
STATUTORY INSTRUMENTS

2009 No. 2657

The Court Martial Appeal Court Rules 2009

PART 6

**APPEALS IN PRELIMINARY PROCEEDINGS
AND AGAINST CERTAIN ORDERS**

CHAPTER 1

**APPEALS AGAINST AN ORDER OR RULING MADE IN
PRELIMINARY PROCEEDINGS OF THE COURT MARTIAL**

Application of Chapter 1

27.—(1) This Chapter applies where a party to preliminary proceedings or the Director seeks permission to appeal against an order or ruling, other than a reporting or public access order, made in those proceedings.

(2) In this Chapter—

a reference to an “appellant” is a reference to such a party;

“appeal notice” means an application to appeal against such an order or ruling;

“party” means a party to the preliminary proceedings; and

“respondent” means a person who serves a respondent's notice.

Service of appeal notice

28.—(1) The appellant must serve an appeal notice on the registrar not more than seven days after the date of the order or ruling against which the appellant wants to appeal.

(2) The appellant must, at the same time as serving the appeal notice on the registrar, serve a copy of the appeal notice on any other party directly affected by the order or ruling against which the appellant wants to appeal.

(3) Paragraphs (1) and (2) are subject to rule 38.

Appeal notice

29.—(1) An appeal notice must be in made in writing and must—

(a) include the required information;

(b) state with respect to the order or ruling against which the appellant wants to appeal—

(i) the place where the Court Martial was sitting when the order or ruling was made;

(ii) the name of the judge advocate who made the order or ruling; and

(iii) the date on which the order or ruling was made;

(c) attach—

- (i) a transcript or note of the order or ruling; and
- (ii) any relevant skeleton arguments considered by the judge advocate before making the order or ruling;
- (d) state each ground of appeal on which the appellant relies, numbering them consecutively (if there is more than one), concisely outlining each argument in support and identifying any relevant authorities the appellant intends to cite;
- (e) include or attach—
 - (i) an application for permission to appeal;
 - (ii) any application for an extension of time in which to serve the appeal notice;
 - (iii) any application for permission to adduce evidence, stating the reasons for the application;
 - (iv) a list of the names of the persons on whom the appellant has served the appeal notice.
- (2) An appeal notice must be signed by the appellant or his legal representative.

Respondent's notice

- 30.**—(1) A party on whom an appellant serves an appeal notice may serve a respondent's notice, and must do so if—
- (a) that party wants to make representations to the court;
 - (b) the registrar so directs; or
 - (c) a judge of the court so directs.
- (2) A party serving a respondent's notice must serve it on—
- (a) the appellant;
 - (b) the registrar; and
 - (c) every other person on whom the appellant served the appeal notice.
- (3) Subject to rule 38, a party serving a respondent's notice must do so not more than seven days after—
- (a) receipt of a copy of the appeal notice; or
 - (b) a direction to serve under paragraph (1).
- (4) The respondent's notice must—
- (a) state the name and address of the respondent;
 - (b) state the date on which the respondent was served with the appeal notice;
 - (c) state any ground of opposition on which the respondent relies, numbering them consecutively (if there is more than one), concisely outlining each argument in support and identifying the ground of appeal to which each relates;
 - (d) summarise any relevant facts not already summarised in the appeal notice;
 - (e) identify any authorities the respondent considers relevant;
 - (f) include or attach any application for the following, stating the reasons for the application—
 - (i) an extension of time within which to serve the respondent's notice;
 - (ii) any application for permission to adduce evidence;
 - (g) identify any other document or thing that the respondent thinks the court will need to decide the appeal.

Changes to legislation:

There are currently no known outstanding effects for the The Court Martial Appeal Court Rules 2009, CHAPTER 1.