

ARMED FORCES DISCIPLINE ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 14 – 25: Summary Appeal Courts

The new arrangements

41. The Act will introduce a right of appeal to a summary appeal court established under each of the three SDAs. This supplements the right to elect trial by court-martial described in the previous section of these notes, by offering to those who have been dealt with summarily a second avenue to a court that is compliant with the European Convention on Human Rights.
42. The summary appeal court for each Service can sit in two or more divisions (that is, a number of courts can sit in different places to hear different cases at the same time). When hearing an appeal, the court will consist of a judge advocate/naval judge advocate and two Service officers, generally of the same Service as the appellant.
43. The appeal on finding, or on finding and sentence, will take the form of a re-hearing along the lines of an appeal to the Crown Court from a decision of the magistrates' court. Therefore, the rules of the court will be similar to those of the Crown Court. The rules of evidence will mirror those in the civilian system, with appropriate modifications. Where the appeal is on sentence alone, and there is no material dispute on the facts, the court will only hear a statement of facts followed by pleas in mitigation.
44. The appellant will be entitled to legal representation at the hearing of his appeal before the summary appeal court. He will also be entitled to apply for legal aid for this purpose, under the Services' legal aid system.
45. The sentencing powers of the summary appeal court will be restricted so that the sentence cannot be more severe than that actually imposed by the CO. Hearings before the summary appeal court will be in public. There will be no appeal from the summary appeal court on the facts, but an appeal on a point of law will be allowed to the High Court.