

*These notes refer to the Armed Forces Discipline Act  
2000 (c.4) which received Royal Assent on 25 May 2000*

# **ARMED FORCES DISCIPLINE ACT 2000**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Sections 11 – 12: Election for court-martial trial***

##### **Arrangements in force prior to commencement of this Act**

33. It was explained in paragraph 6 that an accused serving in the Army or Royal Air Force may, in all cases, elect trial by court-martial instead of being dealt with summarily by the CO. In the Royal Navy, this right to elect applies only in certain cases with the aim of ensuring that every person facing a charge which has potentially serious consequences, such as disrating (ie loss of rank), detention, imprisonment, or dismissal, has the right to elect trial by court-martial. In the Army and Air Force, the right to elect to be dealt with by court-martial can only be exercised after a CO has found the charge proved. Moreover, a court-martial has the power to award a greater sentence than the CO could have done.
34. The right to elect trial by court-martial was expanded by the Armed Forces Act 1996 because of concerns that summary proceedings, on their own, might not be compliant with the European Convention on Human Rights. It was considered that offering a wider right to trial by a court complying with the Convention would meet such concerns.