

Status: Point in time view as at 26/04/2004.

Changes to legislation: Criminal Justice Act 1988, SCHEDULE 13 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 13

Section 146.

EVIDENCE BEFORE COURTS-MARTIAL ETC.

Interpretation

- 1 In this Schedule—
- “procedural instruments” means—
- (a) [F¹Rules] under section 103 of the ^{M¹}Army Act 1955 or section 103 of the ^{M²}Air Force Act 1955;
 - (b) [F¹Rules] under section 58 of the ^{M³}Naval Discipline Act 1957;
 - (c) rules under section 49 of the ^{M⁴}Courts-Martial (Appeals) Act 1968; and
 - (d) orders under paragraph 12 of Schedule 3 to the ^{M⁵}Armed Forces Act 1976; and
- “Service courts” means—
- (a) courts-martial constituted under the Army Act 1955 or the Air Force Act 1955;
 - (b) courts-martial constituted under the Naval Discipline Act 1957 ^{F²} . . . ;
 - (c) the Courts-Martial Appeal Court; and
 - (d) Standing Civilian Courts.

Textual Amendments

- F1** Word in the definition of “procedural instruments” in Sch. 13 para. 1 substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 109(2)(a)(b)**; S.I. 1997/304, **art. 2** (with **art. 3**).
- F2** Words in the definition of “Service Courts” in Sch. 13 para. 1 repealed (28.2.2002) by 2001 c. 19, s. 38, **Sch. 7 Pt. 1**; S.I. 2002/345, **art. 2** (subject to **art. 3**)

Modifications etc. (not altering text)

- C1** Sch. 13 para. 1 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
Sch. 13 para. 1 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

Marginal Citations

- M1** 1955 c. 18.
M2 1955 c. 19.
M3 1957 c. 53.
M4 1968 c. 20.
M5 1976 c. 52.

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First-hand hearsay

- 2 Sections 23 and 24 above shall have effect in relation to proceedings in the United Kingdom or elsewhere before Service courts with the substitution of the following sub-paragraph for section 23(2)(b)(i)—
- “(i) the person who made the statement is not in the country where the court is sitting; and”.

Modifications etc. (not altering text)

- C2** Sch. 13 para. 2 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
 Sch. 13 para. 2 applied by S.I. 2000/2370, **Rule 27(1)(f)**

Documentary evidence

- 3 Section 25 above shall have effect in relation to proceedings in the United Kingdom or elsewhere before Service courts as if such proceedings were mentioned in subsection (1) of that section.

Modifications etc. (not altering text)

- C3** Sch. 13 para. 3 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
 Sch. 13 para. 3 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

- 4 In section 26 above—
- (a) the reference to criminal proceedings in paragraph (a) includes summary proceedings under [^{F3}section 76B] of the Army Act 1955, [^{F3}section 76B] of the Air Force Act 1955 or [^{F3}section 52D] of the Naval Discipline Act 1957; and
- (b) in paragraph (b) “criminal investigation” includes any investigation which may lead—
- (i) to proceedings before a court-martial or Standing Civilian Court;
 or
- (ii) to summary proceedings such as are mentioned in sub-paragraph (a) above.

Textual Amendments

- F3** Words in Sch. 13 para. 4(a) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 109(3)(a)(b)**; S.I. 1997/304, **art.2** (with art. 3).

Modifications etc. (not altering text)

- C4** Sch. 13 para. 4 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
 Sch. 13 para. 4 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

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- 5 Without prejudice to the generality of any enactment conferring power to make them, procedural instruments may make such provision as appears to the authority making any of them to be necessary or expedient for the purposes of Part II of this Act.

Modifications etc. (not altering text)

- C5** Sch. 13 para. 5 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
Sch. 13 para. 5 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

Letters of request etc.

- 6 (1) [^{F4}No application shall be made under [^{F5}section 7 of the Crime (International Co-operation) Act 2003] in relation to any offence which is or is to be the subject of proceedings before a Service court], but the Secretary of State may by order make provision as to [^{F6}requests for assistance in obtaining outside the United Kingdom evidence] for such proceedings.
- (2) An order under this paragraph may make different provision for different classes of case.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient in relation to [^{F7}requests for assistance in obtaining evidence] for proceedings before a Service court.

Textual Amendments

- F4** Words in Sch. 13 para. 6(1) substituted (10.6.1991) by Criminal Justice (International Co-operation) Act 1990 (c. 5, SIF 39:1), s. 31(1), **Sch. 4 para. 6(3)**; S.I. 1991/1072, art. 2(a), **Schedule Pt. I**
- F5** Words in Sch. 13 para. 6(1) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 16(a)(i)**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, art. 3(3))
- F6** Words in Sch. 13 para. 6(1) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 16(a)(ii)**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, art. 3(3))
- F7** Words in Sch. 13 para. 6(4) substituted (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), ss. 91, 94, **Sch. 5 para. 16(b)**; S.I. 2004/786, **art. 3(2)** (with S.I. 2004/787, art. 3(3))

Modifications etc. (not altering text)

- C6** Sch. 13 para. 6 applied (2.10.2000) by S.I. 2000/2372, **Rule 27(1)(e)**
Sch. 13 para. 6 applied (2.10.2000) by S.I. 2000/2370, **Rule 27(1)(f)**

Form of evidence and glossaries

- 7 For the purpose of helping members—

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- (a) of courts-martial constituted under the ^{M6}Army Act 1955 or the ^{M7}Air Force Act 1955; or
- (b) of courts-martial constituted under the ^{M8}Naval Discipline Act 1957 ^{F8} . . . ,
to understand complicated issues of fact or technical terms [^{F9}rules] under section 103 of either of the first two of those Acts and [^{F9}rules] under section 58 of the Naval Discipline Act 1957 may make provision—
 - (i) as to the furnishing of evidence in any form, notwithstanding the existence of admissible material from which the evidence to be given in that form would be derived; and
 - (ii) as to the furnishing of glossaries for such purposes as may be specified;
 in any case where the court gives leave for, or requires, evidence or a glossary to be so furnished.

Textual Amendments

- F8** Words in [Sch. 13 para. 7\(b\)](#) repealed (28.2.2002) by [2001 c. 19, s. 38, Sch. 7 Pt. 1](#); [S.I. 2002/345](#), art. 2 (subject to art. 3)
- F9** Words in [Sch. 13 para. 7](#) substituted (1.4.1997) by [1996 c. 46, s. 5, Sch. 1 Pt. IV para. 109\(4\)\(a\)\(b\)\(c\)](#); [S.I. 1997/304, art. 2](#) (with art. 3).

Marginal Citations

- M6** [1955 c. 18](#).
- M7** [1955 c. 19](#).
- M8** [1957 c. 53](#).

Use of television links

- 8 (1) The Secretary of State may by order direct that section 32(1) to (3) above shall have effect in relation—
- (a) to proceedings before Service courts; or
 - (b) to proceedings or proceedings of specified descriptions before Service courts in specified places.
- (2) If an order is made under this paragraph—
- (a) subsection (1) of section 32 above shall have effect in relation to any court to which the order applies with the substitution of the following paragraph for paragraph (a)—
 - “(a) the witness is not in the country where the court is sitting; or”;
 - (b) subsection (2) of that section shall have effect in relation to any such court with the substitution, for each reference to an offence, of a reference to a civil offence under section 70 of the Army or the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 in relation to which the corresponding civil offence, within the meaning of those sections, is that offence.
- (3) An order under this paragraph may provide that section 32(1), (2) or (3) above shall have effect in relation to any court to which the order applies subject to such

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modifications as may be specified in the order, in addition to the modifications for which sub-paragraph (2) above provides.

- (4) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient for the purposes of section 32(1) to (3) above in their application to proceedings such as are mentioned in sub-paragraph (1) above by virtue of an order under that sub-paragraph.
- (6) In this paragraph “modifications” includes additions, omissions and amendments.

[^{F10} Video recordings of evidence]

Textual Amendments

F10 Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

- ^{F119} (1) The Secretary of State may by order direct that section 32A above shall have effect in relation—
- (a) to proceedings before Service courts; or
 - (b) to proceedings, or proceedings of specified descriptions, before Service courts in specified places,
- subject to such modifications as may be specified in the order.
- (2) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
 - (3) Without prejudice to the generality of any enactment conferring power to make procedural instruments, procedural instruments may make such provision as appears to the authority making them to be necessary or expedient for the purposes of section 32A above in their application to proceedings such as are mentioned in sub-paragraph (1) above by virtue of an order under that sub-paragraph.
 - (4) In this paragraph “modifications” includes additions, omissions and amendments.

Textual Amendments

F11 Sch. 13 paras. 9,10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

^{F12}Cross -examination of children

Textual Amendments

F12 Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

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- ^{F13}10 (1) The Secretary of State may by order direct that section 34A above shall have effect in relation—
- (a) to proceedings before Service courts; or
 - (b) to proceedings or proceedings of specified descriptions before Service courts in specified places,
- subject to such modifications as may be specified in the order.
- (2) The power to make an order conferred by this paragraph shall be exercisable by statutory instrument and a statutory instrument containing any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) In this paragraph “modifications” includes additions, omissions and amendments.

Textual Amendments

F13 Sch. 13 paras. 9, 10 added (1.10.1996) by 1996 c. 46, s.7; S.I. 1996/2474, art.2.

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