
STATUTORY INSTRUMENTS

2009 No. 1209

The Armed Forces (Service Civilian Court) Rules 2009

PART 13

TRIAL PROCEDURE

Opening address

- 85.**—(1) Before the Director adduces any evidence in trial proceedings—
- (a) the Director, and
 - (b) with leave of the court, any defendant,
- may make an opening address.

Examination of witnesses

- 86.**—(1) The court may question any witness.
- (2) If it appears to the court to be in the interests of justice, it may—
- (a) allow the cross-examination or re-examination of a witness to be postponed;
 - (b) call any witness whom it has not already heard;
 - (c) recall a witness;
 - (d) permit any party to recall a witness;
 - (e) permit the Director to call a witness after the close of the case for the prosecution; or
 - (f) permit a defendant to give evidence after calling another witness.

Presence of witnesses

- 87.**—(1) Except for a defendant and any expert or character witness, a witness as to fact shall not, except by leave of the court, be in court while not under examination.
- (2) If while a witness is under examination a question arises as to the admissibility of a question or otherwise with regard to the evidence, the court may direct the witness to withdraw until the question is determined.
- (3) The court may direct any expert or character witness present in court to withdraw if it considers his presence undesirable.
- (4) For the purposes of this rule a witness is in court if he is able to see and hear the court through a live link (and for this purpose any impairment of eyesight or hearing is to be disregarded).

Submission of no case to answer

- 88.**—(1) At the close of the case for the prosecution a defendant may submit, in respect of any charge, that the Director has failed to establish a case for him to answer.

(2) If such a submission is allowed, the court shall find the defendant not guilty of the charge.

The case for the defence

89.—(1) Where a defendant intends to adduce evidence as to fact (other than by giving evidence himself), he may make an opening address before adducing or giving evidence; but this is subject to paragraph (2).

(2) Where a defendant made an opening address under rule 85, he may not make another address under this rule without the leave of the court.

(3) Where a defendant gives evidence, he must do so before calling any other witness.

(4) Paragraph (3) is subject to rule 86(2).

Finding of not guilty before conclusion of the defence

90.—(1) At any time after the close of the case for the prosecution the court may find a defendant not guilty of a charge.

(2) The court may not make a finding under this rule unless it has invited the Director to address the court as to whether such a finding should be made.

Closing addresses

91.—(1) This rule applies at the close of the case for all defendants.

(2) If the Director has made an opening address the Director may not make a closing address without leave of the court.

(3) Each defendant, who has not made an opening address, may then make a closing address; but this is subject to paragraph (5).

(4) Each defendant who has made an opening address may not make a closing address without leave of the court.

(5) A legal representative who represents more than one defendant may make only one closing or opening address.

Announcement of findings

92.—(1) The finding of the court on each charge shall be announced in open court; and the judge advocate shall sign a record of the findings.

(2) Where no finding is recorded on a charge, the court may direct that the charge is to lie on the file, not to be proceeded with without the leave of the court or the Court Martial.