
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 8

CUSTODY

CHAPTER 3

Custody after charge

Arrest after charge

41.—(1) In section 110(1) of AFA 2006 (power to order arrest after charge), the reference to a person who has been “charged” with an offence includes a person who has been informed in accordance with regulations of the Defence Council that a charge is to be reported to the person’s commanding officer under section 76(1) of AA 1955 or AFA 1955 or section 52B(1) of NDA 1957.

(2) Where, immediately before commencement, an order under section 75K(1) of AA 1955 or AFA 1955 or section 47L(1) of NDA 1957 (arrest after charge) has effect, the order has effect after commencement as if given under section 110(1) of AFA 2006.

(3) In section 110(4) of AFA 2006 (review), the reference to a person arrested under subsection (1) includes a person who immediately before commencement—

- (a) was in service custody having been arrested under section 75K(1) of AA 1955 or AFA 1955 or section 47L(1) of NDA 1957; and
- (b) had not been brought before a judicial officer under section 75K(7)(b) of AA 1955 or AFA 1955 or section 47L(7)(b) of NDA 1957.

(4) In section 111(1)(a) of AFA 2006 (arrest at direction of court), the reference to arraignment before a court mentioned there includes arraignment—

- (a) under section 91A(2) of AA 1955 or AFA 1955 or section 58A(2) of NDA 1957; or
- (b) before a Standing Civilian Court.

(5) Where, immediately before commencement, a direction under section 75K(3) of AA 1955 or AFA 1955 or section 47L(3) of NDA 1957 (arrest at direction of court) has effect, the direction has effect after commencement as if given under section 111(1) of AFA 2006.

(6) In section 111(4) of AFA 2006 (review), the reference to a person arrested under section 111 includes a person who immediately before commencement—

- (a) was in service custody having been arrested (other than before a judicial officer or judge advocate) under section 75K(3) of AA 1955 or AFA 1955 or section 47L(3) of NDA 1957; and
- (b) had not been brought before a judicial officer or judge advocate under section 75K(8)(b) of AA 1955 or AFA 1955 or section 47L(8)(b) of NDA 1957.