
STATUTORY INSTRUMENTS

2009 No. 2083

**The Youth Justice and Criminal Evidence Act
1999 (Application to Service Courts) Order 2009**

Modification of special measures provisions

4.—(1) In their application by virtue of article 3, the special measures provisions are modified as follows.

(2) Any reference to a special measures direction has the same meaning as in this Order.

(3) Any reference to criminal proceedings is to be read as a reference to proceedings before the Court Martial, the Service Civilian Court or the Court Martial Appeal Court.

(4) Any reference to the witness is to be read as a reference to the witness to whose evidence the special measures direction applies.

(5) Any reference to the accused is to be read—

(a) in relation to—

(i) trial proceedings within the meaning of Court Martial Rules, or

(ii) trial proceedings within the meaning of SCC Rules,

as a reference to the defendant;

(b) in relation to appellate proceedings within the meaning of Court Martial Rules, as a reference to the appellant;

(c) in relation to proceedings before the Court Martial Appeal Court, as a reference to the person charged with an offence to which the proceedings relate (whether or not he has been convicted).

(6) Any reference to—

(a) the court (except in section 25(1) of the Act), or

(b) the judge,

is to be read, in relation to proceedings before the Court Martial or the Service Civilian Court, as a reference to the judge advocate.

(7) Any reference to Criminal Procedure Rules is to be read as a reference to Rules of court.

(8) Any reference to the jury is to be read, in relation to proceedings with lay members, as a reference to those lay members.

(9) Section 20(5) of the Act has effect as if the words “and, if it is a magistrates’ court, must cause them to be entered in the register of its proceedings” were omitted.

(10) Sections 21(1)(b) and 22(1)(b) of the Act have effect as if after the words “relate is” wherever they occur there were inserted “an offence under section 42 of the Armed Forces Act 2006 to which the corresponding offence under the law of England and Wales (within the meaning of that Act) is”.

(11) Section 23(2)(a) of the Act has effect, in relation to proceedings before—

(a) the Court Martial as if for the words “or justices (or both) and the jury (if there is one)” there were substituted “and any lay members”;

(b) the Service Civilian Court or the Court Martial Appeal Court as if the words “or justices (or both) and the jury (if there is one)” were omitted.

(12) Section 24(3)(b) of the Act has effect in relation to proceedings before the Court Martial or the Service Civilian Court as if for the word “its” there was substituted “his”.

(13) Section 27(7)(b) of the Act has effect in relation to proceedings before the Court Martial or the Service Civilian Court as if for the word “its” there was substituted “his”.

(14) In section 29 to 31 of the Act, references to a witness include a defendant or appellant who gives evidence.

(15) Section 29(3) of the Act has effect as if—

- (a) for the words “judge or justices (or both)” in paragraph (a) there were substituted “judges”;
- (b) the word “and” at the end of paragraph (a) was omitted; and
- (c) paragraph (b) was omitted.

(16) Section 29(6) of the Act has effect in relation to proceedings before the Court Martial or the Service Civilian Court as if for the word “court’s” there was substituted “judge advocate’s”.