
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 5

TIME LIMITS FOR COMMENCING PROCEEDINGS ETC

No charge to be brought where SDA time limit for trial expired before commencement etc

17.—(1) A person may not be charged with an offence if, immediately before commencement, section 132(1) of AA 1955 or AFA 1955 or section 52(1) of NDA 1957 (proceedings for SDA civil offence barred if proceedings on indictment for the corresponding civil offence time-barred) prevented proceedings from being taken against the person for the offence.

(2) A person may not be charged with an offence if, immediately before commencement, section 132(2) of AA 1955 or AFA 1955 (no person to be tried for desertion if since the offence he has served for three or more years in an exemplary manner) prevented the person from being tried for the offence.

(3) A person may not be charged with an offence (other than one within paragraph (5)) if—

- (a) the offence was committed at a time when the person was subject to military law, air-force law or NDA 1957 or was a civilian subject to the SDAs; and
- (b) after that time, and more than six months before commencement, the person ceased to be so subject or to be a civilian subject to the SDAs (as the case may be).

(4) Paragraph (3) applies even if the person again became subject to military law, air-force law or NDA 1957 or a civilian subject to the SDAs.

(5) Paragraphs (3) and (4) do not apply in relation to the following offences—

- (a) an offence under section 31 or 32 of AA 1955 or AFA 1955;
- (b) an offence of desertion within the meaning of section 132(3A) of AA 1955 or AFA 1955;
- (c) an offence of mutiny or desertion within the meaning of section 52(3) of NDA 1957; or
- (d) an SDA civil offence committed outside the United Kingdom where the Attorney General has consented to the bringing of the charge.

(6) In this article “charged” means charged under Part 5 of AFA 2006.