
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Courts-Martial (Army) 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) substitutes a new rule 4 in the 1997 Rules. The substituted rule 4 specifies the information to be provided by the higher authority referring the case to the prosecuting authority. The new rule requires the higher authority to notify the prosecuting authority where the accused has elected court-martial trial.

Rule 2(4) to (6) inserts rules 4A, 6A and 13A in the 1997 Rules. Rule 4A makes provisions 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 6A and 13A similarly make provision as to the exercise by the prosecuting authority of its functions under section 83BB of the Army Act 1955 (which deals with the power of the 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(7) amends rule 76 of the 1997 Rules so as to require the sentencing information to be provided to a court-martial to include notice of whether or not the accused elected court-martial trial.

Rule 2(8) revokes rule 85 of the 1997 Rules (which relates to the periodic review of arrest). The revocation of rule 85 is consequential on the changes made to section 75 of the Army Act 1955 (which relates to custody after arrest) made by the Armed Forces Discipline Act 2000.