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STATUTORY INSTRUMENTS

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**2009 No. 1216**

**The Armed Forces (Summary Hearing and Activation of Suspended Sentences of Service Detention) Rules 2009**

**PART 2**

**Summary Hearings**

**Applications for extended powers in relation to activation orders**

7.—(1) If the commanding officer—

- (a) is below the rank of rear admiral, major-general or air vice-marshal, and
- (b) considers that his powers might be insufficient to deal with the accused if the charge is proved unless he has extended powers for the purposes of section 194 of the Act,

he shall make an application to higher authority for extended powers for the purposes of section 194.

(2) Any application under paragraph (1) shall be made as soon as reasonably practicable and shall contain—

- (a) the commanding officer's reasons for considering that his powers might be insufficient to deal with the accused if the charge is proved unless he has extended powers for the purposes of section 194;
- (b) a copy of the written record of the summary hearing, or a copy of any record of the proceedings before the Summary Appeal Court, at which the suspended sentence of service detention was awarded;
- (c) such details as are known to the commanding officer of all proven offences committed by the accused during the operational period of the suspended sentence of service detention;
- (d) copies of—
  - (i) the written records of any summary hearings,
  - (ii) the written records of any hearings under Part 3 of these Rules, and
  - (iii) any records of proceedings before any of the Summary Appeal Court, the Court Martial and the Court Martial Appeal Court,

at which reasons were given for any decision not to make an order under section 191 or 193 of the Act, in relation to the suspended sentence of service detention;

- (e) a copy of any disciplinary record of the accused;
- (f) a copy of the charge sheet;
- (g) a copy of the written evidence relevant to the charge;
- (h) a copy of any unused written material gathered as part of the investigation of the charge;
- (i) any other material which may in the opinion of the commanding officer be relevant to the application.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(3) Where an application under paragraph (1) is granted the commanding officer shall provide the accused with a copy of the notification from higher authority that the application has been granted.