

SCHEDULE 1

Article 2(1)(a)

Qualifying Offences

Offences against the Person

Murder

1. Murder.

Attempted murder

2. An offence under section 1 of the Criminal Attempts Act 1981(1) of attempting to commit murder.

Soliciting murder

3. An offence under section 4 of the Offences against the Person Act 1861(2).

Manslaughter

4. Manslaughter.

Kidnapping

5. Kidnapping.

Sexual Offences

Rape

6. An offence under section 1 of the Sexual Offences Act 1956(3) or section 1 of the Sexual Offences Act 2003(4).

Attempted rape

7. An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence under section 1 of the Sexual Offences Act 1956 or section 1 of the Sexual Offences Act 2003.

Intercourse with a girl under thirteen

8. An offence under section 5 of the Sexual Offences Act 1956(5).

(1) 1981 c. 47. Section 1 was amended by section 7(3) of the Computer Misuse Act 1990 (c. 18) and by paragraph 58 of Schedule 21 to the Coroners and Justice Act 2009 (c. 25).

(2) 1861 c. 100. Section 4 was amended by section 5(10) of, and Schedule 13 to, the Criminal Law Act 1977 (c. 45).

(3) 1956 c. 69. Section 1 was repealed by paragraph 11(a) of Schedule 6 to the Sexual Offences Act 2003 (c. 42).

(4) 2003 c. 42.

(5) Section 5 was repealed by paragraph 11(a) of Schedule 6 to the Sexual Offences Act 2003 (c. 42).

Incest by a man with a girl under thirteen

9. An offence under section 10 of the Sexual Offences Act 1956(6) alleged to have been committed with a girl under thirteen.

Assault by penetration

10. An offence under section 2 of the Sexual Offences Act 2003.

Causing a person to engage in sexual activity without consent

11. An offence under section 4 of the Sexual Offences Act 2003 where it is alleged that the activity caused involved penetration within subsection (4)(a) to (d) of that section.

Rape of a child under thirteen

12. An offence under section 5 of the Sexual Offences Act 2003.

Attempted rape of a child under thirteen

13. An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence under section 5 of the Sexual Offences Act 2003.

Assault of a child under thirteen by penetration

14. An offence under section 6 of the Sexual Offences Act 2003.

Causing a child under thirteen to engage in sexual activity

15. An offence under section 8 of the Sexual Offences Act 2003 where it is alleged that an activity involving penetration within subsection (2)(a) to (d) of that section was caused.

Sexual activity with a person with a mental disorder impeding choice

16. An offence under section 30 of the Sexual Offences Act 2003 where it is alleged that the touching involved penetration within subsection (3)(a) to (d) of that section.

Causing a person with a mental disorder impeding choice to engage in sexual activity

17. An offence under section 31 of the Sexual Offences Act 2003 where it is alleged that an activity involving penetration within subsection (3)(a) to (d) of that section was caused.

Drugs Offences

Unlawful importation of Class A drug

18. An offence under section 50(2) of the Customs and Excise Management Act 1979(7) alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

(6) Section 10 was repealed by paragraph 11(a) of Schedule 6 to the Sexual Offences Act 2003 (c. 42).

(7) 1979 c. 2. Section 50(2) was amended by section 114(1) of the Police and Criminal Evidence Act 1984 (c. 60).

Unlawful exportation of Class A drug

19. An offence under section 68(2) of the Customs and Excise Management Act 1979⁽⁸⁾ alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

Fraudulent evasion in respect of Class A drug

20. An offence under section 170(1) or (2) of the Customs and Excise Management Act 1979⁽⁹⁾ alleged to have been committed in respect of a Class A drug (as defined by section 2 of the Misuse of Drugs Act 1971).

Producing or being concerned in production of Class A drug

21. An offence under section 4(2) of the Misuse of Drugs Act 1971 alleged to have been committed in relation to a Class A drug (as defined by section 2 of that Act).

Criminal Damage Offences

Arson endangering life

22. An offence under section 1(2) of the Criminal Damage Act 1971⁽¹⁰⁾ alleged to have been committed by destroying or damaging property by fire.

Causing explosion likely to endanger life or property

23. An offence under section 2 of the Explosive Substances Act 1883⁽¹¹⁾.

Intent or conspiracy to cause explosion likely to endanger life or property

24. An offence under section 3(1)(a) of the Explosive Substances Act 1883⁽¹²⁾.

War Crimes and Terrorism

Genocide, crimes against humanity and war crimes

25. An offence under section 51 or 52 of the International Criminal Court Act 2001⁽¹³⁾.

Grave breaches of the Geneva Conventions

26. An offence under section 1 of the Geneva Conventions Act 1957⁽¹⁴⁾.

⁽⁸⁾ Section 68(2) was amended by section 114(1) of the Police and Criminal Evidence Act 1984 (c. 60).

⁽⁹⁾ Section 170(1) and (2) were amended by section 114(1) of the Police and Criminal Evidence Act 1984 (c. 60).

⁽¹⁰⁾ 1971 c. 48.

⁽¹¹⁾ 1883 c. 3. Section 2 was substituted by section 7 of the Criminal Jurisdiction Act 1975 (c. 59).

⁽¹²⁾ Section 3(1)(a) was substituted by section 7 of the Criminal Jurisdiction Act 1975 (c. 59) and amended by section 17(5) of the Terrorism Act 2006 (c. 11) and Schedule 12 to the Criminal Law Act 1977 (c. 45).

⁽¹³⁾ 2001 c. 17.

⁽¹⁴⁾ 1957 c. 52. Section 1 has been amended by Part III of Schedule 3 to the Criminal Law Act 1967 (c. 58), section 1 of the Geneva Conventions (Amendment) Act 1995 (c. 27), section 70(1) of the International Criminal Court Act 2001 (c. 17) and section 1 of the Geneva Conventions and United Nations Personnel (Protocols) Act 2009 (c. 6).

Directing terrorist organisation

27. An offence under section 56 of the Terrorism Act 2000**(15)**.

Hostage-taking

28. An offence under section 1 of the Taking of Hostages Act 1982**(16)**.

Conspiracy

Conspiracy

29. An offence under section 1 of the Criminal Law Act 1977**(17)** of conspiracy to commit an offence listed in this Schedule.

(15) 2000 c. 11.

(16) 1982 c. 28.

(17) 1977 c. 45. Section 1 has been amended by section 5(1) of the Criminal Attempts Act 1981 (c. 47) and Schedule 1 to the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

SCHEDULE 2

Forms

Form 1

Article 12(1)

NOTICE of an application under article 12 of the Armed Forces (Retrial for Serious Offences) Order 2013 for a retrial following an acquittal for a serious offence

To: The Registrar of the Court Martial Appeal Court

1. Case Details Name of the acquitted person(s): Date of the acquittal: Name of judge advocate: Qualifying offence: <i>Qualifying offence is defined in article 2.</i> Name of any co-accused:	
2. Details of the trial charge sheet: <i>Details of the original charge sheet including all offences on the charge sheet and the result in relation to each charge.</i>	
3. Details of the application On what date was the written consent of the Director of Service Prosecutions given? <i>Article 8(2)</i> Please attach a copy of the written personal consent.	
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Form 1 (Cont'd)

<p>4. Acquitted person's custody status</p> <p>Is the acquitted person in custody? Yes/No</p> <p>(a) If the acquitted person is in custody give the acquitted person's detention barrack number/prison index number and address where detained:</p> <p>(b) If not in custody give the acquitted person's address:</p>	
<p>5. Extension of time for service</p> <p><i>If you are not applying for an extension, notice of the application must be served on the acquitted person(s) within two days beginning with the day on which notice is given to the registrar. (Article 12(6))</i></p> <p>If you are applying to the court to make an order extending the time for service of notice on the acquitted person(s) please provide the following information:</p> <p>(a) details of the location of the acquitted person; and</p> <p>(b) indication of the period of time that it will take to serve the acquitted person.</p> <p><i>An extension will only be granted if the court considers it necessary to do so because of the acquitted person's absence from the United Kingdom (article 12(6))</i></p>	
<p>6. Grounds of the application</p> <p>1. Identify the new and compelling evidence upon which the applicant relies and summarise the arguments you intend to put to the court.</p> <p><i>Address the requirements in article 10 (new and compelling evidence) and article 11 (interests of justice).</i></p> <p>2. Identify any relevant authorities; and include any other document or thing that the applicant thinks the court will need to decide the application. (Article 12(4)).</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	

Form 1 (Cont'd)

<p>7. Production of evidence and examination of witnesses</p> <p>Please indicate whether you are also seeking an order for the production of any document, exhibit or thing or for a witness to attend for examination before the court, and if so:</p> <p>(a) provide details of the document, exhibit or thing to be produced or the witness to attend for examination; and</p> <p>(b) state why it would be necessary or expedient in the interests of justice for the court to make such an order.</p>	
<p>Name of prosecuting officer: Address:</p> <p>Signature of prosecuting officer:</p> <p>Date:</p>	
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Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Armed Forces (Retrial for Serious Offences) Order 2013 No. 1852

Form 2

Article 13(5)

RESPONSE of the acquitted person and grounds of opposition under article 13 of the Armed Forces (Retrial for Serious Offences) Order 2013

To: The Registrar of the Court Martial Appeal Court

<p>1. Details of the acquitted person</p> <p>Name:</p> <p>Address:</p> <p>Date of Birth:</p> <p>If you are in custody please give your detention barrack number/prison index number and address where you are detained.</p>	
<p>2. Case Details</p> <p>Date of the acquittal:</p> <p>Name of the judge advocate:</p> <p>Date on which notice pursuant to article 12(2) was received:</p>	
<p>3. Details of the trial charge sheet</p> <p><i>Details of the original charge sheet including all offences on the charge sheet and the qualifying offences which are the subject of the appeal.</i></p>	
<p>4. Grounds of opposition</p> <p>1. Summarise the arguments you intend to put to the court.</p> <p>2. Identify any relevant authorities to be cited and identify any other document or thing that the acquitted person thinks that the court will need to decide the appeal.</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	
<p>-page 1-</p>	

Form 2 (Cont'd)

<p>5. Other applications</p> <p>State whether you are applying for (<i>tick where appropriate</i>):</p> <p><input type="checkbox"/> An extension of time in which to serve notice under Article 13(5);</p> <p><input type="checkbox"/> An order for the production of any document, exhibit or thing or a witness to attend for examination before the court.</p> <p>If so, please:</p> <p>(a) provide details of the document, exhibit or thing to be produced or the witness to attend for examination; and</p> <p>(b) state why it would be necessary or expedient in the interests of justice for the court to make such an order.</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	
<p>Signature of the acquitted person or the acquitted person's legal representative: <i>This notice must be signed by the acquitted person or his legal representative.</i></p> <p>Date:</p> <p>Details of any person signing on behalf of the acquitted person:</p> <p>Name:</p> <p>Address:</p> <p>Solicitor's reference:</p>	
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Form 3

Article 14(3)

NOTICE of application for an order for the examination of a witness or evidence by the Court Martial under article 14 of the Armed Forces (Retrial for Serious Offences) Order 2013

To: The Registrar of the Court Martial Appeal Court

<p>1. Details of the acquitted person</p> <p>Name:</p> <p>Address:</p> <p>Detention Barrack/Prison Index number:</p>	
<p>2. Details of the person making this application</p> <p>Name:</p> <p>Address:</p>	
<p>3. Details of the application State whether you are applying for an order for:</p> <p><input type="checkbox"/> The production of any document, exhibit or thing which you consider necessary for the determination of the application; and/or</p> <p><input type="checkbox"/> Any witness who would be a compellable witness in proceedings pursuant to an order made on the application to attend for examination and be examined before the court.</p> <p>Please provide reasons (if applicable) why the order was not sought when: (a) notice was served on the registrar under article 12(1); or (b) the response was served on the registrar under article 13(5). (Article 14(4))</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	
<p>-page 1-</p>	

Form 3 (Cont'd)

<p>4. Particulars of witness (if applicable)</p> <p>Name:</p> <p>Address:</p> <p>Is this witness an expert witness? Yes/No</p> <p>Do you want a witness order? Yes/No</p> <p>Was the witness called at the original trial? Yes/No</p> <p>The witness can give the following evidence (Please attach full witness statement):</p> <p>Please give reasons why such an order would be necessary or expedient in the interests of justice.</p> <p>Provide names and addresses of witnesses (where relevant).</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	
<p>5. Particulars of document exhibit or other thing (if applicable):</p> <p><i>Provide details of the document exhibit or other thing to be produced.</i></p>	
<p>6. Please state why it would be necessary or expedient in the interests of justice for the court to make such an order:</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	
<p>Signed: Date: Name, address and status of person signing on the applicant's behalf:</p>	
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Form 4

Article 16(7)

NOTICE of an application for restrictions on publication under article 16 of the Armed Forces (Retrial for Serious Offences) Order 2013

To: The Registrar of the Court Martial Appeal Court

<p>1. Case details</p> <p>Name of the acquitted person(s):</p> <p>Address:</p> <p>Detention Barrack number/Prison Index number (if applicable):</p> <p>Date of the acquittal:</p> <p>Name of judge advocate:</p> <p>Qualifying offence:</p> <p><i>Qualifying offence is defined in Article 2</i></p>	
<p>2. Details of the application</p> <p>Give details of the application. In particular provide details:</p> <p>(a) why 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 (<i>Article 16(1)</i>)</p> <p>and</p> <p>(b) why it is necessary in the interests of justice to make an order for restrictions on publication (<i>Article 16(3)</i>).</p> <p>Please continue on a separate sheet attached to this form if necessary.</p>	
<p>3. Time for restrictions on publication</p> <p>Please indicate whether a notice of application has been served on the registrar under article 12(1). Yes/No</p> <p><u>If that application has been served:</u></p> <p>Please indicate whether there is a specified time when an order for restrictions on publication should cease to have effect. (<i>Article 16(10)</i>)</p>	
<p>-page 1-</p>	

Form 4 (Cont'd)

<p><u>If that notice of application has not been served:</u></p> <p>Indicate the date on which the investigation of the commission by the acquitted person of the qualifying offence has been commenced. <i>(Article 16(6)(b))</i></p> <p>Indicate whether there is a specified time when such an order (if made) should cease to have effect <i>(Article 16 (9))</i>.</p> <p>Are you applying for an order that service on the acquitted person is not to be effected?</p> <p>If so please provide details of your reasons why the person should not be notified of the application for an order for restrictions on publication <i>(Article 16(6)(b))</i>.</p> <p>Please include the information on a separate sheet attached to this form.</p>	
<p>Signature of the Director of Service Prosecutions:</p> <p>Date:</p>	
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Form 5

Article 19(3) and (6)

NOTICE of an application for leave to arraign or to set aside the order for a retrial under article 19 of the Armed Forces (Retrial for Serious Offences) Order 2013

To: The Registrar of the Court Martial Appeal Court

<p>1. Applicant's details</p> <p>Name of the applicant:</p> <p>Address of the applicant:</p>	
<p>2. Case details</p> <p>Name of person ordered to be retried:</p> <p>Date of the order made under article 9(1)(a) of the Armed Forces (Retrial for Serious Offences) Order 2013:</p>	
<p>3. Grounds for application</p> <p>Are you seeking (<i>tick where appropriate</i>)</p> <p><input type="checkbox"/> An order for the court for leave to arraign (<i>Article 19(2)</i>).</p> <p><i>Where leave to arraign is sought, reasons must be given for the failure to arraign within two months of the date of the order for retrial. You must specify that the prosecuting officer has acted with due expedition and that there is a good and sufficient cause for trial despite the lapse of time since the order under article 9(1)(a) (Article 16(3)).</i></p> <p><input type="checkbox"/> An order for the court to set aside the order for retrial (<i>Article 19(6)</i>).</p>	
<p>Signed:</p> <p>Dated:</p>	

Form 6

Articles 29(4), 30(1)

NOTICE OF RENEWAL following a determination by the registrar or a single judge under article 29 of the Armed Forces (Retrial for Serious Offences) Order 2013

To: The Registrar of the Court Martial Appeal Court

<p>1. Details of the applicant</p> <p>Name:</p> <p>Address:</p> <p>If you are in custody please give your detention barrack number/prison index number and the address where detained:</p>	
<p>ORDER BY...</p> <p>2. Application considered <i>(tick where appropriate)</i></p> <p><input type="checkbox"/> Application for the production of any documents, exhibit or other thing. <i>(Article 14(1)(a))</i></p> <p><input type="checkbox"/> Application for a witness to attend for examination and be examined before the court. <i>(Article 14(1)(b))</i></p> <p><input type="checkbox"/> Application for extension of time. <i>Article 13(6)</i></p> <p><input type="checkbox"/> Application for a direction for attendance by live link. <i>(Article 13(3))</i></p> <p><input type="checkbox"/> Application to delay the requirement of service on the acquitted person of an application for publication restrictions. <i>(Articles 16(8), 17(3))</i></p>	
<p>3. Notice of Renewal</p> <p><i>If an application has been refused, it may be renewed for consideration by a single judge (if the decision was made by the registrar) or the Full Court (if the decision was made by a single judge).</i></p> <p>The following application(s) is (are) renewed: <i>An application not renewed in time will be treated as if it were refused by the Full Court.</i></p> <p>The date that this form was delivered on the applicant:</p> <p>Signed (by the applicant):</p> <p>Date:</p>	

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Form 7

Article 31(1)

NOTICE OF ABANDONMENT OF PROCEEDINGS instituted under article 8(1) of the Armed Forces (Retrial for Serious Offences) Order 2013

To: The Registrar of the Court Martial Appeal Court

<p>1. Case details</p> <p>Name of the acquitted person(s):</p> <p>Date of the acquittal:</p> <p>Name of the judge advocate:</p> <p>Date that the application under article 8(1) was served on the registrar:</p>	
<p>2. Abandonment of proceedings</p> <p>I, (<i>insert name</i>) a person conducting a prosecution abandon these proceedings instituted under the Armed Forces (Retrial for Serious Offences) Order 2013 for the retrial of the acquitted person (s) for the qualifying offence(s) listed above.</p>	
<p>Name of prosecuting officer:</p> <p>Address of prosecuting officer:</p> <p>Signature of prosecuting officer:</p> <p>Date:</p>	