
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules substitute rule 8 of the Courts-Martial Appeal Rules 1968 and insert a new rule 8ZA into those Rules so as to take account of new section 36B (procedural directions: powers of single judge and registrar) and 36C (appeals against procedural directions) of the Courts-Martial (Appeals) Act 1968, inserted by section 90(3) of the Courts Act 2003 (c. 39), and provides rules supplementing the powers exercisable by the registrar under section 36A of the Courts-Martial (Appeals) Act 1968.

New section 36B will allow either the registrar or a single judge of the Appeal Court to give procedural directions. New section 36C provides both the appellant and in certain circumstances the Defence Council with a right of appeal either to a single judge (following determination by the registrar) or to the Appeal Court (following a determination by a single judge).

At present, rule 8 applies only to the exercise of powers by a single judge under section 36(1) of the Courts-Martial (Appeals) Act 1968 and the right to renew an application to the full court under section 36(2) of that Act. The new rules will apply to any application to the registrar, or to a single judge, or to the Appeal Court, for the exercise of a power conferred by—

- (a) section 36 (powers under Part II which are exercisable by single judge);
- (b) section 36A (powers under Part II which are exercisable by registrar);
- (c) section 36B (procedural directions: powers of single judge and registrar);
- (d) section 36C (Appeals against procedural directions);

of the Courts-Martial (Appeals) Act 1968.

Substituted rule 8 prescribes the form and requirements of service of such applications. It also permits the registrar or a single judge, when exercising a power conferred by one of those sections, to sit otherwise than in open court. New rule 8ZA prescribes additional rules, including a time limit, for making a further application to a single judge or to the Appeal Court and prescribes the consequences of failure to renew to the Appeal Court within time an application for the exercise of a power conferred by section 36(1) of the Courts-Martial (Appeals) Act 1968.