
STATUTORY INSTRUMENTS

2009 No. 1059

The Armed Forces Act 2006
(Transitional Provisions etc) Order 2009

PART 17

SERVICE AND EFFECT OF SENTENCES IN RESPECT OF SDA OFFENCES

CHAPTER 2

Custodial sentences and detention

Committal orders under NDA 1957: sentences of service detention

137.—(1) Paragraphs (2) to (4) apply where—

- (a) a person has before commencement been sentenced to detention under section 43(1)(e) of NDA 1957; and
- (b) at commencement, no committal order has been issued under section 81(3) of that Act in respect of the sentence.

(2) Subject to paragraphs (3) and (4), the sentence shall be sufficient warrant for sending the person in service custody to the Military Corrective Training Centre; and, accordingly, no committal order shall be required.

(3) Where the sentence has been suspended under section 90 of NDA 1957, and at commencement no order has been made under section 91(1) or 91B(1) of that Act in respect of it—

- (a) paragraph (2) does not apply unless an order is made under section 91B(1) of that Act (by virtue of article 55 or 62), or section 191(3) or 193(3) of AFA 2006 (by virtue of any of articles 95 to 97), in respect of the sentence; but
- (b) any such order shall have the effect mentioned in paragraph (2).

(4) Where the sentence was passed by an officer and, immediately before commencement, was suspended by virtue of section 85A(4) of NDA 1957, paragraph (2) applies only when the sentence takes effect by virtue of section 290 or 291 of AFA 2006 (as modified by article 138 or 140).

(5) Where—

- (a) a person is sentenced to detention under section 43(1)(e) of NDA 1957 by virtue of article 55 (award of SDA punishment for offence found proved before commencement), and
- (b) the sentence is not suspended under section 90 of NDA 1957,

the sentence shall be sufficient warrant for sending the person in service custody to the Military Corrective Training Centre; but this is subject to sections 290 and 291 of AFA 2006 (as modified by article 142).

(6) Where—

- (a) a person is sentenced to detention under section 43(1)(e) of NDA 1957 by virtue of article 55,

- (b) the sentence is suspended under section 90 of NDA 1957, and
- (c) an order under section 191(3) or 193(3) of AFA 2006 is made (by virtue of any of articles 95 to 97) in respect of the sentence,

the order shall be sufficient warrant for sending the person in service custody to the Military Corrective Training Centre; but, in the case of an order under section 193(3) of AFA 2006, this is subject to sections 290 to 292 of that Act (as modified by article 144).

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 137.