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STATUTORY INSTRUMENTS

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**1997 No. 169**

**The Courts-Martial (Army) Rules 1997**

**PART IV**

**PRELIMINARY PROCEEDINGS**

**Hearing for directions**

**25.**—(1) The judge advocate may direct the court administration officer to convene a hearing for the purpose of giving directions—

- (a) of his own motion; or
- (b) on the application of the prosecutor or accused for such a hearing;

and such a hearing shall be referred to in these Rules as a hearing for directions.

(2) An application for a hearing for directions shall—

- (a) be made to the Judge Advocate General (or his deputy) in the form set out in Schedule 2 to these Rules; and
- (b) specify the reason for which it is made.

(3) Subject to rule 28 below, the applicant shall serve notice of the application in writing on every other party to the proceedings and the court administration officer.

(4) Before directing the court administration officer to convene a hearing for directions, the judge advocate shall afford each party to the proceedings the opportunity of making written representations to him.

(5) Paragraph (4) above shall not oblige the judge advocate to afford any party the opportunity of making representations where it appears to him that it would be impracticable to do so, or would cause unnecessary delay, or where the application is made in accordance with rule 28 below.

(6) On receipt of a direction from the judge advocate under paragraph (1) above, the court administration officer shall—

- (a) appoint the date, time and place at which the hearing for directions will take place;
- (b) issue a notice in writing of the date, time and place appointed;
- (c) list in the notice such of the matters contained in Schedule 4 to these Rules to be addressed at the hearing as the judge advocate may request;
- (d) subject to rule 28 below, serve the notice on the parties to the proceedings; and
- (e) arrange for the attendance at the hearing of a court recorder and, if the judge advocate or any party so requests, an interpreter.

(7) If in advance of the hearing the judge advocate so directs, the prosecutor shall—

- (a) prepare an outline of the prosecution case; and
- (b) serve a copy of that outline on the accused and the judge advocate.

### **Hearing for directions in chambers**

26.—(1) A hearing for directions shall take place before the judge advocate in chambers.

(2) Except with the leave of the judge advocate and subject to rule 28 below, the only persons entitled to be present at a hearing for directions are the court administration officer, the prosecutor, the accused, the accused's legal adviser, the court recorder and any interpreter.

### **Substance of a hearing for directions**

27.—(1) The parties to the proceedings shall address the judge advocate at the hearing for directions on such of the matters contained in Schedule 4 to these Rules as are indicated in the notice convening the hearing.

(2) Paragraph (1) above is without prejudice to the right of the judge advocate or any party to the proceedings to raise at the hearing for directions any other matter.

(3) The judge advocate may at a hearing for directions make such directions as appear to him to be necessary to secure the proper and efficient trial of the case.

(4) Subject to rule 28 below, the court administration officer shall serve a copy of the record of the hearing for directions on the judge advocate, the prosecutor and the accused before the court-martial.

### **Hearing for directions without notice to the accused**

28.—(1) Where in the public interest it is desirable to seek a direction from the judge advocate without giving notice to the accused, the prosecutor may apply for a hearing for directions in accordance with this rule.

(2) Where the prosecutor applies for a hearing for directions under this rule, the judge advocate shall determine whether in the interests of justice such a hearing is necessary.

(3) Where the judge advocate grants the prosecutor's application under this rule, he shall direct that the hearing for directions shall proceed without notice to the accused and without the participation of the accused.

### **Preparatory hearing**

29.—(1) The judge advocate may direct the court administration officer to convene a hearing for the purpose of giving orders and rulings in preparation for a court-martial—

(a) of his own motion; or

(b) on the application of the prosecutor or accused for such a hearing;

and such a hearing shall be referred to in these Rules as a preparatory hearing.

(2) An application for a preparatory hearing shall—

(a) be made to the judge advocate in the form set out in Schedule 2 to these Rules; and

(b) specify the reason for which it is made.

(3) The applicant shall serve notice in writing of the application with a time estimate of the length of the preparatory hearing on every other party to the proceedings and the court administration officer.

(4) Before directing the court administration officer to convene a preparatory hearing, the judge advocate shall afford each party to the proceedings the opportunity of making written representations to him.

(5) Paragraph (4) above shall not oblige the judge advocate to afford any party the opportunity of making representations where it appears to him that it would be impracticable to do so, or would cause unnecessary delay.

(6) On receipt of a direction from the judge advocate under paragraph (1) above, the court administration officer shall—

- (a) appoint the date, time and place at which the preparatory hearing will take place;
- (b) issue a notice in writing of the date, time and place appointed;
- (c) serve the notice on the parties to the proceedings; and
- (d) arrange for the attendance at the hearing of a court recorder and, if the judge advocate or any party so requests, an interpreter.

### **Challenges and oaths at a preparatory hearing**

**30.**—(1) At the commencement of the preparatory hearing the accused shall be entitled to object to the judge advocate and any interpreter.

(2) At the commencement of the preparatory hearing the judge advocate shall administer an oath to any interpreter.

### **Substance of a preparatory hearing**

**31.**—(1) At a preparatory hearing the judge advocate may make an order or ruling on—

- (a) any question as to the admissibility of evidence;
- (b) any other question of law, practice or procedure relating to the case.

(2) An order or ruling made under this rule shall have effect until the conclusion of the court-martial trial unless it appears to the judge advocate on application made to him at any stage during the proceedings that in the interests of justice it should be varied or discharged.