

1982 No. 369**DEFENCE****The Rules of Procedure (Army) (Amendment) Rules 1982**

Made - - - - - 10th March 1982
Laid before Parliament 18th March 1982
Coming into Operation in accordance with Rule 1

The Secretary of State, in exercise of the powers conferred on him by sections 103, 105 and 106 of the Army Act 1955(a), and of all other powers enabling him in that behalf, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Rules of Procedure (Army) (Amendment) Rules 1982 and shall come into operation on such date as sections 2 and 5 of the Armed Forces Act 1981(b) come into force.

Amendment

2. The Rules of Procedure (Army) 1972(c) shall be further amended in the manner and to the extent prescribed in the Schedule to these Rules.

Dated this 10th day of March 1982.

Trenchard,
 Minister of State,
 Ministry of Defence.

SCHEDULE**AMENDMENTS TO THE RULES OF PROCEDURE (ARMY) 1972**

1. The proviso to Rule 7(1) shall be amended as follows:—

(a) In sub-paragraph (b) after “Rule 8;” delete “and”.

(b) After sub-paragraph (b) insert a new sub-paragraph (bb):

“(bb) at any time in the course of investigating a charge he may stay further proceedings thereon in accordance with the provisions of section 77A of the Act.”.

(a) 1955 c. 18.

(b) 1981 c. 55.

(c) S.I. 1972/316; the relevant amending instrument is S.I. 1977/92.

2. (a) In the list of Court-Martial Forms at the beginning of Schedule 4 there shall be inserted:

“(14A) ANNULMENT OF TAKING INTO CONSIDERATION.”

(b) After Form 14 in Schedule 4 there shall be inserted:

(14A) ANNULMENT OF TAKING INTO CONSIDERATION.

I annul the taking into consideration of the following offences:

.....

[and the Restitution/Compensation Order(s) dependent thereon.]

Date..... 19..

(Signature)
[Confirming Officer]
[Reviewing Authority]”.

3. Form 14 of Schedule 4, and Form 7 of Schedule 5 shall be amended, in each case, by the deletion of “[paid]” and the substitution of “[paid out of money found in the possession of.....]”.

4. (a) In the list of sentences at the beginning of Schedule 5 there shall be inserted:

“(1B) SPECIAL SENTENCE FOR YOUNG SERVICE OFFENDERS.”

(b) After Forms of Sentence (1A) in Schedule 5 there shall be inserted:

“Custodial order. **(1B) SPECIAL SENTENCE FOR YOUNG SERVICE OFFENDERS.**
To be detained in accordance with the provisions of section 71AA of the Army Act 1955 for a maximum period of..... .”

5. In Appendix 2 to Schedule 9 in Forms of Sentence (2A) there shall be deleted under the heading of “Offender 17 or over but under 21” the existing form of custodial order, and the following substituted therefor:

“Custodial order. To be detained in accordance with the provisions of paragraph 10 of Schedule 5A to the Army Act 1955 for a maximum period of..... .”

EXPLANATORY NOTE

(This Note is not part of the Rules.)

The Rules further amend the Rules of Procedure (Army) 1972. The amendments themselves are contained in the schedule to the Rules. Paragraphs 1, 2 & 4 are consequential upon the passing of the Armed Forces Act 1981.

Paragraph 1 amends Rule 7 of the principal rules to make it clear that a commanding officer has power at any time during the investigation of a charge to stay all further proceedings by section 77A of the Army Act 1955 (which was inserted by section 3 of the Armed Forces Act 1981) if he considers that the matter could and should be dealt with under another jurisdiction.

Paragraph 2 provides a form for use by Confirming Officers and Reviewing Authorities in the exercise of the power to annul the taking into consideration of offences by courts-martial, which was introduced by section 5 of the Armed Forces Act 1981.

Paragraph 3 amends the two forms of Restitution Order, in each case to make it clear that money compensation may be ordered to be paid under section 138 of the Army Act 1955 only out of money found in the possession of the accused against whom the order is made.

Paragraph 4 provides for the manner in which Custodial Orders under section 71AA of the Army Act 1955 (inserted by section 2 of the Armed Forces Act 1981) are to be pronounced.

Paragraph 5 amends the manner of pronouncing Custodial Orders under the existing provisions of paragraph 10 of Schedule 5A to the Army Act 1955 (inserted by Schedule 4 to the Armed Forces Act 1976(c.52)) both to comply with the statute and to bring it into line with the new provision under section 71AA of the Army Act 1955.

SI 1982/369
ISBN 0-11-026369-3

