
STATUTORY INSTRUMENTS

1996 No. 1388

DEFENCE

The Rules of Procedure (Army) (Amendment) Rules 1996

<i>Made</i>	- - - -	<i>24th May 1996</i>
<i>Laid before Parliament</i>		<i>29th May 1996</i>
<i>Coming into force</i>	- -	<i>1st July 1996</i>

The Secretary of State, in exercise of powers conferred on him by sections 103 and 104 of the Army Act 1955(1) and by paragraph 8(5) of Schedule 13 to the Criminal Justice Act 1988(2), hereby makes the following Rules:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of Procedure (Army) (Amendment) Rules 1996 and shall come into force on 1st July 1996.

(2) In these Rules “the principal Rules” means the Rules of Procedure (Army) 1972(3).

Amendment of the principal Rules

2. The principal Rules shall be amended in accordance with the Schedule to these Rules.

24th May 1996

Nicholas Soames
Minister of State for the Armed Forces

(1) 1955 c. 18.

(2) 1988 c. 33; section 32 was amended by the Criminal Justice Act 1991 (c. 53), section 55.

(3) S.I.1972/316, amended by S.I. 1974/761, 1977/92, 1981/1220, 1982/369, 1983/719, 1984/1670, 1986/2126, 1989/2127, 1991/2787.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rule 2

AMENDMENTS TO THE RULES OF PROCEDURE (ARMY) 1972

1. In Rule 22(1)—

(a) for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) send to the president the convening order and, in any case in which a judge advocate has not been appointed—

(i) the first charge-sheet together with a copy of the summary or abstract of evidence from which any evidence which, in the opinion of the convening officer would be inadmissible under the Act at the court-martial, has been expurgated; and

(ii) the second and any subsequent charge-sheets together with a copy thereof for each member, waiting member and officer under instruction;”;

(b) for sub-paragraph (j) there shall be substituted the following sub-paragraph—

“(j) in any case in which a judge advocate has not been appointed send to each member of the court and to each waiting member and any officer under instruction a copy of the first charge-sheet;”;

(c) for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) send to the judge advocate (if any)—

(i) the first charge-sheet together with a copy thereof for the president, each member, waiting member and officer under instruction, and a copy of the convening order;

(ii) the second and any subsequent charge-sheets together with copies thereof for the president, each member, waiting member and officer under instruction; and

(iii) an unexpurgated copy of the summary or abstract of evidence and copies of the service record of the accused and the particulars referred to in Rule 71(3)(c);”.

2. In Rule 26(1) at the beginning of sub-paragraph (g) there shall be inserted the words “if no judge advocate has been appointed,”.

3. In Rule 41(1) after the word “with”, there shall be inserted the following words—

“the judge advocate (if any) shall distribute to the president, members, waiting members and officers under instruction copies of the charge-sheet and thereafter”.

4. After Rule 53 there shall be inserted the following Rule—

“Evidence through a live television link

53A.—(1) Application may be made to the court by the prosecutor or the accused for leave under section 32(1) of the Criminal Justice Act 1988 as applied with modifications for the purposes of proceedings before courts-martial by paragraph 8 of Schedule 13 to that Act and by the Criminal Justice Act 1988 (Application to Service Courts) (Evidence through Television Links) Order 1993, for evidence to be given through a live television link where—

(a) the witness is not in the country where the court is sitting; or

(b) the offence charged is one to which section 32(2) applies and the evidence is to be given by a witness who is either—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (i) in the case of an offence to which section 32(2)(a) or (b) applies, or which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within section 32(23)(a) or (b), under the age of 14; or
- (ii) in the case of an offence to which section 32(2)(c) applies, or which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within section 32(2)(c), under the age of 17.

(2) A witness who is under the age of 14 shall, when giving evidence through a live television link, be accompanied by a person acceptable to the court and, unless the court otherwise directs, by no other person.”

5. In Rule 55 for paragraph (2) and the proviso thereto there shall be substituted the following paragraph—

“(2) If a person has been appointed in accordance with Rule 31A(1), it shall not be necessary to comply with paragraph (1) of this Rule.”

6. In Rule 71(3)(a) for the word “charged” there shall be substituted the words “of which the accused has been found guilty”.

7. In Rule 81(1)—

(a) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) an accused before pleading to a charge objects to it on the ground that it is not correct in law or is not framed in accordance with these Rules; or”;

(b) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(bb) the prosecution wishes to withdraw a charge before the accused is arraigned thereon; or”;

(c) after sub-paragraph (f) there shall be inserted the following sub-paragraph—

“(ff) an application is made for evidence to be given through a live television link; or”;

(d) after sub-paragraph (h) there shall be inserted the following sub-paragraph—

“or

(i) a question of law or procedure arises, other than one specified in this paragraph, on which it appears to the judge advocate desirable that he should hear argument in the absence of the president and members of the court;”.

8. In Rule 90(1) at the end there shall be inserted the following proviso—

“Provided that this paragraph shall not apply in relation to any witness whose particulars have been furnished by the accused in support of an alibi, in accordance with section 11 of the Criminal Justice Act 1967, as applied with modifications in relation to proceedings before courts-martial by the Courts-Martial (Evidence) Regulations 1967 and the Courts-Martial (Evidence) Regulations 1977”.

9. In Schedule 1 (forms for commanding officers) in form (1) (DELAY REPORT), under the words “Date placed in arrest 19 ” there shall be inserted the words “Date first charged on AFB 252 19”.

10. In Schedule 2 (charge-sheets) in entry (1) (COMMENCEMENT OF CHARGESHEETS)—

(a) after the form of commencement specified for Section 131 of the Army Act 1955 there shall be inserted the following forms of commencement—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“or

		<i>or</i>		
The accused	{	a warrant officer	}	
(number, rank, name and unit)		a non-commissioned officer a man		
			of the Territorial Army.	
previously	{	called out for	}	
		undergoing training		permanent service home defence service
		attending a		drill parade
		serving on the permanent staff of the Territorial Army		
			and now liable to trial by court-martial under section 131 { (1) } (2) of	

the Army Act 1955, is charged with:—

		<i>or</i>		
The accused	{	a warrant officer	}	
(number, rank, name and unit)		a non-commissioned officer a man		
			of the army reserve,	
previously	{	called out	}	
		undergoing training		for permanent service to aid the civil power
		employed in Her Majesty's service in employment of which it was an express condition that while employed therein he was to be subject to military law		
			and now liable to trial by court-martial under section 131 { (1) } (2) of	

the Army Act 1955, is charged with:—”;

the Army Act 1955, is charged with:—”;

- (b) under the heading “RESERVE FORCES ACT 1980” for the words from “PART VII” to the end there shall be substituted the following—

“PART VII

(FORMER MEMBERS OF THE ULSTER DEFENCE REGIMENT ON ENGAGEMENT CURRENT ON 1 JULY 1992)

SECTION 141

(as modified by section 3(2) of the Army Act 1992)

The accused ... (number, rank, name and unit) being subject to military law under section 141 (a) (b) (i) (b) (ii) of

the Reserve Forces Act 1980, is charged with:—”.

11. In Schedule 2 (charge-sheets) in entry (2) (STATEMENTS OF OFFENCES), under the heading “RESERVE FORCES ACT 1980”, the words from “PART VII (ULSTER DEFENCE REGIMENT)” to the end shall be deleted.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules further amend the Rules of Procedure (Army) Rules 1972. In addition to minor and drafting amendments, the amendments contained in the Schedule to the Rules make the following changes of substance.

Paragraph 1 makes provision in respect of the documents to be sent to the president and members of the court and the judge advocate (if any).

Paragraph 2 provides that the court shall satisfy themselves on the nature of the charges brought before them where no judge advocate is appointed.

Paragraph 3 provides that where a judge advocate has been appointed he will distribute copies of the charge-sheet to the president and members of the court before the accused is required to plead to each charge.

Paragraph 4 provides for applications to be made to the court for evidence to be given through live television links by witnesses who are not in the country in which the court is sitting and by child witnesses.

Paragraph 5 provides that Rule 55(1) (reading back of evidence to witnesses) need not be complied with where a person has been appointed to record verbatim the proceedings of the court-martial.

Paragraph 7 amends the list of matters in respect of which the president may direct that the point in issue be determined by a judge advocate sitting alone.

Paragraph 8 enables the prosecutor to interview an alibi witness for the defence without obtaining permission of the convening officer before trial or the president after trial.

Paragraph 10(a) makes provision for amendments to the form for commencement of the charge-sheet in respect of an offence under section 131 of the Army Act 1955.

Paragraphs 10(b) and 11 make amendments to the forms for commencement of charge-sheets and statements of offences, in respect of offences under the Reserve Forces Act 1980, consequential on members of the Ulster Defence Regiment ceasing to be members of that regiment pursuant to the Army Act 1992 but continuing to serve on the same conditions of service until the end of their current term of service.