
STATUTORY INSTRUMENTS

2000 No. 2371

The Summary Appeal Court (Army) Rules 2000

PART IX

**PRACTICE AND PROCEDURE RELATING TO THE POWERS
OF THE COURT TO VARY PUNISHMENT AWARDED**

Application of Part IX

- 59.** This Part shall have effect in relation to the practice and procedure of the court—
- (a) with respect to the exercise of its powers under section 83ZG(2)(b) or (3) of the Act (powers of the court to vary punishment awarded); and
 - (b) on an appeal against any punishment awarded.

Information to be provided by the respondent

- 60.**—(1) The respondent shall provide the court with information concerning—
- (a) any punishment awarded on summary dealing against which an appeal is brought;
 - (b) where the appeal is only against finding, any punishment awarded in respect of that finding;
 - (c) where any punishment referred to in paragraphs (a) and (b) relates to any finding which is not the subject of an appeal, the particulars of the offence to which the finding relates; and
 - (d) such other matters as appear to the respondent to be relevant to the exercise by the court of its powers under (as the case may be) section 83ZG(2), (3) or (4) of the Act.
- (2) The information referred to in paragraph (1)(d) shall, as far as practicable, include information concerning—
- (a) the appellant's age and rank;
 - (b) the appellant's service record;
 - (c) any recognised acts of gallantry;
 - (d) the particulars of any other offence (whether under the Act or otherwise) of which the appellant has been found guilty (during his service or otherwise), provided that any convictions treated as spent for the purposes of the Rehabilitation of Offenders Act 1974(1) shall be indicated as such; and
 - (e) particulars of any formal police caution administered to the appellant by a constable in England and Wales or Northern Ireland.
- (3) A record of antecedents signed by the appellant may be accepted in evidence by the court under paragraph (2)(d) where the appellant has admitted that he has been found guilty of each offence listed in the record and has had explained to him the purpose for which such admission was sought.

(1) 1974 c. 53; sections 2 and 6 were amended, and the Schedule was inserted, by the Armed Forces Act 1996 (c. 46), section 13 and Schedule 4.

(4) Unless the appellant so requires, the matters referred to in this rule need not be adduced in compliance with the strict rules of evidence.

Determining disputes of fact

61.—(1) Where on an appeal which relates only to the award of punishment there are disputed facts in the case, any issue of fact may be tried by the court.

(2) Where an issue of fact is tried in accordance with paragraph (1)—

- (a) the judge advocate may direct the respondent to call any witness to give evidence, and
- (b) the respondent and the appellant may, with the leave of the judge advocate, adduce evidence.

(3) The court shall sit in closed court while deliberating on its findings on the issue of fact.

(4) The decision of the court on the issue of fact, and the reasons for it, shall be announced in open court by the judge advocate.

Evidence on behalf of the appellant etc.

62.—(1) The appellant may—

- (a) give evidence on oath and call witnesses;
- (b) produce to the court any document or written report;
- (c) address the court,

on any matter relevant to the award of punishment.

(2) Unless the respondent requires otherwise, any document or report referred to in paragraph (1) (b) need not be adduced in compliance with the strict rules of evidence.

Deliberation on punishment

63.—(1) The court shall close to deliberate on its decision on any punishment awarded.

(2) Any such decision, and the reasons for it, shall be announced in open court by the judge advocate.

(3) The decision of the court on any punishment awarded shall be recorded in writing and dated and signed by the members of the court hearing the appeal.