

---

STATUTORY INSTRUMENTS

---

**2009 No. 1209**

**The Armed Forces (Service Civilian Court) Rules 2009**

**PART 7**

**PRELIMINARY PROCEEDINGS**

**Listing of initial preliminary proceedings**

**32.** On receipt of the advance information in relation to a charge, the court administration officer must—

- (a) forward it to the Judge Advocate General and request him to specify a judge advocate for preliminary proceedings in relation to the charge; and
- (b) appoint a time and place for the commencement of the preliminary proceedings.

**Listing of further preliminary proceedings**

**33.—**(1) The court administration officer must appoint a time and place for further preliminary proceedings if so directed by—

- (a) the judge advocate for any preliminary proceedings; or
- (b) the Judge Advocate General.

(2) The judge advocate for any preliminary proceedings may give a direction under this rule—

- (a) on the oral application of the Director or a defendant; or
- (b) of his own motion.

(3) The Judge Advocate General may give a direction under this rule on the written application of the Director or a defendant.

(4) A written application for a direction under this rule—

- (a) must be made to the court administration officer;
- (b) must specify the reason for which further preliminary proceedings are required;
- (c) must include an estimate of the likely length of the further preliminary proceedings; and
- (d) subject to rule 34 (preliminary proceedings in chambers without notice), must be served on every other party to the proposed trial proceedings.

**Preliminary proceedings in chambers without notice to defendant**

**34.—**(1) On application by the Director, the judge advocate for any preliminary proceedings may direct that the proceedings are, or that any part of the proceedings is—

- (a) where there is one defendant, to be held in his absence and without notice to him;
- (b) where there are two or more defendants, to be held in the absence of both or all of them and without notice to any of them.

(2) The court may not make a decision required by section 279(1) (consideration of trial by Court Martial) at a preliminary proceeding where a judge advocate has made a direction under this rule.

### **Outline of prosecution case**

**35.** A judge advocate may direct the Director to serve on each defendant and the court administration officer, before any preliminary proceedings, an outline of the prosecution case.

### **Powers of the court at a preliminary hearing**

**36.—(1)** In preliminary proceedings the court may give such directions as appear to it to be necessary to secure the proper and efficient management of the case.

(2) Without prejudice to paragraph (1), the court may make an order or ruling on—

- (a) whether the court or the Court Martial should try the case;
- (b) any question as to the admissibility of evidence;
- (c) any question as to the joinder or severance of charges; or
- (d) any other question of law, practice or procedure relating to the case.

(3) Any direction given in preliminary proceedings shall have effect throughout any related proceedings unless varied or discharged by—

- (a) the judge advocate who gave it; or
- (b) the judge advocate for any related proceedings.

(4) Any order or ruling made in preliminary proceedings shall have effect throughout any related proceedings unless varied or discharged by the court.

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces (Service Civilian Court) Rules 2009, PART 7.