

SCHEDULE 7

Article 16

PROVISIONS RELATING TO SERVICE COURTS OF VISITING FORCES

- 1.—(1) This paragraph applies to any person who is not subject to—
- (a) the Naval Discipline Act 1957, military law or air-force law, or
  - (b) the jurisdiction of the service courts and service authorities of a country in respect of which section 8 of the Visiting Forces Act 1952 has effect.

(2) For the purposes of this paragraph, a person is subject to the jurisdiction of the service courts and service authorities of a country if he falls within the description of such persons in section 2(2) of the Visiting Forces Act 1952.

2. This paragraph applies to any person who is subject to the Naval Discipline Act 1957, military law or air-force law.

3.—(1) Where any person to whom paragraph 1 or 2 applies is required to give evidence in any proceedings before a service court, an officer of any of the home forces may summons him by issuing a witness summons.

(2) An officer shall not issue a witness summons requiring the attendance of a person falling within paragraph 1 if he considers either—

- (a) that it is not reasonably practical to procure the person's attendance; or
- (b) that provision for the reasonable expenses of his attendance has not been, or will not be, made.

(3) Before issuing a witness summons, the officer shall afford the person to whom it relates an opportunity of making representations, including oral representations, with respect to whether or not the summons should be issued; and, where the person chooses to make oral representations, he may be represented at any hearing held for that purpose.

(4) A witness summons issued under this paragraph shall state—

- (a) the proceedings in respect of which the summons is issued and the nature of the hearing at which the person's attendance is required;
- (b) the powers under which the summons is issued;
- (c) the place at which, and the time and date on which, the person is to attend; and
- (d) where the person will be required to produce any document or other thing, a description of that document or thing.

(5) A witness summons issued under this paragraph shall be served on the witness—

- (a) by delivering it to him personally;
- (b) by leaving it for him with a person at the witness's usual place of abode;
- (c) by post in a letter addressed to him at his last known or usual place of abode; or
- (d) where paragraph 2 applies to the witness, through his commanding officer.

4.—(1) In relation to a person summoned to attend a service court by virtue of this Schedule, the relevant enactment shall (subject to sub-paragraph (2)) apply as if the service court were a court-martial and the proceedings were proceedings under the relevant Act; and any reference in that enactment to anything duly required or lawfully required, or to anything required or falling to be done under the relevant Act or any of its provisions, shall be construed accordingly.

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(2) A person shall not be guilty of an offence under the relevant enactment by virtue of his refusing to answer any question or to produce any document, if he could not be required to answer such a question or produce such a document were the proceedings before such a court-martial.

(3) In this paragraph “the relevant enactment” means—

- (a) in relation to a person to whom paragraph 1 applies, section 101 of the Army Act 1955 (which relates to offences by civilians in relation to courts-martial);
- (b) in relation to a person to whom paragraph 2 applies by virtue of his being subject to the Naval Discipline Act 1957, section 36(1) of that Act (which relates to offences in relation to courts-martial by persons subject to that Act); and
- (c) in relation to a person to whom paragraph 2 applies by virtue of his being subject to military or air-force law, section 57(1) of the Army Act 1955 or (as the case may be) of the Air Force Act 1955 (both of which relate to offences in relation to courts-martial by persons subject to military or, as the case may be, air-force law),

and “the relevant Act” means (as the case may be) the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955.

**5.—**(1) A witness before a service court shall be entitled to the same immunities and privileges as he would be if he were a witness in proceedings before a court-martial held in pursuance of the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955.

(2) Any enactment or rule of law with respect to privilege in proceedings for defamation shall apply in relation to a service court as it applies in relation to a court-martial held in pursuance of the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955.

**6.** In this Schedule, “military law” and “air-force law” shall be construed in accordance with the Army Act 1955 and the Air Force Act 1955 respectively.