

*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 5 – Investigation, Charging and Mode of Trial

Chapter 1 – Investigation

Duty of service policeman following investigation

Section 116: Referral of case following investigation by service or civilian police

250. This section deals with the duties of the service police in relation to a case which they have investigated or which has been referred to them after an investigation by a UK police force (defined in section 375 as including civilian forces in the UK and the Isle of Man) or by an overseas police force (defined in section 375 to include foreign service and civilian forces).
251. Under subsection (2), where a service policeman considers that there is sufficient evidence to charge the person with a Schedule 2 offence (explained in the Note on section 113), he must refer the case to the DSP. The same duty arises where a service policeman considers there is sufficient evidence to charge any other service offence and he is aware of any circumstances prescribed in regulations (these might, for example, be aggravating circumstances).
252. Where the service policeman considers that there is sufficient evidence to charge the person with a service offence, but the circumstances do not require a reference to the DSP, he must refer the case to the person's CO (subsection (3)).
253. Subsection (4) deals with cases where the matter has been referred to the service police either under section 113 (possibility of a Schedule 2 offence) or section 114 (existence of prescribed circumstances) and the service police propose not to refer the case to the DSP under subsection (2). This might be because they propose to refer the case to the CO or because they do not consider that any charge of a service offence should be brought. In those circumstances the service police must consult the DSP as soon as reasonably practicable and in any case before referring the case instead to the CO.