
STATUTORY INSTRUMENTS

2009 No. 2041

The Armed Forces (Court Martial) Rules 2009

PART 12

EVIDENCE

CHAPTER 6

Special measures directions

Variation or discharge of special measures direction

99.—(1) A judge advocate may vary or discharge a special measures direction if it appears to him to be in the interests of justice to do so.

(2) A judge advocate may exercise the power conferred by paragraph (1)—

- (a) on an application made by a party to the proceedings; or
- (b) of the judge advocate's own motion.

(3) An application under this rule must be made in writing to the court administration officer, unless—

- (a) a judge advocate gives leave for it to be made orally; or
- (b) paragraph (8) applies.

(4) A copy of a written application under this rule must be served on each other party to the proceedings.

(5) Where a written application has been made under this rule, a judge advocate may—

- (a) grant the application without a hearing; or
- (b) direct a hearing.

(6) But the application may not be granted without a hearing unless—

- (a) at least 14 days have elapsed since the application was served on each other party to the proceedings; and
- (b) no other party has served notice on the court administration officer that he opposes the application.

(7) Rule 97(8) applies in relation to a hearing of the application as it applies in relation to a hearing of an application for a special measures direction.

(8) Where the direction was made on the application of a defendant and includes provision for the admission of a video recording which had not been served on the Director, the Director may make an oral application without leave.

(9) A judge advocate who varies or discharges, or refuses an application for the variation or discharge of, a special measures direction must state in open court his reasons for doing so.

(10) In this rule, references to the variation of a special measures direction include the further variation of a direction previously varied.