

NOW, therefore, in pursuance of section 115 of the Defence Act, and rule 90 of the Defence Rules of Procedure (Part II), I hereby order you to receive the above-named into temporary custody until/he is fit to stand trial or/<sup>325</sup> the Minister makes appropriate directions.

Signed this.....day of .....19.....

Signature: .....<sup>326</sup>

Commander Defence Force

## DEFENCE (BOARD OF INQUIRY) RULES

SI 49/1984

### (SECTION 135)

*[Commencement 20th September, 1984]*

1. These Rules may be cited as the Defence (Board of Inquiry) Rules. Citation.
2. In these Rules, unless the context otherwise requires — Interpretation.
  - “board” means a board of inquiry established under section 126 of the Defence Act;
  - “civil authority” includes a coroner and the police;
  - “president” means president of a board; and
  - “record of the proceedings”, in relation to a board, includes the report of the board and any opinion expressed by the board in accordance with the directions given by the convening officer.
3. A board shall investigate and report on the facts of any matter referred to the board under these Rules and shall, if so directed by the convening officer, express their opinion on any question arising out of any matter referred to the board. Duties of boards.
4. A board shall be convened with reference to — Matters for reference to boards.
  - (a) the sinking of any Defence Force craft where an inquiry into such sinking is not held by any civil authority;

<sup>325</sup> Delete if inappropriate.

<sup>326</sup> This form must be signed by Commander Defence Force.

- (b) the capture of any person subject to service law by the enemy;
- (c) the death of any such person where an inquiry into the death is not required to be held by any civil authority; or
- (d) any other matter referred to the board by the convening officer.

Convening.

5. A board shall be convened by order of Commander Defence Force and the convening order shall be in the form set out in the First Schedule or a form substantially to the like effect.

First Schedule.

Constitution.

6. (1) A board shall consist of a president, who shall be an officer not below the rank of lieutenant-commander, and two members who shall be either officers, warrant officers, or non-commissioned officers.

(2) The president and all members of the board shall be subject to service law.

(3) Subject to paragraph (2), the president shall have power to seek the assistance of, or consult with, such public servants or persons who, not being members of the board but who because of their qualifications or training are experts in any matter relevant to the inquiry.

Assembly and procedure.

7. (1) A board shall assemble at the time and place specified in the convening order and shall reassemble at such time and place and for such purpose as the convening officer may direct.

(2) The president shall lay the terms of reference before the board and the board shall proceed to hear and record the evidence in accordance with these Rules.

(3) The board may adjourn and sit on such occasions and at such places as the president may direct.

(4) The board shall hear the evidence of any witnesses specified by the convening officer and of such other persons as the board think fit.

(5) The board may receive any evidence which they consider relevant to the matter referred to the board, whether oral or written and whether or not it would be admissible in a civil court.

**8.** (1) Subject to paragraph (3), every witness before a board shall be examined on oath: Oaths and affirmations

Provided that where any child called as a witness does not, in the opinion of the board, understand the nature of an oath, his evidence may be received though not given on oath, if in the opinion of the board he is intelligent enough to justify the reception of the evidence and understands the duty of speaking the truth.

(2) Subject to paragraph (3), an oath shall be administered to any interpreter.

(3) If a person objects to taking an oath on the grounds that he has no religious belief or that taking of an oath is contrary to his religious belief, or it is not reasonably practicable to administer an oath to a person in the manner appropriate to his religious belief, he shall be required to make a solemn affirmation instead of taking an oath.

(4) Oaths and affirmations shall be administered or made as prescribed in the Second Schedule. Second Schedule

**9.** (1) The president shall record, or cause to be recorded, the proceedings of the board in sufficient detail to enable the convening officer to follow the course of the proceedings; and the form of record is set out in the Third Schedule. Record of proceedings  
Third Schedule

(2) The evidence of each witness, which may be recorded in narrative form, shall, as soon as it has been taken down, be read over to and signed by him.

(3) Any document or thing produced to the board by a witness when giving his evidence shall be made an exhibit and attached to the record of the proceedings:

Provided that, if it is impracticable for the original document or thing to be exhibited, a copy, extract or description, duly certified by the president to be a true copy or extract or an accurate description, may be attached to the record of the proceedings instead.

(4) The record of the proceedings shall be signed by the president and members of the board and forwarded to the convening officer.

**10.** (1) When it appears to the convening officer or, if a board has been convened, either to the convening officer or to the president that any person subject to service law Persons who may be affected by the board

may be affected by the findings of the board, the convening officer or, as the case may be, the president shall take such steps as are in his opinion reasonable and necessary to ensure that such person has notice of the proceedings and, if he so desires, has an opportunity of being present and represented by an attorney or an officer subject to service law at the sittings of the board or any such part thereof as the convening officer or, as the case may be, the president may specify.

(2) Any such person as is referred to in paragraph (1) may give evidence, question witnesses or produce any witnesses to give evidence on the matters which may affect him or, if he is represented, his representative may so act on his behalf, but neither the person nor his representative shall address the board except with the permission of the president.

**FIRST SCHEDULE (Rule 5)**

**CONVENING ORDER FOR A BOARD OF INQUIRY**

1. A board of inquiry is to assemble  
at (place).....  
at (hours):.....  
on (date).....  
to investigate the circumstances in which .....
2. President (rank, name, unit):  
Members (rank, name, unit or other description):.....  
.....
3. The board is to investigate all the circumstances and record all evidence relevant to the inquiry.
4. The following persons are to be given the opportunity of being present and represented under rule 10 of the Defence (Boards of Inquiry) Rules: .....  
.....
5. The board is to report on the following matters: .....  
.....
6. The board is to express an opinion on: .....  
.....
7. The board is to make recommendations as to how a recurrence can be prevented.
8. The following service witnesses are to be ordered to attend:.....  
.....
9. The attention of the board is drawn to: .....

10. All necessary facilities for the board are to be provided by officer commanding (unit or sub-unit): .....
11. The President is to forward the record of the proceedings to the convening officer.
- Signed:.....
- Commander Defence Force
- Date:.....

## SECOND SCHEDULE (Rule 8)

### OATHS AND AFFIRMATION BEFORE BOARDS OF INQUIRY

#### *Interpreter*

I swear by Almighty God that I will to the best of my ability truly interpret and translate as I shall be required to do touching the matter being investigated.

#### *Witness*

I swear by Almighty God that the evidence which I shall give at this inquiry shall be the truth, the whole truth and nothing but the truth.

#### *Child or Young Person*

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

#### *Manner c.f Administering Oaths*

Christians taking the oath shall, unless female, remove their head-dress and, holding the Bible or New Testament in their right hand, say to or repeat after the person administering the oath the words of the oath. Jews shall take the oath in the same manner except that they shall wear their head-dress and hold the Old Testament in their right hand.

#### *Solemn Affirmations*

The person making a solemn affirmation shall say to or repeat after the person administering the solemn affirmation “I (name in full) do solemnly, sincerely and truly declare and affirm that/I will to the best of my ability truly interpret and translate as I shall be required to do touching the matter being investigated/the evidence which I shall give at this inquiry shall be the truth, the whole truth and nothing but the truth” as appropriate.

**THIRD SCHEDULE (Rule 9)**

**RECORD OF PROCEEDINGS OF A BOARD OF INQUIRY**

1. The board assembled  
 at (place): .....  
 on (date): .....  
 by order of Commander Defence Force  
 for the purpose of .....
  2. President .....
  - Members: .....
  3. The following persons were in attendance during (the whole) (part) of the proceedings under rule 10 of the Defence (Board of Inquiry) Rules:
  4. They were represented by: .....
  5. The interpreter was: .....
  6. The board heard the evidence of the following witnesses whose evidence is recorded on the following pages; .....
  7. The documents, statements and exhibits listed below were examined by the board and (copies) are to be found on the following pages: .....
  8. The findings (opinion) (and recommendations) of the board are at pages: .....
- Dated:.....
- Signed:(President): .....
- (Member): .....
- (Member): .....

**DEFENCE ( EXECUTION OF SENTENCES OF DEATH) REGULATIONS**

SI 57/1984

(SECTION 136)

*[Commencement 20th September, 1984]*

Citation

**1.** These Regulations may be cited as the Defence (Execution of Sentences of Death) Regulations.

Interpretation

**2.** In these Regulations, unless the context otherwise requires —