

SCHEDULE 2

Rule 112

TRANSITIONAL AND TRANSITORY PROVISIONS

PART 1

GENERAL

Interpretation

1. In this Schedule—

“AA 1955” means the Army Act 1955 ^{M1};

“AFA 1955” means the Air Force Act 1955 ^{M2};

“AFA 1976” means the Armed Forces Act 1976 ^{M3}

“commencement” means the date on which these Rules come into force;

“NDA 1957” means the Naval Discipline Act 1957 ^{M4};

“SCCO 1997” means the Standing Civilian Courts Order 1997 ^{M5};

“the SDAs” means AA 1955, AFA 1955 and NDA 1957;

“SDA compensation order” means a compensation order under paragraph 11(1) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957;

“SDA offence” any offence under Parts 2 of AA 1955 or AFA 1955, as those Parts are as applied by section 209 of those Acts to those persons described in sub-sections (1) or (2) of those sections; and

“a Standing Civilian Court” means a Standing Civilian Court established under section 6 of AFA 1976.

Marginal Citations

M1 [1955 c. 18.](#)

M2 [1955 c. 19.](#)

M3 [1976 c. 52](#)

M4 [1957 c. 53.](#)

M5 [S.I. 1997/172](#)

Record of Standing Civilian Court proceedings

2.—(1) Rules 22(2) to 22(8) shall apply in relation to the record of the proceedings of a Standing Civilian Court with the following modifications.

(2) In paragraph (5)—

(a) the reference to exhibits retained under rule 23 is to be read as a reference to exhibits retained under article 58 of the SCCO 1997; and

(b) the reference to the court administration officer is to be read as a reference to the court administration officer within the meaning of AA 1955 or AFA 1955 (as the case may be).

(3) Paragraph (5) shall have effect as if for sub-paragraphs (a) to (c) there were substituted “ the conclusion of the proceedings of a Standing Civilian Court ”.

PART 2

STEPS TAKEN BEFORE COMMENCEMENT

Service of documents

3. Any document served on a person before commencement, which would have been served on him in accordance with any provision of these Rules if that provision had then been in force, is to be treated as having been served on him in accordance with that provision.

Court administration officers

4. Anything done before commencement by a court administration officer within the meaning of the SCCO 1997, which would have been done in accordance with any provision of these Rules if it had been done by the court administration officer within the meaning of the Act and that provision had then been in force, is to be treated as having been done by the court administration officer in accordance with that provision.

Prosecuting officers

5. Anything done before commencement by—
- (a) the prosecuting authority for the Royal Navy, the Army or the Royal Air Force, or
 - (b) a prosecuting officer (within the meaning of any of the SDAs),

which would have been done in accordance with any provision of these Rules if it had been done by the Director and that provision had then been in force, is to be treated for the purpose of these Rules as having been done by the Director in accordance with that provision.

Legal representatives

6.—(1) Anything done before commencement by a person's legal advisor within the meaning of article 21 of the SCCO 1997, which would have been done in accordance with any provision of these Rules if it had been done by the person's legal representative within the meaning of these Rules and that provision had then been in force, is to be treated for the purpose of these Rules as having been done by the person's legal representative in accordance with that provision.

(2) A person who, immediately before commencement, was a person's legal advisor (within the meaning of article 21 of the SCCO 1997) is to be treated as having been appointed as that person's legal representative under rule 26.

Arraignment

7. Where—
- (a) an accused was arraigned on a charge under article 35 of the SCCO 1997, and
 - (b) the accused had not elected court-martial trial,

the accused is to be regarded for the purposes of these Rules as having been a defendant arraigned in proceedings under these Rules.

Directions etc

8.—(1) An order or ruling made by the court on an application under article 39 of the SCCO 1997 has effect in related proceedings as if made in preliminary proceedings by the judge advocate for those proceedings.

(2) Proceedings are “related proceedings” in relation to a preliminary hearing if, had the hearing been preliminary proceedings, they would have been related proceedings in relation to those proceedings.

(3) A summons issued under the SCCO 1997 shall have effect as if issued under these Rules.

PART 3

EVIDENCE

Proof by written statement

9. The reference in rule 60(1)(b) to a person subject to service law or a civilian subject to service discipline is to be read, in relation to a statement made before commencement, as a reference to a person who at the time of making the statement was a person mentioned in section 99A(2)(b) of AA 1955.

Evidence of enlistment or entry for service

10.—(1) In rule 68, references to an enlistment paper used to enlist a person in accordance with regulations made under section 328 include—

- (a) an attestation paper within the meaning of AA 1955 or AFA 1955; and
- (b) a copy of Royal Navy Form S3049 (Notice Form for Entry/Re-Entry into Naval Service) signed by a person on being entered for service in the Royal Navy.

(2) In relation to a document purporting to be a copy of Royal Navy Form S3049, rule 68(1)(a) has effect as if for the word “enlisted” there were substituted “entered for service”.

(3) In rule 68(1)(b) the reference to a recruiting officer includes a recruiting officer within the meaning of Part 1 of AA 1955 or AFA 1955.

Documents signed by or on behalf of a person's commanding officer

11. In relation to a record or certificate purporting to have been signed before commencement, references in rules 70 and 72 to a person's commanding officer are to be read as references to his commanding officer within the meaning of Part 2 of the Armed Forces Act 2001 ^{M6}.

Marginal Citations

M6 2001 c. 19.

Special measures

12.—(1) In Chapter 6 of Part 12, “sexual offence” includes an SDA civil offence as respects which the corresponding civil offence is—

- (a) an offence under Part 1 of the Sexual Offences Act 2003;
- (b) a relevant superseded offence, within the meaning of section 62 of the 1999 Act;
- (c) an offence of attempting or conspiring to commit, or inciting the commission of, an offence within paragraph (a) or (b) above; or

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces (Service Civilian Court) Rules 2009, SCHEDULE 2. (See end of Document for details)

- (d) an offence under Part 2 of the Serious Crime Act 2007 where the offence (or one of the offences) which the offender intended or believed would be committed is an offence under Part 1 of the Sexual Offences Act 2003.
- (2) In this paragraph—
 - “SDA civil offence” means an offence under section 70 of AA 1955 or AFA 1955;
 - “the corresponding civil offence”, in relation to an SDA civil offence, means—
 - (a) the act or omission constituting the SDA civil offence; or
 - (b) if that act or omission is not punishable by the law of England and Wales, the equivalent act done or omission made in England or Wales.

PART 4

SENTENCING

Activation of suspended sentence of imprisonment

13.—(1) In these Rules, “activation order” includes an order made by the court determining the suspension of an SDA suspended sentence of imprisonment and committing the offender to imprisonment.

- (2) In this paragraph, “SDA suspended sentence of imprisonment” means a sentence of imprisonment—
 - (a) passed by—
 - (i) a court-martial,
 - (ii) a Standing Civilian Court,
 - (iii) the Courts-Martial Appeal Court on an appeal brought from a court-martial, or
 - (iv) the House of Lords on an appeal brought from a decision of the Courts-Martial Appeal Court, and
 - (b) suspended under section 120 of AA 1955 or AFA 1955, section 90 of NDA 1957, or paragraph 20(4) of Schedule 3 to the Armed Forces Act 1976 ^{M7}.

Marginal Citations

M7 1976 c. 52.

SDA conditional discharge orders

- 14.**—(1) Where—
 - (a) an SDA conditional discharge order has been made in respect of an offender, and
 - (b) he is charged with an offence committed during the period of conditional discharge,the advance information in relation to him must include a notice that, if he were convicted of the offence, the court would have power to deal with him for the offence for which he was conditionally discharged.
- (2) In rule 96(3) the reference to power to deal with the offender under section 186(2) includes power to deal with him for an offence as respects which an SDA conditional discharge order was made.

(3) In this paragraph, “SDA conditional discharge order” means an order for a person's conditional discharge under paragraph 3(1) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957.

Community supervision orders

15.—(1) Where a notice under this rule is served by the Director, it must be served not more than 14 days after the Director serves advance information in respect of the charge to which the evidence relates. Where—

(a) a community supervision order has been made in respect of an offender, and

(b) he is charged with an offence committed during the period specified in the order,

the advance information in relation to him must include a notice that, if he were convicted of the offence, the court would have power to deal with him for the offence for which the order was made.

(2) In rule 96(3) the reference to power to deal with the offender under [^{F1}paragraph 23(2) of Schedule 10 to the Sentencing Code] includes power to deal with him for an offence as respects which a community supervision order was made.

(3) In this paragraph, “community supervision order” means an order under paragraph 4(1) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957.

Textual Amendments

F1 Words in [Sch. 2 para. 15\(2\)](#) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 379](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces (Service Civilian Court) Rules 2009, SCHEDULE 2.