



Australian Government

FACTSHEET:

DEFENCE LEGISLATION AMENDMENT (DISCIPLINE REFORM) BILL 2021

While ADF members are subject to the same laws that apply to other Australians, they are also always subject to the *Defence Force Discipline Act 1982* (DFDA) whether serving overseas or within Australia.

The majority of breaches covered by the DFDA are of a uniquely military nature, and range from offences relating to operations against an enemy to being late for work. Serious criminal offences or other illegal conduct are usually referred to civilian authorities, such as the civilian police.

REFORM OF THE DISCIPLINE SYSTEM

- The Defence Legislation Amendment (Discipline Reform) Bill 2021 will modernise the DFDA to improve the management of disciplinary matters in the ADF.
- The reforms will result in a discipline system that is easier to understand and use, and will reduce delays, while introducing new checks and balances to ensure it continues to operate fairly. They will allow commanders to more simply and quickly address poor behaviour, and create opportunity for early intervention to better support the people in our Defence Force to continue as a positive contributor to their Service.
- The reforms also provide the opportunity for ADF members to choose to have a wider range of minor discipline matters dealt with quickly and fairly, without the stress of lengthy criminal-like investigations and court-like procedures that apply at the summary and superior tribunals.
- All those impacted by poor discipline will benefit from having matters resolved quickly. This is essential because our people often live, work, and may fight together.

The reforms include the following:

- enabling a wider range of minor breaches of military discipline to be managed quickly and simply as disciplinary infringements, rather than service offences where complex, adversarial court-like procedures apply
- a better structured discipline hierarchy based on the seriousness of the offending, available punishments, rank of the individual and the seniority of the discipline authority.

The reforms also include several new service offences relevant to the modern ADF, including cyber bullying, failing to perform a duty or an activity, and failing to notify a change in circumstances when in receipt of a benefit or entitlement.

This new offence will send a very strong message to the people in our Defence Force that the use of social media to cyber-bully another person is unacceptable and will not be tolerated in the Australian Defence Force.



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The changes to the DFDA will reform the military discipline system so that the people in our Defence Force will benefit from a system that:

- is easier to use, particularly at the lowest levels, and particularly when the ADF is deployed on operations;
- is more timely and responsive, enabling commanders to effectively manage personnel and address behavioural concerns;
- continues to be fair and just towards all people involved in disciplinary processes
- is trusted by the people in the ADF and the Australian community;
- is responsive to contemporary technology and how it is used.

THE DEFENCE FORCE DISCIPLINE ACT

The ADF discipline system has three tiers:

Disciplinary Infringement Scheme

- At the lowest level is the disciplinary infringement scheme which enables minor breaches of discipline to be dealt with quickly and simply by the issue of an infringement notice.
- A person can choose to admit the breach of discipline and be dealt with by a Discipline Officer who may impose a low level punishment, such as a fine, stoppage of leave or reprimand.
- Infringements that can be dealt with are restricted and include being absent from duty or being absent without leave, failing to comply with an order, sleeping on watch or duty.
- This scheme is working well and is highly regarded by the women and men in the ADF, with most matters finalised in 2-3 days. Punishments are most commonly small fines, stoppage of leave and restriction of privileges.

Summary Tribunals

- The second tier is the summary tribunal system. These proceedings are adversarial in nature with criminal law like procedures and like the disciplinary infringement scheme, are not administered by legally trained personnel.
- Breaches of military discipline under this tier include: unauthorised or negligent discharge of a weapon, insubordination, being intoxicated on duty and creating a disturbance. On average summary trials are completed in around 55 days.

Superior Tribunals

- At the highest level are superior tribunals comprising Defence Force magistrates, restricted and general courts martial which are adversarial in nature and conducted like a civilian court with legally trained personnel. They deal with more serious or complex matters such as serious assaults, acts of indecency and apply criminal law procedures with most matters completed within twelve months.

