
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 18

DISCIPLINE: MISCELLANEOUS

Arrest by civilian police of deserters etc

181.—(1) In sections 314 to 316 of AFA 2006 (arrest etc by civilian police of deserters and absentees without leave), references to a person subject to service law who has deserted include a person who is subject to service law and has committed an offence under section 37(1) of AA 1955 or AFA 1955 or section 16(1) of NDA 1957.

(2) In section 314(4) of AFA 2006, the reference to a person arrested under section 314 includes—

- (a) a person who was arrested before commencement under section 186 of AA 1955 or AFA 1955 or section 105 of NDA 1957 in a relevant territory (as defined by section 314(5) of AFA 2006) and has not been brought before a court of summary jurisdiction; and
- (b) a person arrested after commencement, in a relevant territory, in pursuance of a warrant issued under section 186(3) of AA 1955 or AFA 1955 or section 105(3) of NDA 1957.

(3) Section 315(1) of AFA 2006 applies in relation to a person who before commencement surrendered himself to a constable in a relevant territory as being a person illegally absent from the regular forces (within the meaning of AFA 2006) and has not been brought to a police station under section 188(1) of AA 1955 or AFA 1955 or section 108(1) of NDA 1957.

(4) Section 315(3) and (4) of AFA 2006 apply in relation to a person who—

- (a) was brought to a police station in a relevant territory under section 188(1) of AA 1955 or AFA 1955 or section 108(1) of NDA 1957, or surrendered himself to a constable at such a police station as being a person illegally absent from the regular forces (within the meaning of AFA 2006); and
- (b) has not been delivered into service custody, brought before a court of summary jurisdiction or released from police custody.

(5) In paragraphs (3) and (4)—

- (a) references to section 188(1) of AA 1955 include that subsection as applied by section 13 of the Visiting Forces Act 1952(1); and
- (b) references to a person illegally absent from the regular forces include a person illegally absent from the forces of a country to which that section applies.