

2005 No. 3483

DEFENCE

The Courts-Martial (Army) (Amendment) Rules 2005

Made - - - - - *19th December 2005*

Laid before Parliament *29th December 2005*

Coming into force - - - *2nd February 2006*

The Secretary of State makes the following Rules in exercise of the powers conferred by section 103(2) of the Army Act 1955(a):

Citation and commencement

1. These Rules may be cited as the Courts-Martial (Army) (Amendment) Rules 2005 and shall come into force on 2nd February 2006.

Amendment of Rules

2. The following paragraph shall be inserted after paragraph (1) of rule 43 of the Courts-Martial (Army) Rules(b)—

“(1A) The jurisdiction of the court to make an order(c) –

- (a) as to the payment of costs incurred by a party to the proceedings as a result of an unnecessary or improper act or omission by or on behalf of another party to the proceedings; or
- (b) disallowing or ordering the legal or other representative as defined in section 27(3) of the Armed Forces Act 2001(d) to meet the whole or any part of any wasted costs as there defined

may be exercised by the judge advocate sitting alone and he may direct the other members of the court to withdraw for the purpose of exercising the jurisdiction.”.

Don Touhig
Parliamentary Under Secretary of State
Ministry of Defence

19th December 2005

(a) 1955 c.18; section 103 was substituted by section 5 of and paragraph 30 of Schedule 1 to the Armed Forces Act 1996 (c.46) and section 103(2)(mm) was inserted by section 28 of the Armed Forces Act 2001 (c.19).
(b) S.I. 1997/169, to which there are amendments not relevant to these Regulations.
(c) Such an order may be made under the Armed Forces Proceedings (Costs) Regulations 2005 (S.I. 3478 /2005).
(d) 2001 c.19.

EXPLANATORY NOTE

(This note is not part of the Order)

Sections 26 and 27 of the Armed Forces Act 2001 respectively enable the Secretary of State to make regulations empowering courts-martial to make orders for the payment of costs which have been unnecessarily or improperly incurred in proceedings for an offence under any of the services Acts (which include the Army Act 1955) and to make wasted costs orders against the legal or other representative of a party to such proceedings. Section 28 contains provisions supplementary to sections 26 and 27 and amends section 103(2) of the Army Act 1955 to allow courts-martial rules to be made to enable any jurisdiction conferred on a court-martial by sections 26 to 28 of the 2001 Act to be exercised by the judge advocate sitting alone. The Armed Forces Proceedings (Costs) Regulations 2005 made under sections 26 to 28 of the 2001 Act empower courts-martial to make the applicable costs orders in proceedings for offences under the services Acts. These Rules amend the Courts-Martial (Army) Rules 1997 to enable the jurisdiction conferred on courts-martial by virtue of sections 26 to 28 of the Armed Forces Act 2001 to be exercised by a judge advocate sitting alone.

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