
STATUTORY INSTRUMENTS

2013 No. 1852

The Armed Forces (Retrial for Serious Offences) Order 2013

PART 5

Application for Retrial

Restrictions on publication in the interests of justice

16.—(1) Where it appears to the Court Martial Appeal Court that the inclusion of any matter in a publication would give rise to a substantial risk of prejudice to the administration of justice in a retrial, the court may order that the matter is not to be included in any publication while the order has effect.

(2) In paragraph (1) “retrial” means the trial of an acquitted person for a qualifying offence pursuant to any order made or that may be made under article 9(1)(a).

(3) The court may make an order under this paragraph only if it appears to it necessary in the interests of justice to do so.

(4) An order under this paragraph may apply to a matter which has been included in a publication published before the order takes effect, but such an order—

- (a) applies only to the later inclusion of the matter in a publication (whether directly or by inclusion of the earlier publication); and
- (b) does not otherwise affect the earlier publication.

(5) After notice of an application has been given under article 12(1) relating to the acquitted person and the qualifying offence, the court may make an order under this article only—

- (a) of its own motion; or
- (b) on the application of the Director.

(6) Before such notice has been given, an order under this article—

- (a) may be made only on the application of the Director; and
- (b) may not be made unless, since the acquittal concerned, an investigation of the commission by the acquitted person of the qualifying offence has been commenced.

(7) An application by the Director under paragraph (5) or (6) must be in the form set out as Form 4 in Schedule 2 and be served on the registrar and the acquitted person.

(8) Where, in the case of an application under paragraph (6), the Director has indicated in the form referred to in paragraph (7) that there are reasons why the acquitted person should not be notified of the application for restrictions on publication, the Court Martial Appeal Court may order that service on the acquitted person is not to be effected until notice of an application under article 8(1) is served on that person.

(9) Any order made under this article before notice of an application has been given under article 12(1) relating to the acquitted person and the qualifying offence must specify the time when it ceases to have effect.

(10) An order under this article which is made or has effect after such notice has been given ceases to have effect, unless it specifies an earlier time—

- (a) when there is no longer any step that could be taken which would lead to the acquitted person being tried pursuant to an order made on the application; or
- (b) if he is tried pursuant to such an order, at the conclusion of the trial.

(11) Nothing in this article affects any prohibition or restriction by virtue of any other enactment on the inclusion of any matter in a publication or any power, under an enactment or otherwise, to impose such a prohibition or restriction.