



STATUTORY INSTRUMENTS.

S.I. No. 579 of 2011



COURTS-MARTIAL (LEGAL AID) (AMENDMENT) REGULATIONS
2011

(Prn. A11/2046)

S.I. No. 579 of 2011

COURTS-MARTIAL (LEGAL AID) (AMENDMENT) REGULATIONS
2011

I, ALAN SHATTER, Minister for Defence, in exercise of the powers conferred on me by section 33 (as amended by section 11 of the Defence (Amendment) Act 2011 (No. 17 of 2011)) of the Courts-Martial Appeals Act 1983 (No. 19 of 1983), hereby make the following regulations:

1. (1) These Regulations may be cited as the Courts-Martial (Legal Aid) (Amendment) Regulations 2011.

(2) The Courts-Martial (Legal Aid) Regulations 2008 to 2010 and these Regulations may be cited together as the Courts-Martial (Legal Aid) Regulations 2008 to 2011 and shall be construed together as one.

2. In these Regulations, “Principal Regulations” means the Courts-Martial (Legal Aid) Regulations 2008 (S.I. No. 206 of 2008).

3. Regulation 2 of the Principal Regulations is amended by substituting the following definition for the definition of “military judge”:

“ ‘military judge’ has the meaning assigned to it by the Principal Act;”.

4. The Principal Regulations are amended by inserting the following Regulation after Regulation 3:

“3A. For the purposes of Regulation 3, the prescription under that Regulation of a military judge as the prescribed authority for the purposes of Part III of the Principal Act includes, as such prescribed authority, a Circuit Judge who—

(a) has been designated under section 11A of the Act of 1947 to carry out the functions of a military judge, and

(b) pursuant to such designation, is presiding at the Summary Court-Martial.”.

5. Schedule 1 to the Principal Regulations is amended—

(a) by substituting the form set out in Schedule 1 for Form A,

(b) by substituting the form set out in Schedule 2 for Form B,

(c) by substituting the form set out in Schedule 3 for Form C(1), and

(d) by substituting the form set out in Schedule 4 for Form D(1).

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th November, 2011.*

SCHEDULE 1

“Form A

LEGAL AID (PRELIMINARY PROCEEDINGS) CERTIFICATE

Summary Court-Martial

sitting at

Application having been made to the Summary Court-Martial by or on behalf of

No.Rank

Name.....

Unit, who is charged pursuant to the Defence Act 1954 with

.....

.....

for a Legal Aid (Preliminary Proceedings) Certificate, and it appearing to the Summary Court-Martial that his or her means are insufficient to enable him or her to obtain legal aid and that by reason of

Tick one as appropriate

- the gravity of the charge,
- exceptional circumstances,
- the gravity of the charge and exceptional circumstances,

it is essential in the interests of justice that he or she should have legal aid at the investigation of the charge or the taking down of the evidence, or at both, the Summary Court-Martial hereby grants in respect of him or her this legal aid certificate, and assigns to him or her as solicitor

.....

(a) The Summary Court-Martial directs in addition the assignment of counsel.

Dated this day of 20 .

*Military Judge, the Summary Court-Martial/*Circuit Judge

**Delete where inapplicable*

Notes:

(a) Delete unless the Summary Court-Martial thinks fit that counsel should be assigned.”.

SCHEDULE 2

“Form B

LEGAL AID (COURT-MARTIAL) CERTIFICATE

Summary Court-Martial

sitting at

Application having been made to the Summary Court-Martial by or on behalf of

No. Rank.....

Name.....

Unit, who has appealed to the Summary Court-Martial pursuant to section 178E of the Defence Act 1954, or has been ordered to be tried by court-martial upon a charge (charges) of

.....
.....

for a Legal Aid (Court-Martial) Certificate, and it appearing to the Summary Court-Martial that his or her means are insufficient to enable him or her to obtain legal aid and

Tick one as appropriate

- the trial is on a charge of an offence for which he or she would be required on conviction to be sentenced to imprisonment for life,
- having regard to all the circumstances of the case (including the nature of such defence, if any, as may have been set up or appeal, as the case may be), it is essential in the interests of justice that he or she should have legal aid in the preparation and conduct of his or her defence at the trial or of his or her appeal, as the case may be,

the Summary Court-Martial hereby grants in respect of him or her this legal aid certificate, and assigns to him or her as solicitor

.....

(a) The Summary Court-Martial directs in addition the assignment of (b) counsel.

Dated this day of 20 .

*Military Judge, the Summary Court-Martial/*Circuit Judge

**Delete where inapplicable*

Notes:

(a) Delete unless the Summary Court-Martial thinks fit that counsel should be assigned.

(b) Where the Summary Court-Martial thinks fit that counsel should be assigned, insert one or two, as appropriate.”.

SCHEDULE 3

“Form C(1)

**LEGAL AID (CASE STATED) CERTIFICATE
(GRANTED BY THE SUMMARY COURT-MARTIAL)**

Summary Court-Martial

sitting at

Application having been made to the Summary Court-Martial by or on behalf of

No. Rank.....

Name

Unit

for a Legal Aid (Case Stated) Certificate, and it appearing to the Summary Court-Martial that his or her means are insufficient to enable him or her to obtain legal aid and that, by reason of—

Tick one as appropriate

- the serious nature of the offence with which the person is charged, or
- exceptional circumstances,

it is essential in the interests of justice that a legal aid (case stated) certificate should be granted in respect of the person, the Summary Court-Martial hereby grants this legal aid certificate and assigns to the person as solicitor

The Summary Court-Martial directs in addition the assignment of (a) counsel.

Dated this day of 20 .

*Military Judge, the Summary Court-Martial/*Circuit Judge

**Delete where inapplicable*

Notes:

(a) Insert one or two, as appropriate.”.

SCHEDULE 4

“Form D(1)

**LEGAL AID (COURTS-MARTIAL APPEAL COURT) CERTIFICATE
(GRANTED BY THE SUMMARY COURT-MARTIAL)**

Summary Court-Martial

sitting at

Application having been made to the Summary Court-Martial by or on behalf of

No. Rank.....

Name

Unit....., who

Tick one as appropriate

has been convicted by court-martial of

.....

who has appealed against the finding and/or the decision of the court-martial,
pursuant to section 202 or 203 of the Defence Act 1954, of (a)

.....

for a Legal Aid (Courts-Martial Appeal Court) Certificate, and it appearing to the
Summary Court-Martial that his or her means are insufficient to enable him or her to
obtain legal aid and

Tick one as appropriate

the conviction is of an offence for which he or she would be required on
conviction to be sentenced to imprisonment for life,

that, by reason of the serious nature of the offence or of exceptional
circumstances, it is essential in the interests of justice that he or she should have
legal aid in the preparation and conduct of an appeal,

the Summary Court-Martial hereby grants in respect of him or her this legal aid
certificate and assigns to him or her as solicitor

.....

The Summary Court-Martial directs in addition the assignment of (b) counsel.

Dated this day of 20 .. .

*Military Judge, the Summary Court-Martial/*Circuit Judge

**Delete where inapplicable*

Notes:

(a) State whether the reason is—

(1) found unfit to take his or her trial pursuant to section 202 of the Defence Act 1954, or

(2) found not guilty by reason of insanity pursuant to section 203 of the Defence Act 1954, or

(3) the decision of the court-martial to make or not to make an order of committal under section 202 or 203 of the Defence Act 1954.

(b) Insert one or two, as appropriate.”.



GIVEN under my Official Seal,
12 November 2011.

ALAN SHATTER,
Minister for Defence.

EXPLANATORY NOTE

(This is not part of the Instrument and does not purport to be a legal interpretation.)

These Rules amend the First Schedule to the Courts-Martial (Legal Aid) Regulations 2008 (S.I. No. 206 of 2008).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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