

ARMED FORCES DISCIPLINE ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10: Further amendments relating to custody

32. This section introduces *Schedule 1* to the Act which makes the following further minor amendments to the SDAs in respect of custody arrangements.
- *Paragraphs 1&6* amend the three SDAs provide that offences which can be committed in relation to courts-martial in each of the Acts, such as failure to comply with a summons or the refusal of a witness to answer a question which the court requires him to answer, can also be committed in relation to persons appointed to be judicial officers for the purposes of the Act. This will allow an offence committed in relation to judicial officers to be tried summarily by the judicial officer.
 - *Paragraphs 2&8* amend the three SDAs to provide that the meaning of commanding officer encompasses those dealing with persons in custody as well as those charged with an offence.
 - *Paragraphs 3&9* amend the three SDAs to provide that offences which can be committed by civilians not subject to Service law, in relation to courts-martial, such as those mentioned above, shall also apply to judicial officers. In these cases, the judicial officer cannot apply a sanction but can certify to a court with jurisdiction over the offender that he has committed a contempt of court. This will allow the court to investigate and punish the offender if appropriate.
 - *Paragraph 4* amends *section 209(3)* of both the Army and Air Force Acts to provide that persons have to comply with conditions which may be imposed by the judicial officer, judge advocate or court-martial relating to his subsequent attendance at any hearing relating to the offence charged.
 - *Paragraphs 5&11* amend the general provisions as to interpretation in both the Army Act 1955 and Air Force Acts to reflect the changes to the system.
 - *Paragraph 10* amends *section 118* of the Naval Discipline Act 1957 to apply the custody provisions to deserters from the Commonwealth and colonial forces.
 - *Paragraph 12* amends *Schedule 4* to the Naval Discipline Act 1957 to provide that the custody provisions shall apply to certain civilians and also to provide that these civilians have to comply with conditions which may be imposed by the judicial officer, judge advocate or court-martial relating to his subsequent attendance at any hearing relating to the offence charged.