
STATUTORY INSTRUMENTS

2009 No. 2100

The Court Martial and Service Civilian Court (Youth Justice and Criminal Evidence Act 1999) Rules 2009

PART 2

Restriction on cross-examination by a defendant acting in person

Appointment arranged by the defendant

7.—(1) The defendant may arrange for the legal representative, appointed by the judge advocate under section 38(4) of the 1999 Act, to be appointed to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under section 34, 35 or a direction under section 36 of the 1999 Act applies.

(2) Where such an appointment is made—

- (a) both the defendant and the legal representative appointed must notify the court of the appointment; and
- (b) the legal representative must, from the time of his appointment, act for the defendant as though the arrangement had been made under section 38(2)(a) of the 1999 Act and shall cease to be the representative of the court under section 38(4) of the 1999 Act.

(3) Where the court receives notification of the appointment either from the legal representative or from the defendant but not from both, the judge advocate must investigate whether the appointment has been made, and if he concludes that the appointment has not been made, paragraph (2)(b) shall not apply.

(4) A defendant may, notwithstanding an appointment by the judge advocate under section 38(4) of the 1999 Act, arrange for a legal representative to act for him for the purpose of cross-examining any witness in respect of whom a prohibition under section 34, 35 or a direction under section 36 of the 1999 Act applies.

(5) Where the defendant arranges for, or informs the court of his intention to arrange for, a legal representative to act for him, he must notify the court, within such period as the judge advocate may allow, of the name and address of any person appointed to act for him.

(6) Where the court is notified within the time allowed that such an appointment has been made, any legal representative appointed by the judge advocate in accordance with section 38(4) of the 1999 Act shall be discharged.

(7) The court administration officer must, as soon as reasonably practicable after the court receives notification of an appointment under this rule or, where paragraph (3) applies, after the judge advocate is satisfied that the appointment has been made, notify all the parties to the proceedings—

- (a) that the appointment has been made;
- (b) where the defendant has arranged for a legal representative to act for him in accordance with paragraph (4), of the name and address of that legal representative; and

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- (c) that the person appointed by the judge advocate under section 38(4) of the 1999 Act has been discharged or has ceased to act for the court.