

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 6 – Other amendments

Amendment relating to abolition of naval disciplinary courts

150. Paragraph 59 is consequential on the abolition by section 18 of naval disciplinary courts.

Section 35: Orders and regulations

151. The section deals with orders or regulations made by the Secretary of State under provisions of the Act. (It does not apply to new powers to make subordinate legislation which are added by the Act to the SDAs or other Acts). The section provides for orders and regulations to be made by statutory instrument. They may include incidental, consequential or transitional provisions. These instruments will, in most cases, be subject to the negative resolution procedure. The first exception is that orders under section 8(2) are subject to the affirmative resolution procedure. The other exceptions include certain orders under the power in section 30 to provide for release from custody pending an appeal and under the broad order-making power relating to criminal justice enactments (in section 31 of the Act). Orders under these powers which amend primary legislation and orders under section 31(2)(h) affecting the meaning of “criminal justice enactment” in section 31 will be subject to affirmative resolution procedure.

Section 36: Application to Channel Islands, Isle of Man, etc.

152. This section provides for an order making power to apply the various provisions in the Act which are not being incorporated into the SDAs to the Channel Islands and the Isle of Man. The amendments being made to the SDAs will automatically apply to the Islands by virtue of their inclusion in the SDAs.

Section 37: Interpretation

153. This section defines the terms “ the 1955 Acts ” and “the 1957 Act” for the purposes of the Act.

Section 38: Repeals

154. This section introduces *Schedule 7* which lists all the provisions to be repealed by this Act. Schedule 7 includes a number of repeals which are consequential on the abolition of naval disciplinary courts (section 18) and on the abolition of the death penalty (Schedule 6, Part 4).

Section 39: Short title and commencement

155. This section provides that in general the provisions of the Act (except sections 1, 35-37 and 39, Parts 4 and 5 of Schedule 6 and Parts 4 to 6 of Schedule 7, which came into force on Royal Assent) are to come into force on a day or days to be appointed by a

*These notes refer to the Armed Forces Act 2001
(c.19) which received Royal Assent on 11 May 2001*

commencement order by the Secretary of State. This commencement order may contain any transitional provisions thought necessary. The section also repeals section 1 of the Armed Forces Act 1996 on 1st September 2001.