
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

Commencement of SDA sentence of service detention awarded by CO: sentence running at commencement

139.—(1) This article applies where—

- (a) an SDA sentence of service detention was awarded by an officer before commencement; and
- (b) immediately before commencement, the sentence was not suspended by virtue of section 118ZA(3) or (4) of AA 1955 or AFA 1955 or section 85A(4) or (5) of NDA 1957 (but had not expired).

(2) If the offender made an election under section 118ZA(2) of AA 1955 or AFA 1955 or section 85A(2) of NDA 1957—

- (a) section 290(4) of AFA 2006 applies as if the sentence were a sentence of service detention as respects which the offender made an election under section 290(2);
- (b) section 290(5) of that Act applies if the election is withdrawn within the appeal period; and
- (c) section 290(6) of that Act applies if—
 - (i) the election is not withdrawn but an appeal is subsequently brought; or
 - (ii) the election is withdrawn during the appeal period, the remainder of the award resumes effect under section 290(5)(a) of that Act and an appeal is subsequently brought.

(3) In paragraph (2) “the appeal period” means the period mentioned in section 141(2) of AFA 2006 (as modified by article 63(2)) for the bringing of an appeal.

(4) If—

- (a) the appeal period (within the meaning of section 118ZA of AA 1955 or AFA 1955 or section 85A of NDA 1957) has expired before commencement without an appeal being brought, and
- (b) an appeal is subsequently brought,

section 290(6) of AFA 2006 applies as if the sentence were a sentence of service detention which took or resumed effect under section 290(3)(a) or (5)(a).

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 139.