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STATUTORY INSTRUMENTS

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**2007 No. 3444**

**The Courts-Martial (Royal Air Force) Rules 2007**

**PART 8**

**PROCEEDINGS AT COURT-MARTIAL**

**Dispute on facts after plea of guilty**

**48.**—(1) Where, after the judge advocate has recorded a plea of guilty in respect of any charge there are disputed facts in the case, any issue of fact may be tried.

(2) Where an issue of fact is being tried in accordance with this rule—

(a) the judge advocate may direct the prosecuting authority to call any witness to give evidence, and

(b) the prosecuting authority and the accused may, with the leave of the judge advocate, adduce evidence.

(3) The court shall sit in closed court while deliberating on its finding on the issue of fact.

(4) The finding of the court on the issue of fact shall be determined by a majority of the votes of the members of the court and announced in open court by the judge advocate.

(5) In the case of an equality of votes on the finding on the issue of fact the court must find for the accused.

**Change of plea**

**49.**—(1) At any time before the court closes to deliberate on its finding on a charge, an accused who has pleaded not guilty to the charge may, with the leave of the judge advocate, withdraw his plea and substitute a plea of guilty.

(2) Where an accused changes his plea under paragraph (1), the court shall proceed to sentencing of the accused.

(3) At any time before the court closes to deliberate on its sentence on a charge, an accused who has pleaded guilty to the charge may, with the leave of the judge advocate, withdraw his plea and substitute a plea of not guilty.

(4) Where an accused changes his plea under paragraph (3), the judge advocate shall discharge the court and direct the court administration officer to list the case for trial by a new court-martial.

**Additional charges after arraignment**

**50.**—(1) If at any time after arraignment the prosecuting authority intends to seek the leave of the judge advocate to prefer an additional charge, he shall, unless the accused waives the requirement, serve notice in writing of such intention on the accused before the application is made.

(2) Where notice is served on the accused in accordance with paragraph (1), he may apply for an adjournment of the trial.

**Changes to the charge sheet after arraignment**

**51.**—(1) If at any time after arraignment the prosecuting authority intends to—

- (a) amend, or substitute another charge or charges for, a charge;
- (b) discontinue proceedings on a charge;
- (c) prefer an additional charge;

he shall seek the leave of the judge advocate.

(2) Where the judge advocate gives leave to discontinue proceedings on a charge, he shall consider whether to give the direction provided for in section 83B(14) of the Act.

**Changes to the charge sheet by the judge advocate**

**52.** If at any time after arraignment it appears that, with due regard to the fairness to the accused, it is desirable in the interests of justice to amend a charge, the judge advocate may do so.