
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 9

INVESTIGATION, CHARGING AND MODE OF TRIAL

“Service offence”, “Schedule 2 offence”

42.—(1) In Part 5 of AFA 2006 (investigation, charging and mode of trial), any reference to a service offence includes an SDA offence.

(2) Paragraph (1) does not apply in relation to section 113(4) of that Act (definition of “Schedule 2 offence”); but in that Part “Schedule 2 offence” includes the following SDA offences—

- (a) an offence under section 24 of AA 1955 or AFA 1955 or section 2 of NDA 1957 (misconduct in action);
 - (b) an offence under subsection (1)(a), (b), (c), (d) or (f) of section 25 of AA 1955 or AFA 1955 or of section 3 of NDA 1957 (assisting the enemy);
 - (c) an offence under section 26(1) of AA 1955 or AFA 1955 or section 4(1) of NDA 1957 (obstructing operations);
 - (d) an offence under section 30, 31 or 32 of AA 1955 or AFA 1955 or section 5, 9 or 10 of NDA 1957 (looting, mutiny, failure to suppress mutiny);
 - (e) an offence under section 37 of AA 1955 or AFA 1955 or section 16 of NDA 1957 (desertion) where the accused intends to avoid a period of active service within the meaning of section 8 of AFA 2006;
 - (f) an offence under section 44A(1)(f) of AA 1955 or AFA 1955 or section 29A(1)(f) of NDA 1957 (causing sequestration etc of aircraft) where the offender acts wilfully or with wilful neglect;
 - (g) an offence under section 48A of AA 1955 or AFA 1955 or section 19 of NDA 1957 (loss or hazarding of ship);
 - (h) an offence under section 49 of AA 1955 or AFA 1955 or section 20 of NDA 1957 (dangerous flying etc) where the offender acts wilfully or with wilful neglect;
 - (i) an offence under section 68 of AA 1955 or AFA 1955 or section 40 of NDA 1957 of attempting to commit an offence within any of sub-paragraphs (a) to (h) above;
 - (j) an SDA civil offence as respects which the corresponding civil offence is an offence mentioned in paragraph (3) below.
- (3) The offences referred to in paragraph (2)(j) are—
- (a) an offence within any sub-paragraph of paragraph 12 of Schedule 2 to AFA 2006;
 - (b) an offence under any of sections 1 to 7, 9 to 11, 16, 17, 19 to 24, 26 to 29 and 32 of the Sexual Offences Act 1956 ^{M1};

Status: Point in time view as at 24/04/2009.

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 42. (See end of Document for details)

- (c) an offence under section 128 of the Mental Health Act 1959 ^{M2};
- (d) an offence under section 1 of the Indecency with Children Act 1960 ^{M3};
- (e) an offence under section 4 or 5 of the Sexual Offences Act 1967 ^{M4};
- (f) an offence under section 1 of the Criminal Attempts Act 1981 ^{M5}, or at common law, of attempting to commit an offence within any of sub-paragraphs (a) to (e) above;
- (g) an offence under section 1 of the Criminal Law Act 1977 ^{M6}, or at common law, of conspiracy to commit an offence within any of sub-paragraphs (a) to (e) above;
- (h) an offence at common law of incitement to commit an offence within any of sub-paragraphs (a) to (e) above;
- (i) an offence under Part 2 of the Serious Crime Act 2007 ^{M7} where the offence (or one of the offences) which the offender intended or believed would be committed is an offence within sub-paragraph (a) above.

Marginal Citations

- M1** 1956 c. 69. Sections 1 to 7, 9 to 11, 16, 17, 19 to 24, 26 to 29 and 32 were repealed by the Sexual Offences Act 2003, section 139 and Schedule 6, paragraph 11.
- M2** 1959 c. 72. Section 128 was repealed by the Sexual Offences Act 2003, section 139 and Schedule 6, paragraph 13.
- M3** 1960 c. 33. The Act was repealed by the Sexual Offences Act 2003, section 139 and Schedule 6, paragraph 14.
- M4** 1967 c. 60. Sections 4 and 5 were repealed by the Sexual Offences Act 2003, section 139 and Schedule 6, paragraph 15.
- M5** 1981 c. 47.
- M6** 1977 c. 45.
- M7** 2007 c. 27.

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