

*These notes refer to the Armed Forces Act 2006 (c.52)  
which received Royal Assent on 8 November 2006*

# **ARMED FORCES ACT 2006**

---

## **EXPLANATORY NOTES**

### **COMMENTARY**

#### *First Group of Parts – Discipline*

#### **Part 4 – Custody**

#### *Chapter 2 – Custody etc after charge*

#### **Custody after charge**

#### *Section 105: Custody after charge*

231. This section provides that an accused person must be brought before a judge advocate as soon as practicable (unless he is already in service custody for the purposes of serving a sentence or following a previous authorisation for custody by a judge advocate regarding another charge). At a hearing the judge advocate must decide whether the accused should be released (possibly subject to conditions) or be kept in service custody. The judge advocate is permitted to authorise keeping the accused in service custody only if at least one of the three conditions A to C set out in the following section is satisfied.
232. In deciding whether the conditions are met the judge advocate is under a duty to take into account any of the matters specified that he thinks are relevant to the accused's case. If the judge advocate does consider that one or more of the conditions is met he may authorise keeping the accused in service custody for up to 8 days from the date of the hearing but this authorisation does not allow the accused to be kept in custody if he is subsequently released or sentenced.
233. If the judge advocate, having heard representations in respect of condition A in the following section, decides not to authorise the continued custody of the accused and the offence with which the accused is charged is murder, manslaughter, rape or attempted murder or rape, the judge advocate must state the reasons for his decision and ensure that they are properly recorded.