EXPLANATORY NOTE

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

These Rules, which are made under section 103 of the Air Force Act, 1955, make provision with respect to the investigation and trial of, and awarding of punishment for, offences cognizable by courts-martial, commanding officers and other air-force authorities, and with respect to the confirmation and revision of findings and sentences of courts-martial. They will take the place of the Rules of Procedure, 1933 (S.R. & O. 1933/250 (Rev. I, p. 937)), which were made under the Air Force Act at present in force.

Important changes are:—

(i) Rule 6 has reduced the period of time during which a person may be held in arrest before trial without the approval of a convening officer from 90 days to 72 days and has also applied the provision to persons in open arrest as well as those in close arrest. Queen's Regulations will provide that no order will be made under this rule without the prior consent of the Commander-in-Chief or Air Ministry as the case may be;

(ii) Rule 62 brings the procedure with regard to closing addresses more in line with civil procedure;

(iii) Rules 72 and 74 (3) make provision for the occasions on which an accused requests other offences to be taken into consideration;

(iv) Rule 81 makes provision for a judge advocate to sit alone in accordance with section 104 of the Air Force Act, 1955;

(v) Rule 82 makes provision for withdrawal of charges and charge-sheets;

(vi) Rule 83 (2) enables a court-martial at which there is a judge advocate to make amendments to charges; and

(vii) Rule 101 deals with the procedure to be followed by an accused who wishes to petition both before and after confirmation.

1956 No. 2054

The Execution of Sentences of Death (Air Force) Regulations, 1956

Made - - - -	19*th December*, 1956
Laid before Parliament	31*st December*, 1956
Coming into Operation	1*st January*, 1957

The Secretary of State for Air, in exercise of the powers conferred upon him by sections 121, 123 and 126 of the Air Force Act, 1955(a), and section 17 of the Courts-Martial (Appeals) Act, 1951(b), as amended by the Revision

(a) 3 & 4 Eliz. 2. c. 19. (b) 14 & 15 Geo. 6. c. 46.

of the Army and Air Force Acts (Transitional Provisions) Act, 1955(a), and of all other powers him enabling, hereby makes the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the Execution of Sentences of Death (Air Force) Regulations, 1956, and shall come into operation on the 1st day of January, nineteen hundred and fifty-seven.

Interpretation

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

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

"the Act" means the Air Force Act, 1955;

"local commander" means an officer of Her Majesty's forces not below the rank of Air Commodore or corresponding rank under or in the area of whose command a person under sentence is for the time being;

"military establishment" means a military establishment as defined for the purposes of Part II of the Army Act, 1955(c);

"naval detention quarters" has the same meaning as it has in the Naval Discipline Act;

"overseas establishment" means any establishment under the control of the authorities of a country or territory outside the United Kingdom in which sentences of death passed by courts-martial may be carried out in accordance with these Regulations;

"person under sentence" means a person sentenced to suffer death under the Act whose sentence has not been commuted:

and other expressions have the same meanings as they have in the Act.

Custody of persons under sentence

3.—(1) After sentence has been passed a person under sentence shall be detained in accordance with the following provisions of this Regulation.

(2) During the whole or any part of the period between the passing and the carrying out of the sentence a person under sentence may be detained in—

(*a*) an air-force establishment;
(*b*) a military establishment;
(*c*) naval detention quarters;
(*d*) a civil prison;
(*e*) an overseas establishment;
(*f*) air-force custody;
(*g*) military custody;
(*h*) naval custody.

Provided that a person under sentence shall not be detained in an air-force or military establishment which is not an air-force or military prison, nor in air-force, naval or military custody unless, having regard to all the circumstances, it is impracticable to detain him in an air-force or military prison, a civil prison, or, where the person under sentence is outside the United Kingdom, an overseas establishment.

(a) 3 & 4 Eliz. 2. c. 20. (b) 52 & 53 Vict. c. 63.
(c) 3 & 4 Eliz. 2. c. 18.

(3) The manner in which a person under sentence who—

(*a*) is in an air-force or military establishment, in naval detention quarters, in an overseas establishment, or in air-force, naval or military custody; and

(*b*) has appealed, or desires to appeal, to the Courts-Martial Appeal Court—

may be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of Part I of the Courts-Martial (Appeals) Act, 1951, or any place to which the Courts-Martial Appeal Court or a Judge thereof may order him to be taken for the purposes of any proceedings of that Court, shall be as follows:—

(i) he may be taken to, kept in custody at, and brought back from any such place as aforesaid in air-force, naval or military custody;

(ii) he may be kept in custody at any such place as aforesaid in any manner ordered by the Courts-Martial Appeal Court or a Judge thereof, or in an air-force or military establishment, naval detention quarters, a civil prison or a police station:

Provided that he shall not be kept in a civil prison or a police station for periods exceeding seven days at any one time.

(4) Subject to the provisions of section 125 of the Act, no person under sentence shall be committed to an air-force or military establishment, naval detention quarters, air-force, naval or military custody, a civil prison or an overseas establishment, nor removed from one place or establishment to another, save in pursuance of an order of the local commander made in a form specified in the First Schedule to these Regulations or in a form substantially to the like effect, and every such order shall be duly completed in accordance with the instructions contained in the said form.

Removal from one place or establishment to another

4. At any time between the passing and carrying out of a sentence of death a person under sentence may be removed in air-force, naval or military custody from any such place or establishment as is referred to in paragraph (2) of Regulation 3 to another such place or establishment in accordance with the directions of the local commander, who may also give such directions as he thinks proper for the treatment of the person under sentence during such removal, so however that, so far as practicable, the person under sentence shall be treated as if he were in an air-force establishment:

Provided that nothing in this Regulation shall prejudice the removal of any person under sentence in accordance with powers exercisable by any person by virtue of the Courts-Martial (Appeals) Act, 1951, or the provisions of section 125 of the Act.

Arrangements for carrying out sentences of death

5. Immediately after promulgation of a sentence of death the local commander shall make arrangements for the sentence to be carried out or for the removal of the person under sentence to a place where the sentence is to be carried out.

Places where sentences of death may be carried out

6.—(1) If a person under sentence is in the United Kingdom the sentence of death shall be carried out in an air-force or military prison or in a civil prison.

(2) If a person under sentence is in a country or territory outside the United Kingdom the sentence of death shall be carried out—

(*a*) in an air-force or military prison or in an overseas establishment; or

(*b*) if in any such country or territory there is not an air-force or military prison nor an overseas establishment, or if it would be inexpedient or undesirable for the sentence to be carried out in the country or territory in question in such a prison or establishment, in such other place as the local commander may by written order direct.

(3) Nothing in this Regulation shall authorise a sentence of death to be carried out in contravention of subsection (3) of section 126 of the Act.

Special provisions with reference to committal or transfer to civil prisons

7.—(1) Notwithstanding anything in Regulations 3, 4, 5 and 6, no person under sentence shall be committed or transferred to a civil prison, nor shall a sentence of death passed on any such person be carried out in a civil prison, without the consent of the Prison Commissioners.

(2) In the application of this Regulation in Scotland, for the reference to the Prison Commissioners there shall be substituted a reference to the Secretary of State.

(3) In the application of this Regulation in Northern Ireland, for the reference to the Prison Commissioners there shall be substituted a reference to the Ministry of Home Affairs.

Treatment of persons under sentence

8.—(1) Where a person under sentence is in an air-force establishment, the following provisions shall apply—

(*a*) he shall be deprived of every article which it might be dangerous or inexpedient to leave in his possession;

(*b*) he shall be confined in a separate cell and kept apart from all other persons under sentence of death, imprisonment or detention or in custody;

(*c*) he shall be kept by day and by night in the constant charge of two officers, warrant officers or non-commissioned officers;

(*d*) he shall be subject to Imprisonment and Detention Rules made under the Act (other than those relating to work and training) except in so far as they are inconsistent with the provisions of these Regulations;

(*e*) he shall not be required to perform any duties other than to keep clean his person and cell;

(*f*) he shall be allowed daily physical exercise;

(*g*) he shall be granted facilities to correspond with his relatives, friends and legal advisers;

(*h*) he shall be permitted to smoke;

(*i*) he shall be visited once daily by the commandant and once daily by the medical officer;

(*j*) he may be visited at any time by any person authorised to visit him by written order of the local commander;

(*k*) he may be visited by such of his relatives, friends and legal advisers as he desires to see and as are authorised to visit him by written order of the local commander;

(*l*) he may be visited at any time by a chaplain of his own creed or denomination or, if he so desires, a chaplain of another creed or denomination;

(*m*) except as hereinbefore provided, he shall not be visited by any person other than a member of the staff;

(*n*) all visits shall take place in the sight of a member of the staff;

(*o*) any visit shall take place in the hearing of a member of the staff if the commandant of the air-force establishment so orders, but he shall not so order in the case of a visit by a chaplain, a near relative or a legal adviser unless in his opinion it is essential to do so.

In this Regulation a reference to "a member of the staff" means a member of the staff of the air-force establishment in which the person under sentence is.

(2) Where a person under sentence is detained in naval detention quarters or a military establishment he shall be given treatment and privileges of the same nature as are given in naval detention quarters to a person who has been sentenced to death by court-martial under the Naval Discipline Act or in a military establishment to a person who has been sentenced to death by court-martial under the Army Act, 1955, as the case may be.

(3) Where a person under sentence is detained in a civil prison he shall while in that prison be confined and dealt with in the same manner as a person confined therein under a sentence of death passed by a civil court.

(4) Where a person under sentence is in air-force, naval or military custody, not being in an air-force establishment, he shall be given treatment and privileges of the same nature as he would receive if he were in an air-force establishment subject to such modifications as the local commander may direct or the circumstances of the case require.

(5) Where a person under sentence is detained in an overseas establishment he shall be given treatment and privileges of the same nature as he would receive in accordance with these Regulations if he were in an air-force establishment subject to any modifications for which provision has been made by a Secretary of State pursuant to section 126 of the Act and arrangements made thereunder.

Duties of superintendents of colonial prisons

9. Where, in pursuance of these Regulations, a person under sentence is committed or ordered to be removed to an overseas establishment being a prison in a colony, it shall be the duty of the superintendent or other person in charge of the prison to receive him and to confine him until the sentence is carried into effect or he is discharged or delivered over in due course of law.

Officer responsible for execution

10. The local commander shall nominate a provost officer not below the rank of squadron leader who shall be responsible for the due execution of any sentence of death passed under the Act.

Death Warrant

11.—(1) The death warrant shall be issued by the local commander and shall be in the form set out in Part I of the Second Schedule hereto or in a form substantially to the like effect.

(2) The local commander shall not issue the death warrant until he is satisfied that having regard to the provisions of—

(*a*) section 112 of the Act (which requires approval as well as confirmation in respect of certain death sentences); and

(*b*) subsection (1) of section 14 of the Courts Martial (Appeals) Act, 1951 (which provides for suspension of death sentences during periods for appeal);

the sentence of death may be carried into effect.

(3) No sentence of death passed under the Act shall be carried into effect until the death warrant has been received by the provost officer nominated under Regulation 10 of these Regulations.

Method of Execution

12.—(1) A sentence of death passed under the Act shall be executed by hanging or by shooting and the method of execution shall be stated in the death warrant in accordance with the directions of the confirming officer.

(2) In a civil prison a sentence of death shall not be carried out by shooting.

Execution under Air-force Arrangements

13.—(1) Where a sentence of death under the Act is carried out—

(*a*) the mode of execution and the procedure attending it shall be the same as heretofore in use;

(*b*) the following persons, in addition to the executioner and his assistants, or the firing party, as the case may be, shall be present:—

(i) the provost officer who is responsible for the due execution of the sentence in accordance with these Regulations:

(ii) a medical officer of Her Majesty's forces;

(iii) an officer of Her Majesty's air, naval or military forces nominated by the local commander who is able to identify the person under sentence as the person described in the death warrant and as the person who was tried and sentenced by the court-martial mentioned therein;

(iv) a chaplain nominated by the local commander;

(v) such non-commissioned officers as may be detailed by the provost officer as aforesaid for escort and security purposes or to assist at the execution;

(vi) if the execution is carried into effect in an air-force establishment, the commandant thereof or the officer for the time being acting as commandant;

and no other person shall be present without the authority of the local commander.

(2) This Regulation shall not apply in relation to a sentence of death carried out in a civil prison.

Death Certificate and Return of Warrant

14.—(1) As soon as practicable after a sentence of death has been carried out the medical officer in attendance shall examine the body and ascertain the fact of death and shall sign a certificate to that effect in the form set out in Part II of the Second Schedule hereto. As soon as the medical

officer has certified the fact of death in the manner aforesaid, the provost officer responsible for carrying the sentence into effect, and the officer mentioned in sub-paragraph (iii) of paragraph (*b*) of Regulation 13 of these Regulations, shall complete and sign the portion of the death warrant headed "Return of Warrant", and the said provost officer shall send the death warrant and the said certificate to the local commander.

(2) Paragraph (1) of this Regulation shall not apply in the case of a sentence of death carried out in a civil prison, but in such case the provost officer responsible for carrying the sentence into effect shall, upon being satisfied that the fact of death has been duly certified, complete and sign the "Return of Warrant" and send the death warrant and the certificate of death to the local commander.

Burial

15.—(1) The body of a person upon whom a sentence of death under the Act has been carried out shall be buried without air-force honours in a military cemetery or other place chosen by the local commander.

(2) This Regulation shall not apply in relation to a sentence of death carried out in a civil prison.

Carrying out of sentences of death in overseas establishments

16. In relation to the carrying out in an overseas establishment of any sentence of death passed by a court-martial under the Act these Regulations shall apply subject to any modifications for which provision has been made by the Secretary of State in accordance with section 126 of the Act and any arrangements made thereunder.

Nigel Birch,
One of Her Majesty's Principal Secretaries of State.

Air Ministry,
19th December, 1956.

FIRST SCHEDULE

Form 1

Regulation 3

Order for the committal of a person sentenced to death by a court-martial to a civil prison, an overseas establishment, an air-force or military establishment or naval detention quarters.

To the Governor, Commandant or other person in charge of.....
..... (*a*)

Whereas No. ..... Rank ..... Name .....
of Royal Air Force Station .....
was by a ..... (*b*) court-martial held at .....
convicted of the offence[s] of.....
.....
.....
..... (*c*)
and by a sentence passed on the ..... day of .....19...
sentenced to suffer death, which sentence has been duly confirmed in accordance with the provisions of the Air Force Act, 1955, and has not been commuted;

Now, therefore, in pursuance of the Air Force Act, 1955, and of all other powers me enabling, I hereby order you to receive into your custody and to retain the said person until the sentence of death is carried out or until you are otherwise ordered by any court or judge of competent judisdiction or you are given further orders to discharge or deliver over the said person in due course of law and for so doing this shall be sufficient warrant.

Signed at ..... this ..... day of ..... 19....

(Signature) ..... (*d*)

Rank and Appointment .....

(*a*) Insert the name and address of the prison or other establishment. A person under sentence must not be committed to a civil prison until consent has been obtained pursuant to Regulation 7 of the Regulations.* A person under sentence shall not be committed to an air-force or military establishment (which is not an air-force or military prison) nor to air-force, naval or military custody, except in the circumstances described in the proviso to Regulation 3 (2) of the Regulations or on occasions authorised by the Regulations.*

(*b*) Insert " General " or " Field-General ", as the case may be.

(*c*) Here set out the statement (but not the particulars) of the offence and the relevant sections of the Air Force Act, 1955. Where there is more than one offence the statement of each must be set out.

(*d*) The committal order must be signed by the " local commander " (as defined in Regulation 2 (2) of the Regulations*) of the person under sentence.

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* The Execution of Sentences of Death (Air Force) Regulations, 1956 (S.I. 1956/2054).

FORM 2

Order for the removal of a person sentenced to death by court-martial from one prison or other establishment to another.

To the Governor, Commandant or other person in charge of .....(*a*)

Whereas No..... Rank..... Name..... of Royal Air Force Station..... was by a.....(*b*) court-martial held at..... convicted of the offence[s] of..... .... (*c*) and by a sentence passed on the..... day of....., 19 , sentenced to suffer death, which sentence has been duly confirmed in accordance with the provisions of the Air Force Act, 1955, and has not been commuted;

And whereas the said person is now in your custody;

Now, therefore, in pursuance of the Air Force Act, 1955, and of all other powers me enabling, I hereby order you to deliver up the said person to the officer, warrant officer or non-commissioned officer producing this order;

And I do further order that the said person shall be removed in air-force, naval or military custody to.....(*d*) and that the Governor, Commandant or other person in charge thereof shall receive into his custody and retain the said person until the sentence of death is carried out, or until otherwise ordered by any court or judge of competent jurisdiction or given further orders to discharge or deliver over the said person in due course of law, and for so doing this shall be sufficient warrant;

And I do further order that the said person shall be detained in air-force, naval, military or civil custody so far as appears necessary or proper for effecting the removal of the said person.

Signed at..... this..... day of ....., 19 .

(Signature) .....(*e*)

Rank and Appointment.....

(*a*) Insert the name and address of the prison or other establishment.

(*b*) Insert " General " or " Field-General ", as the case may be.

(*c*) Here set out the statement (but not the particulars) of the offence and the relevant sections of the Air Force Act, 1955. Where there is more than one offence the statement of each must be set out.

(*d*) Insert the name and address of the prison or other establishment to which the person under sentence is to be removed. A person under sentence must not be removed to a civil prison until consent has been obtained pursuant to Regulation 7 of the Regulations.* A person under sentence shall not be removed to an air-force or military establishment (which is not an air-force or military prison) nor to air-force, naval or military custody except in the circumstances described in the proviso to Regulation 3 (2) of the Regulations or on occasions authorised by the Regulations.*

(*e*) The removal order must be signed by the " local commander " (as defined in Regulation 2 (2) of the Regulations*) of the person under sentence.

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* The Execution of Sentences of Death (Air Force) Regulations, 1956 (S.I. 1956/2054).

Regulations 11, 12, 13 *and* 14

THE SECOND SCHEDULE

PART I

DEATH WARRANT

To

.....(*a*)

Whereas .....(*b*)

of Royal Air Force Station .....

was by a .....(*c*) court-martial held at .....

.....(*d*) convicted of the offence[s] of.....

.....

.....

.....

.....(*e*)

and by a sentence passed on the ..... day of ....., 19....., sentenced to suffer death;

And whereas in accordance with the Air Force Act, 1955, the finding and sentence of the said court-martial have been confirmed and promulgated;

And whereas I am satisfied, having regard to the provisions of Regulation 11 of the Execution of Sentences of Death (Air Force) Regulations, 1956, that the sentence of death may be carried into effect:

Now, therefore, I hereby order you to carry into effect the said sentence on .....(*b*) by .....(*f*), and for so doing this shall be sufficient warrant:

When the said sentence has been carried into effect the return below shall be completed and the warrant returned to me.

(Signature) .....(*g*)

..... Rank

Commanding .....

Local Commander.

Return of Warrant

The above sentence passed on .....(*b*) was carried into effect at .....(*h*) on the ..... day of ....., 19....., at ..... hours.

(Signature) .....(*a*)

(Signature) .....(*i*)

(*a*) Provost officer responsible for carrying the sentence of death into effect.

(*b*) Insert the full name of the person under sentence, including, in the case of members of Her Majesty's forces, number and rank (or as the case may require).

(*c*) Insert "General" or "Field-General".

(*d*) Insert the place where the court-martial was held.

(*e*) Here set out the statement (but not the particulars) of the offence and the relevant sections of the Air Force Act, 1955. When there is more than one offence the statement of each must be set out.

(*f*) Insert "hanging" or "shooting".

(*g*) Signature of the local commander.

(*h*) Insert the name and address of the prison or establishment or description of the place where the sentence of death was carried into effect.

(*i*) Mandatory witness, namely, the officer nominated under Regulation 13 (1) (*b*) (iii) of the Regulations.* This signature is not obligatory in the case of a sentence carried out in a civil prison.

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* The Execution of Sentences of Death (Air Force) Regulations, 1956 (S.I. 1956/2054).

PART II

CERTIFICATE OF MEDICAL OFFICER

I, ...(*a*), a medical officer of Her Majesty's forces, hereby certify that I have this day examined the body of ....(*b*) upon whom sentence of death was this day carried into effect at .....(*c*) and that on examination I found that the said person was dead.

Dated this ..... day of ....., 19.....

(Signature) .....

..... Rank

A medical officer of Her Majesty's forces.

(*a*) Full names of the medical officer who attended the execution, stating rank and corps.

(*b*) Full names of the person upon whom the sentence of death has been carried into effect.

(*c*) Prison, establishment or place where the sentence of death was carried into effect.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations exercise the powers conferred by sections 121, 123 and 126 of the Air Force Act, 1955, to make regulations with respect to the execution of sentences of death passed by courts-martial under that Act. They also exercise a power conferred by section 17 of the Courts-Martial (Appeals) Act, 1951 (as amended), to make rules with reference to producing persons sentenced before the Courts-Martial Appeal Court.

Regulation 3 states the prisons and other establishments and types of custody in which persons sentenced to death may be kept pending execution.

Regulation 4 provides that a person sentenced to death may be removed in accordance with the directions of a senior officer from one place to another.

Regulation 5 provides that immediately after promulgation of a sentence of death arrangements shall be made for it to be carried out.

Regulation 6 states the kinds of prisons and establishments and the places where sentences of death may be carried out.

Regulation 7 makes special provisions in relation to persons committed or transferred to civil prisons in the United Kingdom.

Regulation 8 contains a code for the treatment of persons under sentence of death.

Regulation 9 refers to the duties of superintendents of colonial prisons in relation to persons sentenced to death under the Air Force Act, 1955.

Regulation 10 makes provision for the nomination of a provost officer who shall be responsible for the due execution of sentences of death.

Regulation 11 provides for the issue of death warrants and for the safeguards to be observed before they are issued.

Regulations 12, 13 *and* 14 contain provisions as to the method of execution the arrangements to be made where an execution is carried out under air-force arrangements, for the completion of death certificates and for the return of warrants.

Regulation 15 provides for the method of burial of a person upon whom a sentence of death has been carried out.

Regulation 16 applies the regulations, subject to possible modifications, in relation to death sentences carried out in overseas establishments.

In the *First Schedule* forms of committal to, and removal from, prisons and other establishments are prescribed.

The *Second Schedule* prescribes the forms of death warrant and medical certificate.