1964 No. 1864

DEFENCE

ARMY

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

Made - - - -	23*rd November* 1964
Laid before Parliament	27*th November* 1964
Coming into Operation	28*th November* 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 hereby makes the following Rules:—

Citation and Commencement

1.—(1) These Rules may be cited as the Rules of Procedure (Army) (Second Amendment) Rules 1964 and these Rules and the Rules of Procedure (Army) 1956(b) (hereinafter referred to as the " Principal Rules ") and other Rules amending the Principal Rules(c) 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 28th November 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) The Rules referred to by number in these Rules mean the Rules as 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)(*b*) for the words " is guilty but insane ; " there shall be substituted the words " is not guilty by reason of insanity ; ".

(3) At the commencement of paragraph (1) of Rule 22 there shall be added the words " Subject to paragraphs (2) and (3) of this Rule ".

After paragraph (2) there shall be inserted the following paragraph as paragraph (3):—

" (3) When an officer convenes a court-martial consequent on an order authorizing a retrial made under the Criminal Appeal Act 1964(e) by the Court-Martial Appeal Court or Defence Council:—

(*a*) sub-paragraph (*b*) of paragraph (1) of this Rule shall not apply but the convening officer shall direct that a charge sheet shall be prepared in accordance with the provisions of paragraph 2 of Schedule I to the said Act and with any directions which may have been given by the Courts-Martial Appeal Court or the Defence Council under paragraph 4 of the said Schedule and that the accused shall be tried on the charge in that charge-sheet.

(a) 3 & 4 Eliz. 2. c. 18. (b) S.I. 1956/162 (1956 I, p. 213).
(c) S.I. 1961/2223, 1964/1006 (1961 III, p. 3903; 1964 II, p. 2256).
(d) 52 & 53 Vict. c. 63. (e) 1964 c. 43.

(*b*) When it is proposed to tender any evidence given by any witness at the original trial as evidence at the retrial in accordance with the provisions of paragraph 8 of the said Schedule the convening officer shall send to the accused as soon as practicable and in any case not less than 24 hours before his trial and also to the President, the Judge Advocate (if any) and the Prosecutor a copy of any such evidence."

(4) In Rule 89 :—

(*a*) for the heading " INSANITY " there shall be substituted the heading " UNFITNESS TO STAND TRIAL AND INSANITY " ;

(*b*) for paragraphs (1) and (2) there shall be substituted the following:

(1) Where on the trial of a person the question of his fitness to be tried falls to be determined in accordance with the provisions of subsection (4A) of section 116 of the Act, the court shall take evidence as to his condition. If after considering the evidence they are of the opinion that the accused is fit to stand his trial, they shall proceed with the trial ; but if they are of the opinion that the accused is unfit to stand his trial they shall so find and their finding shall be announced in open court forthwith and as being subject to confirmation.

(2) If a court, in the course of their deliberation on their finding on a charge find pursuant to subsection (2) of section 116 of the Act that the accused was not guilty of the offence by reason of insanity their finding shall be announced in open court forthwith and as being subject to confirmation.

(5) In paragraphs (1), (2) and 3) of Rule 101 after the words " court martial " there shall be inserted the words " or who has been found by a court-martial to be unfit to stand his trial or to be not guilty by reason of insanity ".

(6) In paragraph (6) of the Fourth Schedule for the words " *Where the accused is unfit to stand his trial by reason of insanity* " to the words " guilty but insane ", there shall be substituted the following—

" *Where the accused is unfit to stand his trial*
unfit to stand his trial.

Acquittal by reason of insanity
not guilty by reason of insanity."

Dennis Healey,
One of Her Majesty's Principal Secretaries of State.

Dated 23rd November 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 making provision for the procedure to be followed where a retrial is authorised by the Courts-Martial Appeal Court or a reviewing authority under Schedule 1 of the Criminal Appeal Act 1964, and for the new forms of findings resulting from Schedule 2 of the Criminal Procedure (Insanity) Act 1964.