
STATUTORY INSTRUMENTS

2009 No. 1211

DEFENCE

The Armed Forces (Summary Appeal Court) Rules 2009

Made - - - - - *7th May 2009*

Laid before Parliament *14th May 2009*

Coming into force *31st October 2009*

THE ARMED FORCES (SUMMARY APPEAL COURT) RULES 2009

PART 1

PRELIMINARY

1. Citation and commencement
2. Interpretation: proceedings and parties
3. Interpretation: general

PART 2

SERVICE OF DOCUMENTS

4. Interpretation of Part 2
5. Service on a person to whom proceedings relate
6. Service on the court administration officer
7. Service on the Director
8. Service on other individuals
9. Service on a corporation
10. Service by another method
11. Service by commanding officer
12. Service by fax or electronic means
13. Date of service
14. Proof of service

Status: This is the original version (as it was originally made).

PART 3

BRINGING AN APPEAL

CHAPTER 1

APPEALS BROUGHT BY A PERSON TO WHOM A CHARGE RELATES

15. Notice of appeal
16. Application to extend initial period or for leave to appeal out of time

CHAPTER 2

APPLICATION OR NOTIFICATION BY THE REVIEWING AUTHORITY

17. Application by the reviewing authority
18. Notification by the reviewing authority

CHAPTER 3

UNCONTESTED APPEALS

19. Director to give notice of intention on receipt of notice of appeal
20. Powers of the court in uncontested appeals

PART 4

PROCEEDINGS: GENERAL

21. The court administration officer
22. Listing of proceedings
23. Notification of proceedings
24. Abandonment of appeal
25. Live links
26. Proceedings in absence of appellant etc
27. Deliberation in private
28. Oaths and affirmations
29. Interpreters
30. Record of proceedings
31. Exhibits
32. Termination of proceedings
33. Circumstances not provided for

PART 5

MEMBERS OF THE COURT

34. Proceedings without lay members
35. Powers that may be exercised by a judge advocate
36. Persons ineligible for membership in particular circumstances
37. Objections to lay members
38. Waiting members
39. Swearing of lay members
40. Judge advocate's power to direct lay members to withdraw

PART 6

ASSISTANCE AND REPRESENTATION

41. Legal representatives

PART 7

ADVANCE INFORMATION

42. Service of advance information

PART 8

PRELIMINARY PROCEEDINGS

43. Listing of proceedings
44. Listing of further preliminary proceedings
45. Preliminary proceedings in chambers without notice to appellant
46. Outline of respondent's case
47. Powers of judge advocate

PART 9

JOINDER OF APPEALS

48. Power of the court to hear more than one appeal at the same time

PART 10

ATTENDANCE OF WITNESSES

49. Notification of witnesses
50. Issue of witness summons on application to a judge advocate
51. Application for witness summons to produce a document, etc: judge advocate's assessment of relevance and confidentiality
52. Issue of witness summons of judge advocate's own motion
53. Application to withdraw a witness summons
54. Oral applications
55. Further process to secure attendance of witness
56. Review of custody of witness
57. Entitlement to witness expenses

PART 11

EVIDENCE

CHAPTER 1

General

58. Application and interpretation of Part 11
59. Rules of evidence
60. Oral testimony to be given on oath
61. Proof by written statement
62. Proof by formal admission
63. Use of documents to refresh memory

Status: This is the original version (as it was originally made).

CHAPTER 2

Evidence of bad character

64. Notice of intention to adduce evidence of an appellant's bad character
65. Application to exclude evidence of an appellant's bad character
66. Application for leave to adduce evidence of the bad character of a non-appellant

CHAPTER 3

Hearsay evidence

67. Notice of intention to adduce hearsay evidence
68. Counter-notice objecting to the admission of hearsay evidence

CHAPTER 4

Evidence of service matters

69. Evidence of enlistment
70. Evidence as to service etc
71. Service records
72. Defence Council instructions, regulations and certificates
73. Standing or routine orders

CHAPTER 5

Expert evidence

74. Expert evidence

PART 12

HEARING OF AN APPEAL: PROCEDURE

CHAPTER 1

APPEAL AGAINST FINDING

75. Address to the court
76. Provisions which are to apply when there are two or more appellants
77. Examination of witnesses
78. Presence of witnesses
79. Submission of no case to answer
80. The case for the appellant
81. Finding for the appellant before conclusion of the case for the appellant
82. Announcement of findings

CHAPTER 2

APPEAL AGAINST PUNISHMENT

83. Application and interpretation of this Chapter

- 84. Dispute on facts
- 85. Pre-sentence report and previous convictions
- 86. Information before punishment
- 87. Mitigation of punishment
- 88. Pronouncement of punishment

PART 13

ANCILLARY PROCEEDINGS

- 89. Certification of contempt of court

PART 14

RESTRICTIONS ON PUBLIC ACCESS AND REPORTING

- 90. Proceedings in camera
- 91. Withholding of matter from the public in proceedings before the court

PART 15

APPLICATION TO THE COURT TO STATE A CASE

- 92. Application for case to be stated
- 93. Procedure on stating a case
- 94. Supplementary provisions relating to stating a case

PART 16

TRANSITORY AND TRANSITIONAL PROVISIONS

- 95. Transitory provisions
- 96. Transitional

PART 17

REVOCATIONS

- 97. Revocations
Signature

SCHEDULE 1 — OATHS AND AFFIRMATIONS

SCHEDULE 2 — TRANSITIONAL PROVISIONS

PART 1 — GENERAL

- 1. Interpretation
- 2. Record of Summary Appeal Court proceedings
- 3. Persons ineligible for membership in particular circumstances

PART 2 — STEPS TAKEN BEFORE COMMENCEMENT

- 4. Service of documents
- 5. Court administration officers
- 6. Prosecuting officers
- 7. Legal representatives
- 8. Appeal or application to be treated as made in accordance with these Rules
- 9. Directions etc

PART 3 — EVIDENCE

Status: This is the original version (as it was originally made).

10. Proof by written statement
11. Evidence of enlistment or entry for service
12. Documents signed by or on behalf of a person's commanding officer
13. SDA offences

Explanatory Note