
STATUTORY INSTRUMENTS

2013 No. 1852

The Armed Forces (Retrial for Serious Offences) Order 2013

PART 6

Retrial

Retrial

19.—(1) Where a person is tried pursuant to an order under article 9(1)(a), the trial must be on a charge specified in a direction of the Court Martial Appeal Court.

(2) After the end of 2 months after the date of the order, the person may not be arraigned on a charge in pursuance of such a direction unless the Court Martial Appeal Court gives leave.

(3) Where paragraph (2) applies, a prosecuting officer may apply for leave under that paragraph in the form set out as Form 5 in Schedule 2.

(4) An application under paragraph (3) must be served on the registrar and the acquitted person.

(5) The court must not give leave unless satisfied that—

- (a) the Service Prosecuting Authority has acted with due expedition; and
- (b) there is a good and sufficient cause for trial despite the lapse of time since the order under article 9(1)(a).

(6) Where the person may not be arraigned without leave, he may apply to the court—

- (a) in the form set out as Form 5 in Schedule 2 to set aside the order; and
- (b) for any direction required for restoring an earlier judgment and verdict of acquittal of the qualifying offence.

(7) An application under paragraph (6) must be served on the registrar and the prosecuting officer.

(8) Evidence given at a trial pursuant to an order under article 9(1)(a) must be given orally if it was given orally at the original trial, unless—

- (a) all the parties to the trial agree otherwise;
- (b) section 116 of the 2003 Act applies; or
- (c) the witness is unavailable to give evidence, otherwise than as mentioned in subsection (2) of that section, and section 114(1)(d) of that Act applies.

(9) For the purposes of rules made under section 163 of the 2006 Act (Court Martial rules) a trial pursuant to an order under article 9(1)(a) is to be treated as trial proceedings.