
STATUTORY INSTRUMENTS

2007 No. 3443

The Courts-Martial (Royal Navy) Rules 2007

PART 9

GENERAL MATTERS

Conduct of the defence

50.—(1) An accused who has been notified that he is to be tried by court-martial shall be afforded a proper opportunity for preparing his defence.

(2) The accused may appoint a legal representative to act for him and any right or responsibility which accrues to the accused by virtue of these Rules (except pleading to a charge) may be exercised by the accused's legal representative on his behalf.

(3) The accused shall inform the court administration officer of the name and address of his legal representative as soon as is practicable after a legal representative has been appointed.

The judge advocate

51.—(1) The judge advocate shall preside over the court-martial and ensure that the proceedings at the court-martial are conducted in accordance with the law of England and Wales.

(2) The judge advocate shall ensure that a proper record of the proceedings is made.

The president of the board and members

52.—(1) Subject to paragraph (4), the court administration officer shall appoint the senior service member of the court-martial to be the president of the board.

(2) Members of a board not including civilians shall sit in order of seniority.

(3) If on full pay, an officer on the Retired List or Emergency List of the Royal Navy shall sit in the order in which he takes rank and command, but if he holds acting rank he shall sit in the order in which he would have taken rank and command if he had not been granted acting rank.

(4) Where the board includes civilian members, the president of the board shall be chosen by the members of the board from amongst their number.

(5) The choice of a president of the board under paragraph (4) shall be done before any member of the board is sworn.

Sittings and adjournments

53.—(1) If it appears to the judge advocate necessary in the interests of justice, proceedings may be adjourned from time to time.

(2) A court-martial shall not sit on Saturday, Sunday, Christmas Day or Good Friday unless in the opinion of the judge advocate it is necessary to do so.

(3) A court-martial shall sit at such times and for such periods each day as seem to the judge advocate to be reasonable in the circumstances.

(4) Where—

(a) a hearing is adjourned, and

(b) the time and place for the hearing to resume is not fixed by the judge advocate at the adjourned hearing,

the court administration officer shall notify the parties in writing of the time fixed for the hearing to resume and the place where the court is to sit for the resumed hearing.

Record of proceedings

54.—(1) The record of proceedings of a court-martial shall include—

(a) the record of findings; and

(b) the record of sentence, if any.

(2) A certified transcript or note of evidence given at the trial and any other proceedings shall be kept with the record of proceedings.

(3) Any transcript of a shorthand note shall be signed by the shorthand writer.

(4) Any transcript of a mechanical record shall be signed by the person who transcribed it.

(5) At the conclusion of the trial or other proceedings, the record of proceedings shall be signed by the judge advocate.

Challenges by the accused

55.—(1) At the commencement of any proceedings, the names of the persons specified to sit as members of the court (including any person specified as a waiting member) and the names of the judge advocate and any interpreter shall be read to the accused.

(2) The accused may at any time before the opening of the prosecution case object, on any reasonable grounds, to any person whose name is read out and to any interpreter appointed.

(3) If more than one person is objected to, the objection to each shall be considered in the following order—

(a) the judge advocate;

(b) the president of the board;

(c) the other members of the court;

(d) any waiting member;

(e) the clerk of the court; and

(f) any interpreter.

(4) Every objection made by the accused shall be determined by the judge advocate who shall announce his decision in open court.

(5) If an objection to the judge advocate is allowed, the proceedings shall be adjourned.

(6) If an objection to the president of the board is allowed, and—

(i) if the president of the board has been appointed under rule 52(1), the court shall be dissolved; or

(ii) if the president of the board has been chosen under rule 52(4), the judge advocate shall direct the board to choose a new president of the board.

(7) If an objection to a member other than the president of the board is allowed, any waiting member in respect of whom no objection has been made or allowed shall take his place; and, if there is no such member, the court shall be dissolved.

(8) If an objection to the interpreter is allowed, the judge advocate shall adjourn proceedings until the court administration officer has appointed a replacement.

(9) Where the court is assembled to try two or more accused separately and one accused objects to the president of the board or to any other member of the court, the judge advocate may, if he thinks fit, adjourn the trial of that accused and proceed with the trial of the other accused only.

Oaths and affirmations

56.—(1) After the accused has been given the opportunity to challenge the members of the court, oaths shall be administered in the presence of the accused.

(2) The judge advocate, or any other member of the court on his behalf, shall administer an oath to—

- (a) the president of the board;
- (b) each other member of the court;
- (c) any person in attendance for instruction;
- (d) any interpreter;
- (e) any witness.

(3) If—

- (a) a person required to take an oath for the purposes of proceedings before the court objects to being sworn, or
- (b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief,

he shall be permitted to make a solemn affirmation instead of taking an oath.

(4) A person who may be permitted under this rule to make his solemn affirmation may also be required to do so, and for the purposes of this rule “reasonably practicable” means reasonably practicable without inconvenience or delay.

(5) Any oath or affirmation required to be administered under these Rules shall be administered in the form and manner set out in Schedule 4 to these Rules.