

⁹⁶⁺ AND WHEREAS I have directed a summary of the evidence to be taken at

.....⁹⁷ on the.....day of.....19.....

⁹⁸⁺ AND WHEREAS the charge is to be tried by me at ⁹⁹

.....
on the.....day of.....19.....

YOU ARE PURSUANT TO SECTION 133 OF THE DEFENCE ACT AND RULE 20 OF THE DEFENCE RULES OF PROCEDURE (PART I) MADE THEREUNDER HEREBY SUMMONED and required to attend as a witness the taking of the said/summary of evidence/trial/at.....¹⁰⁰

on the.....day of.....19... at o'clock in the morning/afternoon/ and to bring with you the documents hereinafter mentioned viz: ¹⁰¹

.....
.....

Whereof you shall fail at your peril.

Given under my hand at.....on the.....day of.....19.....

.....
(Signature, rank and unit)
Commanding officer of the accused

SI 54/1985

DEFENCE RULES OF PROCEDURE (PART II)

(SECTION 133)

[Commencement 20th September, 1984]

Citation. **1.** These Rules may be cited as the Defence Rules of Procedure (Part II).

Interpretation. **2.** In these Rules, unless the context otherwise require —

⁹⁶ Delete as appropriate.

⁹⁷ Insert the place where the summary of evidence is to be taken or trial held.

⁹⁸ Delete as appropriate.

⁹⁹ Insert the place where the summary of evidence is to be taken or trial held.

¹⁰⁰ Insert the place where the summary of evidence is to be taken or trial held.

¹⁰¹ Specify the documents (if any) which the witness is to bring. If the witness is not required to bring any documents, strike out the words relating to documents.

“accused” means a person subject to service law who is alleged to have committed an offence against Part V of the Act;

“attorney” means a counsel and attorney for the time being authorised to practise as a counsel and attorney of the Supreme Court;

“convening officer” means Commander Defence Force;

“shorthand writer” means any person appointed to record verbatim, by whatever means, the proceedings of a court-martial.

Preparation of Charge-Sheets and Framing of Charges

3. (1) A charge-sheet shall contain the whole of the issue or issues to be tried at one time and may contain more than one charge if the charges are founded on the same facts or form or are part of a series of offences of the same or similar character: Charge-Sheets

Provided that charges under section 43(1), section 44, section 59(1) (where the charge is connected with a charge under either of the before-mentioned sections) or section 64 of the Act may be included in any charge-sheet.

(2) Every charge-sheet shall in its layout follow the appropriate illustration given in the First Schedule. First Schedule

(3) The commencement of each charge-sheet shall state the pay number, rank, name and unit of the accused and show by an express averment that he is subject to service law.

4. (1) Each charge shall state one offence only. Charges

(2) Offences may be charged in the alternative in separate charges but in no case shall they be charged in the alternative in the same charge and when charges are laid in the alternative they should be set out in order of gravity commencing with the most serious.

(3) Each charge shall consist of two parts, namely

(a) the statement of the offence; and

(b) the particulars of the act, neglect or omission constituting the offence.

(4) The statement of an offence, if it is not a civil offence, shall state the section and subsection of the Act, which it is alleged has been violated and if it is a civil offence, it shall be in such words as sufficiently describe that offence.

(5) The particulars shall state —

- (a) such circumstances respecting the alleged offence as will enable the accused to know every act, neglect or omission which it is intended to prove against him as constituting the offence;
- (b) when the offence charged is one which can be committed either in circumstances involving a higher degree of punishment or in circumstances involving a less degree of punishment, facts which it is intended to prove as rendering the accused liable to the higher degree of punishment, if convicted; and
- (c) any additional facts which it is intended to prove as rendering the accused liable to the punishment of stoppages, if convicted.

Joint Charges

5. (1) Any number of accused may be charged jointly in the same charge-sheet with offences alleged to have been committed by them separately if the acts on which the charges are founded are so connected that it is in the interests of justice that they be tried together.

(2) Any number of accused may be charged jointly in one charge for an offence alleged to have been committed by them jointly and, where so charged, any one or more of such accused may at the same time be charged in the same charge-sheet with any other offence alleged to have been committed by him or them individually or jointly:

Provided that such charges could, if the accused to whom they relate had been tried separately, have been included under rule 3(1) in the same charge-sheet as the other charges against him.

Construction of charges and charge-sheets

6. In the construction of a charge-sheet or charge there shall be presumed, in favour of supporting it, every proposition which may reasonably be presumed to be impliedly included, though not expressed therein, and the statement of the offence and the particulars of the offence shall be read and construed together.

Duties of Convening Officer

7. If the convening officer decides that the accused shall be tried by court-martial he shall — Duties in relation to charge-sheets
- (a) ensure that the accused has been remanded for trial by court-martial by his commanding officer;
 - (b) direct upon what charges the accused is to be tried;
 - (c) if he is of the opinion that charges should be put in separate charge-sheets, so direct, and direct the order in which they are to be tried;
 - (d) direct, if there is more than one accused, whether the accused are to be tried jointly or separately; and
 - (e) draw up, with the advice of the Department of Legal Affairs, the appropriate charge-sheet or charge-sheets.
8. When convening a court-martial the convening officer shall — Duties of convening officer when convening courts-martial
Second Schedule
- (a) issue a convening order in the appropriate form set out in the Second Schedule;
 - (b) appoint the president and members of the court and any waiting members in accordance with rule 9;
 - (c) if convening a court-martial at which he considers there should be a judge advocate, appoint such judge advocate or take the necessary steps to procure the appointment of a judge advocate by the Minister;
 - (d) appoint an officer subject to service law or attorney assisted by such an officer to prosecute or detail a commanding officer to appoint an officer subject to service law to prosecute:

Provided that the convening officer may appoint two such attorneys or officers to prosecute if he thinks fit;
 - (e) appoint such officer of the court, court orderly, interpreter, shorthand writer or other person he considers necessary for the efficient conduct of the proceedings;
 - (f) appoint the date, time and place for the trial;

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- (g) send to the president the charge-sheet, and the convening order and in any case in which a judge advocate has not been appointed a copy of the summary or abstract of evidence from which any evidence which in his opinion would be inadmissible under the Act at the court-martial has been expurgated;
 - (h) send to each member of the court and to each waiting member a copy of the charge-sheet;
 - (i) send to the prosecutor copies of the charge-sheet and convening order and the original summary or abstract of evidence together with —
 - (i) an unexpurgated copy of the summary or abstract of evidence showing any passages of it which in his opinion would be inadmissible — under the Act at the court-martial, and
 - (ii) where a judge advocate has been appointed, a copy of the summary or abstract of evidence from which such passages have been expurgated;
 - (j) send to the judge advocate (if any) copies of the charge-sheet and convening order and an unexpurgated copy of the summary or abstract of evidence showing any passages of it which, in his opinion, would be inadmissible under the Act at the court-martial;
 - (k) ensure that the accused is given a proper opportunity to prepare his defence in accordance with rule 11; and
 - (l) take steps in accordance with rule 77 to procure the attendance at the court-martial of all witnesses to be called for the prosecution and all witnesses whose attendance the accused has reasonably requested in accordance with rule 11:

Provided that the convening officer may require the accused to defray or to undertake to defray, as the convening officer thinks fit, the cost of the attendance of a witness whose attendance he has requested and if the accused refuses to defray or to undertake to defray, as the case may be, such cost, the convening officer shall be obliged to take any further steps to procure the attendance of that witness.

9. The convening officer shall —

- (a) appoint the president of a court-martial by name and appoint the members either by name or by detailing a commanding officer to appoint an officer of a specified rank; and
- (b) appoint such waiting members as he thinks expedient either by name or by detailing a commanding officer to appoint an officer of a specified rank.

Appointment of
president and
members

10. (1) Subject to rule 67, any officer subject to service law, may, by direction of the convening officer or at the discretion of the president, remain with a court-martial throughout the proceedings as an officer under instruction.

Officers under
instruction

(2) An officer under instruction, although allowed to be present in closed court, shall take no part in any of the deliberations or decisions of the court.

11. The convening officer shall ensure that —

- (a) an accused who has been remanded for trial by court-martial, shall be afforded a proper opportunity for preparing his defence and shall be allowed proper communication with his defending officer or attorney and with his witnesses;
- (b) a defending officer or attorney shall be appointed to defend an accused who has been remanded for trial by court-martial, unless the accused states in writing that he does not wish such an appointment to be made;
- (c) if the prosecution is to be undertaken by a legally qualified officer or by an attorney, the accused shall be notified of this fact in sufficient time to enable him, if he so desires and it is practicable, to make arrangements for a legally qualified officer or attorney to defend him;
- (d) as soon as practicable after an accused has been remanded for trial by court-martial and in any case not less than twenty-four hours before his trial, he shall be given —
 - (i) a copy of the charge-sheet;
 - (ii) an unexpurgated copy of the summary or abstract of evidence showing the passages (if any) which have been expurgated in any copy sent to the president;

Preparation of
defence

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- (iii) notice of any additional evidence which the prosecution intends to adduce; and
 - (iv) if the accused so requires, a list of the ranks, names and units of the president and members who are to form the court and of any waiting members;
 - (e) when an accused is given a copy of the charge-sheet and of the summary or abstract of evidence in accordance with this rule, he shall —
 - (i) if necessary, have the charge explained to him; and
 - (ii) be informed that, upon his making a written request to his commanding officer not less than twenty-four hours before his trial requiring the attendance at his trial of any witness (other than a witness for the prosecution) whom he desires to call in his defence (such witness to be named by him), reasonable steps will be taken in accordance with these Rules to procure the attendance of such witness at his trial;
 - (f) when an accused is served with a copy of a statutory declaration which the prosecutor proposes to hand to the court in accordance with section 102(2) of the Act, he shall be informed of his right under the said section to require that oral evidence shall be given in lieu of such written evidence;
 - (g) when it is intended to try two or more accused jointly, notice of this fact shall be given to each such accused when he is given a copy of the charge-sheet; and any such accused may, before trial, by written notice to the convening officer, claim to be tried separately on the ground that he would be prejudiced in his defence if he were not tried separately; and in such case the convening officer shall, if he is of the opinion that the interests of justice so require, direct that the accused who has so claimed shall be tried separately; and
 - (h) when a charge-sheet contains more than one charge, the accused may, before trial, by written notice to the convening officer claim to be tried

separately on any charge in that charge-sheet on the ground that he would be prejudiced in his defence, and in such case the convening officer shall, if he is of the opinion that the interests of justice so require, direct that the accused shall be tried separately on that charge.

Assembly and Swearing of Court

12. (1) Upon a court-martial assembling, the court shall, before opening, satisfy itself —

- (a) that the court has been convened in accordance with the Act and these Rules;
- (b) that the court consists of not less than the legal minimum of members;
- (c) that the president and members are of the required rank and that, in the cases specified in section 92 of the Act, a justice of the Supreme Court has been appointed as president;
- (d) that the president and members have been duly appointed and are not disqualified under the Act;
- (e) if there is a judge advocate, that he has been duly appointed;
- (f) that the accused appears from the charge sheet to be subject to service law and to be subject to the jurisdiction of the court; and
- (g) that each charge is on its face correct in law and framed in accordance with these Rules.

Preliminary matters to be considered by court and beginning of trial.

(2) Where a vacancy occurs through a member of the court being disqualified under the Act or being absent when the court assembles, the president may appoint a duly qualified waiting member to fill that vacancy; and the president may, if the interests of justice so require, substitute a duly qualified waiting member for a member appointed by the convening officer.

(3) If the court is not satisfied on any of the matters mentioned in paragraph (1), and is not competent to rectify such matter itself under the Act or these Rules, it shall, before commencing the trial, report to the convening officer.

(4) When the court has complied with this rule and is ready to proceed with the trial, the president shall open the court and the trial shall begin.

Objections to the court.

13. (1) The order convening the court and the names of the members appointed to try the accused shall be read in the hearing of the accused who shall be given an opportunity to object to any of those members in accordance with section 95 of the Act.

(2) When a court is convened to try more than one accused, whether separately or jointly, each accused shall be given an opportunity to object to any member of the court in accordance with the preceding paragraph and shall be asked separately whether he has any such objection.

(3) An accused shall state the names of all the members to whom he objects before any objection is disposed of.

(4) If more than one member is objected to, the objection to each member shall be disposed of separately and the objection to the lowest in rank shall be disposed of first, except where the president is objected to, in which case the objection to him shall be disposed of before the objection to any other member.

(5) An accused may make a statement and call any person to make a statement in support of his objection.

(6) A member to whom the accused has objected may state in open court anything relevant to the accused's objection whether in support or in rebuttal thereof.

(7) An objection to a member shall be considered in a closed court by all the other members of the court including any member who has been appointed by the president in accordance with paragraph (9) in place of a member who has retired.

(8) When an objection to a member is allowed that member shall forthwith retire and take no further part in proceedings.

(9) When a member objected (other than the president) retires and there is a duly qualified waiting member in attendance, the president shall immediately appoint him to take the place of the member who has retired.

(10) The court shall satisfy itself that a waiting member who takes the place of a member of the court is of the required rank and not disqualified under the Act and shall give the accused an opportunity to object to him and shall deal with any such objection in accordance with this rule.

(11) If an objection to the president is allowed, the court shall report to the convening officer without proceeding further with the trial.

(12) If as the result of the allowance of an objection to a member there are insufficient members available to form a court in compliance with the Act, the court shall report to the convening officer without proceeding further with the trial and the convening officer may either appoint another member to fill the vacancy or convene a fresh court to try the accused.

14. (1) Immediately after rule 13 has been complied with, an oath shall be administered to the president and each member of the court in accordance with rule 20 and in the presence of the accused.

Swearing of
court

(2) If there is a judge advocate, the oath shall be administered by him to the president first and afterwards to each member of the court and if there is no judge advocate, the oath shall be first administered by the president to the members of the court and then to the president by any member of the court already sworn.

(3) A court may be sworn at one time to try any number of accused then present before it, whether they are to be tried jointly or separately.

(4) When a court is convened to try two or more accused separately and one accused objects to the president or to any member of the court, the court may, if it thinks fit, proceed to determine that objection in accordance with rule 13, or postpone the trial of that accused and swear the court for the trial of the other accused only.

15. After the court has been sworn, an oath shall be administered to the judge advocate (if any) in accordance with rule 20 and in the presence of the accused.

Swearing of
judge advocate

16. After rule 14 and, where necessary, rule 15 have been complied with, an oath shall be administered to any officer under instruction in accordance with rule 20 and in the presence of the accused.

Swearing of
officers under
instruction

Appointment and swearing of, and objections to, interpreters and shorthand writers.

17. (1) A competent and impartial person may be appointed at any time by the convening officer or the president to act as an interpreter or shorthand writer at a trial by court-martial, and before he so acts, an oath shall be administered to him in accordance with rule 20 and in the presence of the accused.

(2) Before such a person so acts, the accused shall be given an opportunity to object to him in the same manner as an objection may be taken, to a member of the court and, if the court thinks that the objection is reasonable, that person shall not so act.

No right of objection to judge advocate, prosecutor, and officer under instruction.
Order of trials.

18. The accused shall have no right to object to the judge advocate, prosecutor or any officer under instruction.

19. (1) When a court has been convened to try two or more accused separately and has been sworn in accordance with rule 14(3), the court shall try them in the order indicated by the convening officer or, where he has given no such indication, in such order as the court thinks fit.

(2) When a court has been convened to try an accused on charges which are included in more than one charge sheet, the court shall take the charge-sheets in the order indicated by the convening officer or, where he has given no such indication, in such order as the court thinks fit.

Oaths and solemn affirmations.
Nineteenth Schedule.

20. (1) An oath which is required to be administered under these Rules shall be administered in the appropriate form and in the manner set out in the Nineteenth Schedule:

Provided that the opening words of the oath may be varied to such words and the oath may be administered in such manner as the person taking the oath declares to be binding on his conscience in accordance with his religious beliefs.

(2) Subject to rule 14(2), every oath shall be administered at a court-martial by the president, a member of the court or the judge advocate.

Nineteenth Schedule.

(3) Where a person is a child or young person, the oath shall be in the appropriate form set out in the Nineteenth Schedule.

Nineteenth Schedule.

(4) Where a person is permitted to make a solemn affirmation instead of swearing an oath, the affirmation shall be in the appropriate form set out in the Nineteenth Schedule.

Arraignment of Accused

21. (1) After rule 14 and, where necessary, rules 15 to 17 and 19 have been complied with, the accused shall be arraigned. Arraignment of accused

(2) If there is more than one charge against the accused before the court he shall be required to plead separately to each charge.

(3) If there is more than one charge-sheet against the accused before the court, the court shall arraign and try the accused upon the charge in the first of such charge sheets and shall announce its finding thereon and if the accused has pleaded guilty, the court may either proceed to comply with paragraphs (1) and (2) of rule 31 before it arraigns him upon the charge in any subsequent charge-sheet or it may defer compliance with those paragraphs until after the accused has been arraigned and tried upon such charge.

22. (1) The accused, before pleading to the charge, may offer a plea to the jurisdiction of the court and if he does so — Plea to the jurisdiction of the court

(a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto; and

(b) the prosecutor may address the court in answer to the plea and the accused may reply to the prosecutor's address.

(2) If the court allows the plea, it shall adjourn and report to the convening officer.

(3) When a court reports to the convening officer under this rule, the convening officer shall —

(a) if he approves the decision of the court to allow the plea, dissolve the court; and

(b) if he disapproves the decision of the court —

(i) refer the matter back to the court and direct it to proceed with the trial; or

(ii) convene a fresh court to try the accused:

Provided that he shall not disapprove the decision of the court where the president is a justice of the Supreme Court.

Objection to
charge

23. (1) An accused before pleading to a charge, may object to it on the grounds that it is not correct in law or is not framed in accordance with these Rules, and if he does so, the prosecutor may address the court in answer to the objection and the accused may reply to the prosecutor's address.

(2) If the court upholds the objection, it shall either amend the charge, if permissible under rule 69, or adjourn and report to the convening officer:

Provided that if there is another charge or another charge-sheet before the court, the court may, before adjourning under this rule, proceed with the trial of such other charge or other charge-sheet.

(3) When a court reports to the convening officer under this rule, the convening officer shall —

(a) if he approves the decision of the court to allow the objection —

(i) dissolve the court; or

(ii) where there is another charge or another charge-sheet before the court to which the objection does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; or

(iii) amend the charge to which the objection relates if permissible under rule 70, and direct the court to try it as amended; and

(b) if he disapproves the decision of the court to allow the objection —

(i) direct the court to try the charge, or

(ii) where there is another charge or another charge-sheet before the court to which the objection does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; or

(iii) convene a fresh court to try the accused:

Provided that he shall not disapprove the decision of the court where the president is a justice of the Supreme Court.

24. (1) An accused before pleading to a charge, may offer a plea in bar of trial in reliance upon section 125 of the Act and if he does so —

Plea in bar of trial

- (a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto; and
- (b) the prosecutor may address the court in answer to the plea and the accused may reply to the prosecutor's address.

(2) If the court allows the plea referred to in paragraph (1) it shall adjourn and report to the convening officer:

Provided that if there is another charge or another charge-sheet before the court, the court may, before adjourning under this rule, proceed with the trial of such other charge or other charge-sheet.

(3) When a court reports to the convening officer under this rule, the convening officer shall —

- (a) if he approves the decision of the court to allow the plea —
 - (i) dissolve the court; or
 - (ii) where there is another charge or another charge-sheet before the court to which the plea does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; and
- (b) if he disapproves the decision of the court to allow the plea —
 - (i) direct the court to try the charge; or
 - (ii) where there is another charge or another charge-sheet before the court to which the plea does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; or
 - (iii) convene a fresh court to try the accused:

Provided that he shall not disapprove the decision of the court where the president is a justice of the Supreme Court.

Application by
an accused at a
joint trial to be
tried separately

25. Where two or more accused are charged jointly, or are charged in the same charge-sheet with offences alleged to have been committed by them separately, any one of the accused may, before pleading to the charge or charges, apply to the court to be tried separately on the ground that he would be prejudiced in his defence if he were not tried separately; and if the accused makes such an application, the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor's address; and if the court is of the opinion that the interests of justice so require, it shall allow the application and try separately the accused who made it.

Application by
an accused at a
trial to have a
charge tried
separately

26. Where a charge-sheet contains more than one charge, the accused may, before pleading to the charges, apply to the court to be tried separately on any charge in that charge-sheet on the ground that he would be prejudiced in his defence if he were not tried separately on that charge; and if the accused makes such an application, the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor's address; and if the court is of the opinion that the interests of justice so require, it shall allow the application and try the accused separately on the charge to which it relates as if that charge had been inserted in a separate charge-sheet.

Pleas to the
charge

27. (1) After any pleas under rules 22 and 24, any objection under rule 23, and any applications under rules 25 and 26 have been dealt with, the accused shall be required (subject to paragraph (2) of this rule) to plead either guilty or not guilty to each charge on which he is arraigned.

(2) Where a court is empowered by section 101 of the Act to find an accused guilty of an offence other than that charged or guilty of committing the offence in circumstances involving a less degree of punishment or where it could, after hearing the evidence, make a special finding of guilty subject to exceptions or variations in accordance with rule 52, the accused may plead guilty to such other offence or to the offence charged as having been committed in circumstances involving a less degree of punishment or to the offence charged subject to such exceptions or variations.

28. (1) If an accused pleads guilty to a charge under either paragraph (1) or paragraph (2) of rule 27, the president or judge advocate shall, before the court decides to accept the plea, explain to the accused the nature of the charge and general effect of his plea and in particular the difference in procedure when an accused pleads guilty and when an accused pleads not guilty.

Acceptance of
pleas of guilty

(2) A court shall not accept a plea of guilty under either paragraph (1) or paragraph (2) of rule 27 if —

- (a) the court is not satisfied that the accused understands the nature of the charge or the effect of his plea; or
- (b) the president, having regard to all the circumstances, considers that the accused should plead not guilty; or
- (c) the accused is liable, if convicted, to be sentenced to death.

(3) In the case of a plea of guilty under rule 27(2), a court shall also not accept the plea unless the convening officer concurs and it is satisfied of the justice of such course; and the concurrence of the convening officer may be signified by the prosecutor.

(4) When a plea of guilty under either paragraph (1) or paragraph (2) or rule 27 is not accepted by the court or the accused either refuses to plead to the charge or does not plead to it intelligibly, the court shall enter a plea of not guilty.

(5) When a court is satisfied that it can properly accept a plea of guilty under either paragraph (1) or paragraph (2) of rule 27 it shall record a finding of guilty in respect thereof.

29. (1) When an accused pleads guilty to the first of two or more alternative charges, the court, if it accepts the accused's plea of guilty, shall record a finding of guilty in respect of the first charge and the prosecutor shall withdraw any alternative charge before the accused is arraigned on it.

Pleas on
alternative
charges

(2) When an accused pleads guilty to one of two or more charges which are laid in the alternative other than the first of such charges, the court may:

- (a) proceed as if the accused had pleaded not guilty to all the charges; or

- (b) with the concurrence of the convening officer (which may be signified by the prosecutor), record a finding of guilty on the charge to which the accused has pleaded guilty and a finding of not guilty on any alternative charge which is placed before it in the charge-sheet; and where the court records such findings, the prosecutor shall, before the accused is arraigned on it, withdraw any charge which is alternative to the charge of which the court has found the accused guilty and which is placed after it in the charge-sheet.

Procedure after Recording a Finding of Guilty

Order of trial where pleas of guilty and not guilty

30. After the court has recorded a finding of guilty, if there is no other charge in the same charge-sheet to which the accused has pleaded not guilty and no other accused who has pleaded not guilty to a charge in that charge-sheet, it shall proceed with the trial as directed by rule 31; and if there is another charge in the charge-sheet to which the accused has pleaded not guilty or there is another accused who has pleaded not guilty to a charge in the charge sheet, the court shall not comply with rule 31 until after it has dealt with such other charge or tried such other accused and has announced and recorded its finding in respect thereof.

Procedure on finding of guilty after plea of guilty

31. (1) After the court has recorded a finding of guilty in respect of a charge to which an accused pleaded guilty, the prosecutor shall, subject to rule 30, read the summary or abstract of evidence to the court or inform the court of the facts contained therein:

Provided that if the summary or abstract of evidence contains evidence which, in the opinion of the convening officer, is inadmissible under the Act, the prosecutor shall not read to the court those parts of the summary or abstract which are inadmissible or inform the court of the facts contained in those parts, and shall not hand the original summary or abstract to the court until the trial is concluded.

(2) If there is no summary or abstract of evidence or the summary or abstract is, in the opinion of the court, inadequate or incomplete, the court shall hear and record in accordance with these Rules sufficient evidence to enable it to determine the sentence.

(3) After paragraphs (1) and (2) of this rule have been complied with, the accused may:

- (a) adduce evidence of character and in mitigation of punishment; and
- (b) address the court in mitigation of punishment.

(4) After paragraph (3) of this rule had been complied with the court shall proceed as directed in rule 57(1), (2), (3), and (4).

Changes of Plea

32. (1) An accused who has pleaded not guilty may, at any time before the court closes to deliberate on that finding, withdraw his plea of not guilty and substitute a plea of guilty (including a plea of guilty under rule 27(2) and in such case the court shall, if it is satisfied that it can accept the accused's changed plea under this rule, record a finding in accordance with the accused's change of plea and so far as is necessary proceed as directed by rule 31.

Changes of plea

(2) If at any time during the trial it appears to the court that an accused who has pleaded guilty does not understand the effect of his plea or the nature of the charge, the court shall enter a plea of not guilty and proceed with the trial accordingly.

(3) When a court enters a plea of not guilty in respect of any charge under paragraph (2) of this rule, it shall, if there was a charge laid in the alternative therein which the prosecutor withdrew under rule 29, reinstate such alternative charge, arraign the accused thereon and proceed with the trial as if it had never been withdrawn.

Procedure on Pleas of Not Guilty

33. After a plea of not guilty to any charge has been entered —

Application for adjournment of trial

- (a) the court shall ask the accused whether he wishes to apply for an adjournment on the ground that any of these Rules relating to procedure before trial have not been complied with and that he has been prejudiced thereby or on the ground that he has not had sufficient opportunity for preparing his defence;

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- (b) if the accused applies for an adjournment —
- (i) the accused may adduce evidence in support of his application and the prosecutor may adduce evidence in answer thereto; and
 - (ii) the prosecutor may address the court in answer to the application and the accused may reply to the prosecutor's address; and
- (c) the court may grant an adjournment if it thinks the interests of justice so require.

Case for the prosecution

34. (1) The prosecutor may, if he desires, and shall, if required by the court, make an opening address explaining the charge, where necessary, and the nature and general effect of the evidence which he proposes to adduce.

(2) The witnesses for the prosecution shall then be called and give their evidence.

Calling of witnesses whose evidence is not contained in summary or abstract of evidence

35. If the prosecutor intends to adduce evidence which is not contained in any summary or abstract of evidence, notice of such intention together with the particulars of the evidence shall, when practicable, be given to the accused a reasonable time before the evidence is adduced; and if such evidence is adduced without such notice or particulars having been given, the court may, if the accused so desires, either adjourn after receiving the evidence or allow any cross-examination arising out of that evidence to be postponed, and the court shall inform the accused of his right to apply for such an adjournment or postponement.

Notice to an accused that a witness will not be called by the prosecutor

36. (1) The prosecutor shall not be bound to call all the witnesses against the accused whose evidence is contained in the summary or abstract of evidence nor a witness whom he has notified the accused that he intends to call under rule 35, but if the prosecutor does not intend to call such a witness to give evidence, he shall either tender him for cross-examination by the accused, or give the accused reasonable notice that he does not intend to call the witness and that the accused will be allowed to communicate with him and to call him as a witness for the defence, if he so desires and if the witness is available.

(2) Nothing in this rule affects the operation of section 102 of the Act.

Calling and Examination of Witnesses

37. Save as is otherwise provided by the Act, an oath shall be administered to each witness in accordance with rule 20 before he gives evidence and in the presence of the accused.

Swearing of witnesses.

38. During trial, a witness other than the prosecutor or accused, shall not, except by leave of the court, be in court before being called to give evidence and if while he is under examination a discussion arises as to the allowance of a question or otherwise with regard to the evidence, the court may direct the witness to withdraw during such discussion.

Exclusion of witnesses from court.

39. (1) A witness may be examined by the person calling him and may be cross-examined by the opposite party to the proceedings and, on the conclusion of any such cross-examination, may be re-examined by the person who called him on matters arising out of the cross-examination.

Examination of witnesses.

(2) The person examining a witness shall put his questions to the witness orally and, unless an objection is made by the witness, court, judge advocate, prosecutor or by the accused, the witness shall reply forthwith; and if such an objection is made, the witness shall not reply until the objection has been disposed of.

(3) The court may allow the cross-examination or re-examination of a witness to be postponed.

40. (1) The president, the judge advocate and, with permission of the president, any member of the court may put questions to a witness.

Examination of witnesses by court.

(2) Upon any such question being answered, the prosecutor and the accused may put to the witness such questions arising from the answer which he has given as seem proper to the court.

41. (1) The record which has been made of the evidence given by a witness, shall be read back to him before he leaves the court and, when this is done, he may ask for the record to be corrected or explain the evidence which he has given; and if any such correction is made or explanation given, the prosecutor and the accused may put such questions to the witness respecting the correction or explanation as seems proper to the court.

Reading back of evidence to witnesses.

(2) When a shorthand writer has been employed it shall not be necessary to comply with paragraph (1) of this rule, if, in the opinion of the court and the judge advocate (if any), it is unnecessary to do so:

Provided that if any witness so demands paragraph (1) of this rule shall be complied with.

Calling of witnesses by court and recalling of witnesses

42. (1) The court may, at any time before it closes to deliberate on its finding or if there is a judge advocate before he begins to sum up, call a witness or recall a witness, if in the opinion of the court it is in the interests of justice to do so; and if the court calls a witness or recalls a witness under this rule, the prosecutor and the accused may put such questions to the witness as seem proper to the court.

(2) The prosecutor and the accused may, at any time before the court closes to deliberate on its finding or if there is a judge advocate before he begins to sum up, recall a witness by leave of the court and the prosecutor and the accused may put such questions to the witness as seem proper to the court.

Statutory declarations

43. A statutory declaration which is admissible in accordance with the provisions of section 102(2) of the Act, shall be handed to the court by the prosecutor or the accused, as the case may be, without being produced by a witness.

Submission of No Case to Answer and Stopping of Cases

Submission of no case to answer and power of court to stop a case

44. (1) At the close of the case for the prosecution the accused may submit to the court in respect of any charge that the prosecution has failed to establish a *prima facie* case for him to answer and that he should not be called upon to make his defence to that charge; and if the accused make such a submission, the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor's address.

(2) The court shall not allow the submission unless it is satisfied that —

- (a) the prosecution has not established a *prima facie* case on the charge as laid; and
- (b) it is not open to it on the evidence adduced to make a special finding under either section 101 of the Act or rule 52(3).

(3) If the court allows the submission, it shall find the accused not guilty of the charge to which it relates and announce this finding in open court forthwith; if the court disallows the submission, it shall proceed with the trial of the offence as charged.

(4) Irrespective of whether there has been a submission under this rule or not, the court may at any time after the close of the hearing of the case for the prosecution, and after hearing the prosecutor, find the accused not guilty of a charge, and if it does so it shall also announce such finding in open court forthwith.

Case for the Defence

45. (1) After the close of the case for the prosecution, the president or judge advocate (if any) should explain to the accused that —

Explanation to accused of his rights when making his defence

- (a) if he wishes, he may give evidence on oath as a witness or make a statement without being sworn, but that he is not obliged to do either;
- (b) if he gives evidence on oath, he will be liable to be cross-examined by the prosecutor and to be questioned by the court and the judge advocate (if any) but that, if he makes a statement without being sworn, no one will be entitled to ask him any questions; and
- (c) whether he gives evidence or makes a statement or remains silent, he may call witnesses on his behalf both to the facts of the case and to his character.

(2) After the president or judge advocate has complied with paragraph (1) of this rule, he shall ask the accused if he intends to give evidence on oath or to make a statement without being sworn and if he intends to call any witness on his behalf and, if so, whether he is a witness to fact or to character only.

(3) If the accused intends to call a witness to the facts of the case other than himself, he may make an opening address outlining the case for the defence before the evidence for the defence is given.

46. (1) After rule 45 has been complied with, the witnesses for the defence (if any) shall be called and give their evidence.

Evidence for the defence

(2) Rules 37, 38, 39, 40, 41, 42 and 43 shall apply to the witnesses and the evidence for the defence as they apply to the witnesses and the evidence for the prosecution.

Evidence in rebuttal.

47. After the witnesses for the defence have given their evidence, the prosecutor may, by leave of the court, call a witness or recall a witness to give evidence on any matter raised by the accused in his defence which the prosecution could not properly have mentioned to the court before the accused disclosed his defence or which the prosecution could not reasonably have foreseen.

Closing addresses.

48. (1) After all the evidence has been given, the prosecutor and the accused may each make a closing address to the court.

(2) The accused shall be entitled to make his closing address after the closing address by the prosecutor.

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

(4) Where the accused is not represented by a defending officer or attorney, then, whether or not he himself has given evidence, the prosecutor shall not make a closing address unless the accused has called witnesses as to the facts of the case.

Handing in of a written statement by the accused.

49. For the purposes of rules 45, 47 and 48, the handing in by the accused of a statutory declaration shall be treated as the calling of a witness by him.

Summing up by Judge Advocate

Summing up by judge advocate.

50. After the closing addresses, if there is a judge advocate, he shall sum up the evidence and advise the court on the law relating to the case in open court.

Deliberation on, and Announcement of, Finding of the Charge

Deliberation on finding on the charge.

51. (1) After the closing addresses, or if there is a judge advocate after his summing up, the court shall close to deliberate on its finding on the charge.

(2) While the court is deliberating on its finding on the charge, no person shall be present except the president and members of the court and any officer under instruction.

(3) If there is a judge advocate and the court, while deliberating on its finding on the charge require further advice from him, the court shall suspend its deliberation and ask and be given such advice in open court.

52. (1) The opinion of the president and each member as to the finding shall be given in closed court, orally, and on each charge separately and their opinions shall be given in order of seniority commencing with the junior in rank.

Expressions of opinions on, and form of, finding

(2) Save as is otherwise provided in paragraph (4) of this rule, the court shall record on every charge on which a plea of not guilty has been recorded:

- (a) a finding of guilty or special finding in accordance with section 101 or 115(2) of the Act or paragraph (3) of this rule; or
- (b) a finding of not guilty or of not guilty and honourably acquitted of the charge.

(3) Where the court is of the opinion as regards any charge that the facts which it finds to be proved in evidence differ from the facts alleged in the particulars of the charge, but are nevertheless sufficient to prove the offence stated in the charge and that the difference is not so material as to have prejudiced the accused in his defence, the court may, instead of recording a finding of not guilty, record a finding that the accused is guilty of the charge subject to any exception or variation which it shall specify in the finding.

(4) Where the court has recorded a finding of guilty on a charge which is laid in the alternative, it shall find the accused not guilty of any charge alternative thereto which is placed before it in the charge-sheet and record no finding on any charge alternative thereto which is placed after it in the charge-sheet.

53. (1) The finding of each charge shall be announced in open court forthwith.

Announcement of finding

(2) Every finding of guilty shall be announced as being subject to confirmation.

(3) The finding shall be in the appropriate form set out in the Seventh Schedule.

Seventh Schedule

Procedure after Announcement of Finding

Completion of procedure on plea of guilty before deliberation on sentence.

54. After the court has announced its finding on any charge on which the court has entered a plea of not guilty, if there is another charge in the same charge-sheet on which the court has accepted a plea of guilty, the court shall comply with rule 31 (1) and (2) in respect of that charge before proceeding with the trial.

Trial of charges in other charge-sheets before deliberation on sentence.

55. Where there is another charge-sheet against the accused before the court, the court shall not comply with rules 56, 57 and 58 until it has arraigned and tried the accused and has complied with rule 53 and, if necessary, with rule 54, in respect of each charge in such other charge sheet unless that charge-sheet is withdrawn under rule 68.

Release of accused.

56. If the findings on all charges against the accused are not guilty, the court shall order the accused to be released and the president and judge advocate (if any) shall date and sign the record of the proceedings; and the president or the judge advocate shall then forward it as directed in the convening order.

Accused's record and plea in mitigation.

57. (1) If the finding on the charge against the accused is guilty, or the court makes a special finding in accordance with section 101 of the Act or rule 52(3), the court, before deliberating on its sentence, shall whenever possible to take evidence of his age, rank and service record; and such service record shall include —

- (a) any recognised acts of gallantry or distinguished conduct on the part of the accused and any decoration to which he is entitled; and
- (b) particulars of any offence of which the accused has been found guilty during his service and which is recorded in the personal file of the accused, and of the length of time he has been under arrest awaiting trial or in confinement under current sentence.

(2) Evidence of the matters referred to in paragraph (1) of this rule may be given by a witness producing to the court a written statement containing a summary of the entries in the personal file of the accused, after the witness has in court verified such statement and identified the accused as the person to whom it relates; and such statement shall be in the form set out in the Ninth Schedule.

Ninth Schedule.

(3) In addition to the evidence contained in the statement referred to in paragraph (2) of this rule, it shall be the duty of the prosecutor, whenever possible, to call as a witness an officer to give to the court any information in the possession of the service authorities regarding —

- (a) the accused's family background and responsibilities and any other circumstances which may have made him more susceptible to the commission of the offence charged;
- (b) his general conduct in the service; and
- (c) particulars of offences which do not appear in the statement referred to, of which the accused has been found guilty by a civil court not being offences of which he was found guilty while under the age of fourteen years:

Provided that the court shall not be informed of any such civil offence unless the finding is proved in accordance with section 185 of the Act or the accused has admitted, after the purpose for which such admission is required has been explained to him, that he has been found guilty of the offence.

(4) The accused may cross-examine any witness who gives evidence in accordance with paragraphs (2) and (3) of this rule and if the accused so requires the service books, or a duly certified copy of the material entries therein, shall be produced, and if the contents of the form are in any respect not in accordance with the service books or such certified copy, the court shall cause the form to be corrected accordingly.

(5) After paragraphs (1), (2), (3) and (4) of this rule have been complied with the accused may —

- (a) give evidence on oath and call witnesses in mitigation of punishment and to his character; and
- (b) address the court in mitigation of punishment.

58. (1) Before the court closes to deliberate on its sentence, the accused may request the court to take into consideration any other offence against the Act committed by him of a similar nature to that of which he has been found guilty, and, upon such request being made, the court may agree to take into consideration any of such other offences as to the court seem proper.

Request by
accused for other
offences to be
taken into
consideration

(2) A list of the offences which the court agrees to take into consideration shall be read to the accused by the president or judge advocate, who shall ask the accused if he admits having committed them, the accused shall sign a list of the offences which he admits having committed and the court shall take the offences in this list into consideration and this list shall be signed by the president or judge advocate and be attached to the record of the proceedings as an exhibit.

Deliberation on Sentence

Persons entitled to be present during deliberation on sentence.

59. While the court is deliberating on its sentence, no person shall be present except the president, members, judge advocate (if any) and any officer under instruction.

Sentence and recommendation to mercy.

60. (1) The court shall award one sentence in respect of all the offences of which the accused is found guilty.

Fifteenth Schedule.

(2) The sentences awarded pursuant to paragraph (1), shall be in the appropriate form set out in the Fifteenth Schedule.

Sixteenth Schedule.

(3) Where the court makes an order under section 80(1) of the Act, the order shall be in the appropriate form set out in the Sixteenth Schedule.

Seventeenth Schedule.

(4) Where the court makes a recommendation under section 120(3) of the Act, the recommendation shall be in the form set out in the Seventeenth Schedule.

Eighteenth Schedule.

(5) Where the court makes a restitution order under section 127 of the Act, the order shall be in the form set out in the Eighteenth Schedule.

(6) The opinion of the president and each member as to the sentence shall be given orally and in closed court and their opinions shall be given in order of seniority commencing with the junior in rank.

(7) Then the court has agreed to take into consideration an offence which is not included in the charge-sheet, the court shall award a sentence appropriate both to the offence of which the accused has been found guilty and to the other offence which it is taking into consideration, but not greater than the maximum sentence which may be awarded under the Act for the offence of which the accused has been found guilty, save that it may include in its sentence a direction that such deductions shall be made

from the pay of the accused as it would have had the power to direct to be made if the accused had been found guilty of the offence taken into consideration as well as of the offence of which he has been found guilty.

(8) The court may make a recommendation to mercy and if it does so shall record in the proceedings its reasons for making it.

61. Where two or more accused are tried separately by the same court upon charges arising out of the same transaction, the court may, if it thinks that the interests of justice so require, postpone its deliberation upon the sentence to be awarded to any one or more of such accused until it has recorded and announced its findings in respect of all such accused.

Postponement of
deliberation on
sentence

Announcement of Sentence and Conclusion of Trial

62. (1) The sentence, and any recommendation to mercy together with the reasons for making it, shall be announced in open court and the sentence shall also be announced as being subject to confirmation.

Announcement
of sentence and
conclusion of
trial

(2) When paragraph (1) of this rule has been complied with the president shall announce in open court the trial is concluded.

(3) Immediately after the conclusion of the trial the president and judge advocate (if any) shall date and sign the record of the proceedings and the president or the judge advocate shall then forward it as directed in the convening order.

*General Duties of the President, Prosecutor and the
Defending Officer or Attorney*

63. It shall be the duty of the president to ensure that the trial is conducted in accordance with the Act and these Rules and in a manner befitting a court of justice and in particular —

General duties of
the president

- (a) to ensure that the prosecutor' and the defending officer or attorney conduct themselves in accordance with these Rules;
- (b) to ensure that the accused does not suffer any disadvantage in consequence of his position as

such or of his ignorance or of his incapacity to examine or cross-examine witnesses or to make his own evidence clear and intelligible, or otherwise;

- (c) to ensure that an officer under instruction does not express an opinion to the court on any matter relating to the trial before the court has come to its finding, nor on sentence before the court has decided upon the sentence; and
- (d) when there is no judge advocate present, to ensure that a proper record of the proceedings is made in accordance with rule 78 and that the record of the proceedings and exhibits are properly safeguarded in accordance with rule 80.

General duties of prosecutor and defending officer or attorney

64. (1) It shall be the duty of the prosecutor and of the defending officer or attorney to assist the court in the administration of justice, to treat the court and judge advocate with due respect and to present their cases fairly and in particular —

- (a) to conform with these Rules and the practice of the civil courts in The Bahamas relating to the examination, cross-examination and re-examination of witnesses;
- (b) not to refer to any matter not relevant to the charge before the court; and
- (c) not to state as a matter of fact any matter which is not proved or which they do not intend to prove by evidence.

(2) Without prejudice to the generality of any of the provisions of paragraph (1) of this rule, it shall be the duty of the prosecutor to bring the whole of the transaction before the court and not to take any unfair advantage of, or to withhold any evidence in favour of, the accused.

Attorney

65. (1) Subject to these Rules, the following persons shall be allowed appear as attorney at a court-martial —

- (a) every person who is qualified as an attorney; and
- (b) with the consent of the convening officer, any person who is recognised by him as having in any country or territory outside The Bahamas rights and duties similar to those of an attorney in The Bahamas, and as being subject to punishment or disability for breach of professional rules.

(2) Any right granted by these Rules to the accused at a court-martial to call or examine witnesses or to address the court, any right of the accused to object to the admissibility of evidence at a court-martial and any right granted to the accused by rules 11(1)(e), (g) and (h) 13, 17, 22, 23, 24, 25, 26, 33, 44, 58, 66(2), 78 and 84(2) may be exercised by his defending officer or his attorney on his behalf, and any reference in these Rules to any address request, application, claim, submission, objection or plea to the jurisdiction or in bar of trial made, taken or offered at a court-martial by the accused shall be construed as including any address, request, application, claim, submission, objection or plea to the jurisdiction or in bar of trial made, taken or offered at a court-martial by his defending officer or attorney on his behalf.

(3) If the accused is to be defended at his court martial by an attorney not nominated by the convening officer, the accused shall give the convening officer notice of this fact not less than twenty-four hours before his trial.

Powers and Duties of the Judge Advocate

66. (1) The judge advocate shall be responsible for the proper discharge of his functions to the Minister.

General duties of
judge advocate

(2) The prosecutor and the accused respectively are, at all times after the judge advocate is named to act at the trial, entitled to his opinion on any question of law or procedure relative to the charge or trial whether he is in or out of court, subject when he is in court to the permission of the court.

(3) On the assembly of the court the judge advocate shall advise the court of any defect in the constitution of the court or in the charge-sheet; during the trial he shall advise the court upon all questions of law or procedure which may arise; the court shall accept his advice on all such matters unless it has weighty reasons for not doing so, and if the court does not accept it, its reasons for not doing so shall be recorded in the proceedings.

(4) After the closing addresses, the judge advocate shall sum up the evidence and advise the court upon the law relating to the case before the court closes to deliberate on its finding; if the court requires further advice from the judge advocate, it shall suspend its deliberation and ask him to give such advice in open court.

Eighth Schedule

(5) If, when the court announces a finding of guilty or a special finding under either section 101 of the Act or rule 52(3), the judge advocate is of the opinion that such finding or special finding is contrary to the law relating to the case, he shall once more, but not more than once more, advise the court what findings are, in his opinion, open to them and the court shall then reconsider its findings in closed court; the record of the proceedings relating to such reconsideration shall be in the form set out in the Eighth Schedule.

(6) The judge advocate shall be present whenever the court is sitting whether in open or closed court, except when the court is deliberating on the finding on the charges or a revision thereof.

(7) The judge advocate has equally with the president the duty of ensuring that the accused does not suffer any disadvantage in consequence of his position as such or of his ignorance or of his incapacity to examine or cross-examine witnesses, or to make his own evidence clear and intelligible or otherwise.

(8) The judge advocate shall be responsible for seeing that a proper record of the proceedings is made in accordance with rule 78 and responsible for the safe custody of the record of the proceedings under rule 80.

Judge advocate
sitting alone

67. (1) Where there is a judge advocate and —

- (a) an accused before pleading to a charge offers a plea in bar of trial; or
- (b) during the course of a trial any question as to the admissibility of evidence arises; or
- (c) during a joint trial an application is made by any of the accused for a separate trial; or
- (d) an application is made by an accused that a charge should be tried separately; or
- (e) an application is made by a party calling a witness for permission to treat that witness as hostile; or
- (f) a submission is made to the court in respect of any charge that the prosecution has failed to establish a *prima facie* case for him to answer, the president may direct that the point at issue shall be determined by the judge advocate in the absence of the president and the members of the

court and of any officer under instruction and where the president so directs he, the members of the court and any officer under instruction shall withdraw from the court.

(2) The judge advocate shall, when the president and members of the court and any officer under instruction have withdrawn in accordance with paragraph (1) of this rule, hear the arguments and evidence relevant to the point at issue and shall give his ruling upon this point and such reasons therefor as he may consider necessary; and after the judge advocate has given his ruling, the president and members of the court and any officer under instruction shall return to the courtroom and the judge advocate shall announce his ruling to them and the court shall follow his ruling.

(3) When a judge advocate sits alone in accordance with this rule the proceedings before him shall form part of the proceedings of the court, and section 74(1), section 96, section 97(1) and (2) and sections 98, 102, 103, 104 and 105 of the Act and rules 20, 37, 38, 39, 40, 41, 42, 43, 64, 65, 71, 72, 73, 77, 78, 79, 80, 83, 84 and 94 shall apply to proceedings before the president and members of the court, and anything which is authorised by those sections and those rules to be done by the court or by the president, may be done by the judge advocate when sitting alone.

(4) When a judge advocate is sitting alone in accordance with this rule and a person subject to military law commits an offence against section 74(1) of the Act, the judge advocate shall report the occurrence to the president who shall take such action as he considers appropriate.

(5) The judge advocate shall be responsible for ensuring that the president and members do not see the record of the proceedings before the judge advocate when sitting alone until after the court has announced its finding.

Withdrawal and Amendment c.f Charge-Sheets and Charges

68. A court may, with the concurrence of the convening officer (which may be signified by the prosecutor), allow the prosecutor to withdraw a charge before the accused is arraigned thereon or a charge-sheet before the accused is arraigned on any charge therein.

Withdrawal of
charge-sheets and
charges

Amendment of
charge-sheets and
charges by the
court

69. (1) At any time during a trial if it appears to the court that there is in the charge-sheet —

- (a) a mistake in the name or description of the accused; or
- (b) a mistake which is attributable to a clerical error or omission,

the court may amend the charge-sheet so as to correct the mistake.

(2) If at any time during a trial at which there is a justice of the Supreme Court as president or a judge advocate, it appears to the court, before it closes to deliberate on its finding, that it is desirable in the interests of justice to make any addition to, omission from or alteration in, a charge which cannot be made under paragraph (1) of this rule it may, if such addition, omission or alteration can be made without unfairness to the accused, so amend the charge if the president or, as the case may be, judge advocate concurs:

(3) If at any time during a trial at which there is no justice of the Supreme Court as president or no judge advocate, it appears to the court, before it closes to deliberate on its finding, that in the interests of justice it is desirable to make any addition to, omission from or alteration in a charge which cannot be made under paragraph (1) of this rule, it may adjourn and report its opinion to the convening officer, who may —

- (a) amend the charge if permissible under rule 70 and direct the court to try it as amended after due notice of the amendment has been given to the accused; or
- (b) direct the court to proceed with the trial of the charge without amending it; or
- (c) convene a fresh court to try the accused.

Amendment of
charges by
convening
officer

70. When a court reports to the convening officer under either rule 23(2) or rule 69(3), he may amend the charge in respect of which it has reported to him by making any addition to, omission from or alteration in the charge which, in his opinion, is desirable in the interests of justice and which he is satisfied can be made without unfairness to the accused.

Sittings and Adjournment of the Court

71. Subject to the provisions of the Act and of these Rules relating to adjournment, a trial shall be continued from day to day and the court shall sit for such time each day as may be reasonable in the circumstances:

Sittings of the court.

Provided that the court shall not sit on Sunday, Christmas Day or Good Friday, unless in the opinion of the court or of the convening officer the exigencies of the service make it necessary to do so.

72. (1) During a trial the court may adjourn from time to time and from place to place as the interests of justice require.

Adjournment.

(2) A court may adjourn at any time to consult the convening officer on a point of law.

(3) If during a trial any reason emerges which makes it advisable that the court should not continue to hear the case, the court shall adjourn and report thereon to the convening officer.

(4) If at any time during a trial the accused becomes ill and it appears to the court that the illness is such that it will be impracticable to continue the trial, the court shall ascertain the facts of the illness and shall then adjourn and report to the convening officer.

73. If at any time during a trial before the court closes to deliberate on its finding it appears to the court that it should, in the interest of justice, view any place or thing, it may adjourn for the purpose and when the court views any place or thing the president, members of the court, judge advocate (if any), prosecutor, accused and defending officer or attorney (if any) shall be present.

View by court.

74. (1) If after the commencement of a trial the president dies or is otherwise unable to attend, the court shall adjourn and the senior member shall report to the convening officer.

Absence of president, members or judge advocate.

(2) If after the commencement of a trial any member of the court dies or is otherwise unable to attend, the court, if not thereby reduced below the legal minimum, shall continue with the trial, but if reduced below the legal minimum the court shall adjourn and the president shall report to the convening officer.

(3) If a judge advocate who has been appointed to act at a trial dies or is otherwise unable to attend, the court shall adjourn and report to the convening officer.

(4) If the president or a member of the court is absent during any part of a trial, he shall take no further part in it and the like steps shall be taken as if the president or member, as the case may be, had died.

(5) An officer cannot be added to the court after the accused has been arraigned.

Unfitness to Stand Trial and Insanity

Unfitness to
stand trial and
insanity

75. (1) If at any time during a trial it appears to the court that the accused may be unfit to stand trial by reason of insanity, it shall take evidence as to his mental condition; and if the court after considering the evidence is of the opinion that the accused is fit to stand his trial, it shall proceed with the trial, but if it is of the opinion that the accused is unfit to stand his trial by reason of insanity, it shall so find and its finding shall be announced in open court forthwith and as being subject to confirmation.

(2) If a court, in the course of its deliberation on its finding on a charge pursuant to subsection (2) of section 115 of the Act finds that the accused was guilty of the offence but was insane at the time of the act or omission which constituted it, its finding shall be announced in open court forthwith and as being subject to confirmation.

(3) Immediately after a finding has been announced under either paragraph (1) or paragraph (2) of this rule, the president shall announce in open court that the proceedings are terminated and thereupon the president and the judge advocate (if any) shall sign the record of the proceedings and the president or judge advocate shall then forward it as directed in the convening order.

Interviewing and Attendance of Witness

Interviewing of
witness

76. (1) The prosecution shall not without the consent of the convening officer, or, after the trial has begun, without the consent of the president, interview any witness who was called for the defence at the taking of the summary of evidence, whose statement of evidence was included in the summary of evidence, or attached to the

abstract of evidence or whose attendance at the trial the accused has requested in accordance with rule 11(e), or who has made a statutory declaration put forward on behalf of the defence under section 102 of the Act.

(2) Except as provided in rule 36, neither the accused nor any person on his behalf shall without the consent of the convening officer, or, after the trial has begun without the consent of the president, interview any witness who was called for the prosecution at the taking of the summary of evidence, whose statement of evidence was included in the summary of evidence or whose evidence is included in the abstract of evidence, or in respect of whom the prosecution has given the accused notice under rule 35 that it intends to call him as a witness at the trial or who has made a statutory declaration put forward on behalf of the prosecution under section 102 of the Act.

77. (1) A witness who is subject to service law may be ordered by the proper service authority to attend at the taking of a summary of evidence or a trial by court-martial.

Procuring
attendance of
witnesses

(2) A witness who is not subject to service law may be summoned to attend a trial by court-martial by an order under the hand of the convening officer, or of a staff officer on his behalf, or, after assembly of the court, of the president.

(3) The summons referred to in paragraph (2) of this rule shall be in the appropriate form set out in the Fourth Schedule and shall be served on the witness either personally or by leaving it with some person at the witness' normal place of abode.

Fourth Schedule

(4) At the time of service of the summons referred to in paragraph (2) of this rule, there shall be paid or tendered any travelling or other expenses as may be specified in instructions made by the Minister:

Provided that the tender of a written undertaking on behalf of the Minister to defray any expenses payable under such instructions shall be deemed to constitute tender of those expenses.

*Record of Proceedings*Record of
proceedings

78. (1) The proceedings of courts-martial shall be recorded in accordance with the following provisions —

Sixth Schedule

(a) the proceedings of a court-martial shall be recorded in writing in accordance with the appropriate form set out in the Sixth Schedule and in sufficient detail to enable the confirming authority to follow the course of the proceeding and to judge on the merits of the case,

(b) when no shorthand writer is employed, the evidence should be taken down in narrative form as nearly as possible in the words used:

Provided that if the court, judge advocate prosecutor or accused consider it necessary, any particular question and answer shall be taken down verbatim;

(c) when an objection, submission or application is made during a trial at which no shorthand writer is employed, a record shall be made of the proceedings relating to such objection, submission or application if, and in such detail as, the court or judge advocate thinks fit:

Provided that if the prosecutor or accused so requests, a note shall be made of the objection, submission or application, the grounds therefor, the advice of the judge advocate (if any) thereon and the decision of the court;

(d) when any address by the prosecutor or the accused or summing up of the judge advocate is not in writing and no shorthand writer is employed, it shall only be necessary to record so much of such address or summing up as the court or judge advocate thinks proper:

Provided that if the prosecutor or accused so requests, a note shall be made of any particular point in such address or summing up; and

(e) there shall not be recorded in the record of the proceedings any matter not forming part of the trial; but if any comment or report seems to the court to be necessary, the president may forward it to the proper military authority in a separate document.

(2) When a shorthand writer has been employed, the transcript of his record of the proceedings shall only be made of that portion of the proceedings which relates to the charge upon which the accused has been found guilty and such other portions of the proceedings as may be required by the confirming authority or, in the event of the accused being found not guilty of all the charges, the authority who would have been the confirming authority had the accused been found guilty of any of the charges.

79. (1) Subject to paragraph (2) of this rule, any document or thing admitted in evidence shall be made an exhibit. Exhibits

(2) When an original document or book is produced to the court by a witness, the court may at the request of the witness compare a copy of it or an extract of the relevant parts therefrom with the original, and after it has satisfied itself that such copy or extract is correct and the president or the judge advocate has certified thereon that the court has compared it with the original and found it correct, the court may return the document or book to the witness and attach the copy or extract to the record of the proceedings as an exhibit.

(3) Every exhibit shall —

- (a) be marked with a number or letter and be signed by the president or judge advocate or have a label bearing a number or letter and the signature of the president or judge advocate affixed to it; and
- (b) be attached to or kept with the record of the proceedings, unless in the opinion of the court having regard to the nature of the exhibit or for good reason it is not expedient to attach it to or keep it with the record.

(4) When an exhibit is not attached to or kept with the record of the proceedings under paragraph 3(b) of this rule, the president shall ensure that proper steps are taken for its safe custody.

80. (1) During a trial at which there is no judge advocate, the record of the proceedings and the exhibits shall be deemed to be in the custody of the president; and during a trial at which there is a judge advocate the record and the exhibits shall be deemed to be in the custody of the

Custody and inspection of record of proceedings during trial

judge advocate, save when he is not present in closed court when they shall be deemed to be in the custody of the president.

(2) With the permission of the court, the prosecutor or the accused may at any reasonable time before the trial is concluded have a particular part of the record of the proceedings read to him, and, if proper precautions are taken for its safety, inspect any exhibit.

Confirmation, Revision and Promulgation

Confirmation
and
promulgation

Eleventh,
Twelfth and
Thirteenth
Schedules

81. (1) When a confirming authority receives the record of the proceedings of a court-martial and the finding of the court requires confirmation, he shall record his decision thereon and on any sentence and any order which the court may have made under section 127 of the Act, on the record of the proceedings in the appropriate form set out in the Eleventh, Twelfth and Thirteenth Schedule and such record of his decision shall form part of the record of proceedings.

(2) When a court has accepted a plea of guilty made under rule 27(2), the confirming authority may confirm his finding notwithstanding that the court has accepted the plea without the concurrence of the convening officer if, in the opinion of the confirming authority, it is in the interests of justice to do so.

(3) When a court has rejected a plea to the jurisdiction of the court or a plea in bar of trial or has overruled an objection to a charge, it shall not be necessary for the confirming authority to approve specifically the decision of the court, but his approval shall be implied from his confirming the findings on the charge to which the plea or objection relates; and if he disapproves the decision of the court to reject the plea or to overrule the objection, he shall withhold confirmation of the finding on the charge to which the plea or objection relates.

(4) A confirming authority may state his reasons for withholding confirmation in the case, but if he withholds confirmation where a court has rejected a plea to the jurisdiction or a plea in bar of trial or has overruled an objection to the charge, because he disapproves this decision of the court, he shall, when recording his decision under paragraph (1) of this rule, state that he has withheld confirmation for this reason.

(5) If the sentence of a court-martial is informally expressed, the confirming authority may in confirming the sentence vary the form thereof so that it shall be properly expressed.

(6) Whenever it appears that there is sufficient evidence or a plea of guilty under either paragraph (1) or paragraph (2) of rule 27 to justify the finding of the court, such findings and any lawful sentence consequent thereon may be confirmed, and if confirmed shall be valid, notwithstanding any deviation from these rules, if the accused has not been prejudiced by such deviation.

(7) When a confirming authority has confirmed a finding and sentence of a court or has withheld confirmation thereof, he shall send the record of the proceedings to the commanding officer of the accused for promulgation to the accused of the finding and sentence, or of the fact that confirmation has been withheld, as the case may be; the fact of promulgation shall be recorded on the record of the proceedings in the form set out in the Fourteenth Schedule; and if confirmation has been withheld because the confirming authority disapproves the court's decision to reject a plea to the jurisdiction or a plea in bar of trial or to overrule an objection to the charge, the accused shall be so informed.

Fourteenth
Schedule.

82. (1) The proceedings and decision of a court on revision shall be recorded on the record of the proceedings in the appropriate form set out in the Tenth Schedule and the president shall date and sign such record and decision and return it to the confirming authority after it has been signed by the judge advocate (if any).

Revision.

Tenth Schedule.

(2) When an accused is acquitted on revision the revised finding shall be communicated to the accused in such manner as may be specified by the confirming authority.

Loss of Proceedings

83. (1) If before confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and a copy exists, such copy may, if the president or the judge advocate certifies it to be correct, be accepted and used in lieu of the original.

Loss or original
record of
proceedings
before
confirmation.

(2) If before confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and no copy thereof exists, but evidence of the proceedings of the court can be procured to enable the record or part thereof which has been lost to be reconstituted sufficiently to permit the confirming authority to follow the course of the proceedings and to judge of the merits of the case, the record as so reconstituted may, with the consent of the accused, be accepted and used in lieu of the original:

Provided that where part only of the original record of the proceedings of a court-martial has been lost, and the part which remains is sufficient to enable the confirming authority to follow the course of the proceedings and judge the merits of the case, such remaining part may, with the consent of the accused, be accepted and used as if it were the complete record, and in such case it shall not be necessary to reconstitute the part of the record which has been lost.

(3) If before confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and such loss cannot be made good under either paragraph (1) or paragraph (2) of this rule, the confirming authority shall withhold confirmation and shall record his decision in the appropriate form set out in the Eleventh Schedule.

Eleventh
Schedule

Loss or original
record of
proceedings after
confirmation

84. If after confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and a copy thereof is certified by the president or the judge advocate to be correct, or a sufficient record of the charge, finding, sentence and proceedings before the court and of the confirmation of the finding and sentence remains or can be reconstituted to permit of the case being reviewed or the sentence reconsidered, such copy or reconstituted record or remaining part of the record may be accepted and used in lieu of the original.

Custody of the Record after Confirmation

Custody and
preservation of
record of
proceedings after
confirmation

85. (1) For the purposes of subsection (1) of section 130 of the Act, the prescribed period during which the record of the proceedings of a court-martial shall be kept in the custody of the Security Council shall be six years from the conclusion of the trial.

(2) For the purposes of subsections (2) and (3) of section 130 of the Act, the prescribed rates for copies of the record of the proceedings of a court-martial shall be those from time to time laid down by the Security Council.

Petitions and Appeals

86. (1) If an accused who has been sentenced by a court-martial or who has been found by a court-martial to be unfit to stand his trial or to be guilty but insane wishes to petition before confirmation against the finding or sentence or both, he shall present a petition to the confirming authority in the appropriate form set out in the Twentieth Schedule.

Petitions and appeals.

(2) If an accused who has been convicted by a court-martial wishes to exercise the rights conferred on him by the section 137 of the Act, he shall present an application in the manner and form and within the time limits specified by rules of the Court of Appeal.

Twentieth Schedule.

(3) If an accused who has been sentenced by court martial or who has been found by a court-martial to be unfit to stand his trial or to be guilty but insane wishes to petition after promulgation against the finding otherwise than by way of an appeal, he shall present a petition to a reviewing authority at any time within six months of promulgation in the appropriate form set out in the Twentieth Schedule.

Twentieth Schedule.

(4) If an accused who has been sentenced by a court-martial wishes to petition after promulgation against the sentence, he shall present a petition to a reviewing authority or an officer authorised to reconsider a sentence of a court-martial under section 113 of the Act at any time within six months of promulgation in the appropriate form set out in the Twentieth Schedule.

Twentieth Schedule.

(5) In any of the circumstances specified in the first column of the list of persons to whom petitions may be presented under this rule which is set out in the Twentieth Schedule a petition under paragraph (3) or paragraph (4) of this rule is presented to the person specified in relation to those circumstances in the second column of that list shall be treated as having been presented to the authority to whom the petition is addressed.

Miscellaneous Provisions

Notice requiring oral evidence in lieu of statutory declaration.
Fifth Schedule.

87. A notice under section 102 of the Act requiring that oral evidence shall be given in lieu of a statutory declaration shall be in the appropriate form set out in the Fifth Schedule.

Order to inspect banker's books and to take copies of entries.

Third Schedule.

88. The powers conferred by section 7 of the Banker's Books Evidence Act or any Act repealing or replacing the same may be exercised for the purposes of a court-martial by order of the convening officer and the order referred to in this rule shall be in the form set out in the Third Schedule.

Imprisonment in default manner of payment of fine.

89. For the purposes of section 80 of the Act, the manner in which a fine or part of a fine shall be paid or recovered is —

- (a) where the offender is a person to whose pay section 153 of the Act applies, by deduction in accordance with that section from his pay or from any balance (whether or not representing pay) which may be due to him;
- (b) by payment by or on behalf of the offender to —
 - (i) the Superintendent of the prison in The Bahamas where the offender is confined; or
 - (ii) the Ministry of Defence:

Provided that where the money is paid to the Superintendent, he shall forward it to the Ministry of Defence for the credit of the fines fund.

Temporary custody of persons found unfit to stand trial or guilty but insane.

90. (1) When an accused has, pursuant to section 115(1) of the Act, been found by a court-martial to be unfit to stand trial by reason of insanity and that finding has been confirmed, or when an accused has, pursuant to section 115(2) of the Act, been found guilty but insane, he shall be handed over to the custody of the appropriate mental institution pending the directions of the Minister, and it shall be the duty of the authorities of such institution to receive the accused into their charge until the accused is fit to stand trial or the directions of the Minister are given.

Twenty-first Schedule.

(2) The orders for the commitment of the accused under paragraph (1) shall be in the form set out in the Twenty-first Schedule and shall be signed by Commander Defence Force.

91. (1) Where in the opinion of the convening officer the exigencies of the service render compliance with all or any of the provisions of the rules mentioned in paragraph (3) of this rule impracticable, the convening officer may make a declaration to that effect in the appropriate form set out in the Second Schedule.

Exceptions from Rules on account of the exigencies of the service.

Second Schedule.

(2) Then a declaration has been made under paragraph (1) of this rule, it shall not be necessary to comply with any provision of these Rules which is mentioned in such declaration and these Rules shall be construed accordingly.

(3) The provisions of these Rules in respect of which a declaration may be made under paragraph (1) of this rule, is rule 11 paragraphs (b) and (c), and paragraph (d) insofar as it provides that the documents specified therein shall be given to the accused not less than twenty-four hours before his trial.

(4) If an accused is brought to trial by court-martial, any declaration which has been made in his case under paragraph (1) of this rule shall be attached to the record of the proceedings of the court-martial.

92. (1) When in the opinion of the convening officer a charge-sheet, summary or abstract of evidence or other document which, or a copy of which, is required under these Rules to be given to an accused contains information the disclosure of which would or might be directly or indirectly useful to an enemy, the convening officer may make a declaration to that effect in the appropriate form set out in the Second Schedule specifying the document concerned.

Exceptions from Rules in the interests of security.

Second Schedule.

(2) When a declaration has been made under paragraph (1) of this rule, it shall not be necessary to give to the accused any document, and it shall be a sufficient compliance with these Rules if the accused is given a proper opportunity to inspect such document while preparing and making his defence.

(3) If an accused is brought to trial by a court-martial, any declaration which has been made in his case under paragraph (1) of this rule shall be attached to the record of the proceedings of the court-martial.

93. A deviation or omission from a form or form of words set out in a Schedule to these Rules shall not, by reason only of such deviation or omission, render any document, act or proceeding invalid.

Deviations from the forms in the Schedule.

Cases not covered by Rules.

94. In any case not provided for by these Rules such course shall be adopted as appears best calculated to do justice.

FIRST SCHEDULE (Rule 3)

ILLUSTRATIONS OF CHARGE-SHEETS

CHARGE-SHEET

The accused, Pay No

Marine seaman, John Grant, HMBS Coral Harbour a marine of the regular force is Charged with —

1st charge.

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 78 OF THE DEFENCE ACT, THAT IS TO SAY STEALING CONTRARY TO SECTION 345 OF THE PENAL CODE (CHAPTER 84)

in that he

at..... on..... stole a pair of binoculars the property of James Brown.

2nd charge (Alternative to the 1st charge).

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 78 OF THE DEFENCE ACT, THAT IS TO SAY RECEIVING CONTRARY TO SECTION 359 OF THE PENAL CODE (CHAPTER 84)

in that he

at..... on..... dishonestly received a pair of binoculars knowing the same to have been stolen or unlawfully obtained by an offence.

B. C. GREEN, Captain Commanding HMBS Coral Harbour Commanding Officer of the accused

Date:.....

Place:

To be tried by Court-Martial

A. D. WILLIAMS, Commodore Commander Defence Force¹⁰²

Date:.....

Place:

¹⁰² The order for trial may be signed by a staff officer "Authorised to sign for" the convening officer as in the second illustrated charge-sheet.

CHARGE-SHEET

The accused Pay NoLeading Seaman Albert Bridge, a non-commissioned officer of the reserve when called out on permanent service, and Pay No..... Marine Mechanic Gerald Stick a marine of the reserve when callout for permanent service, both of HMBS Coral Harbour, are charged with —

Both accused jointly

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 78 OF THE DEFENCE ACT, THAT IS TO SAY COMMON ASSAULT

1st charge

in that they

at..... on assaulted Jack Sprat.

Leading Seaman Bridge only

STRIKING HIS SUPERIOR OFFICER CONTRARY TO SECTION 37(a) OF THE DEFENCE ACT

2nd charge

in that he

at..... on..... struck Pay No.... Petty Officer G. Dixon, HMBS Coral Harbour.

Marine mechanic Stick only

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER CONTRARY TO SECTION 37(b) OF THE DEFENCE ACT, 1979

3rd charge

in that he

at..... on..... said to Pay No....Petty Officer G. Dixon HMBS Coral Harbour when asked by him for his (the accused's) particulars "Don't be nose", or similar words.

B. C. GREEN, Captain
Commanding HMBS Coral Harbour
Commanding officer of the accused

Place:

Date:.....

To be tried by Court-Martial

P. M. DUNK, Lieutenant Commander
authorised to sign for
Commander Defence Force

Place:

Date:.....

SECOND SCHEDULE (Rules 8, 91, 92)

(1) CONVENING ORDERS

CONVENING ORDERS FOR A COURT-MARTIAL ORDER
BY¹⁰³

Commander Defence Force

Name etc , of
accused

¹⁰⁴ The details of officers as mentioned below will assemble
at.....at.....hours on the day
of.....19....for the purpose of trying by
court-martial the accused person(s) named in the margin.

PRESIDENT ¹⁰⁵

.....
MEMBERS ¹⁰⁶

.....
WAITING MEMBERS ¹⁰⁷

¹⁰³ Insert rank and name of convening officer

¹⁰⁴ Insert pay number, rank, name, unit or other description of the accused

¹⁰⁵ The president is appointed by name and, where provided by section 92(1) of the Defence Act, must be a Justice of the Supreme Court A member or a waiting member may be described either by giving his rank, name and unit or thus
“A (rank) to be detailed by the officer commanding (unit)”

¹⁰⁶ The president is appointed by name and, where provided by section 92(1) of the Defence Act, must be a Justice of the Supreme Court A member or a waiting member may be described either by giving his rank, name and unit or thus
“A (rank) to be detailed by the officer commanding (unit)”

¹⁰⁷ The president is appointed by name and, where provided by section 92(1) of the Defence Act, must be a Justice of the Supreme Court A member or a waiting member may be described either by giving his rank, name and unit or thus
“A (rank) to be detailed by the officer commanding (unit)”

JUDGE ADVOCATE ¹⁰⁸

The judge advocate has been appointed by or on behalf of the Minister.

or

..... is hereby appointed judge advocate. ¹⁰⁹

¹¹⁰ (In the opinion of the convening officer the necessary number of service officers having suitable qualifications is not available to form the court and cannot be made available with due regard to the public service).

¹¹¹ (A captain having suitable qualifications is not in the opinion of the convening officer available with due regard to the public service).

The record of the proceedings is to be forwarded to Commander Defence Force.

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

.....
(Signature, rank and appointment of the convening officer or appropriate staff officer)

¹¹² Authorised to sign for Commander Defence Force

¹¹³ Strike out if not applicable

(2) DECLARATION UNDER RULES 91 AND 92

DECLARATION UNDER RULE OF PROCEDURE 91

In the case of ¹¹⁴

I..... ¹¹⁵ /the officer who/is/would be/responsible for convening a court-martial to try the accused/hereby declare that in my opinion the following exigencies of the service, namely.....

.....
.....
.....

¹⁰⁸ Insert judge advocate's name and any legal qualifications which he has.
¹⁰⁹ This form of words is appropriate when the judge advocate is appointed by the convening officer, see Rules of Procedure 8(c).
¹¹⁰ Insert judge advocate's name and any legal qualifications which he has.
¹¹¹ Insert judge advocate's name and any legal qualifications which he has.
¹¹² Insert judge advocate's name and any legal qualifications which he has.
¹¹³ Insert judge advocate's name and any legal qualifications which he has.
¹¹⁴ Insert pay number, rank, name, unit or other description of accused.
¹¹⁵ Insert rank, name and appointment of officer making the declaration.

render compliance with the following provisions of the Rules of Procedure impracticable:

.....
Signed at this
day of 19
.....
(Signature)

DECLARATION UNDER RULE OF PROCEDURE 92

In the case of¹¹⁶
I.....¹¹⁷ the officer
who/is//would be/responsible for convening a court-martial to
try the accused/hereby declare that in my opinion the
.....¹¹⁸ contain(s) information the disclosure
of which would or might be directly or indirectly useful to an
enemy.

Signed at this
day of.....19.....
.....
(Signature)

THIRD SCHEDULE (Rule 88)

(3) ORDER TO INSPECT BANKERS' BOOKS AND TO TAKE COPIES OF ENTRIES

To the manager¹¹⁹
IN THE MATTER OF TRIAL BY COURT-MARTIAL OF
.....
pay number¹²⁰ to be held at
.....
on

WHEREAS I have ordered a court-martial to assemble at
.....
on the.....
day of19.....¹²¹
for the trial of

¹¹⁶ Insert pay number, rank, name, unit or other description of accused.

¹¹⁷ Insert rank, name and appointment of officer making the declaration.

¹¹⁸ Here indicate the document(s).

¹¹⁹ Insert name, branch and place of bank.

¹²⁰ Insert pay number, rank, name, unit or other description of accused.

¹²¹ Insert pay number, rank, name, unit or other description of accused.

AND WHEREAS application has been made to me by ¹²²

IT IS HEREBY ORDERED IN PURSUANCE OF SECTION 7 OF THE EVIDENCE ACT, AND SECTION 102 OF THE DEFENCE ACT, AND RULE 88 OF THE DEFENCE RULES OF PROCEDURE (PART II), MADE THEREUNDER that the said ¹²³

or/his//their/representatives be at liberty for the purposes of the said court-martial to inspect and take copies of all entries in the books of ¹²⁴

atrelating to the account in the name of ¹²⁵

with the said bank from the day of..... 19

to the day of..... 19.....

both dates inclusive.

Signed at this day of 19....

..... (Signature) Commander Defence Force

FOURTH SCHEDULE (Rule 77)

SUMMONS TO A WITNESS TO ATTEND A COURT-MARTIAL

To ¹²⁶

WHEREAS a court-martial/has been ordered to assemble at/has assembled at

on the day of ¹²⁷ 19 for the trial of

YOU ARE PURSUANT TO SECTION 133 OF THE DEFENCE ACT, AND RULE OF THE DEFENCE RULES OF PROCEDURE (PART II), MADE THEREUNDER HEREBY SUMMONED and required to attend as a witness at the sitting of the said Court at

on the day of 19.....

at..... o'clock in the

¹²² Insert particulars of prosecutor or other applicant.

¹²³ Insert particulars of prosecutor or other applicant.

¹²⁴ Insert name and branch of bank.

¹²⁵ Insert pay number, rank, name, unit or other description of accused.

¹²⁶ Insert name and address of the person to whom the summons is to be sent.

¹²⁷ Insert pay number, rank, name, unit or other description of the accused.

noon and to bring with you the documents hereinafter mentioned, viz ¹²⁸

and so to attend from day to day until you shall be duly discharged; whereof you shall fail at your peril. Given under my hand at on the day of 19....

(Signature, rank and appointment)

Commander Defence Force ¹²⁹

President of the court ¹³⁰

..... ¹³¹ authorised to sign for Commander Defence Force ¹³²

FIFTH SCHEDULE (Rule 87)

NOTICES REQUIRING ORAL EVIDENCE TO BE GIVEN IN LIEU OF STATUTORY DECLARATION

NOTICE BY A COMMANDING OFFICER

To..... ¹³³

I ¹³⁴

commanding ¹³⁵ hereby give notice that I require that ¹³⁶

shall give oral evidence in lieu of/his//her/statutory declaration dated at your forthcoming trial by court-martial.

Date 19.....

.....
Signature and rank)
Commanding officer of the accused

NOTICE BY AN ACCUSED

To..... ¹³⁷

commanding ¹³⁸

¹²⁸ Specify the documents (if any) which the witness is to bring. If the witness is not required to bring any documents strike out the words relating to documents.

¹²⁹ Strike out if not applicable.

¹³⁰ Strike out if not applicable.

¹³¹ Insert appointment of staff officer who signs.

¹³² Strike out if not applicable.

¹³³ Insert pay number, rank, name, unit or other description of the accused.

¹³⁴ Insert rank and name of commanding officer.

¹³⁵ Insert unit.

¹³⁶ Insert name of witness.

¹³⁷ Insert rank and name of commanding officer.

¹³⁸ Insert unit.

I..... 139
 hereby give notice that I require that 140
 shall give oral evidence in lieu of/his//her/statutory declaration
 dated at my forthcoming trial by court-martial.
 Date..... 19

.....
 (Signature)

SIXTH SCHEDULE (Rule 78)

RECORD OF PROCEEDINGS OF A COURT MARTIAL

A PAGE....

RECORD OF PROCEEDINGS OF A COURT-MARTIAL

Proceedings of a court-martial held at
 on the day
 of19..... by order
 of Commander Defence Force.
 dated the
 day of19.....

PRESIDENT
 MEMBERS
 JUDGE ADVOCATE

Trial of 141
 The court complying with Rule of Procedure 12.

.....not
 being available owing to
 the president appoints
 a qualified waiting member to take his place.

The accused is brought before the court.

Prosecutor.....

Defending/officer//attorney/.....

At hours the trial begins.

The convening order is read in the hearing of the accused,
 marked¹⁴² signed
 by the president or judge advocate and attached to the record.

The names of the president and members of the court are read in
 the hearing of the accused and they severally answer to their names.

¹³⁹ Insert pay number, rank, name, unit or other description of the accused.
¹⁴⁰ Insert name of witness.
¹⁴¹ Insert the pay number, rank, name, unit or other description of the accused as
 given in the charge-sheet.
¹⁴² Enter exhibit number.

Q. Do you object to being tried by me as president or by any of the officers whose names you have heard read?

A.
The proceedings relating to the objections) are recorded on ...¹⁴³
.....

B PAGE....

SWEARING

The president and members of the court are duly sworn.
The judge advocate is duly sworn/
The/following/officers under instruction/listed on page
/are duly sworn.

Q. Do you object to
as an interpreter? 144

A.
.....is duly sworn as interpreter.

SHORTHAND WRITER

Q. Do you object to
recording these proceedings verbatim? 145

A.
.....is duly sworn as shorthand writer.

SPECIAL PLEAS AND OBJECTIONS

The accused offers a plea to the jurisdiction under Rule of Procedure 22. The proceedings relating to his plea are recorded on page.....

The accused objects to the.....
charge(s) under Rule of Procedure 23. The proceedings relating to his objections) are recorded on page.....¹⁴⁶

The accused offers (a) plea(s) in bar of trial under Rule of Procedure 24 in respect of the charge(s).
The proceedings relating to his pleas) are recorded on page.....¹⁴⁷

The accused.....applies under Rule of Procedure 25 to be tried separately. The proceedings relating to his application are recorded on page.....¹⁴⁸ The accused applies under Rule of Procedure 26 to have charge(s)and
.....tried separately.

¹⁴³ Strike out if not applicable.

¹⁴⁴ If there is an objection the proceedings relating to it should be recorded on a separate numbered page and the fact that this has been done should be recorded in this space with the number of the page.

¹⁴⁵ If there is an objection the proceedings relating to it should be recorded on a separate numbered page and the fact that this has been done should be recorded in this space with the number of the page.

¹⁴⁶ Strike out if not applicable.

¹⁴⁷ Strike out if not applicable.

¹⁴⁸ Strike out if not applicable.

The proceedings relating to his application are recorded on page.....¹⁴⁹.

C1

PAGE....

ARRAIGNMENT

The charge-sheet is read to the accused and he is arraigned on each charge.

The charge-sheet is signed by the president or judge advocate and inserted in the record immediately before this page as page(s)....

Q. Are you guilty or not guilty of the first¹⁵⁰ charge against you which you have heard read?

A.

Q. Are you guilty or not guilty of the second charge against you which you have heard read?¹⁵¹

A.

Q. Are you guilty or not guilty of the third charge against you which you have heard read?

A.

Q. Are you guilty or not guilty of the fourth charge against you which you have heard read?¹⁵²

A.

Q. Are you guilty or not guilty of the fifth charge against you which you have heard read?¹⁵³

A.

Q. Are you guilty or not guilty of the sixth charge against you which you have heard read?¹⁵⁴

A.

The accused having pleaded guilty to the charge(s) Rule of Procedure 28 is duly complied with in respect of/this/these/charge(s).¹⁵⁵

The accused's pleas to the remaining charges are recorded overleaf.¹⁵⁶

¹⁴⁹ Strike out if not applicable.
¹⁵⁰ Strike out "first" if there is only one charge.
¹⁵¹ Strike out if not applicable.
¹⁵² Strike out if not applicable.
¹⁵³ Strike out if not applicable.
¹⁵⁴ Strike out if not applicable.
¹⁵⁵ Strike out if not applicable.
¹⁵⁶ Strike out if not applicable.

C2

PAGE....

- Q. Are you guilty or not guilty of the seventh charge against you which you have heard read?¹⁵⁷
- A.
- Q. Are you guilty or not guilty of the eight charge against you which you have heard read?¹⁵⁸
- A.
- Q. Are you guilty or not guilty of the ninth charge against you which you have heard read?¹⁵⁹
- A.
- Q. Are you guilty or not guilty of the tenth charge against you which you have heard read?¹⁶⁰
- A.
- Q. Are you guilty or not guilty of the eleventh charge against you which you have heard read?¹⁶¹
- A.
- Q. Are you guilty or not guilty of the twelfth charge against you which you have heard read?¹⁶²
- A.

D1

PAGE....

PROCEEDINGS ON PLEA(S) OF NOT GUILTY¹⁶³

- Q. Do you wish to apply for an adjournment of the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defence?
- A.¹⁶⁴

The prosecutor/makes an opening address shortly outlining the facts/makes an opening address which is summarised below//hands in a written address which is read, signed by the president or judge advocate, marked..... and attached to the record/.

¹⁵⁷ Strike out if not applicable.

¹⁵⁸ Strike out if not applicable.

¹⁵⁹ Strike out if not applicable.

¹⁶⁰ Strike out if not applicable.

¹⁶¹ Strike out if not applicable.

¹⁶² Strike out if not applicable.

¹⁶³ Remove this page if there are no pleas of not guilty.

¹⁶⁴ If the accused asks for an adjournment, the proceedings relating to his application should, if necessary, be recorded on a separate page and a record made here that this has been done.

D2

PAGE....

The witnesses for the prosecution are called.

First witness for the prosecution
being duly sworn ¹⁶⁵ says:

D3

PAGE....

PROCEEDINGS ON PLEA(S) OF NOT GUILTY (continued) ¹⁶⁶

The prosecution is closed.

The accused submits under Rules of Procedure 44 that there is no case for him to answer in respect of the charge(s). The proceedings relating to this submission are recorded on pages.....¹⁶⁷

DEFENCE

Rule of Procedure 45 is complied with.

Q. Do you apply to give evidence yourself on oath or do you wish to make a statement without being sworn?

A.

Q. Do you intend to call any other person as a witness in your defence?

A.

Q. Is he a witness as to fact or to character only?

A.

¹⁶⁸ Q. Do you wish to make an opening address?

A.

The accused/makes an opening address which is summarised below//hands in a written address which is read, signed by the president or judge advocate, markedand attached to the record./

¹⁶⁵ When a witness affirms the words “having duly affirmed” should be substituted for the words “being duly sworn” and when a witness is a child who is too young to give evidence on oath the words “without being sworn” should be substituted for the words “being duly sworn”.

¹⁶⁶ Remove this page if there is no plea of not guilty.

¹⁶⁷ Strike out this paragraph if not applicable.

¹⁶⁸ Strike out if the accused does not intend to call witnesses as to fact, other than himself.

D4

PAGE....

(Where the accused makes a statement without being sworn) ¹⁶⁹

The accused/makes a statement, which is recorded on page
//hands in a written statement which is read, marked
.....
and signed by the president or judge advocate, and attached to
the record/.

(Where evidence on oath is given for defence) ¹⁷⁰

The witnesses for the defence (including the accused if
sworn) are called.

First witness for
the defence.

.....
being duly sworn ¹⁷¹ says:

D5

PAGE....

PROCEEDINGS ON PLEAS) OF NOT GUILTY (continued) ¹⁷²

The prosecutor/makes a closing address which is summarised on
page.....//hands in a closing address which is read, marked.....
..... signed by the president or judge
advocate and attached to the record/ ¹⁷³ .

The accused/makes a closing address which is summarised on
page.....//hands in a closing address, which is read, marked.....
.....signed by the president or judge
advocate and attached to the record/ ¹⁷⁴ .

The note of the summing-up of the judge advocate is recorded on
page..... ¹⁷⁵ .

FINDING(S)

The court closes to deliberate on its finding(s).

The court finds that the accused ¹⁷⁶
.....
is: ¹⁷⁷

¹⁶⁹ Strike out this paragraph if not applicable. Where the accused gives evidence, he does so before the other defence witnesses.

¹⁷⁰ Strike out this paragraph if not applicable. Where the accused gives evidence, he does so before the other defence witnesses.

¹⁷¹ When a witness or the accused affirms, the words “having duly affirmed” should be substituted for the words “being duly sworn”, and when a witness is a child who is too young to give evidence on oath the words “without being sworn” should be substituted for the words “being duly sworn”.

¹⁷² Strike out this page if not applicable.

¹⁷³ Strike out if not applicable.

¹⁷⁴ Strike out if not applicable.

¹⁷⁵ Strike out if not applicable.

¹⁷⁶ Insert the pay number, rank, name, unit or other description of the accused as given on the charge-sheet.

¹⁷⁷ Set out the finding on each charge in the appropriate form set out in the Seventh Schedule to the Rules of Procedure.

ANNOUNCEMENT OF FINDING(S)

The court being re-opened the accused is again brought before it.

The finding(s)/is//are/read and (with the exception of the finding(s) of “not guilty”)¹⁷⁸ is//are/announced as being subject to confirmation.

PROCEEDINGS ON ACQUITTAL ON ALL CHARGES¹⁷⁹

The accused is released.

Signed at this
day of 19.....

.....
Judge Advocate

.....
President

E¹⁸⁰

PAGE....

PROCEEDINGS ON PLEA(S) OF GUILTY

The accused¹⁸¹
.....
is found guilty of¹⁸²

The finding(s)/is//are/read in open court and/is//are/announced as being subject to confirmation.

The/summary//abstract/of evidence is read to the court by the prosecutor, marked.....signed by the president or judge advocate and attached to the record.¹⁸³

or

The prosecutor informs the court of the facts contained in the /summary//abstract/of evidence which is marked.....
..... signed by the president or judge advocate and attached to the record.¹⁸⁴

F1

PAGE....

PROCEEDINGS ON CONVICTION

Note: F2 should be completed before F1 if the accused has pleaded not guilty to all charges. F1 should normally be completed before

¹⁷⁸ Strike out if not applicable.

¹⁷⁹ Strike out if not applicable.

¹⁸⁰ Strike out this page if not applicable.

¹⁸¹ Insert pay number, rank, and name, unit or other description of the accused as given on the charge-sheet.

¹⁸² Record the finding on each charge of which the accused is found guilty in the appropriate form set out in the Seventh Schedule of the Rules of Procedure.

¹⁸³ Strike out if not applicable. If this paragraph is struck out, Rule of Procedure 31(2) must be complied with.

¹⁸⁴ Strike out if not applicable. If this paragraph is struck out, Rule of Procedure 31(2) must be complied with.

F2 if the accused has pleaded guilty to any charge but the president may in his discretion complete F2 before F1 if there is no danger of the accused making an inconsistent plea.

Q. Do you wish to give evidence yourself or to call other witnesses as to your character or in mitigation of punishment?

A.

The evidence for the defence as to the accused’s character and in mitigation of punishment, is recorded on pages.....¹⁸⁵

Q. Do you wish to address the court in mitigation of punishment?

A.

The /makes an address in mitigation of punishment, which is summarised /below//on page //hands in an address in mitigation of punishment, which is read, marked, signed by the president or judge advocate and attached to the record/¹⁸⁶

The list of offences which the court has, at the request of the accused, agreed to take into consideration is read to the accused, signed by him, marked, signed by the president or judge advocate and attached to the record.¹⁸⁷

¹⁸⁸ (Final question addressed to the accused personally).

Q. Is there anything further that you wish to say to the court?

A.

(The accused makes a statement which is recorded on page.....)

The court closes to deliberate on sentence.

F2

PAGE...

PROCEEDINGS ON CONVICTION

Note: F2 should be completed before F1 if the accused has pleaded not guilty to all charges.

The prosecutor calls evidence as to the accused’s character and record.

.....
is duly sworn.

¹⁸⁵ Strike out this paragraph if not applicable.

¹⁸⁶ Strike out this paragraph if not applicable.

¹⁸⁷ Strike out this paragraph is the accused has not requested other offences to be taken into consideration.

¹⁸⁸ Strike out if F1 is completed before F2.

Q. Do you produce the service record of the accused?

A. I produce

Q. Have you compared it with the accused's personal file?

A.

Q. Do the entries on it correspond with the entries in the accused's personal file?

A.

The is read, marked signed by the president or judge advocate and attached to the record.

The accused/declines//elects/to cross-examine this witness/and the cross-examination is recorded on pages

The prosecutor adduces evidence under Rule of Procedure 57(3) which is recorded on pages.....¹⁸⁹.

¹⁹⁰ (Final question addressed to the accused personally.)

Q. Is there anything further that you wish to say to the court?

A.

(The accused makes a statement which is recorded on page....)

The court closes to deliberate on sentence.

G

PAGE....

SENTENCE ¹⁹¹

The Court (having taken into consideration that he has spent days in civil custody and days in close arrest and days in open arrest in connection with the matters for which he is before the court) ¹⁹² sentences the accused..... ¹⁹³ to ¹⁹⁴.

ANNOUNCEMENT OF SENTENCE

The court being re-opened, the accused is again brought before it.

¹⁸⁹ Strike out this paragraph if the prosecutor does not adduce evidence under Rule of Procedure 57(3).

¹⁹⁰ Strike out if F2 is completed before F1.

¹⁹¹ Remove this page if not applicable.

¹⁹² The words in brackets are to be struck out when the sentence is mandatory, e.g. to suffer death where the offence is murder. In all other cases only words which are inapplicable should be deleted.

¹⁹³ Insert the pay number, rank, name, unit or other description of the accused as given on the charge sheet.

¹⁹⁴ Record the sentence in the appropriate form of words set out in the Fifteenth Schedule to the Rules of Procedure. Any recommendation to mercy (see Rule of Procedure 60(8), recommendation under section 120(3) of the Defence Act, restitution order (see section 127 of the Defence Act), or order made by the court, should be entered on the record immediately after the sentence.

The sentence (and recommendation to mercy ¹⁹⁵) is//are/announced in open court; the sentence is announced as being subject to confirmation.

The president announces that the trial is concluded.

Signed at this day of 19

.....

Judge Advocate

President

H

PAGE....

CONFIRMATION ¹⁹⁶

SEVENTH SCHEDULE (Rule 53)

FINDINGS

ACQUITTAL ON ALL CHARGES

Not guilty of/the charge//all the charges/.

Not guilty of/the charge//all charges/, and honourably acquit him thereof.

Acquittal on some but not all charges.

Not guilty of the ¹⁹⁷ charge(s) but is guilty of the ¹⁹⁸ charge(s) not guilty of the ¹⁹⁹ charge(s) and honourably acquit him thereof but is guilty of the..... ²⁰⁰ charge(s).

CONVICTION ON ALL CHARGES

guilty of/the charge//all the charges/.

¹⁹⁵ Strike out if not applicable.

¹⁹⁶ For minutes of confirmation see the Eleventh Schedule to the Rules of Procedure. Promulgation should be recorded immediately below the minute of confirmation in accordance with Rule of Procedure 81(7).

¹⁹⁷ Insert the number of the charge or charges as numbered in the charge-sheet.

¹⁹⁸ Insert the number of the charge or charges as numbered in the charge-sheet.

¹⁹⁹ Insert the number of the charge or charges as numbered in the charge-sheet.

²⁰⁰ Insert the number of the charge or charges as numbered in the charge-sheet.

SPECIAL FINDINGS

guilty of the²⁰¹ charge/with the
 exception of the words²⁰² //with the
 exception that²⁰³ not guilty of the offence charged
 but is guilty of²⁰⁴

NO FINDING ON ALTERNATIVE CHARGE

guilty of the²⁰⁵ charge; the court records no
 finding on the (alternative) charge.

WHERE THE ACCUSED IS UNFIT TO STAND HIS TRIAL
 unfit to stand his trial.

FOUND GUILTY BUT INSANE

found guilty but insane in respect of charge(s).

EIGHTH SCHEDULE (Rule 66)

(8) RECORD OF RECONSIDERATION OF FINDING UNDER
RULE 66(5)

The judge advocate advises the court that the finding(s) on
 the.....²⁰⁶ charge(s)/is//are/contrary to the
 law relating to the case, and that in his opinion the following
 finding(s)/is//are/open to them —

.....²⁰⁷

The court is closed for reconsideration of finding.

The court on reconsideration finds that the accused is²⁰⁸

The finding(s) on reconsideration/is//are/read in open court and
 (with the exception of the findings) of “not guilty”²⁰⁹) /is//are/
 announced as being subject to confirmation.

²⁰¹ Insert the number of the charge or charges as numbered in the charge-sheet.

²⁰² Specify the exception in detail. This form is appropriate when a special finding is made under Rule of Procedure 52(3).

²⁰³ Specify the exception in detail. This form is appropriate when a special finding is made under Rule of Procedure 52(3).

²⁰⁴ State the offence of which the accused is found guilty. This form is applicable when a special finding is made under section 101(2), (5) or (6) of the Defence Act

²⁰⁵ Insert the number of the charge or charges as numbered in the charge-sheet.

²⁰⁶ Insert the number of charge as numbered in the charge-sheet.

²⁰⁷ Insert the advice given by the judge advocate.

²⁰⁸ Set out the finding(s) of the court in the appropriate form(s).

²⁰⁹ Strike out the words relating to findings of “not guilty” if there are no such findings.

NINTH SCHEDULE (Rule 57)
SERVICE RECORD OF ACCUSED

- Pay Number Rank Name Unit
1. ²¹⁰ He was enlisted on
19....and commissioned on
19....
 2. He is serving on a ²¹¹
 3. His age is years
 4. ²¹² He is single/married/divorced/widowed and has.....
..... children dependent on him.
 5. His gross rate of pay is
per annum, but he is ²¹³
 6. ²¹⁴ His reckonable service towards discharge or retirement
isyears
 7. His reckonable service towards pension, gratuity, etc.,
isyears
 8. (i) He is entitled to the following decorations and awards-
(ii) The following acts of gallantry or distinguished conduct
are recorded in his personal file —
 9. He holds the substantive rank of
with seniority from
19.....and has held the/acting/ /rank of
continuously since.....
19.....
 10. ²¹⁵ He has been awaiting trial for..... days ²¹⁶
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. ²¹⁷ /He is not now under sentence//He is now under sentence
ofbeginning on19....

²¹⁰ Delete inapplicable wording.

²¹¹ Insert the type and length of the commission or nature and length of the engagement.

²¹² Delete inapplicable wording.

²¹³ Include details of any deductions ordered under the Defence Act.

²¹⁴ To be deleted in the case of an officer.

²¹⁵ Delete inapplicable wording.

²¹⁶ Exclude from the total number of days any period of absence without leave with which he has been charged.

²¹⁷ Delete inapplicable wording.

12. According to his personal file he has been found guilty of the following offences — ²¹⁸

	During his service	In the last 12 months
For ²¹⁹	time(s)	time(s)
For	time(s)	time(s)
For	time(s)	time(s)
For	time(s)	time(s)
For	time(s)	time(s)

13. I certify that this form contains a summary of the entries in the service records relating to the accused.

Dated..... day of..... 19....

Signed.....

(rank, name, and appointment of officer signing)

TENTH SCHEDULE (Rule 82)

RECORD OF PROCEEDINGS ON REVISION UNDER SECTION 108 OF THE ACT

At ²²⁰ on the day of at hours ²²¹ the court re-assembled by order of the confirming officer for the purpose of re-considering its finding(s) on the..... ²²² charge(s)

Present ²²³

The order directing the re-assembly of the court and giving the reasons therefor is read, marked..... signed by the president or judge advocate and attached to the record.

²¹⁸ If there are no entries in his personal file, enter “nil”.
²¹⁹ If there are no entries in his personal file, enter “nil”.
²²⁰ Insert the name of the place.
²²¹ Insert the rank, name, appointment, etc. of the confirming officer.
²²² Specify the number(s) of the charge(s) concerned, e.g. the 5th charge.
²²³ Give the name of the president and members of the court who are present. If the president is absent the senior member must report to the confirming officer. If a member is absent and the court is thereby reduced below the legal minimum the president must report to the confirming officer.

The court having considered the observations of the confirming officer and the whole of the record of the proceedings does not revoke its findings) on the²²⁴ charge(s) and finds the accused²²⁵ is²²⁶ and/adheres to its sentence//sentences the accused to²²⁷ in substitution for the original sentence/.

or

The court having considered the observations of the confirming officer respectfully adheres to its finding(s) on the..... charge(s)/and to its sentence//but sentences the accused²²⁸ to in substitution for the original sentence/.

or

The court having considered the observations of the confirming officer and the whole of the record of the proceedings does not revoke its finding(s) on the²²⁹ charge(s) and finds the accused not guilty of/ that//those/charge(s).

Signed at²³⁰ this day of..... 19

..... Judge advocate President

ELEVENTH SCHEDULE (Rules 81 & 83)

CONFIRMATION

Note: These forms are for guidance only and do not constitute an exhaustive list of all the possible variations and should be adapted to the circumstances of each case.

Confirmed.

²²⁴ Specify the number(s) of the charge(s) concerned, e.g. the 5th charge.

²²⁵ Insert accused's pay number, rank, name's unit or other description as given in the charge-sheet.

²²⁶ Set out the finding in the appropriate form of words given in the Seventh Schedule.

²²⁷ Set out the new sentence in accordance with the appropriate form set out in the Fifteenth Schedule.

²²⁸ Insert accused's pay number, rank, name's unit or other description as given in the charge-sheet.

²²⁹ Specify the number(s) of the charge(s) concerned, e.g. the 5th charge.

²³⁰ Insert the name of the place.

I confirm the court's finding(s), sentence and order under section 127 of the Defence Act, but/remit²³¹
 //commute²³² /

I confirm the court's finding(s), sentence and order under section 125 of the Defence Act, but mitigate the sentence so that it shall be as follows —²³³

I vary the sentence so that it shall be as follows²⁴²
 and confirm the finding and sentence as so varied.²³⁴

I confirm the finding(s) but substitute the sentence of
 for the sentence of the court.²³⁵

I substitute a finding of for
 the finding of the court and confirm the sentence but/remit
²³⁶ //commute²³⁷ /

I substitute a finding of for
 the finding of the court and substitute the sentence of
 for the sentence of the court²³⁸ .

I substitute a finding of for
 the finding of the court on the charge
 and confirm the finding(s) of the court on the
 charge(s) and the sentence.

²³¹ State what part of the sentence is remitted.

²³² State what the sentence is commuted to.

²³³ This form of words may be used when it is impracticable to use either "remit" or "commute".

²³⁴ This form of words is appropriate when the court has expressed the sentence informally or incorrectly and the confirming officer desires to put it into the correct legal form.

²³⁵ This form of words is appropriate when the court has passed an illegal sentence on the accused and the confirming officer desires to substitute a legal sentence.

²³⁶ State what part of the sentence is remitted.

²³⁷ State what the sentence is commuted to.

²³⁸ The form of words is appropriate where the court has recorded no finding on some charge alternative to a charge upon which it has recorded a finding of guilty and the confirming officer, being of opinion that the court must have been satisfied of the accused's guilt on the alternative charge wishes to substitute a finding of guilty on that charge for the finding of the court and to substitute a proper sentence not greater than that imposed by the court.

Not confirmed (on the grounds that.....²³⁹).

I confirm the finding(s) of the court on the..... charge(s) but do not confirm its finding(s) on the..... charge(s) (on the grounds that.....²⁴⁰). I confirm the sentence but/ remit //commute²⁴¹ /.

I refer the finding(s) and sentence to..... for confirmation.

I confirm the finding(s) of the court on the..... charge(s) and refer the finding(s) on the..... charge(s) and the sentence to.....²⁴² for confirmation.

I confirm the finding(s) of the court but refer the sentence to....²⁴³ for confirmation.

/The record//Part of the record/of the proceedings of the court-martial which tried at the day of 19 having been lost I do not confirm the finding(s) of the court.

²³⁹ Where a confirming officer withholds confirmation because he disapproves of the decision of the court on a plea to the jurisdiction in bar of trial or on an objection to a charge, he should specifically state that he is withholding confirmation for this reason. In other cases the confirming officer is not bound to give his reasons for withholding confirmation.

²⁴⁰ Where a confirming officer withholds confirmation because he disapproves of the decision of the court on a plea to the jurisdiction in bar of trial or on an objection to a charge, he should specifically state that he is withholding confirmation for this reason. In other cases the confirming officer is not bound to give his reasons for withholding confirmation.

²⁴¹ State what the sentence is commuted to.

²⁴² Insert the appointment of the higher authority to whom the matter is to be referred.

²⁴³ Insert the appointment of the higher authority to whom the matter is to be referred.

Signed at this
 day of 19....

.....
 (Signature, rank and appointment of
 confirming officer)²⁴⁴

TWELFTH SCHEDULE (Rule 81)

DIRECTION UNDER SECTION 120(3) OF THE ACT ²⁴⁵

I/confirming officer//reviewing
 authority//hereby direct that the accused.....
 pay number, rank, name or
 other description) shall not be required to be returned to The
 Bahamas until he has served/..... months /
 years/of
 the sentence of/imprisonment//detention/passed on him.

Dated 19.....

.....
 (Signature)

²⁴⁶ To be put under stoppages of pay until he has made good the
 sum of²⁴⁷(2) in respect of²⁴⁸(3)

²⁴⁹ To be deprived of his good conduct/medal//badge(s)/.

Stoppages.

Deprivation of
 good conduct
 medal, badges.

²⁴⁴ The rank and appointment of the confirming officer should be clearly stated after or under his signature.

²⁴⁵ When the confirming officer is making the direction this form of words should be inserted in the record of the proceedings of the court-martial in the confirming officer's minute of confirmation, when made by a reviewing authority it should follow the minute of promulgation.

²⁴⁶ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁴⁷ Insert the amount which has to be made good by stoppages in respect of the charge or article supplied.

²⁴⁸ Specify the charge or article in respect of which the stoppage is to be imposed. If stoppages are being imposed in respect of more than one charge or article the amount which has to be made good in respect of each charge or article must be stated separately.

²⁴⁹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

- Stoppage of overnight leave and extra work or drill. ²⁵⁰ To undergo stoppage of overnight leave and extra work/extra drill for days.
- Stoppage of overnight leave. ²⁵¹ To undergo stoppage of overnight leave for days.
- Extra work drill. ²⁵² To undergo/extra work//extra drill/for..... hours a day for days.
- Admonition. ²⁵³ To be admonished.
.....
(Signature, rank and appointment of confirming officer)²⁵⁴

THIRTEENTH SCHEDULE (Rule 81)

RESTITUTION ORDER ²⁵⁵

In accordance with subsection
of section 127 of the Defence Act, I ²⁵⁶
hereby order that..... ^{257 258}
be/delivered /paid/to ^{259 260}

²⁵⁰ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁵¹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁵² See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁵³ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁵⁴ Insert the rank, name and appointment of confirming officer or reviewing authority as the case may be.

²⁵⁵ When the confirming officer is making the order this form of words should be inserted in the record of the proceedings of the court-martial in the confirming officer's minute of confirmation, when made by a reviewing authority it should follow the minute of promulgation.

²⁵⁶ Insert the rank, name and appointment of confirming officer or reviewing authority as the case may be.

²⁵⁷ Insert the rank, name and appointment of confirming officer or reviewing authority as the case may be.

²⁵⁸ Insert description of article or amount of money, as the case may be.

²⁵⁹ Insert the rank, name and appointment of confirming officer or reviewing authority as the case may be.

²⁶⁰ Insert name of person to whom restitution is being made. 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 125 (10) of the Defence Act).

Date19.....

.....
(Signature)

/Confirming officer/
/Reviewing authority

FOURTEENTH SCHEDULE (Rule 81)

PROMULGATION

Promulgated and extracts taken at
(place thisday of.....19....

.....
(Signature, rank, and appointment of
officer making the promulgation)

FIFTEENTH SCHEDULE (Rule 60)

SENTENCES

Note: The words in the margin should be entered in the right hand margin of the record of the proceedings of a court-martial opposite the record of the sentence.

OFFICERS

²⁶¹ To suffer death in the manner authorised by law.

Death.

²⁶² To be imprisoned for the term of.....
years (calendar months), to be dismissed (with disgrace) from the
Defence Force and to suffer the consequential penalties involved.

Imprisonment.

²⁶³ To be dismissed with disgrace from the Defence Force and to
suffer the consequential penalties involved.

Dismissal with
disgrace.

²⁶¹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶² See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶³ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

- Dismissal. ²⁶⁴ To be dismissed from the Defence Force and to suffer the consequential penalties involved.
- Forfeiture of seniority. ²⁶⁵ To forfeit..... months (years) seniority as a in the Defence Force.
- Dismissal from ship. ²⁶⁶ To be dismissed from Her Majesty’s Bahamian Ship
- Fine. ²⁶⁷ To be fineddollars.
- /Severe reprimand// Reprimand/. ²⁶⁸ To be/severely reprimanded//reprimanded/
- Stoppages. ²⁶⁹ To be put under stoppages of pay until he has made good the sum of.....²⁷⁰ in respect of.....²⁷¹

WARRANT OFFICERS

- Death. ²⁷² To suffer death in the manner authorised by law.

²⁶⁴ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶⁵ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶⁶ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶⁷ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶⁸ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁶⁹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁰ Insert the amount which has to be made good by stoppages in respect of the charge or article supplied.

²⁷¹ Specify the charge or article in respect of which the stoppage is to be imposed. If stoppages are being imposed in respect of more than one charge or article the amount which has to be made good in respect of each charge or article must be stated separately.

²⁷² See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

<p>²⁷³ To be imprisoned for a term of..... years (calendar months), to be dismissed (with disgrace) from the Defence Force, to be disgrated to..... and to suffer the consequential penalties involved.</p>	<p>Imprisonment and disrating.</p>
<p>²⁷⁴ To be dismissed with disgrace from the Defence Force, to be disgrated to and to suffer the consequential penalties involved.</p>	<p>Dismissal with disgrace and disrating.</p>
<p>²⁷⁵ To be dismissed from the Defence Force, to be disgrated to.... and to suffer the consequential penalties involved.</p>	<p>Dismissal and disrating.</p>
<p>²⁷⁶ To undergo detention for the term of years (calendar months), to be disgrated to and to suffer the consequential penalties involved.</p>	<p>Detention and disrating.</p>
<p>²⁷⁷ To be disgrated to</p>	<p>Disrating.</p>
<p>²⁷⁸ To be fineddollars</p>	<p>Fine.</p>
<p>²⁷⁹ To be/severely reprimanded//reprimanded/</p>	<p>/Severe reprimand// Reprimand.</p>

²⁷³ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁴ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁵ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁶ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁷ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁸ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁷⁹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

Stoppages. ²⁸⁰ To be put under stoppages of pay until he has made good the sum of.....²⁸¹ in respect of²⁸²

NON-COMMISSIONED OFFICERS

Death. ²⁸³ To suffer death in the manner authorised by law.

Imprisonment and disrating. ²⁸⁴ To be imprisoned for the term of years (calendar months), to be dismissed (with disgrace) from the Defence Force, to be disrated to..... and to suffer the consequential penalties involved.Imprisonment and disrating.

Dismissal with disgrace and disrating. ²⁸⁵ To be dismissed with disgrace from the Defence Force, to be disrated to and to suffer the consequential penalties involved.

Dismissal and disrating. ²⁸⁶ To be dismissed from the Defence Force, to be disrated to and to suffer the consequential penalties involved.

Detention and disrating. ²⁸⁷ To undergo detention for the term of..... years (calendar months), to be disrated to..... and to suffer the consequential penalties involved.

²⁸⁰ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁸¹ Insert the amount which has to be made good by stoppages in respect of the charge or article supplied.

²⁸² Specify the charge or article in respect of which the stoppage is to be imposed. If stoppages are being imposed in respect of more than one charge or article the amount which has to be made good in respect of each charge or article must be stated separately.

²⁸³ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁸⁴ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁸⁵ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁸⁶ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁸⁷ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

288 To be disgraced to	Disrating.
289 To be fined dollars	Fine.
290 To be/severely reprimanded//reprimanded/	/Severe reprimand// Reprimand/.
291 To be put under stoppages of pay until he has made good the sum of..... ²⁹² in respect of..... ²⁹³	Stoppages.
294 To be deprived of his good conduct/medal//badge(s)/	Deprivation of good conduct medal, badges.
295 To undergo stoppage of overnight leave and extra work/extra drill for..... days.	Stoppage of overnight leave and extra work or drill.
296 To undergo stoppage of overnight leave fordays.	Stoppage of overnight leave.
297 To undergo/extra work//extra drill/..... hours a day fordays.	Extra work or drill.

²⁸⁸ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁸⁹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹⁰ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹¹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹² Insert the amount which has to be made good by stoppages in respect of the charge or article supplied.

²⁹³ Specify the charge or article in respect of which the stoppage is to be imposed. If stoppages are being imposed in respect of more than one charge or article the amount which has to be made good in respect of each charge or article must be stated separately.

²⁹⁴ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹⁵ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹⁶ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹⁷ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

Admonition.	²⁹⁸ To be admonished. _____
	MARINES
Death.	²⁹⁹ To suffer death in the manner authorised by law. _____
Imprisonment.	³⁰⁰ To be imprisoned for..... _____
Dismissal with disgrace.	³⁰¹ To be dismissed with disgrace from the Defence Force. _____
Dismissal.	³⁰² To be dismissed from the Defence Force. _____
Detention.	³⁰³ To undergo detention for..... _____
Fine.	³⁰⁴ To be fined

SIXTEENTH SCHEDULE (Rule 60)

IMPRISONMENT IN DEFAULT OF PAYMENT OF FINE ³⁰⁵

(a) To be imprisoned for and to be fined; and if any part of that fine is not duly paid or recovered on or before the date on which the accused could otherwise be released from that term of imprisonment, to undergo a further consecutive term of imprisonment of (not exceed 12 months), subject to and in accordance with the provisions of section 80 of the Defence Act.

²⁹⁸ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

²⁹⁹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

³⁰⁰ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

³⁰¹ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

³⁰² See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

³⁰³ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

³⁰⁴ See section 121 of the Act and Defence (Imprisonment and Detention) Regulations.

³⁰⁵ See section 80 of the Defence Act.

(b) To be fined;
 and if any part of that fine is not duly paid or recovered on or before the date on which the accused could otherwise be released from the term of imprisonment which he is already serving or is otherwise liable to serve, to undergo a further consecutive term of imprisonment of..... (not to exceed 12 months), subject to and in accordance with the provisions of section 80 of the Defence Act.

SEVENTEENTH SCHEDULE (Rule 60)

RECOMMENDATION UNDER SECTION 120(3) OF THE ACT ³⁰⁶

The court recommends that the accused.....
(pay number, rank, name or other description) shall not be required to be returned to The Bahamas until he has served/ months//..... years/of his sentence.

EIGHTEENTH SCHEDULE (Rule 60)

RESTITUTION ORDER ³⁰⁷

In accordance with subsectionof section 127 of the Defence Act, the court hereby orders that...³⁰⁸
 be/delivered//paid/to³⁰⁹.

NINETEENTH SCHEDULE (Rule 20)

(1) OATHS AT COURTS-MARTIAL

President and Members

I swear by Almighty God that I will well and truly try the/accused /accused persons/before the court according to the evidence, and that I will duly administer justice according to the Defence Act,

³⁰⁶ This form of words should be inserted in the record of proceedings of the court-martial in the sentence passed by the court.

³⁰⁷ This form of words should be inserted in the record of the proceedings of the court-martial in the sentence passed by the court.

³⁰⁸ Insert the description of the article or the amount of money, as the case may be.

³⁰⁹ Insert name of the person to whom restitution is made. 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 orders that this order shall be carried out forthwith" (see section 127(10) of the Defence Act).

without partiality, favour or affection, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of the president or any member of this court-martial, unless thereunto required in due course of law.

Judge Advocate

I swear by Almighty God that I will to the best of my ability carry out the duties of judge advocate in accordance with the Defence Act, and the rules made thereunder and without partiality, favour or affection, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion on any matter of the president or any member of this court-martial, unless thereunto required in due course of law.

Officer under Instruction

I swear by Almighty God that I will not on any account at any time whatsoever disclose or discover the vote or opinion of the president or any member of this court-martial unless thereunto required in due course of the law.

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 before the court-martial.

Witness

I swear by 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.

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.

(2) MANNER OF 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.

(3) SOLEMN AFFIRMATIONS

The person making a solemn affirmation shall say to or repeat after the person administering the solemn affirmation the words of the appropriate form of oath except that for the words “I swear by Almighty God” he shall substitute the words “I (name in full) do solemnly, sincerely and truly declare and affirm” and for the word

“swear” wherever it occurs the words “solemnly, sincerely and truly declare and arm”.

TWENTIETH SCHEDULE (Rule 86)

(1) PETITIONS

(2) LIST OF PERSONS TO WHOM PETITIONS MAY BE PRESENTED UNDER RULE 86

(1) PETITIONS

Petition to confirming officer (before confirmation)

To the confirming officer.

I..... ³¹⁰ having been convicted by court-martial on..... ³¹¹ at..... ³¹² and having been sentenced to hereby petition against the finding(s) on the charge(s) ³¹³ and the sentence ³¹⁴ on the following grounds-
.....
.....

Signed..... ³¹⁵

Dated.....

Petition to reviewing authority (after promulgation)

To..... ³¹⁶

I..... ³¹⁷ having been convicted by court-martial on ³¹⁸ at ³¹⁹ and having been sentenced to and having had the

³¹⁰ Insert the accused's pay number, rank, name, unit or other description.
³¹¹ Insert the date when accused was convicted.
³¹² Insert the place where the trial was held.
³¹³ The words “the finding(s) on the charge(s)” should be omitted if the accused is only petitioning against sentence.
³¹⁴ The words “and the sentence” should be omitted if the accused is not petitioning against sentence.
³¹⁵ Petitions should be signed by the accused personally but may, if necessary, be signed on his behalf by his representative.
³¹⁶ Here state the reviewing authority whom it is desired to petition.
³¹⁷ Insert the accused's pay number, rank, name, unit or other description.
³¹⁹ Insert the place where the trial was held.

finding(s) and sentence promulgated to me on
³²⁰ hereby petition against the finding(s) on the
 charge(s)³²¹ and sentence³²² on the following grounds —

.....

Signed.....³²³

Dated.....

(2) LIST OF PERSONS TO WHOM PETITIONS MAY BE PRESENTED UNDER RULE 86

Circumstances	Person to whom a petition may be presented
1. Petitioner serving in or in custody on board HMB ship	Captain of the ship
2. Petitioner in custody on board a ship other than one of HMB ships	Officer commanding forces on board
3. Petitioner serving with a Defence Force unit	Officer commanding the unit
4. Petitioner confined in a civil prison	Superintendent of the prison

TWENTY-FIRST SCHEDULE (Rule 90)

ORDER FOR TEMPORARY CUSTODY IN A MENTAL INSTITUTION

TO the Superintendent of

WHEREAS Pay No Rank/Rate

Name Unit

a member of the Defence Force, who has been found by court-martial to be/unfit to stand trial by reason of insanity/guilty of the offence with which he was charged, but insane/³²⁴;

³²⁰ Insert the date when the findings and sentence were promulgated.

³²¹ The words “the finding(s) on the charge(s)” should be omitted if the accused is only petitioning against sentence.

³²² The words “and the sentence” should be omitted if the accused is not petitioning against sentence.

³²³ Petitions should be signed by the accused personally but may, if necessary, be signed on his behalf by his representative.

³²⁴ Delete as appropriate.

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/³²⁵ the Minister makes appropriate directions.

Signed this.....day of19.....

Signature:³²⁶

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;

³²⁵ Delete if inappropriate.

³²⁶ This form must be signed by Commander Defence Force.