
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 8

CUSTODY

CHAPTER 2

Custody without charge

Authorisation by CO of custody without charge

36.—(1) In section 99 of AFA 2006 (authorisation by CO of custody without charge)—

- (a) in subsection (1) (duty to report to CO arrest and any grounds for keeping in custody), the reference to the case where a person is arrested under section 67 includes the case where—
 - (i) before commencement a person was arrested under section 74 of AA 1955 or AFA 1955 or section 45 of NDA 1957; and
 - (ii) immediately before commencement, the requirement imposed by section 75A(1) of AA 1955 or AFA 1955 or section 47B(1) of NDA 1957 had not been complied with in relation to that arrest;
- (b) in subsection (3), the reference to a report under subsection (1) includes a report under section 75A(1) of AA 1955 or AFA 1955 or section 47B(1) of NDA 1957 as respects which no determination under section 75A(3) of AA 1955 or AFA 1955 or section 47B(3) of NDA 1957 had been made before commencement.

(2) Where, immediately before commencement, an authorisation under section 75A(4) of AA 1955 or AFA 1955 or section 47B(4) of NDA 1957 (authorisation by CO of custody without charge) has effect—

- (a) the authorisation is not affected by the coming into force of the repeal of sections 75A(4) and 47B(4) (or by section 98(1) of AFA 2006);
- (b) for the purposes of section 100(1) of AFA 2006, the person kept in service custody under the authorisation is to be taken to be kept in service custody in accordance with section 99 of that Act; and
- (c) for the purposes of section 100(3), (4) and (6) of that Act and section 99(7)(d) of that Act the authorisation is to be taken to have been given under section 99(4) of that Act.

(3) Where, immediately before commencement, a person is in service custody by virtue of section 75B(4)(b) of AA 1955 or AFA 1955 or section 47C(4)(b) of NDA 1957 following the postponement of a review of his being kept in custody, section 100(6) of AFA 2006 applies as if—

- (a) the review had been postponed under section 100(3) or (4); and
- (b) the requirement in section 100(6)(a) were to carry out the review as soon as practicable.

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Point in time view as at 24/04/2009.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 36.