
STATUTORY INSTRUMENTS

2000 No. 2372

The Summary Appeal Court (Air Force) Rules 2000

**PART I
GENERAL**

Citation and commencement

1. These Rules may be cited as the Summary Appeal Court (Air Force) Rules 2000 and shall come into force on 2nd October 2000.

Interpretation

2.—(1) In these Rules—

“the Act” means the Air Force Act 1955;

“the court” means the summary appeal court established under section 83ZA of the Act;

“the court administration officer” means the person appointed to be the court administration officer for the court in accordance with section 83ZA of the Act;

“judge advocate” means a judge advocate appointed under section 83ZB of the Act;

“the judge advocate”, in relation to the hearing of an appeal under section 83ZE of the Act, means the judge advocate specified to hear the appeal in accordance with section 83ZD(1)(a) and (3) of the Act;

“proper address”, in relation to any person, shall be construed in accordance with rule 3(2) and Schedule 1;

“Record of Summary Dealing” shall have the meaning assigned to it by rule 8(4).

(2) Where these Rules provide for the jurisdiction of the court to be exercised by a judge advocate sitting alone, the judge advocate who is to exercise the jurisdiction of the court in a particular case shall be specified by or on behalf of the Judge Advocate General.

(3) In these Rules, the expression “commanding officer” in relation to any person means—

(a) where the person is subject to military law, such officer as would be determined by regulations of the Defence Council under section 82(1) of the Act as the commanding officer of that person if that person were charged with an offence under the Act;

(b) where the person has ceased to be subject to military law (except to the extent that he is treated as being so subject by virtue of section 131 of the Act), the officer for the time being in command of the unit to which that person belonged immediately before he ceased to be subject to military law;

(c) where the person was dealt with summarily for the offence to which the appeal or proposed appeal relates because at the material time he was a person to whom Part II of the Act applied by virtue of section 209 of the Act—

- (i) the officer who exercised the functions of the commanding officer under section 76 of the Act in relation to the offence; or
- (ii) where that officer no longer holds the post which he held when exercising those functions, the officer who for the time being holds that post.

Service of documents

3.—(1) Subject to rule 30(2), any notice or other document required by these Rules to be served on a person may be served on that person by—

- (a) delivering it to him;
- (b) leaving it at his proper address;
- (c) sending it by post to that address; or
- (d) transmitting it to him by FAX or other means of electronic data transmission in accordance with rule 4.

(2) For the purposes of these Rules, the reference to a person's proper address shall be to such address determined in accordance with Schedule 1.

(3) Paragraph (4) applies to the service of any document on a person bringing an appeal under section 83ZE of the Act, where—

- (a) notice has been served in accordance with rule 6(4) of the name and address of the legal adviser appointed by that person; and
- (b) no notice of the revocation of that appointment has been given in accordance with rule 6(5).

(4) Where this paragraph applies (and without prejudice to paragraph (1)), the document may be served on the appellant by—

- (a) delivering it to his legal adviser;
- (b) leaving it at the address notified to the court administration officer in accordance with rule 6(4);
- (c) sending it by post to his legal adviser at that address; or
- (d) transmitting it to his legal adviser by FAX or other means of electronic data transmission in accordance with rule 4.

(5) Paragraph (6) applies to the service of a document on a person bringing an appeal under section 83ZE of the Act in any case not falling within paragraph (3).

(6) Where this paragraph applies (and without prejudice to paragraph (1)), the document may be served by—

- (a) delivering it to the appellant's commanding officer;
- (b) leaving it at the proper address of the appellant's commanding officer;
- (c) sending it by post to the appellant's commanding officer at that address; or
- (d) transmitting it to his commanding officer by FAX or other means of electronic data transmission in accordance with rule 4.

(7) Where a document is received by a person's commanding officer in accordance with paragraph (6), he shall as soon as practicable serve it on that person.

(8) In these Rules, "FAX" means the making of a facsimile copy of a document by the transmission of electronic signals.

Service by FAX or other means of electronic data transmission

4.—(1) A document may be transmitted by FAX to a person if—

- (a) where the person is the legal adviser of the person to whom the proceedings relate, it is transmitted to the FAX number of any FAX machine at the address notified in accordance with rule 6(4); and
- (b) in any other case, it is transmitted to the FAX number of any FAX machine at his proper address.

(2) Paragraph (1) shall not apply if the person concerned has indicated in writing that he is not willing to regard a document as having been duly served on him if it is transmitted to a specified FAX number falling within that paragraph.

(3) In paragraph (1), the reference to a FAX machine is to any machine which is capable of receiving documents transmitted by FAX.

(4) A document may also be transmitted by FAX where the person to be served has indicated in writing to the person serving the document that he is willing to regard a document as having been duly served on him if it is transmitted to a specified FAX number and the document is transmitted to that number.

(5) Paragraph (4) shall apply with appropriate modification to a transmission of electronic data other than by FAX as it applies to a transmission by FAX.

(6) In paragraph (4), the reference to the person to be served is—

- (a) in a case falling within rule 3(4)(d), a reference to the legal adviser appointed by the person to whom the proceedings relate; and
- (b) in a case falling within rule 3(6)(d), a reference to the commanding officer.

(7) Where a document is transmitted by FAX in accordance with this rule, the person to whom the document is addressed shall be specified in the FAX.

Summary appeal court sitting in camera or closed court

5.—(1) Without prejudice to rules 34 and 36, the court may sit in camera for the whole or any part of a hearing where the court considers that—

- (a) it is necessary to do so in the interest of morals or public order;
- (b) it is necessary to do so for the purpose of safeguarding the interests of persons under the age of 18 years or protecting the private life of the appellant; or
- (c) the interests of justice would be prejudiced by the hearing, or that part of it taking place in public.

(2) The court may order that, subject to any exceptions the court may specify, the public shall be excluded from all or any part of a hearing if it appears to the court that it would be against the interests of national security to allow any evidence to be given or statement to be made in public in the course of the hearing or (as the case may be) that part of it.

(3) The court may sit in closed court when the members of the court hearing an appeal are deliberating on any matter raised on that appeal.

(4) Where the court sits in closed court under paragraph (3) no person shall be present other than the members of the court except any person under instruction who is permitted to be present by the members of the court hearing the appeal.

(5) It shall be the duty of the judge advocate to ensure that, where any person under instruction is permitted to be present when the members of the court are deliberating on any matter in closed court, that person takes no part in the deliberations and expresses no opinion to the members of the court.

Representation of appellant in proceedings on an appeal

6.—(1) Subject to rule 7, a person bringing an appeal under section 83ZE of the Act—

- (a) shall have the right to be legally represented at a hearing before the court (including a preliminary hearing);
- (b) may appoint a person (referred to in these Rules as his “legal adviser”) to act for him in connection with the conduct of the proceedings on the appeal.

(2) The appellant’s commanding officer shall secure that the appellant is afforded reasonable opportunity of communicating with his legal adviser for the purposes of preparing his case on the appeal.

(3) Without prejudice to paragraph (1)(a), where paragraph (4) applies, any right conferred or duty imposed by these Rules on the appellant may be exercised or, as the case may be, performed by his legal adviser on his behalf.

(4) This paragraph applies where a legal adviser appointed under this rule serves notice on the court administration officer specifying—

- (a) his name and address;
- (b) the name and, where applicable, the rank, service number and unit of the person in respect of whom he is acting; and
- (c) the proceedings before the court in connection with which he has been appointed.

(5) Where the appellant revokes his legal adviser’s appointment, he shall as soon as reasonably practicable serve notice on the court administration officer and his commanding officer of that fact.

Qualifications to be held by legal representatives

7. A person may only represent a person bringing an appeal under section 83ZE of the Act at a hearing before the court or act as his legal adviser if—

- (a) he is a person who has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990(1);
- (b) he is an advocate or a solicitor in Scotland;
- (c) he is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland;
- (d) he is a person who has in any Commonwealth country or any colony rights and duties similar to those of a barrister or solicitor in England and Wales, and is subject to punishment or disability for breach of professional rules.

(1) 1990 c. 41; subsection (6) of section 71 was substituted, and subsections (7) and (8) were repealed, by the Access to Justice Act 1999 (c. 22).