
STATUTORY INSTRUMENTS

2009 No. 2044

The Court Martial (Prosecution Appeals) Order 2009

PART 1

Preliminary

Citation, commencement, application and revocations

1.—(1) This Order may be cited as the Court Martial (Prosecution Appeals) Order 2009 and shall come into force on 31st October 2009.

(2) This Order shall only apply in relation to trial proceedings which commence after commencement.

(3) For the purposes of this Order, trial proceedings commence immediately after the last court member has been sworn.

(4) The 2006 Order and the Courts-Martial (Prosecution Appeals) (Supplementary Provisions) Order 2006(1) are revoked.

Interpretation

2.—(1) In this Order—

“the 1968 Act” means the [Court Martial Appeals Act 1968](#)(2);

“the 2006 Act” means the Armed Forces Act 2006;

“the 2006 Order” means the Courts-Martial (Prosecution Appeals) Order 2006(3);

“accused” means a party in whose favour the ruling which is the subject of the appeal was made;

“appeal” means an appeal against a ruling to which article 4(1) applies and “application for leave to appeal” should be construed accordingly;

“charge” means a charge regarded for the purposes of Part 5 of the 2006 Act as allocated for Court Martial trial;

“commencement” means the date on which this Order comes into force;

“the Director” means the Director of Service Prosecutions;

“DX” means document exchange;

“interested party” means a person other than the accused who—

(a) is a party to the trial proceedings;

(b) may be affected by the decision of the judge advocate under article 5(1) as to whether or not the appeal should be expedited; and

(1) [S.I. 2006/1788](#)

(2) [1968 c. 20](#). The short title of this Act is amended by paragraph 53 of Schedule 8 to the 2006 Act.

(3) [S.I. 2006/1786](#)

(c) is permitted by the judge advocate or the Court Martial Appeal Court to make representations on that issue;

“the judge advocate” in relation to any proceedings, means the judge advocate specified for the proceedings under section 155(5) of the Armed Forces Act 2006;

“legal representative” means a person appointed under article 12;

“live link” means an arrangement by which a person, when not in the place where proceedings are being held, is able to see and hear, and to be seen and heard by, the court during proceedings (and for this purpose any impairment of eyesight or hearing is to be disregarded);

“programme service” has the same meaning as in the [Broadcasting Act 1990](#)(4);

“public interest ruling” means an order under article 4(6), 13(8) or 14(5) of the Criminal Procedure and Investigations Act 1996 (Application to the Armed Forces) Order 2009(5);

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme is to be taken to be so addressed), but does not include a charge sheet or other document prepared for use in particular legal proceedings;

“the registrar” means the registrar of the Court Martial Appeal Court;

“relevant programme” means a programme included in a programme service;

“relevant time” means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred;

“ruling” includes a decision, determination, direction, finding, notice, order, refusal, rejection or requirement;

“a single judge” means a single judge of the Court Martial Appeal Court;

“trial proceedings” has the same meaning as in rules made under section 163 of the 2006 Act.

(4) [1990 c. 42.](#)
(5) [S.I. 2009/988](#)