

2000 No. 2373

DEFENCE

The Courts-Martial (Royal Navy) (Amendment) Rules 2000

Made - - - - - 4th September 2000

Laid before Parliament 7th September 2000

Coming into force 2nd October 2000

The Secretary of State, in exercise of the powers conferred on him by section 58 of the Naval Discipline Act 1957(a), hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Courts-Martial (Royal Navy) (Amendment) Rules 2000 and shall come into force on 2nd October 2000.

Amendments to Rules

2.—(1) The Courts-Martial (Royal Navy) Rules 1997(b) shall be amended in accordance with following provisions of this rule.

(2) In rule 2 (interpretation) the following definition shall be inserted after the definition of “the judge advocate”—

“preliminary charge” means the charge which would have been dealt with summarily had the accused not elected court-martial trial;”.

(3) In rule 4 (referring a case to the prosecuting authority) after the word “documentary” in sub-paragraph (g) there shall be inserted—

“; and

(h) where the accused has elected trial by court-martial, notification of that fact”.

(4) After rule 4 (referring a case to the prosecuting authority) there shall be inserted—

“Withdrawal of election in a multiple charge case

4A. Where—

(a) an election for court-martial trial relates to two or more preliminary charges; and

(b) that election is withdrawn with the leave of the prosecuting authority,

section 52I(2) of the Act shall have effect as if it required the prosecuting authority to refer back to the commanding officer of the accused each of the preliminary charges to be tried summarily.

(a) 1957 c. 53; section 58(3A) was inserted by the Armed Forces Discipline Act 2000 (c. 4), section 13 and Schedule 2.

(b) S.I. 1997/170.

Referring back in a multiple charge case before charges are preferred

4B.—(1) Where—

- (a) an election for court-martial trial relates to two or more preliminary charges; and
- (b) the prosecutor considers that a charge or charges different from or additional to a preliminary charge should be preferred,

section 52II(1) of the Act shall have effect as if it required the prosecuting authority to refer back to the commanding officer of the accused any additional preliminary charge as well as the charge or charges which he would otherwise be required to refer back under that section.

(2) In paragraph (1), the reference to any additional preliminary charge is to any preliminary charge which is different from the preliminary charge referred to in paragraph (1)(b) above.”.

(5) After rule 11 (discontinuing proceedings before trial) there shall be inserted—

“Referring back in a multiple charge case after charges already preferred

11A. Where—

- (a) an election for court-martial trial relates to two or more preliminary charges; and
- (b) the prosecutor considers that a charge which has already been preferred (“the original charge”) should be amended, or that a charge should be preferred in addition to or in substitution for the original charge,

section 52II(1) of the Act shall have effect as if it required the prosecuting authority to refer back to the commanding officer any charge (other than the original charge) which has already been preferred, as well as the charge or charges which he would otherwise be required to refer back under that section.”.

(6) In rule 67(2) (evidence before sentencing)—

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

“(dd) particulars of any formal police caution administered to the accused by a constable in England and Wales or Northern Ireland;”;

(b) at the end of sub-paragraph (e) the word “and” shall be omitted; and

(c) after the word “entitlements” in sub-paragraph (f) there shall be inserted—

“; and

(g) whether the accused elected trial by court-martial”.

4th September 2000

Symons of Vernham Dean
Minister of State,
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Courts-Martial (Royal Navy) Rules 1997 (“the 1997 Rules”). The amendments are for the most part consequential on the changes made by the Armed Forces Discipline Act 2000 to the functions of the prosecuting authority where an accused elects to be tried by court-martial.

Rule 2(3) amends rule 4 in the 1997 Rules which specifies the information to be provided by the higher authority referring the case to the prosecuting authority. By virtue of the amendment, the higher authority is required to notify the prosecuting authority where the accused has elected court-martial trial.

Rule 2(4) and (5) inserts rules 4A, 4B and 11A in the 1997 Rules. Rule 4A makes provision as to the exercise by the prosecuting authority of its functions in relation to referring back a case on withdrawal of an election for court-martial trial, where the election relates to two or more charges. Rules 4B and 11A similarly make provision as to the exercise by the prosecuting authority of its functions under section 52II of the Naval Discipline Act 1957 (which deals with the power of prosecuting authority to refer cases back to the commanding officer) where the election for court-martial trial relates to two or more charges.

Rule 2(6) amends rule 67 of the 1997 Rules so as to require the sentencing information to be provided to a court-martial to include particulars of any police caution received by the accused and notice of whether or not the accused elected court-martial trial.

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