
STATUTORY INSTRUMENTS

2009 No. 2041

The Armed Forces (Court Martial) Rules 2009

PART 14

SENTENCING PROCEEDINGS

Information before sentencing

114.—(1) Where—

- (a) the offender was convicted on a plea of guilty (other than a plea offered in the course of a trial),
- (b) the proceedings are on an appeal against a sentence imposed by the Service Civilian Court (other than an appeal against both conviction and sentence), or
- (c) the offender was convicted in trial proceedings but previous sentencing proceedings in respect of him were terminated,

the Director shall address the court on the facts of the case.

(2) Where practicable, the Director shall inform the court of—

- (a) the offender's age and rank or rate;
- (b) the offender's service record;
- (c) any recognised acts of gallantry or distinguished conduct on the part of the offender, and any decoration to which he is entitled;
- (d) any previous convictions of the offender for—

(i) service offences,

(ii) offences under the law of any part of the [^{F1}British Islands] or [^{F2}; and

(iii) relevant offences of which the offender has been convicted by a court outside the British Islands,]

any sentence awarded in respect of any such offence, and whether any such conviction is spent for the purposes of the Rehabilitation of Offenders Act 1974 ^{M1};

- (e) any formal police caution administered to the offender by a constable in England and Wales or Northern Ireland;
- (f) any period for which the offender has been in custody awaiting trial; ^{F3}...
- (g) the offender's pay, terminal benefits and future pension entitlements [^{F4}; and]

[^{F5}(h) any statement of the effect of the offence on the victim, the victim's family or others.]

(3) For the purposes of paragraph (2)(d) an offence is "relevant" if the act that constituted the offence would have constituted an offence under the law of any part of the United Kingdom if it had been done in that part at the time when the Director presents information to the court under this rule.

Status: Point in time view as at 13/11/2023.

Changes to legislation: There are currently no known outstanding effects for the The Armed Forces (Court Martial) Rules 2009, Section 114. (See end of Document for details)

(4) The Director shall inform the court whether the offence is a relevant offence for the purposes of section 165 (sentencing powers following election for trial by the court).

(5) Where the court has power—

- (a) to make an activation order in respect of the offender, or
- (b) to deal with him under section 186(2) (offence during period of conditional discharge) or [^{F6}paragraph 25 of Schedule 10 to the Sentencing Code] (overseas community order in force),

the Director shall inform the court of that fact, of the previous offence by virtue of which the court has that power, and of the sentence passed for that offence.

(6) Where the offender is not subject to service law but has formerly been so subject, paragraph (2) has effect as if—

- (a) for the words “and rank or rate” in sub-paragraph (a) there were substituted “and his rank or rate when he last ceased to be subject to service law”; and
- (b) before the word “pay” in sub-paragraph (g) there were inserted “employment,”.

(7) Where the offender is a civilian subject to service discipline and has not formerly been subject to service law, paragraph (2) has effect as if—

- (a) in sub-paragraph (a) the words “and rank or rate” were omitted;
- (b) sub-paragraphs (b) and (c) were omitted;
- (c) for sub-paragraph (g) there were substituted—
 - “(g) details of the offender's employment (if any);” and
- (d) after sub-paragraph (g) there were inserted—
 - “(h) if the offender was under 18 years of age when convicted, whether he has a service parent or service guardian (within the meaning of section 233).”.

Textual Amendments

- F1** Words in rule 114(2)(d)(ii) substituted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **19(a)**
- F2** Rule 114(2)(d)(iii) substituted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **19(b)**
- F3** Word in rule 114(2)(f) deleted (16.11.2015) by [The Armed Forces \(Service Courts Rules\) \(Amendment\) Rules 2015 \(S.I. 2015/1812\)](#), rules 1, **12(a)**
- F4** Full stop deleted and word in rule 114(2)(g) inserted (16.11.2015) by [The Armed Forces \(Service Courts Rules\) \(Amendment\) Rules 2015 \(S.I. 2015/1812\)](#), rules 1, **12(b)**
- F5** Rule 114(2)(h) inserted (16.11.2015) by [The Armed Forces \(Service Courts Rules\) \(Amendment\) Rules 2015 \(S.I. 2015/1812\)](#), rules 1, **12(c)**
- F6** Words in rule 114(5)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 387** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Marginal Citations

- M1** [1974 c. 53](#). Sections 2 and 6 of the Rehabilitation of Offenders Act 1974 were amended, and the Schedule inserted, by the [Armed Forces Act 1996 \(c. 46\)](#), **section 13** and Schedule 4. Sections 1, 2 and 5, and the Schedule, were further amended by paragraphs 63 to 66 of Schedule 16 to the 2006 Act.

Status:

Point in time view as at 13/11/2023.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces (Court Martial) Rules 2009, Section 114.