
STATUTORY INSTRUMENTS

1997 No. 173

DEFENCE

The Criminal Justice Act 1967 (Application to Courts-Martial) (Evidence) Regulations 1997

<i>Made</i>	- - - -	<i>21st February 1997</i>
<i>Laid before Parliament</i>		<i>24th February 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 12 of the Criminal Justice Act 1967⁽¹⁾, section 99A of the Army Act 1955⁽²⁾, section 99A of the Air Force Act 1955⁽³⁾ and section 64B of the Naval Discipline Act 1957⁽⁴⁾, hereby makes the following Regulations:—

1. These Regulations may be cited as the Criminal Justice Act 1967 (Application to Courts-Martial) (Evidence) Regulations 1997 and shall come into force on 1st April 1997.

2. In their application to proceedings before courts-martial, sections 9 to 11 of the Criminal Justice Act 1967⁽⁵⁾ shall apply subject to the modifications for which section 99A of the Army Act 1955, section 99A of the Air Force Act 1955 and section 64B of the Naval Discipline Act 1957 provide and to the further modifications specified in the Schedule to these Regulations.

3. The Courts-Martial (Evidence) Regulations 1967⁽⁶⁾ and the Courts-Martial (Evidence) Regulations 1977⁽⁷⁾ are hereby revoked.

21st February 1997

Nicholas Soames
Minister of State, Ministry of Defence

(1) 1967 c. 80; section 12 was amended by the Armed Forces Act 1976 (c. 52), section 11 and Schedule 5, and by the Armed Forces Act 1996 (c. 46), section 5 and Schedule 1.
(2) 1955 c. 18; section 99A was inserted by the Armed Forces Act 1976, section 11 and Schedule 5.
(3) 1955 c. 19; section 99A was inserted by the Armed Forces Act 1976, section 11 and Schedule 5.
(4) 1957 c. 53; section 64B was inserted by the Armed Forces Act 1996, section 5 and Schedule 1.
(5) Section 11 was repealed by the Criminal Procedure and Investigations Act 1996 (c. 25), section 74. The effect of section 11 in its application to proceedings before courts-martial is preserved by section 74(2) of that Act.
(6) S.I.1967/1807.
(7) S.I. 1977/86.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 2

MODIFICATIONS TO SECTIONS 9 TO 11 OF THE CRIMINAL JUSTICE ACT 1967

In section 9(2)(c), after the word “proceedings” there shall be inserted—

“and the court administration officer.”

In section 9(2)(d), for the word “solicitors” there shall be substituted the words “legal representatives”.

For section 9(5) there shall be substituted—

“An application under subsection (4)(b) above to a court-martial may be made before the hearing and on any such application the powers of the court shall be exercisable by the judge advocate appointed to conduct any proceedings preliminary to a court-martial.”.

For section 9(8) there shall be substituted—

“A document required by this section to be served on an accused may be served by sending it to the commanding officer of the accused; and, where a document is received by the commanding officer in accordance with this subsection, he shall serve it on the accused as soon as is practicable.”.

After section 9(8) there shall be added—

“(9) In this section and in section 11 below—

“the 1957 Act” means the Naval Discipline Act 1957;

“commanding officer” means—

- (a) where the accused is subject to the 1957 Act, the officer who is for the time being in immediate command of the ship or naval establishment to which the accused belongs;
- (b) where the accused is subject to the Army Act 1955, such officer having powers of command over that person as may be determined by or under regulations of the Defence Council made under section 82(1) of that Act;
- (c) where the accused is subject to the Air Force Act 1955, such officer having powers of command over that person as may be determined by or under regulations of the Defence Council made under section 82(1) of that Act;
- (d) where the accused is a person to whom Part I of the 1957 Act or Part II of the Army Act 1955 or Part II of the Air Force Act 1955 applies, such officer as may be determined by or under regulations of the Defence Council made under paragraph 4 of Schedule 4 to the 1957 Act or section 209(3)(f) of the Army Act 1955 or section 209(3)(f) of the Air Force Act 1955, as the case may be; and

“court administration officer” has the meaning assigned to it by section 53 of the 1957 Act or section 84A of the Army Act 1955 or section 84A of the Air Force Act 1955, as the case may be.”.

In section 10(1), for the word “defendant” there shall be substituted the word “accused”.

In section 10(2)—

for the words “a defendant” wherever they occur there shall be substituted the words “an accused”; and

for the words “counsel or solicitor” wherever they occur there shall be substituted the words “legal representative”.

In section 11, for the word “defendant” wherever it occurs there shall be substituted the word “accused”.

In section 11(1), for the words “on indictment” there shall be substituted the words “by court-martial”.

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In section 11(3), for the words after the word “informed” there shall be substituted the words “of the requirements of this section at the time he was notified by his commanding officer that he is to be tried by court-martial.”.

In section 11(5), for the word “solicitor” there shall be substituted the words “legal representative”.

For section 11(6) there shall be substituted—

“Any notice under this section shall be given in writing to the prosecutor.”.

Section 11(7) shall be omitted.

In section 11(8), for the definition of “the prescribed period” there shall be substituted—

““the prescribed period” means the period of 14 days from the date on which the accused was notified by his commanding officer that he is to be tried by court-martial.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 1997, prescribe modifications to sections 9, 10 and 11 of the Criminal Justice Act 1967 (c. 80) in their application to courts-martial.

Section 9 deals with the admissibility of written statements, section 10 with proof by formal admission and section 12 with restrictions on adducing evidence in support of an alibi. The modifications reflect differences in terminology between civilian courts and courts-martial.