
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 7

Community supervision orders

Offence of failure to comply to be treated as service offence for certain purposes

168.—(1) An offence under paragraph 4(6) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 committed after commencement is to be treated as a service offence for the purposes of the following provisions of AFA 2006—

- (a) section 50(1) (jurisdiction of Court Martial);
- (b) section 51(1) (jurisdiction of Service Civilian Court);
- (c) section 63 (double jeopardy);
- (d) sections 67 and 68(3) (powers of arrest);
- (e) Part 4 (custody);
- (f) section 116(2) and (5) (duty of service policeman to refer case to DSP), subject to the modification in paragraph (4)(a) below;
- (g) section 118 (duty of service policeman to notify CO of referral to DSP), subject to the modification in paragraph (4)(b) below;
- (h) section 127(1) (direction barring further proceedings).

(2) A person may not be arrested under section 67 of AFA 2006 by virtue of paragraph (1)(d) above after the end of 6 months beginning with the end of the supervision period.

(3) In section 92 of AFA 2006 (power to make provision conferring powers of entry and search after arrest), the reference to a person who has been arrested under section 67 of that Act does not include a person so arrested by virtue of paragraph (1)(d) above.

(4) In their application to an offence under paragraph 4(6) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 committed after commencement—

- (a) section 116(2)(b) of AFA 2006 has effect as if the words from “and is aware” to the end of the paragraph were omitted; and
- (b) section 118 of that Act has effect as if subsection (3)(b) were omitted.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 168.