
STATUTORY INSTRUMENTS

2009 No. 2657

The Court Martial Appeal Court Rules 2009

PART 6

**APPEALS IN PRELIMINARY PROCEEDINGS
AND AGAINST CERTAIN ORDERS**

CHAPTER 2

APPEALS AGAINST A REPORTING OR PUBLIC ACCESS ORDER

Application of Chapter 2

31.—(1) This Chapter applies where a person directly affected by a reporting or public access order wants to appeal against that order.

(2) In this Chapter—

a reference to an “appellant” in this Chapter is a reference to such a person;

“appeal notice” means an application to appeal against such an order;

“party” means a party to the application to the Court Martial to make the order;

“respondent” means a person who serves a respondent's notice.

Service of appeal notice

32.—(1) The appellant must serve an appeal notice not later than—

(a) 24 hours after an order was made restricting public access to proceedings of the Court Martial;

(b) 14 days after an order was made restricting reporting of the proceeding of the Court Martial.

(2) The appellant must serve the appeal notice on—

(a) the registrar;

(b) the Director (unless he is the appellant);

(c) the defendant (unless he is the appellant);

(d) any other person directly affected by the order against which the appellant wants to appeal;
and

(e) if not within any of sub-paragraphs (b) to (d), the person who applied for the reporting or public access order.

(3) Paragraphs (1) and (2) are subject to rule 38.

Appeal notice

33.—(1) An application must be in writing and must—

- (a) include the required information;
 - (b) specify the order against which the appellant wishes to appeal;
 - (c) state each ground of appeal on which the appellant relies, numbering them consecutively (if there is more than one), and concisely outlining each argument in support;
 - (d) summarise the relevant facts;
 - (e) identify any relevant authorities;
 - (f) include or attach, with reasons—
 - (i) an application for permission to appeal;
 - (ii) any application for an extension of time in which to serve the appeal notice;
 - (iii) any application for permission to adduce evidence;
 - (iv) a list of the names of the persons on whom the appellant has served the appeal notice; and
 - (g) attach any document or thing that the appellant thinks the court will need to decide the appeal.
- (2) An appeal notice must be signed by the appellant or his legal representative.

Advance notice of an appeal

34.—(1) This rule applies where an appellant wants to appeal against an order (including directions) that he considers may be made by the Court Martial restricting the access of the public to the whole or part of any proceedings of the Court Martial.

(2) The appellant may serve advance written notice of intention to appeal against any such order that may be made.

(3) The appellant must serve any such advance notice on—

- (a) the registrar;
- (b) the Director (unless he is the appellant);
- (c) the person to whom proceedings relate (unless he is the appellant);
- (d) any other person who would be directly affected by the order against which the appellant intends to seek permission to appeal if it is made;
- (e) if not included in sub-paragraphs (b) to (d), the person applying for the order.

(4) Subject to rule 38, any such advance notice must be served not more than seven days after the court administration officer displays a notice of the application for the public access order.

(5) The advance notice must include the same information (with necessary adaptations) as an appeal notice under rule 33.

(6) The court must treat the advance notice as the appeal notice if the order is made.

Duty of applicant

35.—(1) This rule applies where an appellant has served an appeal notice under rule 33 or an advance notice under rule 34.

(2) As soon as practicable after receipt of such notice, the party who applied for the reporting or public access order must serve on the registrar—

- (a) a transcript or note of the application for the order; and
- (b) any other document or thing that that party thinks the court will need to decide the appeal.

Respondent's notice

36.—(1) A person on whom an appeal notice under rule 33 or an advance notice under rule 34 has been served may serve a respondent's notice, and must do so if—

- (a) that person wants to make representations to the court;
- (b) the registrar so directs; or
- (c) a judge of the court so directs.

(2) A party serving a respondent's notice must serve it on—

- (a) the appellant;
- (b) those persons listed in rule 32(2).

(3) Subject to rule 38, the respondent must serve the respondent's notice not more than five days after—

- (a) the day on which he was served with the appeal notice;
- (b) the day on which he was served with the advance notice;
- (c) a direction to do so.

(4) The respondent's notice must—

- (a) state the date on which the respondent was served with the appeal notice;
- (b) state any ground of opposition on which the respondent relies, numbering them consecutively (if there is more than one), concisely outlining each argument in support and identifying the ground of appeal to which each relates;
- (c) summarise any relevant facts not summarised in the appeal notice;
- (d) identify any authorities the respondent considers relevant;
- (e) include or attach any application for the following, stating the reasons for the application—
 - (i) an extension of time in which to serve the respondent's notice;
 - (ii) permission to adduce evidence; and
- (f) identify any other document or thing that the respondent thinks the court will need to decide the appeal.

Changes to legislation:

There are currently no known outstanding effects for the The Court Martial Appeal Court Rules 2009, CHAPTER 2.