

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

ARMED FORCES ACT 2001

EXPLANATORY NOTES

THE ACT - COMMENTARY ON SECTIONS

Part 6 – Other amendments

Amendment relating to abolition 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.