
STATUTORY INSTRUMENTS

1997 No. 172

The Standing Civilian Courts Order 1997

PART VII

MISCELLANEOUS

Re-trial following adjournment

87.—(1) Where the court administration officer directs a re-trial by virtue of paragraph 8 of Schedule 3 to the 1976 Act, he shall after consulting with the magistrate, or the Judge Advocate General (or his deputy), send notice of the date, time and place of the re-trial to—

- (a) the accused; and
- (b) the prosecutor.

(2) A person who sat in the court of trial, whether as magistrate, member of the court or assessor, shall not sit in the court of re-trial.

(3) Subject to paragraph (4) below, where the court of trial has recorded a finding of guilty but has not announced sentence, the court of re-trial shall proceed to sentence in accordance with the provisions of this Order as if it had recorded that finding of guilty.

(4) The court of re-trial may inform itself of the facts relating to the charge in respect of which the finding of guilty was made, by—

- (a) reading the note of proceedings of the court of trial, or
- (b) calling on the prosecutor to address the court on the facts.

Forwarding the proceedings

88. The magistrate shall send to the Judge Advocate General after the conclusion of the trial—

- (a) the charge sheet;
- (b) the note of proceedings;
- (c) a record of the findings and sentence on each charge, signed by him and dated;
- (d) any exhibits attached to the note; and
- (e) any other document in his possession relating to the proceedings.

Custody of the proceedings

89. Subject to the requirements of any review or appeal, the documents sent by the magistrate under article 89 above shall be kept in the custody of the Judge Advocate General for a period of not less than 6 years.

Loss of the proceedings

90. If the whole or any part of an original document referred to in article 89 above is lost, a copy of the document certified by the magistrate to be correct or a reconstituted document may be accepted and used in lieu of the original.

Application of certain enactments

91. The provisions of the enactments which are specified in column 1 of Schedule 4 to this Order shall apply to proceedings before the Standing Civilian Court as if the references to courts-martial, howsoever expressed, were references to the Standing Civilian Court and subject to the further modifications specified in column 2 of that Schedule.

Circumstances not provided for

92. In any circumstance not provided for by the 1955 Act, the 1976 Act or this Order, such course shall be adopted as appears best calculated to do justice.

Revocation and savings

93.—(1) Subject to paragraph (2) below, the Orders set out in Schedule 5 to this Order are hereby revoked.

(2) The Orders set out in Schedule 5 shall continue to apply in relation to any trial by a Standing Civilian Court which commenced before 1st April 1997 until the conclusion of that trial.

(3) The revocation shall not affect the validity of anything done under those Orders in relation to any proceedings pending at the commencement of this Order.