

SCHEDULE 1

Rule 3(2)

PROPER ADDRESS

1. Subject to the following provisions of this Schedule, a reference to a person's proper address is to the address of the unit to which he belongs.
2. Where a person is on attachment to a unit, a reference to his proper address is to the address of the unit to which he is attached.
3. In the case of an appellant who—
 - (a) is not subject to military law, or
 - (b) is subject to military law only by virtue of section 131 of the Act,a reference to his proper address is to his usual or last known place of residence.
4. In the case of the Judge Advocate General, a reference to his proper address is to the address of his office in the United Kingdom or the office of his Deputy in Germany.

SCHEDULE 2

Rules 8(1), 9(2), 12(2), 15(2) and 33(3)

FORMS

Where any rule requires the use of a form set out in this Schedule, that requirement shall be satisfied by the use of a form substantially to the like effect as the form set out below.

Form 1—Notice of appeal

Form 2a—Notice of application to extend the period of time for bringing an appeal

Form 2b—Notice of application for leave to appeal out of time

Form 3—Notice of application for leave to refer a finding or punishment to be considered by the summary appeal court as on an appeal

Form 4—Notice of abandonment of appeal

Form 5—Notice of application for a preliminary hearing

Form INOTICE OF APPEAL

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

To: COURT ADMINISTRATION OFFICER OF THE SUMMARY APPEAL COURT
(through the Commanding Officer)

I.....
(name) (rank)
..... of
(service no.) (unit/address)

DO HEREBY GIVE NOTICE that in respect of—

Charge..... Punishment.....

I intend to appeal against *finding/punishment/both finding and punishment.

Charge..... Punishment.....

I intend to appeal against *finding/punishment/both finding and punishment.

Charge..... Punishment.....

I intend to appeal against *finding/punishment/both finding and punishment.

The above mentioned finding(s) and punishment were imposed by way of summary dealing on the
.....day of20....

held in

Date punishment awarded

Name and rank of officer who conducted the summary dealing, and the capacity in which he conducted it.....

Signature.....

Dated this.....day of..... 20....

[*Delete as appropriate]

Form 2aNotice of application to extend the period of time for bringing an appeal

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To: COURT ADMINISTRATION OFFICER OF THE SUMMARY APPEAL COURT
(through the Commanding Officer)

I.....
(name) (rank)
..... of.....
(service no.) (unit/address)

DO HEREBY GIVE NOTICE of an application under section 83ZE(2) of the Army Act 1955 to extend the period of time for bringing an appeal.

The application relates to the following finding(s) and punishment—

[Insert here details of the finding or findings and any punishment awarded]

imposed by way of summary dealing on theday of 20....

held in

Date punishment awarded

Name and rank of the officer who conducted the summary dealing, and the capacity in which he conducted it.....

The reasons why I wish the period to be extended are—

[Insert here the matters on which you wish to rely in support of your application]

I am including the following documents which I consider relevant to this application:

Signature.....

Dated this.....day of..... 20....

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Form 2bNotice of application for leave to appeal out of time

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To: COURT ADMINISTRATION OFFICER OF THE SUMMARY APPEAL COURT
(through the Commanding Officer)

I.....
(name) (rank)
..... of.....
(service no.) (unit/address)

DO HEREBY GIVE NOTICE of an application under section 83ZE(2) of the Army Act 1955 for leave to appeal out of time.

The application relates to the following finding(s) and/or punishment—

[Insert here details of any finding, or punishment awarded, against which the appeal is brought]

imposed by way of summary dealing on theday of 20....
held in

Date punishment awarded

Name and rank of the officer who conducted the summary dealing, and the capacity in which he conducted it.....

The reasons why I did not bring the appeal within the appeal period are—

[Insert here the matters on which you wish to rely in support of your application]

I am including the following documents which I consider relevant to this application:

Signature.....

Dated this.....day of..... 20....

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Form 3 Notice of application for leave to refer a finding or punishment to be considered by the summary appeal court as on an appeal

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TO: COURT ADMINISTRATION OFFICER OF THE SUMMARY APPEAL COURT

I DO HEREBY GIVE NOTICE of an application under section 115(5A)/115(5B)* of the Army Act 1955.
The particulars of the application are as follows—

1. *Details of accused:*

Name rank.....

Service No. unit.....

2. *Details of summary dealing:*

Where held Date

Particulars of the charges dealt with summarily and the findings recorded in respect of each charge:

Particulars of the punishment awarded:

Date punishment awarded

3. *Matters to which the application relates:*

[Insert here any finding or punishment to which the application relates]

4. *Grounds for the application:*

5. *List of supporting documents:*

Signature

Name..... Rank.....

Appointment Formation/HQ/Unit

Date.....

[*Delete as appropriate]

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Form 4 Notice of abandonment of appeal

To: COURT ADMINISTRATION OFFICER OF THE SUMMARY APPEAL COURT
(through the Commanding Officer)

I (name) (rank)
..... of
(service no.) (unit/address)

DO HEREBY GIVE NOTICE that it is my intention to abandon my appeal against—
[Insert here details of any finding, or punishment awarded, to which the notice relates. Also include here, where appropriate, the date fixed for the hearing of the appeal]

imposed by way of summary dealing on theday of 20....
held in
Date punishment awarded

Signature
Dated thisday of 20....

Form 5 Notice of application for a preliminary hearing

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

From
(name) (rank and service no./title)
of.....
(unit/address)

To: COURT ADMINISTRATION OFFICER OF THE SUMMARY APPEAL COURT

APPLICATION FOR A PRELIMINARY HEARING IN THE MATTER OF

[Insert here particulars of the appeal to which the application relates including the rank, name and service number of Appellant]

As *respondent/appellant/appellant's legal adviser, I hereby apply for a preliminary hearing to take place before the commencement of the hearing of the appeal.

I would wish to address the following matters at the preliminary hearing:
[List matters which you wish to be considered at the preliminary hearing]

I estimate that the length of time required for such a preliminary hearing will be:
[Estimate length of time required for preliminary hearing]

It is requested that the witnesses whose details are given below be summoned by the Court to attend the hearing:
[List witnesses and their addresses]

signed

date

*[*Delete as appropriate]*

Send copies to:

*Appellant
Appellant's Legal Adviser
or
Army Prosecuting Authority*

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SCHEDULE 3

Rule 27(2)

EVIDENCE

PART I

MODIFICATIONS TO SECTION 9 OF THE CRIMINAL JUSTICE ACT 1967

1. Section 9 of the Criminal Justice Act 1967 shall have effect in relation to proceedings before the court subject to the modifications specified in the following provisions of this Part of this Schedule.

2. In subsection (2)—

(a) in paragraph (c), after the word “proceedings” there shall be inserted—
“and the court administration officer”; and

(b) in paragraph (d), for the words “solicitors” there shall be substituted the words “legal representatives”.

3. For subsection (5) there shall be substituted—

“(5) An application under subsection (4)(b) above to the summary appeal court may be made before the hearing of the appeal and on any such application the powers of the court shall be exercised by a judge advocate sitting alone.”.

4. For subsection (8) there shall be substituted—

“(8) A document required by this section to be served on any person may be served—

(a) by delivering it to him;

(b) by addressing it to him and leaving it at the address of his unit;

(c) by sending it by post addressed to him at the address of his unit;

(d) in the case of a person bringing an appeal under section 83ZE of the Army Act 1955, by serving it on—

(i) his legal representative; or

(ii) where he is subject to military law otherwise than by virtue of section 131 of that Act, his commanding officer,

in any of the ways provided by paragraphs (a) to (c) above.”.

5. After subsection (8), there shall be inserted—

“(9) Where the person to be served is not subject to military law or is subject to military law only by virtue of section 131 of the Army Act 1955, any reference in subsection (8) above to the address of his unit shall have effect as a reference to his usual or last known place of residence.

(10) Where a document is received by the commanding officer of a person bringing an appeal in accordance with subsection (8)(d) above, he shall deliver it (or cause it to be delivered) to that person as soon as practicable.

(11) For the purposes of subsection (2)(d) above, a document served on the commanding officer of a person shall not be treated as having been served on that person until it is delivered to him by his commanding officer.

(12) In this section—

“commanding officer”, in relation to any person, means such officer as would be determined by regulations of the Defence Council under section 82(1) of the Army

Act 1955 as the commanding officer of that person if that person were charged with an offence under that Act;

“the court administration officer” means the person appointed to that office under section 83ZA of the Army Act 1955;

“judge advocate” means a judge advocate appointed under section 83ZB of the Army Act 1955; and

“the summary appeal court” means the summary appeal court established under section 83ZA of the Army Act 1955.”.

PART II

MODIFICATIONS TO SECTIONS 10 AND 11 OF THE CRIMINAL JUSTICE ACT 1967

6. Sections 10 and 11 of the Criminal Justice Act 1967 shall have effect in relation to proceedings before the court subject to the modifications specified in the following provisions of this Part of this Schedule.

7. In section 10(1), for the words “prosecutor or defendant” there shall be substituted the words “respondent or appellant”.

8. In section 10(2)—

- (a) for the words “a defendant”, wherever they appear, there shall be substituted the words “the appellant”;
- (b) for the words “counsel or solicitor”, wherever they appear, there shall be substituted the words “legal representative”; and
- (c) in paragraph (e), for the words “the trial” there shall be substituted the words “the hearing of the appeal”.

9. In section 11, for the word “defendant”, wherever it appears, there shall be substituted the word “appellant”.

10. In section 11(1), for the words “On a trial on indictment the defendant” there shall be substituted the words “Subject to subsection (1A) below, on the hearing of an appeal under section 83ZE of the Army Act 1955 the appellant”.

11. After section 11(1), there shall be inserted—

“(1A) Subsection (1) shall not apply where the appellant adduced evidence of an alibi in the proceedings under section 76B of the Army Act 1955 to which the appeal relates, and the particulars of the alibi raised in those proceedings are substantially the same as those which he would be required to include in the notice of alibi under subsection (1) above.”.

12. In section 11(2), for the word “trial” there shall be substituted the word “hearing”.

13. In section 11(3), for the words from “in accordance with” to the end of the subsection there shall be substituted—

“in accordance with rules made under section 83ZJ of the Army Act 1955 of the requirements of this section”.

14. In section 11(5), for the word “solicitor” there shall be substituted the words “legal representative”.

15. For section 11(6) there shall be substituted—

“(6) Any notice under this section shall be given in writing to the respondent.”.

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16. Section 11(7) shall be omitted.
17. In section 11(8), for the definition of “the prescribed period” there shall be substituted—
““the prescribed period” means the period of 14 days beginning with the date on which the respondent’s papers are served on the appellant in accordance with rules made under section 83ZJ of the Army Act 1955”.

PART III

MODIFICATIONS TO PARTS VII AND VIII OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984

18. In relation to proceedings on an appeal under section 83ZE of the Act—
- (a) Parts VII and VIII shall have effect as if any reference to proceedings included a reference to the proceedings on the appeal;
 - (b) Section 74 shall have effect as if any reference to the accused included a reference to the appellant;
 - (c) sections 76 and 78(1) shall have effect as if—
 - (i) any reference to an accused person included a reference to the appellant; and
 - (ii) any reference to the prosecution included a reference to the respondent;
 - (d) section 77 shall not have effect;
 - (e) section 79 shall have effect as if any reference to the defence or the accused included a reference to the appellant;
 - (f) section 80 shall have effect as if—
 - (i) any reference to the accused included a reference to the appellant;
 - (ii) any reference to the prosecution included a reference to the respondent; and
 - (iii) any reference to a person jointly charged with the accused included a reference to any person whose appeal under section 83ZE of the Act is being heard by the court at the same time as the appellant’s appeal; and
 - (g) section 81 shall not have effect.

SCHEDULE 4

Rule 30

WITNESS SUMMONS

- 1.—(1) This paragraph applies where the court is satisfied that—
- (a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely to be material evidence, in proceedings on an appeal under section 83ZE of the Act; and
 - (b) the person will not voluntarily attend as a witness or will not voluntarily produce the document or thing.
- (2) In such a case the court shall, subject to the following provisions of this paragraph, issue a summons (a witness summons) directed to the person concerned and requiring him to—
- (a) attend before the court at the time and place stated in the summons, and
 - (b) give evidence or produce the document or thing.

(3) A witness summons issued under this paragraph shall be in the form specified in the Appendix to this Schedule.

(4) A witness summons may only be issued under this paragraph on an application made in accordance with paragraph 3; and the court may refuse to issue the summons if any requirement relating to the application is not fulfilled.

(5) Until the hearing of the appeal begins, the jurisdiction of the court in relation to its functions under this Schedule shall be exercised by a judge advocate sitting alone.

(6) An application for a witness summons may be made by the appellant or the respondent.

2. A witness summons which is issued under paragraph 1 and which requires a person to produce a document or thing as mentioned in paragraph 1(2) may also require him to produce the document or thing—

(a) at a place stated in the summons, and

(b) at a time which is so stated and precedes that stated under paragraph 1(2),

for inspection by the person applying for the summons.

3.—(1) Subject to sub-paragraph (2), an application for a witness summons shall be made in writing to the court administration officer and shall—

(a) contain a brief description of the stipulated evidence, document or thing;

(b) set out the reasons why the applicant considers that the stipulated evidence, document or thing is likely to be material;

(c) specify the grounds for believing that the directed person is likely to be able to give the stipulated evidence or to produce the stipulated document or thing;

(d) set out the reasons why the applicant considers that the directed person will not voluntarily attend as a witness or produce the stipulated document or thing;

(e) if the witness summons is proposed to require the directed person to produce a document or thing, state whether the applicant seeks a requirement also to be imposed under paragraph 2 and, if such a requirement is sought, specify the place and time at which the applicant wishes the document or thing to be produced.

(2) In the case of an application for a witness summons which is made during the hearing of the appeal or at a preliminary hearing, such application shall be made orally to the court, or (as the case may be) the judge advocate, who shall determine the application and give such directions as appear to be appropriate.

(3) In this Schedule—

(a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons; and

(b) references to the directed person are to the person to whom the witness summons is proposed to be directed.

4.—(1) If—

(a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under paragraph 2,

(b) the person applying for the summons concludes that a requirement imposed by the summons under paragraph 1(2) is no longer needed, and

(c) he makes an application to the court in accordance with paragraph 5 that the summons shall be of no further effect,

the court may direct accordingly.

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(2) If a direction is given under this paragraph the court administration officer shall notify the person to whom the witness summons is directed as to the effect of the direction.

5.—(1) An application for a direction under paragraph 4 that a witness summons shall be of no further effect shall be made in writing to the court administration officer as soon as reasonably practicable after the document or thing has been produced for inspection in pursuance of a requirement imposed by the witness summons under paragraph 2.

(2) The application shall state that the applicant concludes that the requirement imposed by the witness summons under paragraph 1(2) is no longer needed.

6.—(1) A person to whom a witness summons issued under paragraph 1 is directed may apply to the court for a direction that the summons shall be of no effect.

(2) The court may make such a direction if it is satisfied that the person concerned cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence or that for any other reason the witness summons should be of no effect.

(3) The court may refuse to make a direction if any requirement relating to the making of an application for a direction under this paragraph is not fulfilled.

7.—(1) Subject to sub-paragraph (5), an application for a direction under paragraph 6 shall be made in writing to the court administration officer and shall set out—

- (a) the reasons why the applicant considers that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence; or
- (b) where there are any other reasons why the applicant considers that the witness summons should be of no effect, those reasons.

(2) On receiving the application, the court administration officer shall serve notice of the application on the person on whose application the witness summons was issued.

(3) The court shall not grant or, as the case may be, refuse the application unless the applicant and the person on whose application the witness summons has been issued have been given an opportunity of making representations, whether at a hearing or (where they agree to do so) in writing without a hearing.

(4) In a case where the witness summons to which the application relates imposed a requirement to produce any document or thing, then if—

- (a) the applicant can produce that document or thing, but
- (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence or that for some other reason it should not be produced,

the applicant must, unless the court directs otherwise, arrange for the document or thing to be available at the hearing of the application.

(5) In the case of an application which is made during the hearing of the appeal or at a preliminary hearing, such application shall be made orally to the court, or (as the case may be) the judge advocate, who shall determine the application and give such directions as appear to be appropriate.

(6) Where the application is made otherwise than at the hearing of the appeal or at a preliminary hearing, the court administration officer shall notify the applicant and the person on whose application the witness summons was issued of the decision of the court in relation to the application.

Appendix to Schedule 4—Form of Witness Summons

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

To:

Of:

Summons to Witness

(Delete as appropriate)*

PROCEEDINGS BEFORE THE SUMMARY APPEAL COURT

Name of the person bringing the appeal under section 83ZE of the Army Act 1955:

You are hereby summoned to appear on *(date)* at *(time)*
at *(place)*

to *give evidence
*produce the document[s] or thing[s] specified in the Schedule hereto

* at a preliminary hearing to be held in connection with the proceedings on the appeal
* at the hearing of the appeal

brought by the above-named person.

***You are also hereby summoned** to appear on *(date)*.....at *(time)*.....
at *(place)*..... to produce the document[s] or thing[s] specified in Part II of the Schedule hereto.

You will wish to note that:

(Where the witness is subject to service law) ***Failure to comply with this summons is an offence under:**

***section 57 of the Army Act 1955 as amended by paragraph 1 of Schedule 3 to the Armed Forces Discipline Act 2000;**

***section 38 of the Naval Discipline Act 1957 as amended by paragraph 3 of Schedule 3 to the Armed Forces Discipline Act 2000.**

***section 57 of the Air Force Act 1957 as amended by paragraph 2 of Schedule 3 to the Armed Forces Discipline Act 2000;**

(Where the witness is not subject to military law) ***Proceedings before the Summary Appeal Court are legal proceedings in the same way as proceedings before a civilian court. Failure to comply with this summons may render you liable to punishment for contempt of court by virtue of section 101 of the Army Act 1955 as amended by paragraph 6 of Schedule 3 to the Armed Forces Discipline Act 2000.**

(signed)

Judge Advocate

(date)

**SCHEDULE OF DOCUMENTS OR THINGS
TO BE PRODUCED**

Part I—Documents etc. to be produced only at the hearing

Part II—Documents etc. to be produced prior to as well as at the hearing

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SCHEDULE 5

Rule 31

OATHS AND AFFIRMATIONS

PART I

MANNER OF ADMINISTERING OATHS AND AFFIRMATIONS

1. The person taking the oath shall hold the New Testament, or if a Jew the Old Testament, in his uplifted hand and shall say or repeat after the person administering it the oath provided in Part II of this Schedule for that category of person.
2. If any person to whom an oath is administered desires to swear in the form and manner in which an oath is usually administered in Scotland, he may do so with uplifted hand and saying or repeating after the person administering it the Scottish oath provided in Part III of this Schedule.
3. If none of the forms of oath provided in this Schedule is appropriate to the religious beliefs of the person taking the oath, an oath may be administered in such form and manner as the person taking the oath declares to be binding on his conscience in accordance with his religious beliefs.
4. A person making a solemn affirmation instead of taking an oath shall say or repeat after the person administering it the affirmation provided in this Schedule for that category of person.

PART II

FORMS OF OATHS

Persons under instruction

5. I swear by Almighty God that I will not on any account, at any time whatsoever, disclose the vote or opinion of any member of the summary appeal court given in these proceedings unless thereunto required in due course of law.

Interpreter

6. I swear by Almighty God that I will well and faithfully interpret and make true explanation of all such matters and things as shall be required of me according to the best of my skill and understanding.

Witness aged 18 years or over

7. I swear by Almighty God that the evidence which I shall give shall be the truth, the whole truth, and nothing but the truth.

Witness under the age of 18 years

8. I promise before Almighty God that the evidence which I shall give shall be the truth, the whole truth, and nothing but the truth.

PART III

FORMS OF SCOTTISH OATHS

9. The form of Scottish oath shall in each case be the same as the form of oath set out above except that for the words “I swear by Almighty God” there shall be substituted the words “I swear by Almighty God and as I shall answer to God at the Great Day of Judgement”.

PART IV

FORM OF SOLEMN AFFIRMATION

10. The form of affirmation shall in each case be the same as the form of oath set out above except that for the words “I swear by Almighty God” or, as the case may be, “I promise before Almighty God” there shall be substituted the words “I solemnly, sincerely, and truly declare and affirm”.