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STATUTORY INSTRUMENTS

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**2009 No. 1209**

**The Armed Forces (Service Civilian Court) Rules 2009**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1. These Rules may be cited as the Armed Forces (Service Civilian Court) Rules 2009 and shall come into force on 31st October 2009.

**Interpretation: proceedings and parties**

2.—(1) Unless otherwise stated, any reference in these Rules to proceedings is to—

- (a) preliminary proceedings,
- (b) trial proceedings,
- (c) sentencing proceedings, <sup>F1</sup>...
- (d) ancillary proceedings [<sup>F2</sup>; and
- (e) variation proceedings]

and does not include the exercise of any power of the court otherwise than at a hearing.

(2) In these Rules—

“activation order” means—

- (a) an order under paragraph 8(2)(a) or (b) of Schedule 12 to the 2003 Act (activation of suspended sentence of imprisonment); or
- (b) an order under section 214(3) (reactivation of detention and training order);

“activation proceedings” means proceedings for the making of an activation order, but does not include sentencing proceedings in which the court has power to make such an order;

“ancillary proceedings” means proceedings under any provision of Part 15;

“community order proceedings” means any proceedings under Chapter 1 of Part 15;

[<sup>F3</sup>“domestic abuse” has the same meaning as in the Domestic Abuse Act 2021;]

“preliminary proceedings” means any proceedings of the court held for the purpose of—

- (c) the court making its decision in accordance with section 279 (consideration of trial by Court Martial);
- (d) allowing the defendant to exercise his right to elect trial by the Court Martial;
- (e) arraigning a defendant on a charge to be tried in the trial proceedings; or
- (f) giving directions, orders or rulings for the purpose of the trial proceedings;

“related proceedings”, in relation to preliminary proceedings, means—

- (g) trial proceedings in respect of any charge to which the preliminary proceedings relate;
- (h) any further preliminary proceedings in relation to such trial proceedings; and
- (i) any sentencing proceedings in respect of any offence found proved in such trial proceedings, or as respects which the offender pleads guilty in the preliminary proceedings or related proceedings;

“sentencing proceedings” means proceedings for the sentencing of a person convicted by the court on a plea of guilty or in trial proceedings [<sup>F4</sup>and does not include variation proceedings];

“trial proceedings” means proceedings for the trial of a charge by the court, and does not include [<sup>F5</sup>sentencing proceedings or variation proceedings;]

[<sup>F6</sup>“variation proceedings” means proceedings under Part 14A.]

- (3) References in these Rules to a party to any proceedings are to—
  - (a) a person to whom the proceedings relate;
  - (b) the Director; and
  - (c) where the proceedings are for the hearing of an application (and the applicant is not a person to whom the proceedings relate), the applicant.
- (4) References in these Rules to a person to whom proceedings relate are to—
  - (a) in the case of preliminary or trial proceedings, a defendant;
  - (b) in the case of sentencing proceedings, an offender who falls to be sentenced in the proceedings;
  - (c) in the case of activation proceedings, the offender in respect of whom the court has power to make an activation order in the proceedings;
  - (d) in the case of community order proceedings, the offender in respect of whom the overseas community order was made;
  - (e) in the case of a hearing of any other application (other than community order proceedings), the applicant;
  - (f) in the case of a hearing under rule 108 (certification of contempt of court), the person whose offence the court is to consider certifying.
- [<sup>F7</sup>(g) in the case of variation proceedings, an offender in respect of whom a sentence which falls to be varied has been passed.]

- (5) In these Rules—

“defendant” means a person against whom a charge allocated for Service Civilian Court trial has been brought;

“the Director” means the Director of Service Prosecutions.

#### Textual Amendments

- F1** Word in rule 2 omitted (13.11.2023) by virtue of [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **3(a)**
- F2** Rule 2(1)(e) and word inserted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **3(b)**
- F3** Words in rule 2(2) inserted (4.7.2022) by [The Armed Forces \(Service Court Rules\) \(Amendment\) Rules 2022 \(S.I. 2022/605\)](#), rules 1(2), **16**
- F4** Words in rule 2(2) inserted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **3(c)(i)**

- F5** Words in rule 2(2) substituted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **3(c)(ii)**
- F6** Words in rule 2(2) inserted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **3(c)(iii)**
- F7** Rule 2(4)(g) inserted (13.11.2023) by [The Armed Forces \(Amendment of Court Rules\) Rules 2023 \(S.I. 2023/1097\)](#), rules 1(2), **3(d)**

### Interpretation: general

3.—(1) Any reference in these Rules to a numbered section is to that section of the Act unless otherwise stated.

(2) In these Rules—

“the Act” means the Armed Forces Act 2006;

“the 1967 Act” means the Criminal Justice Act 1967 <sup>M1</sup>;

“the 1999 Act” means the Youth Justice and Criminal Evidence Act 1999 <sup>M2</sup>;

“the 2003 Act” means the Criminal Justice Act 2003;

“the CPIA Order” means the Criminal Procedure and Investigations Act 1996 (Application to the Armed Forces) Order 2009 <sup>M3</sup>;

“advance information” has the meaning given by rule 30(2);

“bad character” has the meaning given by section 98 of the 2003 Act;

“civilian police force” means a UK police force or a British overseas territory police force;

[<sup>F8</sup>“the complainant”, in relation to any offence (or alleged offence), means a person against or in relation to whom the offence was (or is alleged to have been) committed;]

“the court” means the Service Civilian Court;

“DX” means document exchange;

“detention and training order” means an order under section 211;

“the judge advocate”, in relation to any proceedings, means the judge advocate specified for the proceedings under section 278(2);

“legal representative” means a person appointed by a party to proceedings under rule 26;

“live link”, has the meaning given by rule 18(3)(a);

“pre-sentence report” has the meaning given by section 257; and

“unit” means—

(a) a naval ship or establishment;

(b) any body of members of Her Majesty's forces formed under the command of a person appointed to be the commanding officer of the body; or

(c) an air force station.

(3) Any reference in these Rules to Schedule 8 to the 2003 Act is to that Schedule as modified by Schedule 5 to the Act.

### Textual Amendments

- F8** Words in rule 3(2) inserted (16.11.2015) by [The Armed Forces \(Service Courts Rules\) \(Amendment\) Rules 2015 \(S.I. 2015/1812\)](#), rules 1, **14**

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**Changes to legislation:** *There are currently no known outstanding effects for the The Armed Forces (Service Civilian Court) Rules 2009, PART 1. (See end of Document for details)*

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**Marginal Citations**

**M1** 1967 c. 80.

**M2** 1999 c. 23.

**M3** S.I. 2009/988.

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces (Service Civilian Court) Rules 2009, PART 1.