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STATUTORY INSTRUMENTS

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**2000 No. 2372**

**The Summary Appeal Court (Air Force) Rules 2000**

**PART III**

**PROCEDURE ON THE BRINGING OF AN APPEAL**

**Respondent to give notice of intentions on receipt of notice of appeal**

**16.—**(1) Where—

- (a) a notice of appeal under rule 8;
- (b) a notice under rule 11(1) that an application under section 83ZE(3) of the Act for leave to bring an appeal out of time has been granted; or
- (c) a notice under rule 13(5) that an application for leave by the reviewing authority has been granted,

has been served on the prosecuting authority and that notice relates to one or more appeals against finding, he shall as the respondent give notice in writing to the court administration officer indicating whether or not he intends to contest any such appeal.

(2) Where the respondent has given notice under paragraph (1) that he intends to contest an appeal against finding, he may at any time prior to the hearing of the appeal give notice that he no longer intends to contest it; and any such notice shall have effect for the purposes of these Rules as a notice under that paragraph that he does not intend to contest the appeal.

**Uncontested appeals**

**17.—**(1) Where the respondent gives notice under rule 16(1) that he does not intend to contest an appeal, the court shall quash the finding against which the appeal is brought.

(2) Where any punishment awarded relates to one or more findings—

- (a) each of which is the subject of an appeal, and
- (b) in respect of each of which the respondent has given notice under rule 16(1) that he does not intend to contest the appeal,

the powers of the court under section 83ZG of the Act with respect to each of the findings and the punishment shall be exercised by a judge advocate sitting alone; and any decision of the judge advocate in exercise of those powers shall be recorded in writing and dated and signed by him.

(3) The court administration officer shall serve a copy of any decision of the judge advocate under this rule on—

- (a) the appellant;
- (b) the appellant's commanding officer; and
- (c) the respondent.

### **Respondent's papers**

**18.**—(1) Where the respondent gives notice that he intends to contest an appeal against finding, he shall serve the following (referred to in these Rules as “the respondent’s papers”) on the appellant’s commanding officer and the court administration officer—

- (a) a copy of the Record of Summary Dealing;
- (b) a summary of the facts and matters of which the respondent proposes to adduce evidence at the hearing of the appeal;
- (c) a list of all the persons whose evidence the respondent proposes to rely on at the hearing of the appeal (“the respondent’s witnesses”);
- (d) copies of every written statement made by the respondent’s witnesses which contain information as to the facts and matters of which the prosecutor proposes to adduce evidence at the hearing of the appeal;
- (e) a list of any exhibits which the respondent proposes to put in evidence and copies of those exhibits;
- (f) copies of all unused material; and
- (g) a statement of the information which the respondent proposes to present to the court in pursuance of rule 60(2).

(2) Where it is not practicable or desirable to make a copy of any exhibit, the respondent shall include in the document prepared in accordance with paragraph (1)(e) details of the whereabouts of the exhibit and the name and address of the person who has custody of it.

(3) On receipt of the respondent’s papers, the appellant’s commanding officer shall as soon as reasonably practicable serve them on the appellant, together with—

- (a) a statement explaining the requirements of section 11 of the Criminal Justice Act 1967<sup>(1)</sup> (notice of alibi) as modified by Part II of Schedule 3 to these Rules; and
- (b) a statement explaining that any person whom the appellant reasonably requires to give evidence may be summoned on his behalf in accordance with rule 30 and Schedule 4.

(4) Paragraph (3)(a) only applies where the respondent requests the appellant’s commanding officer to serve the statement referred to in that sub-paragraph on the appellant.

### **Service of additional evidence**

**19.**—(1) If at any time before the commencement of the hearing of an appeal, it appears to the respondent that he will want to adduce at the hearing any evidence additional to that contained, or referred to, in the respondent’s papers, he shall serve a copy of the additional evidence on the appellant’s commanding officer and on the court administration officer.

(2) Where it is not practicable or desirable to make a copy of any evidence to which paragraph (1) applies, the respondent shall instead give notice in writing to the appellant’s commanding officer explaining—

- (a) the nature of the evidence, and
- (b) details of its whereabouts and the name and address of the person who has custody of it.

(3) On receipt of any additional evidence under paragraph (1) or a notice under paragraph (2), the appellant’s commanding officer shall as soon as reasonably practicable serve it on the appellant.

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(1) 1967 c. 89.

### **Witness not called by respondent**

- 20.**—(1) This rule applies where the respondent does not intend to call as a witness—
- (a) any person whose statement has been served on the appellant as part of the evidence for the respondent; or
  - (b) any person in respect of whose evidence he has served notice under rule 48 below.
- (2) Where this rule applies, unless the appellant waives the requirement, the respondent shall—
- (a) serve notice in writing on the appellant that he does not intend to call that person; or
  - (b) tender that person at the hearing of the appeal for cross-examination by the appellant.

### **Service of statement of relevant matters by respondent in an appeal against punishment**

- 21.**—(1) Where the appeal relates only to any punishment awarded, the respondent shall serve on the appellant’s commanding officer—
- (a) a statement of the information which the respondent proposes to present to the court in pursuance of rule 60; and
  - (b) a copy of the Record of Summary Dealing.
- (2) On receipt of the documents referred to in paragraph (1), the appellant’s commanding officer shall as soon as reasonably practicable serve them on the appellant.
- (3) On receipt of the statement referred to in paragraph (1)(a), the appellant shall as soon as reasonably practicable give notice in writing to the respondent of any fact or matter contained in the statement on which he takes issue with the respondent.

### **Notification of the time and place for the hearing of an appeal**

- 22.**—(1) The court administration officer shall give notice in writing of the time which has been fixed for the hearing of an appeal to begin, and the place where the court is to sit, to—
- (a) the appellant;
  - (b) the appellant’s commanding officer;
  - (c) the respondent;
  - (d) the Judge Advocate General; and
  - (e) the persons referred to in paragraph (3).
- (2) The court administration officer shall consult the Judge Advocate General before specifying the time and place for the hearing of an appeal.
- (3) Any notice given under paragraph (1) shall include the relevant particulars of—
- (a) the persons (other than the judge advocate) specified to sit as members of the court for the purposes of hearing the appeal; and
  - (b) the person who has been specified as the waiting member in accordance with rule 25.
- (4) If, having notified a person in accordance with paragraph (1), the court administration officer—
- (a) changes the time or place for the hearing of the appeal; or
  - (b) specifies a person to sit as a member of the court, or to be a waiting member, in place of one of the persons already notified to that person,
- he shall notify the person of that fact and, in a case falling within sub-paragraph (b), of the relevant particulars of the person concerned.
- (5) In this rule, any reference to the relevant particulars of a person are—

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

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- (a) in the case of an officer who is subject to air-force law, to his name, rank and unit;
- (b) in the case of an officer who is subject to the Naval Discipline Act 1957(2), to his name, rank and (as the case may be) ship, naval establishment or unit;
- (c) in the case of an officer who is subject to military law, to his name, rank and regiment or corps;
- (d) in any other case, to his name and the position held by him in the service of the Crown.