparatory conduct);

(b) an offence under section 58 of the Terrorism Act 2000 (collection of information);

(c) an offence under section 58 of the Merchant Shipping Act 1995 (conduct endangering ships, structures or individuals);

(d) an offence under section 11 of the Aviation and Maritime Security Act 1990 (destroying ships or fixed platforms or endangering their safety);

(e) an offence under any of the following provisions of the Air Navigation Order 2016 (S.I. 2016/765)— 5

(i) Article 94A (certain unmanned aircraft: permission for flights over or near aerodromes);

(ii) Article 239(4) (prohibited or restricted flying);

(iii) Article 240 (endangering safety of an aircraft);

(iv) Article 241 (endangering safety of any person or property); 10

(f) an offence against a byelaw made under Part 2 of the Military Lands Act 1892 (byelaws as to land used for military purposes);

(g) an offence under an Order in Council made under section 5 of the Dockyard Ports Regulation Act 1865 (regulations in relation to dockyard ports). 15

(2) The Secretary of State may by regulations amend subsection (1) so as to add or remove an offence."

(2) In section 373 of AFA 2006 (orders, regulations and rules), in subsection (3), after paragraph (eg) insert— 20

"(eh) regulations under section 343Q(2),".

Protection from sexual and violent behaviour, domestic abuse, stalking and harassment

6 Sexual harm prevention orders and sexual risk orders

Schedule 2 amends section 137 of the Sexual Offences Act 2003 (application of that Act to service courts) to enable a Provost Marshal to apply to a service court for— 25

(a) a sexual harm prevention order or interim sexual harm prevention order (see sections 103A to 103K of that Act) in respect of a person who is subject to service law or a civilian subject to service discipline;

(b) a sexual risk order or interim sexual risk order (see sections 122A to 122K of that Act) in respect of such a person. 30

7 Service image deletion orders

(1) After section 232G of AFA 2006 insert—

"Service image deletion orders

232H Service image deletion orders 35

(1) A service image deletion order is an order which—

(a) is made in respect of an offender for an offence,

(b) relates to a photograph or film which is in the offender's possession or under their control, and

(c) requires the offender to take steps specified in the order to ensure, so far as is reasonably practicable, that the photograph or film is put beyond use.

(2) For the purposes of subsection (1)(c), a photograph or film is put beyond use if—

(a) in the case of a physical item, it is destroyed;

(b) in the case of data stored by any means by or on behalf of the offender, it is deleted;

(c) in the case of content on an internet service, it is removed from the service or permanently hidden.

(3) For the purposes of this section—

(a) something is "deleted" if it is irrecoverable;

(b) "content", in relation to an internet service, has the meaning given by section 236(1) of the Online Safety Act 2023;

(c) "internet service" has the meaning given by section 228 of that Act (and section 204(1) of that Act applies).

232I Service image deletion orders: availability

(1) This section applies where a person commits an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under any of the following provisions of the Sexual Offences Act 2003—

(a) section 66AA (sharing semen-defaced images);

(b) section 66AB (taking or recording intimate photograph or film);

(c) section 66AE (creating a copy of intimate photograph or film shared temporarily);

(d) section 66B (sharing or threatening to share intimate photograph or film);

(e) section 66E (creating a purported intimate image of adult);

(f) section 66F (requesting the creation of purported intimate image of adult);

(g) section 67A(2B) (recording a person breast-feeding child).

(2) This section also applies where a person's attempt, agreement or encouragement or assistance, or a person's aiding, abetting, counselling or procuring, in relation to an offence specified in any of paragraphs (a) to (g) of subsection (1) is an offence under section 42 by reason of section 43, 45, 46 or 47.

(3) The Court Martial or the Service Civilian Court—

(a) may make a service image deletion order in respect of a photograph or film to which the offence relates, and

(b) must give reasons if there is an image to which the offence relates in respect of which it does not make a service image deletion order.

(4) The court may make a service image deletion order in relation to any other photograph or film—

(a) which shows, or appears to show, the subject of the photograph or film to which the offence relates in an intimate state,

(b) which is a semen-defaced image of the subject of the photograph or film to which the offence relates, or

(c) which shows the subject of the photograph or film to which the offence relates breast-feeding a child.

(5) The following provisions of the Sexual Offences Act 2003 apply for the purposes of this section—

(a) section 66AA(2) (meaning of "semen-defaced image");

(b) section 66D(5) to (9) (meaning of "showing, or appearing to show, another person in an intimate state");

(c) section 67A(3A) and (3B) (meaning of references to a person breast-feeding a child) ignoring, for these purposes, references to the intention of the person who recorded the photograph or film.

(6) In relation to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is an offence under section 66F of the Sexual Offences Act 2003, a photograph or film is a photograph or film to which the offence relates for the purposes of this section if—

(a) it appears to be of a person who was the subject of the request to which the offence relates (whether or not it is what was requested), and

(b) it was in the offender's possession, or under the offender's control, as a result of that request.

(7) A service image deletion order is not available if the offence was committed before the day on which section 7 of the Armed Forces Act 2026 comes into force.

232J Period for complying with requirements

(1) A service image deletion order must specify, in respect of each step the order requires the offender to take, the date by which the step must be taken (and different dates may be specified in respect of different steps).

(2) Where the order requires the offender to take a step in relation to a photograph or film that would result in the offender being unable to recover the photograph or film—

(a) the order must not require the step to be taken before the end of the relevant appeal period in relation to the conviction or order, and

(b) where an appeal against the conviction or order is brought or an application for leave to bring such an appeal is made, the offender is not required to take the step until the appeal is

finally determined or withdrawn or the application for leave is refused.

(3) In subsection (2) the "relevant appeal period" is—

(a) in relation to an appeal from a decision of the Court Martial, the period within which an application for leave to appeal must be lodged (but ignoring any power for that period to be extended);

(b) in relation to an appeal from a decision of the Service Civilian Court, the initial period for bringing an appeal mentioned in section 285(3)(b) (28 days from date of sentence).

232K Offence of failing to comply with a service image deletion order

(1) It is an offence for a person in respect of whom a service image deletion order made under section 232I is in force to fail without reasonable excuse to comply with any requirement included in the order.

(2) A person subject to service law, or a civilian subject to service discipline, who commits an offence under this section is, if guilty of the offence, liable to any punishment mentioned in the Table in section 164, but a sentence of imprisonment imposed in respect of the offence must not exceed five years.

(3) A person who is no longer subject to service law, or a civilian who is no longer subject to service discipline, who commits an offence under this section is, if guilty of the offence, liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court, or a fine not exceeding the statutory maximum (or both);

(b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

(c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

232L Service image deletion orders: interpretation

(1) This section applies for the purposes of sections 232H to 232K.

(2) "Photograph" includes the negative as well as the positive version.

(3) "Film" means a moving image.

(4) References to a photograph or film also include—

(a) an image, whether made or altered by computer graphics or in any other way, which appears to be a photograph or film,

(b) a copy of a photograph, film or image within paragraph (a), and

(c) data stored by any means which is capable of conversion into a photograph, film or image within paragraph (a)."

(2) In consequence of the amendment made by subsection (1), in section 50 of AFA 2006 (jurisdiction of the Court Martial), in subsection (2), after paragraph (c) insert— 5

"(ca) an offence under section 232K (failure to comply with a service image deletion order) committed by a person within subsection (2) of that section;".

8 Protection from domestic abuse and stalking

Schedule 3 amends AFA 2006 and other legislation to make provision as follows— 10

(a) Part 1 provides for service police to give service domestic abuse protection notices;

(b) Part 2 provides for service courts to make service domestic abuse protection orders; 15

(c) Part 3 provides for service courts to make service stalking protection orders;

(d) Part 4 makes provision about notification requirements in connection with service domestic abuse protection orders and service stalking protection orders; 20

(e) Part 5 makes provision about guidance for Provost Marshals about the exercise of their powers in connection with the notices and orders mentioned above;

(f) Part 6 enables the enforcement and variation of a service domestic abuse protection order, when the person in respect of whom the order was made is no longer subject to service law or a civilian subject to service discipline; 25

(g) Part 7 enables the enforcement and variation of a service stalking protection order, when the person in respect of whom the order was made is no longer subject to service law or a civilian subject to service discipline; 30

(h) Part 8 makes consequential amendments.

9 Service restraining orders: enforcement etc by civilian courts

(1) In section 229(1) of AFA 2006, omit paragraph (b) and the "and" before it.

(2) After section 5A of the Protection from Harassment Act 1997 insert— 35

"5B Service restraining orders

(1) This section applies where—

(a) a person is subject to an order made by the Court Martial or the Service Civilian Court under section 229 of the Armed Forces Act 2006 (a "service restraining order")— 40

(i) after the court acquitted the person of an offence, or

(ii) in respect of a case remitted to the court under section 230(3) of that Act, and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) The service restraining order is to be treated as an order made by the Crown Court under section 5A (restraining orders on acquittal) in respect of the person, subject as follows.

(3) Section 5A applies as if—

(a) in subsections (2B) and (2D), references to "the defendant" were to the person in respect of whom the service restraining order was made (and subsection (2A) is to be read accordingly);

(b) in subsection (2B)—

(i) the reference to "the prosecutor" were to a relevant chief officer of police (and subsection (2A) is to be read accordingly);

(ii) the reference to "the court that made the order" were to the Crown Court;

(c) subsections (3) to (5) were omitted.

(4) In this section—

"chief officer of police" means—

(a) the chief constable of a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(b) the Commissioner of Police of the Metropolis;

(c) the Commissioner of Police for the City of London;

"civilian subject to service discipline" has the same meaning as in the Armed Forces Act 2006 (see section 370 of that Act);

"relevant chief officer of police", in relation to an application under section 5A(2B) (as modified by subsection (3) of this section) to vary or discharge an order under section 229 of the Armed Forces Act 2006 to which a person is subject, means—

(a) the chief officer of police for the area in which the person resides, and

(b) a chief officer of police who believes that the person is in, or is intending to come to, that chief officer's police area;

"subject to service law" has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act)."

(3) After section 363 of the Sentencing Code insert—

"363A Service restraining orders

(1) This section applies where—

(a) a person is subject to an order made by the Court Martial or the Service Civilian Court under section 229 of the Armed

Forces Act 2006 (a "service restraining order") on conviction of the person for an offence, and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) The service restraining order is to be treated as an order made by the Crown Court under section 360 against the person, subject as follows.

(3) Section 361(1) (persons who may apply to vary or discharge an order) applies as if—

(a) the reference to "the prosecution" were to a relevant chief officer of police (and section 362(2) is to be read accordingly);

(b) the reference to "the court which made the order" were to the Crown Court.

(4) In this section—

"chief officer of police" means—

(a) the chief constable of a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(b) the Commissioner of Police of the Metropolis;

(c) the Commissioner of Police for the City of London;

"civilian subject to service discipline" has the same meaning as in the Armed Forces Act 2006 (see section 370 of that Act);

"relevant chief officer of police", in relation to an application under section 361 (as modified by subsection (3) of this section) to vary or discharge a service restraining order to which a person is subject, means—

(a) the chief officer of police for the area in which the person resides, and

(b) a chief officer of police who believes that the person is in, or is intending to come to, that chief officer's police area;

"subject to service law" has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act)."

(4) After section 234AZA of the Criminal Procedure (Scotland) Act 1995 insert—

"234AZB Service restraining orders

(1) This section applies where—

(a) a person is subject to an order made by the Court Martial or the Service Civilian Court under section 229 of the Armed Forces Act 2006 (a "service restraining order"), and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) Subject as follows, the service restraining order is to be treated as a non-harassment order made against the person by a sheriff court—

(a) in a case falling within section 234A(1)(a), if the service restraining order was made on conviction of the person for an offence;

(b) in a case falling within section 234A(1)(b) or (c), if the service restraining order was made on acquittal of the person for an offence.

(3) Section 234A applies as if—

(a) subsection (3) were omitted;

(b) in subsection (6)—

(i) the reference to the prosecutor at whose instance the order is made were to the procurator fiscal;

(ii) the reference to the court which made the order were to any sheriff court.

(4) In this section, the following terms have the same meanings as in the Armed Forces Act 2006—

"civilian subject to service discipline" (see section 370 of that Act);

"subject to service law" (see section 374 of that Act)."

(5) In section 109 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 (offences relating to protective orders made outwith Scotland), in subsection (4) (relevant UK orders)—

(a) in paragraph (b), at the end insert "but not an order treated as having been made under that section by virtue of section 5B of that Act (service restraining orders)";

(b) in paragraph (e), at the end insert "but not an order treated as having been made under that section by virtue of section 363A of that Act (service restraining orders)".

(6) After Article 7A of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9)) insert—

"Service restraining orders

7B.—(1) This Article applies where—

(a) a person is subject to an order made by the Court Martial or the Service Civilian Court under section 229 of the Armed Forces Act 2006 (a "service restraining order"), and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) Paragraphs (3A) to (7) of Article 7 apply to the service restraining order as they apply to an order under that Article, with the following modifications—

(a) the reference in paragraph (3A) to the prosecution, and the reference in paragraph (4) to the prosecutor, are to be read as references to the Chief Constable;

(b) the reference in paragraph (4) to the court which made the order is to be read as a reference to the Crown Court.

(3) In this Article, the following terms have the same meanings as in the Armed Forces Act 2006—

"civilian subject to service discipline" (see section 370 of that Act);

"subject to service law" (see section 374 of that Act)."

10 Guidance issued to civilian police 5

(1) After Chapter 3A of Part 13 of AFA 2006 insert—

"CHAPTER 3B

GUIDANCE ISSUED TO UK POLICE FORCES

320E Provost Marshal's duty to have regard to guidance

(1) A Provost Marshal must have regard to any relevant guidance issued by the Secretary of State. 10

(2) Each of the following is "relevant guidance"—

(a) guidance issued under section 103J of the Sexual Offences Act 2003 (guidance about sexual harm prevention orders and interim sexual harm prevention orders); 15

(b) guidance issued under section 122J of that Act (guidance about sexual risk orders and interim sexual risk orders);

(c) guidance issued under section 12A of the Stalking Protection Act 2019 (guidance about disclosure of police information for purpose of protecting persons from risks associated with stalking); 20

(d) guidance issued under section 77 of the Domestic Abuse Act 2021 (guidance about disclosure of police information for purposes of preventing domestic abuse);

(e) guidance issued under section 97 of the Crime and Policing Act 2026 (guidance about disclosure of police information for purpose of preventing sex offending). 25

(3) For the purposes of complying with the duty in subsection (1), relevant guidance is to be read as if—

(a) it were issued by the Secretary of State to the Provost Marshal, and 30

(b) in the case of guidance about disclosure of police information, it related to disclosure of information held by the service police force for which the Provost Marshal is responsible.

(4) For the purposes of this section, the tri-service serious crime unit is to be regarded as a service police force." 35

(2) In section 77 of the Domestic Abuse Act 2021 (guidance about the disclosure of information by police forces), subsection (7) is amended as follows—

(a) in the definition of "chief officer of police", after paragraph (a) insert—

"(aa) in relation to the Ministry of Defence Police, the chief constable of the Ministry of Defence Police;";

(b) in the definition of "police force"—

(i) omit the "or" at the end of paragraph (a);

(ii) at the end of paragraph (b) insert ", or

(c) the Ministry of Defence Police."

11 Assessment etc of risks posed by certain offenders

(1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 325 (arrangements for assessing etc risks posed by certain offenders), in subsection (6)(b) after "war pensions," insert "defence,".

(3) In section 327 (section 325: interpretation)—

(a) in subsection (4A) after paragraph (ca) insert—

"(cb) an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is—

(i) murder,

(ii) an offence specified in this subsection, or

(iii) an offence specified in Part 1 or 2 of Schedule 15,

and for the purposes of this paragraph references in this section to a court are to a service court;";

(b) after subsection (4A) insert—

"(4AA) Section 48 of the Armed Forces Act 2006 (attempts etc where act not punishable by the law of England and Wales) applies for the purposes of subsection (4A)(cb) as it applies for the purposes of the provisions of that Act referred to in subsection (3)(b) of that section.";

(c) in subsection (6)—

(i) in the definition of "court", for ", as defined by section 305(1)" substitute "(except as provided by subsection (4A)(cb))";

(ii) after that definition insert—

""service court" has the meaning given by section 305(1)."

Support for victims of service offences

12 Victims of service offences

(1) In AFA 2006, in the First Group of Parts, after Part 13 insert—

"PART 13A

VICTIMS OF SERVICE OFFENCES

Meaning of "victim of a service offence"

327A Meaning of "victim of a service offence"

(1) In this Part, "victim of a service offence" means a person who has suffered harm as a direct result of—

(a) being subjected to conduct which constitutes a service offence, or

(b) one or more of the circumstances mentioned in subsection (2).

(2) The circumstances are—

(a) where the person has seen, heard, or otherwise directly experienced the effects of conduct at the time it occurred and the conduct constitutes a service offence;

(b) where the person's birth was the direct result of conduct which constitutes a service offence;

(c) where the death of a close family member of the person was the direct result of conduct which constitutes a service offence;

(d) where the person is a child who is a victim of domestic abuse which constitutes conduct which constitutes a service offence.

(3) The reference in subsection (2)(d) to a child who is a victim of domestic abuse is to be read in accordance with Part 1 of the Domestic Abuse Act 2021.

(4) For the purposes of this Part—

(a) "harm" includes physical, mental or emotional harm and economic loss;

(b) in determining whether conduct constitutes a service offence, it is immaterial that—

(i) no person has reported the conduct which constitutes the offence;

(ii) no person has been charged with or convicted of an offence in respect of the conduct.

Code for victims in the service justice system

327B Code for victims in the service justice system

(1) The Secretary of State must issue a code of practice as to the services to be provided to victims of service offences by persons appearing to the Secretary of State to have functions of a public nature relating to—

(a) victims of service offences, or

(b) any aspect of the service justice system.

(2) In this Part, the "code for victims in the service justice system" means the code of practice issued under this section that is for the time being in operation.

(3) The code for victims in the service justice system must make provision for services which reflect the principles that victims of conduct which constitutes a service offence require—

(a) information to help them understand the service justice process;

(b) access to services which support them (including, where appropriate, specialist services);

(c) the opportunity to make their views heard in the service justice process;

(d) the ability to challenge decisions which have a direct impact on them.

(4) The Secretary of State may by regulations make further provision about the code for victims in the service justice system, including about matters that the code must include.

(5) But the Secretary of State may make regulations under subsection (4) only if satisfied that provision made in the code in compliance with the regulations would not result in—

(a) a significant reduction in the quality or extent of the services provided in accordance with the code, or

(b) a significant restriction in the description of persons to whom services are provided in accordance with the code.

(6) The code for victims in the service justice system may not require anything to be done by—

(a) a person acting in a judicial capacity, or on the instructions of or on behalf of such a person;

(b) a person acting in the discharge of a prosecution function, if that function involves the exercise of a discretion.

327C Code for victims in the service justice system: further provision

(1) The code for victims in the service justice system may restrict the application of its provisions to—

(a) victims of specified descriptions (including those who are victims by virtue of specified conduct or conduct constituting specified service offences);

(b) specified persons who have functions of a kind mentioned in section 327B(1).

(2) The code for victims in the service justice system may include provision requiring or permitting the services which are to be provided to a victim of conduct which constitutes a service offence to be provided to one or more other persons—

(a) instead of the victim (for example, where the victim has died);

(b) as well as the victim.

(3) The code for victims in the service justice system may make different provision for different purposes, including different provision for—

(a) victims of different descriptions;

(b) persons who have different functions of a kind mentioned in section 327B(1).

(4) The code for victims in the service justice system may make different provision for different areas.

(5) In considering whether to exercise the power in subsection (3)(a), the Secretary of State must have regard to the particular needs of victims of conduct which constitutes a service offence who are under the age of 18 or who have protected characteristics within the meaning of the Equality Act 2010.

(6) In this section, "specified" means specified in the code for victims in the service justice system.

327D Code for victims in the service justice system: procedure

(1) Before issuing the code for victims in the service justice system, the Secretary of State must consult—

(a) the Commissioner for Victims and Witnesses,

(b) the Service Police Complaints Commissioner,

(c) the Director of Service Prosecutions,

(d) the Provost Marshals of each of the service police forces,

(e) the Provost Marshal for serious crime,

(f) the Director of the Military Court Service, and

(g) such other persons as the Secretary of State considers appropriate.

(2) A requirement in subsection (1) may be met by consultation undertaken before (as well as after) this section comes into force.

(3) The Secretary of State must lay the code before Parliament.

(4) After the code has been laid before Parliament, the Secretary of State may bring it into force by regulations.

(5) The Secretary of State may from time to time revise the code for victims in the service justice system.

(6) But the Secretary of State may revise the code only if satisfied that the proposed revisions would not result in—

(a) a significant reduction in the quality or extent of the services provided in accordance with the code, or

(b) a significant restriction in the description of persons to whom services are provided in accordance with the code.

(7) Subsections (1) to (4) apply to a revision of the code for victims in the service justice system unless the Secretary of State considers that all of the revisions—

(a) make corrections or clarifications, or

(b) are consequential on changes to the law, practice or procedure relating to any aspect of the service justice system.

(8) A revision to the code to which subsections (3) and (4) do not apply comes into force on the day specified in the revision for that purpose.

(9) Different days may be specified under subsection (8) for different purposes.

327E Code for victims in the service justice system: compliance

(1) Where the code for victims in the service justice system makes provision about a service to be provided to victims of service offences by a person, the person must provide the service in accordance with the code unless the person has good reasons not to.

(2) Any person who is subject to the duty in subsection (1) and is not an individual must ensure that procedures are in place by which other persons may complain about an alleged failure to comply with the duty.

(3) If a person fails to act in accordance with the code for victims in the service justice system, the failure does not of itself make that person liable to criminal or civil proceedings.

(4) But the code for victims in the service justice system is admissible in evidence in criminal or civil proceedings, and a court may take into account a failure to act in accordance with the code in determining a question in the proceedings.

Guidance about specified victim support roles

327F Guidance about specified victim support roles

(1) The Secretary of State must issue guidance about specified victim support roles.

(2) In this section—

"specified" means specified in regulations made by the Secretary of State;

"victim support role" means a role performed by individuals which involves the provision of support to victims of service offences (where the support relates to the conduct which constitutes such an offence).

(3) A victim support role may be specified by reference to (among other matters)—

(a) the circumstances in which the role is performed;

(b) the type of support provided in connection with the role;

(c) the type of conduct which constitutes a service offence in relation to which such support is provided.

(4) Guidance under this section about a victim support role must include provision about—

(a) the support provided in connection with the role;

(b) training and qualifications for individuals who perform the role;

(c) how individuals who perform the role, and other persons who have functions relating to victims of service offences or any aspect of the service justice system, work together.

(5) Guidance under this section must (where relevant) make provision in relation to victims who are under the age of 18 or who have protected characteristics within the meaning of the Equality Act 2010.

(6) Any person who has functions of a public nature relating to victims of service offences, or any aspect of the service justice system, must have regard to guidance under this section where—

(a) the person is exercising such a function, and

(b) the guidance is relevant to the exercise of that function.

(7) Subsection (6) does not apply to anything done by any person acting in a judicial capacity, or on the instructions of or on behalf of such a person."

(2) The Criminal Justice (Armed Forces Code of Practice for Victims of Crime) Regulations 2015 (S.I. 2015/1811) are revoked.

13 Parliamentary Commissioner for Administration

(1) Section 5 of the Parliamentary Commissioner Act 1967 (matters subject to investigation) is amended as follows.

(2) In subsection (1B)—

(a) omit the "or" at the end of paragraph (a);

(b) after paragraph (b) insert—

"(c) a code of practice issued under section 327B of the Armed Forces Act 2006 (code for victims in the service justice system)."

(3) In subsection (9B), after ""victim"" insert "—

(a) in a case where the complaint relates to the complainant's experience as a victim of a service offence, means a victim of a service offence (which for these purposes has the meaning given by section 327A of the Armed Forces Act 2006);

(b) in any other case,".

Investigation, arrest and charging

14 Service policing protocol

(1) Chapter 1 of Part 5 of AFA 2006 (investigation) is amended as follows.

(2) For the italic heading before section 115A substitute "Independence, efficiency and effectiveness of investigations".

(3) After section 115A insert—

"115B Service policing protocol

(1) The Secretary of State must issue a service policing protocol.

(2) A "service policing protocol" is a document which sets out, or otherwise makes provision about, ways in which relevant persons should exercise, or refrain from exercising, functions so as to—

(a) ensure that investigations carried out by a service police force, or by the tri-service serious crime unit, are free from improper interference (read in accordance with section 115A(3)),

(b) maintain, improve or encourage the formation of working relationships (including co-operative working) between relevant persons, and

(c) limit or prevent the overlapping or conflicting exercise of functions.

(3) "Relevant person" means—

(a) the Secretary of State,

(b) the Defence Council,

(c) each service police force, and

(d) the tri-service serious crime unit.

(4) Each relevant person must have regard to the service policing protocol in exercising their functions.

(5) The Secretary of State may at any time—

(a) revise the service policing protocol, or

(b) replace the service policing protocol.

(6) In issuing, revising or replacing the service policing protocol the Secretary of State must (in particular) have regard to the objective of furthering—

(a) the efficiency and effectiveness of service police forces and the tri-service serious crime unit, and

(b) the operational effectiveness of His Majesty's forces.

(7) Before issuing, revising or replacing the service policing protocol, the Secretary of State must consult—

(a) each service police force,

(b) the tri-service serious crime unit, and

(c) such other persons as the Secretary of State considers appropriate."

15 Entry for purposes of obtaining evidence etc

(1) Part 3 of AFA 2006 (powers of arrest, search and entry) is amended as follows.

(2) In each of the following provisions omit "residential"—

(a) section 83(1)(b), (2) (in both places) and (3) (in each place);

(b) section 84(3);

(c) section 86(1)(a) and (b), (2)(a) and (b) and (3);

(d) sections 93ZB(1)(a), 93ZC(1) and 93ZD(4).

(3) In both of the following provisions for "as a residence (alone or with other persons)" substitute "or controlled"—

(a) section 84(3);

(b) section 86(3).

(4) In section 96 (definitions relating to premises for purposes of Part 3), in subsection (3)—

(a) in paragraph (a), for "ship or aircraft" substitute "vessel, aircraft or hovercraft";

(b) after paragraph (b) insert—

"(c) any offshore installation, within the meaning given by section 44 of the Petroleum Act 1998;

(d) any renewable energy installation, within the meaning of Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act)."

16 Arrest and detention by civil authorities

(1) Chapter 3 of Part 13 of AFA 2006 (arrest and detention by civil authorities) is amended as follows.

(2) In the italic heading before section 314, for "or absence without leave" substitute ", absence without leave or disobedience".

(3) In section 314 (arrest by civilian police of deserters and absentees without leave)—

(a) in the heading, omit "of deserters and absentees without leave";

(b) in subsection (1), for "or is absent without leave" substitute ", is absent without leave or has committed an offence under section 12 (disobedience to lawful commands)".

(4) In section 315 (deserters and absentees without leave surrendering to civilian police)—

(a) in the heading, for "Deserters and absentees without leave" substitute "Persons";

(b) in subsection (1)(a), for "or is absent without leave" substitute ", is absent without leave or has committed an offence under section 12 (disobedience to lawful commands)";

(c) in subsection (2)(b), for "or is absent without leave" substitute ", is absent without leave or has committed an offence under section 12 (disobedience to lawful commands)";

(d) in subsection (4), for "or is absent without leave" substitute ", is absent without leave or has committed an offence under section 12 (disobedience to lawful commands)".

(5) In section 316 (proceedings before civilian court where person suspected of illegal absence)—

(a) in the heading, omit "where person suspected of illegal absence";

(b) in subsection (2)(a), for "or is absent without leave" substitute ", is absent without leave or has committed an offence under section 12 (disobedience to lawful commands)";

(c) in subsection (6), for "or 9" substitute ", 9 or 12".

17 Pre-charge custody

(1) Chapter 1 of Part 4 of AFA 2006 (custody without charge) is amended as follows.

(2) In section 98 (limitations on custody without charge)—

(a) in subsection (2)—

(i) in the opening words, for "commanding officer of" substitute "appropriate authority in relation to";

(ii) in the closing words, for "commanding officer" substitute "appropriate authority";

(b) in subsection (3) for "his commanding officer" substitute "the appropriate authority";

(c) after subsection (4) insert—

"(5) In this section "appropriate authority" has the meaning given by section 99(10)."

(3) In section 99 (authorisation by commanding officer of custody without charge)—

(a) in the heading, omit "by commanding officer";

(b) in subsection (1)—

(i) omit "and" after paragraph (a);

(ii) after that paragraph insert—

"(aa) whether the arrest is made in respect of a serious offence, and";

(c) after subsection (1) insert—

"(1A) Where the person is arrested under section 67 for a serious offence, the matters mentioned in subsection (1) must also be reported as soon as practicable to— 5

(a) the Provost Marshal for serious crime, and

(b) the Provost Marshal of the service police force for the service of which the person is a member."; 10

(d) in subsection (3)—

(i) after "subsection (1)" insert "or (1A)";

(ii) for "commanding officer", in both places, substitute "appropriate authority";

(iii) in paragraph (b), for "his" substitute "the authority's"; 15

(e) in subsection (4)—

(i) for "commanding officer" substitute "appropriate authority", and

(ii) in the closing words, for "he" substitute "the authority";

(f) after subsection (7) insert— 20

"(8) A Provost Marshal may notify the commanding officer of a person arrested for a serious offence that the Provost Marshal is to act as the appropriate authority in relation to the person (in place of the commanding officer).

(9) Notification under subsection (8)— 25

(a) may be given orally or in writing;

(b) must be given as soon as reasonably practicable but in any event no later than 6 hours after the arrest.

(10) In this section—

"appropriate authority", in relation to a person being kept in service custody, means— 30

(a) in a case where—

(i) the person is arrested for a serious offence, and

(ii) a notification is given by a Provost Marshal under subsection (8), 35

the Provost Marshal;

(b) in any other case, the person's commanding officer;

"serious offence" means any of the following— 40

(a) an offence within subsection (2) of section 54;

(b) a service offence listed in Schedule 2;

(c) an offence under section 42 as respects which the corresponding offence under the law of England and Wales—

(i) is an offence that is not listed in Schedule 1 or in paragraph 12 of Schedule 2, and

(ii) is punishable by a sentence of imprisonment for a term of two years or more;

(d) an offence committed in circumstances that cause the duty in section 114 to apply."

(4) In section 100 (review of custody by commanding officer)—

(a) in the heading, omit "by commanding officer";

(b) in subsection (1), for "commanding officer of" substitute "appropriate authority in relation to";

(c) in subsection (2), after "99(1)" insert "or (1A)";

(d) in subsection (4), in each of paragraphs (a) and (b), for "commanding officer" substitute "appropriate authority";

(e) after subsection (6) insert—

"(7) In this section "appropriate authority" has the meaning given by section 99(10)."

(5) In section 101 (extension by judge advocate of custody without charge), after subsection (1) insert—

"(1A) An application under subsection (1) may also be made by a Provost Marshal in the case of a person arrested under section 67 for a serious offence, as defined by section 99(10)."

(6) In section 104 (custody without charge: supplementary), in subsection (1), after paragraph (a) insert—

"(aa) for the delegation by a Provost Marshal of any of the Provost Marshal's functions under sections 98 to 102;".

18 Time limit for charging certain offences

After section 58 of AFA 2006 insert—

"58A Time limit for charging certain offences under section 42

(1) A person may not be charged with a summary offence under section 42 (a "section 42 offence") after the end of the applicable period.

(2) An offence is a "summary" offence under section 42 if the corresponding offence under the law of England and Wales ("the corresponding offence") is a summary offence.

(3) The "applicable period", in relation to a section 42 offence, is—

(a) if the 6 month time limit imposed by section 127(1) of the Magistrates' Courts Act 1980 for a magistrates' court to try an information would apply in respect of the corresponding

offence, 6 months beginning with the date of the commission of the section 42 offence;

(b) if another time limit for a magistrates' court to try an information would apply in respect of the corresponding offence, the maximum period that would comply with that time limit in respect of the section 42 offence.

(4) Subsection (1) does not apply to a section 42 offence if—

(a) no time limit is imposed in respect of the corresponding offence in relation to the power of a magistrates' court to try an information summarily, or

(b) a determination is made under subsection (5).

(5) The Director of Service Prosecutions may determine that the time limit imposed by subsection (1) is not to apply to a section 42 offence if—

(a) the matter has been referred to the Director by—

(i) the commanding officer of the person alleged to have committed the offence, or

(ii) a service policeman, and

(b) the Director considers it in the interests of justice to make the determination."

Duties and powers of commanding officers

19 Duty of commanding officers to report serious offences

(1) Section 113 of AFA 2006 (CO to ensure service police aware of possibility serious offence committed) is amended as follows.

(2) In subsection (1), for "an officer" substitute "a commanding officer of one or more persons".

(3) In subsection (2), for "relevant person" substitute "person subject to service law".

(4) After subsection (2) insert—

"(2A) The duty in subsection (1) does not apply if the officer reasonably believes that a service police force or the tri-service serious crime unit is aware of the matter."

(5) Omit subsection (3).

20 Summary hearings: punishments available to commanding officers

(1) AFA 2006 is amended as follows.

(2) In section 132 (punishments available to commanding officer)—

(a) in subsection (1), in row 1 of the Table, in the third column, for paragraphs (a) to (c) substitute—

"(a) leading rate in the Royal Navy or corporal in the Royal Marines;

(b) corporal, bombardier, lance sergeant or lance corporal of Horse in any of His Majesty's military forces;

(c) corporal in any of His Majesty's air forces";

(b) omit subsection (1A).

(3) In section 133 (detention: limits on powers)—

(a) in subsection (2), for paragraphs (a) to (c) substitute—

"(a) leading rate in the Royal Navy or corporal in the Royal Marines,

(b) corporal, bombardier, lance sergeant or lance corporal of Horse in any of His Majesty's military forces,

(c) corporal in any of His Majesty's air forces,";

(b) omit subsection (2A).

21 Deprivation orders: punishments available to commanding officers

(1) Section 138 of AFA 2006 (prohibited combinations of punishments) is amended as follows.

(2) In subsection (2), after paragraph (b) insert—

"(c) a deprivation order."

(3) In subsection (4), after paragraph (b) insert—

"(c) a deprivation order."

(4) In subsection (5), after paragraph (b) insert—

"(c) a deprivation order."

Service courts

22 Qualification for membership of the Court Martial

(1) Section 156 of AFA 2006 (officers etc qualified for membership of the Court Martial) is amended as follows.

(2) In subsection (2)(b)—

(a) omit "a warrant officer";

(b) at the end insert "—

(i) a warrant officer, or

(ii) an OR-7 rank other than an acting OR-7 rank."

(3) Omit subsection (3).

(4) In subsection (3A)—

(a) after "acting" insert "OR-7 rank";
(b) omit paragraphs (a) to (f).

23 Power to impose post-charge conditions on persons not in service detention

(1) In section 50 of AFA 2006 (jurisdiction of the Court Martial), in subsection (2), after paragraph (b) insert— 5

"(ba) an offence under section 109A (breach of requirement relating to attendance at hearing);".

(2) Part 4 of AFA 2006 (custody) is amended as follows.

(3) After section 109 insert—

"Conditions after charge when accused not in custody 10

109A Conditions during proceedings for service offence

(1) This section applies at any time when a person aged 18 or over ("the accused")—
(a) has been charged with, or is awaiting sentence for, a service offence, and 15
(b) is not in service custody.

(2) On an application made by an appropriate person, a judge advocate may by order require the accused to comply with such requirements as appear to be necessary—
(a) to secure the accused's attendance at any hearing in the proceedings relating to the service offence, 20
(b) to secure that the accused does not commit an offence at a time mentioned in subsection (1),
(c) to secure that the accused does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to the accused or any other person, or 25
(d) for the accused's own protection.

(3) An "appropriate person" is—
(a) a member of a service police force, or
(b) a member of, or a person who is on the staff of, the Service Prosecuting Authority. 30

(4) On an application made—
(a) by or on behalf of the accused,
(b) by the commanding officer of the accused, or
(c) by an appropriate person, 35

any requirement imposed under subsection (2) (including such a requirement as previously varied under this subsection) may be varied or discharged by a judge advocate.

(5) A person on whom a requirement has been imposed by virtue of subsection (2)(a) commits an offence if, without reasonable excuse, they fail to attend any hearing to which the requirement relates.

(6) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment imposed in respect of the offence must not exceed two years.

109B Section 109A: procedural requirements

(1) A judge advocate may not hear an application under section 109A unless the accused has been informed in writing of the grounds for the application and been given notice of the hearing.

(2) The accused is entitled—
  (a) to attend the hearing and to make representations, and
  (b) to be legally represented at the hearing.

(3) But a judge advocate may impose a requirement under section 109A(2) without subsections (1) and (2) of this section being complied with if, or to the extent that, the judge advocate considers it is necessary to do so by reason of urgency.

(4) Where a judge advocate imposes a requirement under section 109A(2) by virtue of subsection (3) of this section—
  (a) the judge advocate must arrange for a hearing to take place in compliance with subsections (1) and (2) of this section as soon as reasonably practicable, and
  (b) the requirement ceases to have effect at the end of the hearing unless renewed at that hearing."

(4) In section 110 (arrest after charge or during proceedings by order of commanding officer), in subsection (3)(c) after "107(3)" insert "or 109A(2)".

(5) In the heading of Chapter 3, after "Custody" insert "etc".

(6) In section 112—
  (a) in the heading, after "Custody" insert "etc";
  (b) in subsection (1)(c), after "107(4)" insert "or 109A(2) or (4)".

(7) The amendments made by this section apply only in relation to persons charged with a service offence on or after the day on which this section comes into force.

24 Dismissal of charges

(1) Section 163 of AFA 2006 (Court Martial rules) is amended as follows.

(2) In subsection (3)—
  (a) in paragraph (f), after "amendment" insert "or dismissal";

(b) after that paragraph insert—

"(fa) providing for a charge that has been dismissed to be brought again only if such conditions as the rules may specify are met;".

(3) After subsection (5) insert— 5

"(5A) Conditions that may be specified in the rules by virtue of subsection (3)(fa) include a condition for a charge to be brought again only with the permission of the High Court in England and Wales."

25 Hospital assessment and treatment in cases of mental disorder

(1) AFA 2006 is amended as follows. 10

(2) After section 165 insert—

"CHAPTER 3A

POWERS TO MAKE ORDERS UNDER PART 3 OF THE MENTAL HEALTH ACT 1983

Remands to hospital

165A Remand to hospital for report on mental condition 15

(1) This section applies where a person charged with a service offence punishable with imprisonment—

(a) is awaiting trial before the Court Martial for the offence,

(b) has been arraigned before the court for the offence but has not yet been sentenced by the court for the offence, or 20

(c) where the court has made a finding mentioned in section 169(1) (unfitness to stand trial or not guilty by reason of insanity), has not yet been dealt with in a way mentioned in section 169(2).

(2) Subject to subsection (3), the court may make an order under section 35 of the Mental Health Act 1983 ("the 1983 Act"), as modified by paragraph 2 of Schedule 3B to this Act, in respect of the person. 25

(3) The power under subsection (2) is not exercisable unless the conditions in section 35(3) of the 1983 Act, as modified by paragraph 2 of Schedule 3B to this Act, are met in respect of the person. 30

(4) The functions of the court under this section, and any functions under the 1983 Act that are exercisable by the court by reason of this section or Schedule 3B, are to be exercised by a judge advocate.

165B Remand to hospital for treatment

(1) This section applies where a person charged with a service offence punishable with imprisonment, other than an offence the sentence for which is fixed by law, is in service custody— 35

(a) awaiting trial before the Court Martial for the offence, or

(b) at any other time before—

(i) being sentenced by the court for the offence, or

(ii) where the court has made a finding mentioned in section 169(1) (unfitness to stand trial or not guilty by reason of insanity), being dealt with in a way mentioned in section 169(2).

(2) Subject to subsection (3), the court may make an order under section 36 of the Mental Health Act 1983 ("the 1983 Act"), as modified by paragraph 3 of Schedule 3B to this Act, in respect of the person.

(3) The power under subsection (2) is not exercisable unless the conditions in section 36(1) of the 1983 Act, as modified by paragraph 3 of Schedule 3B to this Act, are met in respect of the person.

(4) The functions of the court under this section, and any functions under the 1983 Act that are exercisable by the court by reason of this section or Schedule 3B, are to be exercised by a judge advocate.

Hospital orders, interim hospital orders and restriction orders

165C Powers to order hospital admission

(1) This section applies where a person is convicted by the Court Martial of an offence punishable with imprisonment, other than an offence the sentence for which is fixed by law.

(2) Subject to subsections (4) and (5), the court—

(a) may make a hospital order, with or without a restriction order, in respect of the person, and

(b) before making such an order, or dealing with the person in any other way, may make an interim hospital order in respect of the person.

(3) In this section—

"hospital order" means an order under section 37 of the Mental Health Act 1983 ("the 1983 Act"), as modified by paragraph 4(2) of Schedule 3B to this Act;

"interim hospital order" means an order under section 38 of the 1983 Act, as modified by paragraph 4(3) of Schedule 3B to this Act;

"restriction order" means an order under section 41 of the 1983 Act, as modified by paragraph 4(5) of Schedule 3B to this Act.

(4) The power to make a hospital order, with or without a restriction order, is not exercisable unless the conditions in subsection (2) of section 37 of the 1983 Act, as modified by paragraph 4(2) of Schedule 3B to this Act, are met.

(5) The power to make an interim hospital order is not exercisable unless the conditions in section 38(1) of the 1983 Act, as modified by paragraph 4(3) of Schedule 3B to this Act, are met.

(6) The functions of the court under this section, and any functions under the 1983 Act that are exercisable by the court by reason of this section or Schedule 3B, are to be exercised by a judge advocate. 5

(7) See section 40 of the 1983 Act, as modified by paragraph 4(4) of Schedule 3B to this Act, for the effect of hospital orders and interim hospital orders made by virtue of this section.

Hospital directions and limitation directions 10

165D Power to direct hospital admission

(1) This section applies where, in the case of a person convicted by the Court Martial of an offence punishable with imprisonment, other than an offence the sentence for which is fixed by law—

(a) the conditions mentioned in subsection (2) of section 45A of the Mental Health Act 1983 ("the 1983 Act"), as modified by paragraph 5(2) of Schedule 3B to this Act, are met, and 15

(b) the court considers making in respect of the person a hospital order, within the meaning given by section 165C(3) of this Act, before deciding to impose a sentence of imprisonment in respect of the offence. 20

(2) The court may give both of the following directions in relation to the person—

(a) a direction under section 45A(3)(a) of the 1983 Act, as modified by paragraph 5(2) of Schedule 3B to this Act (a "hospital direction"); 25

(b) a direction under section 45A(3)(b) of the 1983 Act, as modified by paragraph 5(2) of Schedule 3B to this Act (a "limitation direction").

(3) The functions of the court under this section, and any functions under the 1983 Act that are exercisable by the court by reason of this section or Schedule 3B to this Act, are to be exercised by a judge advocate. 30

(4) See section 45B of the 1983 Act, as modified by paragraph 5(3) of Schedule 3B to this Act, for the effect of a hospital direction and limitation direction given by virtue of this section." 35

(3) In section 166 (fitness to stand trial), after subsection (7) insert—

"(8) See sections 165A and 165B for the powers of the Court Martial to order the defendant's admission to a hospital specified in the order for a report on their mental condition or for treatment."

(4) After Schedule 3A insert—

"SCHEDULE 3B Sections 165A to 165D

MODIFICATIONS OF PART 3 OF THE MENTAL HEALTH ACT 1983

Meaning of "the 1983 Act"

1 In this Schedule "the 1983 Act" means the Mental Health Act 1983. 5

Orders under section 35 of the 1983 Act

2 For the purposes of section 165A of this Act, section 35 of the 1983 Act (remand to hospital for report on accused's mental condition) has effect as if—

(a) references to an "accused person" were to a person in whose case section 165A of this Act applies; 10

(b) in subsection (1), the reference to the Crown Court or a magistrates' court were to the Court Martial;

(c) subsection (2) were omitted;

(d) in subsection (3)— 15

(i) in paragraph (b), for "remanded on bail" there were substituted "not remanded under this section";

(ii) in the closing words, the reference to the Crown Court were to the Court Martial;

(e) in subsection (4) the reference to a place of safety were to any place the court may direct; 20

(f) in subsections (9) and (10), the references to a constable included a member of a service police force.

Orders under section 36 of the 1983 Act

3 For the purposes of section 165B of this Act, section 36 of the 1983 Act (remand of accused person to hospital for treatment) has effect as if— 25

(a) references to an "accused person" were to a person in whose case section 165B of this Act applies;

(b) in subsection (1), for "Crown Court may, instead of remanding an accused person in custody, remand him" there were substituted "Court Martial may remand an accused person"; 30

(c) subsection (2) were omitted;

(d) in subsection (3), the reference to a place of safety were to any place the court may direct; 35

(e) in subsection (8), the reference to subsections (9) and (10) of section 35 of the 1983 Act were to those subsections as modified by paragraph 2(f) of this Schedule.

Orders under sections 37, 38 and 41 of the 1983 Act

4 (1) This paragraph applies for the purposes of section 165C of this Act.

(2) Section 37 of the 1983 Act (powers of courts to order hospital admission etc) has effect as if—

(a) for subsections (1) to (1B) there were substituted— 5

"(1) Where a person is convicted by the Court Martial of an offence punishable with imprisonment, other than an offence the sentence for which is fixed by law, and the conditions in subsection (2) are met, the court may by order authorise the person's admission to and detention in such hospital as may be specified in the order. 10

(1A) In the case of an offence the sentence for which would otherwise fall to be imposed under a provision of the Armed Forces Act 2006 specified in subsection (1B), nothing in that provision prevents the court from making an order under subsection (1). 15

(1B) The specified offences are—

(a) section 217 (mandatory life imprisonment);

(b) section 218A (life sentence for second listed offence); 20

(c) section 219 (life sentence for certain dangerous offenders aged 18 or over);

(d) section 219ZA (serious terrorism sentence: offenders aged 18 or over); 25

(e) section 221 (life sentence for certain dangerous offenders aged under 18);

(f) section 225 (third drug trafficking offence);

(g) section 226 (third domestic burglary);

(h) section 227 (firearms offences); 30

(i) section 227A (offences of threatening with a weapon in public or on school premises).

(1C) For the purposes of subsection (1A)—

(a) a sentence falls to be imposed under section 217 if it is required by subsection (2) or (3) of that section; 35

(b) a sentence falls to be imposed under section 218A if, by virtue of subsection (1B) or (2) of that section, it is required by section 273(3) or 283(3) of the Sentencing Code; 40

(c) a sentence falls to be imposed under section 219 if, by virtue of subsection (1A) or (2) of that section, it is required by section 274(3) or 285(3) of the Sentencing Code;

(d) a sentence falls to be imposed under section 219ZA if it is required by that section;

(e) a sentence falls to be imposed under section 221 if it is required by section 209(5D);

(f) a sentence falls to be imposed under section 225 if it is required by subsection (2) of that section;

(g) a sentence falls to be imposed under section 226 if it is required by subsection (2) of that section;

(h) a sentence falls to be imposed under section 227 if it is required by subsection (2) of that section;

(i) a sentence falls to be imposed under section 227A if it is required by subsection (2) of that section.";

(b) subsections (2)(a)(ii) (but not the "and" at the end of that provision), (3), (6) and (8)(b) and (c) were omitted;

(c) in subsection (4), the reference to a place of safety were to any place the court may direct;

(d) for subsection (8)(a), for the words from "community order" to "that code)" there were substituted "service community order or overseas community order".

(3) Section 38 of the 1983 Act (interim hospital orders) has effect as if—

(a) "hospital order" and "interim hospital order" had the meanings given by section 165C(3) of this Act;

(b) in subsection (1)—

(i) the reference to the Crown Court were to the Court Martial;

(ii) the words from "or is" to "imprisonment" were omitted;

(c) in subsection (7), the reference to a constable included a member of a service police force.

(4) Section 40 of the 1983 Act (effect of hospital orders) has effect as if—

(a) "hospital order" and "interim hospital order" had the meanings given by section 165C(3) of this Act;

(b) in subsections (1)(a) and (3)(a), the references to a constable included a member of a service police force;

(c) subsection (2) were omitted and, in subsections (4) and (5) references to guardianship were ignored.

(5) Section 41 of the 1983 Act (restriction orders) has effect as if, in subsection (1), the reference to a hospital order made in respect of an offender by the Crown Court were to a hospital order within the meaning of section 165C of this Act made by the Court Martial

under that section in respect of a person in whose case that section applies.

Orders under section 45A of the 1983 Act

5 (1) This paragraph applies for the purposes of section 165D of this Act.

(2) Section 45A of the 1983 Act (power of higher courts to direct hospital admission) has effect as if—

(a) in subsection (1)—

(i) the reference to the Crown Court were to the Court Martial;

(ii) "hospital order" had the meaning given by section 165C(3) of this Act;

(b) in subsection (5), in the closing words, the reference to a place of safety were to any place the court may direct.

(3) Section 45B of the 1983 Act (effect of hospital and limitation directions) applies as if, in subsection (1)(a), the reference to a constable included a member of a service police force."

26 Variation or rescission of activation orders by the Service Civilian Court

In section 288 of AFA 2006 (SCC rules), in subsection (3)(ea), for "section 193" substitute "paragraph 13 of Schedule 16 to the Sentencing Code (as modified by paragraph 6 of Schedule 7 to this Act)".

27 Guidance on exercise of criminal jurisdiction

After section 320C of AFA 2006 insert—

"320D Exercise of criminal jurisdiction: guidance on information to be given to victims

(1) The Secretary of State must issue guidance for the purpose mentioned in subsection (2) about the information to be given to victims of alleged conduct occurring in the United Kingdom which constitutes an offence that is triable in either a service court or a civilian court.

(2) The purpose is ensuring that sufficient information is provided in a timely and appropriate manner to the victims of such conduct so as to enable them to come to an informed view on whether they would prefer such an offence to be tried in a service court or a civilian court (in cases where they wish to express such a view).

(3) Guidance under this section must include guidance about—

(a) the information to be given so as to explain the similarities and differences between—

(i) proceedings in a service court and in a civilian court, and

(ii) the conduct of investigations in connection with the bringing of such proceedings;

(b) the manner in which information is to be given;

(c) the keeping of records in relation to—

(i) information given to victims, and

(ii) their views on whether they would prefer an offence to be tried in a service court or a civilian court.

(4) Guidance of the kind mentioned in subsection (3)(b) must in particular address the need to ensure that information is given—

(a) in an objective and impartial manner, and

(b) in a way that takes into account the particular circumstances of the offence and the needs of the victim.

(5) Guidance under this section may include guidance about any other matters that the Secretary of State considers appropriate for furthering the purpose mentioned in subsection (2).

(6) Any person who has functions of a public nature relating to victims of alleged conduct of the kind mentioned in subsection (1), or any aspect of the criminal or service justice system, must have regard to guidance under this section where—

(a) the person is exercising such a function, and

(b) the guidance is relevant to the exercise of that function.

(7) Subsection (6) does not apply to anything done by—

(a) a person acting in a judicial capacity, or on the instructions of or on behalf of such a person;

(b) a person acting in the discharge of a prosecution function, if that function involves the exercise of a discretion.

(8) Before issuing guidance under this section, the Secretary of State must consult—

(a) the Scottish Ministers,

(b) the Lord Advocate;

(c) the Department of Justice in Northern Ireland,

(d) the National Police Chiefs' Council,

(e) the chief constable of the Police Service of Scotland,

(f) the Chief Constable of the Police Service of Northern Ireland,

(g) the Service Police Complaints Commissioner,

(h) each of the Directors,

(i) the Provost Marshals,

(j) the Commissioner for Victims and Witnesses,

(k) the Victims and Witnesses Commissioner for Scotland, and

(l) any other person the Secretary of State thinks appropriate.

(9) The Secretary of State may from time to time revise the guidance issued under this section.

(10) Subsection (8) applies to any revised guidance unless the Secretary of State considers that the proposed revisions are insubstantial.

(11) The current version of the guidance issued under this section must be published in whatever manner the Secretary of State thinks appropriate.

(12) In this section—

"conduct" means an act or omission;

"the Directors" means—

(a) the Director of Public Prosecutions,

(b) the Director of Public Prosecutions for Northern Ireland, and

(c) the Director of Service Prosecutions;

"the Provost Marshals" means—

(a) the Provost Marshals of each of the service police forces, and

(b) the Provost Marshal for serious crime;

"service court" means the Court Martial and the Service Civilian Court."

28 Minor revisions of guidance on exercise of criminal jurisdiction

(1) In section 320A of AFA 2006 (guidance on exercise of criminal jurisdiction: England or Wales)—

(a) in subsection (7), omit "or revisions to it";

(b) after that subsection insert—

"(7A) Subsection (7) applies to any revisions to the protocol unless the Directors consider that the proposed revisions are insubstantial."

(2) In section 320B of AFA 2006 (guidance on exercise of criminal jurisdiction: Scotland)—

(a) in subsection (8), omit "or revisions to it";

(b) after that subsection insert—

"(8A) Subsection (8) applies to any revisions to the protocol unless the issuing authorities consider that the proposed revisions are insubstantial."

(3) In section 320C of AFA 2006 (guidance on exercise of criminal jurisdiction: Northern Ireland)—

(a) in subsection (8), omit "or revisions to it";

(b) after that subsection insert—

"(8A) Subsection (8) applies to any revisions to the protocol unless the issuing authorities consider that the proposed revisions are insubstantial."

Driving disqualification

29 Driving disqualification orders: reduced disqualification period

(1) After section 177I of AFA 2006 insert—

"177IA Reduced disqualification period for attendance on courses

(1) This section applies where—
  (a) an offender is convicted of an offence under section 42 in respect of a relevant drink offence or a specified offence,
  (b) the court makes a driving disqualification order in respect of the offender for the offence, and
  (c) the disqualification period specified in the order is 12 months or more.

(2) The court may make an order that the disqualification period ("the unreduced period") is reduced if, by such date as is specified in the order, the offender satisfactorily completes an approved course specified in the order.

(3) The date specified under subsection (2) must be at least two months before the last day of the period of disqualification as reduced by the order.

(4) The reduction made in a period of disqualification by an order under this section is a period specified in the order of—
  (a) not less than three months, and
  (b) not more than one quarter of the unreduced period,

(and, accordingly, where the unreduced period is 12 months, the reduced period is 9 months).

(5) A court may not make an order under this section in the case of an offender convicted under section 42 in respect of a specified offence if either subsection (6) or (7) applies.

(6) This subsection applies if, during the period of three years ending with the date on which the offence was committed, the offender—
  (a) committed an offence under section 42 in respect of a specified offence and successfully completed an approved course pursuant to an order made under this section on conviction of that offence, or
  (b) committed a specified offence and successfully completed a course approved for the purposes of section 34A of the Road Traffic Offenders Act 1988 pursuant to an order made under that section on conviction of that offence.

(7) This subsection applies if the offence was committed during the offender's probationary period, within the meaning of section 1 of the Road Traffic (New Drivers) Act 1995.

(8) A court may not make an order under this section in the case of an offender unless—

(a) the court is satisfied that a place on the course specified in the order will be available for the offender,

(b) the offender appears to the court to be of or over the age of 17,

(c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and of the amount of the fees which the offender is required to pay for the course and when those fees must be paid, and

(d) the offender has agreed that the order should be made.

(9) For the purposes of this section—

(a) an offence under section 42 is committed in respect of a relevant drink offence if the corresponding offence under the law of England and Wales is a relevant drink offence;

(b) an offence under section 42 is committed in respect of a specified offence if the corresponding offence under the law of England and Wales is a specified offence.

(10) In this section—

"approved course" means a course approved for the purposes of section 34A of the Road Traffic Offenders Act 1988 in relation to the description of the corresponding offence under the law of England and Wales in respect of which the offender is convicted under section 42 of this Act;

"relevant drink offence" has the meaning given by section 34A(2) of the Road Traffic Offenders Act 1988;

"specified offence" has the meaning given by section 34A(3) of the Road Traffic Offenders Act 1988.

177IB Certificates of completion of courses

(1) An offender is to be taken to have completed a course satisfactorily for the purposes of section 177IA only if a certificate that the offender has done so is received before the end of the unreduced period by the clerk of the court that made the order under that section.

(2) Subsections (2) to (11) of section 34B of the Road Traffic Offenders Act 1988 apply in relation to certificates given for the purposes of section 177IA of this Act as they apply in relation to certificates given for the purposes of section 34A of that Act, with the following modifications—

(a) references to the supervising court are to be read as references to the court that made the order under section 177IA;

(b) references to the proper officer of the supervising court are to be read as references to the clerk of the court that made the order under section 177IA;

(c) references to rules of court are to be read as references to Court Martial rules or SCC rules (as applicable);

(d) references to the relevant local court are to be ignored."

(2) In section 34A of the Road Traffic Offenders Act 1988 (reduced disqualification period for attendance on courses), after subsection (8) insert—

"(8A) A court shall not make an order under this section in the case of an offender convicted of a specified offence if—

(a) the offender has, during the period of three years ending with the date on which the offence was committed, committed an offence under section 42 of the Armed Forces Act 2006 (criminal conduct),

(b) the corresponding offence under the law of England and Wales (within the meaning of that Act) is a specified offence, and

(c) the offender has successfully completed an approved course pursuant to an order under section 177IA of that Act (and for this purpose "approved course" has the meaning given by subsection (10) of that section)."

Rehabilitation of offenders

30 Rehabilitation periods

(1) The Rehabilitation of Offenders Act 1974 is amended as follows.

(2) In section 5 (rehabilitation periods for particular sentences), as it extends to England and Wales, in the Table in subsection (2)(b), after the fifth entry (sentence of service detention) insert—

"A service supervision and punishment order under the Armed Forces Act 2006	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed
Forfeiture of a specified term of seniority or of all seniority under the Armed Forces Act 2006	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed
Reduction in rank or disrating under the Armed Forces Act 2006	The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed	The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed".

(3) In section 5B (disclosure periods for service disciplinary proceedings: Scotland), in Table B—

(a) omit the first entry (sentence of cashiering etc);

(b) for the second entry (sentence of dismissal from service) substitute—

"A sentence of removal from His Majesty's service	12 months	6 months";

(c) for the third entry (sentence of service detention) substitute—

"Either of the following— (a) a sentence of service detention (within the meaning given by section 374 of the Armed Forces Act 2006), or a sentence of detention corresponding to such a sentence, in respect of a conviction in service disciplinary proceedings; (b) any sentence of a kind superseded (whether directly or indirectly) by a sentence mentioned in paragraph (a)	The term of the sentence plus 12 months	The term of the sentence plus 6 months";

(d) after the third entry insert—

"A service supervision and punishment order under the Armed Forces Act 2006	12 months	6 months
Forfeiture of a specified term of seniority or of all seniority under the Armed Forces Act 2006	12 months	6 months
Reduction in rank or disrating under the Armed Forces Act 2006	12 months	6 months
A severe reprimand or reprimand under the Armed Forces Act 2006	12 months	6 months".

(4) In section 5J (sentences in Scotland to which no disclosure period applies), in subsection (1A), after paragraph (b) insert—

"(c) a sentence in relation to which a period of 6 months is specified in the third column of Table B in section 5B."

31 Exceptions for spent cautions when taking administrative action

(1) The Rehabilitation of Offenders Act 1974 is amended as follows.

(2) In Schedule 2 (protection for spent cautions), after paragraph 5 insert—

"5A (1) Paragraph 3(3) does not apply in relation to any question asked by or on behalf of a person, in the course of their duties as a superior officer in relation to a member of His Majesty's forces ("A"), where—

(a) the question is asked in connection with the taking of administrative action in relation to A, and

(b) A is informed at the time the question is asked that, by virtue of this paragraph, spent cautions and ancillary circumstances are to be disclosed.

(2) Paragraph 3(4) does not apply in relation to any obligation to disclose a spent caution, or any ancillary circumstances, imposed for purposes related to the taking of administrative action.

(3) Paragraph 3(5) does not apply in relation to the taking of administrative action in connection with a spent caution or any ancillary circumstances.

(4) Sub-paragraphs (1) to (3) do not apply in relation to a caution given to a person at a time when they were not a member of His Majesty's forces.

(5) In this paragraph—

(a) "superior officer" has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act, read together with section 377(3) of that Act);

(b) "administrative action" means action (other than service disciplinary proceedings) that—

(i) is taken by a superior officer acting under their powers of command in accordance with King's Regulations, and

(ii) is taken for the purpose of rehabilitating, censoring or sanctioning another member of His Majesty's forces of inferior rank in order to safeguard or restore the operational effectiveness and efficiency of those forces;

(c) references to the taking of administrative action include the making of any decision as to whether to take such action."

(3) In Schedule 3 (protection for spent alternatives to prosecution: Scotland), after paragraph 7 insert—

"7A (1) Paragraph 4 does not apply in relation to any question asked by or on behalf of a person, in the course of their duties as a superior officer in relation to a member of His Majesty's forces ("A"), where—

(a) the question is asked in connection with the taking of administrative action in relation to A, and

(b) A is informed at the time the question is asked that, by virtue of this paragraph, alternatives to prosecution that have become spent and ancillary circumstances are to be disclosed.

(2) Paragraph 5(1) does not apply in relation to any obligation to disclose an alternative to prosecution that has become spent, or any ancillary circumstances, imposed for purposes related to the taking of administrative action.

(3) Paragraph 5(2) does not apply in relation to the taking of administrative action in connection with an alternative to prosecution that has become spent or any ancillary circumstances.

(4) Sub-paragraphs (1) to (3) do not apply in relation to an alternative to prosecution given to a person at a time when they were not a member of His Majesty's forces.

(5) In this paragraph—

(a) "superior officer" has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act, read together with section 377(3) of that Act);

(b) "administrative action" means action (other than service disciplinary proceedings) that—

(i) is taken by a superior officer acting under their powers of command in accordance with King's Regulations, and

(ii) is taken for the purpose of rehabilitating, censoring or sanctioning another member of His Majesty's forces of inferior rank in order to safeguard or restore the operational effectiveness and efficiency of those forces;

(c) references to the taking of administrative action include the making of any decision as to whether to take such action."

Armed Forces Commissioner

32 Commissioner's functions in relation to Royal Fleet Auxiliary

(1) In section 365AA of AFA 2006 (Armed Forces Commissioner) (as inserted by section 1(1) of the Armed Forces Commissioner Act 2025), after subsection (6) insert—

"(7) Schedule 14ZB makes provision for the Commissioner to exercise functions in relation to members of the Royal Fleet Auxiliary (in addition to the functions exercisable in relation to persons subject to service law and relevant family members)."

(2) Schedule 4 makes provision as follows—

(a) Part 1 inserts the new Schedule 14ZB referred to in the amendment made by subsection (1);

(b) Part 2 contains consequential and related amendments.

Reserve forces

33 Transfers between regular and reserve forces

(1) RFA 1996 is amended in accordance with subsections (2) to (4).

(2) In section 2 (membership of the reserve forces), in subsection (3) after "only be" insert "—

(a) men transferred to that force under regulations made under section 331 of the Armed Forces Act 2006;

(b)".

(3) In section 4 (orders and regulations concerning the reserve forces), after subsection (2) insert—

"(2A) Regulations under subsection (2) may include provision with respect to the transfer of members of the reserve forces, who are of or below the rank or rate of warrant officer, to a regular service, including provision about—

(a) authorisation of a person's transfer to a regular service;

(b) the status of a person who is entitled to be, but has not yet been, transferred to a regular service."

(4) In section 13 (transfer of men between reserve forces)—

(a) in subsection (1) for "an ex-regular reserve force" substitute "a reserve force";

(b) after subsection (4) insert—

"(4A) A person originally serving in a volunteer reserve force on transfer from the regular services who—

(a) ceases to be a member of a reserve force without enlisting or re-enlisting in another reserve force, and

(b) does so before the date on which their term of compulsory service in an ex-regular reserve force would (if they had been transferred to, and remained a member of, such a force) expire,

is, unless an authorised officer otherwise directs, to become a member of an ex-regular reserve force.";

(c) in subsection (5) after "subsection (4)" insert "or (4A)".

(5) In section 331 of AFA 2006 (discharge etc from regular forces and transfer to the reserve forces), after subsection (4) insert—

"(5) The regulations may also in particular make provision about—

(a) a person's eligibility for transfer to a volunteer reserve force, and

(b) the making of applications by persons wishing to be so transferred."

34 Call out for permanent service

(1) Part 6 of RFA 1996 (call out for permanent service) is amended as follows.

(2) In section 53 (maximum duration of service on call out under section 52), in subsection (11), for the words from "as if" to the end of the subsection substitute "with either or both of the following modifications—

(a) the omission of "or his current service under the order and any relevant service in aggregate";

(b) the substitution of "5 years" for "3 years"."

(3) In section 53A (agreement to alter limits in section 53), in subsection (4), for "53(11)" substitute "53(11)(b)".

(4) In section 55 (maximum duration of service on call out under section 54), in subsection (11), for the words from "as if" to the end of the subsection substitute "with either or both of the following modifications—

(a) the omission of "or his current service under the order and any relevant service in aggregate";

(b) the substitution of "2 years" for "12 months"."

(5) In section 55A (agreement to alter limits in section 55), in subsection (4), for "55(11)" substitute "55(11)(b)".

35 Recall for service

(1) Part 7 of RFA 1996 (recall for service of officers and former servicemen) is amended as follows.

(2) In the heading of the Part, after "servicemen" insert "and reserves".

(3) In section 65 (liability of officers and former servicemen to be recalled)—

(a) in the heading, after "servicemen" insert "and reserves";

(b) after subsection (2) insert—

"(2A) A person who is recalled for service as a member of any of the volunteer reserve forces is, while in service under the recall order concerned, deemed to be enlisted in the volunteer reserve force concerned."

(4) In section 66 (persons who may be recalled under Part 7)—

(a) in subsection (1)—

(i) omit the "or" at the end of paragraph (a);

(ii) at the end of paragraph (b) insert "; or

(c) has served as a man in the volunteer reserve forces, other than as a special member, and has not become an officer since being discharged,";

(b) in subsection (2)—

(i) in the words before paragraph (a), after "(1)(b)" insert "or (c)";

(ii) in paragraph (a), for "55" substitute "65";

(iii) omit paragraphs (b) and (c);

(c) omit subsection (3);

(d) in subsection (4), in the words before paragraph (a), for "subsections (1) and (2)" substitute "subsection (1)".

(5) In section 68 (recall for national danger, great emergency or attack on the UK)—

(a) in subsection (1), after "order" insert "under this section";

(b) in each of subsections (2) to (5), (7) and (9), after "recall order", insert "under this section";

(c) in subsection (10), after "made", insert "under this section".

(6) In section 69 (maximum duration of service on recall)—

(a) in the heading, at the end insert "under section 68";

(b) in subsection (1), after "a recall order" insert "made under section 68";

(c) in subsection (6), for the words from "as if" to the end of the subsection substitute "with either or both of the following modifications—

(a) the omission of ", or his current service and any relevant service in aggregate,";

(b) the substitution of "5 years" for "3 years"."

(7) After section 69 insert—

"69A Recall for warlike operations

(1) The Secretary of State may make an order under this section authorising the recall under this Part of persons to whom section 66 applies if it appears to the Secretary of State that warlike operations are in preparation or progress.

(2) A recall order under this section authorises, subject to subsection (3), the recall of any person to whom section 66 applies or, if the order is so limited, any such person who is of a description specified in the order.

(3) A recall order under this section does not authorise the recall of any person to whom section 66 applies who is not liable to be recalled under the order by virtue of regulations made by virtue of section 73 or an exemption granted on an application under regulations under section 79.

(4) A recall order under this section—

(a) must specify a date, not more than 12 months from the day on which the order is made, on which the order is (unless an order under subsection (5) is made) to cease to authorise the recall of any person who is not in service under the order; and

(b) has effect (subject to paragraph (a) or to any order under subsection (5)) until it is revoked.

(5) The Secretary of State may, before the date specified under subsection (4)(a), make an order providing that a recall order under this section ceases to authorise the recall of any person who is not in service under the order.

(6) The restriction of the effect of a recall order under this section—

(a) by subsection (4)(a), or

(b) by an order under subsection (5),

does not affect the operation of any recall notice served on any person before the day specified in the recall order or, as the case may be, the day on which the order under subsection (5) is made.

(7) The Secretary of State may make an order revoking a recall order under this section (whether or not its effect has been restricted as mentioned in subsection (5)).

(8) Where an order under subsection (7) revoking a recall order under this section is made—

(a) the recall order ceases to authorise the recall of anyone who could otherwise be recalled on the authority of that order (including anyone served with a recall notice before the order under subsection (7) is made who has not been accepted into service); and

(b) any person in service under the recall order is entitled to be released or discharged from that service.

(9) The making of any recall order under this section, or any order under subsection (5) or (7), must be reported to each House of Parliament without delay.

69B Maximum duration of service on recall under section 69A

(1) This section applies for the purpose of determining when persons in service under a recall order made under section 69A ("the recall order") are entitled to be released from service (in the case of officers) or discharged (in other cases).

(2) A person is (if not released or discharged sooner) entitled to be released from service or discharged when their current service under the recall order, or their current service and any relevant service in aggregate, exceeds 12 months.

(3) A person in service under the recall order may enter into a written agreement consenting to the extension of their period of service—

(a) beyond the day on which they are entitled to be released or discharged by virtue of subsection (2), or

(b) beyond the day on which, by virtue of a subsisting agreement under this subsection, they are entitled to be released or discharged by virtue of subsection (5),

until the end of such period, not exceeding 12 months, as may be specified in the agreement.

(4) An agreement under subsection (3) may not be entered into at any time—

(a) when the person concerned could not be served with a recall notice on the authority of the order or any other recall order, or

(b) more than 12 months before the day on which (apart from the agreement) the person is entitled to be released or discharged by virtue of subsection (2) or subsection (5).

(5) A person who has entered into an agreement under subsection (3)—

(a) is no longer entitled to be released or discharged on the day on which, apart from the agreement, they would be so entitled by virtue of subsection (2) or, as the case may be, paragraph (b) of this subsection; and

(b) is entitled to be released from service or discharged at the end of the period specified in the agreement as the period for which their service is being extended.

(6) His Majesty may by order signified under the hand of the Secretary of State provide that, in the case of such descriptions of person as may be specified in the order, subsection (2) applies with either or both of the following modifications—

(a) the omission of ", or their current service and any relevant service in aggregate,";

(b) the substitution of "2 years" for "12 months".

(7) The making of an order under subsection (6) must be reported to each House of Parliament without delay.

(8) In this section "relevant service" means any service under this Part, or under Part 4, 5 or 6, within the 3 years immediately preceding the day on which a person's current service under the recall order began."

36 Sections 34 and 35: consequential amendments

(1) RFA 1996 is amended in accordance with subsections (2) to (10).

(2) In section 34 (release from service under Part 4), in subsection (5)(b), for "and 69(8)" substitute ", 69(8) and 69B(8)".

(3) In section 45 (release from service of special members), in subsection (5)(b), for "and 69(8)" substitute ", 69(8) and 69B(8)".

(4) In section 60 (release from service under call-out order), in subsection (4)(b), for "and 69(8)" substitute ", 69(8) and 69B(8)".

(5) In section 72 (release and discharge from service under recall order)—

(a) in subsection (2)(a), for "or 69" substitute ", 69, 69A(8) or 69B";

(b) in subsection (3)(b), after "69" insert "or 69B";

(c) in subsection (4)(b), for "and 69(8)" substitute ", 69(8) and 69B(8)".

(6) In section 75 (power to require information)—

(a) in subsection (1), for "or (b)" substitute ", (b) or (c)";

(b) after subsection (2), insert—

"(2A) The regulations must secure that a person who falls within subsection (1)(c) of section 66 is under no obligation to provide information after he ceases to be a person to whom that section applies by virtue of subsection (2A) of that section."

(7) In section 77 (interpretation of Part 7), in the definition of "recall order", after "68" insert "or 69A".

(8) In section 81 (regulations under section 78 or 79: supplementary), in subsection (3)(c), after "69(6)" insert or "69B(6)".

(9) In section 125A (supply of contact details by HMRC), in subsection (1)(b), after "servicemen" insert "and reserves".

(10) In section 127 (interpretation of Act), in subsection (1), in the definition of "prescribed", after "Part VII" insert "and Part 7 of Schedule 9".

(11) In section 1 of the Reserve Forces (Safeguard of Employment) Act 1985 (obligation to reinstate employees), in subsection (1)(c)—

(a) after "68" insert "or 69A";

(b) after "servicemen" insert "or reserves".

(12) In section 368 of AFA 2006 (references in Act to members of the regular forces)— 5

(a) in subsection (1), for "and" substitute "to";

(b) after subsection (2) insert—

"(2A) Subsection (2) is subject to section 65(2A) of the Reserve Forces Act 1996 (recalled members of volunteer reserve force deemed enlisted in that force)." 10

37 Sections 34 and 35: transitional classes

Schedule 5 amends section 129 of, and Schedule 9 to, RFA 1996 (application of Act to members of transitional classes) to make transitional provision in connection with the amendments made by sections 34 and 35 of this Act. 15

38 Service of notices by email

(1) RFA 1996 is amended as follows.

(2) In section 32 (call out of persons who have entered into special arrangements)—

(a) after subsection (6) insert— 20

"(6A) A notice under this section may also be served on a person by email by sending it to—

(a) the last known email address used by that person as a means for communicating with them, or

(b) if there is no such address, an email address by means of which there are reasonable grounds to believe that an email sent to that address will come to the attention of the person, 25

and such a notice is, unless the contrary is proved, to be treated as having been received on the day following the day on which the email is sent."; 30

(b) in subsection (7) after "subsection (6)" insert "or (6A)".

(3) In section 43 (call out of special members)—

(a) after subsection (7) insert—

"(7A) A notice under this section may also be served on a person by email by sending it to— 35

(a) the last known email address used by that person as a means for communicating with them, or

(b) if there is no such address, an email address by means of which there are reasonable grounds to believe that 40

an email sent to that address will come to the attention of the person,

and such a notice is, unless the contrary is proved, to be treated as having been received on the day following the day on which the email is sent.";

(b) in subsection (8) after "subsection (7)" insert "or (7A)".

(4) In section 58 (call out of members of a reserve force on authority of call-out order)—

(a) after subsection (7) insert—

"(7A) A notice under this section may also be served on a person by email by sending it to—

(a) the last known email address used by that person as a means for communicating with them, or

(b) if there is no such address, an email address by means of which there are reasonable grounds to believe that an email sent to that address will come to the attention of the person,

and such a notice is, unless the contrary is proved, to be treated as having been received on the day following the day on which the email is sent.";

(b) in subsection (8) after "subsection (7)" insert "or (7A)".

(5) In section 70 (recall of persons on authority of recall order)—

(a) after subsection (7) insert—

"(7A) A notice under this section may also be served on a person by email by sending it to—

(a) the last known email address used by that person as a means for communicating with them, or

(b) if there is no such address, an email address by means of which there are reasonable grounds to believe that an email sent to that address will come to the attention of the person,

and such a notice is, unless the contrary is proved, to be treated as having been received on the day following the day on which the email is sent.";

(b) in subsection (8) after "subsection (7)" insert "or (7A)".

39 Punishment etc of offences of desertion or absence without leave

In section 98 of RFA 1996 (punishment etc of offences of desertion or absence without leave)—

(a) in subsection (2), for "member of a reserve force" substitute "person";

(b) in subsection (3), for "member of a reserve force" substitute "person".

Parliamentary control of armed forces numbers and commitments

40 Parliamentary control of air forces numbers

Section 1 of the Air Force (Constitution) Act 1917 (raising and number of air forces) is amended as follows—

(a) in the heading, omit "and number";

(b) omit "such number of";

(c) omit "as may from time to time be provided by Parliament".

41 Parliamentary control of reserve force numbers and commitments

(1) RFA 1996 is amended as follows.

(2) Omit section 3 (control of numbers in the reserve forces).

(3) Omit section 26 (Parliamentary control of commitments).

(4) In section 36 (Parliamentary control of numbers and reports: special agreements)—

(a) for the heading substitute "Reports";

(b) omit subsections (1) and (2).

(5) In section 47 (Parliamentary control of numbers and reports: special members of a reserve force)—

(a) for the heading substitute "Reports";

(b) omit subsections (1) and (2).

(6) Omit section 50(6) (persons called-out not to be reckoned in regular service numbers).

(7) Omit section 65(5) (persons recalled not to be reckoned in regular service numbers).

Visiting forces

42 Prohibition on sentences of death

In section 2 of VFA 1952 (exercise of powers by service courts and authorities of countries sending visiting forces), in subsection (4), for the words after "provisions of this section" to the end substitute "—

(a) a sentence of death may not be passed in proceedings in the United Kingdom by a service court of a country to which this section applies, and

(b) any such sentence passed by such a court in proceedings outside the United Kingdom may not be carried out in the United Kingdom."

43 Evidence of act being carried out in course of duty

(1) Section 11 of VFA 1952 (evidence for purposes of Part 1 of Act) is amended as set out in subsections (2) and (3).

(2) In subsection (4), for "the contrary is proved" substitute "subsection (5) applies". 5

(3) After subsection (4) insert—

"(5) This subsection applies if the Secretary of State determines that the alleged offence of the person mentioned in subsection (4) did not arise out of and in the course of that person's duty as a member of the visiting force or civilian component so mentioned. 10

(6) Before making a determination under subsection (5) the Secretary of State must take account of any representations made by or on behalf of—

(a) the appropriate authority of the sending country;

(b) the person with responsibility for prosecuting the offence. 15

(7) Evidence of a determination under subsection (5) is to be given by the issuing of a certificate by the Secretary of State.

(8) A certificate under subsection (7) is, in proceedings for the offence mentioned in subsection (4), sufficient evidence of the facts mentioned in it." 20

(4) In paragraph 8 of the Schedule to IHDOA 1964 (evidence for the purposes of VFA 1952)—

(a) the existing text becomes sub-paragraph (1);

(b) in that sub-paragraph—

(i) at the end of paragraph (a), insert "is sufficient evidence of the facts so stated unless the contrary is proved"; 25

(ii) at the end of paragraph (b), insert "is sufficient evidence of the facts so stated unless sub-paragraph (2) applies";

(iii) omit the words after paragraph (b);

(c) after that sub-paragraph insert— 30

"(2) This sub-paragraph applies if the Secretary of State determines that the alleged offence of a person mentioned in sub-paragraph (1)(b) did not arise out of and in the course of that person's duty as a member of the headquarters concerned. 35

(3) Before making a determination under sub-paragraph (2) the Secretary of State must take account of any representations made by or on behalf of—

(a) the authority mentioned in sub-paragraph (1)(a);

(b) any person with responsibility for prosecuting the offence in the United Kingdom. 40

(4) Evidence of a determination under sub-paragraph (2) is to be given by the issuing of a certificate by the Secretary of State.

(5) A certificate under sub-paragraph (4) is, in proceedings for the offence mentioned in sub-paragraph (2), sufficient evidence of the facts mentioned in it."

Service police

44 Assaults

(1) Section 3 of the Assaults on Emergency Workers (Offences) Act 2018 (meaning of "emergency worker") is amended as follows.

(2) In subsection (1)—

(a) after paragraph (a) insert—

"(aa) a member of a service police force;";

(b) in paragraph (b), after "constable", in the first place it occurs, insert "or a member of a service police force".

(3) In subsection (3), at the appropriate place insert—

""service police force" has the same meaning as in the Armed Forces Act 2006 (see section 375(1) of that Act)."

(4) Section 68 of the Sentencing Act 2020 (emergency workers for the purposes of section 67) is amended as follows.

(5) In subsection (1)—

(a) after paragraph (a) insert—

"(aa) a member of a service police force;";

(b) in paragraph (b), after "constable", in the first place it occurs, insert "or a member of a service police force".

(6) In subsection (3), at the appropriate place insert—

""service police force" has the same meaning as in the Armed Forces Act 2006 (see section 375(1) of that Act)."

(7) In section 1 of the Emergency Workers (Scotland) Act 2005 (asp 2) (assaulting or impeding certain providers of emergency services)—

(a) in subsection (3), after paragraph (a) insert—

"(aa) that of a member of a service police force;";

(b) after subsection (3) insert—

"(4) In subsection (3)(aa), "service police force" has the same meaning as in the Armed Forces Act 2006 (see section 375(1) of that Act)."

45 Impersonation etc: England and Wales and Scotland

(1) Section 90 of the Police Act 1996 (impersonation, etc.) applies as if—
  (a) a reference to a member of a police force included a reference to a member of a service police force, and
  (b) in subsection (2), the reference to a constable included a reference to a member of a service police force.

(2) In its application to a service police force by virtue of subsection (1), section 90 has effect throughout England and Wales and Scotland.

(3) In this section "service police force" has the same meaning as in the Armed Forces Act 2006 (see section 375(1) of that Act).

46 Impersonation etc: Northern Ireland

(1) Section 67 of the Police (Northern Ireland) Act 1998 applies as if—
  (a) a reference to a member of the police force included a reference to a member of a service police force, and
  (b) in subsection (2), the reference to a constable included a reference to a member of a service police force.

(2) In this section "service police force" has the same meaning as in the Armed Forces Act 2006 (see section 375(1) of that Act).

Ministry of Defence Police

47 Governance and administration of Ministry of Defence Police

(1) The Ministry of Defence Police Act 1987 is amended as follows.

(2) In section 3A (regulations relating to disciplinary matters)—
  (a) in the heading, omit "relating to disciplinary matters";
  (b) in subsection (1), in the words before paragraph (a), after "to" insert "the governance and administration of the Ministry of Defence Police, including (in particular)";
  (c) in that subsection, in paragraph (b) at the end insert "and from their office as constable".

(3) In section 4 (representation etc at disciplinary proceedings)—
  (a) in the heading, after "disciplinary" insert "and other";
  (b) in subsection (1)(a) after "section 3A" insert "by virtue of subsection (1A) or (1B) of that section".

(4) In section 4A (appeals against dismissal etc), in subsection (1)(b) omit "or Schedule 3 to the Police and Fire Reform (Scotland) Act 2012".

48 Cross-border enforcement powers of Ministry of Defence Police

(1) Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) is amended as follows.

(2) In section 136 (execution of warrants)—

(a) in each of subsections (1) and (2), after "Energy Act 2004" insert ", or by a constable who is a member of the Ministry of Defence Police";

(b) in subsection (3), after "execution" insert ", or by a constable who is a member of the Ministry of Defence Police,". 5

(3) In section 137 (cross-border powers of arrest etc.), after subsection (3) insert—

"(3A) The powers conferred by subsections (1), (2) and (3) may be exercised in England and Wales, Scotland and Northern Ireland by a constable who is a member of the Ministry of Defence Police."

(4) In section 137A (urgent cases), after subsection (5) insert— 10

"(5A) The power conferred by subsection (1), (2) or (4) may be exercised by a constable who is a member of the Ministry of Defence Police in England and Wales, Scotland or Northern Ireland (as the case may be)."

(5) In section 139 (search powers available on arrest under sections 136, 137 and 137A)— 15

(a) in each of subsections (10A) and (10C), after "Constabulary" insert "or a constable who is a member of the Ministry of Defence Police";

(b) in subsection (10B), after "subsection (3B)" insert ", or where a constable who is a member of the Ministry of Defence Police searches premises in Northern Ireland in exercise of that power". 20

(6) In section 140 (reciprocal powers of arrest), after subsection (6A) insert—

"(6B) The references in—

(a) subsections (1) and (2) to a constable of a police force in Scotland or in Northern Ireland, 25

(b) subsections (3) and (4) to a constable of a police force in England and Wales or in Northern Ireland, and

(c) subsections (5) and (6) to a constable of a police force in England and Wales or in Scotland,

include a constable who is a member of the Ministry of Defence Police." 30

49 Property in possession of Ministry of Defence Police

In section 2 of the Police (Property) Act 1897 (regulations with respect to unclaimed property in possession of police), in subsection (2B), at the end insert "or, in the case of the Ministry of Defence Police, the Secretary of State".

Miscellaneous provisions 35

50 Detention etc of persons overseas in cases of mental disorder

(1) Schedule 6 amends Schedule 12 to AFA 2006 (detention etc of persons in overseas service hospitals).

(2) In consequence of the amendments made by Schedule 6, section 351 of AFA 2006 is amended as follows—

(a) in the heading, for "in overseas service hospitals" substitute "overseas in cases of mental disorder";

(b) for the words in brackets substitute "(detention etc overseas in cases of mental disorder)". 5

51 Defence functions of the Oil and Pipelines Agency

After section 2 of the Oil and Pipelines Act 1985 insert—

"2A Defence functions of Agency

(1) The Agency may, in addition to the activities mentioned in section 2— 10

(a) carry out any other activity in connection with the production, conveyance, storage or supply of energy for defence purposes, or

(b) enter into an agreement with any other person for the carrying out of such an activity for such purposes. 15

(2) For the purposes of subsection (1)—

(a) "energy" means energy in any form and includes fuel or other substances used to produce energy;

(b) the reference to the production of energy includes the conversion of energy from one form to another; 20

(c) an activity is carried out "for defence purposes" if it is carried out wholly or mainly for the purposes of, or otherwise for the benefit of, the department of the Secretary of State with responsibility for defence." 25

52 Protection of military remains

(1) Section 1 of the Protection of Military Remains Act 1986 (application of Act) is amended as follows.

(2) In subsection (1)—

(a) the words from "any" to the end of the subsection become paragraph (a); 30

(b) at the end of that paragraph insert ", or

(b) any vessel which has sunk or been stranded (whether before or after the passing of the Armed Forces Act 2026) while in military service." 35

(3) After subsection (1) insert—

"(1A) In the case of a vessel which sank or was stranded while in service with, or while being used for the purposes of, any of the armed forces of a country or territory outside the United Kingdom, subsection (1)(b) applies only if the remains of the vessel are in United Kingdom waters." 40

(4) In subsection (2)—
  (a) omit paragraph (a);
  (b) in paragraph (b)—
    (i) after "aircraft" insert "or vessel";
    (ii) omit "or a vessel which has so sunk or been stranded"; 5
  (c) omit the words after paragraph (b).

(5) Omit subsection (3).

(6) In subsection (4), omit paragraph (a).

(7) Omit subsection (8).

53 Police and Criminal Evidence (Northern Ireland) Order 1989: updating 10

(1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) is amended as follows.

(2) In Article 63A (fingerprints and samples: supplementary provisions), in paragraph (1B)—
  (a) in sub-paragraph (g) for "the Royal Navy Regulating Branch" substitute "the Royal Navy Police"; 15
  (b) omit sub-paragraph (j).

(3) In Schedule 2 (preserved powers of arrest), omit the entries relating to—
  (a) the Army Act 1955,
  (b) the Air Force Act 1955, 20
  (c) the Naval Discipline Act 1957, and
  (d) the Reserve Forces Act 1980.

54 Coroners and Justice Act 2009: correcting amendment

In Part 2 of Schedule 7 to the Coroners and Justice Act 2009 (allowances payable to witnesses), in paragraph 5(2)(a), before "police force" insert "service". 25

General

55 Interpretation

In this Act—

"AFA 2006" means the Armed Forces Act 2006; 30

"IHDOA 1964" means the International Headquarters and Defence Organisations Act 1964;

"RFA 1996" means the Reserve Forces Act 1996;

"VFA 1952" means the Visiting Forces Act 1952.

56 Financial provision 35

There is to be paid out of money provided by Parliament—

(a) any expenditure incurred under or by virtue of this Act by a Minister of the Crown or the Defence Council, and

(b) any increase attributable to the Act in the sums payable under any other Act out of money so provided.

57 Extent in the United Kingdom

(1) This Act extends to England and Wales, Scotland and Northern Ireland, subject as follows.

(2) The following provisions extend to England and Wales only—

(a) section 3 and Schedule 1, so far as they insert Part 4 of Schedule 11A to AFA 2006;

(b) section 6 and Schedule 2;

(c) section 9(2) and (3);

(d) section 11;

(e) section 30(2);

(f) section 54;

(g) Parts 6 and 7 of Schedule 3 (and section 8, so far as it relates to those Parts of that Schedule).

(3) The following provisions extend to Scotland only—

(a) section 3 and Schedule 1, so far as they insert Part 5 of Schedule 11A to AFA 2006;

(b) section 9(4) and (5);

(c) section 30(3) and (4).

(4) Section 45 extends to England and Wales and Scotland.

(5) The following provisions extend to Northern Ireland only—

(a) section 3 and Schedule 1, so far as they insert Parts 6 and 7 of Schedule 11A to AFA 2006;

(b) section 9(6);

(c) section 46;

(d) section 53.

(6) Any other amendment or repeal made by this Act has the same extent within the United Kingdom as the provision amended or repealed.

58 Extent in the Channel Islands, Isle of Man and British overseas territories

(1) The power under section 384(1) of AFA 2006 may be exercised so as to extend to any of the Channel Islands any amendment of, or repeal of any provision of, AFA 2006 made by this Act (with or without modifications).

(2) The provisions mentioned in subsection (3) extend to—

(a) the Isle of Man, and

(b) the British overseas territories, except Gibraltar.

(3) The provisions are—

(a) sections 1, 2, 10, 12, 14 to 29, 36(12) and 50;

(b) section 3 and Schedule 1, except so far as they insert Chapter 2 of Part 16C of, and Parts 4 to 7 of Schedule 11A to, AFA 2006;

(c) sections 55 and 56, this section and sections 59 and 60;

(d) Parts 1 to 5 and 8 of Schedule 3 (and section 8, so far as it relates to those Parts of that Schedule);

(e) Schedule 6.

(4) His Majesty may by Order in Council provide for section 32 and Schedule 4 to extend, with or without modifications, to a territory mentioned in subsection (5).

(5) The territories are—

(a) the Isle of Man;

(b) any of the British overseas territories, except Gibraltar.

(6) The power under section 384(2) of AFA 2006 may be exercised so as to modify any provision of AFA 2006, as amended by this Act, as it extends to the Isle of Man or a British overseas territory other than Gibraltar.

(7) The power under section 132(3) of RFA 1996 may be exercised so as to extend to any of the Channel Islands or the Isle of Man any amendment of, or repeal of any provision of, RFA 1996 made by this Act (with or without modifications).

(8) The power under subsection (1) of section 15 of VFA 1952 may be exercised so as to extend to a territory specified in subsection (3) of that section—

(a) the amendments of section 2 of VFA 1952 made by section 42 of this Act;

(b) the amendments of section 11 of VFA 1952 made by section 43(2) and (3) of this Act;

(c) any Order in Council which—

(i) is made under section 1(2) of VFA 1952 in relation to sections 2 or 11 of VFA 1952, and

(ii) is in force at the coming into force of any Order in Council made under section 15(1) of VFA 1952 by virtue of paragraph (a) or (b) of this subsection.

(9) The power under subsection (1) of section 2 of IHDOA 1964 may be exercised so as to extend to a territory specified in that subsection the amendments of paragraph 8 of the Schedule to IHDOA 1964 made by section 43(4) of this Act.

59 Commencement and transitional provision

(1) The following provisions come into force on the day on which this Act is passed—

(a) section 1;

(b) section 3 and Schedule 1;

(c) section 4;

(d) section 47(1) and (4);
(e) sections 48 and 49;
(f) sections 55 to 58, this section and section 60.

(2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
(a) sections 20 and 21;
(b) section 33;
(c) sections 40 and 41;
(d) section 47(2) and (3);
(e) section 52.

(3) The remaining provisions of this Act come into force on such day as the Secretary of State may appoint by regulations.

(4) The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

(5) Regulations under this section—
(a) are to be made by statutory instrument, and
(b) may make different provision for different purposes.

60 Short title

This Act may be cited as the Armed Forces Act 2026.

SCHEDULES

SCHEDULE 1

Section 3

DEFENCE HOUSING AND OTHER PROPERTY

PART 1

FURTHER PROVISION ABOUT THE DEFENCE HOUSING SERVICE AND COMPULSORY PURCHASE

1 After Schedule 11 to AFA 2006 insert—

"SCHEDULE 11A Sections 343D, 343G and 343H

DEFENCE HOUSING AND OTHER PROPERTY

PART 1

DEFENCE HOUSING SERVICE: CONSTITUTION

Status

1 (1) The Defence Housing Service is not to be regarded—

(a) as a servant or agent of the Crown, or

(b) subject to sub-paragraphs (3) and (9), as enjoying any status, immunity or privilege of the Crown.

(2) Sub-paragraph (3) applies where—

(a) the Defence Housing Service carries out a function conferred by a direction given by the Secretary of State under section 343E(2)(b) (whether in addition to, or instead of, a Minister of the Crown), and

(b) immediately before the giving of the direction, the function was a function of a Minister of the Crown.

(3) If or to the extent that the direction so specifies, the Defence Housing Service has the same immunities, privileges and exemptions in respect of the carrying out of the function as would apply to the Minister of the Crown in relation to the carrying out of the function.

(4) Subject to sub-paragraphs (5), (6) and (7), the Defence Housing Service's property is not to be regarded as property of, or property held on behalf of, the Crown.

(5) Property held by the Defence Housing Service for defence purposes (as defined by section 343E(8)) is to be treated as if it were property of the Crown.

(6) A property transfer scheme made under section 343G may provide for property that is transferred from the Secretary of State to the Defence Housing Service under the scheme to be treated as if it were property of, or held on behalf of, the Crown on and after its transfer (if it would not otherwise be so treated by virtue of sub-paragraph (5).

(7) Regulations made by the Secretary of State may provide for any other property held by the Defence Housing Service to be treated as if it were property of, or held on behalf of, the Crown for the purpose of the application of an enactment specified in the regulations.

(8) Provision made by virtue of sub-paragraph (6) or (7) may apply—

(a) generally to property of the Defence Housing Service or only to such descriptions of property as the provision may specify;

(b) subject to such conditions as the provision may specify.

(9) Where property held by the Defence Housing Service is to be treated as property of, or held on behalf of, the Crown by virtue of this paragraph, the Defence Housing Service has the same immunities, privileges and exemptions in respect of its holding or acquisition of that property as would apply if it were property held or acquired by or on behalf of the Crown.

Membership

2 (1) The Defence Housing Service is to consist of—

(a) the person appointed as its chief executive (see paragraph 5(1)(a)), and

(b) such other members as the Secretary of State may from time to time appoint.

(2) The Secretary of State must—

(a) ensure that the number of members is not less than six;

(b) appoint one of the members as the chair.

Terms of appointment

3 (1) A member of the Defence Housing Service holds and vacates office in accordance with the terms of their appointment (subject to this Part of this Schedule).

(2) A member may at any time resign from office by giving notice in writing to the Secretary of State.

(3) The Secretary of State may by notice in writing remove a member from office who—

(a) has without reasonable excuse failed to discharge the functions of their office, or

(b) in the opinion of the Secretary of State is otherwise unable or unfit to carry out those functions.

(4) The Secretary of State may suspend a member if it appears to the Secretary of State that there are or may be grounds to remove the person from office under sub-paragraph (3).

(5) A person who ceases to be a member is eligible for reappointment.

Payment of members

4 The Defence Housing Service may, with the approval of the Secretary of State—

(a) pay remuneration and allowances to members, and

(b) pay or provide for the payment of pensions, allowances and gratuities to or in respect of a person who is or has been a member.

Employees and other members of staff

5 (1) The Defence Housing Service—

(a) must employ a person approved by the Secretary of State to be chief executive;

(b) may employ such number of other persons as it thinks appropriate.

(2) The Defence Housing Service may—

(a) pay remuneration and allowances to employees, and

(b) pay or provide for the payment of pensions, allowances and gratuities to or in respect of any person who is or has been an employee.

(3) Employees are to be appointed on such other terms and conditions as the Defence Housing Service may decide.

6 (1) The Defence Housing Service may make arrangements for persons to be seconded to the Defence Housing Service.

(2) The arrangements may include provision for payments by or on behalf of the Defence Housing Service.

7 (1) Service as a member of staff of the Defence Housing Service is not service in the civil service of the State.

(2) A person employed in the civil service of the State continues to be employed in the civil service of the State during any period of secondment to the Defence Housing Service.

8 References in this Part of this Schedule to members of staff of the Defence Housing Service are to persons who—

(a) are employees of the Defence Housing Service, or

(b) have been seconded to the Defence Housing Service.

Committees

9 (1) The Defence Housing Service may establish committees.

(2) A committee established by the Defence Housing Service may establish sub-committees.

(3) A committee or sub-committee may comprise or include persons who are not members of the Defence Housing Service or members of staff of the Defence Housing Service.

Delegation

10 (1) The Defence Housing Service may delegate any of its functions to—

(a) a member,

(b) a member of staff,

(c) a committee,

(d) a sub-committee, or

(e) a company formed by the Defence Housing Service.

(2) A function is delegated under this paragraph to the extent and on the terms that the Defence Housing Service decides.

11 (1) A committee established by the Defence Housing Service may delegate any of its functions to—

(a) a member of the committee, or

(b) a sub-committee established by it.

(2) A function is delegated under this paragraph to the extent and on the terms that the committee decides.

(3) The powers of a committee established by the Defence Housing Service to delegate a function under this paragraph, and to decide the extent and terms of the delegation, are subject to the powers of the Defence Housing Service to direct what a committee established by it may or may not do.

12 The delegation of a function by the Defence Housing Service or a committee under paragraph 10 or 11 does not prevent the Defence Housing Service or the committee, as the case may be, from exercising the function.

Procedure

13 (1) The Defence Housing Service may decide—

(a) its own procedure, and

(b) the procedure of any committee or sub-committee.

(2) Subject to sub-paragraph (1), a committee may decide—

(a) its own procedure, and

(b) the procedure of any of its sub-committees.

(3) Subject to sub-paragraphs (1) and (2), a committee or sub-committee may decide its own procedure.

(4) In this paragraph "procedure" includes quorum.

(5) The validity of proceedings of the Defence Housing Service, or of a committee or sub-committee, is not affected by a vacancy or defective appointment.

Financial assistance

14 (1) The Secretary of State may provide to the Defence Housing Service such financial assistance as the Secretary of State considers appropriate.

(2) Financial assistance under this paragraph may be provided subject to such conditions as the Secretary of State considers appropriate.

Accounts and audit

15 (1) The Defence Housing Service must keep proper accounts and proper records in relation to them.

(2) The Defence Housing Service must prepare a statement of accounts in respect of each financial year in such form as the Secretary of State may direct.

(3) The Defence Housing Service must send a copy of each statement of accounts to the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may direct.

(4) The statement must be in such form as the Secretary of State may direct.

(5) The Comptroller and Auditor General must—

(a) examine, certify and report on each statement, and

(b) send a copy of each report and certified statement to the Secretary of State.

(6) The Secretary of State must lay before Parliament a copy of each document received under sub-paragraph (5)(b).

Annual report

16 (1) As soon as reasonably practicable after the end of each financial year the Defence Housing Service must prepare a report on the exercise of its functions during that financial year.

(2) The Defence Housing Service must send the report to the Secretary of State.

(3) The Secretary of State must lay the report before Parliament.

Meaning of "financial year"

17 In this Part of this Schedule "financial year" means—
(a) the period beginning with the date on which the Defence Housing Service is established and ending with the second 31 March following that date, and
(b) each successive period of 12 months.

Provision of information

18 The Defence Housing Service must provide to the Secretary of State such information relating to the exercise of its functions as the Secretary of State may request.

Seal and evidence

19 (1) The application of the seal of the Defence Housing Service must be authenticated by the signature of—
(a) the chair,
(b) the chief executive, or
(c) any other member who has been authorised for that purpose.

(2) A document purporting to be duly executed under the seal of the Defence Housing Service or signed on its behalf—
(a) is to be received in evidence, and
(b) is to be taken to be executed or signed in that way, unless the contrary is proved.

(3) This paragraph does not apply in relation to any document which is, or is to be, signed in accordance with the law of Scotland.

Transitional provision

20 The Secretary of State (instead of the Defence Housing Service) may—
(a) appoint the first chief executive, and
(b) decide the terms and conditions of service which are applicable to the first chief executive on appointment as an employee of the Defence Housing Service.

PART 2

DEFENCE HOUSING SERVICE: TRANSFER SCHEMES

Provision which can be made by transfer schemes

21 (1) A scheme under section 343G (in this Part of this Schedule, a "transfer scheme") may be either—

(a) a "property transfer scheme", for the transfer to the Defence Housing Service of any property, rights or liabilities, other than rights or liabilities under or in connection with a contract of employment, or

(b) a "staff transfer scheme", for the transfer to the Defence Housing Service of any rights or liabilities under or in connection with a contract of employment.

(2) The things that may be transferred under a transfer scheme include—

(a) property, rights and liabilities that could not otherwise be transferred;

(b) property acquired, and rights and liabilities arising, after the making of the scheme;

(c) criminal liabilities.

(3) A transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by the Secretary of State in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of, or in relation to, the Secretary of State in respect of anything transferred;

(d) make provision for references to the Secretary of State in an instrument or other document in respect of anything transferred to be treated as references to the Defence Housing Service.

(4) A transfer scheme may provide—

(a) for modifications by agreement;

(b) for modifications to have effect from the date when the original scheme came into effect.

(5) A property transfer scheme may—

(a) make provision for the shared ownership or use of property;

(b) make provision of the type mentioned in paragraph 1(6).

(6) References in this paragraph to the transfer of property include the grant of, or an agreement to grant, a lease.

(7) A staff transfer scheme may make provision which is the same as or similar to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

(8) For the purposes of this paragraph—

(a) an individual who holds employment in the civil service of the State is to be treated as employed by virtue of a contract of employment, and

(b) the terms of the individual's employment in the civil service are to be regarded as constituting the terms of the contract of employment.

(9) References in this paragraph to the Defence Housing Service include a company formed by the Defence Housing Service.

PART 3

DEFENCE HOUSING SERVICE: TAX TREATMENT OF TRANSFER SCHEMES

Tax treatment of transfer schemes

22 (1) The Treasury may by regulations make provision varying the way in which a relevant tax has effect in relation to—

(a) anything transferred under a transfer scheme, or

(b) anything done for the purposes of, or in relation to, a transfer under such a scheme.

(2) The provision which may be made under sub-paragraph (1)(a) includes in particular provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything transferred;

(b) anything transferred to be treated in a specified way for the purposes of a tax provision;

(c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything transferred.

(3) The provision which may be made under sub-paragraph (1)(b) includes in particular provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of or in relation to the transfer;

(b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;

(c) the Secretary of State to be required or permitted to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.

(4) References in this paragraph to a transfer under a transfer scheme include references to—

(a) the creation of interests, rights or liabilities under the scheme,

(b) the modification of interests, rights or liabilities under the scheme, and

(c) the grant of, or an agreement to grant, a lease. 5

(5) In this paragraph—

"relevant tax" means income tax, corporation tax, capital gains tax, value added tax, stamp duty, stamp duty land tax or stamp duty reserve tax;

"tax provision" means any legislation about a relevant tax. 10

PART 4

COMPULSORY PURCHASE BY DEFENCE HOUSING SERVICE OR SECRETARY OF STATE: ENGLAND AND WALES

Application of Acquisition of Land Act 1981

23 (1) The Acquisition of Land Act 1981 ("ALA 1981") applies to the compulsory acquisition of land under section 343H, with the following modification. 15

(2) Section 17(2) of ALA 1981 (orders to be subject to special parliamentary procedure in certain cases involving local authority or statutory undertakers' land) does not apply to the acquisition of an interest in land by the Defence Housing Service. 20

24 (1) Schedule 3 to ALA 1981 (special kinds of land) applies to the acquisition of new rights under section 343H, with the following modification.

(2) Paragraph 4(2) of that Schedule (orders to be subject to special parliamentary procedure in certain cases involving local authority or statutory undertakers' land) does not apply to the acquisition of an interest in land by the Defence Housing Service. 25

Extinguishment of private rights of way etc

25 (1) Sub-paragraph (2) applies where the Defence Housing Service completes the compulsory acquisition of land under section 343H. 30

(2) On completion of the acquisition—

(a) all private rights of way on, under or over the land are extinguished,

(b) all rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land are extinguished, and 35

(c) any such apparatus vests in the Defence Housing Service.

(3) Sub-paragraph (2) is subject to paragraphs 26 to 29.

26 The Defence Housing Service may give a direction before the completion of the acquisition that paragraph 25(2) is not to apply to any right or apparatus specified in the direction.

27 Paragraph 25(2) is subject to any agreement which may be made (whether before or after the completion of the acquisition) between—

(a) the Defence Housing Service, and

(b) the person—

(i) in whom the right or apparatus concerned is vested, or

(ii) to whom it belongs.

28 (1) Paragraph 25(2) does not apply to—

(a) any right vested in statutory undertakers for the purpose of carrying on their undertaking,

(b) any apparatus belonging to statutory undertakers for that purpose,

(c) any right conferred by, or in accordance with, the electronic communications code on the operator of an electronic communications code network, or

(d) any electronic communications apparatus kept installed for the purposes of any such network.

(2) In sub-paragraph (1) "statutory undertakers" means persons who are, or are deemed to be, statutory undertakers for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990; and "undertaking" is to be read in accordance with section 262 of that Act.

29 (1) Any person who suffers loss by the extinguishment of a right, or the vesting of any apparatus, under paragraph 25 is entitled to compensation from the Defence Housing Service.

(2) Any compensation payable under this paragraph is to be determined in accordance with the Land Compensation Act 1961.

New rights: application of Compulsory Purchase Act 1965

30 (1) The Compulsory Purchase Act 1965 ("CPA 1965") applies to the compulsory acquisition of new rights under section 343H as it applies to the compulsory purchase of land.

(2) In its application to the compulsory acquisition of such new rights, that Act is to have effect subject to—

(a) the modifications specified in paragraphs 31 to 36, and

(b) such other modifications as are necessary.

(3) One result of sub-paragraph (2)(b) is that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to—

(a) the rights acquired or to be acquired, or

(b) land over which the rights are, or are to be, exercisable,

according to the requirements of the particular context.

31 Section 7 of CPA 1965 is to have effect as if there were substituted—

"7 Measure of compensation in case of acquisition of new right

(1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is acquired is depreciated by the acquisition but also to the damage (if any) to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 (compensation for injurious affection) is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that—

(a) for "land is acquired or taken" there is substituted "a right over land is acquired"; and

(b) for "acquired or taken from him" there is substituted "over which the right is exercisable"."

32 (1) Section 8(1) of CPA 1965 is to have effect as if references to acquiring land were to acquiring a right in the land.

(2) Schedule 2A to CPA 1965 is to be read as if there were substituted—

"SCHEDULE 2A Section 8

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.

(2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).

2 In this Schedule "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3 A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5 On receiving a counter-notice the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11 In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right,

(b) the proposed use of the right, and

(c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.

13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal."

33 (1) The provisions of CPA 1965 mentioned in sub-paragraph (2) (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land) are to be read as if they were modified in accordance with sub-paragraph (3).

(2) The provisions are—

(a) section 9(4) (failure of owners to convey),

(b) paragraph 10(3) of Schedule 1 (owners under incapacity),

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land).

(3) The provisions are to be read as if they were modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is

to be acquired compulsorily is vested absolutely in the acquiring authority.

34 Section 11 of CPA 1965 (powers of entry) is to be read as if it were modified so as to secure that, where the acquiring authority have served notice to treat in respect of any right as well as the notice required by subsection (1) of that section (as it applies to a compulsory acquisition under section 343H), they have power, exercisable in the same circumstances and subject to the same conditions, to enter for the purpose of exercising that right; and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date), 12 (penalty for unauthorised entry) and 13 (entry on enforcement officer's or sheriff's warrant in the event of obstruction) of that Act are modified accordingly.

35 Section 20 of CPA 1965 (compensation for short-term tenants) is to be read as if it were modified so as to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory purchase of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right concerned.

36 Section 22 of CPA 1965 (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) is to be read as if it were modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right concerned, subject to compliance with that section as respects compensation.

New rights: application of the Compulsory Purchase (Vesting Declarations) Act 1981

37 The Compulsory Purchase (Vesting Declarations) Act 1981 ("CP(VD)A 1981") applies to the compulsory acquisition of new rights under section 343H—

(a) with the modifications specified in paragraph 38; and

(b) with such other modifications as may be necessary.

38 (1) The modifications of CP(VD)A 1981 referred to in paragraph 37(a) are as follows.

(2) References to CPA 1965 are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or

(b) the land over which the right is, or is to be, exercisable.

(3) References to CPA 1965 are to be read as references to that Act as it applies to the compulsory acquisition of a right under section 343H.

(4) Section 8(1) (vesting, and right to enter and take possession) is to be read as securing that—

(a) a general vesting declaration in respect of any right vests the right in the acquiring authority on the vesting date; and

(b) as from the vesting date, the acquiring authority has power, exercisable in the same circumstances and subject to the same conditions, to enter land for the purpose of exercising that right as if the circumstances mentioned in paragraph (a) and (b) of section 8(1) had arisen.

(5) Section 9(2) (right of entry under section 8(1) not exercisable in respect of land subject to certain tenancies unless notice has been served on occupiers of the land) is to be read as requiring a notice served by the appropriate authority under that provision to refer to the authority's intention to enter land specified in the notice in order to exercise the right.

(6) In section 10(1) (acquiring authority's liability on vesting of the land), the reference to the acquiring authority's taking possession of the land under section 11 of CPA 1965 is to be read as a reference to the authority's exercising the power to enter the land under that provision as modified by paragraph 34 of this Schedule.

(7) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) is to be read as if—

(a) in paragraph 1(1), for "part only of" there were substituted "only the acquisition of a right over";

(b) paragraph 1(2) were omitted;

(c) references to the land proposed to be acquired were (subject to paragraph (e) below) to the right proposed to be acquired;

(d) references to the additional land were to the house, building or factory over which the right is proposed to be exercisable;

(e) in paragraphs 14 and 15, references to the severance of land proposed to be acquired were to the acquisition of the right; and

(f) in paragraph 15, after "in addition to" there were inserted "or in substitution for".

New rights: compensation

39 (1) The enactments relating to compensation for the compulsory purchase of land apply—

(a) with the modification specified in paragraph 40, and

(b) with such other modifications as are necessary,

in relation to the acquisition of new rights under section 343H as they apply to compensation for the compulsory purchase of land.

(2) Sub-paragraph (1) is without prejudice to the generality of paragraph 30.

40 Section 5A (relevant valuation date) of the Land Compensation Act 1961 is to be read as if for subsections (5A) and (5B) there were substituted—

"(5A) If—

(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 34 of Schedule 11A to the Armed Forces Act 2006),

(b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 32 of Schedule 11A to the Armed Forces Act 2006) to acquire an interest in the land, and

(c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.

(5B) If—

(a) a right over land is the subject of a general vesting declaration,

(b) by virtue of paragraph 11(2) or 16(2) of Schedule A1 to the Compulsory Purchase (Vesting Declarations) Act 1981 (as modified by paragraph 38 of Schedule 11A to the Armed Forces Act 2006), the declaration has effect as if it included an interest in the land, and

(c) the vesting date for the right is different from the vesting date for the interest in the land,

the first of the vesting dates is deemed for the purposes of subsection (4)(a) to be the vesting date for the whole of the land."

PART 5

COMPULSORY PURCHASE BY DEFENCE HOUSING SERVICE OR SECRETARY OF STATE: SCOTLAND

Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947

41 The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 applies to the compulsory acquisition of land by the Defence Housing Service under section 343H as if—

(a) the Defence Housing Service were a local authority within the meaning of that Act, and

(b) this paragraph had been in force immediately before the commencement of that Act.

Town and Country Planning (Scotland) Act 1997

42 (1) The provisions of the Town and Country Planning (Scotland) Act 1997 specified in sub-paragraph (2) apply in relation to land acquired compulsorily by the Defence Housing Service under section 343H as they apply in relation to land acquired compulsorily by statutory undertakers.

(2) The provisions are—

(a) section 197 (provisions as to churches and burial grounds);

(b) section 198 (use and development of land for open spaces);

(c) sections 224 to 227 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).

PART 6

COMPULSORY PURCHASE BY DEFENCE HOUSING SERVICE: NORTHERN IRELAND

Local Government Act (Northern Ireland) 1972

43 (1) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)) applies to the compulsory acquisition of land by the Defence Housing Service by means of an order under section 343H(2) of this Act as it applies to the acquisition of land by means of an order under section 97 of that Act, subject as follows.

(2) References to that Schedule are to be read as references to that Schedule as modified by this paragraph.

(3) References to the council which proposes to acquire land otherwise than by agreement are to be read as references to the Defence Housing Service.

(4) References to the Ministry concerned are to be read as references to the Secretary of State.

(5) Paragraph 5(1)(b) applies as if both references to the powers conferred by the Local Government Act (Northern Ireland) 1972 were to the powers conferred by section 343H(2) of this Act.

(6) Paragraph 6(2) applies as if, for the words from "fund out of which" to the end, there were substituted "funds of the Defence Housing Service (in this Schedule "the compensation fund") and discharged by payments made by the Defence Housing Service". 5

(7) Paragraph 12(2) applies as if, for "the clerk of the council", there were substituted "such person as the Defence Housing Service may designate for the purposes of this Schedule". 10

Enactments relating to the assessment of compensation

44 The enactments for the time being in force relating to the assessment of compensation in respect of land vested in a district council by an order made under Schedule 6 to the Local Government Act (Northern Ireland) 1972 apply, subject to any necessary modifications, in relation to land vested in the Defence Housing Service by an order under section 343H(2) of this Act. 15

PART 7

COMPULSORY PURCHASE BY SECRETARY OF STATE: NORTHERN IRELAND

Schedule 6 to the Local Government Act (Northern Ireland) 1972 20

45 (1) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)) applies to the compulsory acquisition of land by the Secretary of State by means of an order under section 343I(4) of this Act as it applies to the acquisition of land by means of an order under section 97 of that Act, subject as follows. 25

(2) References to that Schedule are to be read as references to that Schedule as modified by this paragraph.

(3) References (however expressed) to—

(a) the council which proposes to acquire land otherwise than by agreement, and 30

(b) the Ministry concerned,

are to be read as references to the Secretary of State.

(4) Paragraphs 1, 19 and 20(2) are to be treated as omitted.

(5) Paragraph 2 applies as if—

(a) for the words before sub-paragraph (a) there were substituted "Where the Secretary of State proposes to acquire land otherwise than by agreement, the Secretary of State's notice of intention to do so—"; 35

(b) in sub-paragraph (c), for "as may be prescribed" there were substituted "as the Secretary of State considers appropriate";

(c) after sub-paragraph (c), there were inserted "and each notice published or served under this paragraph must specify the period within which objections to the proposal may be made to the Secretary of State".

(6) Paragraph 3 applies as if—

(a) in sub-paragraph (1)(b), for the words in brackets there were substituted "(if it appears to the Secretary of State necessary to do so)";

(b) in head (ii) of that sub-paragraph, for "refuse" there were substituted "decide not";

(c) in sub-paragraph (2), "the council and" and "or refusing" were omitted.

(7) Paragraph 4 applies as if the words from "and may provide" to the end were omitted.

(8) Paragraph 5 applies as if—

(a) in sub-paragraph (1)(a)—

(i) "in the prescribed form and manner" were omitted;

(ii) for the words from ", having given notice" to the end there were substituted "has given notice to the Secretary of State of the person's objection to the making of the vesting order";

(b) in sub-paragraph (1)(b), both references to the powers conferred by the Local Government Act (Northern Ireland) 1972 were to the power conferred by section 343I(4) of this Act;

(c) in sub-paragraph (1)(d), "in the prescribed form" were omitted;

(d) in sub-paragraph (2), for "as may be prescribed" there were substituted "as the Secretary of State considers appropriate".

(9) Paragraph 6(2) applies as if, for the words from "fund out of which" to the end, there were substituted "Consolidated Fund of the United Kingdom (in this Schedule "the compensation fund"), and discharged by the Secretary of State".

(10) Paragraph 11(3) applies as if "in the prescribed form" were omitted.

(11) Paragraph 12 applies as if—

(a) in sub-paragraph (1), "such" and "as may be prescribed" were omitted;

(b) in sub-paragraph (2), for the words from "clerk" to "directs," there were substituted "Secretary of State as correct, and publish".

(12) Paragraph 14(1) applies as if "in the prescribed form" were omitted.

(13) Paragraph 15(1) applies as if for "the prescribed form" there were substituted "such form as the Secretary of State may direct"."

PART 2

CONSEQUENTIAL AND RELATED AMENDMENTS

Rates (Northern Ireland) Order 1977

2 In Schedule 5 to the Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28)) (definition of "dwelling-house" etc), in paragraph 4ZA(1)(a), after "State" insert ", or the Defence Housing Service,".

Council Tax (Exempt Dwellings) Order 1992

3 In article 3 of the Council Tax (Exempt Dwellings) Order 1992 (S.I. 1992/558), in Class O, after "Defence" insert ", or the Defence Housing Service,".

Council Tax (Exempt Dwellings) (Scotland) Order 1992

4 In the Schedule to the Council Tax (Exempt Dwellings) (Scotland) Order 1992 (S.I. 1992/1333 (S.130)) (exempt dwellings), in paragraph 18(a) after "State" insert ", or the Defence Housing Service,".

Armed Forces Act 2006

5 In section 373 of AFA 2006 (orders, regulations and rules)—

(a) after subsection (1A) insert—

"(1B) The power conferred by Part 3 of Schedule 11A on the Treasury to make regulations is exercisable by statutory instrument.";

(b) after subsection (3) insert—

"(3A) A statutory instrument containing regulations made by the Treasury under Part 3 of Schedule 11A is subject to annulment in pursuance of a resolution of the House of Commons."

Public Records Act 1958

6 In paragraph 3 of Schedule 1 to the Public Records Act 1958 (establishments and organisations whose records are public records), in Part 2 of the Table, at the appropriate place insert—

"Defence Housing Service."

Parliamentary Commissioner Act 1967

7 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place insert—

"Defence Housing Service."

Freedom of Information Act 2000

8 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities to which Act applies), at the appropriate place insert—

"Defence Housing Service."

Equality Act 2010

9 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities), under the heading "Armed forces", at the appropriate place insert—

"Defence Housing Service."

SCHEDULE 2

Section 6

SEXUAL HARM PREVENTION ORDERS AND SEXUAL RISK ORDERS

1 (1) Section 137 of the Sexual Offences Act 2003 (application of that Act to service courts) is amended as follows.

(2) In subsection (2), for "and 103A(1)" substitute ", 103A(1) and (6) and 122A(6) and (10)".

(3) In subsection (3)—

(a) for paragraph (a) substitute—

"(a) sections 103A(5) to (9), 103FA, 103FB, 103J and 103K of this Act, and sections 348A, 348B and 355 to 357 of the Sentencing Code do not apply;";

(b) for paragraph (b) substitute—

"(b) sections 103A(1) to (4B), 103B to 103F, 103G, 103H and 103I of this Act, and sections 343 to 348 and 349 to 354 of the Sentencing Code apply—

(i) subject to paragraphs (bza) to (e), and

(ii) as if they extended to the whole of the United Kingdom;";

(c) after paragraph (b) insert—

"(bza) in relation to an application under section 103A(4) in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline—

(i) the application may be made only by a Provost Marshal, and must be made to a service court;

(ii) the reference in section 103A(4B) to a person mentioned in subsection (4A) is to be read as a reference to a Provost Marshal;

(iii) an appeal against the making of an order under section 103A(1), or the refusal to make such an order, must be made to the Court Martial Appeal Court;";

(d) after paragraph (d) insert—

"(e) in relation to an application under section 103F(2) in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline, an appeal against the making of an order under section 103F(3) must be made to the Court Martial Appeal Court."

(4) After subsection (3) insert—

"(3A) Where the court making a sexual risk order is a service court—

(a) sections 122A(3) to (5), 122B(2) and (3), 122EA, 122EB, 122J and 122K do not apply;

(b) sections 122A(1) to (2A) and (6) to (10), 122B(1), 122C to 122E and 122F to 122I apply—

(i) subject to paragraphs (c) to (h), and

(ii) as if they extended to the whole of the United Kingdom;

(c) in relation to an application under section 122A(1) in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline—

(i) the application may be made only by a Provost Marshal, and must be made to a service court;

(ii) the reference in section 122(2A) to a person mentioned in subsection (1A) is to be read as a reference to a Provost Marshal;

(iii) an appeal against the making of an order under section 122A(6) must be made to the Court Martial Appeal Court;

(d) if subsection (1) of section 122BA applies to the defendant at a time when the defendant is a person subject to service law or a civilian subject to service discipline, the reference in subsection (4)(c) of that section to the appropriate chief officer of police is to be read as a reference to a Provost Marshal;

(e) in relation to an application under section 122D in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline—

(i) the application may be made only by the defendant or a Provost Marshal, and must be made to the Court Martial;

(ii) the reference in subsection (2A) of that section to a person mentioned in subsection (2)(b) to (d) is to be read as a reference to a Provost Marshal;

(iii) consent under subsection (5) of that section must be the consent of the defendant and a Provost Marshal;

(iv) an appeal against the making of an order under that section, or the refusal to make such an order, must be made to the Court Martial Appeal Court;

(f) in relation to an application under section 122D, in respect of a defendant who at the time of the application is neither a person subject to service law nor a civilian subject to service discipline—

(i) the application must be made to the Crown Court in England and Wales;

(ii) an appeal against the making of an order under that section, or the refusal to make such an order, must be made to the Court of Appeal in England and Wales;

(g) in relation to an application under section 122E(2) in respect of a defendant who at the time of the application is a person subject to service law or a civilian subject to service discipline, an appeal against the making of an order under section 122E(3) must be made to the Court Martial Appeal Court;

(h) if a requirement in subsection (1) or (3) of section 122F applies to a defendant at a time when they are a person subject to service law or a civilian subject to service discipline—

(i) the reference in that subsection to "the police" is to be read as a reference to a service police force, and

(ii) subsection (4) of that section does not apply."

(5) In subsection (4), after the definition of "service court" insert—

""service police force" has the same meaning as in the Armed Forces Act 2006 (see section 375 of that Act);".

SCHEDULE 3

Section 8

5

PROTECTION FROM DOMESTIC ABUSE AND STALKING

PART 1

SERVICE DOMESTIC ABUSE PROTECTION NOTICES

1 (1) In Part 3 of AFA 2006 (powers of arrest, search and entry)—

(a) in the Part heading, after "arrest" insert "etc"; 10

(b) after Chapter 1 insert—

"CHAPTER 1A

SERVICE DOMESTIC ABUSE PROTECTION NOTICES

74A Power to give a service domestic abuse protection notice

(1) An authorised service police officer may give a service domestic abuse protection notice to a person falling within subsection (2) ("P") if the officer has reasonable grounds for believing that— 15

(a) P has been abusive towards a person aged 16 or over to whom P is personally connected, and 20

(b) it is necessary to give the notice to protect that person from domestic abuse, or the risk of domestic abuse, carried out by P.

(2) A person is within this subsection if the person is aged 18 or over and is— 25

(a) subject to service law, or

(b) a civilian subject to service discipline.

(3) A "service domestic abuse protection notice" is a notice prohibiting P from being abusive towards a person aged 16 or over to whom P is personally connected. 30

(4) A service domestic abuse protection notice may provide that P—

(a) may not contact the person for whose protection the notice is given;

(b) may not come within a distance specified in the notice of any premises in which that person lives.

(5) If P lives in premises in which the person for whose protection the notice is given also lives, the notice may also contain provision— 5

(a) prohibiting P from evicting or excluding that person from the premises;

(b) prohibiting P from entering the premises;

(c) requiring P to leave the premises.

(6) It does not matter where the abusive behaviour referred to in subsection (1)(a) took place. 10

(7) In this Chapter—

"authorised", in relation to a service police officer, means of or above the rank of naval lieutenant, military or marine captain or flight lieutenant; 15

"domestic abuse" has the same meaning as in the Domestic Abuse Act 2021 (see sections 1 and 2 of that Act);

"personally connected" has the same meaning as in the Domestic Abuse Act 2021 (see section 2 of that Act); 20

"service police officer" means a member of a service police force.

74B Matters to be considered before giving a notice

(1) Before giving a service domestic abuse protection notice to a person ("P"), an authorised service police officer must, 25 among other things, consider the following—

(a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the giving of the notice (whether or not that person and P are personally connected); 30

(b) the opinion of the person for whose protection the notice would be given as to the giving of the notice;

(c) any representations made by P about the giving of the notice;

(d) in a case where the notice includes provision relating to premises lived in by the person for whose protection the notice would be given, the opinion of any relevant occupant as to the giving of the notice. 35

(2) In subsection (1)(d) "relevant occupant" means a person other than P or the person for whose protection the notice would be given— 40

(a) who lives in the premises, and

(b) who is personally connected to—
(i) the person for whose protection the notice would be given, or
(ii) if P also lives in the premises, P.

(3) The authorised service police officer must take reasonable steps to discover the opinions mentioned in subsection (1)(b) and (d).

(4) It is not necessary for the person for whose protection a service domestic abuse protection notice is given to consent to the giving of the notice.

74C Further requirements in relation to notices

(1) A service domestic abuse protection notice must be in writing.

(2) A service domestic abuse protection notice given to a person must state—
(a) the grounds on which it has been given,
(b) that if the person is reasonably suspected of being in breach of the notice, they may be arrested in accordance with section 67(2), (3), (4) or (5) by a person subject to service law,
(c) that an application for a service domestic abuse protection order under section 236C will be heard within 48 hours of the time of giving the notice and that a notice of the hearing will be given to the person,
(d) that the notice continues in effect until that application has been determined or withdrawn, and
(e) the provision that may be included in a service domestic abuse protection order.

(3) The notice must be served on the person personally by a service police officer.

(4) On serving the notice on the person, the service police officer must ask the person for an address at which the person may be given the notice of the hearing of the application for the service domestic abuse protection order.

(5) After serving the notice on the person, the service police officer must make reasonable efforts to inform the person's commanding officer of the giving of the notice.

74D Breach of notice

(1) A person who is reasonably suspected of being in breach of a service domestic abuse protection notice may be arrested in accordance with section 67(2), (3), (4) or (5) by a person subject to service law.

(2) Section 67(6) applies in relation to the power of arrest conferred by subsection (1) as it applies in relation to the power of arrest conferred by section 67.

(3) A person arrested by virtue of subsection (1) must be kept in service custody and brought before the Court Martial or the Service Civilian Court—

(a) before the end of the period of 24 hours beginning with the time of the arrest, or

(b) if earlier, at the hearing of the application for a service domestic abuse protection order against the person.

(4) In calculating when the period of 24 hours mentioned in subsection (3)(a) ends, the following days are to be disregarded—

(a) any Sunday,

(b) Christmas Day,

(c) Good Friday, and

(d) any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(5) If the person is brought before the court as mentioned in subsection (3)(a), the court may—

(a) give orders for the further detention of the person in service custody, or

(b) direct that the person is released from service custody.

(For powers in relation to a person who is brought before the court as mentioned in subsection (3)(b), see section 236D(8)).

(6) The court may, when directing a person's release from service custody under subsection (5)(b), require the person to comply, before release or later, with any requirements that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice."

PART 2

SERVICE DOMESTIC ABUSE PROTECTION ORDERS

2 In Part 8 of AFA 2006 (sentencing powers and mandatory etc sentences), after Chapter 7 insert—

"CHAPTER 8

ORDERS FOR PROTECTION FROM DOMESTIC ABUSE AND STALKING

Service domestic abuse protection orders

236C Power to make orders

(1) The Court Martial or the Service Civilian Court may make a service domestic abuse protection order in respect of a person aged 18 or over (the "defendant")—
  (a) where the court convicts or acquits the defendant of any offence, or
  (b) on an application made to the court by a Provost Marshal

(2) An application under subsection (1)(b) may be made only in respect of a person who is—
  (a) subject to service law, or
  (b) a civilian subject to service discipline.

(3) A "service domestic abuse protection order" is an order which, for the purpose of preventing the defendant from being abusive towards a person aged 16 or over to whom the defendant is personally connected—
  (a) prohibits the defendant from doing things described in the order, or
  (b) requires the defendant to do things described in the order.

(4) The court may only make a service domestic abuse protection order in respect of the defendant if—
  (a) it is satisfied on the balance of probabilities that the defendant has been abusive towards a person aged 16 or over to whom the defendant is personally connected, and
  (b) the order is necessary and proportionate to protect that person from domestic abuse, or the risk of domestic abuse, carried out by the defendant.

(5) It does not matter—
  (a) where the abusive behaviour referred to in subsection (4)(a) took place, or
  (b) whether it took place before or after the coming into force of this section.

(6) Where the Court Martial Appeal Court, or the Supreme Court on an appeal brought from the Court Martial Appeal Court, allows an appeal against conviction, it may remit the case to the Court Martial for that court to consider whether to proceed under this section.

(7) Subsection (1) applies in relation to a case remitted under subsection (6) as if paragraphs (a) and (b) were omitted.

236D Applications where service domestic abuse protection notice given

(1) Where a person is given a service domestic abuse protection notice under section 74A, a Provost Marshal must apply for a service domestic abuse protection order in respect of the person (see section 236C(1)(b)).

(2) The application must be heard by the court not later than 48 hours after the notice was given to the person.

(3) In calculating when the period of 48 hours mentioned in subsection (2) ends, the following days are to be disregarded—

(a) any Sunday,

(b) Christmas Day,

(c) Good Friday, and

(d) any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) The person must be given a notice of the hearing of the application.

(5) The notice under subsection (4) is to be treated as given if it has been left at the address given by the person under section 74C(4).

(6) If the notice has not been given because the person did not give an address under section 74C(4), the court may hear the application if satisfied that the Provost Marshal has made reasonable efforts to give the person the notice.

(7) If the court adjourns the hearing of the application, the service domestic abuse protection notice continues in effect until the application has been determined or withdrawn.

(8) If—

(a) the person is brought before the court at the hearing of the application as a result of the person's arrest by virtue of section 74D (arrest for breach of a service domestic abuse protection notice), and

(b) the court adjourns the hearing,

the court may authorise the keeping of the person in service custody or direct that the person is released from service custody.

236E Matters to be considered before making an order

(1) Before making a service domestic abuse protection order in respect of a defendant, the court must, among other things, consider the following—

(a) the welfare of any person under the age of 18 whose interests the court considers relevant to the making of the order (whether or not that person and the defendant are personally connected);

(b) any opinion of the person for whose protection the order would be made—

(i) which relates to the making of the order, and

(ii) of which the court is made aware;

(c) in a case where the order includes provision relating to premises lived in by the person for whose protection the order would be made, any opinion of a relevant occupant—

(i) which relates to the making of the order, and

(ii) of which the court is made aware.

(2) In subsection (1)(c) "relevant occupant" means a person other than the defendant or the person for whose protection the order would be made—

(a) who lives in the premises, and

(b) who is personally connected to—

(i) the person for whose protection the order would be made, or

(ii) if the defendant also lives in the premises, the defendant.

(3) It is not necessary for the person for whose protection a service domestic abuse protection order is made to consent to the making of the order.

236F Making of orders without notice

(1) The Court Martial or the Service Civilian Court may, in any case where it is just and convenient to do so, make a service domestic abuse protection order against a defendant even though the defendant has not been given such notice of the proceedings as would otherwise be required by the rules of that court.

(2) Subsection (1) does not apply in relation to the making of an order on an application made in accordance with section 236D(1) (see instead section 236D(4) to (6)).

(3) In deciding whether to exercise its powers under subsection (1), the court must have regard to all the circumstances, including—

(a) any risk that, if the order is not made immediately, the defendant will cause significant harm to the person for whose protection the order would be made,

(b) in a case where an application for the order has been made, whether it is likely that the Provost Marshal making the application will be deterred or prevented from pursuing the application if an order is not made immediately, and

(c) whether there is reason to believe that—

(i) the defendant is aware of the proceedings but is deliberately evading service, and

(ii) the delay involved in effecting substituted service will cause serious prejudice to the person for whose protection the order would be made.

(4) If the court makes an order against the defendant by virtue of subsection (1), it must give the defendant an opportunity to make representations about the order—

(a) as soon as just and convenient, and

(b) at a hearing of which notice has been given to all the parties in accordance with the rules of that court.

236G Requirements

(1) The Court Martial or the Service Civilian Court may by a service domestic abuse protection order impose any requirements that the court considers necessary to protect the person for whose protection the order is made from domestic abuse or the risk of domestic abuse.

(2) The court must, in particular, consider what requirements (if any) may be necessary to protect the person for whose protection the order is made from different kinds of abusive behaviour.

(3) Requirements must, so far as practicable, be such as to avoid—

(a) conflict with the defendant's religious beliefs;

(b) interference with the defendant's work or with the defendant's attendance at an educational establishment;

(c) conflict with the requirements of any other court order or injunction to which the defendant may be subject.

(4) Subsections (5) to (8) contain examples of the type of provision that may be made under subsection (1), but they do not limit the type of provision that may be so made.

(5) A service domestic abuse protection order may provide that the defendant—

(a) may not contact the person for whose protection it is made;

(b) may not come within a specified distance of any premises in which that person lives;

(c) may not come within a specified distance of any other specified premises, or any other premises of a specified description.

"Specified" means specified in the order.

(6) If the defendant lives in premises in which the person for whose protection the order is made also lives, the order may contain provision—

(a) prohibiting the defendant from evicting or excluding that person from the premises;

(b) prohibiting the defendant from entering the premises;

(c) requiring the defendant to leave the premises.

(7) A service domestic abuse protection order may require the defendant to participate in an assessment to determine whether the defendant should be required to participate in a programme of activities.

(8) A service domestic abuse protection order may provide that if, following an assessment required under subsection (7), the person carrying out the assessment determines that the defendant should participate in a programme of activities, then the defendant is required to participate in that programme of activities.

236H Duration of orders

(1) Subject to subsection (2), a service domestic abuse protection order takes effect on the day on which it is made.

(2) If, on the day on which a service domestic abuse protection order ("the new order") is made against a defendant, the defendant is subject to another service domestic abuse protection order ("the previous order"), the new order may be made so as to take effect on the previous order ceasing to have effect.

(3) A service domestic abuse protection order has effect—

(a) for a fixed period specified in the order,

(b) until the occurrence of an event specified in the order, or

(c) until a further order.

(4) Different periods or events may be specified in relation to different requirements.

236I Breach of order

(1) A person who is subject to service law or a civilian subject to service discipline commits an offence if they—

(a) are subject to a service domestic abuse protection order, and

(b) without reasonable excuse, fail to comply with any requirement imposed by the order.

(2) In a case where the order was made against the person without them being given notice of the proceedings, the person commits an offence under this section only in respect of behaviour engaged in at a time when they were aware of the existence of the order.

(3) A person who commits an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment imposed in respect of the offence must not exceed five years.

(4) If a civilian subject to service discipline is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order under section 185 discharging the person absolutely or conditionally.

(5) In proceedings for an offence under this section, a copy of the original domestic abuse protection order, certified by the proper officer of the court that made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those matters is admissible in those proceedings.

236J Variation and discharge of orders

(1) This section applies where a person ("P") who is subject to service law or a civilian subject to service discipline is subject to a service domestic abuse protection order.

(2) The Court Martial or the Service Civilian Court may vary or discharge the order—
   (a) of its own motion,
   (b) where the court convicts or acquits P of any offence, or
   (c) on the application of P, the person for whose protection the order was made or a Provost Marshal.

(3) Before deciding whether to vary or discharge an order under this section, the court must hear from—
   (a) any Provost Marshal who wishes to be heard, and
   (b) in a case where P is seeking to discharge the order, or to remove or make less onerous any requirement imposed by the order, the person for whose protection the order was made.

(4) Section 236E (matters to be considered before making an order) applies in relation to the variation or discharge of a service domestic abuse protection order as it applies in relation to the making of such an order, but as if references to the person for whose protection the order would be made were references to the person for whose protection the order was made.

(5) Section 236F (making of orders without notice) applies in relation to the variation of a service domestic abuse protection order as it applies in relation to the making of such an order, but as if—

(a) references to the person for whose protection the order would be made were references to the person for whose protection the order was made,

(b) subsection (2) were omitted, and

(c) the reference in subsection (4) to making representations about the order were a reference to making representations about the variation.

(6) The court may make any order varying or discharging a service domestic abuse protection order that it considers appropriate. This is subject to subsections (7) to (10).

(7) The court may include an additional requirement in the order, or extend the period for which the order, or a requirement imposed by the order, has effect, only if it is satisfied that it is necessary to do so in order to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.

(8) The court may remove any requirement imposed by the order, or make such a requirement less onerous, only if satisfied that the requirement as imposed is no longer necessary to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.

(9) If it appears to the court that any conditions necessary for a requirement to be imposed are no longer met, the court—

(a) may not extend the requirement, and

(b) must remove the requirement.

(10) The court may discharge the order only if satisfied that the order is no longer necessary to protect the person for whose protection it was made from domestic abuse, or the risk of domestic abuse, carried out by P.

(11) Subsection (12) applies in a case where—

(a) an order made in respect of a person is varied under this section so as to include an additional requirement, or to extend the period for which the order, or a requirement imposed by the order, has effect, and

(b) the person was not given notice of the proceedings.

(12) Behaviour engaged in by the person that would not have constituted an offence under section 236I in the absence of the variation constitutes an offence under that section only if it was engaged in at a time when the person was aware of the making of the variation.

236K Appeals

(1) Subsections (2) and (3) apply where the Court Martial or Service Civilian Court acquits a person of an offence and—

(a) makes a service domestic abuse protection order in respect of the person (see section 236C(1)(a)), or

(b) varies a service domestic abuse protection order made in respect of the person (see section 236J(2)(b)).

(2) For the purposes of sections 285 to 287 (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968—

(a) the order or varied order is to be treated as a sentence passed on the person in respect of the offence, and

(b) the person is to be treated for the purpose of enabling them to appeal against the order as if they had been convicted of the offence by the court.

(3) For the purposes of any appeal against the order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.

(4) Subsection (5) applies where the Court Martial or Service Civilian Court makes a decision—

(a) on an application for a service domestic abuse protection order (see section 236C(1)(b)),

(b) on an application to vary or discharge a service domestic abuse protection order (see section 236J(2)(c)).

(5) The following persons may, with the leave of the relevant appeal court, appeal to that court against the decision (to the extent that the decision would not otherwise be so appealable)—

(a) the person in respect of whom the order was made;

(b) a person for whose protection the order was sought;

(c) a Provost Marshal.

(6) Before determining any appeal relating to a service domestic abuse protection order, the relevant appeal court must hear from any Provost Marshal who wishes to be heard.

(7) On an appeal under subsection (5), the court may make—

(a) such orders as may be necessary to give effect to its determination of the appeal;

(b) such incidental or consequential orders as appear to it to be just.

(8) For the purposes of section 236J (variation and discharge of orders)—

(a) a service domestic abuse protection order that has been confirmed or varied on an appeal remains an order of the court that first made it;

(b) a service domestic abuse protection order made on an appeal is to be treated as an order made by the court whose decision was appealed against.

(9) In this section, "relevant appeal court" means—

(a) where the appeal is against a decision of the Court Martial, the Court Martial Appeal Court;

(b) where the appeal is against a decision of the Service Civilian Court, the Court Martial.

(10) Section 9 of the Court Martial Appeals Act 1968 (application for leave to appeal) applies for the purposes of an appeal under subsection (5) against a decision of the Court Martial.

(11) Subsections (3) to (5) of section 285 of this Act apply for the purposes of an appeal under subsection (5) against a decision of the Service Civilian Court.

236L Sections 236C to 236K: interpretation

In sections 236C to 236K—

"defendant" has the meaning given by section 236C(1);

"domestic abuse" has the same meaning as in the Domestic Abuse Act 2021 (see sections 1 and 2 of that Act);

"personally connected" has the same meaning as in the Domestic Abuse Act 2021 (see section 2 of that Act);

"requirement" includes any prohibition or restriction;

"service domestic abuse protection order" has the meaning given by section 236C(3)."

PART 3

SERVICE STALKING PROTECTION ORDERS

3 In Chapter 8 of Part 8 of AFA 2006 (inserted by paragraph 2 of this Schedule), after section 236L insert—

"Service stalking protection orders

236M Service stalking protection orders

(1) The Court Martial or the Service Civilian Court may make a service stalking protection order in respect of a person (the "defendant")—

(a) on an application made by a Provost Marshal in respect of the defendant (and see subsection (3)),

(b) where the court convicts or acquits the defendant of any offence,

(c) where the court dismisses or allows the defendant's appeal against a conviction for any offence, or

(d) where the court deals with the defendant in respect of a finding that—
  (i) the defendant is not guilty of any offence by reason of insanity, or
  (ii) the defendant is under a disability and has done the act charged against them in respect of any offence.

(2) A "service stalking protection order" is an order under this section which, for the purpose of preventing the defendant from carrying out acts associated with stalking—
  (a) prohibits the defendant from doing anything described in the order;
  (b) requires the defendant to do anything described in the order.

(3) A Provost Marshal may only apply for a service stalking protection order in respect of the defendant if the defendant is subject to service law or a civilian subject to service discipline and it appears to the Provost Marshal that—
  (a) the defendant has carried out acts associated with stalking,
  (b) the defendant poses a risk associated with stalking to another person, and
  (c) there is reasonable cause to believe the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)).

(4) The court may only make a service stalking protection order in respect of the defendant if it is satisfied on the balance of probabilities that—
  (a) the defendant has carried out acts associated with stalking,
  (b) the defendant poses a risk associated with stalking to another person, and
  (c) the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)).

(5) It does not matter—
  (a) where the acts mentioned in subsection (3)(a) or (4)(a) were carried out, or
  (b) whether they were carried out before or after the commencement of this section.

(6) See section 2A of the Protection from Harassment Act 1997 for examples of acts associated with stalking.

(7) A risk associated with stalking—
  (a) may be in respect of physical or psychological harm to the other person;

(b) may arise from acts which the defendant knows or ought to know are unwelcome to the other person even if, in other circumstances, the acts would appear harmless in themselves.

(8) Where the Court Martial Appeal Court, or the Supreme Court on an appeal brought from the Court Martial Appeal Court, allows an appeal against conviction it may remit the case to the Court Martial for that court to consider whether to proceed under this section.

(9) Subsection (1) applies in relation to a case remitted under subsection (8) as if paragraphs (a) to (d) were omitted.

236N Requirements

(1) The Court Martial or the Service Civilian Court may include a requirement in a service stalking protection order only if satisfied on the balance of probabilities that the requirement is necessary to protect a person from a risk associated with stalking.

(2) Requirements must, so far as practicable, be such as to avoid—
(a) conflict with the defendant's religious beliefs;
(b) interference with the defendant's work or with the defendant's attendance at an educational establishment;
(c) conflict with the requirements of any other court order or injunction to which the defendant may be subject.

236O Duration of service stalking protection orders

(1) A service stalking protection order has effect—
(a) for a fixed period specified in the order, or
(b) until a further order.

(2) Where a fixed period is specified it must be a period of at least 2 years beginning with the day on which the order is made.

(3) Different periods may be specified in relation to different requirements.

236P Variations, renewals and discharges

(1) This section applies where a person who is subject to service law or a civilian subject to service discipline is subject to a service stalking protection order.

(2) The person or a Provost Marshal may apply to the Court Martial or the Service Civilian Court for an order varying, renewing or discharging the order.

(3) Before making a decision on an application under subsection (2), the court must hear from—

(a) the person, and
(b) any Provost Marshall who wants to be heard.

(4) On an application under subsection (2) the court may make any order varying, renewing or discharging the service stalking protection order that the court considers appropriate.

(5) But the court may not—
(a) in renewing or varying an order, impose an additional requirement unless satisfied on the balance of probabilities that it is necessary to do so in order to protect a person from a risk associated with stalking;
(b) discharge an order before the end of 2 years beginning with the day on which the order was made without the consent of the person in respect of whom the order was made and—
(i) where the application was made by the person, a Provost Marshal;
(ii) where the application was made by a Provost Marshal, that Provost Marshal.

236Q Interim service stalking protection orders

(1) This section applies where an application for a service stalking protection order (the "main application") has not been determined.

(2) The court to which the main application was made may make an order (an "interim service stalking protection order") in respect of the defendant on an application made—
(a) at the same time and by the same Provost Marshal as the main application, or
(b) if the main application has already been made, by the Provost Marshal who made that application.

(3) The court may, if it considers it appropriate to do so, make an interim service stalking protection order—
(a) prohibiting the defendant from doing anything described in the order, or
(b) requiring the defendant to do anything described in the order.

(4) Requirements must, so far as practicable, be such as to avoid—
(a) conflict with the defendant's religious beliefs, and
(b) interference with the defendant's work or with the defendant's attendance at an educational establishment.

(5) An interim service stalking protection order—
(a) has effect only for a fixed period specified in the order, and
(b) ceases to have effect, if it has not already done so, on the determination of the main application.

(6) The defendant or the Provost Marshal who applied for an interim service stalking protection order may apply to the court which made the order for an order varying, renewing or discharging it.

(7) On an application under subsection (6), the court may make any order varying, renewing or discharging the interim service stalking protection order that the court considers appropriate. 5

236R Content of orders

A service stalking protection order and an interim service stalking protection order must specify—

(a) the date on which the order is made; 10

(b) whether it has effect for a fixed period and, if it does, the length of that period;

(c) each requirement that applies to the defendant;

(d) whether any requirement is expressly limited to a particular locality and, if it is, what the locality is; 15

(e) whether any requirement is subject to a fixed period which differs from the period for which the order has effect and, if it is, what that period is.

236S Appeals

(1) Subsections (2) and (3) apply where the Court Martial or Service Civilian Court— 20

(a) makes a service stalking protection order—

(i) where it acquits a person of an offence, or

(ii) where it deals with a person in respect of a finding mentioned in section 236M(1)(d) (insanity etc), or 25

(b) varies a service stalking protection order made in a case mentioned in paragraph (a).

(2) For the purposes of sections 285 to 287 (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968—

(a) the order or varied order is to be treated as a sentence passed on the person in respect of the offence, and 30

(b) the person is to be treated for the purpose of enabling the person to appeal against the order as if the person had been convicted of the offence by the court.

(3) For the purposes of any appeal against the order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order. 35

(4) Subsection (5) applies where the Court Martial or Service Civilian Court makes a decision—

(a) on an application for a service stalking protection order or an interim service stalking protection order, or

(b) on an application to vary, renew or discharge a service stalking protection order or an interim service stalking protection order.

(5) The following persons may, with the leave of the relevant appeal court, appeal to that court against the decision (to the extent that the decision is not otherwise appealable)—

(a) the person in respect of whom the order was made;

(b) a Provost Marshal.

(6) On an appeal under subsection (5), the court may make—

(a) such orders as may be necessary to give effect to its determination of the appeal, and

(b) such incidental or consequential orders as appear to it to be appropriate.

(7) For the purposes of section 236P (variations, renewals and discharges)—

(a) a service stalking protection order that has been confirmed, varied or renewed on an appeal remains an order of the court that first made it;

(b) a service stalking protection order made on an appeal is to be treated as an order made by the court whose decision was appealed against.

(8) In this section, "relevant appeal court" means—

(a) where the appeal is against a decision of the Court Martial, the Court Martial Appeal Court;

(b) where the appeal is against a decision of the Service Civilian Court, the Court Martial.

(9) Section 9 of the Court Martial Appeals Act 1968 (application for leave to appeal) applies for the purposes of an appeal under subsection (5) against a decision of the Court Martial.

(10) Subsections (3) to (5) of section 285 of this Act apply for the purposes of an appeal under subsection (5) against a decision of the Service Civilian Court.

236T Offence of breaching service stalking protection order etc

(1) A person who is subject to service law or a civilian subject to service discipline who, without reasonable excuse, breaches a service stalking protection order or an interim service stalking protection order commits an offence.

(2) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence

of imprisonment imposed in respect of the offence must not exceed five years.

(3) If a civilian subject to service discipline is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make an order under section 185 discharging the person absolutely or conditionally.

(4) In proceedings for an offence under this section, a copy of the original service stalking protection order or interim service stalking protection order, certified by the designated officer for the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.

236U Sections 236M to 236T: interpretation

(1) This section applies for the purposes of sections 236M to 236T.

(2) In those sections—

"acts" includes omissions;

"defendant" has the meaning given by section 236M(1);

"interim service stalking protection order" has the meaning given by section 236Q(2);

"requirement" includes any prohibition or restriction;

"service stalking protection order" has the meaning given by section 236M(2).

(3) References to a "risk associated with stalking" are to be read in accordance with section 236M(7)."

PART 4

NOTIFICATION REQUIREMENTS

4 In Chapter 8 of Part 8 of AFA 2006 (inserted by paragraph 2 of this Schedule), after section 236U (inserted by paragraph 3 of this Schedule) insert—

"Notification requirements

236V Notification requirements

(1) This section applies where a person who is subject to service law or a civilian subject to service discipline is subject to any of the following orders ("the order")—

(a) a service domestic abuse protection order;

(b) a service stalking protection order;

(c) an interim service stalking protection order which has not been replaced by a service stalking protection order.

(2) The person must, within the period of three days beginning with the day on which the order is made, notify to a service police force the information in subsection (3).

(3) The information is—

(a) the person's name and, if the person uses one or more other names, each of those names;

(b) the person's home address.

(4) If the person uses a name which has not been notified under this section, the person must, within the period of three days beginning with the day on which the person first uses that name, notify a service police force of that name.

(5) If the person changes home address, the person must, before the end of the period of three days beginning with the day on which that happens, notify a service police force of the new home address.

(6) If the person ceases to have any home address, the person must, before the end of the period of three days beginning with the day on which that happens, notify a service police force of that fact.

(7) The Secretary of State may by regulations specify further notification requirements which the court may impose when making or varying an order of a type mentioned in subsection (1).
In this subsection a "notification requirement" is a requirement for the person subject to the order to provide specified information to a service police force.

(8) The requirements imposed by subsections (2) to (6) do not apply where the person is subject to notification requirements under—

(a) this section, in respect of a different order of a type mentioned in subsection (1),

(b) Part 3 of the Domestic Abuse Act 2021,

(c) section 9 of the Stalking Protection Act 2019, or

(d) Part 2 of the Sexual Offences Act 2003.

(9) If on any day the person ceases to be subject to any notification requirements mentioned in subsection (8), the requirements imposed by subsections (2) to (6) apply to the person on and after that day, but as if the reference in subsection (2) to the day on which the order was made were a reference to that day.

(10) In this section, in relation to a person, "home address" means—

(a) the address of the person's sole or main residence, or

(b) if the person has no such residence—

(i) the address or location of a place where the person can regularly be found;

(ii) if there is more than one such place, the address or location of whichever one of those places the person selects.

(11) For the purposes of this section and section 236W the tri-service serious crime unit is to be regarded as a service police force.

236W Offences relating to notification

(1) A person commits an offence if—

(a) without reasonable excuse, they fail to comply with a requirement imposed by or under section 236V, or

(b) they notify a service police force, in purported compliance with such a requirement, of any information which they know to be false.

(2) A person commits an offence under subsection (1)(a) on the day on which the person first fails, without reasonable excuse, to comply with a requirement imposed by or under section 236V.

(3) The person continues to commit the offence throughout any period during which the failure continues.

(4) But the person may not be prosecuted more than once in respect of the same failure.

(5) A person who commits an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment imposed in respect of the offence must not exceed five years."

PART 5

GUIDANCE

5 In Chapter 8 of Part 8 of AFA 2006 (inserted by paragraph 2 of this Schedule), after section 236W (inserted by paragraph 4 of this Schedule) insert—

"Guidance

236X Guidance

(1) The Secretary of State must issue guidance to Provost Marshals about the exercise of their functions under this Chapter and under Chapter 1A of Part 3 (service domestic abuse protection notices).

(2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).

(3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate."

PART 6

ENFORCEMENT ETC OF SERVICE DOMESTIC ABUSE PROTECTION ORDERS BY CIVILIAN COURTS

6 After section 49 of the Domestic Abuse Act 2021 insert—

"49ZA Service domestic abuse protection orders

(1) This section applies where—

(a) a person is subject to an order made by the Court Martial or the Service Civilian Court under section 236C of the Armed Forces Act 2006 (a "service domestic abuse protection order"), and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) The service domestic abuse protection order is to be treated as a domestic abuse protection order made by the Crown Court under this Act in respect of the person, subject as follows.

(3) Section 39 (breach of order) applies as if, in subsection (8), after "original" there were inserted "service".

(4) Section 41 (notification requirements) applies as if, in subsection (2), the reference to "the day on which the order is made" were to the day on which the person ceased to be subject to service law or a civilian subject to service discipline (and subsection (9) is to be read accordingly).

(5) Section 42 (further provision about notification) applies as if—

(a) in subsection (2)—

(i) in paragraph (a), for "England and Wales" there were substituted "the United Kingdom";

(ii) in paragraph (b), for the words from "England and Wales" to the end there were substituted "the United Kingdom, any police area.";

(b) after subsection (2) there were inserted—

"(2A) Subsections (1) and (2) apply in relation to Scotland as if Scotland were a police area.

(2B) Subsections (1) and (2) apply in relation to Northern Ireland as if Northern Ireland were a police area."

(6) Section 44 (variation and discharge of orders) applies as if the following were omitted—

(a) subsection (3)(c);

(b) subsection (10).

(7) Section 45 (supplementary provision about variation and discharge of orders), applies as if—

(a) in subsections (1) and (7), references to the court that made the order were to the Crown Court;

(b) subsections (2), (3) and (4) were omitted.

(8) Section 46 (appeals) applies as if the following were omitted—

(a) subsections (1) to (4);

(b) subsection (6)(c).

(9) Section 47 (further provision about appeals) applies as if, in subsection (5)—

(a) in paragraph (a), for "court that first made it" there were substituted "Crown Court";

(b) in paragraph (b), for "court whose decision was appealed against" there were substituted "Crown Court".

(10) In this section, "civilian subject to service discipline" and "subject to service law" have the same meanings as in the Armed Forces Act 2006 (see sections 370 and 374 of that Act)."

PART 7

ENFORCEMENT ETC OF SERVICE STALKING PROTECTION ORDERS BY CIVILIAN COURTS

Amendment of Stalking Protection Act 2019

7 After section 11 of the Stalking Protection Act 2019 insert—

"Service stalking protection orders

11A Service stalking protection orders

(1) This section applies where—

(a) a person is subject to—

(i) an order made under section 236M of the Armed Forces Act 2006 (a "service stalking protection order"), other than one made on conviction of the person for an offence, or

(ii) an order made under section 236Q of that Act (an "interim service stalking protection order"), and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) The service stalking protection order or interim service stalking protection order is to be treated as a stalking protection order or, as the case may be, interim stalking protection order made by the

Crown Court under this Act in respect of the person, subject as follows.

(3) Section 4 (variations, renewals and discharges) applies as if—

(a) references to the defendant were to the person in respect of whom the service stalking protection order was made;

(b) in subsection (4)(b)—

(i) in sub-paragraph (ii), the words from "and relates" to "(if different)" were omitted;

(ii) sub-paragraph (iii) were omitted;

(c) for subsection (5) there were substituted—

"(5) In subsection (1) "appropriate court" means the Crown Court.";

(d) subsection (6) were omitted.

(4) Section 5 (interim stalking protection orders) applies as if—

(a) subsections (1) to (6) were omitted;

(b) for subsection (7) there were substituted—

"(7) The person in respect of whom an interim service stalking protection order was made or a relevant chief officer of police may apply to the Crown Court for an order varying, renewing or discharging the order.";

(5) Section 7 (appeals) applies as if—

(a) in subsection (1)—

(i) references to "the defendant" were to the person in respect of whom the service stalking protection order or interim service stalking protection order was made;

(ii) paragraphs (a) and (b) were omitted;

(b) in subsection (2), the following were omitted—

(i) in the words before paragraph (a), "a stalking protection order, an interim stalking protection order or";

(ii) paragraphs (a) and (b);

(c) in subsection (5)—

(i) in paragraph (a), for "court that first made it" there were substituted "Crown Court";

(ii) in paragraph (b), for "court whose decision was appealed against" there were substituted "Crown Court".

(6) Section 8 (offence of breaching stalking protection order etc) applies as if, in subsection (5), before "stalking", in both places, there were inserted "service".

(7) Section 9 (notification requirements) applies, subject to subsection (8), as if—

(a) in subsection (1), the reference to "the date of service of the order" were to the date on which the person ceased to be subject to service law or a civilian subject to service discipline (and subsection (7) is to be read accordingly);

(b) in subsection (6)(b), the reference to "the time the order is made" were to the date on which the person ceased to be subject to service law or a civilian subject to service discipline.

(8) Section 9 does not apply in relation to a service stalking protection order or interim service stalking protection order to which a person is subject if section 14 of the Protection from Stalking Act (Northern Ireland) Act 2022 applies in relation to that order by virtue of section 16A of that Act.

(9) Section 10 (method of notification and related matters) applies as if—

(a) in subsection (1), for "England and Wales" there were substituted "the United Kingdom";

(b) in subsection (2)—

(i) in the opening words, for "England and Wales" there were substituted "the United Kingdom";

(ii) in paragraph (a), for the words from "the local police area" to "situated" there were substituted "any local police area";

(c) after subsection (2) there were inserted—

"(2A) Subsections (1) and (2) apply in relation to Scotland as if Scotland were a local police area."

(10) Section 14 (interpretation) applies as if, in the definition of "relevant chief officer of police", paragraph (c) were omitted.

(11) In this section, "civilian subject to service discipline" and "subject to service law" have the same meanings as in the Armed Forces Act 2006 (see sections 370 and 374 of that Act)."

Amendment of Sentencing Code

8 After section 364H of the Sentencing Code insert—

"Service stalking protection orders

364I Service stalking protection orders

(1) This section applies where—

(a) a person is subject to an order made under section 236M of the Armed Forces Act 2006 (a "service stalking protection order") on conviction of the person for an offence, and

(b) the person is no longer subject to service law or a civilian subject to service discipline.

(2) The service stalking protection order is to be treated as a stalking protection order made by the Crown Court under section 364B in respect of the person, subject as follows.

(3) Section 364D (variations, renewal or discharge of order) applies as if—

(a) references to "the offender" were to the person in respect of whom the service stalking protection order was made;

(b) in subsection (1), for "an appropriate court" there were substituted "the Crown Court";

(c) in subsection (4)(b)—

(i) the reference to "the day on which the order was made" were to the day on which the person ceased to be subject to service law or a civilian subject to service discipline;

(ii) sub-paragraph (i) were omitted.

(4) Section 364F (appeals) applies as if—

(a) subsection (1) were omitted;

(b) in subsection (5), for "court that first made it" there were substituted "Crown Court".

(5) Section 364G applies as if, in subsection (4), after "original" there were inserted "service".

(6) Section 364H (notification requirements) applies as if the references to sections 9 to 11 of the Stalking Protection Act 2019 were to those provisions as modified by section 11A of that Act.

(7) In this section, "civilian subject to service discipline" and "subject to service law" have the same meanings as in the Armed Forces Act 2006 (see sections 370 and 374 of that Act)."

Amendment of Protection from Stalking Act (Northern Ireland) Act 2022

9 After section 16 of the Protection from Stalking Act (Northern Ireland) Act 2022 insert—

"Service stalking protection orders

16A Service stalking protection orders

(1) This section applies where—

(a) a person is subject to—

(i) an order made under section 236M of the Armed Forces Act 2006 (a "service stalking protection order"),

other than one made on conviction of the person for an offence, or

(ii) an order made under section 236Q of that Act (an "interim service stalking protection order");

(b) the person is no longer subject to service law or a civilian subject to service discipline, and

(c) the person resides in Northern Ireland.

(2) Sections 10 and 13 to 16 of this Act apply to the service stalking protection order as they apply to a stalking protection order under this Act, with the following modifications—

(a) section 13 applies as if, in subsection (5), the words "the clerk of petty sessions or" were omitted;

(b) section 14 applies as if—

(i) in subsections (1) and (7), references to the date on which the order comes into force were to the date on which the person first resides in Northern Ireland after ceasing to be subject to service law or a civilian subject to service discipline;

(ii) in subsection (6)(b), the reference to the time the order is made were to the date on which the person first resides in Northern Ireland after ceasing to be subject to service law or a civilian subject to service discipline.

(3) Sections 11(7) to (9) and 13 to 16 of this Act apply to the interim service stalking protection order as they apply to an interim stalking protection order under this Act, with the following modifications—

(a) section 11(9) applies as if the words from "on the main" to the end of that subsection were omitted;

(b) section 13 applies with the modification specified in subsection (2)(a) above;

(c) section 14 applies with the modifications specified in subsection (2)(b) above.

(4) In this section, the following terms have the same meanings as in the Armed Forces Act 2006—

"civilian subject to service discipline" (see section 370 of that Act);

"subject to service law" (see section 374 of that Act)."

PART 8

CONSEQUENTIAL AND RELATED AMENDMENTS

10 AFA 2006 is amended as follows.

11 In section 50(2) (meaning of "service offence"), before paragraph (d) insert—

"(cb) an offence under section 232G (breach of service sexual offences prevention order or extended prohibition order);

(cc) an offence under section 236I (breach of service domestic abuse protection order);

(cd) an offence under section 236T (breach of service stalking protection order or interim service stalking protection order);

(ce) an offence under section 236W (service domestic abuse and stalking protection orders: offences in relation to notification);".

12 In section 103 (custody without charge: other cases)—

(a) the existing text becomes subsection (1);

(b) after that subsection insert—

"(2) Section 74D makes provision for a person arrested on suspicion of being in breach of a service domestic abuse protection notice to be kept in custody without charge."

13 In section 112 (custody proceedings rules), in subsection (1), before paragraph (a) insert—

"(za) under section 74D;".

SCHEDULE 4

Section 32

ARMED FORCES COMMISSIONER: FUNCTIONS RELATING TO ROYAL FLEET AUXILIARY

PART 1

NEW SCHEDULE 14ZB TO AFA 2006

1 After Schedule 14ZA to AFA 2006 (inserted by Schedule 1 to the Armed Forces Commissioner Act 2025) insert—

"SCHEDULE 14ZB

365AA(7)

ARMED FORCES COMMISSIONER: FUNCTIONS IN RELATION TO ROYAL FLEET AUXILIARY

Introductory

1 (1) This Schedule confers functions on the Armed Forces Commissioner in relation to persons who are members of the Royal Fleet Auxiliary.

(2) In this Schedule—

(a) references to the Commissioner are to the Armed Forces Commissioner;

(b) references to RFA members are to persons who are members of the Royal Fleet Auxiliary.

Additional general function

2 (1) In addition to the general function mentioned in section 365AA(2)(a), the Commissioner also has the general function of— 5

(a) promoting the welfare of RFA members, and

(b) improving the public's understanding of the welfare issues faced by RFA members.

(2) The additional general function conferred by sub-paragraph (1) is to be carried out in whatever ways the Commissioner considers best calculated to advance the objectives mentioned in that sub-paragraph. 10

Investigations of general RFA welfare matters

3 (1) The Commissioner may investigate such general RFA welfare matters as the Commissioner considers appropriate, subject to sub-paragraph (4). 15

(2) A "general RFA welfare matter" is a matter which, in the Commissioner's opinion—

(a) arises in connection with the ongoing employment of RFA members with the Royal Fleet Auxiliary, and 20

(b) may materially affect the welfare of RFA members.

(3) The Commissioner must consider any request made by a RFA member to carry out an investigation under this paragraph.

(4) The Commissioner may not under this paragraph investigate—

(a) a particular complaint brought under policies and procedures applicable to RFA members as persons serving in the civil service of the State; 25

(b) a particular complaint brought by or on behalf of a maritime trade union;

(c) a matter which is the subject of a collective agreement between the Secretary of State and a maritime trade union; 30

(d) any other matter falling with paragraphs (a) to (e) of section 340IA(5) (Commissioner investigations of general service welfare matters).

(5) Nothing in sub-paragraph (4) prevents the investigation of a general RFA welfare matter which comes to the attention of the Commissioner in connection with a complaint or matter of a kind mentioned in paragraphs (a) to (d) of that sub-paragraph. 35

(6) The Secretary of State must, in connection with an investigation under this paragraph— 40

(a) co-operate with the Commissioner so far as is reasonable,

(b) give the Commissioner such reasonable assistance as the Commissioner requests, and

(c) consider any findings or recommendations made by the Commissioner (whether or not contained in a report under section 340LA as applied by paragraph 6).

(7) In this paragraph—

"collective agreement" has the same meaning as in the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 178(1) of that Act);

"maritime trade union" means any trade union, within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (see section 1 of that Act), whose members include RFA members.

Power of entry

4 (1) The Commissioner may, for the purposes of an investigation under paragraph 3, enter RFA premises and do any of the following—

(a) view the premises;

(b) observe the carrying on of activities on the premises;

(c) inspect and take copies of any document on, or capable of being viewed using equipment on, the premises;

(d) inspect any equipment or other item on the premises;

(e) take measurements and photographs and make recordings;

(f) require any person on the premises to provide an explanation of any document or to state where it can be found;

(g) make such other enquiries as the Commissioner considers appropriate of any person on the premises;

(h) require any person on the premises to give any other assistance that the Commissioner may reasonably require for the purposes of the investigation.

(2) The reference in sub-paragraph (1)(c) to inspecting and taking copies of any document includes requiring any document kept in electronic form to be produced in a form in which—

(a) it is legible or from which it can readily be produced in a legible form, and

(b) it can be taken away.

(3) If the Commissioner proposes to exercise the power under sub-paragraph (1), the Commissioner must give the Secretary of State notice of the proposal within such period before exercising the power as the Commissioner considers appropriate.

(4) Sub-paragraph (3) does not apply, so far as relating to RFA premises in the United Kingdom, if the Commissioner considers that giving notice would defeat the object of exercising the power.

(5) When exercising the power under sub-paragraph (1), the Commissioner—

(a) may be accompanied by any person and may bring anything required for the purposes of the investigation;

(b) must, if requested to do so by a person on the premises, produce evidence of the Commissioner's identity.

(6) The Secretary of State may prevent or restrict the Commissioner's exercise of the power under sub-paragraph (1) (generally or in a particular case) so far as the Secretary of State considers it necessary to do so—

(a) in the interests of national security, or

(b) for the safety of any person.

(7) The power under sub-paragraph (1) may not be exercised—

(a) in relation to anything that the Commissioner has reasonable grounds for believing to be an item subject to legal privilege;

(b) to require a person to do anything that the person could not be compelled to do in civil proceedings before the High Court (or, in Scotland, the Court of Session).

(8) In this paragraph—

"item subject to legal privilege"—

(a) in England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984;

(b) in Scotland, has the meaning given by section 412 of the Proceeds of Crime Act 2002;

(c) in Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12));

"premises" includes any place and, in particular, includes—

(a) any vehicle, ship or aircraft, and

(b) any tent or movable structure;

"RFA premises" means any premises which are permanently or temporarily occupied or controlled for the purposes of the Royal Fleet Auxiliary but are not service living accommodation.

(9) In the definition of "RFA premises" in sub-paragraph (8), "service living accommodation" has the meaning given by section 96, but for this purpose—

(a) references in that section to any of His Majesty's forces include the Royal Fleet Auxiliary and

(b) the persons within subsection (1A) of that section include RFA members.

Other powers

5 The following provisions apply in relation to an investigation under paragraph 3 as they apply to an investigation carried out by the Commissioner under Part 14A—

(a) section 340J (power to require information, documents and evidence);

(b) section 340K (obstruction and contempt).

Reports

6 Section 340LA (report and recommendations of Commissioner: general service welfare investigations) applies in relation to an investigation under paragraph 3 as it applies to an investigation under section 340IA."

PART 2

CONSEQUENTIAL AND RELATED AMENDMENTS

2 AFA 2006 is amended as follows.

3 (1) Section 340IA (Commissioner investigations of general service welfare matters) is amended as follows.

(2) In subsection (5)—

(a) in paragraph (c), after "proceedings" insert "or of civil proceedings";

(b) in paragraph (d), after "public inquiry" insert "or a relevant investigation".

(3) In subsection (9), after the definition of "public inquiry" insert—

""relevant investigation" means—

(a) an investigation under Part 1 of the Coroners and Justice Act 2009,

(b) an investigation by the procurator fiscal under section 1(1)(a) of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2),

(c) an inquiry under that Act, or

(d) an inquest under the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.));".

4 (1) Section 340O (annual report on system for dealing with service complaints) is amended as follows.

(2) In subsection (2)(b), after "Part" insert "or Schedule 14ZB".

(3) In subsection (6)(b), after "Part" insert "or Schedule 14ZB".

5 In Schedule 14ZA (Armed Forces Commissioner)—

(a) in the shoulder reference, for "365AA" substitute "365AA(6)";
(b) in paragraph 6(2)(b), after "forces" insert "or the Royal Fleet Auxiliary".

SCHEDULE 5

Section 37

CALL OUT AND RECALL FOR SERVICE: TRANSITIONAL CLASSES

1 RFA 1996 is amended as follows.

2 (1) Section 129 (application of Act to members of transitional classes) is amended as follows.

(2) In subsection (1)—
(a) in the opening words, for "members of the reserve forces" substitute "persons";
(b) omit the "or" at the end of paragraph (a);
(c) at the end of paragraph (b) insert—

"(c) the third transitional class (see Parts 5 and 6 of that Schedule), or
(d) the fourth transitional class (see Parts 7 and 8 of that Schedule)."

(3) In subsection (3)—
(a) in both places, omit ", in relation to members of the reserve forces,";
(b) at the end insert—

""the third transitional class" is to be construed in accordance with Part 5 of Schedule 9;
"the fourth transitional class" is to be construed in accordance with Part 7 of Schedule 9."

3 (1) Schedule 9 (application of Act to members of transitional classes) is amended as follows.

(2) In Part 1 (the original transitional class of members of the reserve forces), in the heading, omit "of members of the reserve forces".

(3) In Part 3 (the second transitional class of members of the reserve forces), in the heading, omit "of members of the reserve forces".

(4) In Part 4 (application of Act to members of the second transitional class), after paragraph 30 insert—

"30A Section 53 (maximum duration of service on call out under section 52) applies in relation to the call out of members of the second transitional class as if the powers conferred on His Majesty by subsection (11) were limited to those described in paragraph (b) of that subsection (substitution of "5 years" for "3 years" in subsection (6)).

30B Section 55 (maximum duration of service on call out under section 54) applies in relation to the call out of members of the second transitional class as if the powers conferred on His Majesty by subsection (11) were limited to those described in paragraph (b) of that subsection (substitution of "2 years" for "12 months" in subsection (6))."

(5) After Part 4 insert—

"PART 5

THE THIRD TRANSITIONAL CLASS

34 (1) The third transitional class consists of persons who—

(a) are members of a reserve force,

(b) are not members of the original transitional class or the second transitional class, and

(c) for the time being—

(i) fall within paragraph 35 or 36 and have made an election under paragraph 38 (which has not been revoked), or

(ii) fall within paragraph 37 and have not made an election under paragraph 39.

(2) In this Part of this Schedule "the appointed day" means the day on which paragraph 3(5) of Schedule 5 to the Armed Forces Act 2026 (which inserts this Part of this Schedule) comes into force.

35 A person who becomes a member of a reserve force on or after the appointed day, on transfer to the reserve from the regular services, falls within this paragraph if—

(a) they joined the regular services before the appointed day and did not re-enlist, re-engage or extend their service, or become an officer, in those services on or after that day,

(b) they have remained a member of the reserve force concerned without interruption since being transferred from the regular services, and

(c) they have not extended their service in, or become an officer of, that force since being so transferred.

36 A person who, immediately before the appointed day, was a member of a volunteer reserve force falls within this paragraph if—

(a) they have without interruption since that time remained a member of either or both of—

(i) that force, or

(ii) an ex-regular reserve force, having become a member of that force by virtue of the operation of section 13(4A), and

(b) they have not extended their service in, or become an officer of, any such force since that time.

37 A person who, immediately before the appointed day, was a member of an ex-regular reserve force falls within this paragraph if—

(a) they have remained a member of that force without interruption since that time, and

(b) they have not extended their service in, or become an officer of, that force since that time.

38 (1) A person may make an election under this paragraph if, on the day the election is made, the person falls within paragraph 35 or 36.

(2) A person who is serving in the regular services may make an election under this paragraph if—

(a) they joined the regular services before the appointed day, and

(b) they have not re-enlisted, re-engaged or extended their service, or become an officer, during the period beginning with the appointed day and ending with the day on which the election is made.

(3) An election under this paragraph must be made—

(a) within such period as may be prescribed, and

(b) in the prescribed manner.

(4) An election under this paragraph is revocable.

39 (1) A person may make an election under this paragraph if, on the day the election is made, the person falls within paragraph 37.

(2) An election under this paragraph must be made in the prescribed manner.

(3) A person who has made an election under this paragraph ceases to be a member of the third transitional class.

(4) An election under this paragraph is irrevocable.

PART 6

APPLICATION OF ACT TO MEMBERS OF THE THIRD TRANSITIONAL CLASS

40 Part 6 of this Act (call out for permanent service) applies in relation to the call out of members of the third transitional class in accordance with this Part of this Schedule.

41 Section 53 (maximum duration of service on call out under section 52) applies in relation to the call out of members of the third transitional class as if the powers conferred on His Majesty by subsection (11) were limited to those described in paragraph (b)

of that subsection (substitution of "5 years" for "3 years" in subsection (6)).

42 Section 55 (maximum duration of service on call out under section 54) applies in relation to the call out of members of the third transitional class as if the powers conferred on His Majesty by subsection (11) were limited to those described in paragraph (b) of that subsection (substitution of "2 years" for "12 months" in subsection (6)).

PART 7

THE FOURTH TRANSITIONAL CLASS

43 (1) The fourth transitional class consists of persons who—

(a) are liable, in accordance with Part 7 of this Act, to be recalled for service when any recall order which authorises their recall is in force, and

(b) for the time being—

(i) fall within paragraph 44 or 45 and have made an election under paragraph 49 (which has not been revoked), or

(ii) fall within paragraph 46, 47 or 48 and have not made an election under paragraph 50.

(2) In this Part of this Schedule "the appointed day" means the day on which paragraph 3(5) of Schedule 5 to the Armed Forces Act 2026 (which inserts this Part of this Schedule) comes into force.

44 A person who, immediately before the appointed day, was serving in the regular services falls within this paragraph if they have not, since that time—

(a) re-enlisted, re-engaged or extended their service, or become an officer, in those services, or

(b) after transferring to a reserve force, extended their service, or become an officer, in that force or joined another reserve force.

45 (1) A person who, immediately before the appointed day, was a member of a volunteer reserve force falls within this paragraph if they have not, since that time—

(a) extended their service, or become an officer, in that force or joined another reserve force, or

(b) joined the regular services or re-enlisted, re-engaged or become an officer, in those services.

(2) For the purposes of sub-paragraph (1), a member of a volunteer reserve force who becomes a member of an ex-regular reserve force by virtue of the operation of section 13(4A) is not to be treated as joining another reserve force.

46 A person who, immediately before the appointed day, was a member of an ex-regular reserve force falls within this paragraph if they have not, since that time—

(a) extended their service, or become an officer, in that force or joined another reserve force,

(b) joined the regular services or re-enlisted, re-engaged or become an officer, in those services.

47 A person who, immediately before the appointed day, was a person to whom section 66 (as it then had effect) applied, falls within this paragraph if they have not, since that time—

(a) joined the regular services or re-enlisted, re-engaged or become an officer, in those services, or

(b) joined a reserve force or re-enlisted, re-engaged or become an officer, in a reserve force.

48 A person who, immediately before the appointed day, was not a person to whom section 66 (as it then had effect) applied, falls within this paragraph if—

(a) they would have been a person to whom section 66 applied, if section 35 of the Armed Forces Act 2026 had effect at that time, and

(b) they have not, since that time—

(i) joined the regular services or re-enlisted, re-engaged or become an officer, in those services, or

(ii) joined a reserve force or re-enlisted, re-engaged or become an officer, in a reserve force.

49 (1) A person may make an election under this paragraph if, on the day the election is made, the person falls within paragraph 44 or 45.

(2) An election under this paragraph must be made—

(a) within such period as may be prescribed (and different periods may be prescribed for different cases), and

(b) in the prescribed manner.

(3) An election under this paragraph is revocable.

50 (1) A person may make an election under this paragraph if, on the day the election is made, the person falls within paragraph 46, 47 or 48.

(2) An election under this paragraph must be made in the prescribed manner.

(3) A person who has made an election under this paragraph ceases to be a member of the fourth transitional class.

(4) An election under this paragraph is irrevocable.

51 Section 77 applies for the purposes of this Part of this Schedule as it applies for the purposes of Part 7 of this Act.

PART 8

APPLICATION OF ACT TO MEMBERS OF THE FOURTH TRANSITIONAL CLASS

52 Part 7 of this Act (recall for service of officers and former servicemen and reserves) applies in relation to the recall of members of the fourth transitional class in accordance with this Part of this Schedule.

53 Section 65 (liability of officers and former servicemen and reserves to be recalled), applies in relation to the recall of members of the fourth transitional class as if subsection (2A) were omitted.

54 Section 66 (persons who may be recalled under Part 7) applies in relation to the recall of members of the fourth transitional class as if—

(a) subsection (1)(c) were omitted;

(b) in paragraph (a) of subsection (2), the reference to "65" were to "55";

(c) after paragraph (a) of subsection (2) there were inserted—

"(b) in the case of a person who was discharged or transferred to the reserve from the regular army or the Royal Air Force, after the end of the period of 18 years beginning with the day on which he was so discharged or transferred; or

(c) in the case of a person who was discharged or transferred to the reserve from the Royal Navy or the Royal Marines, after the end of the period of 6 years beginning with the day on which he was so discharged or transferred.";

(d) in subsection (4), the reference to subsection (1) were to subsections (1) and (2).

55 Section 69 (maximum duration of service on call out under section 68) applies in relation to the recall of members of the fourth transitional class as if the powers conferred on His Majesty by subsection (6) were limited to those described in paragraph (b) of that subsection (substitution of "5 years" for "3 years" in section 68(2)).

56 Sections 69A and 69B (recall for warlike operations and maximum duration of such recall) do not apply in relation to the recall of members of the fourth transitional class."

SCHEDULE 6

Section 50

DETENTION ETC OF PERSONS OVERSEAS IN CASES OF MENTAL DISORDER

1 Schedule 12 to AFA 2006 (detention etc of persons in overseas service hospitals) is amended as follows.

2 In the heading, for "in overseas service hospitals" substitute "overseas in cases of mental disorder".

3 In the italic heading before paragraph 2, omit "in overseas service hospital".

4 (1) Paragraph 2 (order for detention in overseas service hospital) is amended as follows.

(2) In sub-paragraph (2)—

(a) omit the "or" at the end of paragraph (a);

(b) at the end of paragraph (b) insert "; or

(c) the case is urgent, it is impracticable for a recommendation of a registered medical practitioner to be sought, and one registered nurse makes a recommendation that such an order should be made in relation to the person."

(3) In sub-paragraph (3), after paragraph (a) insert—

"(aa) in a case where the person's admission to and detention in (or continued detention in) an overseas service hospital for assessment or treatment is impracticable, for the person's detention in a place specified in the order for the purpose of facilitating assessment or treatment;".

5 After paragraph 2 insert—

"Orders under paragraph 2(3)(aa): further provision

2A (1) A place may be specified for a person's detention in an order under paragraph 2(3)(aa) only if it appears to the commanding officer that, having regard to the health, safety and dignity of the person and other persons, the place is suitable for the person's detention.

(2) As soon as practicable after making an order under paragraph 2(3)(aa), and in any event while the order is still in force, the commanding officer must—

(a) make an order under paragraph 2(3)(a) or (b) in relation to the person, or

(b) make arrangements for the person to be removed to the United Kingdom for further assessment or treatment.

(3) Sub-paragraph (4) applies if it is impracticable for the commanding officer to comply with sub-paragraph (2) while the order under paragraph 2(3)(aa) (the "original order") is in force.

(4) While the original order is in force the commanding officer may make a further order under paragraph 2(3)(aa) in relation to the person (without obtaining a further recommendation under paragraph 2(2)).

(5) Where by virtue of sub-paragraph (4) a further order under paragraph 2(3)(aa) is made in relation to the person—
  (a) sub-paragraph (2) applies to the further order, but
  (b) sub-paragraph (4) does not apply to the further order."

6 (1) Paragraph 3 (effect of order under paragraph 2) is amended as follows.

(2) In sub-paragraph (2)(b), after "2(2)(b)" insert "or (c)".

(3) In sub-paragraph (4)—
  (a) after paragraph (a) insert—
    "(aa) in a case where the order is made under paragraph 2(3)(aa), for the person to be taken and conveyed to the place specified in the order;";
  (b) in each of paragraphs (b) and (c), after "hospital" insert "or place".

7 (1) Paragraph 4 (requirements as to recommendations under paragraph 2) is amended as follows.

(2) In sub-paragraph (2)(a), after "hospital" insert ", or detained in another suitable place,".

(3) After sub-paragraph (2) insert—
  "(3) A recommendation under paragraph 2(2)(c) must also include a statement that—
    (a) the person needs to be detained in (or admitted to and detained in) a hospital, or detained in another suitable place, urgently; and
    (b) the urgency makes it impracticable for the recommendation of a registered medical practitioner to be sought before making an order under paragraph 2(3) in relation to the person."

8 In the italic heading before paragraph 8, omit "to overseas service hospital".

9 (1) Paragraph 8 (urgent removal from service living accommodation to overseas service hospital) is amended as follows.

(2) In sub-paragraph (1)(d), after "hospital" insert ", or other suitable place,".

(3) In sub-paragraph (2)(b)—
  (a) the words "to an overseas service hospital" become paragraph (i);
  (b) at the end of that paragraph insert ", or
    (ii) if it is impracticable to remove the patient to an overseas service hospital, to a place which appears to the service policeman to be suitable

for the patient's detention, having regard to the health, safety and dignity of the patient and other persons."

(4) After sub-paragraph (2), insert—

"(2A) When determining for the purposes of sub-paragraph (2)(b)(ii) whether a place is suitable for the patient's detention, the service policeman must, so far as it is practicable to do so, consult—

(a) the patient's commanding officer, and

(b) a registered medical practitioner or, if a registered medical practitioner is not available, a registered nurse."

(5) In sub-paragraph (4), for "The commanding officer of the service hospital to which the patient is removed" substitute "Where the patient is removed to a service hospital, the commanding officer of the hospital".

(6) After sub-paragraph (4) insert—

"(4A) Where the patient is removed to a place other than an overseas service hospital, the patient's commanding officer may detain the patient at the place for the purpose of enabling an order under paragraph 2(3) to be sought in relation to the patient.

(4B) If the patient's commanding officer is absent or otherwise not available, the patient may be detained under sub-paragraph (4A) by—

(a) any authorised officer, or

(b) if no authorised officer is available, a service policeman.

(4C) For the purposes of sub-paragraph (4B), an officer is "authorised" if the officer is—

(a) subject to service law,

(b) of or above the rank of naval lieutenant, military or marine captain or flight lieutenant, and

(c) under the command of the patient's commanding officer."

(7) In sub-paragraph (6)(a), after "hospital" insert "or other place (as the case may be)".

10 In the italic heading before paragraph 9, omit "to overseas service hospital".

11 (1) Paragraph 9 (urgent removal from other places to overseas service hospital) is amended as follows.

(2) In sub-paragraph (1)(c), after "hospital" insert ", or other suitable place,".

(3) In sub-paragraph (2)—

(a) the words "to an overseas service hospital" become paragraph (a);

(b) at the end of that paragraph insert ", or

(b) if it is impracticable to remove the patient to an overseas service hospital, to a place which appears to the service policeman to be suitable for the

patient's detention, having regard to the health, safety and dignity of the patient and other persons."

(4) After sub-paragraph (2), insert—

"(2A) When determining for the purposes of sub-paragraph (2)(b) whether a place is suitable for the patient's detention, the service policeman must, so far as it is practicable to do so, consult—

(a) the patient's commanding officer, and

(b) a registered medical practitioner or, if a registered medical practitioner is not available, a registered nurse."

(5) In sub-paragraph (3), for "The commanding officer of the service hospital to which the patient is removed" substitute "Where the patient is removed to a service hospital, the commanding officer of the hospital".

(6) After sub-paragraph (3) insert—

"(3A) Where the patient is removed to a place other than an overseas service hospital, the patient's commanding officer may detain the patient at the place for the purpose of enabling an order under paragraph 2(3) to be sought in relation to the patient.

(3B) If the patient's commanding officer is absent or otherwise not available, the patient may be detained under sub-paragraph (3A) by—

(a) any authorised officer, or

(b) if no authorised officer is available, a service policeman.

(3C) For the purposes of sub-paragraph (3B), an officer is "authorised" if the officer is—

(a) subject to service law,

(b) of or above the rank of naval lieutenant, military or marine captain or flight lieutenant, and

(c) under the command of the patient's commanding officer."

(7) In sub-paragraph (5)(a), after "hospital" insert "or other place (as the case may be)".

Armed Forces Bill

[AS AMENDED ON REPORT]

A

B I L L

TO

Continue the Armed Forces Act 2006; to amend that Act and other enactments relating to the armed forces; to make provision about the reserve forces; to make provision about visiting forces; to make provision about the Ministry of Defence Police; to make provision about the defence functions of the Oil and Pipelines Agency; to make provision about the protection of military remains; and for connected purposes.

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