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STATUTORY INSTRUMENTS

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**2000 No. 2368**

**The Army Custody Rules 2000**

**PART IV**

**GENERAL MATTERS**

**Arranging a hearing**

**18.**—(1) Where the relevant court administration officer receives notification under paragraph (1) (a) of rule 8, 9 or 10 he shall, after consultation with the Judge Advocate General or a person acting on his behalf, determine the time and place of any hearing.

(2) The relevant court administration officer shall notify the commanding officer and the person to whom the proceedings relate of the time and place of the hearing.

(3) If, having notified a person in accordance with paragraph (2), the relevant court administration officer changes the time or place of the hearing, he shall notify that person of the change.

(4) The relevant court administration officer shall arrange for the attendance at a hearing of a court recorder if the judicial officer so requests.

(5) The relevant court administration officer shall arrange for the attendance at a hearing of an interpreter if the judicial officer, the commanding officer or the person to whom the proceedings relate so requests.

**Legal representation**

**19.**—(1) Subject to rule 20, the person to whom the proceedings relate and the commanding officer shall each have the right to be legally represented at a hearing.

(2) Subject to rule 20, the person to whom the proceedings relate may appoint a person (referred to in these Rules as his “legal adviser”) to act for him in connection with the conduct of any proceedings to which these Rules relate.

(3) The commanding officer shall ensure that the person to whom the proceedings relate is afforded reasonable opportunity of communicating with his legal adviser for the purposes of preparing for the proceedings in connection with which the legal adviser has been appointed.

(4) Without prejudice to paragraph (1), where paragraph (5) applies, any right conferred or duty imposed by these Rules on the person to whom the proceedings relate may be exercised or, as the case may be, performed by his legal adviser on his behalf.

(5) 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 of the person in respect of whom he is acting and, where applicable, that person’s rank, service number, unit and regiment or corps; and
- (c) the proceedings in connection with which he has been appointed.

(6) Where the person to whom the proceedings relate revokes his legal adviser's appointment, he shall as soon as reasonably practicable serve notice on the court administration officer and the commanding officer of that fact.

### **Qualifications to be held by legal representatives**

**20.**—(1) A person may only—

- (a) represent the commanding officer or, as the case may be, the person to whom the proceedings relate, at a hearing;
- (b) be appointed under rule 19(2) as a legal adviser,

if he is appropriately qualified.

(2) For the purposes of paragraph (1), a person is appropriately qualified 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.

### **Witness summons**

**21.**—(1) Schedule 3 shall have effect with respect to summoning persons—

- (a) to give evidence, or
- (b) to produce any document or thing,

for the purposes of any proceedings to which these Rules apply.

(2) A witness summons issued in accordance with Schedule 3 shall be served on the witness—

- (a) by delivering it to him;
- (b) by leaving it for him with a person at his usual place of abode;
- (c) by post in a letter addressed to him at his last known or usual place of abode;
- (d) where the witness is subject to military law, air force law or the Naval Discipline Act 1957(2), by serving it on his commanding officer.

(3) Where a witness summons is served on a person's commanding officer under paragraph (2) (d), he shall serve the witness summons on that person.

### **Evidence through a live TV link**

**22.**—(1) A witness may, with the permission of the judicial officer, give evidence at a hearing through a live television link or other similar arrangements if it is not reasonably practicable for that person to attend the hearing.

(2) An application for permission under paragraph (1) shall be made by the person wishing to call the witness as soon as he believes that—

- (a) a person is likely to be able to give evidence likely to be material evidence; and

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(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).

(2) 1957 c. 53.

- (b) that it is not reasonably practicable for that person to attend the hearing.
- (3) The application shall be served on the court administration officer and shall state—
  - (a) the grounds of the application;
  - (b) the name and, where applicable, the service number, rank, unit and regiment or corps of the witness;
  - (c) where the witness is under the age of 18 years, the date of birth of the witness;
  - (d) the country and place where it is proposed the witness will be when giving evidence; and
  - (e) the name, occupation and relationship to the witness of any person proposed to accompany the witness and the grounds for believing that person should accompany the witness when giving evidence.
- (4) A copy of the application shall be served on the commanding officer or, as the case may be, the person to whom the proceedings relate.
- (5) The judicial officer shall not determine the application without giving the person served under paragraph (4) an opportunity to make representations about the application.
- (6) Where the application is determined prior to the hearing in which the evidence is to be given, the relevant court administration officer shall notify the commanding officer and the person to whom the proceedings relate of the decision of the judicial officer in relation to the application and, where permission is granted, the notification shall state any conditions specified by the judicial officer in accordance with paragraph (7).
- (7) The judicial officer may make the grant of permission subject to such conditions as he considers necessary with respect to the manner in which the evidence is to be given, including—
  - (a) specifying the place where the witness is to give evidence; and
  - (b) specifying the persons in whose presence the witness is to give evidence.
- (8) This rule is without prejudice to the rights of the commanding officer and the person to whom the proceedings relate to give evidence through a live link or other similar arrangements by virtue of rules 23(4) and 24.