



Ministry
of Defence

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Ref: [REDACTED]

[REDACTED]

18 March 2016

Dear [REDACTED],

Thank you for your email of 22 January, and your clarification of 22 February in which you requested the following information:

Under the Armed Forces Act 2006, Sch 15, (as amended by s.22 AFA 2011), certain Civilians are Subject to Service Discipline. Can you please tell me the following: 1. If a service defendant is being prosecuted before a Service court in eg Cyprus, is his UK defence lawyer subject to the provisions of Sch 15? 2. If so, which paragraph? 3. For the purposes of paragraph 7 of Sch 15, who are "Persons designated by or on behalf of Defence Council"? 4. Is there a published Defence Council Notice or other publication to this effect, setting out who is or is not designated?

In para 7(1) of Sch 15 to the AFA 2006 it is stated: "A person is within this paragraph (subject to paragraph 11 - which defines "United Kingdom national") if—(a) he is designated for the purposes of this paragraph by or on behalf of the Defence Council or by an officer authorised by the Defence Council; and (b) he is outside the British Islands. Consequently, I am keen to understand the sort of people who are designated under this provision. I appreciate that Data Privacy will prevent disclosure of names and other personal information, but the professions/job titles of such people would be helpful. I am essentially wondering whether it is this provision which is used to designate defence counsel for Service Courts.

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA). A search for the information has now been completed, and I can confirm that information is held which falls within the scope of your request.

In regard to questions 1 and 2, Section 370 and Schedule 15 of the Armed Forces Act 2006 (AFA 06) both define a Civilian Subject to Service Discipline (CSSD) and the types of person that would be designated as such. This is supported by secondary legislation in the Armed Forces (Civilians Subject to Service Discipline) Order 2009:

http://www.legislation.gov.uk/ukxi/2009/836/pdfs/ukxi_20090836_en.pdf

In regard to question 3, the reasons why a person would be considered for designation as a CSSD and process used to do so is set out in Volume 1 of the Manual of Service Law:

<https://www.gov.uk/government/collections/manual-of-service-law-msl>

In regard to question 4, the appointments authorised to designate a person as a CSSD is laid out in a Defence Council Instruction that can be found within Volume 3 of the Manual of Service Law. For your ease of reference, a copy is attached.

Following your clarification on 22 February, there is no publication which details a list of those designated CSSD under Paragraph 7 of Schedule 15 of the Armed Forces Act 2006, however, a UK civilian defence lawyer acting for a Service dependent before a Service court in a designated area such as Germany or Cyprus would not be designated CSSD unless they fulfilled one of the other requirements of that Schedule (such as being a person in an HM aircraft in flight or HM ship afloat or staying with a person subject to Service law/crown servant etc).

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <http://www.ico.org.uk>.

Yours sincerely,

Defence People Secretariat