STATUTORY INSTRUMENTS

1972 No. 966

DEFENCE

The Naval Courts-Martial (Procedure) (Amendment) Order 1972

Made - - -	*28th June* 1972
Laid before Parliament	*29th June* 1972
Coming into Operation	*1st July* 1972

At the Court at Buckingham Palace, the 28th day of June 1972

Present,

The Queen's Most Excellent Majesty in Council

Whereas there was this day read at the Board a Report of the Judicial Committee of the Privy Council dated the 8th day of June 1972 in the words following:

"Whereas by Order in Council of the 24th day of May 1972 there was referred unto this Committee a General Order dated the 16th day of May 1972 made by the Secretary of State for Defence amending the General Orders for regulating the procedure and practice of Naval Courts-Martial:

"The Lords of the Committee in obedience to the said Order of Reference have taken the said General Order into consideration and Their Lordships do this day agree humbly to report to Your Majesty in Council as their opinion that the said General Order ought to be approved":

Now, therefore, Her Majesty having taken the said Report into consideration, and in exercise of the powers conferred upon Her by section 58(4) of the Naval Discipline Act 1957(**a**), and of all other powers Her enabling, is pleased, by and with the advice of Her Privy Council, to order and it is hereby ordered, as follows:

1. This Order may be cited as the Naval Courts-Martial (Procedure) (Amendment) Order 1972 and shall come into operation on 1st July 1972.

2. The Interpretation Act 1889(**b**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The said General Order, which is set out in the Schedule to this Order, is hereby approved.

W. G. Agnew.

(**a**) 1957 c. 53.

(**b**) 1889 c. 63.

SCHEDULE

GENERAL ORDER

The Secretary of State, in exercise of the powers conferred on him by section 58(1) of the Naval Discipline Act 1957 as amended by the Defence (Transfer of Functions) (No. 1) Order 1964(**a**), and section 58(2) of the said Act as amended by the Armed Forces Act 1971(**b**), and of all other powers enabling him in that behalf, hereby makes the following General Order:

The General Orders set out in the Schedule to the Naval Courts-Martial (Procedure) Order, 1957(**c**) shall have effect as though—

(*a*) the following article were inserted after article 2193:

"2194. *Finding of guilty—outstanding offences not charged*

1. Before the court proceed to deliberate on the sentence, the accused may request the court to take into consideration any other offence(s) against the Act (including a civil offence against section 42) committed by him. The court shall not agree to do so with regard to serious offences which are of a nature wholly different from those of which the accused has been found guilty or has pleaded guilty. The court shall consider any representation by the prosecutor before agreeing to take offences into consideration, but it shall so agree unless there is any strong reason against that course. The accused's friend should warn the accused of the possible consequences should the accused wish to have such an offence taken into consideration.

2. A list of the offences which the court agree to take into consideration must be prepared (usually the accused's friend will have had it prepared in advance or it may have been prepared by the prosecutor and accepted by the accused, with the advice of the accused's friend) and read to the accused by the Judge Advocate or Clerk of the Court in open court; and the accused (not his friend) must be asked if he admits having committed them. The accused must then sign a list of offences which he admits having committed and the court shall take the offences in that list into consideration.

3. The list signed by the accused must be countersigned by the President and it must be attached to the form on which the sentence of the court is recorded. The list thus forms a part of the record of proceedings." and

(*b*) in article 2201 the following words were inserted after the words "article 2193,":

"any statement by the prosecutor concerning restitution or compensation and, where appropriate, receiving from the accused a list of offences admitted by him which he desires to be taken into consideration under article 2194,".

Carrington,
One of Her Majesty's Principal Secretaries of State.

16th May 1972.

(**a**) S.I. 1964/488 (1964 I, p. 769).
(**b**) 1971 c. 33.
(**c**) S.I. 1957/2225 (1957 II, p. 2198).

EXPLANATORY NOTE

(This Note is not part of the Order.)

The General Order approved by this Order makes provision, in accordance with section 49 of the Armed Forces Act 1971, for other offences to be taken into consideration at Naval Courts-Martial and sets out the procedure to be adopted. The General Order also provides for the receipt of a list of any offences admitted by the accused which he desires to be taken into consideration and for a statement by the prosecutor concerning restitution or compensation to be heard before the Court decides on the sentence to be imposed.

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