
STATUTORY INSTRUMENTS

2009 No. 1209

The Armed Forces (Service Civilian Court) Rules 2009

PART 14

SENTENCING PROCEEDINGS

Application and interpretation of Part 14

93.—(1) This Part applies in relation to any sentencing proceedings.

(2) In this Part—

“the offender” means any offender who falls to be sentenced in the proceedings; and

“the offence” means any offence for which the offender falls to be so sentenced.

Dispute on facts after plea of guilty

94.—(1) Where, after the court has recorded a plea of guilty in respect of any charge, there are disputed facts in the case, the court may direct that any issue of fact be tried by the court.

(2) The finding of the court shall be announced in open court.

Pre-sentence report and previous convictions

95.—(1) Where the court administration officer has arranged for a pre-sentence report to be prepared in advance of the proceedings, he shall serve a copy on the Director and the offender before the time appointed for the proceedings.

(2) Where the Director has obtained a record of the offender’s previous convictions in advance of the proceedings, he shall serve a copy on the offender and the court administration officer before the time appointed for the proceedings.

Information before sentencing

96.—(1) Where—

(a) the offender was convicted on a plea of guilty (other than a plea offered in the course of a trial), or

(b) the offender was convicted in trial proceedings but previous sentencing proceedings in respect of him were terminated,

the Director shall address the court on the facts of the case.

(2) Where practicable, the Director shall inform the court of—

(a) the offender’s age;

(b) any previous convictions of the offender for—

(i) offences under the law of any part of the United Kingdom, or

(ii) relevant offences under the law of another member State,

- (iii) any sentence awarded in respect of any such offence, and whether any such conviction is spent for the purposes of the Rehabilitation of Offenders Act 1974(1);
 - (c) any formal police caution administered to the offender by a constable in England and Wales or Northern Ireland;
 - (d) any period for which the offender has been in custody awaiting trial; and
 - (e) details of the offender’s employment (if any); and
 - (f) if the defendant was under 18 years of age when convicted, whether he has a service parent or service guardian (within the meaning of section 233).
- (3) Where the court has power—
- (a) to make an activation order in respect of the offender, or
 - (b) to deal with him under section 186(2) (offence during period of conditional discharge) or paragraph 21 of Schedule 8 to the 2003 Act (overseas community order in force),
- the Director shall inform the court of that fact, of the previous offence by virtue of which the court has that power, and of the sentence passed for that offence.
- (4) For the purposes of paragraph (2)(b) an offence is “relevant” if the act that constituted the offence would have constituted an offence under the law of any part of the United Kingdom if it had been done in that part at the time when the Director presents information to the court under this rule.
- (5) Where the offender is not subject to service law but has formerly been so subject, paragraph (2) has effect as if—
- (a) after the word “age” in sub-paragraph (a) there were added “and his rank or rate when he last ceased to be subject to service law”; and
 - (b) before the word “employment” in sub-paragraph (e) there were inserted “pay and”.

Offences taken into consideration

- 97.—(1) The court may take into consideration any other offence committed by the offender, of a similar nature to that for which he falls to be sentenced, if—
- (a) he so requests; and
 - (b) the court so directs.
- (2) A list of offences taken into consideration shall be signed by the offender and attached to the record of proceedings.

Mitigation of sentence

- 98.—(1) The offender may—
- (a) call witnesses in mitigation of sentence or as to his character;
 - (b) produce to the court any document; and
 - (c) address the court in mitigation of sentence.

Pronouncement of sentence

- 99.—(1) The sentence shall be recorded in writing, dated and signed by the judge advocate.
- (2) The court shall make the statement of reasons, and give the explanation, required by section 252(1).

(1) 1974 c. 53; sections 2 and 6 were amended, and the Schedule was inserted, by the Armed Forces Act 1996 (c. 46), section 13 and Schedule 4. Sections 1, 2 and 5 and the Schedule were further amended by paragraphs 63 to 66 of Schedule 16 to the Act.

(3) In this rule, “sentence” has the same meaning as in section 252.