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STATUTORY INSTRUMENTS

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**2007 No. 3443**

**The Courts-Martial (Royal Navy) Rules 2007**

**PART 5**

**EVIDENCE**

**Procedure for the admission of evidence of bad character**

**30.**—(1) Where a party to the proceedings wishes to obtain the leave of the court under section 100(4) of the 2003 Act to adduce evidence of the bad character of a person other than the accused, he shall apply in the form set out in Schedule 2 to these Rules and the application must be received by the court administration officer and all other parties to the proceedings—

- (a) not more than 14 days after the prosecuting authority has—
  - (i) notified the accused's commanding officer in accordance with rule 9 that a charge or charges are to be preferred, or
  - (ii) disclosed the previous convictions of that non-accused; or
- (b) as soon as reasonably practicable, where the application concerns a non-accused who is to be invited to give (or has given) evidence for an accused.

(2) A party to the proceedings who receives a copy of an application under paragraph (1) may oppose that application by giving notice in writing to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that application.

(3) Where a prosecuting authority wishes to adduce evidence of an accused's bad character he shall give notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after preferment of a charge or charges pursuant to section 52I of the Act.

(4) Where a co-accused wishes to adduce evidence of an accused's bad character he shall give notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after the prosecuting authority has complied or purported to comply with paragraph (1)(a).

(5) Where an accused wishes to apply under section 101(3) of the 2003 Act to exclude evidence of his bad character, he shall apply in the form set out in Schedule 2 to these Rules and the application must be received by the court administration officer and all other parties to the proceedings not more than 14 days after the accused receives a notice under paragraph (3) or (4).

(6) An accused entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(7) The judge advocate may—

- (a) allow a notice or application required under this rule to be given or made in a different form, or orally; or
- (b) shorten a time limit under this rule, or extend it whether or not it has expired, if it is in the interests of justice to do so.

(8) Where this rule requires a notice or application to be given or made, it may be given or made by fax or other means of electronic communication.

### **Procedure for the admission of hearsay evidence**

**31.**—(1) Where a party to the proceedings wishes to adduce hearsay evidence on one or more of the grounds in section 114(1)(d), section 116, section 117 and section 121 of the 2003 Act, he shall give notice in the form set out in Schedule 2 to these Rules and such notice must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after the prosecuting authority has complied or purported to comply with rule 9; or
- (b) where that party is the prosecuting authority, not more than 14 days after the preferment of a charge or charges pursuant to section 521 of the Act.

(2) A party to the proceedings who receives a notice under paragraph (1) may oppose the admission of the hearsay evidence by giving notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that notice.

(3) A party entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(4) The judge advocate may—

- (a) dispense with the requirement to give notice of an intention to adduce hearsay evidence;
- (b) allow a notice required under this rule to be given in a different form, or orally; or
- (c) shorten a time limit under this rule, or extend it whether or not it has expired,

if it is in the interests of justice to do so.

(5) Where this rule requires a notice to be given, it may be given by fax or other means of electronic communication.

### **Additional evidence**

**32.** If before the commencement of the trial the prosecuting authority wishes to adduce in the proceedings any evidence additional to that contained in the prosecution papers, he shall serve a copy of the additional evidence (or details of its whereabouts) on the accused and the court administration officer.