

2002 No. 229

DEFENCE

**The Courts-Martial (Royal Air Force)
(Amendment) Rules 2002**

Made - - - - - *5th February 2002*

Laid before Parliament *7th February 2002*

Coming into force - - *28th February 2002*

The Secretary of State, in exercise of the powers conferred on him by sections 92(5), 103 and 143(1) of the Air Force Act 1955(a), hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Courts-Martial (Royal Air Force) (Amendment) Rules 2002 and shall come into force on 28th February 2002.

Amendment to Rules

2.—(1) The Courts-Martial (Royal Air Force) Rules 1997(b) are amended in accordance with the provisions of this rule.

(2) In paragraphs (2)(b) and (3)(b) of rule 16 (convening the court), after “officer members of the court,” there is inserted “any warrant officer members of the court,”.

(3) In rule 17 (ineligibility for membership of courts-martial), after “An officer” there is inserted “or warrant officer”.

(4) In rule 37(6)(ii) (pre-trial hearing), after “officer members” there is inserted “and any warrant officer members”.

(5) In rule 38(1)(b) (challenges and oaths at a pre-trial hearing), after “officer member” there is inserted “or warrant officer member”.

(6) In rule 40 (challenges by the accused)—

(a) in paragraph (2), after “officer” there is inserted “or warrant officer”; and

(b) in paragraph (6), after “officer member other than the president” there is inserted “or any warrant officer member”.

(7) In rule 41(3) (administration of oaths and affirmations), after paragraph (b) insert—
“(bb) any warrant officer member of the court;”.

(a) 1955 c. 19; section 103 was substituted by, and sections 92(5) and 143(1) were amended by the Armed Forces Act 1996 (c. 46), Schedule 1, paragraphs 46, 39 and 79 respectively. Section 92(5) was further amended by the Armed Forces Act 2001 (c. 19), Schedule 2, paragraph 10.

(b) S.I. 1997/171, to which there are amendments not relevant to these rules.

(8) In Schedule 2, Form 1 (form of summons to witness), after “documents” in each place where it occurs there is inserted “or things”.

5th February 2002

Adam Ingram
Minister of State,
Minister of Defence

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Courts-Martial (Royal Air Force) Rules 1997 (“the 1997 Rules”). The amendments are consequential on the provisions of the Armed Forces Act 2001 making warrant officers eligible in certain circumstances to sit as members of courts-martial and enabling courts-martial to require witnesses to produce things as well as documents.

Rule 2(2) to (7) amends rules 16, 17, 37, 38, 40 and 41 of the 1997 Rules, which specify the procedure for convening courts-martial, set out conditions disqualifying officers from being members of courts-martial, and provide for the procedure for pre-trial hearings, challenging the membership of courts-martial and administering oaths and affirmations. By virtue of the amendments, warrant officer members of the court are subject to the same conditions and procedures as officer members of the court.

Rule 2(8) amends Form 1 in Schedule 2 to the 1997 Rules, which is the form of summons to a witness by which a witness can be summonsed to attend and to produce documents to the court. By virtue of this amendment, a witness can also be summonsed to produce things to the court.

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