

ARMED FORCES ACT 2006

EXPLANATORY NOTES

SCHEDULES

Schedule 13 – Protection of Children of Service Families

864. This Schedule amends those sections of the Armed Forces Act 1991 (“the 1991 Act”) that provide for the protection of children of Service families abroad. The effect of the amendments is two-fold. First, they make the 1991 Act more consistent with Part V of the Children Act 1989 (“the 1989 Act”) by (a) creating a power to include an exclusion requirement in a protection order (paragraph 5 – analogous to section 44A of the 1989 Act) and (b) empowering the service police to remove children in cases of emergency (paragraph 8 – analogous to section 46 of the 1989 Act). Second, they make the 1991 Act more consistent with the Act, most importantly by requiring that a judge advocate, rather than an officer, will make child assessment orders (paragraph 1(3) et seq.) and protection orders (paragraph 3(3) et seq.).
865. Paragraph 4(4) substitutes a new section 20(9) in the 1991 Act which makes it an offence for a person subject to service law or a civilian subject to service discipline intentionally to fail to comply with an exclusion requirement included in a protection order.
866. Paragraph 5 inserts a new section 20A into the 1991 Act providing that a judge advocate, on being satisfied that certain conditions are satisfied, may include an exclusion requirement in a protection order. An exclusion requirement is defined in section 20A(2) and the relevant conditions are specified in section 20A(3) to (5). Condition C at section 20A(5) has no counterpart in the 1989 Act. It requires the judge advocate to be satisfied that appropriate alternative accommodation will be available to the affected person for the duration of the exclusion requirement, and where the affected person is subject to service law, that his CO also considers the alternative accommodation to be appropriate.
867. Paragraph 6 amends section 21(1) of the 1991 Act so as to provide that the duration of a protection order must not exceed 28 days. The effect of this amendment is to abolish the distinction in the 1991 Act between the maximum duration of a protection order made by a “superior officer” and any other protection order.
868. Paragraph 7 inserts a new section 22(5A) into the 1991 Act empowering a judge advocate, on application, to vary the exclusion requirement in a protection order or discharge the protection order so far as it imposes the exclusion requirement.
869. Paragraph 8 inserts a new section 22A into the 1991 Act that empowers a service policeman to remove a child to suitable accommodation, or take reasonable steps to prevent his removal from any place, if he has reasonable cause to believe that the child would otherwise be likely to suffer significant harm (section 22A(1)). A child in respect of whom a service policeman has exercised the power under section 22A(1) is deemed to be in service police protection (section 22A(2)), and a child may be kept in service police protection for no more than 72 hours (section 22A(5)). The service police are

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

required to take certain steps after taking a child into service police protection (see section 22A(3), (4), (6) and (7)).

870. [Paragraph 9](#) amends section 23 (interpretation) of the 1991 Act. The amendments provide that “harm” and “significant harm” – terms that are presently used but not defined in the 1991 Act – have the same meanings as in the 1989 Act, and also define the meaning of other terms.