
STATUTORY INSTRUMENTS

2009 No. 1098

The Armed Forces (Custody Proceedings) Rules 2009

PART 3

PROCEEDINGS: GENERAL

Legal representation

18.—(1) The person to whom the proceedings relate and the commanding officer shall each have the right to be legally represented at a hearing.

(2) The person to whom the proceedings relate may appoint a legal representative to act for him in these proceedings.

(3) The commanding officer may be legally represented at a hearing.

(4) A person may be appointed as a legal representative under paragraph (2) or (3) only if he is—

- (a) a person who has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990⁽¹⁾;
- (b) an advocate or solicitor in Scotland;
- (c) a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland; or
- (d) a person who has in any of the Channel Islands, the Isle of Man, a Commonwealth country or a British overseas territory 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.

(5) The commanding officer shall ensure that the person to whom proceedings relate is afforded reasonable opportunity of communicating with his legal representative.

(6) 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 representative on his behalf.

(7) A legal representative appointed under this rule shall notify the court administration officer of—

- (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 or rate, service number and unit; and
- (c) the proceedings in connection with which he has been appointed.

(1) 1990 c. 41. Subsection (6) of section 71 of the Courts and Legal Services Act 1990 was substituted by the Access to Justice Act 1999 (c. 22), section 43, Schedule 6, paragraphs 4 and 9. Subsections (7) and (8) of section 71 of the 1990 Act were repealed by section 106, Schedule 15, Part 2 of the 1999 Act. Prospective amendments to section 71 of the 1990 Act are made to subsections (1) and (3) by the Constitutional Reform Act 2005 (c. 4), section 59(5), Schedule 11, Part 2, paragraph 4(1), (3). Prospective amendments are made to subsections (4) and (6) and a new subsection (6A) is inserted into section 71 of the 1990 Act by the Legal Services Act 2007 (c. 29), section 208(1), Schedule 21, paragraphs 83 and 94(a), (b) and (c).

Status: This is the original version (as it was originally made).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

(8) Where the person to whom the proceedings relate revokes his legal representative's appointment, he shall as soon as reasonably practicable notify the court administration officer and the commanding officer of that fact.