

**LORDS AMENDMENTS TO THE
ARMED FORCES BILL**

[The page and line references are to HL Bill 113, the bill as first printed for the Lords.]

Clause 6

- 1** Page 4, line 12, leave out subsections (1) and (2) and insert –
- “(1) A person subject to service law commits an offence if he takes part in a mutiny.
 - (2) For the purposes of this section a person subject to service law takes part in a mutiny if –
 - (a) in concert with at least one other person subject to service law, he –
 - (i) acts with the intention of overthrowing or resisting authority; or
 - (ii) disobeys authority in such circumstances as to subvert discipline;
 - (b) he agrees with at least one other person subject to service law to overthrow or resist authority; or
 - (c) he agrees with at least one other person subject to service law to disobey authority, and the agreed disobedience would be such as to subvert discipline.”
- 2** Page 4, line 22, leave out “this section” and insert “subsection (2)”

Clause 7

- 3** Page 4, line 34, leave out from “when” to end of line 35 and insert “a person subject to service law, in concert with at least one other person subject to service law –
- (a) acts with the intention of overthrowing or resisting authority; or
 - (b) disobeys authority in such circumstances as to subvert discipline.”

Clause 8

- 4** Page 5, line 6, leave out from “avoid” to end of line 12 and insert “a period of active service.
- () In this section “active service” means service in –
 - (a) an action or operation against an enemy;

- (b) an operation outside the British Islands for the protection of life or property; or
- (c) the military occupation of a foreign country or territory.”

5 Page 5, line 16, leave out “subsection (5) applies,” and insert “the offender intended to avoid a period of active service,”

6 Page 5, line 18, leave out subsection (5)

Clause 9

7 Page 5, line 22, at end insert –

“() A person subject to service law commits an offence if subsection (1) or (2) applies to him.”

8 Page 5, line 23, leave out from beginning to “if” and insert “This subsection applies to a person”

9 Page 5, line 25, leave out from beginning to “if” and insert “This subsection applies to a person”

Clause 24

10 Page 10, line 35, leave out subsections (1) to (3) and insert –

“(1) A person subject to service law commits an offence if –

- (a) he does an act that causes damage to or the loss of any public or service property or any property belonging to another person subject to service law; and
- (b) either –
 - (i) he intends to cause damage to or the loss of the property, and there is no lawful excuse for his act; or
 - (ii) he is reckless as to whether he causes damage to or the loss of the property.

(2) A person subject to service law commits an offence if –

- (a) negligently, he does an act that causes damage to or the loss of any public or service property; or
- (b) he does an act that is likely to cause damage to or the loss of any public or service property and –
 - (i) he is reckless as to whether he causes damage to or the loss of the property; or
 - (ii) he is negligent.”

11 Page 11, line 20, leave out paragraphs (a) and (b) and insert –

- “(a) in the case of an offence under subsection (1), ten years;
- (b) in the case of an offence under subsection (2), two years.”

Clause 31

12 Page 13, line 38, leave out subsections (1) and (2) and insert –

“(1) A person subject to service law commits an offence if he does an act that causes the hazarding of any of Her Majesty’s ships and –

- (a) he intends to cause damage to or the stranding or loss of the ship, and there is no lawful excuse for his act; or

- (b) he is reckless as to whether he causes damage to or the stranding or loss of the ship.”

13 Page 14, line 16, leave out “or (2)”

Clause 33

14 Page 14, line 36, leave out paragraph (b) and insert –

“(b) either –

- (i) he intends to cause loss of life or injury to any person, and there is no lawful excuse for his act; or
- (ii) he is reckless as to whether he causes loss of life or injury to any person.

(1A) A person subject to service law commits an offence if, negligently, he does an act –

- (a) when flying or using an aircraft, or
- (b) in relation to an aircraft or aircraft material,

that causes or is likely to cause loss of life or injury to any person.”

15 Page 15, line 10, leave out paragraphs (a) and (b) and insert –

- “(a) in the case of an offence under subsection (1), may be for life;
- (b) in the case of an offence under subsection (1A), must not exceed two years.”

Clause 36

16 Page 16, line 5, leave out “or”

17 Page 16, line 6, at end insert “; or

- (d) any equipment of a description prescribed by regulations made by the Defence Council.”

Clause 58

18 Page 26, line 28, leave out subsections (5) and (6) and insert –

“(5) Subsection (6) applies to a person –

- (a) who ceases to be a civilian subject to service discipline by reason only of –
 - (i) leaving an area designated for the purposes of Schedule 15;
 - (ii) entering the British Islands; or
 - (iii) leaving an area which a designation under paragraph 7 of Schedule 15 specifies as an area that he must be in for the designation to apply to him; and
- (b) who is residing or staying in a qualifying place at the time he does so.

(6) As regards that time, and for so long after that time as he continues –

- (a) to reside or stay in a qualifying place, and
- (b) to be a person who is not a civilian subject to service discipline but who would be such a civilian if he were in a qualifying place,

he is to be treated for the purposes of this section (apart from subsection (5)) as being such a civilian.

- (7) In subsections (5) and (6) “in a qualifying place” means—
- (a) in relation to a person who falls within subsection (5)(a) by reason of leaving an area designated for the purposes of Schedule 15, in any such area;
 - (b) in relation to a person who falls within subsection (5)(a) by reason of entering the British Islands, outside the British Islands;
 - (c) in relation to a person who falls within subsection (5)(a) by reason of leaving an area mentioned in subsection (5)(a)(iii), in that area.”

After Clause 117

19 Insert the following new Clause—

“Duty of service policeman to notify CO of referral to DSP

- (1) This section applies where a service policeman considers that there is sufficient evidence to charge a person (“A”) with a service offence and refers the case under section 116(2) to the Director of Service Prosecutions.
- (2) The service policeman must as soon as reasonably practicable after referring the case—
 - (a) notify A’s commanding officer of the referral; and
 - (b) provide prescribed documents to A’s commanding officer.
- (3) A notification under subsection (2)(a) must specify—
 - (a) the service offence the service policeman considers there is sufficient evidence to charge A with; and
 - (b) where that offence is not a Schedule 2 offence, the circumstances he is aware of that are of a description prescribed as mentioned in section 116(2)(b).
- (4) In this section—
 - (a) any reference to there being sufficient evidence to charge a person with a service offence is to be read in accordance with section 116(5);
 - (b) “prescribed documents” means documents prescribed for the purposes of subsection (2)(b) by regulations under section 127.
- (5) Section 117(3)(a) (certain cases to be treated as referred under section 116(2)) does not apply for the purposes of this section.”

Clause 124

20 Page 60, line 21, leave out “or”

21 Page 60, line 23, at end insert “; or

- (c) where the charge is in respect of an offence which would be a relevant offence for the purposes of section (*Sentencing powers of Court Martial where election for trial by that court instead of CO*) (election for trial by Court Martial) if the accused were convicted or acquitted of it.
- () Subsection (3)(c) does not apply in relation to powers under subsection (2)(e) (which are restricted by section 129).”

Clause 128

- 22 Page 62, line 15, leave out from “accused” to “an” in line 16 and insert “are to be heard summarily together,”

Clause 129

- 23 Page 62, line 28, leave out subsections (2) and (3) and insert –
- “(2) The Director of Service Prosecutions (“the Director”) may not without the written consent of the accused refer to a commanding officer, under section 124(2)(e) –
- (a) that charge (whether or not amended by the Director), or
 - (b) any charge substituted under section 124(2)(b) or additionally brought under section 124(2)(c).”
- 24 Page 62, line 40, leave out “(3)(b)” and insert “(2)”

Clause 136

- 25 Page 67, line 16, leave out subsection (3) and insert –
- “(3) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum for the time being specified in subsections (1) and (2) such other sum as appears to him justified by the change.
- (4) In subsection (3) “the relevant date” means –
- (a) the date of the coming into force of this section; or
 - (b) where the sum for the time being specified in subsections (1) and (2) was substituted for a sum previously so specified, the date of the substitution.”

Clause 142

- 26 Page 69, line 39, leave out “Supreme Court” and insert “Court of Judicature”

Clause 154

- 27 Page 75, line 10, leave out subsections (1) and (2) and insert –
- “(1) In the case of any proceedings, the Court Martial is to consist of –
- (a) a judge advocate; and
 - (b) at least three but not more than five other persons (“lay members”).
- (2) But Court Martial rules may provide that, in the case of proceedings of a prescribed description, there are to be –
- (a) at least five but not more than seven lay members; or
 - (b) no lay members.
- (2A) In the case of proceedings where the Court Martial consists of a judge advocate and lay members –
- (a) a prescribed number of the lay members must be officers or warrant officers qualified for membership under section 155 and not ineligible by virtue of section 156; and
 - (b) the rest must be officers so qualified and not so ineligible.

(2B) Subsection (2A) is subject to any provision made by Court Martial rules.”

28 Page 75, line 20, leave out “other members of the court” and insert “lay members”

29 Page 75, line 21, at end insert –

“(4A) The number of lay members specified under subsection (4) is to be the minimum required unless a judge advocate, in accordance with Court Martial rules, directs otherwise.

(4B) In subsection (4A) “the minimum required” means –

(a) the minimum required by subsection (1)(b); or

(b) where rules made by virtue of subsection (2)(a) apply instead of subsection (1)(b), the minimum required by those rules.”

Clause 155

30 Page 76, line 5, leave out “Supreme Court” and insert “Court of Judicature”

Clause 158

31 Page 76, line 41, leave out “one or more”

Clause 162

32 Page 78, line 20, at end insert –

“(ga) for the variation by the court of a sentence passed by it or the variation or rescission by it of an order made by it;”

33 Page 78, line 21, leave out paragraph (h) and insert –

“(h) for appeals –

(i) against any orders (including directions) of the court prohibiting or restricting the publication of any matter or excluding the public from any proceedings (whether made in preliminary proceedings or otherwise);

(ii) against any other orders or rulings made in proceedings preliminary to a trial;”

34 Page 79, line 5, at end insert –

“() Rules made by virtue of subsection (3)(ga) may make provision about the commencement of sentences or orders varied by the court (including provision conferring on the court a power to direct that a sentence shall take effect otherwise than as mentioned in section 288(1)).”

Before Clause 164

35 Insert the following new Clause –

“Sentencing powers of Court Martial where election for trial by that court instead of CO

(1) For the purposes of this section, an offence of which a person is convicted or acquitted is “relevant” if –

(a) the charge in respect of the offence is one as regards which the person elected Court Martial trial under section 128 (whether or not the charge was amended after election);

- (b) the charge in respect of the offence was –
 - (i) brought under section 124 in addition to a charge as regards which the person so elected; or
 - (ii) substituted for a charge as regards which the person so elected, or for a charge within sub-paragraph (i), or for a charge so substituted; or
 - (c) the person elected Court Martial trial as regards a charge in respect of another offence and conditions prescribed by Court Martial rules are met.
- (2) Where –
- (a) the Court Martial convicts a person of an offence which is relevant by virtue of subsection (1)(a), and
 - (b) subsection (4) (multiple relevant offences) does not apply,
- the sentence passed in respect of the offence must be such that the commanding officer could have awarded the punishments awarded by that sentence if he had heard the charge summarily and had recorded a finding that the charge had been proved.
- (3) In subsection (2) “the commanding officer” means the commanding officer who would have heard the charge if no election under section 128 had been made.
- (4) This subsection applies where the court convicts a person of two or more relevant offences the charges in respect of which –
- (a) would have been heard summarily together if no election under section 128 had been made; or
 - (b) are under Court Martial rules to be treated as if they would have been so heard.
- (5) Court Martial rules may make provision about the sentencing powers available to the Court Martial –
- (a) where subsection (4) applies;
 - (b) where the court convicts a person of an offence which is relevant by virtue of subsection (1)(b) or (c).
- (6) Court Martial rules may make provision –
- (a) about the sentencing principles that the Court Martial is to apply in relation to –
 - (i) the sentencing of an offender for one or more relevant offences; or
 - (ii) the sentencing of an offender for an offence with which a relevant offence is associated;
 - (b) restricting the orders that the court may make by virtue of a conviction or acquittal of a relevant offence, including provision –
 - (i) preventing the court from making an order of a particular kind;
 - (ii) restricting the provision that may be made by an order of a particular kind;
 - (c) in relation to any case where a person is convicted of a relevant offence, –
 - (i) as respects appeals;
 - (ii) excluding or restricting powers relating to review of sentence.

- (7) Rules made by virtue of this section may modify or exclude—
- (a) any provision of or made under this Act (including section 254);
 - (b) any provision of the Court Martial Appeals Act 1968.”

Clause 164

36 Leave out Clause 164

Clause 184

37 Page 93, line 16, leave out “section 281 or”

Clause 185

38 Page 93, line 21, leave out “section 281 or”

Clause 192

39 Page 97, line 44, at end insert—

- “() Any provision included by virtue of subsection (4) in an order made by an officer has effect subject to section (*Commencement of suspended sentence activated by CO*) (postponement of commencement of suspended sentence on activation by CO).”

Clause 194

40 Page 99, line 20, at end insert—

- “() In determining in any case—
- (a) whether to substitute an order under section 192, or
 - (b) the terms of any such substituted order,
- the Summary Appeal Court must take account of any period of the suspended sentence that the appellant served.”

Clause 245

41 Page 121, line 40, after “custody” insert “in connection with the offence in question or any related offence”

Clause 246

42 Page 122, line 37, leave out “it takes effect” and insert “an order that it shall take effect is made”

43 Page 122, line 38, leave out “the order under which it takes effect” and insert “that order”

Before Clause 281

44 Insert the following new Clause—

“Punishments available to Service Civilian Court

- (1) Section 163 and Schedule 3 (punishments available to Court Martial) apply in relation to the Service Civilian Court as they apply in relation to the Court Martial.
- (2) Subsection (1) is subject to –
 - (a) sections 282 and 283 (maximum imprisonment, fine or compensation order that may be awarded by SCC); and
 - (b) subsection (3).
- (3) Where the Service Civilian Court sentences an offender to whom Part 2 of Schedule 3 applies, it may not award a punishment mentioned in any of rows 2 to 5 or 8 of the Table in section 163 (as modified by that Part of that Schedule).”

Clause 281

45 Leave out Clause 281

After Clause 290

46 Insert the following new Clause –

“Commencement of suspended sentence activated by CO

- (1) This section applies where an officer makes an order (“the activation order”) under section 192(3) (activation of suspended award of service detention).
- (2) If the activation order does not provide that the suspended sentence shall take effect from the end of another sentence, section 289(2) to (8) apply, but with the following modifications –
 - (a) the reference in subsection (2) to the time of the award is to be read as to the time when the activation order is made;
 - (b) the reference in subsection (2) to the day on which the award is made is to be read as to the day on which the activation order is made;
 - (c) any other reference to “the award” in subsections (2) to (7) is to the award of service detention to which the activation order relates (with any modification of its term made by the activation order);
 - (d) the reference in subsection (7) to an appeal is to an appeal against the activation order; and
 - (e) in subsection (8) –
 - (i) the reference to the award is to be read as to the activation order; and
 - (ii) the reference to another punishment is to be read as to another order under section 192(3).
- (3) If the activation order provides that the suspended sentence shall take effect from the end of another sentence (“the initial sentence”), section 290(2) to (9) apply, but with the following modifications –
 - (a) the reference in subsection (2) to the time of the award is to be read as to the time when the activation order is made;
 - (b) any reference to “the initial sentence” is to the initial sentence as defined by this subsection;

- (c) any reference to “the award” in subsections (4) to (7) is to the award of service detention to which the activation order relates (with any modification of its term made by the activation order);
- (d) the reference in subsection (8) to the award mentioned in section 290(1)(a) is to be read as to the activation order; and
- (e) in subsection (9) –
 - (i) the reference to the award is to be read as to the activation order; and
 - (ii) the reference to another punishment is to be read as to another order under section 192(3).”

Clause 332

- 47 Page 167, line 30, after “complaint” insert “, or an application of a kind mentioned in subsection (4)(c) or (e),”

After Clause 335

- 48 Insert the following new Clause –

“Role of Service Complaints Commissioner

Referral by Service Complaints Commissioner of certain allegations

- (1) This section applies where the Service Complaints Commissioner (“the Commissioner”) considers that any communication made to him contains an allegation that a person named in such a communication –
 - (a) is subject to service law and has been wronged in a prescribed way; or
 - (b) was wronged in such a way while he was so subject.
- (2) The Commissioner may refer the allegation to the officer whom he considers to be the relevant officer.
- (3) If the allegation is referred under subsection (2), the officer to whom it is referred must as soon as is reasonably practicable –
 - (a) inform the person that the allegation has been so referred;
 - (b) ensure that the person is aware of –
 - (i) the procedure for making a service complaint; and
 - (ii) the effect on the making of service complaints of any regulations made by virtue of section 332(5)(b) (time limits for service complaints); and
 - (c) ascertain whether he wishes to make a service complaint in respect of the alleged wrong.
- (4) Regulations made by the Secretary of State must provide that where the allegation is referred under subsection (2), the prescribed person must within the prescribed period notify the Commissioner of prescribed matters.
- (5) In this section –
 - “prescribed” means prescribed by regulations made by the Secretary of State;

“relevant officer” means the officer to whom a service complaint made by the person in respect of the alleged wrong is (under regulations made under section 332) to be made;

“service complaint” has the same meaning as in that section.”

49 Insert the following new Clause –

“Reports by Commissioner on system for dealing with service complaints etc

- (1) The Service Complaints Commissioner (“the Commissioner”) must prepare and give to the Secretary of State, as soon as practicable after the end of each relevant period, a report as to –
 - (a) the efficiency, effectiveness and fairness with which the system under this Part for dealing with service complaints has operated during that period;
 - (b) the exercise by the Commissioner during that period of his function under section (*Referral by Service Complaints Commissioner of certain allegations*) of referring allegations; and
 - (c) such other aspects of the system mentioned in paragraph (a), and such matters relating to the function mentioned in paragraph (b), as the Commissioner considers appropriate or the Secretary of State may direct.
- (2) The Secretary of State must lay before Parliament each report under subsection (1) received by him.
- (3) The Secretary of State may exclude from any report laid under subsection (2) any material whose publication he considers –
 - (a) would be against the interests of national security; or
 - (b) might jeopardise the safety of any person.
- (4) The Secretary of State may require the Commissioner to prepare and give to him a report on –
 - (a) any aspect of the system mentioned in subsection (1)(a);
 - (b) any matter relating to the function mentioned in subsection (1)(b).
- (5) In this section –

“relevant period” means a period of one year beginning with –

 - (a) the date this section comes into force; or
 - (b) an anniversary of that date;

“service complaint” has the same meaning as in section 332.”

Clause 348

50 Page 178, line 5, leave out “Supreme Court” and insert “Court of Judicature”

After Clause 354

51 Insert the following new Clause –

“Pardons for servicemen executed for disciplinary offences: recognition as victims of First World War

- (1) This section applies in relation to any person who was executed for a relevant offence committed during the period beginning with 4 August 1914 and ending with 11 November 1918.
- (2) Each such person is to be taken to be pardoned under this section in respect of the relevant offence (or relevant offences) for which he was executed.
- (3) In this section “relevant offence” means any of the following—
 - (a) an offence under any of the following provisions of the Army Act 1881 (c. 58)—
 - (i) section 4(2) (casting away arms etc);
 - (ii) section 4(7) (cowardice);
 - (iii) section 6(1)(b) (leaving post etc without orders);
 - (iv) section 6(1)(k) (sentinel sleeping etc on post or leaving post);
 - (v) section 7 (mutiny and sedition);
 - (vi) section 8(1) (striking etc superior officer);
 - (vii) section 9(1) (disobedience in defiance of authority);
 - (viii) section 12(1) (desertion or attempt etc to desert);
 - (b) an offence under any of the following provisions of the Indian Army Act 1911 (Indian Act, No. 8 of 1911)—
 - (i) section 25(b) (casting away arms, cowardice, etc);
 - (ii) section 25(g) (sentry sleeping on post or quitting post);
 - (iii) section 25(i) (quitting guard etc);
 - (iv) section 27 (mutiny, disobedience, etc);
 - (v) section 29 (desertion or attempt to desert).
- (4) This section does not—
 - (a) affect any conviction or sentence;
 - (b) give rise to any right, entitlement or liability; or
 - (c) affect the prerogative of mercy.
- (5) Any reference in this section to a provision of the Army Act 1881 (c. 58) includes a reference to that provision as applied by any enactment, wherever enacted.”

Before Clause 357

52 Insert the following new Clause—

“Judge advocates

In this Act “judge advocate” means—

- (a) the Judge Advocate General;
- (b) a person appointed under section 30(1)(a) or (b) or (2) of the Courts-Martial (Appeals) Act 1951 (c. 46) (assistants to the Judge Advocate General); or
- (c) a puisne judge of the High Court in England and Wales who (following a request by the Judge Advocate General) is nominated by or on behalf of the Lord Chief Justice of England and Wales to sit as a judge advocate.”

Clause 358

53 Page 180, line 26, leave out “Supreme Court” and insert “Court of Judicature”

Clause 359

54 Page 181, line 11, leave out “Supreme Court” and insert “Court of Judicature”

After Clause 359

55 Insert the following new Clause –

“Service Complaints Commissioner

Service Complaints Commissioner

- (1) There shall be a Service Complaints Commissioner.
- (2) The Service Complaints Commissioner is to be appointed by the Secretary of State.
- (3) A person may not be appointed as the Service Complaints Commissioner if he is –
 - (a) a member of the regular or reserve forces; or
 - (b) a person employed in the civil service of the State.
- (4) The Service Complaints Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (5) The Service Complaints Commissioner is not to be regarded –
 - (a) as the servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.”

Clause 366

56 Page 183, line 25, after “sections” insert “36,”

57 Page 183, line 30, after “89,” insert “113,”

58 Page 183, line 30, leave out “or 372” and insert “, 372 or (*alignment of SDAs etc with this Act*)”

59 Page 183, line 31, leave out paragraph (b)

60 Page 183, line 35, leave out “or” and insert –

- “() regulations under section 127 which make provision of a kind mentioned in section 127(2)(c) or (e) or prescribe documents for the purposes of section (*Duty of service policeman to notify CO of referral to DSP*)(2)(b),
- () regulations under section 270, 332(2), 334(5)(a) or (*Referral by Service Complaints Commissioner of certain allegations*),
- () regulations under section 326 which make provision of a kind mentioned in section 326(2)(c),
- () rules under section 162 which –
 - (i) by virtue of section 154 make provision about the constitution of the Court Martial, or

- (ii) make provision authorised by section (*Sentencing powers of Court Martial where election for trial by that court instead of CO*), or”

61 Page 183, line 39, after “instrument” insert “under this Act”

Clause 367

62 Page 185, line 31, leave out from “advocate” to end of line 33 and insert “has the meaning given by section (*Judge advocates*);”

63 Page 186, line 19, at end insert –
 ““the Service Complaints Commissioner” means the person appointed under section (*Service Complaints Commissioner*);”

After Clause 373

64 Insert the following new Clause –

“Alignment of SDAs etc with this Act

- (1) The Secretary of State may by order amend or repeal any provision of an enactment within subsection (3) for the purpose of reducing or eliminating any difference between the effect of the enactments within that subsection and the effect of this Act.
- (2) An order under subsection (1) may amend an enactment within subsection (3) in such a way as to confer on any person a power to make subordinate legislation.
- (3) The enactments are –
 - (a) the Army Act 1955 (3 & 4 Eliz. 2 c. 18);
 - (b) the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19);
 - (c) the Naval Discipline Act 1957 (c. 53);
 - (d) the Army and Air Force Act 1961 (c. 52);
 - (e) the Armed Forces Act 1966 (c. 45);
 - (f) such provisions of the following Acts as are repealed by this Act –
 - (i) the Armed Forces Act 1976 (c. 52);
 - (ii) the Reserve Forces Act 1980 (c. 9);
 - (iii) the Armed Forces Act 1981 (c. 55);
 - (iv) the Armed Forces Act 1991 (c. 62);
 - (v) the Reserve Forces Act 1996 (c. 14);
 - (vi) the Armed Forces Act 2001 (c. 19).”

Clause 375

65 Page 190, line 36, after “sections” insert “(*Pardons for servicemen executed for disciplinary offences: recognition as victims of First World War*);”

Schedule 2

66 Page 193, line 20, leave out “subsection (5) of that section applies” and insert “the accused intended to avoid a period of active service (within the meaning of that section)”

- 67 Page 193, line 22, leave out “or (2)”
- 68 Page 193, line 23, leave out from “section” to end of line 24 and insert “33(1) (dangerous flying etc).”

Schedule 9

- 69 Page 222, line 9, leave out “Supreme Court” and insert “Court of Judicature”

Schedule 13

- 70 Page 236, line 7, leave out “Court Martial’s” and insert “court’s”
- 71 Page 236, line 12, leave out “Court Martial’s” and insert “court’s”
- 72 Page 236, line 40, leave out “Court Martial’s” and insert “court’s”
- 73 Page 237, line 1, leave out “Court Martial’s” and insert “court’s”

Schedule 16

- 74 Page 258, line 16, at end insert –

“Army Act 1955 (3 & 4 Eliz. 2 c. 18)

19A After section 91 of the Army Act 1955 insert –

“Preliminary hearings as to plea

91A Preliminary hearings as to plea

- (1) Subsections (2) to (4) apply in relation to a charge against a person (“the accused”) preferred by the prosecuting authority.
- (2) The accused shall be arraigned at a hearing before a judge advocate.
- (3) That hearing may take place at any time before the time when the court-martial that is to try the charge first sits.
- (4) The arraignment is to be treated as having occurred before the court-martial.
- (5) Rules under section 103 may make provision for and in connection with the making of orders and rulings by a judge advocate at a hearing at which the accused is arraigned, including in particular –
 - (a) provision corresponding to any provision of, or that may be made by virtue of, sections 31, 33, 34 and 37 of the Criminal Procedure and Investigations Act 1996, subject to such modifications as the Secretary of State considers appropriate;
 - (b) provision for the variation or discharge of such orders and rulings.
- (6) The reference in subsection (1) to a charge preferred by the prosecuting authority includes –
 - (a) a charge substituted by the prosecuting authority; and

- (b) where a charge is amended by the prosecuting authority before the accused is arraigned in respect of it, the charge as so amended.
- (7) Nothing in this section applies in relation to a charge preferred or substituted after the time when the court-martial first sits.”
- 19B (1) Section 103 of that Act (rules) is amended as follows.
- (2) In subsection (2) –
- (a) after paragraph (b) insert –
- “(ba) appeals against orders or rulings made in preliminary proceedings;”;
- (b) after paragraph (mm) insert –
- “(mn) appeals against any orders (including directions) of courts-martial prohibiting or restricting the publication of any matter or excluding the public from any proceedings;”.
- (3) After subsection (2) insert –
- “(2A) In subsection (2)(a), (b) and (ba), the references to proceedings preliminary to trials include hearings at which the accused is arraigned.
- (2B) Rules made by virtue of subsection (2)(ba) or (mn) may confer jurisdiction on the Courts-Martial Appeal Court, and rules under section 49 of the Courts-Martial (Appeals) Act 1968 may make provision about the powers of that court in relation to appeals made by virtue of subsection (2)(ba) or (mn).”
- 19C In section 120 of that Act (suspension of sentences), after subsection (7) insert –
- “(7A) Subsection (5) does not apply if the person was tried by court-martial for the fresh offence in pursuance of an election for court-martial trial.”

Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

- 19D After section 91 of the Air Force Act 1955 insert –

“Preliminary hearings as to plea

91A Preliminary hearings as to plea

- (1) Subsections (2) to (4) apply in relation to a charge against a person (“the accused”) preferred by the prosecuting authority.
- (2) The accused shall be arraigned at a hearing before a judge advocate.
- (3) That hearing may take place at any time before the time when the court-martial that is to try the charge first sits.
- (4) The arraignment is to be treated as having occurred before the court-martial.
- (5) Rules under section 103 may make provision for and in connection with the making of orders and rulings by a judge

advocate at a hearing at which the accused is arraigned, including in particular –

- (a) provision corresponding to any provision of, or that may be made by virtue of, sections 31, 33, 34 and 37 of the Criminal Procedure and Investigations Act 1996, subject to such modifications as the Secretary of State considers appropriate;
 - (b) provision for the variation or discharge of such orders and rulings.
- (6) The reference in subsection (1) to a charge preferred by the prosecuting authority includes –
- (a) a charge substituted by the prosecuting authority; and
 - (b) where a charge is amended by the prosecuting authority before the accused is arraigned in respect of it, the charge as so amended.
- (7) Nothing in this section applies in relation to a charge preferred or substituted after the time when the court-martial first sits.”

19E (1) Section 103 of that Act (rules) is amended as follows.

(2) In subsection (2) –

(a) after paragraph (b) insert –

“(ba) appeals against orders or rulings made in preliminary proceedings;”;

(b) after paragraph (mm) insert –

“(mn) appeals against any orders (including directions) of courts-martial prohibiting or restricting the publication of any matter or excluding the public from any proceedings;”.

(3) After subsection (2) insert –

“(2A) In subsection (2)(a), (b) and (ba), the references to proceedings preliminary to trials include hearings at which the accused is arraigned.

(2B) Rules made by virtue of subsection (2)(ba) or (mn) may confer jurisdiction on the Courts-Martial Appeal Court, and rules under section 49 of the Courts-Martial (Appeals) Act 1968 may make provision about the powers of that court in relation to appeals made by virtue of subsection (2)(ba) or (mn).”

19F In section 120 of that Act (suspension of sentences), after subsection (7) insert –

“(7A) Subsection (5) does not apply if the person was tried by court-martial for the fresh offence in pursuance of an election for court-martial trial.”

Naval Discipline Act 1957 (c. 53)

19G In section 47M of the Naval Discipline Act 1957 (judicial officers), for “Judge Advocate of Her Majesty’s Fleet”, in both places, substitute “Judge Advocate General”.

- 19H In section 52C(4) of that Act (powers of higher authority), for “of the accused” substitute “or appropriate superior authority”.
- 19I (1) Section 52D of that Act (summary trial) is amended as follows.
- (2) For subsections (2) and (2ZA) substitute—
- “(2) The commanding officer or appropriate superior authority (as the case may be) shall afford the accused the opportunity of electing court-martial trial.”
- (3) In subsection (4) for paragraph (b) substitute—
- “(b) if the accused is an officer below the rank of captain whose commanding officer satisfies the conditions in section 52B(6A)(a) and (b), refer the charge back to the commanding officer of the accused;
- (c) if the accused is an officer other than one within paragraph (b) above, refer the charge back to the appropriate superior authority;”.
- (4) In subsection (4A) for “Subsections (2) and (2ZA) above do not” substitute “Subsection (2) above does not”.
- (5) In subsection (4C) for “subsection (2) or (2ZA) above” substitute “subsection (2) above”.
- 19J In section 52FG(1) of that Act (judge advocates of the summary appeal court), for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.
- 19K In section 52FJ(3) of that Act (constitution of summary appeal court), for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.
- 19L In section 53B(1) of that Act (judge advocate of a court-martial), for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.
- 19M In section 53C(2) of that Act (ordering of courts martial), for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.
- 19N (1) Section 58 of that Act (rules) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (b) insert—
- “(ba) appeals against orders or rulings made in preliminary proceedings;”;
- (b) after paragraph (nn) insert—
- “(no) appeals against any orders (including directions) of courts-martial prohibiting or restricting the publication of any matter or excluding the public from any proceedings;”.
- (3) After subsection (2) insert—
- “(2A) In subsection (2)(a), (b) and (ba), the references to proceedings preliminary to trials include hearings at which the accused is arraigned.

(2B) Rules made by virtue of subsection (2)(ba) or (no) may confer jurisdiction on the Courts-Martial Appeal Court, and rules under section 49 of the Courts-Martial (Appeals) Act 1968 may make provision about the powers of that court in relation to appeals made by virtue of subsection (2)(ba) or (no).”

19O After section 58 of that Act insert –

“58A Preliminary hearings as to plea

- (1) Subsections (2) to (4) apply in relation to a charge against a person (“the accused”) preferred by the prosecuting authority.
- (2) The accused shall be arraigned at a hearing before a judge advocate.
- (3) That hearing may take place at any time before the time when the court-martial that is to try the charge first sits.
- (4) The arraignment is to be treated as having occurred before the court-martial.
- (5) Rules under section 58 may make provision for and in connection with the making of orders and rulings by a judge advocate at a hearing at which the accused is arraigned, including in particular –
 - (a) provision corresponding to any provision of, or that may be made by virtue of, sections 31, 33, 34 and 37 of the Criminal Procedure and Investigations Act 1996, subject to such modifications as the Secretary of State considers appropriate;
 - (b) provision for the variation or discharge of such orders and rulings.
- (6) The reference in subsection (1) to a charge preferred by the prosecuting authority includes –
 - (a) a charge substituted by the prosecuting authority; and
 - (b) where a charge is amended by the prosecuting authority before the accused is arraigned in respect of it, the charge as so amended.
- (7) Nothing in this section applies in relation to a charge preferred or substituted after the time when the court-martial first sits.”

19P In section 59(4A) of that Act (challenge by accused), for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.

19Q In section 63A(5)(b) of that Act (powers to deal with person unfit to stand trial etc), for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.

19R In section 64 of that Act (summoning of witnesses) –

- (a) omit subsection (1);
- (b) in subsection (2) for “notice under this section” substitute “summons issued in accordance with rules under section 58”.

19S In section 73 of that Act (saving for functions of JAF), including in the sidenote to that section, for “Judge Advocate of Her Majesty’s Fleet” substitute “Judge Advocate General”.

75 Page 259, line 14, at end insert –

“*Coroners Act (Northern Ireland) 1959 (c. 15)*

In section 18 of the Coroners Act (Northern Ireland) 1959 (jury to be summoned in certain cases), after subsection (3) add –

“(4) This section and section 39(3) of the Prison Act (Northern Ireland) 1953 (prison officers etc not to be jurors) shall apply where a death occurs on service custody premises within the meaning of section 298 of the Armed Forces Act 2006 as they apply where a death occurs in prison.””

76 Page 276, leave out lines 27 to 36 and insert –

“(g) in section 6E as it applies by virtue of paragraph (c) above, subsection (2) were omitted and the reference in subsection (1) to any place were to –

- (i) service living accommodation (as defined by section 96 of the Armed Forces Act 2006), or
- (ii) premises occupied as a residence (alone or with other persons) by the person on whom the requirement is to be imposed or the person to be arrested.””

Schedule 17

77 Page 313, line 34, at end insert –

“Armed Forces Act 2006

| In Schedule 16, paragraphs 19A to 19S and 158.”

LORDS AMENDMENTS TO THE
ARMED FORCES BILL

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