

ARMED FORCES DISCIPLINE ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 6: Arrest during proceedings

28. This section inserts a new section into each of the SDAs.

Subsection (1) inserts a new section into the Army Act 1955 dealing with arrest during proceedings.

- The new *section 75K* applies to persons subject to military law who are charged with an offence or awaiting sentencing for an offence but not in custody. The section makes provision for the CO or judge advocate to order his arrest if they believe that there are substantial grounds for believing that the accused may fail to attend a hearing, commit an offence, injure himself or interfere with witnesses or obstruct the course of justice.
- The section also provides that persons subject to military law only by virtue of *section 131* of the Army Act 1955 may be taken into custody if they have failed to attend a hearing.
- Anyone arrested under these provisions will be treated as if held in custody under *section 75F* and must be brought before a judicial officer or the judge advocate as soon as practicable.

Subsection (2) inserts a new *section 75K* into the Air Force Act 1955 dealing with arrest during proceedings. This section is identical in effect to that described above, but applies to persons arrested under the provisions of the Air Force Act 1955.

Subsection (3) inserts a new *section 47L* into the Naval Discipline Act 1957 dealing with arrest during proceedings. This section is identical in effect to that described in subsection (1) above, but applies to persons arrested under the provisions of the Naval Discipline Act 1957.