
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision with respect to the summary hearing by commanding officers of charges brought and allocated for summary hearing under Part 5 of the Armed Forces Act 2006 (c. 52). The Rules also make provision with respect to hearings where a commanding officer may activate a suspended sentence of service detention after an individual has been convicted of an offence in the British Islands (i.e. a civilian offence rather than a service offence), committed during the operational period of the suspended sentence.

Subject to specified limits, rule 3 permits commanding officers to delegate certain functions to more junior officers (“subordinate commanders”) and to revoke such delegations.

Part 2 relates to the summary hearing of charges. Rule 5 makes provision for applications by commanding officers for permission to hear charges in respect of certain types of offence which may not be heard summarily without the permission of higher authority. Applications by commanding officers to higher authority for extended powers in relation to punishment and in relation to the activation of suspended sentences and provided for in rules 6 and 7 respectively.

Rule 8 makes provision as to preliminary procedures, including the provision of information and documents to the accused, and the fixing of times for hearings. Rule 9 makes provision as to changing the time fixed for a hearing. Rule 10 makes provision about who may represent an accused at a summary hearing and the steps a commanding officer must take to help the accused find a person willing to represent him.

Rules 12 to 21 make provision as to the procedure to be followed at a hearing, including the way in which a commanding officer must give the accused the opportunity of electing Court Martial trial (see section 129(1) of the 2006 Act). Rules 22 and 23 relate, respectively, to sentencing and, where applicable, the activation of suspended sentences where charges heard summarily and determined to have been proved are in respect of offences committed during the operational periods of suspended sentences.

Part 3 makes provision in relation to hearings as regards the activation of suspended sentences of service detention where the power to activate arises from convictions in the British Islands rather than determinations that charges have been proved at summary hearings.

Rule 38 makes transitory provision in relation to the Supreme Court to be established under the Constitutional Reform Act 2005.

The table in Schedule 1 sets out those punishments which may not be awarded by subordinate commanders of particular ranks.

Schedule 2 makes transitional provision (see also rule 37).