

ARMED FORCES ACT 2006

EXPLANATORY NOTES

COMMENTARY

First Group of Parts – Discipline

Part 2 – Jurisdiction and Time Limits

Chapter 2 – Time Limits for Commencing Proceedings

142. This Chapter prescribes time limits for the bringing of charges under the Act. The time limits in sections 55 to 60 are cumulative—that is, a charge cannot be brought outside the period specified by any section that applies, even if another section also applies and the period specified by that other section has not expired. In the case of a charge under the Reserve Forces Act 1996, however, the time limit is determined by section 62 alone.

Time limits for offences other than Reserve Forces Act offences

Section 55: Time limit for charging former member of a regular or reserve force

143. Where a person is alleged to have committed a service offence while a member of a regular or reserve force, this section provides that he cannot be charged with the offence more than six months after he ceased to be a member. This is subject to section 61(2), which allows the charge to be brought if the Attorney General consents.

Section 56: Time limit for charging certain members or former members of ex-regular reserve forces

144. Where a person is alleged to have committed a service offence while he was an ex-regular reservist subject to an additional duties commitment under section 25 of the Reserve Forces Act 1996, this section provides that he cannot be charged with the offence more than six months after the end of that commitment. This is subject to section 61(2), which allows the charge to be brought if the Attorney General consents.

Section 57: Time limit for charging person formerly subject to service law

145. Where a person is alleged to have committed a service offence while he was subject to service law, and was not a volunteer reservist or an ex-regular reservist subject to an additional duties commitment, this section provides that he cannot be charged with the offence more than six months after he ceased to be subject to service law. This is subject to section 61(2), which allows the charge to be brought if the Attorney General consents.

Section 58: Time limit for charging civilian formerly subject to service discipline

146. Where a person is alleged to have committed a service offence while he was a civilian subject to service discipline, this section provides that he cannot be charged with the offence more than six months after he ceased to be a civilian subject to service

discipline. This is subject to section 61(2), which allows the charge to be brought if the Attorney General consents.

147. There are two exceptions. First, if the person became subject to service law at the same time as ceasing to be a civilian subject to service discipline, the six month period does not begin to run until he ceases to be subject to service law (when section 57 applies instead). Secondly, under Schedule 15 certain civilians are subject to service discipline only while in certain designated areas or while in any area outside the British Islands. If he ceases to be a civilian subject to service discipline only because he left such an area but was still residing or staying in that area, the six month period does not begin to run.

Section 59: Time limit for charging offence under section 107

148. This section sets a time limit for bringing a charge of an offence under section 107 (breach of requirement imposed on release from custody), or adding such a charge in proceedings for another offence. The time limit is six months from the date of the offence or two months from the date of the suspect's apprehension, whichever is the later.

Section 60: Time limit for charging offence under section 266

149. This section sets a time limit for bringing a charge of an offence under section 266 (failure to comply with a financial statement order). The time limit is two years from the date of the offence or six months from the date it becomes known to the Service Prosecuting Authority, whichever is the earlier.

Section 61: Sections 55 to 60: exceptions and interpretation

150. This section makes general provision in relation to sections 55 to 60. Its effect is mostly explained at paragraph 142 above. Subsection (1) also makes it clear that the time limits imposed by those sections (except section 59) apply only to the commencement of proceedings for the offence, and not to the addition of a charge in proceedings that have already been commenced.

Time limit for Reserve Forces Act offences

Section 62: Time limit for charging Reserve Forces Act offences

151. This section sets out the time limit for charging a person under the Act with an offence under sections 95 to 97 of the Reserve Forces Act 1996. The time limit is the point at which all the periods specified in subsection (1) have expired. The time limits in sections 55 to 60 do not apply.