
STATUTORY INSTRUMENTS

2000 No. 2367

The Naval Custody Rules 2000

PART V

HEARINGS

Procedure at the hearing

23.—(1) The judicial officer shall not be bound at a hearing by any enactment or rule of law relating to the admissibility of evidence in proceedings before courts of law.

(2) The commanding officer and the person to whom the proceedings relate shall each be heard in such order as the judicial officer shall determine and, in exercising his powers under this paragraph, the judicial officer shall adopt such course as appears to him will best serve the interests of justice.

(3) The judicial officer shall explain the order of the proceedings which he proposes to adopt at the beginning of the hearing.

(4) Subject to section 47H(6) of the Act, the commanding officer and the person to whom the proceedings relate shall each be entitled to—

- (a) give evidence on oath and call witnesses;
- (b) produce to the judicial officer any document or written report; and
- (c) address the judicial officer at least once;

on any matter relevant to the proceedings.

(5) The judicial officer shall make a record of the hearing, unless a court recorder is in attendance.

Presence at hearing by live TV link

24.—(1) A person mentioned in paragraph (2) shall be treated as being present at a hearing if, whether by means of a live television link or similar arrangements, he is able to see and hear and to be seen and heard by the judicial officer, any witness giving evidence and all other persons mentioned in that paragraph.

(2) The persons are—

- (a) the person to whom the proceedings relate;
- (b) the commanding officer;
- (c) where the commanding officer or, as the case may be, the person to whom the proceedings relate is legally represented, any such legal representative;
- (d) any person appointed under rule 7 to act as an interpreter for the purposes of the hearing.

Adjournments

25. Where a person to whom the application relates is not legally represented at a hearing of an application under 47D of the Act, the judicial officer shall explain—

- (a) the right of the person to whom the application relates to be legally represented;
- (b) the right to an adjournment if he wishes to be so represented; and
- (c) the effect of such an adjournment.

Presence of witnesses

26. Except where the person is the commanding officer or the person to whom the proceedings relate or is present to give expert evidence or evidence as to a person's character, a person who is called to give evidence shall not, except with the consent of the judicial officer, be present at a hearing while not under examination.

Oaths and affirmations

27.—(1) An oath shall be administered at the start of the hearing to any person appointed to act as an interpreter and, before oral evidence is given, to any witness who has attained the age of 14 years.

(2) If—

- (a) a person required by virtue of this rule to take an oath objects to being sworn; or
- (b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief,

he shall be permitted to make a solemn affirmation instead of taking an oath.

(3) A person who may be permitted under this rule to make his solemn affirmation may also be required to do so, and for the purposes of this rule “reasonably practicable” means reasonably practicable without inconvenience or delay.

(4) An oath or affirmation shall be administered in the form and manner set out in Schedule 4 to these Rules by the judicial officer, or where the judicial officer so directs, by any other person acting on his behalf.

Privileges and immunities

28. A witness at a hearing or any other person whose duty it is to attend on or before the judicial officer at the hearing shall be entitled to the same immunities and privileges as a witness before the High Court in England and Wales.

Decision of the judicial officer

29.—(1) The judicial officer shall announce his decision and the reasons for it at the end of any hearing and record that decision in the form set out in Schedule 2 to these Rules.

(2) The relevant court administration officer shall serve copies of that form on the commanding officer and the person to whom the proceedings relate.