

2015 No. 1805

DEFENCE

The Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015

<i>Made</i> - - - -	<i>19th October 2015</i>
<i>Laid before Parliament</i>	<i>21st October 2015</i>
<i>Coming into force</i> - -	<i>15th November 2015</i>

The Secretary of State, in exercise of the powers conferred by sections section 61(1) and (2) of the Youth Justice and Criminal Evidence Act 1999(a), makes the following Order:

Citation and Commencement

1. This Order may be cited as the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015 and shall come into force on 15th November 2015.

Interpretation

2. In this Order the “2009 Order” means the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009(b).

Amendments to the 2009 Order

3.—(1) Article 2 (interpretation) of the 2009 Order is amended as follows.

(2) In paragraph (1), after the definition of “CMAC Rules”, insert –

““SAC Rules” means rules made under section 151 of the 2006 Act;”.

(3) In the definition of “Rules of court” –

(a) at the end of sub-paragraph (b), delete “and”;

(b) at the end of sub-paragraph (c), insert –

“and

(d) the Summary Appeal Court;”.

(4) At the end of paragraph (2)(c) –

(a) substitute a semi-colon for the full stop;

(b) after that semi-colon, insert –

(a) 1999 c. 23.

(b) S.I. 2009/2083, amended by S.I. 2015/727.

“(d) in relation to proceedings before the Summary Appeal Court, as a reference to a special measures direction within the meaning of the SAC Rules.”.

4.—(1) Article 3 (application of special measures provisions) of the 2009 Order is amended as follows.

(2) At the end of paragraph (2)(b), delete “and”.

(3) At the end of paragraph (2)(c), insert –

“and

(d) the Summary Appeal Court.”.

5.—(1) Article 4 (modification of special measures provisions) of the 2009 Order is amended as follows.

(2) In paragraph (2), for “or the Court Martial Appeal Court”, substitute “, the Court Martial Appeal Court or the Summary Appeal Court”.

(3) At the end of paragraph (5)(c) –

(a) substitute a semi-colon for the full stop;

(b) after that semi-colon, insert –

“(d) in relation to proceedings within the meaning of the SAC Rules, as a reference to the appellant.”.

(4) In paragraph (6), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(5) In paragraph (11)(a), after “Court Martial” insert “or the Summary Appeal Court”.

(6) In paragraph (12), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(7) In paragraph (13), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(8) In paragraph (16), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

6.—(1) Article 5 (application of protection of witnesses from cross-examination provisions) of the 2009 Order is amended as follows.

(2) After paragraph (1), insert –

“(1A) The protection of witnesses from cross-examination provisions in paragraph (3)(b) to (e) shall apply in relation to proceedings before the Summary Appeal Court as they apply in relation to criminal proceedings, subject to the modifications specified in article 6.”.

7.—(1) Article 6 (modification of protection of witnesses from cross-examination provisions) of the 2009 Order is amended as follows.

(2) In paragraph (2), for “or the Court Martial Appeal Court”, substitute “, the Court Martial Appeal Court or the Summary Appeal Court”.

(3) In paragraph (3), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(4) At the end of paragraph (4)(c) –

(a) substitute a semi-colon for the full stop;

(b) after that semi-colon, insert –

“(d) in relation to proceedings before the Summary Appeal Court, as a reference to the appellant.”.

(5) In paragraph (6), after “Court Martial Rules”, insert “or the SAC Rules”.

(6) In paragraph (8), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(7) In paragraph (9), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(8) In paragraph (10)(a), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(9) In paragraph (10)(b), for “or the Court Martial Appeal Court”, substitute “, the Court Martial Appeal Court or the Summary Appeal Court”.

(10) In paragraph (11), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

8.—(1) Article 9 (application of competence of witnesses and capacity to be sworn provisions) of the 2009 Order is amended as follows.

(2) At the end of paragraph (1)(b), delete “and”.

(3) At the end of paragraph (1)(c), insert –

“and

(d) the Summary Appeal Court,”.

(4) At the end of paragraph (2)(a), delete “and”.

(5) At the end of paragraph (2)(b), insert –

“and

(d) the Summary Appeal Court,”.

(6) In paragraph (3), after “Court Martial”, insert “or the Summary Appeal Court”.

9.—(1) Article 10 (modification of competence of witness and capacity to be sworn provisions) of the 2009 Order is amended as follows.

(2) In paragraph (2), for “or the Court Martial Appeal Court”, substitute “, the Court Martial Appeal Court or the Summary Appeal Court”.

(3) In paragraph 3(a), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(4) In paragraph (4), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(5) In paragraph (5), after “Court Martial”, insert “or the Summary Appeal Court”.

(6) In paragraph (6), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(7) In paragraph (7), after “Court Martial”, insert “or the Summary Appeal Court”.

(8) In paragraph (8), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

10.—(1) Article 11 (application of general and final provisions) of the 2009 Order is amended as follows.

(2) At the end of paragraph (1)(b), delete “and”.

(3) At the end of paragraph (1)(c), insert –

“and

(d) the Summary Appeal Court,”.

11.—(1) Article 12 (modification of general and final provisions) of the 2009 Order is amended as follows.

(2) In paragraph (2), for “or the Court Martial Appeal Court”, substitute “, the Court Martial Appeal Court or the Summary Appeal Court”.

(3) In paragraph (5)(b), for “or the CMAC Rules”, substitute “, the CMAC Rules or the SAC Rules”.

(4) In paragraph (6)(a), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(5) In paragraph (7), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

12.—(1) Article 13 (modification of reporting restrictions provisions) of the 2009 Order is amended as follows.

(2) In paragraph (2), for “or the Court Martial Appeal Court”, substitute “, the Court Martial Appeal Court or the Summary Appeal Court”.

(3) In paragraph (4), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(4) At the end of paragraph (5)(c) –

(a) substitute a semi-colon for the full stop;

(b) after that semi-colon, insert –

“(d) in relation to proceedings before the Summary Appeal Court, “appellant”.”.

(5) In paragraph (6), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(6) In paragraph (7)(a), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

(7) In paragraph (8), for “or the Service Civilian Court”, substitute “, the Service Civilian Court or the Summary Appeal Court”.

19th October 2015

Mark Lancaster
Parliamentary Under Secretary of State
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (“the 2009 Order”) so as to give effect to Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57-73), articles 18, 21, 23 and 24.

The 2009 Order applies with modifications provisions of Chapters 1 to 3 and 5 of Part 2 (and sections 62, 63 and 65 so far as having effect for the purposes of those Chapters) of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (“the Act”) to proceedings before the Court Martial, the Service Civilian Court and the Court Martial Appeal Court. These Chapters contain a range of measures to help young, disabled, vulnerable or intimidated witnesses give evidence in criminal proceedings. The 2009 Order also modifies the effect of Chapter 4 of Part 2 (and sections 63 and 65 so far as having effect for the purposes of that Chapter) of the Act for the purposes of proceedings before the Court Martial, the Service Civilian Court and the Court Martial Appeal Court. Chapter 4 contains provisions allowing courts to impose reporting restrictions in certain proceedings.

This Order amends the 2009 Order, extending its application of the Act with modifications to proceedings before the Summary Appeal Court.

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£4.25

UK201510201 10/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/1805>

ISBN 978-0-11-114002-4



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