
STATUTORY INSTRUMENTS

2009 No. 2055

The Armed Forces (Part 5 of the Armed Forces Act 2006) Regulations 2009

PART 4

FURTHER PROVISIONS

Provision of information and notification of prescribed matters

15.—(1) If under section 123(2)(d) a commanding officer discontinues proceedings on a charge, he must as soon as reasonably practicable give written notification of the discontinuation to the accused.

(2) If under section 125(2)(d) or section 126(2)(d) the DSP discontinues proceedings on a charge, he must as soon as reasonably practicable give written notice of the discontinuation to—

- (a) the accused or his legal representative;
- (b) the accused's commanding officer; and
- (c) the court administration officer.

(3) If under section 125(2)(e) the DSP refers a charge to an accused's commanding officer, the commanding officer must as soon as reasonably practicable give written notification of the reference to the accused or his legal representative.

(4) If under section 121(3) or 125(2)(f) the DSP allocates a charge for trial by the Service Civilian Court, or under section 126(2)(e) allocates a charge for trial by the Court Martial, he must as soon as reasonably practicable give written notice of the allocation to—

- (a) the accused or his legal representative; and
- (b) the court administration officer.

(5) If the DSP makes a direction under section 127(1) or (2)—

- (a) he must as soon as reasonably practicable notify the commanding officer of the person specified in the direction, and
- (b) the commanding officer must as soon as reasonably practicable notify that person in writing,

of the making of the direction.

(6) A notification under this regulation may be given to an accused who is not, or is not for the time being, subject to service law by—

- (a) delivering it to him by hand;
- (b) leaving it at his usual or last known address;
- (c) sending it by post to that address; or
- (d) transmitting it to him by fax or other electronic means, but only if he has agreed to receive it by that method.

- (7) A notification under this regulation may be given to a legal representative by—
- (a) delivering it to him by hand;
 - (b) delivering it, or sending it by post or by document exchange (DX), to his place of business; or
 - (c) transmitting it to him by fax or other electronic means, but only if he has agreed to receive it by that method.
- (8) In this regulation references to the legal representative of a person have the same meaning as in the Court Martial rules.

Delegation of functions by CO

16.—(1) A commanding officer may delegate to a subordinate commander any of his functions under Part 5 of the Act or under these Regulations, subject to such conditions as he considers appropriate.

(2) In paragraph (1) “subordinate commander” means, in relation to a commanding officer, an officer under his command who is not below the rank of naval lieutenant, military or marine captain or flight lieutenant.

Transitional

17.—(1) In these Regulations—

- (a) references to a service offence include an SDA offence;
- (b) references to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is a specified offence include an offence under section 70 of AA 1955 or AFA 1955 or section 42 of NDA 1957 as respects which the corresponding civil offence is the specified offence;
- (c) references to a person who has enlisted in the regular forces include a person who entered the Royal Navy before commencement.

(2) In these Regulations, in relation to any time before commencement—

- (a) references to a person subject to service law are to a person who was at that time subject to military law, air-force law or NDA 1957;
- (b) references to a civilian subject to service discipline are to a person to whom any provision of AA 1955, AFA 1955 or NDA 1957 at that time applied by virtue of section 209(1) or (2) of AA 1955 or AFA 1955 or section 118(1) or (2) of NDA 1957;
- (c) references to service custody are to military, air-force or naval custody.

(3) In this regulation—

“AA 1955” means the Army Act 1955(1);

“AFA 1955” means the Air Force Act 1955(2);

“NDA 1957” means the Naval Discipline Act 1957(3);

“commencement” means 31st October 2009;

“the corresponding civil offence”, in relation to an offence under section 70 of AA 1955 or AFA 1955 or section 42 of NDA 1957, means—

- (a) the act or omission constituting that offence; or

(1) 1955 c. 18.

(2) 1955 c. 19.

(3) 1957 c. 53.

- (b) if that act or omission is not punishable by the law of England and Wales, the equivalent act done or omission made in England or Wales;
- “SDA offence” means any of the following—
- (a) any offence under Part 2 of AA 1955 or AFA 1955;
 - (b) any offence under Part 1 of NDA 1957;
 - (c) an offence under section 47K of that Act;
 - (d) an offence under paragraph 4(6) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 committed before commencement;
 - (e) an offence under section 18 or 20 of the Armed Forces Act 1991(4) committed before commencement;
 - (f) an offence under any of sections 95 to 97 of the Reserve Forces Act 1996(5) committed before commencement;
 - (g) an offence under paragraph 5(1) of Schedule 1 to that Act committed before commencement by a person within paragraph (4).
- (4) A person is within this paragraph if—
- (a) after committing the offence and before commencement, he became a member of a reserve force and—
 - (i) he remained such a member until immediately before commencement; or
 - (ii) immediately before commencement, he was subject to military law, air-force law or NDA 1957; or
 - (b) on or after commencement, he becomes a member of the reserve forces.

(4) 1991 c. 62.
(5) 1996 c. 14.