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STATUTORY INSTRUMENTS

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**2009 No. 1059**

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

**PART 10**

SUMMARY DEALING

CHAPTER 2

Modifications of AFA 2006 for charge current at commencement

**Certain consequences of election for court-martial trial**

- 61.**—(1) This article applies to a charge allocated for Court Martial trial where—
- (a) the charge is so allocated by virtue of article 44 and the case to which it relates was referred to the prosecuting authority following an election for court-martial trial; or
  - (b) the charge is so allocated by virtue of article 47(1)(c) and (2) (election for court-martial trial).
- (2) Section 130 of AFA 2006 (consequences of election for Court Martial trial) applies where this article applies to a charge, and in that section—
- (a) the reference in subsection (2)(a) to “that charge” includes a reference to a charge to which this article applies; and
  - (b) subsection (2)(b) and (3) are to be read accordingly (but subject to paragraph (3) below).
- (3) Where a charge to which this article applies was brought under NDA 1957, and the charge is referred to a commanding officer under section 125(2)(e) of AFA 2006—
- (a) the commanding officer may apply for extended powers for the purposes of section 133(1) or (2), 134, 135(1) or 136(1)(b) of AFA 2006; and
  - (b) if the commanding officer makes such an application and is notified that it has been granted, section 130(3) of AFA 2006 (which would prevent the accused from electing Court Martial trial of the charge) is to be taken to be disapplied.

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 61.