

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of title 41, U.S.C., 1940 ed., Public Contracts.

Changes were made in phraseology.

#### REFERENCES IN TEXT

Section 103 of title 41, referred to in text, probably means section 3 of act July 1, 1944, ch. 358, 58 Stat. 650, which was classified to section 103 of former Title 41, Public Contracts, prior to repeal by Pub. L. 111-350, §7(b), Jan. 4, 2011, 124 Stat. 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

#### AMENDMENTS

2009—Pub. L. 111-84 repealed Pub. L. 110-417, §855. See 2008 Amendment note below.

2008—Pub. L. 110-417, §855, which amended this section identically to amendment by Pub. L. 110-329, was repealed by Pub. L. 111-84. See 2008 Amendment note below.

Pub. L. 110-329, in first par., inserted “or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)),” after “is at war” and “or directly connected with or related to the authorized use of the Armed Forces” after “prosecution of the war” and substituted “5 years” for “three years” and “proclaimed by a Presidential proclamation, with notice to Congress,” for “proclaimed by the President”, and, in second par., inserted last sentence.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided in part that the amendment made by section 1073(c)(7) of Pub. L. 111-84 is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

### § 3288. Indictments and information dismissed after period of limitations

Whenever an indictment or information charging a felony is dismissed for any reason after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final, or, if no regular grand jury is in session in the appropriate jurisdiction when the indictment or information is dismissed, within six calendar months of the date when the next regular grand jury is convened, which new indictment shall not be barred by any statute of limitations. This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution.

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248; Pub. L. 88-520, §1, Aug. 30, 1964, 78 Stat. 699; Pub. L. 100-690, title VII, §7081(a), Nov. 18, 1988, 102 Stat. 4407.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§556a, 587, 589 (Apr. 30, 1934, ch. 170, §1, 48 Stat. 648; May 10, 1934, ch. 278, §§1, 3, 48 Stat. 772; July 10, 1940, ch. 567, 54 Stat. 747).

This section is a consolidation of sections 556a, 587, and 589 of title 18, U.S.C., 1940 ed., without change of

substance. (See reviser’s note under section 3289 of this title.)

#### AMENDMENTS

1988—Pub. L. 100-690, in section catchline, substituted “Indictments and information dismissed after period of limitations” for “Indictment where defect found after period of limitations”, and in text, substituted “Whenever an indictment or information charging a felony is dismissed for any reason” for “Whenever an indictment is dismissed for any error, defect, or irregularity with respect to the grand jury, or an indictment or information filed after the defendant waives in open court prosecution by indictment is found otherwise defective or insufficient for any cause.”, inserted “, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final” after “dismissal of the indictment or information”, and inserted provisions which prohibited filing of new indictment or information where reason for dismissal was failure to file within period prescribed or some other reason that would bar a new prosecution.

1964—Pub. L. 88-520 substituted “Indictment” for “Reindictment” in section catchline, included indictments or informations filed after the defendant waives in open court prosecution by indictment which are dismissed for any error, defect, or irregularity, or are otherwise found defective or insufficient, and substituted provisions authorizing the return of a new indictment in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, if no regular grand jury is in session when the indictment or information is dismissed, within six calendar months of the date when the next grand jury is convened, for provisions which authorized the return of a new indictment not later than the end of the next succeeding regular session of the court, following the session at which the indictment was found defective or insufficient, during which a grand jury shall be in session.

1963—Pub. L. 88-139 substituted “session” for “term” wherever appearing.

### § 3289. Indictments and information dismissed before period of limitations

Whenever an indictment or information charging a felony is dismissed for any reason before the period prescribed by the applicable statute of limitations has expired, and such period will expire within six calendar months of the date of the dismissal of the indictment or information, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the expiration of the applicable statute of limitations, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final, or, if no regular grand jury is in session in the appropriate jurisdiction at the expiration of the applicable statute of limitations, within six calendar months of the date when the next regular grand jury is convened, which new indictment shall not be barred by any statute of limitations. This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution.

(June 25, 1948, ch. 645, 62 Stat. 829; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248; Pub. L. 88-520, §2, Aug. 30, 1964, 78 Stat. 699; Pub. L. 100-690, title VII, §7081(b), Nov. 18, 1988, 102 Stat. 4407; Pub. L. 101-647, title XII, §1213, title XXV, §2595(b), title XXXV, §3580, Nov. 29, 1990, 104 Stat. 4833, 4907,