
STATUTORY INSTRUMENTS

2009 No. 2041

The Armed Forces (Court Martial) Rules 2009

PART 4

MEMBERS OF THE COURT

Civilians

- 33.**—(1) For proceedings to which this rule applies, each of the lay members must be either—
- (a) a person not subject to service law who is qualified for membership under paragraph (2) and not ineligible by virtue of rule 32; or
 - (b) an officer or warrant officer who would be qualified for membership under section 156, and not ineligible by virtue of section 157 or rule 32, if this rule did not apply;

and section 155(3) shall not apply in relation to the proceedings.

(2) For proceedings to which this rule applies, a person not subject to service law is qualified for membership of the court unless—

- (a) he is aged under 18, or has reached the age of 70, at the commencement of the proceedings;
- (b) he is not a United Kingdom national;
- (c) he is a mentally disordered person;
- (d) he is disqualified for jury service;
- (e) he is a member of the Military Court Service; or
- (f) he is on the staff of the Service Prosecuting Authority.

(3) In paragraph (2), “United Kingdom national” has the same meaning as in paragraph 11 of Schedule 15 to the 2006 Act.

(4) For the purposes of paragraph (2)—

- (a) a person is a mentally disordered person if he is one of those listed in Part 1 of Schedule 1 to the Juries Act 1974⁽¹⁾; and
- (b) a person is disqualified for jury service if he is one of those listed in Part 2 of that Schedule.

(5) This rule applies to—

- (a) trial proceedings, if any defendant is not subject to service law at the commencement of the proceedings;
- (b) sentencing proceedings with lay members, if any offender who falls to be sentenced was not subject to service law when convicted;
- (c) variation proceedings with lay members, if this rule applied to the sentencing proceedings in which the sentence that falls to be varied was imposed;

(1) 1974 c. 23. Schedule 1 to the Juries Act 1974 is substituted by section 321 of, and paragraphs 1 and 15 of Schedule 33 to, the Criminal Justice Act 2003.

- (d) appellate proceedings; and
 - (e) activation proceedings with lay members, if the offender is not subject to service law at the commencement of the proceedings.
- (6) Where this rule applies to any proceedings and any person to whom the proceedings relate is an officer not subject to service law, paragraph (1) has effect as if the words “or warrant officer” in sub-paragraph (b) were omitted.