
STATUTORY INSTRUMENTS

2009 No. 1098

The Armed Forces (Custody Proceedings) Rules 2009

PART 6

HEARINGS

Procedure at the hearing

35.—(1) A judge advocate shall not be bound at a hearing by any enactment or rule of law relating to the admissibility of evidence in proceedings before courts of law.

(2) The commanding officer and the person to whom the proceedings relate shall each be heard in such order as the judge advocate shall determine and, in exercising his powers under this paragraph, the judge advocate shall adopt such course as appears to him will best serve the interests of justice.

(3) The judge advocate shall explain the order of the proceedings which he proposes to adopt at the beginning of the hearing.

(4) Subject to section 108(6), the commanding officer and the person to whom the proceedings relate shall each be entitled to—

- (a) give evidence on oath and call witnesses,
- (b) produce to the judge advocate any document or written report, and
- (c) address the judge advocate at least once,

on any matters relevant to the proceedings.

(5) The judge advocate shall make a record of the hearing unless a court recorder is in attendance.

Adjournments

36.—(1) Where a person to whom the application relates is not legally represented at a hearing, the judge advocate shall explain—

- (a) the right of that person to be legally represented;
- (b) the right to an adjournment if he wishes to be so represented; and
- (c) the effect of such an adjournment.

Presence of witnesses

37. Except where the person is the accused, a person who is called to give evidence shall not, except with the consent of the judge advocate, be present at a hearing while not under examination.

Privileges and immunities

38. A witness at a hearing or any other person whose duty it is to attend before a judge advocate at the hearing shall be entitled to the same immunities and privileges as a witness before the High Court in England and Wales.

Status: This is the original version (as it was originally made).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

Decision of the judge advocate

39.—(1) The judge advocate shall announce his decision and the reasons for it at the end of any hearing and record that decision in writing.

(2) The court administration officer shall serve copies of the decision on the commanding officer and the accused.