

1968 No. 1071 (L.12)

COURTS-MARTIAL (APPEALS)**The Courts-Martial Appeal Rules 1968**

<i>Made</i>	6th July 1968
<i>Laid before Parliament</i>		22nd July 1968
<i>Coming into Operation</i>		1st September 1968

I, Hubert Lister, Baron Parker of Waddington, Lord Chief Justice of England, in exercise of the powers conferred on me by section 49 of the Courts-Martial (Appeals) Act 1968(a), and with the approval of the Lord Chancellor, do hereby make the following Rules :—

Citation and commencement

1. These Rules may be cited as the Courts-Martial Appeal Rules 1968 and shall come into operation on 1st September 1968.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires—

“the Act” means the Courts-Martial (Appeals) Act 1968 and a section referred to by number means the section of the Act so numbered ;

“the court” means the Courts-Martial Appeal Court ;

“exhibit” means any document or thing which has been produced and used in evidence at a trial by court-martial, whether it is attached to the proceedings of the court-martial or not ;

“prisoner of war” means a person protected by the Convention set out in schedule 3 to the Geneva Conventions Act 1957(b) ;

“prisoner of war court-martial” means a court-martial for the trial of prisoners of war constituted under a Royal Warrant governing the maintenance of discipline among prisoners of war ;

“protecting power” means the power or organisation which is carrying out, in the interests of the power of whose forces a prisoner of war is or was at any material time a member, the duties assigned to protecting powers under the Convention set out in schedule 3 to the Geneva Conventions Act 1957.

(2) A form referred to by number means the form so numbered in schedule 1 to these Rules, or a form as near thereto as circumstances permit.

(3) The Interpretation Act 1889(c) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Petitions

3. For the purposes of section 8(2), a petition shall be treated as having been presented to the Defence Council if it is presented by the appellant—

(a) 1968 c. 20.

(b) 1957 c. 52.

(c) 1889 c. 63.

- (a) where he was convicted by a court-martial held outside the United Kingdom, to the officer commanding
- (i) in the case of a naval court-martial, the ship or establishment ;
 - (ii) in the case of an army court-martial, the command or station ;
 - (iii) in the case of an air force court-martial, the command, station or unit
in which the court-martial was held ; or (irrespective of where the court-martial was held)
- (b) in any of the circumstances specified in the first column of schedule 2 to these Rules, to the person specified, in relation to those circumstances, in the second column of that schedule.

Applications for leave to appeal and notices

4.—(1) An application for leave to appeal to the court against conviction by a court-martial shall be made by notice in form 1.

(2) A notice of application for leave to appeal and any notice required or authorised to be given to the court under these Rules shall be signed by the appellant or by his representative and shall, subject to the next following paragraph, be addressed to the Registrar of the Courts-Martial Appeal Court, at the Royal Courts of Justice, Strand, London, W.C.2, or such other place as the Lord Chief Justice may from time to time direct:—

Provided that a notice of abandonment of appeal shall, subject to rule 5(2), be signed by the appellant personally.

(3) In any of the circumstances specified in the first column of schedule 2 to these Rules, any application or notice which is required or authorised to be given to the court under these Rules may be lodged with the person specified, in relation to those circumstances, in the second column of that schedule.

(4) Where any application or notice is lodged with a person other than the registrar in accordance with the last foregoing paragraph, it shall be the duty of that person—

- (a) to forward the said application or notice to the registrar with as much expedition as practicable ; and
- (b) if it appears to that person that it is practicable to furnish the registrar, before the receipt by him of the application or notice, with such particulars of the application or notice as will enable him to prepare a copy of it, and that in all the circumstances it is expedient so to do, forthwith to furnish him with those particulars ; and
- (c) where an applicant for leave to appeal is a prisoner of war who has a protecting power, to inform the registrar in writing of the name of the protecting power, the date on which the protecting power received notice that the applicant's right of appeal had become exercisable and the date on which the applicant received notice that the protecting power had been notified to that effect.

(5) Where an appellant, or any other person required or authorised to make an application or give any notice for the purposes of these Rules, is unable to write, he may affix his mark thereto, in the presence of a witness who shall attest the same, and thereupon such application or notice shall be deemed to be signed by the appellant.

Abandonment of appeal

5.—(1) An appellant may, at any time after he has made application for leave to appeal, abandon his appeal by giving to the registrar notice of abandonment in form 2.

(2) If the appellant is insane, a notice of abandonment may be given and signed by his representative.

Time for presenting petitions and giving notices

6.—(1) The period within which a person convicted by a court-martial, other than a person sentenced to death, must, as a condition precedent to the exercise of his right of appeal, present a petition to the Defence Council under section 8(2)(a) shall be:—

(a) in the case of a conviction by a naval court-martial:

- (i) 40 days next following the day on which the conviction was pronounced, if the court-martial was held in the United Kingdom; or
- (ii) in any other case, 60 days next following the day on which the conviction was pronounced;

(b) in the case of a conviction by an army or air force court-martial (other than a conviction by a prisoner of war court-martial of a prisoner of war who has a protecting power):

- (i) 40 days next following the day on which the finding of the court-martial was promulgated, if the court-martial was held in the United Kingdom; or
- (ii) in any other case, 60 days next following the day on which the finding of the court-martial was promulgated;

(c) in the case of a conviction by a prisoner of war court-martial of a prisoner of war who has a protecting power:

- (i) 40 days next following the day on which he received notice that the protecting power had been notified of the promulgation of the finding of the court-martial, if the court-martial was held in the United Kingdom; or
- (ii) in any other case, 60 days next following the day on which he received such notice.

(2) The period at the expiration of which, by virtue of section 8(2)(b), a person, not previously notified that his petition has not been granted, becomes entitled to exercise his right of appeal shall be:—

- (a) 40 days next following the day on which that person presented his petition, if the court-martial was held in the United Kingdom;
- (b) in any other case, 60 days next following the day on which he presented his petition.

(3) The period within which an application for leave to appeal to the court must, under section 9(1), be lodged, shall be 28 days beginning with—

(a) in the case of a conviction involving sentence of death, the day on which (in the case of a naval court-martial) the conviction is pronounced or (in the case of an army or air force court-martial) the finding of the court-martial is promulgated;

(b) in any other case, whichever shall be the earlier of the following:—

- (i) the day on which the appellant is notified that his petition has not been granted;

- (ii) the forty-first day after he has presented such petition in the case of a conviction by a court-martial held in the United Kingdom, or the sixty-first such day in the case of a conviction by a court-martial held outside the United Kingdom :—

Provided that, where a prisoner of war who has a protecting power has been convicted by a prisoner of war court-martial, this period shall not expire earlier than 28 days next following the day on which the prisoner of war receives, from the officer commanding the prisoner of war camp or other place in which he is detained, notice that the protecting power has been notified that his right of appeal has become exercisable or capable of being treated, by virtue of section 8(3), as not having been lost.

Extension of time

7. A notice of application to the court for an extension of time within which to apply for leave to appeal shall be in form 3 ; such notice shall either be sent to the registrar or lodged in accordance with rule 4(3) and (if the time has already expired) shall be accompanied by the notice of application for leave to appeal.

Application to a single Judge

8.—(1) A judge of the court, exercising the powers of the court under section 36(1), may sit wherever convenient.

(2) Where an application has been dealt with by a judge exercising the powers of the court under section 36(1), the registrar shall notify the appellant of the decision and, where the appellant is a prisoner of war who has a protecting power, shall also notify the protecting power of the decision and the appellant of the receipt by the protecting power of such notification.

(3) The period within which an appellant may, under section 36(2), require an application which has been refused by a judge to be determined by the full court, shall be 14 days next following the day on which he receives notice of the judge's decision :—

Provided that, if the appellant is a prisoner of war who has a protecting power, the said period shall not elapse earlier than 14 days next following the day on which he receives, from the officer commanding the prisoner of war camp or other place in which he is detained, notice that the protecting power has been notified in accordance with the last foregoing paragraph of this rule.

(4) A requisition under section 36(2) to have an application determined by the full court shall be made by notice to the registrar in form 4.

Courts-martial proceedings

9.—(1) On receipt of a notice of application for leave to appeal, or of a reference under section 34, the registrar shall request the Judge Advocate General or, in the case of a naval court-martial, the Defence Council to furnish to him the proceedings of the court-martial and any petition presented by the appellant praying that his conviction be quashed.

(2) After an application is finally refused or is abandoned, or the appeal is determined or abandoned, the registrar shall, subject to any order which the court may make, return the proceedings of the court-martial and any petition to the Judge Advocate General or, in the case of a naval court-martial, the Defence Council.

Copies of proceedings, etc.

10.—(1) At any time after the registrar has received a notice of application for leave to appeal, the appellant or the Defence Council may, subject to rule 12 below, obtain from the registrar copies of any document in his possession for the purposes of the appeal.

(2) Such copies shall be supplied by the registrar to the appellant on payment therefor of such charges as the registrar may fix, or, if the appellant has been granted legal aid, free of charge ; provided that nothing in this rule shall require the registrar to supply free of charge any copy of a document which he considers unnecessary for the purposes of the appeal.

(3) A copy of any document which is required for the use of the court may be made by such person and in such manner as the registrar may direct.

Documents and exhibits

11.—(1) The registrar may, on an application made to him by the appellant or the Defence Council, or where he considers it necessary for the proper determination of any appeal or application, and shall, where so directed by the court, obtain and keep available for use by the court any document or exhibit, and shall, subject to the next following rule, make such document or exhibit and the proceedings of the court-martial available, pending the determination of the appeal or application, for inspection by the appellant or the Defence Council as and when the registrar may arrange.

(2) Subject to the provisions of the next following rule, the court may, at any stage of an appeal, whenever it thinks it necessary or expedient in the interests of justice so to do, order any person having the custody or control of any document, exhibit or other thing connected with the proceedings to produce it to the registrar or before the court.

(3) After an application is finally refused or is abandoned, or the appeal is determined or abandoned, the registrar shall, subject to any order which the court may make, return any document or exhibit to the person who produced it.

(4) Unless the court otherwise directs, any order made under paragraph (2) of this rule shall be served personally.

Security of documents, etc.

12. If the Secretary of State, or any person authorised in that behalf, certifies that, for reasons of security, the whole or part of the court-martial proceedings or other document, or of any exhibit or other thing, ought not to be disclosed otherwise than to the court, or ought to be disclosed only subject to such conditions as he may specify, the registrar shall permit inspection or supply a copy thereof only in pursuance of an order of the court and subject to such conditions, if any, as the court may direct.

13. Nothing in these Rules shall affect any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Witnesses

14.—(1) An order that a witness shall attend for examination may be made at any time on the application of the appellant or the Defence Council.

(2) An application for an order such as is mentioned in the last foregoing paragraph of this rule shall be made by notice in writing to the registrar and if made by an appellant, shall be in form 5.

(3) Where the court or a judge orders the examination of any witness to be conducted otherwise than before the court itself, such order shall specify the person appointed as examiner to take the examination, the place thereof and the witness to be examined.

(4) The registrar shall, subject to the provisions of rule 12 and to any direction given by the court or a judge, furnish to the person appointed to take an examination any document, exhibit or other thing (or copy thereof) relating to the appeal that he may require; and, after the examination has been concluded, the examiner shall return to the registrar any such document, exhibit or other thing (or copy), together with any depositions taken by him under this rule.

(5) When the examiner has appointed the day and time for the examination he shall request the registrar to notify the appellant and the Defence Council thereof, and also, if the appellant is in custody, the person in charge of the place where the appellant is detained; and the registrar shall thereupon cause to be served on every witness to be examined a notice in form 6.

(6) An examiner shall have power to administer an oath to, or take the affirmation of, any witness, and to require any witness to take such oath or make such affirmation and to answer any question to which the examiner may lawfully require an answer.

(7) The evidence of every witness taken before an examiner shall be taken in the form of a deposition (to which the caption in form 7 shall be attached), and unless otherwise ordered shall be taken in private.

(8) Unless the court otherwise directs, a notice required by this rule to be served on a witness shall be served on him personally.

Reference of question to a Special Commissioner

15.—(1) An order made under section 30(1) for a question to be referred to a special commissioner—

(a) shall specify the question to be referred and the person appointed to act as such special commissioner, and

(b) may require that person to make interim reports to the court from time to time.

(2) The court may order that copies of any report made by a special commissioner shall be furnished to the appellant and the Defence Council.

Register and cause list

16.—(1) The registrar shall keep a register of all cases in which he receives notice of an application for leave to appeal under the Act and shall cause the register to be open for public inspection in such place and at such hours as he, subject to the approval of the court, may decide.

(2) The registrar shall also prepare a list of appeals and applications which the court may consider on the days on which the court, as constituted for the hearing and determination of appeals under the Act, is to sit, and shall cause such list to be published at such times, in such places and in such a manner as he, subject to the approval of the court, shall think convenient for giving due notice to any parties interested.

Presence of appellant at hearing

17. Where an appellant is in custody and has obtained leave to be present at the hearing and determination of his application or appeal, or at any examination or investigation, or at any stage thereof, the registrar shall give notice of the probable date thereof to—

- (i) the appellant ;
- (ii) the person in charge of the place where the appellant is detained ;
- (iii) in the case of an appellant detained in naval, military or air force custody, the Secretary of State for Defence ; and
- (iv) in the case of an appellant detained in a civil prison in the United Kingdom, the Secretary of State for the Home Department, the Secretary of State for Scotland or the Minister of Home Affairs for Northern Ireland, as may be appropriate.

Applications in relation to appeals to the House of Lords

18.—(1) An application to the court—

- (a) for leave to appeal to the House of Lords from a decision of the court under section 39(1) ;
- (b) to extend by virtue of section 40(2) the time for making an application for leave to appeal ;
- (c) to grant bail under section 42 ;
- (d) for leave to be present at the hearing of any application to which this paragraph applies—

shall, unless made orally at the hearing before the court, be made in form 8.

(2) Rules 10 to 13 of these Rules shall apply to the applications mentioned in the preceding paragraph as they apply to applications in relation to appeals to the court.

(3) Rule 8 shall apply to the exercise, by virtue of section 48, by a single judge of the powers of the court in relation to an application referred to in subparagraph (b), (c) or (d) of paragraph (1) of this rule.

(4) In the case of an appeal to the House of Lords from an order of the court under section 13 of the Administration of Justice Act 1960(a) (appeals in cases of contempt of court)—

- (a) bail may be granted either by the full court or a judge thereof ;
- (b) the grant of bail may be subject to such conditions as the court or a judge may direct ;
- (c) the foregoing provisions of this rule shall, in so far as may be practicable, apply to such an application as they apply to an application for bail under section 42.

Notifying results of appeals, etc.

19.—(1) On the determination of any appeal to the court or to the House of Lords or of any application relating thereto, the registrar shall, unless it appears to him unnecessary to do so, give written notice of the determination to the appellant and the respondent and, where the appellant (or, in the event of an appeal or proposed appeal from the court, the respondent) is in custody, to the person in charge of the place where he is detained.

(2) In the case of an appeal against a conviction involving sentence of death, the registrar shall, on receiving an application for leave to appeal to the court or to the House of Lords, send a copy thereof to the Secretary of State.

(3) Where in accordance with this rule the registrar gives any written notice to a prisoner of war who has a protecting power, he shall also send a copy of the written notice to the protecting power and shall inform the prisoner of war of the date on which the protecting power was sent that copy.

Restitution Order

20.—(1) Where any property or money has been ordered to be delivered, restored or paid under section 138 of the Army Act 1955(a), section 138 of the Air Force Act 1955(b), or section 76 of the Naval Discipline Act 1957(c), and the operation of the order has been—

(a) suspended under section 138(9) of either of the two first-mentioned Acts or under section 77(1) of the Naval Discipline Act 1957, as the case may be, or

(b) further suspended under section 46(2)—

then, unless the property or money is in the custody of the registrar, the authority which made the order shall cause the said property or money to be kept in safe custody for any period during which the operation of the order is suspended.

(2) Any person in whose favour or against whom such an order as aforesaid has been made (and, with the leave of the court, any other person) shall be entitled to have any representations considered, before the court makes any order under section 138(9)(d) of the Army Act 1955 or of the Air Force Act 1955, or under section 77(2) of the Naval Discipline Act 1957.

Right of audience

21.—(1) In any proceedings before the court any of the following persons may address the court:—

(a) a barrister or an advocate of the Scottish bar retained by or on behalf of the appellant or respondent;

(b) the appellant, if he has leave of the court to be present; and

(c) where the court is directed to sit at a place outside the United Kingdom, any other person allowed by leave of the court to appear on behalf of the appellant or respondent.

(2) In this rule, the reference to a barrister shall be construed as a reference to one who is a member of the bar either of England and Wales or of Northern Ireland, whether or not he is a member of the bar of the other country also.

Non-compliance with Rules

22.—(1) The court or a judge thereof may direct that failure to comply with these Rules by an appellant shall not prevent the further prosecution of his appeal.

(2) The registrar shall forthwith notify the appellant of any directions given by the court or a judge thereof under this rule, where neither the appellant nor his representative was present at the time when such directions were given.

Enforcement of duties

23. The performance of any duty imposed upon any person under the Act or these Rules may be enforced by order of the court.

Revocation of previous Rules

24. The Courts-Martial (Appeals) Rules 1952(a) and the Courts-Martial Appeal (Amendment) Rules 1961(b) are hereby revoked :—

Provided that—

(a) those rules shall continue in force until 1st October 1968 (being the day appointed for the commencement of Part IV of the Criminal Justice Act 1967(c)) for the purposes of any application for, or grant of, legal aid made before that date, and

(b) the revocation of those rules shall not affect the validity of anything done thereunder in relation to any proceedings pending at the commencement of these Rules.

Dated 5th July 1968.

Parker of Waddington, C.J.

Approved,

Dated 6th July 1968.

Gardiner, C.

(a) S.I. 1952/194 (1952 I, p. 648).

(b) S.I. 1961/1015 (1961 II, p. 1960).

(c) 1967 c. 80.

SCHEDULE 1

Form 1

Rule 4

TO THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

NOTICE OF APPLICATION FOR LEAVE TO APPEAL AGAINST
CONVICTION

Name of Appellant..... Number.....

Unit or Ship..... Rank or Rating.....

Convicted by court-martial held at.....

Offence(s) of which convicted.....

.....
.....

Sentence

.....
.....

Date when conviction pronounced or finding promulgated.....

.....

Date when petition to the Defence Council presented⁽¹⁾.....

.....

Date when notified that petition refused⁽¹⁾.....

Name of prison or place of detention⁽²⁾.....

I, the above-named Appellant, hereby give you notice that I desire to
appeal to the Courts-Martial Appeal Court against my conviction on the
following grounds⁽³⁾:

(Signed)⁽⁴⁾.....Appellant

Dated⁽⁵⁾.....19....

(1) See Notes A and B at the end of this Form.

(2) If not in custody, set out appellant's address in full.

(3) Here set out clearly and concisely the reasons why you consider your conviction should be quashed.

(4) This notice must be signed by the appellant or by his representative. If the appellant cannot write he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.

(5) If this form is lodged more than 28 days after the appellant has become entitled to appeal, he must also fill in Form 3, and send it with this form. See Note A at the end of this form.

(6) The appellant must answer these questions.

(7) See Note B at end of this form.

QUESTIONS⁽⁶⁾

1. Do you desire the Court to exercise in your favour its power to direct that you are to be treated as not having lost your right of appeal notwithstanding your failure to present your petition to the Defence Council within the prescribed period?⁽⁷⁾.....

If your answer to this question is "Yes", you must here give the grounds on which you submit the Court should give such a direction.....

.....
.....

(8) The appellant should not, at this stage, give any details of his financial position, but should answer only "Yes" or "No".

2. Do you intend to apply to the Court for legal aid?⁽⁸⁾.....

3. Is any solicitor *now* acting for you? If so, give his name and address

4. Do you desire to be present when the Court considers your appeal?

5. Do you desire to apply for leave to call any witnesses on your appeal?
 (If your answer to this question is "Yes", you must complete Form 5 and send it with this form.)

NOTE A

Under section 8(2) of the Courts-Martial (Appeals) Act 1968, a person convicted by court-martial does not (save in the case of a sentence of death) become entitled to apply for leave to appeal until—

- (a) he has presented to the Defence Council a petition praying that his conviction be quashed, *and*
- (b) either—
 - (i) 40 (or, if the court-martial was held abroad, 60) days have passed since the petition was presented, or
 - (ii) he has been notified that the petition has been refused, whichever occurs first.

From the day on which a convicted person becomes entitled to apply for leave to appeal, he has 28 days in which to give notice of application to the Court. If he fails to give notice within this time, he *must* apply (on Form 3) for an extension of time.

A person convicted by court-martial and sentenced to death becomes entitled to apply for leave to appeal when the conviction is pronounced (in the case of a naval court-martial) or the finding is promulgated (in the case of an army or air force court-martial), and the 28 days run from then. In such a case, the court has no power to extend the time.

NOTE B

A petition to the Defence Council, such as is mentioned in Note A, above, must be presented within the period prescribed by the Courts-Martial Appeal Rules and that period cannot be extended.

Nevertheless, the Court has (under section 8(3) of the Courts-Martial (Appeals) Act 1968) power to direct that a person who *has* presented such a petition, *but has done so out of time*, and who subsequently applies for leave to appeal, is to be treated as not having lost his right of appeal if the Court thinks that there is a reasonable explanation of his failure to present his petition in time and that it is in the interests of justice that he should be so treated.

The period prescribed by the Courts-Martial Appeal Rules for the presentation of a petition to the Defence Council is, in the case of a court-martial held in the United Kingdom, 40 days from the day on which the conviction was pronounced (if it was a naval court-martial) or the finding was promulgated (if it was an army or air force court-martial). In the case of a court-martial held abroad, the corresponding period is 60 days from pronouncement or promulgation, as the case may be.

Form 2

Rule 5

TO THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

NOTICE OF ABANDONMENT

Name of Appellant..... Number.....

Unit or Ship..... Rank or Rating.....

Convicted by court-martial held at.....

Offence(s) of which convicted.....

.....

Name of prison or place of detention⁽¹⁾.....

⁽¹⁾ If not in custody, set out appellant's address in full.

.....

I, the above-named Appellant, having been convicted as above stated and having duly sent to the registrar of the court notice that I desired to appeal DO NOW HEREBY GIVE NOTICE that I do not intend further to prosecute my appeal but THAT I HEREBY ABANDON all proceedings in regard thereto as from the date hereof.

Dated.....19....

(Signed)⁽²⁾.....

Appellant.

⁽²⁾ This notice must be signed by the appellant personally in the presence of a witness. If the appellant is insane, it may be signed by his representative.

This notice was signed by the above-named appellant on the day above stated in my presence.

Signature of Witness

Address of Witness

.....

Occupation of Witness

Form 3

Rule 7

TO THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN
WHICH TO APPLY FOR LEAVE TO APPEAL

(1) Insert name,
number, rank or
rating and unit
or ship. I,(1)

(2) State shortly
the offence or
offences. having been convicted of the offence(s) of(2)
by court-martial held at

on 19 .

(3) Set out ad-
dress in full. and being now at(3)

give you notice that I hereby apply to the court for an extension of the
time within which I may give notice of application for leave to appeal, on
the following grounds(4):—

(4) Here set out
clearly and con-
cisely the reasons
for the delay in
giving such
notice, and the
grounds on
which you sub-
mit the court
should extend
the time.

(Signed)(5)

Appellant.

Dated 19 .

(5) This notice
must be signed
by the appellant
or his represen-
tative.

Form 1 must (if it has not already been sent) be filled up and sent with this
notice to the registrar.

Form 4

Rules 8, 18

TO THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

NOTICE OF RENEWAL OF APPLICATION BEFORE THE FULL
COURT UNDER SECTION 36 OR 48 OF THE COURTS-MARTIAL
(APPEALS) ACT 1968, OR IN PURSUANCE OF SECTION 13 OF THE
ADMINISTRATION OF JUSTICE ACT 1960

(1) Insert name,
number, rank
or rating and
unit or ship. I,(1)

(2) This notice
must be sent to
the Registrar
within 14 days
of the appellant's
being notified of
the refusal of
his application
by a judge. having received on
application(s) for:—

19 (2) your notification that my

- (a) leave to appeal ;
- (b) extension of the period within which application for leave to appeal may be made ;
- (c) bail ;
- (d) permission to be present at the proceedings in the appeal ;

has/have been refused by a judge of the court, DO HEREBY GIVE YOU NOTICE that I desire that the said application(s) shall be considered and determined by the full court.

(Signed)⁽³⁾

Appellant.

(3) This notice must be signed by the appellant or his representative.

Dated 19 .

(4) You must not repeat reasons that you have already stated in previous applications.

If you wish to state any reasons, in addition to those set out by you in your original application⁽⁴⁾, you may do so in the space below:

Form 5

Rule 14

TO THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

NOTICE OF APPLICATION FOR ORDER FOR WITNESS TO ATTEND FOR EXAMINATION

I,⁽¹⁾

(1) Insert name, number, rank or rating and unit or ship.

, having applied for leave to appeal to the Courts-Martial Appeal Court, hereby give notice that I desire the court to order the following witness(es) to attend the court for examination on my behalf.

(Signed)⁽²⁾

Appellant.

(2) This notice must be signed by the appellant or his representative.

Dated 19 .

You are required to complete the following form⁽³⁾:

1. Name and address of witness:
2. Was the witness examined at your court-martial?
3. If not, state the reason why he was not examined:
4. State shortly the evidence you think he can give:

(3) If more than one witness is desired, the information must be given in respect of each witness.

Form 6

Rule 14

FROM THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

NOTICE TO WITNESS TO ATTEND FOR EXAMINATION

(1) Name and
address of wit-
ness.

To⁽¹⁾

Whereas, on good cause shown to the Courts-Martial Appeal Court, you
have been ordered to attend for examination as a witness before the court/
an examiner upon the appeal of⁽²⁾

(2) Name, num-
ber and rank
or rating of
appellant.

This is to give you notice to attend before the court/examiner at

(3) Or other
address for
examination.

o'clock in the noon on 19 , at the
Royal Courts of Justice, Strand, London, W.C.2.⁽³⁾

You are also required to have with you at the said time and place the
following books, papers or other things relating to the appeal:

Registrar.

Dated

19

Form 7

Rule 14

COURTS-MARTIAL (APPEALS) ACT 1968
CAPTION FOR DEPOSITION OF WITNESS EXAMINED BEFORE
EXAMINER

Appellant.

The depositions on oath taken before me the undersigned, being an
examiner duly appointed by the Courts-Martial Appeal Court, of

of

and

of

witnesses, examined before me under an order of the said court dated
19 , in the presence of the said
appellant (or of his counsel or solicitor) and
the Defence Council's counsel or solicitor at

on

19 ,

which said appellant and the Defence Council (personally, or by their
counsel or solicitors) had full opportunity of asking questions of the said
witnesses, to whom the depositions following were read by me before being
signed by them the said witnesses respectively.

The deposition of

of

as follows:—

who upon oath duly administered by me saith

(Here follows deposition)

(Signed)

Witness

Taken before me on

19

Examiner

Form 8

Rule 18

TO THE REGISTRAR OF THE COURTS-MARTIAL APPEAL COURT,
Royal Courts of Justice,
Strand, London, W.C.2.

APPLICATION FOR LEAVE TO APPEAL TO THE
HOUSE OF LORDS, ETC.

Name, number and rank or rating of accused convicted by court-martial

.....

Date of decision of Courts-Martial Appeal Court.....

.....

Place at which accused is detained, or, if he is not in custody, his address

.....

.....

Part I: Application

The defendant/prosecutor hereby ⁽¹⁾applies to the court—

- (a)* for leave to appeal to the House of Lords against the decision of the court⁽²⁾;
- (b)* to extend the time within which an application to the court for leave to appeal to the House of Lords may be made⁽²⁾;
- (c)* to be admitted to bail pending the appeal;
- (d)* for leave to be present at the appeal or proceedings preliminary or incidental to the appeal.

(1) If the application is for leave to appeal, this form should be sent to, or lodged with, the Registrar within 14 days of the decision of the Courts-Martial Appeal Court.

(2) The grounds on which the application is made should be stated in Part II.

Part II: Grounds of Appeal

[State the point involved in the appeal which you desire the Court to certify as being a point of general public importance. If applying for an extension of time, state the reason for the delay]:

(Signed)⁽³⁾

Dated

19 .

(3) A defendant's application should be signed by him or by his representative.

* Delete if inapplicable.

SCHEDULE 2

Circumstances	Person to whom a Petition is Presented under rule 3 or Person with whom an Application or Notice is Lodged under rule 4(3)
1. Appellant serving in or in custody on board H.M. ship.	Captain of the ship.
2. Appellant in custody on board a ship other than one of H.M. ships.	Officer commanding Forces on board.
3. Appellant serving with an army, air force or Royal Marines unit.	Officer commanding the unit.
4. Appellant detained in naval detention quarters.	Officer in charge of the naval detention quarters.
5. Appellant detained in military or air force corrective establishment, prison or detention barrack.	Commandant of such establishment, prison or barrack.
6. Appellant detained in a civil prison.	Governor of the prison.
7. Appellant who is a civilian and is outside the United Kingdom.	Officer commanding at the nearest naval, army or air force headquarters.
8. Appellant who is a prisoner of war.	The officer commanding the prisoner of war camp or other place in which the prisoner of war is held.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules prescribe the procedure to be followed in proceedings before the Courts-Martial Appeal Court. They consolidate the existing Rules, with amendments consequential upon the enactment of the Courts-Martial (Appeals) Act 1968. In addition, rule 3 permits a person convicted by a court-martial outside the United Kingdom to present to the Service authority where the court-martial was held his petition praying that the conviction be quashed; and rule 6 extends from 10 to 28 days the period within which a person convicted by court-martial may apply to the Appeal Court for leave to appeal on his right so to apply becoming exercisable.