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STATUTORY INSTRUMENTS

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**2005 No. 1535**

**DEFENCE**

**The Courts-Martial (Amendment) Rules 2005**

<i>Made</i>	- - - -	<i>8 June 2005</i>
<i>Laid before Parliament</i>		<i>10 June 2005</i>
<i>Coming into force</i>	- -	<i>1 July 2005</i>

The Secretary of State, in exercise of the powers conferred upon him by section 103 of the Army Act 1955<sup>(1)</sup>, section 103 of the Air Force Act 1955<sup>(2)</sup>, section 58 of the Naval Discipline Act 1957<sup>(3)</sup>, and sections 111 and 132 of the Criminal Justice Act 2003<sup>(4)</sup>, hereby makes the following Rules:

**Citation, commencement and interpretation**

1.—(1) These Rules may be cited as the Courts-Martial (Amendment) Rules 2005 and shall come into force on 1 July 2005.

(2) In these Rules—

“the Army Rules” means the Courts-Martial (Army) Rules 1997<sup>(5)</sup>;

“the Royal Air Force Rules” means the Courts-Martial (Royal Air Force) Rules 1997<sup>(6)</sup>; and

“the Royal Navy Rules” means the Courts-Martial (Royal Navy) Rules 1997<sup>(7)</sup>.

**Amendments to the Army Rules and the Royal Air Force Rules**

2.—(1) The Army Rules and the Royal Air Force Rules are amended as follows.

(2) In rule 2—

(a) after the definition of “the Act” there is inserted—

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(1) 1955 c. 18.

(2) 1955 c. 19.

(3) 1957 c. 53.

(4) 2003 c. 44: by virtue of section 113 of, and paragraph 5 of Schedule 6 to, the Criminal Justice Act 2003 (“the 2003 Act”), section 111 has effect as if, in its subsection (7), the definition of “rules of court” included rules regulating the practice and procedure of service courts. By virtue of section 135 of, and paragraph 2(6) of Schedule 7 to, the 2003 Act, section 132 is modified so that in its subsection (10), the definition of “rules of court” includes rules regulating the practice and procedure of service courts. By virtue of paragraph 6 of Schedule 6 and paragraph 8 of Schedule 7, “service court” includes a court-martial and “court-martial” means a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957.

(5) S.I. 1997/169 as amended by S.I. 2000/2374, 2002/230.

(6) S.I. 1997/171 as amended by S.I. 2000/2375, 2002/229.

(7) S.I. 1997/170 as amended by S.I. 2001/2373, 2002/231.

- “the 2003 Act” means the Criminal Justice Act 2003;” and
- (b) for the definition of “the prosecutor” there is substituted—
- “the prosecutor” means the prosecuting authority or any prosecuting officer or other person appointed by the prosecuting authority to appear on his behalf;”.
- (3) In Part 3, after rule 24 there is inserted—

**“Procedure for the admission of evidence of bad character**

**24A.**—(1) Where a party to the proceedings wishes to obtain the leave of the court under section 100(4) of the 2003 Act to adduce evidence of the bad character of a person other than an accused, he shall apply in the form set out in Schedule 2 to these Rules and the application must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after service on him of prosecution papers by his commanding officer in accordance with rule 11; or
- (b) where that party is the prosecuting authority, not more than 14 days after the preferment of a charge or charges pursuant to section 83B of the Act; or
- (c) where the application concerns a person other than an accused who is invited to give (or has given) evidence for an accused, as soon as reasonably practicable.

(2) A party to the proceedings who receives a copy of an application under paragraph (1) may oppose that application by giving notice in writing to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that application.

(3) Where a prosecutor wishes to adduce evidence of an accused’s bad character he shall give notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after preferment of a charge or charges pursuant to section 83B of the Act.

(4) Where a co-accused wishes to adduce evidence of an accused’s bad character he shall give notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after service on him of prosecution papers by his commanding officer in accordance with rule 11.

(5) Where an accused wishes to apply under section 101(3) of the 2003 Act to exclude evidence of his bad character, he shall apply in the form set out in Schedule 2 to these Rules and the application must be received by the court administration officer and all other parties to the proceedings not more than 14 days after the accused receives a notice under paragraph (3) or (4).

(6) An accused entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(7) The judge advocate may—

- (a) allow a notice or application required under this rule to be given or made in a different form, or orally; or
- (b) reduce a time limit under this rule, or extend it whether or not it has expired,

if it is in the interests of justice to do so.

(8) Where this rule requires a notice or application to be given or made, it may be given or made by fax or other means of electronic communication.

### **Procedure for the admission of hearsay evidence**

**24B.**—(1) Where a party to the proceedings wishes to adduce hearsay evidence on one or more of the grounds in section 114(1) of the 2003 Act, he shall give notice in the form set out in Schedule 2 to these Rules and such notice must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after service on him of prosecution papers by his commanding officer in accordance with rule 11; or
- (b) where that party is the prosecuting authority, not more than 14 days after the preferment of a charge or charges pursuant to section 83B of the Act.

(2) A party to the proceedings who receives a notice under paragraph (1) may oppose the admission of the hearsay evidence by giving notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that notice.

(3) A party entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(4) The judge advocate may—

- (a) dispense with the requirement to give notice of an intention to adduce hearsay evidence;
- (b) allow a notice required under this rule to be given in a different form, or orally; or
- (c) reduce a time limit under this rule, or extend it whether or not it has expired,

if it is in the interests of justice to do so.

(5) Where this rule requires a notice to be given, it may be given by fax or other means of electronic communication.

### **Application of rules 24A and 24B**

**24C.** Rules 24A and 24B shall only apply in relation to proceedings in which no charge has been preferred before 1 July 2005.”.

### **Amendments to the Royal Navy Rules**

**3.**—(1) The Royal Navy Rules are amended as follows.

(2) In rule 2—

(a) after the definition of “the Act” there is inserted—

““the 2003 Act” means the Criminal Justice Act 2003;”; and

(b) for the definition of “the prosecutor” there is substituted—

““the prosecutor” means the prosecuting authority or any prosecuting officer or other person appointed by the prosecuting authority to appear on his behalf;”.

(3) After rule 4 there is inserted—

#### **“Formal preliminary examination**

**4A.**—(1) Where a case in respect of an accused has been forwarded to the prosecuting authority but he has not preferred any charge, the prosecutor may order an examination under this rule and such an examination shall in these Rules be referred to as a formal preliminary examination.

- (2) The order for a formal preliminary examination shall—
  - (a) appoint the date, time and place at which the formal preliminary examination shall take place;
  - (b) state the nature of the allegations against the accused;
  - (c) list the witnesses whom the prosecutor seeks to examine orally; and
  - (d) list the witnesses whose written statements or other record of evidence are to be read out.
- (3) The order shall be served on the accused and the court administration officer not less than 24 hours before the time appointed for the formal preliminary examination.
- (4) On receipt of the order, the court administration officer—
  - (a) shall summon to attend the formal preliminary examination—
    - (i) the witnesses listed in the order whom the prosecutor seeks to examine orally; and
    - (ii) such additional witnesses as the accused may request;
  - (b) may arrange for the attendance at the formal preliminary examination of a court recorder and interpreter.

#### **Conduct of formal preliminary examination**

- 4B.**—(1) A formal preliminary examination shall be conducted by the prosecuting authority or a prosecuting officer appointed by him (“the conducting officer”).
- (2) Subject to paragraph (4) below, each witness whom the prosecutor seeks to examine orally shall be examined by the conducting officer, after which the accused shall be entitled to cross-examine the witness.
  - (3) A signed written statement or other record of the evidence of each witness listed under rule 4A(2)(d) above shall be read out by the conducting officer, unless the accused consents to their inclusion in the record of the examination without being read out.
  - (4) If the case being investigated concerns behaviour of a violent, cruel or sexual nature and the relevant witness is a person under the age of 17, then—
    - (a) the conducting officer may read out any written statement made by or taken from the witness which would be admissible if given orally; and
    - (b) the accused may not cross-examine the witness in person.
  - (5) During the formal preliminary examination the conducting officer may summon any witness to attend the examination and give oral evidence.
  - (6) After paragraphs (2) and (3) above have been complied with, the conducting officer shall explain to the accused—
    - (a) that he may give evidence if he so wishes, but he is not obliged to do so;
    - (b) the consequences of choosing to remain silent; and
    - (c) that he may call witnesses on his behalf.
  - (7) Any witness for the accused (including the accused himself) may give evidence orally but shall not be subject to cross-examination, except that the conducting officer may ask a question where it is necessary to resolve an ambiguity or to enable the evidence to be recorded in a coherent form.
  - (8) Except where the witness is a person under the age of 14, any evidence given orally during the formal preliminary examination shall be given on oath, administered by the conducting officer.

(9) Any evidence given orally during the formal preliminary examination shall be recorded by the conducting officer or a court recorder.

(10) Where the evidence is recorded in writing, the record of his evidence shall be read back to the witness at the conclusion of his evidence, corrected where necessary and signed by him.

(11) A copy of any statement read out in accordance with paragraph (3) or (4) above and the transcript of any shorthand note or mechanical record shall be included in the record of the examination.

(12) After the conclusion of the formal preliminary examination, the conducting officer shall deliver the record of the examination to the prosecuting authority.”.

(4) After rule 21 there is inserted—

**“Procedure for the admission of evidence of bad character**

**21A.**—(1) Where a party to the proceedings wishes to obtain the leave of the court under section 100(4) of the 2003 Act to adduce evidence of the bad character of a person other than an accused, he shall apply in the form set out in Schedule 2 to these Rules and the application must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after service on him of prosecution papers by his commanding officer in accordance with rule 10; or
- (b) where that party is the prosecuting authority, not more than 14 days after the preferment of a charge or charges pursuant to section 52I of the Act; or
- (c) where the application concerns a person other than an accused who is invited to give (or has given) evidence for an accused, as soon as reasonably practicable.

(2) A party to the proceedings who receives a copy of an application under paragraph (1) may oppose that application by giving notice in writing to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that application.

(3) Where a prosecutor wishes to adduce evidence of an accused’s bad character he shall give notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after preferment of a charge or charges pursuant to section 52I of the Act.

(4) Where a co-accused wishes to adduce evidence of an accused’s bad character he shall give notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after service on him of prosecution papers by his commanding officer in accordance with rule 10.

(5) Where an accused wishes to apply under section 101(3) of the 2003 Act to exclude evidence of his bad character, he shall apply in the form set out in Schedule 2 to these Rules and the application must be received by the court administration officer and all other parties to the proceedings not more than 14 days after the accused receives a notice under paragraph (3) or (4).

(6) An accused entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(7) The judge advocate may—

- (a) allow a notice or application required under this rule to be given or made in a different form, or orally; or
- (b) reduce a time limit under this rule, or extend it whether or not it has expired,

if it is in the interests of justice to do so.

(8) Where this rule requires a notice or application to be given or made, it may be given or made by fax or other means of electronic communication.

### **Procedure for the admission of hearsay evidence**

**21B.**—(1) Where a party to the proceedings wishes to adduce hearsay evidence on one or more of the grounds in section 114(1) of the 2003 Act, he shall give notice in the form set out in Schedule 2 to these Rules and such notice must be received by the court administration officer and all other parties to the proceedings—

- (a) where that party is an accused or co-accused, not more than 14 days after service on him of prosecution papers by his commanding officer in accordance with rule 10; or
- (b) where that party is the prosecuting authority, not more than 14 days after the preferment of a charge or charges pursuant to section 52I of the Act.

(2) A party to the proceedings who receives a notice under paragraph (1) may oppose the admission of the hearsay evidence by giving notice in the form set out in Schedule 2 to these Rules to the court administration officer and all other parties to the proceedings not more than 14 days after receiving that notice.

(3) A party entitled to receive a notice under this rule may waive his entitlement by so informing the court administration officer and the party who would otherwise have given the notice.

(4) The judge advocate may—

- (a) dispense with the requirement to give notice of an intention to adduce hearsay evidence;
- (b) allow a notice required under this rule to be given in a different form, or orally; or
- (c) reduce a time limit under this rule, or extend it whether or not it has expired,

if it is in the interests of justice to do so.

(5) Where this rule requires a notice to be given it may be given by fax or other means of electronic communication.

### **Application of rules 21A and 21B**

**21C.** Rules 21A and 21B shall only apply in relation to proceedings in which no charge has been preferred before 1 July 2005.”.

### **Further amendments to the Royal Navy Rules**

**4.**—(1) The Royal Navy Rules are further amended as follows.

(2) In rule 28 for paragraph (1) there is substituted—

“(1) Subject to rule 29 below, the president shall be responsible for ensuring that the trial befits the traditions and standards of the Royal Navy.”.

(3) In rule 29 for paragraph (1) there is substituted—

“(1) The judge advocate shall conduct the court-martial in accordance with the law of England and Wales.”.

(4) In rule 33 paragraph (3) is revoked.

(5) In rule 37(2) sub-paragraph (a) is revoked.

(6) In rule 43 paragraph (5) is revoked.

(7) In rule 44—

- (a) in paragraph (2) for “and the prosecutor and the accused may call any witness to give evidence about the facts of the case.” there is substituted—
  - “and—
  - (a) the judge advocate may direct the prosecutor to call any witness to give evidence, and
  - (b) the prosecutor and the accused may, with the leave of the judge advocate, adduce evidence.”;
- (b) in paragraph (4) for “president” there is substituted “judge advocate”; and
- (c) for paragraph (5) there is substituted—
  - “(5) In the case of an equality of votes on the finding on the issue of fact, the president shall have a second or casting vote.”.
- (8) In rule 53 after paragraph (4) there is inserted—
  - “(5) The judge advocate may question any witness and, if he considers it appropriate, may put to the witness a question from any other member of the court.”.
- (9) Rule 54 is revoked.
- (10) In rule 58(2)—
  - (a) in sub-paragraph (a) after “defence;” there is inserted “and”;
  - (b) in sub-paragraph (b) for “behalf; and” there is substituted “behalf.”; and
  - (c) sub-paragraph (c) is revoked.
- (11) In rule 64 for paragraph (3) there is substituted—
  - “(3) During its deliberation on finding, the court shall not separate until the finding has been reached unless the judge advocate directs that in the interests of justice the court may separate.”.
- (12) In rule 70—
  - (a) in paragraph (1) for “the clerk of the court and any officer” there is substituted “persons”; and
  - (b) for paragraph (4) there is substituted—
    - “(4) The judge advocate shall vote last and the president shall vote immediately before him.”.
- (13) In rule 72 for paragraph (3) there is substituted—
  - “(3) The reasons for sentence shall be given by the judge advocate.”
- (14) In rule 77 paragraph (5) is revoked.
- (15) In Schedule 4—
  - (a) in paragraph 4 after “Almighty God” there is inserted “that I will well and truly try the accused before the court according to the evidence, and”; and
  - (b) paragraph 5 is revoked.
- (16) The amendments made by paragraphs (1) to (15) shall only apply in relation to courts-martial convened on or after 1 July 2005.

### **Forms relating to the admission of evidence of bad character**

- 5.—(1) In Schedule 2 to each of the Army Rules and the Royal Air Force Rules, after “Rules 23,” there is inserted “24A, 24B”.

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(2) In Schedule 2 to the Royal Navy Rules, after “Rules 21,” there is inserted “21A, 21B”.

(3) In Schedule 2 to each of the Army Rules, the Royal Air Force Rules and the Royal Navy Rules, after “Form 9—Form of order by judge advocate to permit inspection of bankers' books” there is inserted—

“Form 10—Form of application for leave to adduce evidence of the bad character of a person other than an accused

Form 11—Form of notice of intention to adduce evidence of accused’s bad character

Form 12—Form of application to exclude evidence of accused’s bad character

Form 13—Form of notice of intention to adduce hearsay evidence

Form 14—Form of notice of intention to oppose admission of hearsay evidence”.

(4) The forms set out in the Schedule to these Rules are inserted after Form 9 in Schedule 2 to each of the Army Rules, the Royal Air Force Rules and the Royal Navy Rules.

8 June 2005

*Don Touhig*  
Parliamentary Under Secretary of State  
Ministry of Defence



SCHEDULE

Rule 5

Form 10

**FORM OF APPLICATION FOR LEAVE TO ADDUCE EVIDENCE OF THE BAD CHARACTER OF A PERSON OTHER THAN AN ACCUSED**  
(Section 100(4) of the 2003 Act)

<i>Details required</i>	<i>Notes</i>
<p><b>1. Details of applicant</b></p> <p>Name:</p> <p>Service No. (if applicable)</p> <p>Unit/address</p> <p><b>2. Case Details</b></p> <p>Name of accused(s):</p> <p>Name of judge advocate (where appointed):</p> <p>Date Court Martial is due to convene:</p> <p>Charges:</p>	<p><i>Give brief details of those charges to which this application applies.</i></p>
<p><b>3. Details of this application</b></p> <p>Please provide the following details</p> <p>(a) the particulars of the bad character evidence including how it is to be introduced or elicited in the proceedings. This should also include the names of the relevant non-accused and all other relevant witnesses; and</p> <p>(b) the grounds of admissibility under section 100 of the 2003 Act.</p>	<p><i>Section 109 of the 2003 Act</i></p> <p><i>Please attach any relevant documentation.</i></p>
<p><b>4. Extension of time</b></p> <p>Are you applying for an extension of time for service? (yes/no)</p> <p>If so please provide details.</p>	
<p>Signed:</p> <p>Dated:</p>	

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**Form 11**

**FORM OF NOTICE OF INTENTION TO ADDUCE EVIDENCE OF ACCUSED'S  
BAD CHARACTER  
(Section 101(1) of the 2003 Act)**

<i>Details required</i>	<i>Notes</i>
<p><b>1. Details of party giving notice</b></p> <p>Name:</p> <p>Whether prosecuting authority or co-accused:</p>	
<p><b>2. Case details</b></p> <p>Name of accused(s):</p> <p>Name of judge advocate (where appointed):</p> <p>Date Court Martial is due to convene:</p> <p>Charges:</p>	<p><i>Give brief details of those charges to which this application applies.</i></p>
<p><b>3. Details of this Notice</b></p> <p>To the named accused:</p> <p>You are hereby given notice that bad character evidence, particulars of which are detailed below, is to be adduced or elicited in these proceedings.</p> <p>The particulars of that bad character evidence are as follows.</p> <p><b>4. Extension of time</b></p> <p>Are you applying for an extension of time for service? (yes/no).</p> <p>If yes, state your reasons.</p>	<p><i>In this section state:</i></p> <p><i>a) a description of the bad character evidence and how it is to be adduced or elicited in the proceedings (including the names of any relevant witnesses); and</i></p> <p><i>b) the grounds for the admission of evidence of the accused's bad character under section 101 of the 2003 Act.</i></p> <p><i>Please attach any relevant documentation.</i></p>
<p>Signed:</p> <p>Dated:</p>	

Form 12

<b>FORM OF APPLICATION TO EXCLUDE EVIDENCE OF ACCUSED'S BAD CHARACTER</b> (Section 101(3) of the 2003 Act)	
<i>Details required</i>	<i>Notes</i>
<b>1. Details of the accused</b>  Name:  Address/unit:  Date of Birth:	
<b>2. Case details</b>  Date Court Martial is due to convene:  Charges:  Date that you were served with the notice that bad character evidence is to be adduced in these proceedings:	
<b>3. Details of the application</b>  Include the following information:  (a) why the admission of bad character evidence would have such an adverse effect on the fairness of the proceedings that the court should not admit it;  (b) details as to the length of time between the matters to which the bad character evidence relates and the matters which form the subject of the offence charged;  (c) if you are applying for the exclusion of this evidence on grounds other than section 101(3) of the 2003 Act, please set out such objections.	Note that an application to exclude this evidence under section 101(3) of the 2003 Act can only be made if you have been notified of a party's intention to adduce this evidence under subsection 101(1)(d) (it is relevant to an important matter in issue between the accused and the prosecution) or subsection 101(1)(g) (that the accused has made an attack on another person's character).  Section 101(4) of the 2003 Act.
<b>4. Extension of time</b>  Are you applying for an extension of time for service (yes/no)  If so, state your reasons	
Signed:  Dated:	

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**Form 13**

**FORM OF NOTICE OF INTENTION TO ADDUCE HEARSAY EVIDENCE  
(Section 114(1) of the 2003 Act)**

<i>Details required</i>	<i>Notes</i>
<p><b>1. Details of party giving notice</b></p> <p>Name:</p> <p>Whether prosecuting authority, accused or co-accused:</p> <p><b>2. Case details</b></p> <p>Name of accused(s):</p> <p>Name of judge advocate (where appointed):</p> <p>Date Court Martial is due to convene:</p> <p>Charges:</p>	<p><i>Give brief details of those charges to which this application applies.</i></p>
<p><b>3. Details of this Notice</b></p> <p>Notice is hereby given of my intention to adduce hearsay evidence in these proceedings, particulars of which are detailed below.</p> <p>The particulars of the hearsay evidence are as follows:</p> <p>a. Details of hearsay evidence to be adduced.</p> <p>b. Specific grounds under s.114(1) of the 2003 Act relied upon.</p> <p>c. Further details of grounds (if appropriate)</p> <p><b>4. Extension of time</b></p> <p>Are you applying for an extension of time for service? (yes/no).</p> <p>If yes, state your reasons.</p>	<p><i>In this section enter:</i></p> <p><i>a) a detailed description of the hearsay evidence to be adduced; and</i></p> <p><i>b) the grounds for the admission of hearsay evidence under section 114(1) of the 2003 Act.</i></p> <p><i>c) where the ground relied upon is that it is in the interests of justice for it to be admitted (s.114(1)(d)) the relevant factors to which the court must have regard in s.114(2) are to be set out.</i></p> <p><i>Please attach any relevant documentation.</i></p>
<p>Signed:</p> <p>Dated:</p>	

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Form 14

FORM OF NOTICE OF INTENTION TO OPPOSE ADMISSION OF HEARSAY EVIDENCE

<i>Details required</i>	<i>Notes</i>
<p><b>1. Details of party opposing the admission of hearsay evidence</b></p> <p>Name:</p> <p>Whether prosecuting authority, accused or co-accused:</p>	
<p><b>2. Case details</b></p> <p>Date Court Martial is due to convene:</p> <p>Charges:</p> <p>Date that you were served with the notice of intention to adduce hearsay evidence:</p> <p><b>3. Details of this notice</b></p> <p>Include the following information:</p> <p>a. Details of the hearsay evidence that you want to exclude.</p> <p>b. Grounds for excluding the evidence:</p>	<p><i>Give a description of the hearsay evidence that you want to exclude from the proceedings. Specify whether you object to all or part of that evidence.</i></p> <p><i>Set out the grounds for excluding the hearsay evidence that you object to. Any relevant skeleton argument or case law that might bear on the issue may be attached to this notice.</i></p>
<p><b>4. Extension of time</b></p> <p>Are you applying for an extension of time within which to give notice (yes/no)</p> <p>If so, state your reasons</p>	
<p>Signed:</p> <p>Dated:</p>	

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

### ***General***

These Rules make amendments to the Courts-Martial (Army) Rules 1997, the Courts-Martial (Royal Air Force) Rules 1997, and the Courts-Martial (Royal Navy) Rules 1997 (“the Courts-Martial Rules”).

### ***Definition of “the prosecutor”***

Rules 2(2) and 3(2) amend rule 2 of each of the Courts-Martial Rules to include within the definition of “the prosecutor” persons other than prosecuting officers who may be appointed to appear on behalf of the prosecuting authority.

### ***Procedure for the admission of evidence of bad character and hearsay evidence***

Rules 2(3) and 3(4) insert new rules into each of the Courts-Martial Rules to provide for the admission of evidence of bad character and hearsay evidence under Chapters 1 and 2 of Part 11 of the Criminal Justice Act 2003. By virtue respectively of section 113 and Schedule 6, and section 135 and Schedule 7, of that Act, Chapters 1 and 2 have effect, subject to modification, in relation to proceedings before courts-martial. Rule 5 of these Rules inserts the forms relating to the admission of evidence of bad character and hearsay evidence into each of the Courts-Martial Rules. The new rules only apply to proceedings in relation to which the charge is preferred on or after 1 July 2005.

### ***Formal preliminary examination***

Rule 3(3) also inserts new rules into the Courts-Martial (Royal Navy) Rules 1997, derived from the Courts-Martial (Army) Rules 1997 and the Courts-Martial (Royal Air Force) Rules 1997, to make provision for the procedures, conduct and recording of formal preliminary examinations.

### ***Miscellaneous amendments***

Rule 4 makes further amendments to the Courts-Martial (Royal Navy) Rules 1997 relating mainly to the respective roles of the judge advocate and the president of a court-martial.