
STATUTORY INSTRUMENTS

2009 No. 2657

The Court Martial Appeal Court Rules 2009

PART 7

**APPEALS AGAINST CONVICTION, SENTENCE, FINDING OF
INSANITY OR UNFITNESS TO PLEAD OR HOSPITAL ORDER**

Application for permission to appeal

- 46.**—(1) The appeal notice must be in the form set out in Schedule 2 and must—
- (a) include the required information;
 - (b) state the name of the judge advocate in the proceedings of the Court Martial;
 - (c) state and give the date of—
 - (i) the conviction, verdict, or finding,
 - (ii) the sentence, or
 - (iii) the order,about which the appellant wants to appeal;
 - (d) state each ground of appeal on which the appellant relies, numbering them consecutively (if there is more than one), and concisely outlining each argument in support;
 - (e) identify the transcript that the appellant thinks the court will need, if the appellant wants to appeal against a conviction;
 - (f) identify the relevant sentencing powers of the Court Martial, if sentencing is in issue;
 - (g) where the Commission refers a case to the court, explain how each ground of appeal relates (if it does) to the reasons for the reference;
 - (h) summarise the relevant facts;
 - (i) identify any authorities the appellant considers relevant;
 - (j) include or attach any application for the following, with reasons—
 - (i) permission to appeal, if the appellant needs the court's permission;
 - (ii) an extension of time within which to serve the appeal notice ^{M1};
 - (iii) permission to adduce evidence, including hearsay evidence and evidence of bad character;
 - (iv) an order requiring a witness to attend court;
 - (k) state whether the appellant wishes to be present when the court considers the appeal;
 - (l) identify any other document or thing that the appellant thinks the court will need to decide the appeal.
- (2) If the appellant wants the court to make an order for the attendance of a witness the following information must be attached to the appeal notice—

- (a) the name and address of the witness if known to the appellant;
 - (b) whether the witness was examined by the Court Martial;
 - (c) if the witness was not examined by the Court Martial, the reasons why not, if known to the appellant; and
 - (d) a summary of the evidence the appellant expects the witness to give.
- (3) An attachment to the appeal notice must also—
- (a) contain any application to be made to the court for a declaration of incompatibility under section 4 of the 1998 Act; or
 - (b) specify any issue for the court to decide which may lead to the court making such a declaration.
- (4) The appeal notice must be signed by the appellant or his legal representative.

Marginal Citations

- M1** [Section 9\(3\)](#) of the 1968 Act provides that the court may extend the period within which an application for leave to appeal under section 9 must be made. Sections 36 and 36A of the 1968 Act provide that that power to extend the period may be exercised by a judge of the court or the registrar.

Changes to legislation:

There are currently no known outstanding effects for the The Court Martial Appeal Court Rules 2009, Section 46.