
STATUTORY INSTRUMENTS

2000 No. 2372

The Summary Appeal Court (Air Force) Rules 2000

PART VII

**PRACTICE AND PROCEDURE OF THE SUMMARY APPEAL
COURT IN RELATION TO THE HEARING OF AN APPEAL**

Sittings and adjournments

38.—(1) The court shall sit at such times and for such periods of the day as seem to the members of the court hearing an appeal to be reasonable.

(2) The court shall not sit on Saturday or Sunday unless in the opinion of the members of the court hearing an appeal it is necessary to do so.

(3) The judge advocate may direct that the hearing of an appeal be adjourned if he is satisfied that an adjournment is necessary in the interests of justice.

(4) Where—

(a) the hearing of an appeal is adjourned, and

(b) the time and place for the hearing to resume is not fixed by the court at the adjourned hearing,

the court administration officer shall notify the parties in writing of the time fixed for the hearing to resume and the place where the court is to sit for the resumed hearing.

Challenges by the appellant

39.—(1) An appellant shall be entitled to object, on any reasonable grounds, to any member of the court hearing his appeal or any interpreter.

(2) Any objection to a member of the court shall be made immediately before the opening of the respondent's case.

(3) Every objection made by the appellant shall be determined by the judge advocate who shall announce his decision in open court.

(4) If more than one member of the court is objected to, the objection to each shall be considered in the following order—

(a) the judge advocate;

(b) the other members of the court specified to hear the appeal in order of seniority.

(5) If an objection to the judge advocate is allowed, the hearing of the appeal shall be postponed.

(6) If an objection to any member of the court is allowed, a waiting member in respect of whom no objection is made shall take his place; and, if there is no such member, the hearing of the appeal shall be postponed.

(7) Where the hearing of an appeal is postponed in accordance with paragraph (5) or (6), the court shall be reconstituted for the purposes of hearing the appeal.

(8) In any case where the court was to hear appeals by more than one appellant together at the same time, the judge advocate may direct that a postponement under paragraph (5) or (6) shall only apply to the hearing of the appeal of any appellant whose objection had given rise to, or contributed to the need for, the postponement.

(9) In this rule, any reference to a waiting member is to an officer specified as such in accordance with rule 25.

Interruption of hearing where a member of the court is unable to continue

40. Where, after the commencement of the hearing of an appeal, a member of the court dies or is for any other reason unable to continue hearing the appeal, the hearing shall be discontinued and the court shall be reconstituted for the purposes of beginning again the hearing of the appeal.

Refixing of postponed and interrupted hearings

41. Where the hearing of an appeal is postponed in accordance with rule 39(5) or (6) or discontinued in accordance with rule 40, rule 22 shall have effect with respect to the reconvened hearing.

Procedure to be adopted where more than one appeal against finding

42. Where at a hearing it is necessary for the court to determine more than one appeal against a finding, those appeals shall be heard at the same time and shall be determined before any appeal against punishment awarded in respect of any finding is heard.

Questions of practice and procedure not covered by the Act or the Rules

43. Any matter relating to the practice or procedure of the court raised at the hearing of an appeal shall, to the extent that it is not provided by the Act or these Rules, be determined by the judge advocate; and, in exercising his powers under this rule, the judge advocate shall adopt such course as appears to him will best serve the interests of justice.