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STATUTORY INSTRUMENTS

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**2009 No. 1059**

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

PART 17

SERVICE AND EFFECT OF SENTENCES IN RESPECT OF SDA OFFENCES

CHAPTER 6

SDA orders for conditional discharge

**SDA orders for conditional discharge**

**161.** In this Chapter—

“SDA order for conditional discharge” means an order under paragraph 3(1) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 discharging a person subject to a condition;

“the period of conditional discharge” means the period specified in the SDA order for conditional discharge.

**Order of court-martial: conviction of further offence by Court Martial**

**162.—**(1) This article applies where—

(a) a person in whose case an SDA order for conditional discharge has been made is convicted by the Court Martial of an offence committed during the period of conditional discharge; and

(b) the order was made by a court-martial or the Appeal Court.

(2) The Court Martial may deal with the offender for the offence for which the order was made in any way in which it could deal with the offender if it had just convicted the offender of that offence.

**Order of any SDA court: conviction of further offence by Service Civilian Court**

**163.—**(1) This article applies where a person in whose case an SDA order for conditional discharge has been made is convicted by the Service Civilian Court of an offence committed during the period of conditional discharge.

(2) The Service Civilian Court may deal with the offender for the offence for which the order was made in any way in which it could deal with the offender if it had just convicted the offender of that offence.

(3) It is to be assumed for the purposes of paragraph (2) that the offence is one the Service Civilian Court would have jurisdiction to try.

**Order of Standing Civilian Court: conviction of further offence by Court Martial**

**164.**—(1) This article applies where—

- (a) a person in whose case an SDA order for conditional discharge has been made is convicted by the Court Martial of an offence committed during the period of conditional discharge; and
- (b) the order was made by a Standing Civilian Court.

(2) The Court Martial may deal with the offender for the offence for which the order was made in any way in which the Service Civilian Court could deal with the offender if it had just convicted the offender of that offence.

(3) It is to be assumed for the purposes of paragraph (2) that the offence is one the Service Civilian Court would have jurisdiction to try.

**Appeals against re-sentence, etc**

**165.**—(1) Paragraph (2) applies where a person is sentenced by a court under this Chapter for an offence in respect of which an SDA order for conditional discharge was made.

(2) The person is to be treated, for the purpose of enabling the making of an appeal against the sentence under CMAA 1968 or section 285 of AFA 2006, as if the conviction of that offence had been by the court which sentenced the person under this Chapter.

(3) Paragraph 5 of Schedule 5A to AA 1955 and AFA 1955 and of Schedule 4A to NDA 1957 continues to have effect in relation to SDA orders for conditional discharge, but as if the references in sub-paragraphs (1)(i) and (6) to paragraph 3(2) or (3) were to this Chapter.