
STATUTORY INSTRUMENTS

2000 No. 2369

The Air Force Custody Rules 2000

PART III

REVIEWS

Review dates

13.—(1) Where the judicial officer makes an order under section 75F(2) of the Act, he shall determine the date on which that order is to be reviewed and specify that date in the record of the order.

(2) The judicial officer may decide to carry out the review on a different date where—

- (a) a request for a review is made under section 75G(2)(b) of the Act and he considers that it is reasonably practicable for the review to take place before the date determined under paragraph (1); or
- (b) it is not practicable or in the interests of justice for the review to take place on the date determined under paragraph (1),

in which case the relevant court administration officer shall notify the commanding officer and the accused of the different date.

Requirement for a hearing

14.—(1) A review shall be carried out at a hearing if—

- (a) it is the first review under section 75G(1) of the Act in relation to the accused;
- (b) it has been requested under section 75G(2)(b) of the Act;
- (c) it is a review carried out at any time after the commencement of the accused's trial by court-martial and before the announcement of the court-martial's finding on the charge or every charge against the accused, other than during an adjournment;

(2) In any other case, a review shall be carried out at a hearing unless—

- (a) the judicial officer is satisfied on the basis of the representations made by the commanding officer under rule 15 that the grounds on which the order made under section 75F(2) of the Act continue to exist;
- (b) the accused has not made representations under rule 15 or, where such representations have been made, they do not contain any arguments as to fact or law which have not been heard previously; and
- (c) the judicial officer is satisfied that there is no other reason for carrying out the review at a hearing.

(3) The judicial officer shall not on a review impose any requirements under section 75J(2)(b) of the Act unless the review is carried out at a hearing.

Written representations

- 15.**—(1) This rule applies to any review other than a review to which rule 14(1) applies.
- (2) The commanding officer and the accused may make written representations with respect to—
- (a) the need for a hearing for the purposes of carrying out a review;
 - (b) whether or not the judicial officer should on a review make an order under section 75F(2) of the Act authorising the keeping of the accused in custody.
- (3) Any written representations made under paragraph (2) shall be served on the court administration officer and a copy shall be served on the commanding officer or, as the case may be, the accused.

Notification of hearing for the purposes of carrying out a review

- 16.**—(1) Where a hearing is required for the purposes of carrying out a review, the relevant court administration officer shall, after consultation with the Judge Advocate General or a person acting on his behalf, determine the time and place of the hearing.
- (2) The relevant court administration officer shall ensure that the hearing of a review takes place on the date determined by the judicial officer in accordance with rule 13.
- (3) The relevant court administration officer shall notify the commanding officer and the accused of the time and place of the hearing.

Decisions on reviews carried out without a hearing

- 17.**—(1) This rule applies in any case where the judicial officer carries out a review without a hearing.
- (2) Where the judicial officer decides not to authorise the keeping of the accused in custody he shall—
- (a) notify the relevant court administration officer of that fact as soon as practicable; and
 - (b) record his decision in the form set out in Schedule 2 to these Rules, which form shall be served by the relevant court administration officer on the commanding officer and the accused.
- (3) Where the relevant court administration officer is notified under paragraph (2)(a), he shall notify the commanding officer and the accused as soon as practicable of the judicial officer's decision.
- (4) Where the judicial officer makes an order under section 75F(2) of the Act, this shall be recorded in the form set out in Schedule 2 to these Rules, which form shall be served by the relevant court administration officer on the commanding officer and the accused.