

**2013 No. 2524**

**COURTS-MARTIAL (APPEALS)**

**The Court Martial Appeal Court (Interpretation and Translation)  
Rules 2013**

<i>Made</i> - - - -	<i>3rd October 2013</i>
<i>Laid before Parliament</i>	<i>4th October 2013</i>
<i>Coming into force</i> - -	<i>27th October 2013</i>

The Lord Chief Justice, in exercise of the power conferred by section 49 of the Court Martial Appeals Act 1968(a), including that section as extended by section 163(9) of the Armed Forces Act 2006(b), and with the agreement of the Lord Chancellor, makes the following Rules:

**Citation and commencement**

1. These Rules may be cited as the Court Martial Appeal Court (Interpretation and Translation) Rules 2013 and shall come into force on 27th October 2013.

**Court Martial Appeal Court rules**

2. The Court Martial Appeal Court Rules 2009(c) are amended as follows.

3. For rule 16 (interpreters) substitute—

**“Interpretation, translation and communication through an intermediary**

**16.**—(1) Where a person to whom proceedings relate is due to attend a hearing, the registrar, where satisfied that the person needs interpretation, must appoint an interpreter to act at the hearing.

(2) Before an interpreter begins to act at a hearing, an oath or affirmation must be administered to the interpreter.

(3) Before an interpreter is sworn or makes his affirmation, the interpreter’s name must be read out, and any party to the proceedings may object to the interpreter on any reasonable ground.

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- (a) 1968 c. 20; section 49 was amended and partly repealed by the Constitutional Reform Act 2005 (c. 4), section 12(2) and Schedule 1, Part 2, paragraph 9 and by section 146 and Schedule 18, Part 1. The amendments provide for rules under section 49 to be made in accordance with Part 1 of Schedule 1 to the 2005 Act. The short title of the former Courts-Martial (Appeals) Act 1968 was changed to the Court Martial Appeals Act 1968 by the Armed Forces Act 2006 (c. 52), Schedule 8, paragraph 53.
- (b) 2006 c. 52. By section 163(3)(i) of that Act, Court Martial rules may make provision for appeals against orders or rulings as there set out. Section 163(9) of that Act enables Court Martial rules to confer jurisdiction on the Court Martial Appeal Court and confirms that rules under section 49 of the 1968 Act may make provision about the powers of the Court Martial Appeal Court in relation to appeals made by virtue of section 163(3)(i).
- (c) S.I. 2009/2657.

(4) If the court upholds any such objection, the interpreter shall not be sworn or make his affirmation, and the registrar must appoint another interpreter.

(5) On application or on its own initiative, the court may require a written translation of any document or part of a document to be provided for a person to whom proceedings relate, and who needs interpretation, unless—

- (a) translation of that document, or part, is not needed to explain the issues arising in the proceedings in relation to the person; or
- (b) the person agrees to do without, and the court is satisfied—
  - (i) that the agreement is clear and voluntary; and
  - (ii) that the person has had legal advice or otherwise understands the consequences.

(6) On application by a person to whom proceedings relate, the court must give any direction which it thinks appropriate, including a direction for interpretation by a different interpreter, where—

- (a) no interpreter is appointed, or no interpretation provided;
- (b) no translation is ordered, or provided, in response to a previous application by the person; or
- (c) the person complains about the quality of any interpretation or translation provided.

(7) In relation to a person who has a hearing or speech impediment, references in these Rules to an interpreter include a person appointed—

- (a) to communicate to the person anything said at the hearing, and explain it so far as necessary to enable the person to understand it, or
- (b) to communicate any answers given by the person, and any other matters that the person seeks to convey, and explain them so far as necessary to enable the court and others present at the hearing to understand them,

and references to interpretation shall be construed accordingly.

(8) In this rule references to acting at a hearing include assisting the person to communicate with the person's legal representative during the hearing; and in relation to such assistance paragraph (7)(b) has effect as if the reference to the court and others present at the hearing were to the legal representative.

(9) The registrar must record, by such means as the Lord Chancellor directs—

- (a) the identity of any interpreter;
- (b) any decision on an application under paragraph (5);
- (c) any agreement under paragraph (5)(b) to do without a written translation of a document or part of a document; and
- (d) any direction given under paragraph (6).”.

*Judge, C.J.*

26th September 2013

I agree to the making of these Rules, which shall come into force on 27th October 2013

*Chris Grayling*  
Lord Chancellor

3rd October 2013

## **EXPLANATORY NOTE**

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

These Rules amend the Court Martial Appeal Court Rules 2009 (S.I. 2009/2657) so as to give effect to Directive 2010/64/EU of the European Parliament and of the Council of 20th October 2010 on the right to interpretation and translation in criminal proceedings. They require the provision, where necessary, of interpretation and translation services for persons accused or convicted of service offences who need such services at an appeal, including persons with hearing or speech impediments. These amendments come into force on 27th October 2013.

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