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STATUTORY INSTRUMENTS

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**2009 No. 2657**

**The Court Martial Appeal Court Rules 2009**

**PART 2**

**SERVICE OF DOCUMENTS**

**Interpretation of Part 2**

**3.—**(1) References in this Part to a person's agreement to the service of a document in a particular way include his agreement that any document of a description specified by him may be served in that way.

(2) Nothing in this Part affects service under rule 20(4) or rule 62(13).

**Service on a person to whom proceedings relate**

**4.—**(1) Where under these Rules any document is to be served on a person to whom proceedings relate it may be served—

- (a) on him personally;
- (b) if he is subject to service law, by post in a letter addressed to him at his unit;
- (c) if he is not subject to service law—
  - (i) by leaving it at his usual or last known place of abode; or
  - (ii) by post in a letter addressed to his usual or last known place of abode;
- (d) by post in a letter addressed to his legal representative's place of business; or
- (e) by DX, fax, electronic mail or other electronic means to his legal representative, where his legal representative—
  - (i) has given a DX box number, fax number or electronic mail or other electronic means address; and
  - (ii) has not refused to accept service by that means.

(2) In this rule references to the person's legal representative are to any person whose name and address has been notified to the registrar under rule 18(4).

**Service on the registrar**

**5.** Where under these Rules any document is to be served on the registrar, it may be served by post, DX, fax, electronic mail or other electronic means on the Registrar of the Court Martial Appeal Court, at the Royal Courts of Justice, Strand, London, WC2A 2LL, or such other place as the Lord Chief Justice may from time to time direct.

**Service on the Director, Attorney General, Judge Advocate General or Secretary of State**

**6.—**(1) Where under these Rules any document is to be served on the Director, it may be served—

- (a) by post, DX, fax, electronic mail or other electronic means at—
  - (i) the principal office of the Service Prosecuting Authority; or
  - (ii) with the agreement of a prosecuting officer, that Authority's main office in Germany; or
- (b) on a prosecuting officer personally, with his agreement.
- (2) Where under these Rules any document is to be served on—
  - (a) the Attorney General, it may be served by post, DX or fax at the Attorney General's Office;
  - (b) the Judge Advocate General, it may be served by post, DX or fax at the Office of the Judge Advocate General;
  - (c) the Secretary of State, it may be served by post, DX or fax on the Secretary of State for Defence.

### **Service on other individuals**

7. Where under these Rules any document is to be served on an individual other than a person to whom proceedings relate, the registrar or a person mentioned in rule 6, it may be served—

- (a) on the individual personally;
- (b) if he is subject to service law, by post in a letter addressed to him at his unit;
- (c) if he is not subject to service law—
  - (i) by leaving it at his usual or last known place of abode; or
  - (ii) by post in a letter addressed to his usual or last known place of abode.

### **Service on a corporation**

8. Where under these Rules any document is to be served on a corporation within the meaning of section 1173(1) of the Companies Act 2006<sup>(1)</sup>, it may be served—

- (a) by post at—
  - (i) the corporation's principal office in the United Kingdom;
  - (ii) if the corporation has no readily identifiable principal office in the United Kingdom, any place in the United Kingdom where it carries on its activities or business; or
  - (iii) if the corporation has no principal office in the United Kingdom and does not carry on its activities or business in the United Kingdom, its principal office; or
- (b) by DX, fax, electronic mail or other electronic means, where the corporation—
  - (i) has given a DX box number, fax number or electronic mail or other electronic means address; and
  - (ii) has not refused to accept service by that means.

### **Service by another method**

9.—(1) The registrar or a judge of the court may in a particular case direct that a document may be served by a method other than those mentioned in rules 4 to 8.

- (2) A direction under this rule—
  - (a) must specify—
    - (i) the method to be used; and

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(1) 2006 c. 46.

- (ii) the date by which the document must be served; and
- (b) may specify the time on that date by which the document must be served.

### **Deemed service**

**10.** The court may treat a document as served if the addressee responds to it, even if it was not served in accordance with these Rules.

### **Date of service**

**11.—(1)** Nothing in this rule affects service under rule 28 or rule 32.

(2) Unless the contrary is shown, a document served on a person (otherwise than personally) shall be assumed to have been served—

- (a) in the case of a document sent by post from the United Kingdom to an address within the United Kingdom, on the fifth day after the day on which it was despatched;
- (b) in the case of a document sent by post—
  - (i) from the United Kingdom or Germany to an address within Germany, or
  - (ii) from Germany to an address within the United Kingdom, on the tenth day after the day on which it was despatched;
- (c) in the case of any other document sent by post, on the tenth day after the day on which it was despatched;
- (d) in the case of a document served by DX, on the fifth day after the day on which it was left at the addressee's DX or at a correspondent DX;
- (e) in the case of a document served by fax, electronic mail or other electronic means, on the day after it was transmitted;
- (f) in the case of a document left at an address, on the third day after the day on which it was left; and
- (g) in any case, on the day on which the addressee responds to it if that is earlier than the day on which it would otherwise be assumed to have been served under sub-paragraphs (a) to (f).

### **Proof of service**

**12.—(1)** Where—

- (a) under any of rules 4 to 8 or a direction under rule 9, a document may be served by a particular method, and
- (b) a certificate is produced which—
  - (i) states that the document was so served, and
  - (ii) is signed by a person who purports to have so served the document,

the document shall be assumed to have been so served, unless the contrary is shown.

(2) Where a certificate is produced which—

- (a) states that a document was despatched, left at a DX box number or transmitted on a particular day, and
  - (b) is signed by a person who purports to have despatched, left or transmitted the document,
- for the purposes of rule 11 the document shall be assumed to have been despatched, left or transmitted on that day, unless the contrary is shown.

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**Status:** *This is the original version (as it was originally made).*

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