STATUTORY INSTRUMENTS

1964 No. 1006

DEFENCE

The Rules of Procedure (Army) (Amendment) Rules 1964

Made - - - -	3*rd July* 1964
Laid before Parliament	9*th July* 1964
Coming into Operation	10*th July* 1964

The Secretary of State 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 makes the following Rules:—

Citation and Commencement

1.—(1) These Rules may be cited as the Rules of Procedure (Army) (Amendment) Rules 1964 and these Rules and the Rules of Procedure (Army) 1956(b) (hereinafter referred to as " the Principal Rules ") and other Rules(c) amending 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 10th July 1964.

Interpretation

2.—(1) The Interpretation Act 1889(d) 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) In Rule 2(1) there shall be added in their proper sequence the following definitions:

" Child " means a person under the age of 14 years.

" Sexual offence " means in relation to an offence against section 70 of the Act(a) any offence under the Sexual Offences Act 1956(e) or the Indecency with Children Act 1960(f) or any attempt to commit such an offence and shall include any offence of an indecent or unnatural kind under section 66 of the Act(a) or any attempt to commit such an offence under section 68 of the Act or an offence of an indecent kind under section 69 of the Act.

" Young person " means a person who has attained the age of fourteen years and is under the age of seventeen years.

(a) 3 & 4 Eliz. 2. c. 18. (b) S.I. 1956/162 (1956 I, p. 213).
(c) S.I. 1961/2223 (1961 III, p. 3903). (d) 52 & 53 Vict. c. 63. (e) 4 & 5 Eliz. 2. c. 69.
(f) 8 & 9 Eliz. 2. c. 33.

(3) In Rule 9 the following paragraph shall be added and shall stand as paragraph (*bb*):

"A child shall not be called as a prosecution witness in any case where the charge being investigated is for a sexual offence and any statement made in writing by or taken in writing from the child which would be admissible if given orally may be read to the accused and included in the summary of evidence:

Provided that this paragraph shall have no application where the child can be compelled to attend and the accused objects to the application of this paragraph or the officer taking the summary of evidence requires the attendance of the child for the purpose of establishing the identity of any person or is satisfied it has not been possible to obtain from the child a statement that may be given in evidence under this paragraph: "

(4) In Rule 34:—

(*a*) paragraphs (3) and (4) shall be renumbered as paragraphs (4) and (5) and

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

"(3) Where a person is a child or young person the oath shall be in the appropriate form set out in the Sixth Schedule to these Rules."

(5) Rule 62:—

(*a*) In paragraph (2) the words from "unless the accused has called a witness to fact" to the end of the paragraph, shall be omitted.

(*b*) There shall be substituted for paragraph (3):—

"(3) Where two or more accused are represented by the same defending officer or counsel he may make one closing address only".

(*c*) Paragraph (4) shall be omitted.

(6) Rule 63:—

For the words "Rules 59 and 62" there shall be substituted the words "Rule 59".

(7) In sub-paragraph (*c*) of paragraph (3) of Rule 71 after the words "civil court" there shall be inserted the words ", not being offences of which he was found guilty while under the age of fourteen years."

(8) In sub-paragraph (3A) of Rule 91 in the places where the words "Army Council" appear there shall be substituted the words "Defence Council".

(9) In Part (2) of the First Schedule (Summary of Evidence) after the words "(Signature of officer taking the summary of evidence)" there shall be inserted the words:—

"or

..... (description)

A written statement of this witness's evidence has been read to the accused and is included in this summary at page ..... (The accused does not object to the application of Rule of Procedure 9(*bb*).) (The accused objects to the application of Rule of Procedure 9(*bb*) but the witness is not compellable and has refused to attend.)

.....

(Signature of officer taking the summary of evidence)".

(10) In Part (1) of the Sixth Schedule (Oaths at Investigations by Commanding Officers and Appropriate Superior Authorities) there shall be added a new item after the item "Witness":—

"*Child or young person*

I promise before Almighty God that the evidence which I shall give at this investigation shall be the truth, the whole truth and nothing but the truth."

(11) In Part (2) of the Sixth Schedule (Oaths at Courts-Martial) there shall be added a new item after the item "Witness":—

"*Child or young person*

I promise before Almighty God that the evidence which I shall give before this court-martial shall be the truth, the whole truth and nothing but the truth."

Peter Thorneycroft.

Dated 3rd July 1964.

EXPLANATORY NOTE

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

These Rules amend the Rules of Procedure (Army) 1956, by applying to trials by courts-martial provisions analogous to those applicable to the civil courts resulting from the Children and Young Persons Act 1963 and the Criminal Procedure (Right of Reply) Act 1964. The Rules also take account of the transfer of functions from the former Army Council to the Defence Council under the provisions of the Defence (Transfer of Functions) Act 1964.