STATUTORY INSTRUMENTS

1962 No. 2387

ARMY

The Imprisonment and Detention (Army) (Third Amendment) Rules 1962

Made - - - -	*26th October* 1962
Laid before Parliament	*29th October* 1962
Coming into Operation	*1st November* 1962

The Secretary of State for War, in exercise of the powers conferred upon him by sections 119, 122, 123, 124, 126, 127 and 129 of the Army Act 1955(a), and section 17 of the Courts-Martial (Appeals) Act 1951(b), as amended by the Revision of the Army and Air Force Acts (Transitional Provisions Act) 1955(c), the Naval Discipline Act 1957(d) and the Administration of Justice Act 1960(e), and of all other powers enabling him in that behalf, hereby makes the following Rules :—

Citation and Commencement

1. These Rules may be cited as the Imprisonment and Detention (Army) (Third Amendment) Rules 1962, and shall come into operation on the 1st day of November 1962.

Interpretation

2. The Interpretation Act 1889(f), shall apply for the purposes of the interpretation of these Rules as it applies for the purposes of the interpretation of an Act of Parliament.

Amendments

3. The Imprisonment and Detention (Army) Rules 1956(g), as amended by the Imprisonment and Detention (Army) (Amendment) Rules 1961(h), and the Imprisonment and Detention (Army) (Second Amendment) Rules 1962(i), shall be amended as follows:—

(1) In paragraph (2) of Rule 2—

(*a*) the following shall be substituted for the definition of "soldier":—

> "soldier" includes any man or woman under military sentence of imprisonment or detention, save that in Rules 12 to 17 the expression shall not include a person who when sentenced was
>
> (i) an officer or
>
> (ii) a person subject to Part II of the Act by virtue of section 209 thereof, to Part II of the Air Force Act 1955, by virtue of section 209 thereof, or to Parts I and II of the Naval Discipline Act 1957, by virtue of section 118 thereof;"

(a) 3 & 4 Eliz. 2. c. 18. (b) 14 & 15 Geo. 6. c. 46. (c) 3 & 4 Eliz. 2. c. 20.
(d) 5 & 6 Eliz. 2. c. 53. (e) 8 & 9 Eliz. 2. c. 65. (f) 52 & 53 Vict. c. 63.
(g) S.I. 1956/1914 (1956 I, p. 310). (h) S.I. 1961/2395 (1961 III, p. 4390).
(i) S.I. 1962/1312 (1962 II, p. 1398).

(*b*) the following shall be substituted for the definition of "room":—

"room" means any cell or room or other place of confinement within any premises or vessel, or any hut or tent or part of a hut or tent;".

(2) The following paragraph shall be inserted as paragraph (3) of Rule 2—

"(3) The following Rules shall apply, as they apply to soldiers under military sentence of imprisonment or detention, to persons detained in military establishments while serving sentences of imprisonment or detention awarded under the Naval Discipline Act 1957, or the Air Force Act 1955, notwithstanding that such persons are not for the time being subject to military law—

Rules 25 (1), 26, 28 to 32 subject to the omission from Rules 28 and 30 of the words "or an overseas establishment", 33 to 61, 63, 65 to 94 and 98 to 113.".

(3) In Rule 22, the following paragraph shall be substituted for paragraph (3):—

"(3) has appealed against his conviction to the Courts-Martial Appeal Court, or where the decision of that Court in regard to such appeal is the subject of an appeal, or of an application for leave to appeal, to the House of Lords under section 1 of the Administration of Justice Act 1960, and he is entitled or ordered to be present at any place for the purposes of Part I of the Courts-Martial (Appeals) Act 1951, or of the Administration of Justice Act aforesaid; or".

(4) In Rule 24, there shall be inserted before the words "No person" at the beginning of the Rule the words "Save as provided in Rules 25 and 26".

(5) The following shall be substituted for Rule 25:—

"25. (1) A person under sentence may be released from imprisonment or detention in a military establishment for the purposes of medical examination, observation or treatment for such period and subject to such conditions as the commandant, acting on the advice of the medical officer, may determine.

(2) A person under military sentence of imprisonment or detention may be released from a military establishment in accordance with any provision of these Rules under which a soldier may be removed from places, establishments, or forms of custody to any other place, establishment or form of custody."

(6) In Rule 27:—

(*a*) there shall be substituted for the word "soldier" where it first appears the words "person subject to military law or subject to Part II of the Act by virtue of section 209 thereof" and for the word "soldier" where it appears in paragraph (*a*) and first appears in paragraph (*b*) the words "such person";

(*b*) the existing provisions of the Rule as so amended shall be numbered paragraph (1) thereof and the following shall be inserted as paragraph (2):—

"(2) For the purposes of this Rule the commanding officer of a person subject to Part II of the Act by virtue of section 209 thereof shall be the officer appointed as his commanding officer

under the provisions of Regulation 10 of the Army Summary Jurisdiction Regulations 1956.".

(7) In Rule 35, for the words "better soldiers and citizens" there shall be substituted the words "more efficient members of Her Majesty's forces and better citizens.".

(8) In Rule 45, the following shall be inserted at the end of paragraph (1):—

"He may also, during the interval between his admission and the accrual of his first earnings, be provided with goods from the canteen to the value and subject to the conditions stated in paragraph 7 of the said Schedule.".

(9) The following shall be substituted for Rule 57:—

"57. The manner in which a soldier under sentence in a military establishment or an overseas establishment who has appealed, or desires to appeal, to the Courts-Martial Appeal Court against his conviction by court-martial, or whose conviction or acquittal is the subject of an appeal, or of an application for leave to appeal, from the decision of that Court to the House of Lords under section 1 of the Administration of Justice Act 1960, may be taken to, kept in custody at, or brought back from any place at which he is entitled or ordered by that Court or a Judge thereof or that House to be present for the purposes of any proceedings of that Court or that House, shall be as follows:—

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

(*b*) he may be kept in custody at any such place as aforesaid in such manner as may be directed by the said Court or a Judge thereof or the said House or, in the absence of any such direction, in a military, naval or air-force establishment, in a civil prison, or in a police station:

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

(10) Rule 62 shall be omitted.

(11) In Rule 93, for the words "soldiers under sentence" in the heading and in paragraph (1) there shall be substituted the words "persons under sentence", and the words ""prisoner"" and ""soldier under sentence"" in the list of modifications in that paragraph shall be omitted.

(12) In Rule 96, the word "military" where it thirdly appears shall be omitted, and for the words "better soldiers" there shall be substituted the words "more efficient members of Her Majesty's forces".

(13) In Rules 101 and 102, for the words "military proficiency" in paragraph (1) of each Rule there shall be substituted the words "proficiency as a member of Her Majesty's forces".

(14) In Rule 102, the words "or Pay Regulations applicable to his service" shall be inserted after the words "Royal Warrant for Pay" in sub-paragraph (*f*) of paragraph (2)".

(15) In Rule 104 :—

(*a*) in paragraph (2) the following shall be inserted after the reference to and description of Rule 39 :—

" Rule 41 (2) (which relates to training in military prisons and detention barracks) ; "

(*b*) in paragraph (3) the following sub-paragraph shall be added to the paragraph dealing with Rule 41 :—

" Rule 41, paragraph (3)—

the full stop at the end of this paragraph of this Rule shall be replaced by a comma, and the words " and training in unit detention rooms shall so far as may be practicable in the circumstances be of the same nature and be carried out in a similar manner." shall be added."

(16) In the Second Schedule—

the following paragraph shall be substituted for paragraph 1 :—

" Soldiers under sentence :—

	Rates per week s. d.
1. (*a*) During the first 14 weeks of sentence ...	2 6
(*b*) Thereafter, according to his skill and industry, the weekly earnings of a soldier under sentence may, at the discretion of the commandant, be increased at a maximum rate of 3d. per fortnight to a maximum of	6 0 "

For the figure " 2½d." in paragraph 2 there shall be substituted the figure " 4½d.".

For the figure " 2s." at each place where it appears in paragraph 4 there shall be substituted the figure " 2s. 6d.".

For the figures " 2s. 0d." and " 3½d." in paragraph 5 there shall be substituted the figures " 2s. 3d." and " 4½d." respectively.

The following shall be substituted in paragraph 6 for the words and figures from and including " 2s. 0d. per week " to the end of the paragraph :—

" 2s. 6d. per week, and any sum standing to his credit, and the commandant shall pay to the commanding officer of the hospital from time to time sums equal to the value of the goods so issued.".

Paragraph 7 shall be re-numbered paragraph 8, and the following shall be inserted as paragraph 7 :—

" 7. Soldiers under sentence may between admission and the accrual of their first earnings be provided on credit with goods from the canteen to a retail value of not more than 2s. 6d. The object of this credit is to avoid borrowing and the Commandant will make arrangements to ensure that they are given an opportunity to use it as soon as possible after admission. It will be explained to the soldier under sentence that he may obtain goods on credit up to the value stated and that the price of the goods so obtained will be recovered from subsequent earnings before his discharge."

(17) In the Third Schedule, for the words "soldier under sentence" wherever they appear there shall be substituted the word "prisoner".

Dated 26th October 1962.

John Profumo.

EXPLANATORY NOTE

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

These Rules amend the Imprisonment and Detention (Army) Rules 1956, as amended by the Imprisonment and Detention (Army) (Amendment) Rules 1961 and the Imprisonment and Detention (Army) (Second Amendment) Rules 1962. The principal amendments are as follows :—

(*a*) the expression "soldier" in the Rules is revised to ensure, firstly, that rules which apply to "soldiers" detained in military establishments will also apply to officers and certain civilians who may in the circumstances set out in Rule 11 serve sentences in such establishments, and secondly that the rules will continue to apply during the service of sentence by persons who may during the course of their sentence cease to be subject to military law ;

(*b*) the rules which are to apply to persons under naval or air force sentence detained in military establishments are set out in a new paragraph to Rule 2 ;

(*c*) the rules dealing with temporary custody of persons under military sentence of imprisonment or detention (Rule 22) and with the custody of persons appealing against sentence (Rule 57) are amended to make due provision for the case of persons exercising the rights of appeal to the House of Lords conferred by the Administration of Justice Act 1960 ;

(*d*) the earnings scheme applicable to military establishments designated by the Secretary of State as establishments where productive work is done is amended in certain respects ;

(*e*) provision is made as to the training to be carried out in unit detention rooms.