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STATUTORY INSTRUMENTS

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**1997 No. 169**

**The Courts-Martial (Army) Rules 1997**

**PART VI**

**SENTENCING**

**Evidence before sentencing**

**76.**—(1) This rule applies where the court has recorded a finding of guilty or a special finding on any charge.

(2) Where practicable, the prosecutor shall present to the court information concerning—

- (a) the accused's age and rank;
- (b) the accused's service record;
- (c) any recognised acts of gallantry or distinguished conduct on the part of the accused and any decoration to which he is entitled;
- (d) particulars of any offence (whether under the Act or otherwise) of which the accused has been found guilty (during his service or otherwise), provided that any convictions treated as spent for the purposes of the Rehabilitation of Offenders Act 1974<sup>(1)</sup> shall be clearly marked as such;
- (e) particulars of any formal police caution administered to the accused by a constable in England and Wales or Northern Ireland;
- (f) particulars of the length of time the accused has been under arrest awaiting trial or in custody under a current sentence;
- (g) details of the accused's pay, terminal benefits and future pension entitlements; and
- (h) whether the commanding officer of the accused wishes to retain the accused in his unit.

(3) Unless the accused requires otherwise, the matters referred to in paragraph (2) above need not be adduced in compliance with the strict rules of evidence.

(4) The court shall consider any pre-sentence report concerning the accused in the possession of the court administration officer.

(5) A record of antecedents signed by the accused may be accepted in evidence by the court under paragraph (2)(d) above where the accused has admitted that he has been found guilty of each offence listed in the record and has had explained to him the purpose for which such admission was sought.

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(1) 1974 c. 53; sections 2 and 6 were amended, and the Schedule was inserted, by the Armed Forces Act 1996, section 13 and Schedule 4.