

SCHEDULE 3

Rule 27(2)

EVIDENCE

PART I

MODIFICATIONS TO SECTION 9 OF THE CRIMINAL JUSTICE ACT 1967

1. Section 9 of the Criminal Justice Act 1967 shall have effect in relation to proceedings before the court subject to the modifications specified in the following provisions of this Part of this Schedule.

2. In subsection (2)—

(a) in paragraph (c), after the word “proceedings” there shall be inserted—

“and the court administration officer”; and

(b) in paragraph (d), for the words “solicitors” there shall be substituted the words “legal representatives”.

3. For subsection (5) there shall be substituted—

“(5) An application under subsection (4)(b) above to the summary appeal court may be made before the hearing of the appeal and on any such application the powers of the court shall be exercised by a judge advocate sitting alone.”.

4. For subsection (8) there shall be substituted—

“(8) A document required by this section to be served on any person may be served—

(a) by delivering it to him;

(b) by addressing it to him and leaving it at the address of his unit;

(c) by sending it by post addressed to him at the address of his unit;

(d) in the case of a person bringing an appeal under section 83ZE of the Army Act 1955, by serving it on—

(i) his legal representative; or

(ii) where he is subject to military law otherwise than by virtue of section 131 of that Act, his commanding officer,

in any of the ways provided by paragraphs (a) to (c) above.”.

5. After subsection (8), there shall be inserted—

“(9) Where the person to be served is not subject to military law or is subject to military law only by virtue of section 131 of the Army Act 1955, any reference in subsection (8) above to the address of his unit shall have effect as a reference to his usual or last known place of residence.

(10) Where a document is received by the commanding officer of a person bringing an appeal in accordance with subsection (8)(d) above, he shall deliver it (or cause it to be delivered) to that person as soon as practicable.

(11) For the purposes of subsection (2)(d) above, a document served on the commanding officer of a person shall not be treated as having been served on that person until it is delivered to him by his commanding officer.

(12) In this section—

“commanding officer”, in relation to any person, means such officer as would be determined by regulations of the Defence Council under section 82(1) of the Army

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Act 1955 as the commanding officer of that person if that person were charged with an offence under that Act;

“the court administration officer” means the person appointed to that office under section 83ZA of the Army Act 1955;

“judge advocate” means a judge advocate appointed under section 83ZB of the Army Act 1955; and

“the summary appeal court” means the summary appeal court established under section 83ZA of the Army Act 1955.”.

PART II

MODIFICATIONS TO SECTIONS 10 AND 11 OF THE CRIMINAL JUSTICE ACT 1967

6. Sections 10 and 11 of the Criminal Justice Act 1967 shall have effect in relation to proceedings before the court subject to the modifications specified in the following provisions of this Part of this Schedule.

7. In section 10(1), for the words “prosecutor or defendant” there shall be substituted the words “respondent or appellant”.

8. In section 10(2)—

- (a) for the words “a defendant”, wherever they appear, there shall be substituted the words “the appellant”;
- (b) for the words “counsel or solicitor”, wherever they appear, there shall be substituted the words “legal representative”; and
- (c) in paragraph (e), for the words “the trial” there shall be substituted the words “the hearing of the appeal”.

9. In section 11, for the word “defendant”, wherever it appears, there shall be substituted the word “appellant”.

10. In section 11(1), for the words “On a trial on indictment the defendant” there shall be substituted the words “Subject to subsection (1A) below, on the hearing of an appeal under section 83ZE of the Army Act 1955 the appellant”.

11. After section 11(1), there shall be inserted—

“(1A) Subsection (1) shall not apply where the appellant adduced evidence of an alibi in the proceedings under section 76B of the Army Act 1955 to which the appeal relates, and the particulars of the alibi raised in those proceedings are substantially the same as those which he would be required to include in the notice of alibi under subsection (1) above.”.

12. In section 11(2), for the word “trial” there shall be substituted the word “hearing”.

13. In section 11(3), for the words from “in accordance with” to the end of the subsection there shall be substituted—

“in accordance with rules made under section 83ZJ of the Army Act 1955 of the requirements of this section”.

14. In section 11(5), for the word “solicitor” there shall be substituted the words “legal representative”.

15. For section 11(6) there shall be substituted—

“(6) Any notice under this section shall be given in writing to the respondent.”.

16. Section 11(7) shall be omitted.
17. In section 11(8), for the definition of “the prescribed period” there shall be substituted—
““the prescribed period” means the period of 14 days beginning with the date on which the respondent’s papers are served on the appellant in accordance with rules made under section 83ZJ of the Army Act 1955”.

PART III

MODIFICATIONS TO PARTS VII AND VIII OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984

18. In relation to proceedings on an appeal under section 83ZE of the Act—
 - (a) Parts VII and VIII shall have effect as if any reference to proceedings included a reference to the proceedings on the appeal;
 - (b) Section 74 shall have effect as if any reference to the accused included a reference to the appellant;
 - (c) sections 76 and 78(1) shall have effect as if—
 - (i) any reference to an accused person included a reference to the appellant; and
 - (ii) any reference to the prosecution included a reference to the respondent;
 - (d) section 77 shall not have effect;
 - (e) section 79 shall have effect as if any reference to the defence or the accused included a reference to the appellant;
 - (f) section 80 shall have effect as if—
 - (i) any reference to the accused included a reference to the appellant;
 - (ii) any reference to the prosecution included a reference to the respondent; and
 - (iii) any reference to a person jointly charged with the accused included a reference to any person whose appeal under section 83ZE of the Act is being heard by the court at the same time as the appellant’s appeal; and
 - (g) section 81 shall not have effect.