
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 15

APPEALS AND REFERENCES TO THE COURT MARTIAL APPEAL COURT

Compensation for miscarriages of justice

130.—(1) For the purposes of section 276 of AFA 2006 ^{M1} (compensation for miscarriages of justice) a person who was convicted by a court-martial is to be regarded as having been convicted by the Court Martial; but that section does not apply in relation to such a person if—

- (a) any compensation assessed to be payable to him under section 10 of AFA 1991 was paid in full before commencement; or
- (b) the Secretary of State determined under section 10(3) of that Act that there was no right to such compensation.

(2) Section 276(7A) of AFA 2006 does not apply in relation to a conviction as respects which an application for compensation was made under section 10 of AFA 1991 before commencement.

(3) In relation to a conviction which was reversed before commencement, or a pardon which was given before commencement, the reference in section 276(3) of AFA 2006 to the date on which the conviction is reversed, or the person concerned is pardoned, is to be read as a reference to commencement.

(4) Where an application for compensation under section 10 of AFA 1991 was made before commencement but the Secretary of State did not determine under section 10(3) of that Act whether there was a right to compensation, the application is to be regarded as an application for compensation under section 276 of AFA 2006.

(5) Where the Secretary of State determined that there was a right to compensation under section 10 of AFA 1991 but the amount payable was not assessed—

- (a) the Secretary of State is to be regarded as having determined that there is a right to compensation under section 276 of AFA 2006;
- (b) any person appointed under section 10(4) of AFA 1991 to assess the amount payable is to be regarded as having been appointed under section 276(5) of AFA 2006;
- (c) section 276(6) of AFA 2006 applies as if the substitution made by the Criminal Justice and Immigration Act 2008 had not been made; and
- (d) sections 276A and 276B of AFA 2006 ^{M2} do not apply.

(6) Where the amount of any compensation payable under section 10 of AFA 1991 was assessed under that section but the compensation so assessed was not paid in full before commencement—

- (a) the amount so assessed is the amount payable under section 276 of AFA 2006, and subsection (5) of that section does not apply; and

- (b) any sums paid in pursuance of the assessment are to be regarded as having been paid under that section.

Marginal Citations

- M1** Section 276 of AFA 2006 is amended by the Criminal Justice and Immigration Act 2008, section 145 and Schedule 25, paragraphs 10 and 29.
- M2** Sections 276A and 276B of AFA 2006 are inserted by the Criminal Justice and Immigration Act 2008, section 145 and Schedule 25, paragraphs 10 and 30.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 130.