

SCHEDULE 2

TRANSITIONAL PROVISIONS

PART 2

STEPS TAKEN BEFORE COMMENCEMENT

Service of documents

4. Any document served on a person before commencement, which would have been served on him in accordance with any provision of these Rules if that provision had then been in force, is to be treated as having been served on him in accordance with that provision.

Court administration officers

5. Anything done before commencement by a court administration officer within the meaning of any of the SDAs, which would have been done in accordance with any provision of these Rules if it had been done by the court administration officer within the meaning of the 2006 Act and that provision had then been in force, is to be treated as having been done by the court administration officer in accordance with that provision.

Prosecuting officers

6. Anything done before commencement by—
- (a) the prosecuting authority for the Royal Navy, the Army or the Royal Air Force, or
 - (b) a prosecuting officer (within the meaning of any of the SDAs),

which would have been done in accordance with any provision of these Rules if it had been done by the Director and that provision had then been in force, is to be treated for the purpose of these Rules as having been done by the Director in accordance with that provision.

Legal representatives

7.—(1) Anything done before commencement by a person's legal representative within the meaning of court-martial rules, which would have been done in accordance with any provision of these Rules if it had been done by the person's legal representative within the meaning of these Rules and that provision had then been in force, is to be treated for the purpose of these Rules as having been done by the person's legal representative in accordance with that provision.

(2) A person who, immediately before commencement, was a person's legal representative (within the meaning of court-martial rules) is to be treated as having been appointed under rule 39.

Arraignment

8. Where—
- (a) a defendant was arraigned on a charge under section 91A(2) of AA 1955 or AFA 1955, or section 58A(2) of NDA 1957, and
 - (b) the charge is allocated for Court Martial trial,

the defendant is to be regarded for the purposes of these Rules as having been arraigned, and as having pleaded not guilty to the charge, in preliminary proceedings.

Directions etc

9.—(1) A direction, order or ruling given or made in a preliminary hearing by the judge advocate (within the meaning of court-martial rules) has effect in related proceedings as if made in preliminary proceedings by the judge advocate for those proceedings.

(2) Proceedings are “related proceedings” in relation to a preliminary hearing if, had the hearing been preliminary proceedings, they would have been related proceedings in relation to those proceedings.

(3) A summons issued under court-martial rules shall have effect as if issued under these Rules.

(4) A direction given before commencement which, had it been given after commencement, would have been a direction under rule 30 (additional lay members), has effect as if given under that rule.

(5) In rule 50(1) (appeals from preliminary proceedings) the reference to preliminary proceedings includes a preliminary hearing.

(6) In rule 154 (appeals from orders restricting public access etc.) references to an order or direction include an order made, or a direction given, by—

- (a) a court-martial; or
- (b) a judge advocate in a preliminary hearing.

Changes to legislation:

There are currently no known outstanding effects for the The Armed Forces (Court Martial) Rules 2009, PART 2.