STATUTORY INSTRUMENTS

2015 No. 726

DEFENCE

The Court Martial and Service Civilian Court (Youth Justice and Criminal Evidence Act 1999) (Amendment) Rules 2015

Made - - - -	*16th March 2015*
Laid before Parliament	*18th March 2015*
Coming into force in accordance with rule 1	

The Secretary of State makes the following Rules in exercise of the powers conferred by sections 163 and 288 of the Armed Forces Act 2006(**1**) and section 65(1) of the Youth Justice and Criminal Evidence Act 1999(**2**).

Citation and commencement

1. These Rules may be cited as the Court Martial and Service Civilian Court (Youth Justice and Criminal Evidence Act 1999) (Amendment) Rules 2015 and come into force on the day on which, and immediately after, section 78 of the Criminal Justice and Courts Act 2015(**3**) comes into force.

Interpretation

2. In these Rules "the 2009 Rules" means the Court Martial and Service Civilian Court (Youth Justice and Criminal Evidence Act 1999) Rules 2009(**4**).

Amendments to Part 1 of the 2009 Rules

3. In paragraph (1) of rule 3 (interpretation) of the 2009 Rules—

(a) in the definition of "legal representative", for "SCC Rules." substitute "SCC Rules;";

(b) after the definition of "legal representative", insert—

""person concerned in the proceedings" means—

(**1**) 2006 c. 52.
(**2**) 1999 c. 23; the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) Order 2009 (S.I. 2009/2083) made under section 61(1) and (2) of the 1999 Act modifies the effect of Chapter 4 of Part 2 of that Act (and sections 62, 63 and 65 so far as having effect for the purpose of that Chapter) for the purposes of proceedings before service courts.. In particular, article 13(3) of the 2009 Order modifies the power in section 65(1) to enable the making of rules of the Court Martial and of the Service Civilian Court.
(**3**) 2015 c. 2.
(**4**) S.I. 2009/2100.

(a) in relation to an application in any proceedings for a direction under section 45(3), or an excepting direction under section 45(4) or (5) of the 1999 Act, a person falling within section 45(7) of that Act;

(b) in relation to an application in any proceedings for a reporting direction under section 45A(2), or an excepting direction under section 45A(10), of the 1999 Act, a person falling within section 45A(3) of that Act;

(c) in relation to an application in any proceedings for a reporting direction under section 46(2), or an excepting direction under section 46(9), of the 1999 Act, a witness falling within section 46(1) of that Act;

"reporting direction" means, unless otherwise specified, a reporting direction under section 45A(2) or 46(2) of the 1999 Act.".

Amendments to Part 4 of the 2009 Rules

4. For rule 9 (application for a reporting direction under section 46(6) of the 1999 Act) of the 2009 Rules substitute—

"**Application for a direction under section 45(3) of the 1999 Act or for a reporting direction**

9.—(1) An application in any proceedings for a direction under section 45(3) of the 1999 Act or for a reporting direction under section 45A(2) of that Act may be made by any person who in the view of the judge advocate has a legitimate interest in making such an application(**5**).

(2) Subject to rule 11, an application in any proceedings in relation to a person concerned in the proceedings for a direction under section 45(3) of the 1999 Act or for a reporting direction must be made in writing.

(3) A written application for a direction under section 45(3) of the 1999 Act must include the information specified in paragraphs (6) and (7).

(4) A written application for a reporting direction under section 45A(2) of the 1999 Act must include the information specified in paragraphs (6), (7) and (8).

(5) A written application for a reporting direction under section 46(2) of the 1999 Act must include the information specified in paragraphs (6) and (8).

(6) For the purposes of paragraphs (3), (4) and (5), the specified information is—

(a) the name, address and date of birth of the person concerned in the proceedings (or the reason for not giving these details);

(b) brief details of the charges to which the application applies;

(c) whether the application needs to be determined urgently, and if so why and by when.

(7) For the purposes of paragraphs (3) and (4), the specified information is—

(a) the grounds on which the applicant asserts that publication of any matter relating to the person concerned in the proceedings is likely to lead members of the public to identify that person as a person concerned in the proceedings;

(**5**) An application for a reporting direction under section 46(2) of the 1999 Act may be made by a party to the proceedings (see section 46(1) of that Act).

(b) whether making the direction or reporting direction sought in relation to the person concerned in the proceedings is in the interests of the welfare of that person.

(8) For the purposes of paragraphs (4) and (5), the specified information is—

(a) the grounds on which the applicant asserts that, if a reporting direction is not given—

(i) the quality of the evidence given by the person concerned in the proceedings, or

(ii) the level of co-operation given by that person to any party to the proceedings in the preparation of that party's case,

is likely to be diminished by fear or distress on the part of that person in connection with being identified by members of the public as a person concerned in the proceedings; and

(b) why a reporting direction—

(i) is in the interests of justice; or

(ii) is in the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of proceedings.

(9) If an application for a direction under section 45(3) of the 1999 Act or for a reporting direction is made in writing, the applicant must—

(a) send it to the court administration officer; and

(b) at the same time, send copies of it to every party or, as the case may be, every other party to the proceedings.".

5. For rule 10 (opposing an application for a reporting direction) of the 2009 Rules substitute—

"**Opposing an application for a direction under section 45(3) of the 1999 Act or for a reporting direction**

10.—(1) If an application for a direction under section 45(3) of the 1999 Act or for a reporting direction is made in writing, any party to the proceedings who wishes to oppose that application must notify the applicant and the court administration officer in writing of his or her opposition and give reasons for it.

(2) A person opposing an application for a direction under section 45(3) of the 1999 Act must include in the written notification the information specified in paragraphs (5) and (6).

(3) A person opposing an application for a reporting direction under section 45A(2) of the 1999 Act must include in the written notification the information specified in paragraphs (5), (6) and (7).

(4) A person opposing an application for a reporting direction under section 46(2) of the 1999 Act must include in the written notification the information specified in paragraphs (5) and (7).

(5) For the purposes of paragraphs (2), (3) and (4), the specified information is whether he or she disputes that the person concerned in the proceedings is eligible for protection under section 45, 45A or 46 of the 1999 Act.

(6) For the purposes of paragraphs (2) and (3), the specified information is whether he or she disputes that—

(a) publication of any matter relating to the person concerned in the proceedings is likely to lead members of the public to identify that person as a person concerned in the proceedings; or