
STATUTORY INSTRUMENTS

2009 No. 1059

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

PART 11

TRIAL BY COURT MARTIAL

CHAPTER 1

Trial by Court Martial

Power to convict of alternative offences

77.—(1) This article applies in relation to a trial by the Court Martial, and is without prejudice to section 161 of AFA 2006.

(2) Where the Court Martial acquits a person of an SDA offence specifically charged in the charge sheet, but the allegations in the charge sheet amount to or include (expressly or by implication) an allegation of—

- (a) another SDA offence, or
- (b) a service offence,

the court may convict the person of that other SDA offence or that service offence.

(3) Where the Court Martial acquits a person of a service offence specifically charged in the charge sheet, but the allegations in the charge sheet amount to or include (expressly or by implication) an allegation of an SDA offence, the court may convict him of the SDA offence.

(4) For the purposes of this article—

- (a) an allegation of an offence under any of sections 24 to 66 or 69 of AA 1955 or AFA 1955 (“offence X”) is to be taken to include an allegation of an offence under section 68 of attempting to commit offence X;
- (b) an allegation of an offence under any of sections 2 to 39 of NDA 1957 (“offence Y”) is to be taken to include an allegation of an offence under section 40 of attempting to commit offence Y;
- (c) an allegation of a completed SDA civil offence is to be taken to include an allegation of an SDA civil offence of attempting to commit that offence.

(5) Paragraphs (2) and (3) apply in relation to a charge sheet containing more than one charge as if each charge were contained in a separate charge sheet.

(6) In this article a “completed SDA civil offence” means an offence that would be an offence to which section 1 of the Criminal Attempts Act 1981^{M1} applies if subsection (4) of that section had effect as modified by section 70(2A) of AA 1955 or AFA 1955 or section 42(2A) of NDA 1957.

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 77. (See end of Document for details)

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Marginal Citations

M1 1981 c. 47.

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There are currently no known outstanding effects for the The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009, Section 77.