STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 20

FORFEITURES AND DEDUCTIONS

Permitted forfeitures and deductions

197.—(1) Section 342(1) of AFA 2006 (power to make regulations permitting forfeitures and deductions) is modified as follows.

(2) In paragraph (a), the reference to a period of prescribed absence from duty includes a period of such absence at a time when the person subject to service law was subject to military or air-force law or to NDA 1957.

(3) In paragraph (b), the reference to an order by a civilian court includes an order made before commencement.

(4) In paragraph (c), the reference to loss or damage includes loss or damage before commencement.

(5) In paragraph (d), the reference to a financial penalty includes—

   (a) a fine or stoppages imposed by virtue of any provision of AA 1955, AFA 1955 or NDA 1957 (including a fine with respect to which an order under paragraph 13 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 (order for service parent or guardian to pay fine or compensation) has been made);

   (b) a compensation order with respect to which such an order has been made;

   (c) a sum adjudged to be paid under paragraph 14 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 (forfeited recognisance).

Forfeitures and deductions permitted, ordered or authorised before commencement

198.—(1) Where, immediately before commencement, any sum is liable to be deducted from a person's pay by virtue of section 146 of AA 1955 or AFA 1955 or section 128B of NDA 1957 (deductions for payment of civil penalties), the sum may be deducted from his pay notwithstanding the repeal of that section by AFA 2006.

(2) Where, immediately before commencement, an order made against a person under section 147(2) of AA 1955 or AFA 1955 or section 128C(2) of NDA 1957 has effect (compensation for loss or damage), the sum specified in the order may be deducted from his pay, in so far as not otherwise paid by him, notwithstanding the repeal of that subsection by AFA 2006.

(3) Where, immediately before commencement, an order made under—

   (a) section 150(1), 150A(2), 150AA(2) or 151(1) of AA 1955 or AFA 1955 (maintenance etc), or

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Act 2006 (Transitional Provisions etc) Order 2009, PART 20. (See end of Document for details)

  (b) section 151A(1) of AA 1955 or AFA 1955, or section 128E(1) of NDA 1957 (judgment debts etc),

has effect, the order shall continue to have effect notwithstanding the repeal of that subsection by AFA 2006; but this is subject to paragraph (4).

  (4) The Defence Council or an officer authorised by them—

  (a) may by order vary or revoke any order made under section 150(1), 151(1) or 151A(1) of AA 1955 or AFA 1955, or section 128E(1) of NDA 1957; and

  (b) may treat any order made under section 150(1), 151(1) or 151A(1) of AA 1955 or AFA 1955 as being in suspense at any time while the person against whom the order was made is absent without leave.

  (5) Where, immediately before commencement, an authorisation of deductions from a person's pay by virtue of section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 **M1** has effect (deductions in respect of liabilities for maintenance etc), the authorisation shall continue to have effect notwithstanding the repeal of that subsection, and the amendment of section 3 of the Naval and Marine Pay and Pensions Act 1865 **M2**, by AFA 2006.

  (6) In subsection (3) of section 342 of AFA 2006 (power to remit forfeitures and deductions), the reference to a forfeiture or deduction imposed by virtue of subsection (1)(a), (b) or (c) of that section includes—

  (a) a forfeiture imposed by virtue of section 145 of AA 1955 or AFA 1955 or section 16(2), 17 or 75(1) of NDA 1957 (forfeiture of pay for absence from duty etc); and

  (b) a deduction imposed by virtue of this article or any provision mentioned in this article.

Marginal Citations
 M1 1947 c. 24.
 M2 1865 c. 73.