STATUTORY INSTRUMENTS

1961 No. 2223

ARMY

Rules of Procedure (Army) (Amendment) Rules, 1961

Made - - - -	*17th November*, 1961
Laid before Parliament	*27th November*, 1961
Coming into Operation	*1st January*, 1962

The Secretary of State for War, in exercise of the powers conferred upon him by sections 103, 104, 105 and 106 of the Army Act, 1955(a), and of all other powers enabling him in that behalf, hereby makes the following Rules:

Citation and Commencement

1.—(1) These Rules may be cited as the Rules of Procedure (Army) (Amendment) Rules, 1961, and these Rules and the Rules of Procedure (Army), 1956(b), (hereinafter referred to as "the Principal Rules") shall be construed as one and may be cited together as "the Rules of Procedure (Army), 1956".

(2) These Rules shall come into operation on the first day of January, 1962.

Interpretation

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

(2) A Rule or Schedule referred to by number in these Rules means the Rule or Schedule so numbered in the Principal Rules.

Amendments to the Principal Rules

3.—(1) The Principal Rules shall be amended in accordance with the provisions of the following paragraphs of this Rule.

(2) The following paragraph shall be added to Rule 2 and shall stand as paragraph (3):—

"(3) Any reference in these Rules to an enactment contained in the Act being an enactment amended by the Army and Air Force Act, 1961(d), shall, unless the contrary intention appears, be construed as referring to that enactment as so amended."

(3) In paragraph (2) of Rule 12 the words from "with a direction that" to the end of the paragraph shall be omitted.

(4) In sub-paragraph (*b*) of paragraph (1) of Rule 71 after the words "during his service;" there shall be inserted the words "and which is recorded in the service books relating to the accused".

(5) In Rule 91:—

(*a*) in paragraph (3) the words from "and at the" to the end of the paragraph shall be omitted; and

(*b*) the following paragraph shall be added and shall stand as paragraph (3A):—

(a) 3 & 4 Eliz. 2. c. 18. (b) S.I. 1956/162 (1956 I, p. 213). (c) 52 & 53 Vict. c. 63. (d) 9 & 10 Eliz. 2. c. 52.

"(3A) At the time of service of the summons referred to in paragraph (2) of this Rule there shall be paid or tendered any expenses which by regulations made by the ~~Army Council~~ are payable to a witness in respect of his journey to, attendance at and return from the taking of the summary of evidence or the trial as the case may be:

Provided that for the purpose of this paragraph:—

(i) the tender of a warrant or voucher entitling the witness to travel free of charge shall be deemed to constitute tender of his expenses in respect of any travelling authorised by the warrant or voucher; and

(ii) the tender of a written undertaking on behalf of the Army Council to defray at the taking of the summary of evidence or the trial, as the case may be, any other expenses payable under such regulations in respect of the witness's attendance shall be deemed to constitute tender of these expenses."

(6) In Part (2) of the Second Schedule (Statement of offences):—

(*a*) for the detail under "SECTION 24" shall be substituted:—

"SECTION 24

(1) (*a*)/(*b*)/(*c*)/(*d*)/(*e*)/(*f*)/(*g*)/(*h*) Aiding the enemy with intent contrary to section 24 (1) (*a*)/(*b*)/(*c*)/(*d*)/(*e*)/(*f*)/(*g*)/(*h*) of the Army Act, 1955.

(2) Knowingly and without lawful excuse doing an act specified in paragraph (*a*)/(*b*)/(*c*)/(*d*)/(*e*)/(*f*)/(*g*) of section 24 (1) of the Army Act, 1955, contrary to section 24 (2) of the said Act.

(3) Negligently causing the capture/destruction by the enemy of Her Majesty's aircraft contrary to section 24 (3) of the Army Act, 1955."

(*b*) in the detail under "SECTION 44" the figure "(1)" shall be inserted before the letters "(*a*)", "(*b*)", "(*c*)" and "(*d*)", and there shall be added the following:—

"(2) (*a*) Wilfully damaging/Being concerned in the wilful damage of Her Majesty's aircraft/aircraft material contrary to section 44 (2) (*a*) of the Army Act, 1955.

(2) (*b*) By wilful neglect causing damage to/the loss of Her Majesty's aircraft/aircraft material contrary to section 44 (2) (*b*) of the Army Act, 1955.

(2) (*c*) Without lawful authority disposing of Her Majesty's aircraft/aircraft material contrary to section 44 (2) (*c*) of the Army Act, 1955.

(3) Causing the { sequestration by / destruction in } a neutral state of Her Majesty's aircraft contrary to section 44 (3) of the Army Act, 1955. "; and

(*c*) in the detail under "SECTION 46" there shall be added after item "(*a*)" the following:—

"(*aa*) By negligence { losing / damaging } Her Majesty's { aircraft / aircraft material } contrary to section 46 (*aa*) of the Army Act, 1955.

(*ab*) Being guilty of { an act / neglect } likely to cause damage to or the loss of Her Majesty's { aircraft / aircraft material } contrary to section 46 (*ab*) of the Army Act, 1955."

(7) In Part (3) of the Second Schedule (Illustration of charge-sheets) in the first charge-sheet for the words "SECTION 44 (*a*)" and "SECTION 44 (*b*)" shall be substituted the words "SECTION 44 (1) (*a*)" and SECTION 44 (1) (*b*)" respectively; in the charges there shall be substituted for the figures "1957" where they twice occur the figures "1962" and for the dates "7th January, 1957" and "9th January, 1957" shall be substituted the dates "16th January, 1962" and "17th January, 1962" respectively.

(8) In paragraph 5 of the Third Schedule for the words "*either the punishment of forfeiture of seniority of rank or the punishment of stoppages*" shall be substituted the words "*the punishment of forfeiture of seniority of rank or of forfeiture of a sum from pay or of stoppages*".

(9) In Part (1) of the Fourth Schedule (Convening orders) the words "The judge advocate has been appointed by the [Judge Advocate General] [Deputy Judge Advocate General at . . .]" in each place where these words occur shall be deleted and there shall be substituted therefor the words "The judge advocate has been appointed by or on behalf of the Judge Advocate General of the Forces.".

(10) In Part (6) of the Fourth Schedule (Findings) there shall be added a new item after the item "*Special findings*":—

"*No finding on alternative charge*

guilty of the .....[1] charge; the court record no finding on the..... (alternative) charge."

(11) There shall be substituted for Part (8) of the Fourth Schedule (Service record of the accused) the form set out in the Schedule to these Rules.

(12) Part (13) of the Fourth Schedule (Restitution order) shall be amended by:—

(*a*) omitting the words "and I direct that this order shall be carried out forthwith."; and

(*b*) by adding the following words to note 4 to the form:—

"If the order directs that property shall be delivered to the person appearing to be the true owner and the title to the property is not in dispute, the following words may be added, 'and I direct that this order shall be carried out forthwith', (see section 138 (10) of the Army Act, 1955)."

(13) In Part (1) of the Fifth Schedule (Sentences):—

(*a*) under the heading "OFFICERS" there shall be added immediately below the item "Forfeiture of seniority of rank":—

"To forfeit . . . from his pay. Forfeiture of a sum from pay.";

(*b*) under the heading "WARRANT OFFICERS AND NON-COMMISSIONED OFFICERS" the item "Forfeiture of pay" shall be deleted, and there shall be added immediately below the item "Forfeiture of service":—

"To forfeit . . . days pay. Forfeiture of pay.

To forfeit . . . from his pay. Forfeiture of a sum from pay.";

and

(*c*) under the heading "SOLDIERS" there shall be added immediately below the item "Forfeiture of pay":—

"To forfeit . . . from his pay. Forfeiture of a sum from pay."

(14) Part (5) of the Fifth Schedule (Restitution order) shall be amended by:—

(*a*) omitting the words "The court further order that this order shall be carried out forthwith."; and

(*b*) by adding the following words to note 3 to the form:—

"If the order directs that property shall be delivered to the person appearing to be the true owner and the title to the property is not in dispute, the following words may be added 'and the court further order that this order shall be carried out forthwith', (see section 138 (10) of the Army Act, 1955)."

Dated this 17th day of November, 1961.

John Profumo.

THE SCHEDULE

(8) SERVICE RECORD OF ACCUSED

SERVICE RECORD OF ACCUSED

Number	Rank	Name	Regiment or Corps
.....	.....	.....	.....

1.[1] He was enlisted on ..... 19... and commissioned on ..... 19...

2. He is serving on a[2].....

3. His age is ..... years.

4.[1] He is single/married/divorced/widowed and has children under the age of 16 years.

5. His gross rate of pay is ..... per day, but he is .....

6.[3] His reckonable service towards discharge or transfer to the reserve is .... years.

7.[3] His reckonable service towards pension, gratuity, *etc.*, is ..... years.

8. (i) He is entitled to the following decorations and awards:—

(ii) The following acts of gallantry or distinguished conduct are recorded in his conduct sheet:—

9. He holds the substantive rank of ..... with seniority from ..... 19... and has held the acting rank of ..... continuously since ..... 19...

10.[1] He has been awaiting trial for ..... days since he was first, in connection with the matters for which he is before the court, charged or placed in arrest, of which ..... days were spent in civil custody, ... days were spent in close arrest and ..... days were spent in open arrest.

11.[1] [He is not now under sentence] [He is now under sentence of ..... beginning on ..... 19...but suspended on ..... 19...and (not yet put into operation again) (put into operation on ..... 19...)]

12. According to his conduct sheets, he has been found guilty by his commanding officer or by the commandant of a military establishment of the following offences:—[4]

	In the last 12 months	During his service
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

13. The details, according to his conduct sheets, of offences of which he has been convicted by court-martial or of which he has been found guilty during his service by a civil court, offences taken into consideration by such courts, offences of which he has been found guilty by an appropriate superior authority and of dispensations with trial under section 81 of the Army Act, 1955, are set out[4] in the Schedule hereto.

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[1] Delete inapplicable wording.

[2] Insert the type and length of the commission or nature and length of the engagement.

[3] To be deleted in the case of an officer.

[4] If there are no entries in his conduct sheet, enter " nil ".

THE SCHEDULE HEREINBEFORE REFERRED TO[1]

No. Rank Name of Regiment or Corps

Description of court, appropriate superior authority, or officer dispensing with trial	Date and place of trial, summary dealing, or of order dispensing with trial	Charges on which convicted or found guilty, offences taken into consideration and offences in respect of which trial was dispensed with	Sentence or order of the court as confirmed, award of appropriate superior authority, or order of the officer dispensing with trial	Punishment remitted on review or reconsideration[2]
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

I HEREBY CERTIFY that this form and schedule contain a summary of entries in the service books relating to the accused.

Signed this day of .....

(Name, rank, and appointment of officer signing)

[1] A verbatim extract from the service books, stating these convictions, *etc.*, must be inserted.
[2] Omit automatic remission under Imprisonment and Detention Rules.

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 Army Act, 1955, amend the Rules of Procedure (Army), 1956:—

(*a*) consequent upon the amendments to the Army Act, 1955, by the Army and Air Force Act, 1961;

(*b*) by making provision for a witness who is summoned to attend a court-martial, *etc.*, to be given a warrant instead of conduct money; and

(*c*) by revising certain of the rules and certain of the terms in the Schedule to bring them into line with modern practice, and making other minor additions considered necessary.