
STATUTORY INSTRUMENTS

2009 No. 2041

The Armed Forces (Court Martial) Rules 2009

PART 7

ADVANCE INFORMATION

Service of advance information

43.—(1) Where a charge is allocated for Court Martial trial, the Director must, as soon as is practicable—

- (a) serve advance information in relation to all defendants on the court administration officer; and
- (b) serve advance information in relation to each defendant on—
 - (i) that defendant; and
 - (ii) that defendant’s legal representative (if any).
- (2) “Advance information”, in relation to any defendant, means—
 - (a) copies of the statements of those witnesses on whom the Director intends to rely against the defendant;
 - (b) a list of all exhibits which the Director intends to adduce in evidence against the defendant, and a statement of where any non-documentary exhibits are held; and
 - (c) a transcript of any sound recording of an interview with the defendant.

(3) Where, after the Director has served advance information on a defendant, he intends to adduce against the defendant any evidence not included in the advance information, he must as soon as is practicable serve on the defendant and the court administration officer such documents as he would have been required to include in the advance information if he had had that intention at the time when he served advance information.

(4) Where paragraph (3) applies in the course of trial proceedings, the reference in that paragraph to the court administration officer is to be read as a reference to the judge advocate.

(5) Where the Director no longer intends to call a witness whose statement he has served under this rule, he must as soon as is practicable give notice of that fact to every defendant.

Information as to possibility of activation order etc

44.—(1) Where a charge is such that, if a defendant to the charge were convicted of it by the court, the court would have power to make an activation order, the advance information in relation to the defendant must include a notice that the court would have that power if he were convicted.

- (2) Where a defendant—
 - (a) has been conditionally discharged by virtue of Schedule 3 to the 2006 Act, and
 - (b) is charged with an offence committed during the period of conditional discharge,

the advance information in relation to him must include a notice that, if he were convicted of the offence, the court would have power to deal with him under section 186(2) for the offence for which he was conditionally discharged.

(3) Where an overseas community order is in force in respect of a defendant, the advance information in relation to him must include a notice that, if he were convicted of the offence while the overseas community order is in force, the court would have the powers conferred by paragraph 23 of Schedule 8 to the 2003 Act.