



SENATOR JOHN FAULKNER Minister for Defence

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HIGH COURT CHALLENGE TO THE AUSTRALIAN MILITARY COURT – IMPLEMENTATION OF INTERIM ARRANGEMENTS

The Minister for Defence, Senator John Faulkner, today introduced legislation to put in place an interim military justice system, after the Australian Military Court (AMC) was invalidated by the High Court last month.

In *Lane v Morrison* on 26 August 2009, the High Court ruled on a challenge to the constitutional validity of the AMC and the Director of Military Prosecutions.

“The High Court declared that the provisions of the Defence Force Discipline Act 1982 creating the AMC were invalid. The AMC was found to be exercising the judicial power of the Commonwealth but did not meet the requirements of Chapter III of the Constitution,” Senator Faulkner said.

“As an interim measure, the Government is reintroducing the former system of trials by court martial and Defence Force magistrates. This system has a number of safeguards within it to ensure that ADF members are treated fairly.”

The interim legislation will also give effect to punishments (other than imprisonment) and orders that were imposed by the former Australian Military Court.

“Beyond the interim measures introduced by this legislation, the Government remains committed to resolving the future of the military justice system with certainty.

“Defence will be working closely with the Attorney-General’s Department to develop, as a matter of priority, a model for ensuring these matters are heard by a court constituted under Chapter III of the Constitution.

“Establishing a Chapter III process presents a range of challenges which need to be fully addressed before moving to a new system,” Senator Faulkner said.

The interim legislation, introduced today, will retain improvements to the military discipline system made by amendments in 2008 to the Defence Force Discipline Act 1982.

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