

**2006 No. 1788**

**DEFENCE**

**The Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006**

<i>Made</i> - - - -	<i>5th July 2006</i>
<i>Laid before Parliament</i>	<i>10th July 2006</i>
<i>Coming into force</i> - -	<i>1st August 2006</i>

The Secretary of State makes the following Order, in exercise of the powers conferred upon him by section 31 of the Armed Forces Act 2001(a), in consequence of the provisions of Part 7 of the Courts Act 2003(b).

**Citation, commencement, application and interpretation**

1.—(1) This Order may be cited as the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006 and shall come into force on 1st August 2006.

(2) This Order shall only apply to trials by courts-martial which commence on or after 1st August 2006.

(3) For the purposes of this Order, trials by courts-martial commence immediately after the last court member has been sworn.

(4) In this Order—

- (a) “the 1955 Acts” means the Army Act 1955(c) and the Air Force Act 1955(d);
- (b) “the 1957 Act” means the Naval Discipline Act 1957(e);
- (c) “the 2006 Order” means the Courts-Martial (Prosecution Appeals) Order 2006(f);
- (d) “court-martial” means a court-martial convened under section 84C of the 1955 Acts or under section 53C of the 1957 Act;

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(a) 2001 c. 19: by virtue of section 31(3)(c) of the Armed Forces Act 2001, the Secretary of State may, if he thinks fit to do so in consequence of a criminal justice enactment, by order make provision, in relation to service courts, which is equivalent to that made by any subordinate legislation made under the criminal justice enactment, subject to such modifications as he thinks fit.

(b) 2003 c. 39: Section 69 of the Courts Act 2003 empowers the Criminal Procedure Rule Committee to make rules governing the practice and procedure to be followed in criminal courts. The Criminal Procedure Rules 2005 (S.I. 2005/384) were made in exercise of this power. Part 66 of the Criminal Procedure Rules 2005 provides for rules governing the practice and procedure to be followed on an appeal to the Court of Appeal against a ruling which is adverse to the prosecution. Those Rules supplement those provisions of Part 9 of the Criminal Justice Act 2003 (“the 2003 Act”) commenced on 4 April 2005 by virtue of S.I. 2005/950. In exercise of the powers conferred upon him by section 31(3)(a) of the Armed Forces Act 2001, the Secretary of State has made provision for courts-martial equivalent to those provisions of Part 9 of the 2003 Act. This Order contains provisions which supplement the 2006 Order by making provision equivalent to Part 66 of the Criminal Procedure Rules in relation to service courts where the prosecution appeals against a ruling of a judge advocate.

(c) 1955 c. 18.

(d) 1955 c. 19.

(e) 1957 c. 53.

(f) S.I. 2006/1786.

- (e) “appeal” means an appeal against a ruling under article 4 of the 2006 Order and “application for leave to appeal” should be construed accordingly;
- (f) “business day” means any day other than—
  - (i) a Saturday, Sunday, Christmas Day or Good Friday; or
  - (ii) a bank holiday under the Banking and Financial Dealings Act 1971(a) in England and Wales;
- (g) “accused” means a party in whose favour the ruling was made which is the subject of the appeal;
- (h) “interested party” means a person other than the accused who—
  - (i) is a party to the trial by court-martial;
  - (ii) may be affected by the decision of the judge advocate under article 5(1) of the 2006 Order as to whether or not the appeal should be expedited; and
  - (iii) is permitted by the judge advocate or the Courts-Martial Appeal Court to make representations on that issue.
- (i) “the registrar” means the registrar of the Courts-Martial Appeal Court;
- (j) “a single judge” means a single judge of the Courts-Martial Appeal Court;
- (k) “the judge advocate” means—
  - (i) in the case of a court-martial convened under the 1955 Acts, the judge advocate appointed by or on behalf of the Judge Advocate General to be a member of the court-martial(b); or
  - (ii) in the case of a court-martial convened under the 1957 Act, the judge advocate appointed by or on behalf of the Judge Advocate of Her Majesty’s Fleet(c).

(5) References to a form are references to a form set out in the Schedule to these Rules or a form with the same effect.

### **Request for adjournment**

2.—(1) A request by the prosecutor for an adjournment under article 4(4)(a)(ii) of the 2006 Order must be made to the judge advocate immediately following the making of a ruling to which article 4 of that Order refers, unless paragraph (2) applies.

(2) If that ruling is a ruling of no case to answer, an application by the prosecutor under paragraph (1) must be made immediately following that ruling of no case to answer notwithstanding that the prosecutor may also nominate earlier rulings to be the subject of an appeal.

(3) The judge advocate shall grant the request unless he considers it is in the interests of justice for the prosecutor to indicate immediately whether or not he intends to seek leave to appeal.

(4) The adjournment shall be until the next business day after the day on which the ruling was given, unless the judge advocate considers that the interests of justice require a longer adjournment.

(5) Subject to article 8 of this Order, as soon as is reasonably practicable after the prosecutor informs the judge advocate that he intends to seek leave to appeal or requests an adjournment to consider whether to do so, the court administration officer shall provide a transcript of the ruling which is the subject of the proposed appeal to—

- (a) the prosecutor;
- (b) the accused; and
- (c) any interested party.

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(a) 1971 c.80.

(b) Section 84B of both of the Army Act 1955 and the Air Force Act 1955.

(c) Section 53B of the 1957 Act as amended by the Naval Discipline Act 1957 (Remedial) Order 2004, (S.I. 2004/66).

### **Application to the judge advocate for leave to appeal**

3.—(1) The prosecutor must inform the judge advocate immediately after the ruling or the adjournment if he intends to seek leave to appeal against a ruling and at the same time he may apply orally for leave to appeal.

(2) Before deciding whether or not to grant leave to appeal, the judge of the court shall hear oral representations from the accused.

(3) The judge advocate shall decide whether or not to give leave to appeal on the same day on which an oral application for leave to appeal is made to that judge advocate.

(4) The judge advocate may extend the period under paragraph (3) only if he considers it is in the interests of justice to do so.

(5) If the judge advocate gives leave to appeal he must issue a certificate in Form PA1 and the court administration officer must forward that certificate to the registrar.

### **Expedited appeal**

4.—(1) At the time when the prosecutor informs the judge advocate that he intends to seek leave to appeal against a ruling, he must also make oral representations as to whether or not that appeal should be expedited under article 5(1) of the 2006 Order.

(2) Before deciding whether or not the appeal should be expedited, the judge advocate shall hear oral representations from the accused or any interested party.

(3) The court administration officer must provide a copy of the reasons given by the judge advocate for his decision whether or not the appeal should be expedited, to the prosecutor, the accused and all interested parties.

(4) The judge advocate may reverse his decision that the appeal should be expedited at any time before notice of appeal or application for leave to appeal is served on the court-martial under article 5(1) of this Order and must provide reasons for that reversal in writing to the prosecutor, the accused and all interested parties.

(5) At any time after notice of appeal or application for leave to appeal has been served on the registrar under article 5(1) of this Order, the prosecutor or accused may invite the Courts-Martial Appeal Court to reverse a judge advocate's decision that the appeal should be expedited under article 5(4) of the 2006 Order and written notice of such an application must be served on—

- (a) the registrar;
- (b) the court administration officer;
- (c) the prosecutor;
- (d) the accused; and
- (e) any interested party.

### **Notice of appeal or application for leave to appeal**

5.—(1) Subject to article 8 of this Order, a notice of appeal (where the judge advocate has granted leave) or notice of application for leave to appeal shall be in Form PA2 and must be served on—

- (a) the registrar;
- (b) the court administration officer;
- (c) the accused; and
- (d) any interested party.

(2) Notice of appeal or application for leave to appeal must be served—

- (a) where the judge advocate has decided that the appeal should be expedited under article 5(1) of the 2006 Order and that decision has not been subsequently reversed, before 5.00 p.m. on the day on which the prosecutor informs the judge advocate that he intends to

seek leave to appeal or, if the prosecutor demonstrates to that judge that it is not practical to do so, before 5.00 p.m. on the next business day; or

- (b) in any other case, within 7 business days of the day on which the prosecutor informs the judge advocate that he intends to seek leave to appeal.

(3) The Courts-Martial Appeal Court may extend the period for service under paragraph (2), either before or after it expires, on application by the prosecutor.

(4) Notice of appeal or application for leave to appeal must be accompanied by any documents necessary for the proper determination of the appeal or application for leave to appeal including—

- (a) transcript of the ruling which is the subject of the appeal;
- (b) the skeleton arguments provided to the judge advocate by the parties in respect of the issue which gave rise to the ruling; and
- (c) if the appeal is to be expedited, a copy of the reasons given by the judge advocate under article 4(3) of this Order.

(5) Subject to article 8 of this Order, the notice of appeal or application for leave to appeal served on the accused must be accompanied by Form PA3 for the accused to complete if he wishes to oppose the appeal or application.

### **Accused's response**

**6.**—(1) Upon receiving notice of an appeal or application for leave to appeal, the accused if he wishes to oppose the appeal or application, must serve his response in Form PA3 on the—

- (a) registrar;
- (b) court administration officer;
- (c) prosecutor; and
- (d) any interested party.

(2) An accused's response must be served on those listed in paragraph (1)—

- (a) on the next business day after the day on which the notice of appeal or application for leave to appeal is served on the accused, where the judge advocate has decided that the appeal should be expedited under article 5(1) of the 2006 Order and that decision has not been subsequently reversed under article 5(4) of that Order; or
- (b) within 7 business days of the day on which notice of the appeal or application for leave to appeal is served on the defendant in any other case.

(3) The Courts-Martial Appeal Court may extend the period of service under paragraph (2) either before or after it expires.

### **Accused in custody**

**7.**—(1) An accused in custody is not entitled to be present in person at the hearing of an appeal or application for leave to appeal, unless the Courts-Martial Appeal Court so directs.

(2) However, an accused in custody may participate in such a hearing, without a direction of the Courts-Martial Appeal Court, by way of live television link if he is able to see and hear the court and to be seen and heard by it.

(3) In directing whether an accused in custody shall be present in person under paragraph (2) the Courts-Martial Appeal Court must take into account—

- (a) any representations of the prosecutor and the accused;
- (b) the availability and reliability of live television link facilities;
- (c) any practical difficulties with the physical attendance of the accused; and
- (d) whether or not the appeal is expedited under article 5 of the 2006 Order.

### **Public interest rulings**

**8.**—(1) This article applies where a public interest ruling is the subject of an appeal or application for leave to appeal.

(2) In any appeal or application for leave to appeal against a public interest ruling, the prosecutor need not describe the material that is the subject of the ruling in the notice of appeal or application for leave to appeal under article 5 of this Order.

(3) Where the prosecutor has reason to believe that to reveal to the accused or any interested party the category of material that is the subject of the public interest ruling would have the effect of disclosing that which the prosecutor considers should not be disclosed, the prosecutor need not describe the category of the material in the notice of appeal or application for leave to appeal under article 5 of this Order.

(4) Where the prosecutor has reason to believe that to reveal to the accused or to any other interested party the fact that a public interest ruling has been made would have the effect of disclosing that which the prosecutor considers should not be disclosed, the prosecutor need not serve notice of appeal or application for leave to appeal on the accused or any interested party as otherwise required under article 5 of this Order, unless the Courts-Martial Appeal Court otherwise directs.

(5) Where the prosecutor has taken the measures set out in paragraphs (2), (3) or (4), the notice of appeal or application for leave to appeal served on the registrar under article 5(1)(a) of this Order, must be accompanied by a confidential annexe indicating that the measures have been taken and giving the prosecutor's reasons for taking them.

(6) Where the prosecutor has taken the measures set out in paragraph (4), the accused shall not be entitled to be present in person at the hearing by the Courts-Martial Appeal Court of the appeal or application for leave to appeal, or appear by way of live television link, unless the Courts-Martial Appeal Court otherwise directs.

### **Supply of documentary and other exhibits**

**9.**—(1) The registrar must, on request, supply to the prosecutor, the accused or any interested party copies of documents or other exhibits required for the appeal or application for leave to appeal and may make charges in accordance with scales and rates fixed for the time being by the Treasury.

(2) The registrar must, on request, make arrangements for the prosecutor, the accused or any interested party to inspect any document or other exhibit required for the appeal.

(3) This article shall not apply to the supply of transcripts of proceedings.

(4) This article shall not require the registrar to supply to the accused or any interested party, or allow the accused or any interested party to inspect—

- (a) material that is the subject of a public interest ruling;
- (b) a notice of appeal served by the prosecutor on the registrar in accordance with article 8(4) of this Order; or
- (c) a confidential annexe served by the prosecutor on the registrar in accordance with article 8(5) of this Order,

unless the Courts-Martial Appeal Court otherwise directs.

### **Abandonment of proceedings**

**10.** An appeal or application for leave to appeal (including an application for leave to appeal to the House of Lords) may be abandoned before it is heard by the Courts-Martial Appeal Court by serving notice in writing on the registrar in Form PA4.

### **Powers exercisable by a single judge**

**11.**—(1) The following powers may be exercised by a single judge in the same manner as they may be exercised by the Courts-Martial Appeal Court and subject to the same provisions—

- (a) to give leave to appeal under article 3(4) of the 2006 Order;
- (b) to reverse a decision of the judge advocate that an appeal should be expedited under article 5(4) of that Order;
- (c) to extend the time for service of the notice of appeal or of an application for leave to appeal under article 5(3) of this Order;
- (d) to extend time for service of the accused's response under article 6(3) of this Order;
- (e) to direct that the accused in custody be present in person at the hearing of the appeal or application for leave to appeal under article 7(1) of this Order;
- (f) to order the acquittal of the accused and, where appropriate, his release from custody and order of payment of his costs where the prosecution has served a notice of abandonment under article 10 of this Order.

(2) A single judge may, for the purposes of exercising any of the powers specified in paragraph (1), sit in such place as he appoints and may sit otherwise than in open court.

(3) Where a single judge exercises one of the powers set out in paragraph (1), the registrar must serve notice of the single judge's decision on—

- (a) the prosecutor;
- (b) the accused;
- (c) any interested party; and
- (d) the court administration officer.

### **Powers exercisable by the registrar**

**12.**—(1) The following powers may be exercised by the registrar in the same manner as they may be exercised by the Courts-Martial Appeal Court and subject to the same provisions—

- (a) to extend the time for service of the notice of appeal or of an application for leave to appeal under article 5(3) of this Order; and
- (b) to extend time for service of the accused's response under article 6(3) of this Order.

(2) Where the registrar exercises one of the powers set out in paragraph (1), the registrar must serve notice of that decision on—

- (a) the prosecutor;
- (b) the accused;
- (c) any interested party; and
- (d) the court administration officer.

(3) Where the registrar has refused an application to exercise any of the powers referred to in paragraph (1), the party making the application may have it determined by a single judge by serving a renewal in Form PA5 within seven business days of the day on which notice of the single judge's decision is served on that party.

### **Determination by full court**

**13.**—(1) Where a single judge has refused an application to exercise any of the powers referred to in article 11 of this Order, the party making the application may have it determined by the Courts-Martial Appeal Court by serving a notice of renewal in Form PA5.

(2) Notice of renewal must be served on the registrar within seven business days of the day on which notice of the single judge's decision is served on the party making the application.

(3) The Courts-Martial Appeal Court may extend the period for service under paragraph (2) either before or after it expires.

(4) A notice of renewal must be signed by, or on behalf of, the person making the application. If the notice is not signed by the party making the application and that party is in custody, the registrar shall, as soon as practicable after receiving the notice, send a copy of it to that party.

(5) If the notice of renewal is not served on the registrar within the period specified in paragraph (2) or such extended period as the Courts-Martial Appeal Court has allowed under paragraph (3), the application shall be treated as having been refused by the court.

#### **Notice of hearing and determination of the Courts-Martial Appeal Court**

**14.**—(1) The registrar must give notice, as far in advance as reasonably practicable, of the date fixed for the hearing by the Courts-Martial Appeal Court of an appeal or application to—

- (a) the prosecutor;
- (b) the accused;
- (c) any interested party; and
- (d) the court administration officer.

(2) The registrar must, as soon as reasonably practicable, serve notice of a decision of the Courts-Martial Appeal Court on an appeal or application on those parties listed in paragraph (1).

(3) Where a party to whom notice is required to be given under this article is in custody, notice must instead be given to the person having custody of him.

#### **Assistance from the court administration officer**

**15.** The registrar may require the court administration officer to furnish the Courts-Martial Appeal Court with any assistance or information which it may require for the purposes of exercising its jurisdiction under the 2006 Order.

#### **Appeal to the House of Lords**

**16.**—(1) An application to the Courts-Martial Appeal Court for leave to appeal to the House of Lords under the 2006 Order may be made—

- (a) orally after the decision of the Courts-Martial Appeal Court from which an appeal lies to the House of Lords; or
- (b) in writing and served on the registrar within seven business days of the reasons for the decision.

(2) If leave to appeal to the House of Lords is granted by the Courts-Martial Appeal Court, or a party has made an application to the House of Lords for leave, in a case where the judge advocate has decided that the appeal should be expedited under article 5(1) of the 2006 Order and that decision has not subsequently been reversed under article 5(4) of that Order, the registrar must inform the judge advocate that the court must be discharged from giving a verdict in respect of that accused.

#### **Service**

**17.**—(1) Where this Order requires service of a document on the registrar then, unless the registrar, a single judge or the Courts-Martial Appeal Court directs otherwise, the document may be served by any of the following methods—

- (a) in the case of an accused or interested party who is in custody, by delivering it to the person who has custody of him;
- (b) by addressing it to the registrar and delivering it at, or sending it by first-class post or fax or other means of electronic communication, to his office at the Royal Courts of Justice, London WC2A 2LL.

(2) Where this Order requires service of a document on the court administration officer then, unless the registrar, a single judge or the Courts-Martial Appeal Court directs otherwise, the document may be served by any of the following methods—

- (a) in the case of an accused or interested party who is in custody, by delivering it to the person who has custody of him;
- (b) by delivering it to, or sending it by first-class post or fax or other means of electronic communication to, the court administration officer.

(3) A person who has custody of an accused or interested person and to whom the accused or interested person delivers a document under paragraph (1)(a) or (2)(a), must endorse on it the date of delivery and forward it to the registrar or the court administration officer, as the case may be.

(4) Where this Order requires the service of a document on any other person then, unless the registrar, a single judge or the Courts-Martial Appeal Court directs otherwise, the document may be served by any of the following methods—

- (a) personally on that person or on their solicitor or legal representative;
- (b) by first class post to that person's last known residence, unit or place of business or to their solicitor's or legal representative's address;
- (c) leaving it at that person's known residence or place of business;
- (d) if the party has indicated that he is willing to accept service by facsimile or other means of electronic communication, by sending a legible copy of the document by such means to that party; or
- (e) where the person concerned is a serviceman, by sending the document by first class post, facsimile or other means of electronic communication, or delivering it personally to, that person's commanding officer who shall serve the document personally on that person as soon as is reasonably practicable.

(5) Where a document is served under this Order by any method other than personal service it is deemed to be served—

- (a) in the case of a document left at an address, on the next business day after the day on which it was left;
- (b) in the case of a document sent by first class post, on the second business day after the day on which it was posted;
- (c) in the case of a document transmitted by fax or other electronic means on a business day before 5 p.m., on that day;
- (d) in the case of a document transmitted by fax or other electronic means at any time other than that specified in sub-paragraph (c), on the next business day after the day on which it was transmitted; and
- (e) in the case of a document sent or delivered to a person's commanding officer by virtue of paragraph (4)(e), at the time when the commanding officer serves the document on that person.

5th July 2006

*Tom Watson*  
Parliamentary Under Secretary of State  
Ministry of Defence

# SCHEDULE

## Forms

### Article 3(5)

FORM PA1

Judge Advocate's Certificate

<i>Details required</i>	<i>Notes</i>
<p><b>1. Case Details</b></p> <p>Location of court-martial proceedings:</p> <p>Name of judge advocate:</p> <p>Date the proceedings started:</p> <p>Name of the accused(s):</p> <p>Details of the charge sheet:</p>	<p><i>'details of the charge sheet' includes the charges on the charge sheet which are the subject of the appeal.</i></p>
<p><b>2. Details of the ruling</b></p> <p>The ruling or rulings that is the subject of this application for leave to appeal:</p> <p>What date was that ruling or rulings made:</p>	
<p><b>3. Certification</b></p> <p>I certify that leave is granted for the prosecutor to appeal on the following grounds:</p> <p>Signed:</p> <p>Judge Advocate</p>	

**Article 5(1)**

FORM PA2

Notice and grounds of prosecution appeal or application for leave to appeal to the Courts-Martial Appeal Court

<i>Details required</i>	<i>Notes</i>
<p><b>1. Case details</b></p> <p>Location of court-martial proceedings:</p> <p>Name of judge advocate:</p> <p>Date the proceedings started:</p> <p>Name of the accused(s):</p> <p>Details of the charge sheet:</p>	<p><i>'details of the charge sheet' includes the charges on the charge sheet which are the subject of the appeal.</i></p>
<p><b>2. Details of the ruling</b></p> <p>Provide details of the ruling or rulings that is the subject of this appeal or application for leave to appeal:</p> <p>What date was that ruling or rulings made:</p> <p>Please attach a transcript of the ruling which is the subject of the appeal and any skeleton arguments provided to the judge advocate by the parties in respect of the issue which gave rise to the ruling.</p>	<p><i>If one ruling is a ruling of no case to answer, please specify the relationship between those earlier rulings and the ruling of no case to answer.</i></p>
<p><b>3. Is the accused(s) in custody?</b></p> <p>If the accused(s) is in custody:</p> <p>(a) give the accused's address where detained; and</p> <p>(b) indicate whether there are any difficulties with the accused appearing by way of live link at the hearing.</p>	
<p><b>4. Undertaking</b></p> <p>I, a person conducting a prosecution, (<i>insert name of prosecutor</i>) consent to the acquittal of the named accused(s) if:</p> <p>(a) leave to appeal to the Courts-Martial</p>	<p><i>Article 4 of the Courts-Martial (Prosecution Appeals) Order 2006</i></p>

<i>Details required</i>	<i>Notes</i>
<p>Appeal Court is not obtained; and (b) the appeal is abandoned before it is determined by the Courts-Martial Appeal Court.</p>	
<p><b>5. Application to the court-martial</b></p> <p>Was an application to the judge advocate for leave to appeal granted? (yes/no)</p> <p>If applicable, state the grounds on which leave was granted.</p>	
<p><b>6. Expedited appeal</b></p> <p>State whether the judge advocate decided that the appeal should be expedited (yes/no).</p> <p>If yes, please attach a copy of the reasons given by the judge advocate provided in accordance with Rule 4(3).</p>	<p><i>Article 5 of the Courts-Martial (Prosecution Appeals) Order 2006.</i></p>
<p><b>7. Public interest ruling</b></p> <p>State whether a public interest ruling is the subject of the appeal or application for leave to appeal (yes/no).</p> <p>Do you have reason to believe that to reveal to the accused or any other interested party the fact that a public interest ruling has been made would have the effect of disclosing that which you consider should not be disclosed (yes/no).</p> <p>If the answer above is no, describe the category of the material that is the subject of the ruling, <u>unless</u> you have reason to believe that to reveal this to the accused or any interested party would have the effect of disclosing that which you consider should not be disclosed.</p>	<p><i>If yes, this notice must be accompanied by a confidential annexe as required by article 8 of the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006.</i></p> <p><i>If yes, the prosecutor need not serve this notice on the accused or any interested party as otherwise required under article 5 of the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006.</i></p>
<p><b>8. Extension of time</b></p> <p>Are you applying for an extension of time in which to give notice of appeal or to apply for leave to appeal? (yes/no)</p>	<p><i>Article 5(3) of the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006.</i></p>

<i>Details required</i>	<i>Notes</i>
If yes, please also state your reasons:	
<p><b>9. Grounds of appeal</b></p> <p>1. Specify the question of law in respect of which the appeal is brought (and where appropriate, such facts of the case as are necessary for the proper consideration of the question of law).</p> <p>2. Summarise the arguments that you intend to put to the Courts-Martial Appeal Court (specifying any authorities to be cited).</p>	
<p>Name of Prosecutor:</p> <p>Name of Prosecuting Authority:</p> <p>Address:</p> <p>Signature of Prosecutor:</p> <p>Date:</p>	

**Article 6(1)**

FORM PA3

Notice and grounds of opposition to appeal

<i>Details required</i>	<i>Notes</i>
<p><b>1. Details of the accused(s):</b></p> <p>Name:</p> <p>Address:</p> <p>Date of birth:</p> <p>If you are in custody, please give the address where detained.</p>	
<b>2. Case details</b>	

<i>Details required</i>	<i>Notes</i>
<p>Location of court-martial proceedings:</p> <p>Name of judge advocate:</p> <p>Date the proceedings started:</p> <p>Details of the charge sheet:</p> <p>Date on which the notice of appeal or application for leave to appeal was received:</p>	<p><i>'details of the charge sheet' includes the charges on the charge sheet which are the subject of the appeal.</i></p>
<p><b>3. Ancillary applications</b></p> <p>State whether you are applying for:</p> <p>a. an extension of time in which to serve notice (yes/no)</p> <p>b. a representation order (yes/no)</p>	<p><i>If you require an extension of time in which to give notice please state your reasons (Article 6(3) of the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006).</i></p>
<p><b>4. Accused in custody</b></p> <p>If you are an accused in custody you may be able to appear by way of live link. The Courts-Martial Appeal Court may, however, direct that you are entitled to be present in person. Please state here if there are reasons why you want appear in person at the appeal or application for leave to appeal and why a live link would not be appropriate.</p>	<p><i>Article 7(1) of the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006.</i></p>
<p><b>5. Grounds</b></p> <p>Summarise the arguments you intend to put to the Courts-Martial Appeal Court, specifying any authorities to be cited.</p>	
<p>Signature of accused:</p> <p>Date:</p> <p>Details of any person signing on behalf of the accused:</p> <p>Name:</p> <p>Address</p> <p>Solicitors ref: <i>(if appropriate)</i></p>	

**Article 10**

FORM PA4

Notice of Abandonment of Proceedings

<i>Details required</i>	<i>Notes</i>
<p><b>1. Case details</b></p> <p>Location of court-martial proceedings:</p> <p>Name of judge advocate:</p> <p>Date the proceedings started:</p> <p>Name of the accused(s):</p> <p>Details of the charge sheet:</p>	<p><i>'details of the charge sheet' includes the charges on the charge sheet which are the subject of the appeal.</i></p>
<p><b>2. Details of the ruling</b></p> <p>What is the ruling (or rulings) that form the subject of the appeal or application for leave to appeal?</p> <p>What date was that ruling or rulings made:</p> <p>Date that leave to appeal was granted:</p> <p>If applicable, date of written notice of appeal:</p>	
<p><b>3. Abandonment of proceedings</b></p> <p>I, a person conducting a prosecution, ..(<i>insert name</i>) abandon the appeal in the Courts-Martial Appeal Court against the ruling or rulings made by the judge advocate at the time, date and place set out above.</p>	<p><i>Article 10 of the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006.</i></p>
<p>Name of prosecutor:</p> <p>Name of prosecuting authority:</p> <p>Address of prosecutor:</p> <p>Signature of prosecutor:</p> <p>Date:</p>	

**Articles 12 and 13**

FORM PA5

Determination by the registrar or a single judge and notice of renewal

<i>Details required</i>	<i>Notes</i>
<p><b>1. Details of the applicant</b></p> <p>Name:</p> <p>Address:</p> <p>If you are in custody, please give address where detained:</p>	
<p><b>ORDER by ...</b></p> <p><b>2. Application considered:</b></p> <p><i>(indicate which application considered)</i></p> <p>Application for leave to appeal.</p> <p>Application to reverse a judge advocate's decision to expedite the appeal.</p> <p>Application for extension of time.</p> <p>Application for accused(s) in custody to be present in person at the hearing of the appeal or application for leave to appeal.</p>	
<p><b>3. Decision:</b></p> <p>Signed:</p> <p>Dated:</p>	<p><i>If an application has been refused, it may be renewed for consideration by either a single judge (if the decision was made by the registrar) or the Full Court (if the decision was made by a single judge). The applicant <u>must fill in section 4 of this Form and return it to the registrar.</u></i></p>
<p><b>4. Notice of Renewal</b></p> <p>The following application (s) are renewed:</p>	<p><i>Applicants must use this section (section 4) for the renewal of applications.</i></p> <p><i>An application not renewed in time will be treated as if refused. Notice of renewal must be served on the registrar within <b>seven days</b></i></p>

<i>Details required</i>	<i>Notes</i>
<p>The date that this form (Form PA5) was delivered to the applicant:</p> <p>Signed (by the Applicant)</p> <p>Date:</p>	<p><i>of the day on which this notice was served on the party making the application, unless a longer period has been specified by the Court.</i></p>

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Secretary of State makes this Order under the power vested in him by virtue of section 31 of the Armed Forces Act 2001 (c. 19) to make provision equivalent to a criminal justice enactment, or any subordinate legislation made under the criminal justice enactment in relation to service courts. This Order makes provisions supplementary to those contained in the Courts-Martial (Prosecution Appeals) Order 2006 (S.I. 2006/1786) which introduces for service courts a power (equivalent to the powers contained in Part 9 of the Criminal Justice Act 2003) for the prosecuting authorities to appeal to the Courts-Martial Appeal Court against a judicial ruling which would otherwise have the effect of terminating proceedings. These supplementary provisions are themselves equivalent in relation to service courts to those provisions in Part 66 of the Criminal Procedure Rules 2005 (S.I. 2005/384) which provide for the practice and procedure to be followed by the civilian courts when the prosecution exercises a right of appeal in respect of a terminating ruling.

Article 2 makes provision for the period of an adjournment on the request of the prosecutor in order for him to consider whether to appeal in respect of a ruling.

Article 3 makes provision for oral applications for leave to appeal to the judge advocate. Article 4 makes provision for the procedure to be applied when determining whether an appeal should be expedited. Article 5 makes provision for written notice of appeal or application for leave to appeal.

Article 6 makes provision for the accused's written response to a notice of appeal or application for leave to appeal. Article 7 makes provision for the participation or attendance of an accused in custody at the hearing of the appeal or application for leave to appeal. Article 8 makes specific provisions for appeals against public interest rulings.

Articles 9 to 17 make supplementary provision including provisions in relation to the abandonment of proceedings, powers exercisable by a single judge or registrar, renewal of appeals before the full Courts-Martial Appeal Court, appeal to the House of Lords and service of documents.

**£3.00**

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