

**EXPLANATORY MEMORANDUM TO
THE COURTS-MARTIAL APPEAL (AMENDMENT NO.2) RULES 2007**

2007 No. 1298

1. This explanatory memorandum has been jointly prepared by the Ministry of Defence and the Department for Constitutional Affairs and is laid before both Houses of Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 This instrument amends the reference to “a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland” in Rule 8C of the Courts-Martial Appeal Rules 1968 (S.I. 1968/1071) to “a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland”.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 This instrument corrects a drafting error in the Courts-Martial Appeal (Amendment) Rules 2007 (S.I. 2007/710).

4. **Legislative Background**

4.1 The Courts-Martial Appeal (Amendment) Rules 2007, with the Courts-Martial (Review of Sentencing) Regulations 2007 (S.I. 2007/660) and the Courts-Martial (Review of Sentencing) (Categories of Offences) Order 2007 (S.I. 2007 /711), enable the Attorney-General to refer a case in respect of a specified offence for review where he considers a court-martial has passed an unduly lenient sentence. The avenue of referral is to the Courts-Martial Appeals Court (CMAC). In cases referred to it, the CMAC will be able to substitute another sentence that would have been available to a court-martial. The provisions apply to courts-martial and the CMAC in respect of sentences preferred on or after 31st March 2007.

4.2 The Courts-Martial Appeal (Amendment) Rules 2007 amend the Courts-Martial Appeal Rules (S.I. 1968/1071) to take account of the person to whose sentencing such a reference or application relates so they can obtain from the registrar any document or thing required for the reference or application. The instrument makes provision broadly equivalent to Part 70 of the Criminal Procedure Rules 2005.

5. Extent

5.1 This instrument applies to proceedings before a court-martial and to the Courts-Martial Appeals Court whether sitting in the United Kingdom or elsewhere.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 No consultation has been conducted in relation to this instrument as it corrects a drafting error in a previous S.I.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Mrs S J McIntosh at the Ministry of Defence can answer any queries regarding the instrument. Her contact details are:

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