

2015 No. 1814

COURT MARTIAL (APPEALS)

The Court Martial Appeal Court (Amendment) Rules 2015

Made - - - - *21st October 2015*

Laid before Parliament *23rd October 2015*

Coming into force - - *16th November 2015*

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 (Amendment) Rules 2015 and shall come into force on 16th November 2015.

Court Martial Appeal Court rules

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

3. In paragraph (2) of rule 2 (interpretation), after the definition of “the commission” insert—

““the complainant”, in relation to any offence (or alleged offence), means a person against or in relation to whom the offence was (or is alleged to have been) committed;”.

4. After rule 16 (interpreters), insert—

“Interpretation and translation for witnesses other than a person to whom proceedings relate

16A.—(1) Where the complainant is due to attend a hearing as a witness, the registrar, where satisfied that the person needs interpretation, must appoint an interpreter to act at the hearing.

(2) The registrar may also appoint an interpreter for any other witness who is required to give evidence at a hearing, other than a person to whom proceedings relate.

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- (a) 1968 c. 20; section 49 was amended and partly repealed by the Constitutional Reform Act 2005 (c. 4), section 12(2) and Schedule 1, Part 2, paragraph 9 and by section 146 and Schedule 18, Part 1.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), section 272(2) and 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, amended by S.I. 2013/2524.

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

(4) 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.

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

(6) 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 complainant or other person (other than a person to whom proceedings relate) who attends a hearing as a witness and who needs interpretation.

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

- (a) the identity of any interpreter; and
- (b) any decision on an application under paragraph (6)."

Thomas of Cwmgiedd, C.J

21st October 2015

I agree to the making of these Rules, which shall come into force on 16th November 2015.

Michael Gove
Lord Chancellor

21st October 2015

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 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57-73), articles 3 and 7. The 2009 Rules 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. These Rules extend similar provision to the complainant when due to attend a hearing as a witness, and also give the registrar power to appoint an interpreter for other witnesses. These amendments come into force on 16th November 2015.

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