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STATUTORY INSTRUMENTS

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**2013 No. 1852**

**The Armed Forces (Retrial for Serious Offences) Order 2013**

**PART 7**

**Custody**

**Custody before application under article 8(1)**

**20.**—(1) Where a person charged in accordance with article 7(10)(a) is not kept in service custody, his commanding officer must give him notice to attend before a judge advocate —

- (a) at such place, and
- (b) at such time not later than 24 hours after being released,

as the commanding officer decides.

(2) Where such a person is kept in service custody after being charged, he must be brought before a judge advocate as soon as practicable, and in any event not more than 24 hours after he is charged.

(3) For the purposes of calculating the period referred to in paragraph (1) or (2) the following are to be disregarded—

- (a) Saturday;
- (b) Sunday;
- (c) Christmas Day;
- (d) Good Friday; and
- (e) any day which is a bank holiday under the Banking and Financial Dealings Act 1971(1) in the part of the United Kingdom where the person is to appear before the judge advocate as mentioned in paragraph (1) or, where paragraph (2) applies, is for the time being detained.

(4) Where a person appears or is brought before a judge advocate in accordance with paragraph (1) or (2), the judge advocate may either—

- (a) make an order that the person should not be kept in service custody, but, if notice of an application is served on him under article 12(2), must appear before the Court Martial Appeal Court at the hearing of that application; or
- (b) make an order that the person be kept in service custody to be brought before a judge advocate under article 21(2).

(5) If the judge advocate makes an order under paragraph (4)(a), he may revoke the order and make an order authorising the person to be kept in service custody as referred to in paragraph (4)(b).

(6) In paragraph (7) the “relevant period”, in relation to a person who, pursuant to an order under paragraph (4), is released from service custody subject to requirements under section 107(3) of the 2006 Act or kept in service custody, means—

- (a) the period of 42 days beginning with the day on which the judge advocate makes the order under paragraph (4); or
  - (b) that period as extended or further extended under paragraph (8).
- (7) If at the end of the relevant period no notice of an application under article 8(1) in relation to the person has been given under article 12(1), the person—
- (a) if released from service custody pursuant to an order under paragraph 4(a), subject to requirements under section 107(3) of the 2006 Act, ceases to be subject to those requirements; and
  - (b) if in service custody pursuant to an order under paragraph (4)(b) or (5), must be released immediately.
- (8) A judge advocate may, on the application of a prosecuting officer before the period mentioned in paragraph 6(a) expires, extend or further extend that period until a specified date, but only if satisfied that—
- (a) the need for the extension is due to some good and sufficient cause; and
  - (b) the Service Prosecuting Authority has acted with all due diligence and expedition.
- (9) An application under paragraph (8) must be served on the court administration officer and the acquitted person.