ROYAL AIR FORCE

DISCIPLINE

1956 No. 579

The Board of Inquiry (Air Force) Rules, 1956

Made - - - -	*16th April*, 1956
Laid before Parliament	*23rd April*, 1956
Coming into Operation	*1st January*, 1957

ARRANGEMENT OF RULES

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The Secretary of State for Air, in exercise of the powers conferred upon him by section 135 of the Air Force Act, 1955(a) and of all other powers him enabling, hereby makes the following Rules :—

Citation and Commencement

1. These Rules may be cited as the Board of Inquiry (Air Force) Rules, 1956, and shall come into operation on the 1st day of January, 1957.

Interpretation

2.—(1) The Interpretation Act, 1889(b) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(2) In these Rules, except where the context otherwise requires :—

" the Act " means the Air Force Act, 1955(a) ;

" the authority ", in relation to a board, means the Air Council or any air-force, naval or military officer empowered by or under these Rules to convene a board ;

" board " means board of inquiry ;

(a) 3 & 4 Eliz. 2. c. 19. (b) 52 & 53 Vict. c. 63.

"civil authority" includes a coroner and the civil police;

"civilian witness" means a person who gives evidence before a board and is either a person to whom section 209 of the Act or any corresponding provisions of the Naval Discipline Act(a) or the Army Act, 1955(b) applies, or a person who is not subject to air-force law, the Naval Discipline Act, military law or the service law (which has the same meaning as in Part I of the Visiting Forces Act, 1952(c)) of a visiting force to which the Visiting Forces (Application of Law) Order 1954(d) applies;

"president" means president of a board;

"record of the proceedings", in relation to a board, includes the report of the board and any opinion expressed by the board in accordance with any directions given by the authority;

"represented" means represented by an officer or by counsel (which means a barrister-at-law, an advocate or a solicitor and, outside the United Kingdom, a person recognised by the authority as having rights and duties similar to those of a barrister-at-law, advocate or solicitor) and includes, in the case of a civilian employed in the service of Her Majesty, representation by such person's trade union or staff association representative; and the term "representative" shall be construed accordingly.

Other expressions have the same meanings as they have in the Act.

Duties of boards

3. It shall be the duty of a board to investigate and report on the facts relating to any matter referred to the board under these Rules and, if directed so to do, to express their opinion on any question arising out of any such matter.

Matters for reference to boards

4. Subject to the provisions of these Rules:

(1) a board shall be convened with reference to:

(*a*) the absence of any person subject to air-force law who has been continuously absent without leave for a period of not less than twenty-one days and the deficiency (if any) in the clothing, arms, ammunition or other equipment or any other public or service property issued to him for his use;

(*b*) the capture of any person subject to air-force law by the enemy and his conduct in captivity if, on his return from captivity, the authority considers that there are reasonable grounds for suspecting—

(i) that he was made a prisoner of war through disobedience to orders or wilful neglect of his duty; or

(ii) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin Her Majesty's service; or

(iii) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage; and

(a) 29 & 30 Vict. c. 109. (b) 3 & 4 Eliz. 2. c. 18. (c) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.
(d) S.I. 1954/635 (1954 II, p. 2465).

(*c*) the death of any person in an air-force establishment, being an establishment in any country or territory outside the United Kingdom where an inquiry into the death is not required to be held by any civil authority:

(2) A board may be convened with reference to any matter which the authority decides to refer to a board.

Deferring and staying of proceedings

5.—(1) Subject to paragraph (2) of this Rule, where any matter is the subject of investigation by the air-force naval or military police or by a civil authority, or of an inquiry held by the proper naval or military authority, or of proceedings under air-force law, the Naval Discipline Act or military law or of proceedings in a civil court whether within or without Her Majesty's dominions, and

(*a*) a board has not been convened with reference thereto, the authority may defer the convening of a board until the completion of such investigation or proceedings as aforesaid and upon completion thereof shall not be required to convene a board, if satisfied that a board is not necessary; or

(*b*) a board has already been convened with reference thereto, the authority may stay the proceedings of the board until such investigation or proceedings as aforesaid have been completed and shall then dissolve the board, if satisfied that a board is not necessary.

(2) The provisions of paragraph (1) of this Rule shall not apply to the convening of a board with reference to such absence and such deficiency (if any) as are mentioned in sub-paragraph (*a*) of paragraph (1) of Rule 4, but, where the authority is satisfied that the absence has terminated, or where the absentee belongs or is attached to Her Majesty's naval or military forces and the authority is satisfied that an inquiry into the absence is being or will be held by the proper naval or military authority, and

(*a*) a board has not yet been convened with reference to the absence and deficiency (if any), the authority shall not be required to convene a board; or

(*b*) a board has already been convened with reference thereto, the authority may forthwith dissolve the board.

Convening

6.—(1) A board of inquiry may be convened by order of—

(*a*) the Air Council; or

(*b*) any officer not below the rank of Group Captain, or corresponding rank, commanding any command, group, area or station, or any formation or body of Her Majesty's air forces; or

(*c*) any officer who is acting for the time being in place of such an officer; or

(*d*) any officer commanding a unit or detachment of Her Majesty's air forces—

(i) with reference to such absence and such deficiency (if any) as are mentioned in sub-paragraph (*a*) of paragraph (1) of Rule 4;

(ii) if authorised by the Air Council or any such officer as is mentioned in sub-paragraph (*b*) or (*c*) of this paragraph, with reference to any particular matter or to matters of any specified class or description.

(2) The following provisions shall apply in relation to the order convening a board :—

(*a*) The order shall specify the composition of the board and the place and time at which the board shall assemble ;

(*b*) the order may, and where the matter referred to the board is that mentioned in sub-paragraph (*a*) of paragraph (1) of Rule 4 shall, specify the terms of reference of the board and be published in routine orders ;

(*c*) the order may direct the board to express their opinion on any question arising out of any matter referred to the board : and

(*d*) the authority may at any time revoke, vary or suspend the order.

Constitution

7.—(1) Subject to paragraph (2) of this Rule, a board shall consist of not less than three officers subject to air-force law, the Naval Discipline Act or military law.

(2) Where a board is convened with reference to such absence and deficiency (if any) as are mentioned in sub-paragraph (*a*) of paragraph (1) of Rule 4 one of the members of the board may be a warrant officer.

(3) The authority shall appoint the president by name and each remaining member of the board either by name or by detailing a commanding officer to appoint an officer of a specified rank.

Assembly and procedure

8.—(1) A board shall assemble at the time and place specified in the order convening the board.

(2) The president shall lay the terms of reference before the board and the board shall proceed to hear and record evidence in accordance with the provisions of these Rules.

Adjournment and re-assembly

9.—(1) The president may from time to time adjourn the board which shall sit on such occasions and in such places as he may from time to time direct.

(2) Without prejudice to paragraph (1) of this Rule, the authority may at any time, if it appears necessary or desirable, direct that the board shall reassemble for such purpose or purposes as may be specified by the authority.

Witnesses

10.—(1) A board shall hear the evidence of the witnesses who have been made available by the authority and may hear the evidence of such other persons as they think fit.

(2) While a civilian witness is giving evidence before a board he may be represented but, subject to the provisions of Rule 11, his representative shall not be entitled to be present at any other time.

(3) A civilian witness shall be entitled to receive the reasonable expenses of his attendance and a reasonable allowance in respect of loss of time.

Persons who may be affected by the findings

11.—(1) Where it appears to the authority or, if a board has been convened, either to the authority or to the president that any witness or other person may be affected by the findings of the board, the authority or, as the

case may be, the president shall take such steps as are in his view reasonable and necessary to secure that such witness or other person has notice of the proceedings and, if he so desires, has an opportunity of being present, and represented, at the sittings of the board, or at such part thereof as the authority or, as the case may be, the president may specify.

(2) Any such witness or other person as is referred to in paragraph (1) of this Rule may give evidence, question witnesses or produce any witness to give evidence on the matters which may affect him and, if he is represented, his representative may question witnesses, but a representative shall not address the board except with the permission of the president.

Evidence

12. A board may receive any evidence which they consider relevant to the matter referred to the board, whether oral or written, and whether or not it would be admissible in a civil court.

Oaths and Affirmations

13.—(1) Subject to paragraph (3) of this Rule, every witness before a board shall be examined on oath:

Provided that where any child of tender years called as a witness does not in the opinion of the board understand the nature of an oath, his evidence may be received, though not given on oath, if in the opinion of the board he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

(2) Subject to paragraph (3) of this Rule, an oath shall be administered to any person in attendance on a board as interpreter.

(3) If—

(*a*) a person objects to taking an oath, and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief, or

(*b*) it is not reasonably practicable to administer an oath to a person in the manner appropriate to his religious belief,

he shall be permitted to make a solemn affirmation instead of taking an oath.

(4) An oath shall be administered, or an affirmation made, before a board in the form and manner prescribed by Rules of Procedure(**a**) made under the Act.

Exhibits

14.—(1) Subject to paragraph (2) of this Rule, any document or thing produced to a board by a witness when giving his evidence shall be made an exhibit.

(2) When an original document or book is produced to a board by a witness, the board may at the request of the witness compare a copy of it or an extract therefrom of the relevant parts with the original and, after they have satisfied themselves that such copy or extract is correct and the president has certified thereon that the board has compared it with the original and found it correct, the board may return the document or book to the witness and attach the copy or extract to the record of the proceedings as an exhibit.

(**a**) S.I. 1956/163 (p. 2020 below).

(3) Every exhibit shall—

(*a*) be marked with a number or letter and be signed by the president or have a label affixed to it bearing a number or letter and the signature of the president;

(*b*) be attached to or kept with the record of the proceedings unless in the opinion of the board it is not expedient to attach it to or keep it with the record.

(4) When an exhibit is not attached to or kept with the record of the proceedings under sub-paragraph (*b*) of paragraph (3) of this Rule, the president shall ensure that proper steps are taken for its safe custody.

Record of proceedings

15.—(1) The president shall record, or cause to be recorded, the proceedings of the board in writing and in sufficient detail to enable the authority to follow the course of the proceedings.

(2) Where there is no shorthand writer present the evidence shall be taken down in narrative form recording as nearly as possible the words used:

Provided that, if the board consider it necessary, any particular question and answer shall be taken down verbatim.

(3) The evidence of each witness, as soon as it has been taken down in accordance with paragraph (2) of this Rule, shall be read over to him and shall be signed by him.

(4) A record of the proceedings shall be signed by the president and other members of the board and forwarded to the authority.

Entries of reports in service books

16. Where a board reports that a person subject to air-force law has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty one days, and that there is a deficiency in any clothing, arms, ammunition or other equipment or any other public or service property issued to him for his use, a record of the report of such deficiency shall, in addition to a record of the report of such absence required under subsection (1) of section 136 of the Act, be entered in accordance with Queen's Regulations in the service books.

Nigel Birch,

One of Her Majesty's Principal Secretaries of State.

Air Ministry
16*th April*, 1956

EXPLANATORY NOTE

(This Note does not form part of the Rules, but is intended to indicate their general purport.)

1. These Rules are made by the Secretary of State for Air under section 135 of the Air Force Act, 1955.

2. Rule 3 requires boards of inquiry to investigate and report on matters referred to them. Rule 4 sets out in paragraph (1) those matters which must be referred to a board and in paragraph (2) those matters which may be so referred. The circumstances in which the proceedings of a board may be stayed or deferred or the board itself be dissolved are set out in Rule 5.

3. Rules 6 and 7 deal respectively with the convening and constitution of boards of inquiry. Rules 8 and 9 provide for the assembly and general procedure of a board and for its adjournment and re-assembly.

4. Rule 10 makes various provisions with regard to witnesses, and Rule 11 provides that those who may be affected by the findings of a board should have notice of the proceedings and be given an opportunity of being present and represented at the sittings of the board or such part thereof as may be specified.

5. Rules 12 to 16 deal respectively with the rules of evidence to be observed by boards, the administration of oaths to witnesses and interpreters, the treatment of exhibits produced to boards, the record of their proceedings and the entering of reports of certain deficiencies in the service books.

TRIAL AND PUNISHMENT FOR AIR-FORCE OFFENCES

1956 No. 163

The Rules of Procedure (Air Force), 1956

Made - - - -	*26th January*, 1956
Laid before Parliament	*13th March*, 1956
Coming into Operation	*1st January*, 1957

ARRANGEMENT OF RULES

Citation and commencement

Rule
1. Citation and commencement.

Definitions and interpretations

2. Definitions.
3. Interpretation Act, 1889.