Draft Regulations laid before Parliament under section 373(3) of the Armed Forces Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 000

DEFENCE

The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations 2009

Made - - - -	**** 2009*
Coming into force - -	*31st October 2009*

The Secretary of State, in exercise of the power conferred by section 271(2) of the Armed Forces Act 2006(**1**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations 2009 and shall come into force on 31st October 2009.

Interpretation

2.—(1) In these Regulations—

"AA 1955" means the Army Act 1955(**2**);

"AFA 1955" means the Air Force Act 1955(**3**);

"CJA 2003" means the Criminal Justice Act 2003(**4**);

"commencement" has the meaning given by article 2 of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009(**5**);

"NDA 1957" means the Naval Discipline Act 1957(**6**);

(**1**) 2006 c. 52.
(**2**) 1955 c. 18.
(**3**) 1955 c. 19.
(**4**) 2003 c. 44.
(**5**) S.I. 2009/1059.
(**6**) 1957 c. 53.

"SDA offence" has the same meaning given by article 2 of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009.

Modification of Part 12 of the Criminal Justice Act 2003 (general Provisions about Sentencing)

3. In their application to a civilian court dealing with an offender for a service offence the provisions of Part 12 of CJA 2003 are modified as follows.

Modification of section 143 (determining the seriousness of an offence)

4. Section 143(3) (seriousness of offence: aggravating factor) is modified as if after the words "on bail" there were inserted "or charged with a service offence and released from service custody".

Modification of section 240 (crediting of periods of remand in custody)

5. Section 240(1) (application of section) is modified as if for paragraph (b) there were substituted —

"(b) the offender has been—

(i) remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence, that is to say, any other offence the charge for which was founded on the same facts or evidence, or

(ii) kept in service custody in connection with the offence or a related offence, that is to say, any other offence the charge for which was founded on the same facts or evidence, for any period since being charged with the offence or a related offence."

6. Section 240(2)(a) (effect of remand in custody in connection with other offences) is modified as if after the words "remanded in custody" there were inserted "or kept in service custody".

7. Section 240 is modified as if for subsection (3) (period of remand in custody to count as time served as part of sentence) there were substituted—

"(3) Subject to subsection (4), the court must direct that the number of days for which the offender—

(a) was remanded in custody in connection with the offence or a related offence, or

(b) has been kept in service custody in connection with the offence or a related offence since being charged with that offence or related offence,

is to count as time served by him as part of the sentence."

8. Section 240(5)(a) (court to state number of days for which offender was remanded in custody) is modified as if after the words "remanded in custody" there were inserted "or kept in service custody".

9. Section 240(6) (court to state certain matters if remand in custody not fully counted as time served as part of sentence) is modified as if after the words "remanded in custody" there were inserted "or kept in service custody".

Transitional provisions

10.—(1) In their application to a civilian court dealing with an offender for an SDA offence after commencement the provisions of Part 12 of CJA 2003 are modified as provided in regulations 4 to 9 subject to this regulation.