
STATUTORY INSTRUMENTS

2009 No. 1216

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

PART 2

Summary Hearings

Preliminary procedures

8.—(1) As soon as reasonably practicable, the commanding officer or a person authorised by him shall—

- (a) prepare a summary of the evidence relevant to the charge (“the case summary”);
- (b) inform the accused in writing of—
 - (i) his right under section 129 of the Act to elect Court Martial trial;
 - (ii) his right under rule 10 to representation;
 - (iii) his right under rule 15 to question witnesses whose evidence is adduced by the commanding officer;
 - (iv) his right under rule 16 to give evidence;
 - (v) his right under rule 17 to adduce the evidence of witnesses;
 - (vi) the right of appeal under section 141 of the Act;
- (c) subject to paragraph (3), provide the accused with—
 - (i) a copy of the charge sheet;
 - (ii) a copy of the case summary;
 - (iii) a copy of the written evidence relevant to the charge;
 - (iv) details of all exhibits which form part of the evidence relevant to the charge together with notice of where and when they may be inspected by the accused or his accused’s assisting officer;
 - (v) a copy of any unused written material gathered as part of the investigation of the charge;
 - (vi) details of any other unused material gathered as part of the investigation of the charge, together with notice of where and when it may be inspected by the accused or his accused’s assisting officer;
 - (vii) an opportunity to inspect all exhibits which form part of the evidence relevant to the charge, and any unused non-written material;
 - (viii) a copy of any disciplinary record of the accused;
- (d) if this sub-paragraph applies, inform the accused in writing of—
 - (i) the power to make an order under section 193 of the Act;

- (ii) the right of appeal under section 141 of the Act and the effect of section 195 of the Act;
 - (iii) his right to make submissions under rule 23(3);
 - (e) if this sub-paragraph applies, and subject to paragraph (3), provide the accused with—
 - (i) 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;
 - (ii) such details as are known to the commanding officer of all proven offences committed by the offender during the operational period of the suspended sentence of service detention;
 - (iii) copies of—
 - (aa) the written records of any summary hearings,
 - (bb) the written records of any hearings under Part 3 of these Rules, and
 - (cc) 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; and
 - (f) in accordance with paragraphs (4) to (6), fix a time for the hearing and give the accused notice in writing of that time.
- (2) Paragraphs (1)(d) and (e) apply if the offence which is the subject of the charge is alleged to have been committed during the operational period of a suspended sentence of service detention passed on the accused by an officer or the Summary Appeal Court.
- (3) If the commanding officer or a person authorised by him is satisfied that the accused already has a copy of a document that is to be provided by virtue of paragraph (1)(c) or (e) he need not provide a further copy.
- (4) In fixing a time for the hearing the commanding officer shall allow the accused a reasonable time to prepare for the hearing.
- (5) If the commanding officer has made an application under any of rules 5(2), 6(1) and 7(1) he shall not fix the time for the hearing until he has received notification of the result of the application or applications.
- (6) The time fixed for the hearing shall be not less than 24 hours after the commanding officer has complied with—
- (a) paragraph (1);
 - (b) where permission to hear the charge summarily has been granted, rule 5(4);
 - (c) where an application under rule 6(1) has been granted, rule 6(3); and
 - (d) where an application under rule 7(1) has been granted, rule 7(3).