

The Army Rules, 1954

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The Army Rules, 1954¹

In exercise of the powers conferred by Section 191 of the Army Act, 1950 (46 of 1950), and all other powers enabling in this behalf, and in supersession of the Indian Army Act, Rules, and the Army Act, Rules, 1950, published with the notification of the Government of India in the late Army Department No. 911, dated the 3rd November, 1911, and the Ministry of Defence No. S.R.O. 125, dated the 22nd July, 1950 respectively, the Central Government hereby makes the following rules, namely—

CHAPTER I PRELIMINARY

1. Short title.—These rules may be called the Army Rules, 1954.

2. Definitions.—In these rules, unless the context otherwise requires,—

- (a) "The Act" means the Army Act, 1950 (46 of 1950);
- (b) "Appendix" means an appendix set forth in these rules;
- (c) "Field Officer" includes an officer, not being a general officer, of any rank (including brevet rank) above the rank of Captain;

²[* * *]

- (d) "Proper military authority" when used in relation to any power, duty, act or matter, such military authority as, in pursuance of these rules or the regulations made under the Act or the usages of the service, exercises or performs that power or duty or is concerned with that act or matter;

³[* * *]

- ⁴[(d-iii) "Reckonable commissioned service" means service from the date of permanent commission, or the date-of-seniority for promotion fixed on grant of that commission including any antedate for seniority granted under the rules in force on grant of commission:

Provided that periods of service forfeited by sentence of court-martial by summary award under the Act and periods of absence without leave, shall be excluded but periods during which furlough rates of pay are drawn and periods of captivity on prisoners of war rates of pay shall be included;]

- (e) "Section" means a section of the Act;
- (f) All words and expressions used in these rules and not defined, but defined in the Act, shall have the same meanings as in the Act.

3. Reports and applications.—Any report or application directed by these rules to be made to a superior authority, or a proper military authority, shall be made in writing through the proper channel, unless the said authority, on account of military exigencies or otherwise, dispenses with the writing.

1. Ministry of Defence, Noti. No. S.R.O. 484, dated 27th November, 1954, published in the Gazette of India, Part II, Section 4, dated 27-11-1954, pp. 291-378, No. 47.
2. Clause (cc) *ins.* by S.R.O. 188, dt. 4-1-1979 and *omitted* by S.R.O. 216, dt. 30-8-1988.
3. Clauses (d-i) and (d-ii) *ins.* by S.R.O. 188, dt. 4-1-1979 and *omitted* by S.R.O. 216, dt. 30-8-1988.
4. *Ins.* by S.R.O. 188, dt. 4-6-1979.

4. Forms in Appendices.—(1) The forms set forth in the appendices to these rules, with such variations as the circumstances of each case may require, may be used for the respective purposes therein mentioned, and if used, shall be sufficient, but a deviation from such forms shall not, by reason only of such deviation, render invalid any charge, warrant, order, proceedings or any other document relevant to these rules.

(2) Any omission of any such form shall not, by reason only of such omission, render any act or thing invalid.

(3) The directions in the notes to, and the instructions in, the forms shall be duly complied with in all cases to which they relate, but any omission to comply with any such directions in the notes of instructions shall not, merely by reason of such omission, render any act or thing invalid.

5. Exercise of power vested in holder of military office.—Any power or jurisdiction to, and any act or thing to be done by, to, or before any person holding any military office for the purpose of these rules may be exercised by, or done by, to or before any person for the time being authorised in that behalf according to the custom of the service.

6. Cases unprovided for.—In regard to any matter not specifically provided for in these rules, it shall be lawful for the competent authority to do such thing or take such action as appears to it to be just and proper.

CHAPTER II ENROLMENT AND ATTESTATION

7. Enrolling officers.—The following persons shall be the “enrolling officers” for the purpose of Section 13, namely—

- (a) all recruiting and Assistant Recruiting Officers including officers of the Indian Navy or of the Air Force, who may be appointed as such;
- (b) the officer commanding a regiment, battalion or training or regimental centre, and
- (c) any extra Assistant Recruiting Officer or other person who may be appointed as an “enrolling officer” by the Adjutant General.

8. Persons to be attested.—All combatants, and other enrolled persons who may be selected to hold non-commissioned or acting non-commissioned rank, shall, when reported fit for duty, be attested in the manner provided in Section 17.

9. Oath or affirmation to be taken on attestation.—(1) Every person required to be attested under Section 16 shall make and subscribe an oath or affirmation in one of the following forms or in such other form to the same purport as the attesting officer ascertains to be in accordance with the religion of the person to be attested, or otherwise binding on his conscience.

Form of Oath

I,, do swear in name of God that I will bear true faith and allegiance to the Constitution of India as by the law established and that I will, as in duty-bound, honestly and faithfully serve in the regular Army of the Union of India and go wherever ordered by land, sea or air, and that I will observe and obey all commands of the President of the Union of India and the commands of any officer set over me even to the peril of my life.

Form of Affirmation

I,, do solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will, as in duty-bound, honestly and faithfully serve in the regular Army of the Union of India and go wherever ordered by land, sea or air, and that I will observe and obey all commands of the President of the Union of India and the commands of any officer set over me even to the peril of my life.

(2) The aforesaid oath or affirmation shall, whenever practicable, be administered by the Commanding Officer of the person to be attested (or in the presence of such Commanding Officer by a person empowered by him in this behalf) in the manner provided in Section 17. If it is not so administered, it may be administered by a Magistrate or a Recruiting Officer or an Assistant Recruiting Officer commanding the station.

10. Transfer from one corps or department to another.—Where the Central Government by any general or special order published in the Official Gazette so directs, any person enrolled under this Act may, notwithstanding anything to the contrary contained in the conditions of service for which he is enrolled, be transferred to any corps or department by order of an authority exercising powers not less than those of an officer commanding a division.

CHAPTER III

DISMISSAL, DISCHARGE, ETC.

11. Discharge not to be delayed.—(1) Every person enrolled under the Act shall, as soon as he becomes entitled under the conditions of his enrolment to be discharged, be so discharged with all convenient speed:

Provided that no person shall be entitled to such discharge, if the Central Government has, by notification suspended the said entitlement to discharge for the whole or a part of the regular Army.

(2) The discharge of a person, validly sanctioned by a competent authority, may, with the consent of the discharged person, be cancelled by any authority superior to the authority who sanctioned the discharge either without any conditions or subject to such conditions as such discharged person accepts.

12. Discharge Certificate.—(1) A certificate required to be furnished under the provisions of Section 23 is hereinafter called a "discharge certificate".

(2) A discharge certificate may be furnished either by personal delivery thereof by or on behalf of the Commanding Officer to the person dismissed, removed, discharged or released, or by the transmission of the same to such person by registered post.

13. Authorities empowered to authorise discharge.—(1) Each of the authorities specified in Column 3 of the Table below, shall be the competent authority to discharge from service person subject to the Act specified in Column 1 thereof on the grounds specified in Column 2.

(2) Any power conferred by this rule on any of the aforesaid authorities shall also be exercisable by any other authority superior to it.

⁵[(2-A) Where the Central Government or the Chief of the Army Staff decides that any person or class or persons subject to the Act should be discharged from service, either unconditionally or on the fulfilment of certain specified conditions, then, notwithstanding anything contained in this rule, the Commanding Officer shall also be the competent authority to discharge from service such person or any person belonging to such class in accordance with the said decision.]

(3) In this table "Commanding Officer" means the officer commanding the corps or department to which the person to be discharged belongs except that in the case of junior commissioned officers and Warrant Officers of the Special Medical Section of the Army Medical Corps, the "Commanding Officer" means the Director of the Medical Services, Army, and in the case of junior commissioned officer and Warrant Officers of Remounts, Veterinary and Farms, Corps, the "Commanding Officer" means the Director Remounts, Veterinary and Farms.

TABLE

Category	Grounds of discharge	Competent authority to authorise discharge	Manner of discharge
1	2	3	4
Junior Commissioned Officer	1. (i)(a) On completion of the period of service or tenure specified in the regulations for his rank or appointment are on reaching the age limit, whichever is earlier, unless trainee on the active list for further specified period with the sanction of the ⁶ [Chief of the Army Staff], or on becoming eligible for release under the regulations.	Commanding Officer	
	(b) At his own request on transfer to the pension establishment.	Commanding Officer	
	(ii) Having been found medically unfit for further service.	Commanding Officer	To be carried out only on the recommendation of an Invaliding Board.
	⁷ [(ii-a) Having been found to be in permanent low medical category SHAPE 2/3 by a medical board and when—	Commanding Officer	The individual will be discharged from service on the recommendations of Release Medical Board.]

5. *Ins.* by S.R.O. 126, dt. 12-3-1964.

6. *Subs.* for "Commander-in-Chief" by S.R.O. 348, dt. 26-11-1959.

7. *Ins.* by S.R.O. 22, dated 13-5-2010

(i) no sheltered appointment is available in the unit, or

(ii) is surplus to the organisation.

(iii) All other classes of discharge.

(a) In the case of Junior Commissioned Officers granted direct commissions during the first 12 months' service Area/ Divisional Commander.

If the discharge is not at the request of the Junior Commissioned Officer the competent authority before sanctioning the discharge shall, if the circumstances of the case permit, give the Junior Commissioned Officer concerned an opportunity to show cause against the order of discharge.

(b) In the case of JCOs, not covered by (a), serving in any Army or Command the General Officer Commanding-in-Chief of that Army or command, if not below the rank of Lieutenant General.

(c) In any other case the ⁸[Chief of the Army Staff].

Warrant Officer

II. (i)(a) On completion of the period of service or tenure specified in the regulations for this rank or appointment, or on reaching the age limit, whichever is earlier, unless retained on the active list for a further specified period with the sanction of the Brigade/ Sub-Area Commander or on becoming eligible

Commanding Officer

8. Subs. for "Commander-in-Chief" by S.R.O. 348, dt. 26-11-1959.

		to release under the regulations.		
		(b) At his own request on transfer to the pension establishment:	Commanding Officer	
		(ii) Having been found medically unfit for further service.	Commanding Officer	To be carried out only on the recommendation of an Invaliding Board.
		⁹ [(ii)(a) Having been found to be in permanent low medical category SHAPE 2/3 by a medical board and when—	Commanding Officer	The individual will be discharged from service on the recommendations of Release Medical Board.]
		(i) no sheltered appointment is available in the unit, or		
		(ii) is surplus to the organisation.		
		(iii) All other classes of discharge.	Warrant Officer Class I the General Officer Commanding-in-Chief of the Command in which the Warrant Officer is serving, other Warrant Officers Divisional/Area or Independent Brigade/Sub-Area Commanders.	If the discharge is not at the request of the Warrant Officer the competent authority before sanctioning the discharge shall, if the circumstances of the case permit, give the Warrant Officer an opportunity to show cause against the order of the discharge.
Persons enrolled under the Act who have been attested.	III.	(i) On fulfilling the conditions of his enrolment or having reached the stage at which discharge may be enforced.	¹⁰ [Commanding Officer and, in the case of a person of the rank of Havildar (or equivalent rank) where such person is to be discharged. Otherwise than at his own request and where the Commanding Officer below the rank of Lieutenant Colonel, the Brigade or Sub-Area Commander.]	

9. *Ins.* by S.R.O. 22, dt. 13-5-2010.

10. *Subs.* by S.R.O. 166 of 1965, dt. 27-3-1965.

(ii) On completion of a period of Army service only, there being no vacancy in the Reserve.	Commanding Officer (in the case of persons unwilling to extend their Army service).	Applicable to person enrolled for both Army service and Reserve service. (A person who has the right to extend his Army service and wishes to exercise that right cannot be discharged under this head).
(iii) Having been found medically unfit for further service.	Commanding Officer	To be carried out only on the recommendation of an Invaliding Board.
11[(iii)(a) Having been found to be in permanent low medical category SHAPE 2/3 by a medical board and when—	Commanding Officer	The individual will be discharged from service on the recommendations of Release Medical Board.]
(i) no sheltered appointment is available in the unit, or		
(ii) is surplus to the organisation.		
(iv) At his own request before fulfilling the conditions of his enrolment.	Commanding Officer.	The Commanding Officer will exercise this power only when he is satisfied as to the desirability of sanctioning the application and that the strength of the unit will not thereby be unduly reduced.
(v) All other classes of discharge.	Brigade/Sub-Area Commander.	The Brigade or Sub-Area Commander before ordering the discharge shall, if the circumstances of the case permit give to the person whose discharge is contemplated an opportunity to show cause against

Persons enrolled under the Act but not attested.

IV. All classes of discharge.

Commanding Officer or an officer commanding a Recruit Reception Camp or a Recruiting, Technical Recruiting or Deputy Technical Recruiting Officer.

the contemplated discharge.

In the case of persons requesting to be discharged before fulfilling the conditions of their enrolment, the Commanding Officers will exercise this power only where he is satisfied as to the desirability of sanctioning the application and that the strength of the unit will not thereby be unduly reduced.

Recruits who are considered unlikely to become efficient soldiers will be dealt with under this item.

¹²[13-A. Termination of service of an officer by the Central Government on his failure to qualify at an examination or course.—(1) When an officer does not appear at or, having appeared fails to qualify, at the retention examination or promotion examination or any other basic course or examination within the time or extended time specified in respect of that examination or course, the Chief of the Army Staff ¹³[or the Military Secretary] shall call upon the officer to show cause why he should not be compulsorily retired or removed from the service.

(2) In the event of the explanation being considered by the Chief of the Army Staff ¹⁴[or the Military Secretary] to be unsatisfactory, the matter shall be submitted to the Central Government for orders, together with the officer's explanation and the recommendation of the Chief of the Army Staff ¹⁵[or the Military Secretary] as to whether the officer should be—

- (a) called upon to retire; or
- (b) called upon to resign.

(3) The Central Government, after considering the explanation, if any, of the officer and the recommendation of the Chief of the Army Staff ¹⁶[or the Military Secretary] may call upon the officer to retire or resign, and on his refusing to do so, the officer

12. *Ins.* by S.R.O. 5, dt. 23-12-1968.

13. *Ins.* by S.R.O. 235 of 1991.

14. *Ins.* by S.R.O. 235 of 1991.

15. *Ins.* by S.R.O. 235 of 1991.

16. *Ins.* by S.R.O. 235 of 1991.

may be compulsorily retired or removed from the service on pension or gratuity, if any, admissible to him.]

¹⁷[14. **Termination of service by the Central Government on account of misconduct.**—(1) When it is proposed to terminate the service of an officer under Section 19 on account of misconduct, he shall be given an opportunity to show cause in the manner specified in sub-rule (2) against such action:

Provided that this sub-rule shall not apply—

- (a) where the service is terminated on the ground of misconduct which has led to his conviction by a criminal court; or
- (b) where the Central Government is satisfied that for reasons, to be recorded in writing, it is not expedient or reasonably practicable to give to the officer an opportunity of showing cause.

(2) When after considering the reports on an officer's misconduct, the Central Government or the Chief of the Army Staff is satisfied that the trial of the officer by a court-martial is inexpedient or impracticable, but is of the opinion, that the further retention of the said officer in the service is undesirable, the Chief of the Army Staff shall so inform the officer together with all reports adverse to him and he shall be called upon to submit, in writing, his explanation and defence:

Provided that the Chief of the Army Staff may withhold from disclosure any such report or portion thereof if, in his opinion, its disclosure is not in the interest of the security of the State.

In the event of the explanation of the officer being considered unsatisfactory by the Chief of the Army Staff, or when so directed by the Central Government, the case shall be submitted to the Central Government, with the officer's defence and the recommendation of the Chief of the Army Staff as to the termination of the officer's service in the manner specified in sub-rule (4).

(3) Where, upon the conviction of an officer by a criminal court, the Central Government or the Chief of the Army Staff considers that the conduct of the officer which has led to his conviction renders his further retention in service undesirable a certified copy of the judgment of the criminal court convicting him shall be submitted to the Central Government with the recommendation of the Chief of the Army Staff as to the termination of the officer's service in the manner specified in sub-rule (4).

¹⁸(4) When submitting a case to the Central Government under the provisions of sub-rule (2) or sub-rule (3), the Chief of the Army Staff shall make his recommendation whether the officer's service should be terminated, and if so, whether the officer should be—

- (a) dismissed from the service; or
- (b) removed from the service; or
- (c) compulsorily retired from the service.

(5) The Central Government after considering the reports and the officer's defence, if any, or the judgment of the criminal court, as the case may be, and the recommendation of the Chief of the Army Staff, may—

17. Subs. by S.R.O. 205, dt. 12-7-1961.

18. Subs. by S.R.O. 17(E) of 1993.

- (a) dismiss or remove the officer with or without pension or gratuity; or
- (b) compulsorily retire him from the service with pension and gratuity, if any, admissible to him.]]

¹⁹[15. **Termination of service by the Central Government on grounds other than misconduct.**—(1) When the Chief of the Army Staff is satisfied that an officer is unfit to be retained in the service due to inefficiency, or physical disability, the officer—

- (a) shall be so informed,
- (b) shall be furnished with the particulars of all matters adverse to him, and
- (c) shall be called upon to urge any reasons he may wish to put forward in favour of his retention in the service:

Provided that clauses (a), (b) and (c) shall not apply if the Central Government is satisfied that for reasons, to be recorded by it in writing, it is not expedient or reasonably practicable to comply with the provisions thereof:

Provided further that the Chief of the Army Staff may not furnish to the officer any matter adverse to him, if in his opinion, it is not in the interest of the security of the State to do so.

(2) In the event of the explanation being considered by the Chief of the Army Staff unsatisfactory, the matter shall be submitted to the Central Government for orders, together with the officer's explanation and the recommendation of the Chief of the Army Staff as to whether the officer should be—

- (a) called upon to retire; or
- (b) called upon to resign.

(3) The Central Government after considering the reports, the explanation, if any, of the officer and the recommendation of the Chief of the Army Staff, may call upon the officer to retire or resign, and on his refusing to do so, the officer may be compulsorily retired or removed from the service on pension or gratuity, if any, admissible to him.]

²⁰[15-A. **Release on medical grounds.**—(1) An officer who is found by a Medical Board to be permanently unfit for any form of military service, may be released from the service in accordance with the procedure laid down in this rule.

(2) The President of the Medical Board shall, immediately after the Medical Board has come to the conclusion that the officer is permanently unfit for any form of military service, issue, a notice specifying the nature of the disease or disability he is suffering from and the finding of the Medical Board and also intimating him that in view of the finding he may be released from the service; every such notice shall also specify that the officer may, within fifteen days of the date of receipt of the notice, prefer a petition against the finding of the Medical Board to the Chief of the Army Staff through the President of the Medical Board:

Provided that where in the opinion of the Medical Board the officer is suffering from a mental disease and it is either unsafe to communicate the nature of the disease or disability to the officer or the officer is unfit to look after his interests, the nature of the disease or disability shall be communicated to the officer's next-of-kin who shall have the like right to petition.

19. Subs. by S.R.O. 205, dt. 12-7-1961.

20. Ins. by S.R.O. 205, dt. 12-7-1961.

(3) If no petition is preferred within the time specified in sub-rule (2), the officer may be released from the service by an order to that effect by the Chief of the Army Staff ²¹[or the Adjutant General].

(4) If a petition is preferred within the time specified in sub-rule (2), it shall be forwarded to the Central Government together with the records thereof and the recommendation of the Chief of the Army Staff ²²[or the adjutant General]. The Central Government may, after considering the petition and the recommendation of the Chief of the Army Staff ²³[or the Adjutant General pass such order as it deems fit].]

²⁴[**15-B. Certain rules not to apply.**—Without prejudice to the provisions contained in Section 19 of the Act, nothing contained in Rules 14, 15 and 15-A shall apply to the office of the Chief of Defence Staff.]

²⁵[**16. Release.**—A person subject to the Act may be released from the service in accordance with the release regulations for the Army or in accordance with any other regulations, instructions or orders made in that behalf.]

²⁶[**16-A. Retirement of officers.**—(1) Officers shall be retired from service under the orders of the Central Government, or the authorities specified in sub-rule (2), with effect from the afternoon of the last date of the month in which they—

- (a) attain the age limits specified in sub-rule (5); or
- (b) complete the tenures of appointment specified in sub-rules (5)(f)(ii) and (g)(i) and sub-rule (6), whichever is earlier.

(2) The authorities referred to in sub-rule (1) shall be—

- (a) the Director-General, Armed Forces Medical Services in respect of officers of the Army Medical Corps, Army Dental Corps and Military Nursing Service;
- (b) the Additional Director-General, Remount and Veterinary Corps in respect of Officers of that Corps below the rank of Colonel;
- (c) the Deputy Director-General of Military Farms in respect of Officers of the Military Farms below the rank of Colonel;
- (d) the Military Secretary, Army Headquarters in respect of all other officers.

(3) The orders shall specify the date from which retirement shall be effective and subject to the provisions of sub-rule (4), the Officers shall be relieved of his duties on that date.

(4) An Officer who has attained the age of retirement or has become due for such retirement on completion of his tenure may be retained in the service for a further period by the Central Government, if the exigencies of the service so require:

²⁷[Provided that the Central Government may, if considered necessary, in public interest, so to do, give extension of service to the Chief of Defence Staff, referred to in

21. Added by S.R.O. 61 of 1991.

22. Added by S.R.O. 61 of 1991.

23. Added by S.R.O. 61 of 1991.

24. Ins. by S.R.O. 17(E), dated 28th December, 2019 (w.e.f. 28-12-2019).

25. Subs. by S.R.O. 205, dt. 12-7-1961.

26. Ins. by S.R.O. 188, dt. 4-6-1979 and subs. by S.R.O. 17(E), dt. 6-12-1993.

27. Ins. by S.R.O. 17(E), dated 28th December, 2019 (w.e.f. 28-12-2019).

the Explanation to clause (a) of sub-rule (5), for such period or periods as it may deem necessary subject to maximum age of 65 years.]

(5) The following shall be the age of retirement for Officers—

(a) of Armoured Corps, Infantry, Artillery, Engineers and Signals:

Up to and including the rank of Major	—	50 years
Lieutenant Colonel (Time Scale)	—	51 years
Lieutenant Colonel (Selection)	—	52 years
Colonel	—	52 years
Brigadier	—	54 years
Major General	—	56 years
Lieutenant General	—	58 years
General	—	60 years

²⁸[Explanation.—For the purposes of this clause, the expression “General” includes the Chief of Defence Staff or the Chief of the Army Staff, as the case may be.]

(b) of Army Service Corps (excluding Food Inspection Organisation), Army Ordnance Corps, Electrical and Mechanical Engineers, Pioneer Corps and Intelligence Corps:

Up to and including the rank of Colonel	—	52 years
Brigadier	—	54 years
Major General	—	56 years
Lieutenant General	—	58 years

(c) of Food Inspection Organisation:

Up to and including the rank of Lieutenant Colonel (Time Scale)	—	52 years
Lieutenant Colonel (Selection)	—	52 years

(d) of Judge-Advocate General's Department, Army Education Corps, Military Farms, Special List Officers (Quartermaster, Technical Record Officers and Army Physical Training Corps (Master-at-Arms) and Remount and Veterinary Corps):

Up to and including the rank of Colonel	—	55 years
Brigadier	—	56 years
Major General	—	57 years
Lieutenant General	—	58 years

(e) of Army Medical Corps, Army Dental Corps and Military Nursing Service:

Up to and including the rank of Lieutenant Colonel	—	55 years
Colonel	—	57 years
Brigadier	—	58 years

Major General	—	59 years
Lieutenant General	—	60 years
All officers of Army Medical Corps (Non-technical)	—	55 years

- (f) (i) permanently seconded to Defence Research and Development Organisation:

Up to and including the rank of Major General or equivalent — 57 years

Lieutenant General — 58 years

Provided that officers up to the rank of Major General or equivalent shall be given two reviews, one at the age of 52 years and the other at the age of 55 years, carried out well in advance by the Defence Research and Development Organisation Selection Board per its own laid criteria, to determine the suitability for continuation beyond that age unless the officer volunteers for retirement. The officers found unsuitable for continuation in either of reviews shall retire on attaining the age of 52 years or 55 years, as the case may be.

(ii) the tenure in the substantive rank of Lieutenant General shall be four years.

- (g) (i) permanently seconded to Directorate General Quality Assurance:

Up to and including the rank of Major General or equivalent — 57 years

Lieutenant General — 58 years

Provided that officers up to the rank of Major General or equivalent shall be given two reviews, one at the age of 52 years and the other at the age of 55 years, carried out well in advance by the Inspection Selection Board per its own laid criteria, to determine the suitability for continuation beyond that age. The officers found unsuitable for continuation in either of reviews shall retire on attaining the age of 52 years or 55 years, as the case may be.

(ii) the tenure in the rank of Lieutenant General shall be four years.

- (h) of corps of Engineers permanently seconded to Survey of India as under the civil rules applicable to them from time to time.

(6) The following shall be the tenures of appointment for the purpose of retirement—

²⁹(a) the tenure of the Chief of the Army Staff shall be three years or upto the age of retirement, whichever is earlier;

(b) Army Medical Corps Officers holding the rank of Lieutenant General shall serve in that rank for one tenure of 4 years:

Provided an officer holding the appointment of Director-General, Medical Services (Army) or Director-General, Medical Services (Navy) or Director-General, Medical Services (Air) or Commandant Armed Forces Medical College or Commandant, Army Medical Corps School and Centre Lucknow

29. Subs. by S.R.O. 17(E), dated 28th December, 2019 (w.e.f. 28-12-2019). Prior to substitution it read as:
“(a) the tenure in the rank of a General shall be a maximum of 3 years.”

or Additional Director-General, Armed Forces Medical Services in the rank of Lieutenant General shall, in the event of his being appointed as Director-General, Armed Forces Medical Services, shall serve for a combined tenure of 5 years.

- (c) the tenure of Army Dental Corps Officers of the rank of Major General shall be a maximum of 4 years.

Explanation I.—For the purpose of this rule,—

- (a) "Lieutenant Colonel" means a Lieutenant Colonel by selection and includes a Lieutenant Colonel by time scale in the Army Medical Corps, Army Dental Corps and Veterinary Cadre of Remount and Veterinary Corps;
- (b) "Rank" means a substantive rank.

Explanation II.—For the purpose of the rule,—

- (a) Age of retirement as specified in sub-rule (5) shall apply to permanent commissioned officers in their respective substantive ranks.
- (b) Stipulated age of retirement in the rank of Lieutenant General/Major General in Army Education Corps, Intelligence Corps, Remount and Veterinary Corps, Judge-Advocate General's Department, Pioneer Corps, Military Farms and Special List Officers Cadre will be applicable only when these ranks are sanctioned in the Corps, Department or Cadre, as the case may be.
- (c) Officers of the Intelligence Corps, Judge-Advocate General's Department, Army Education Corps, Remount and Veterinary Corps and Military Farms who had opted to be governed by the age of retirement prevalent prior to the issue of Government of India. Ministry of Defence, Letter Nos. A/49453/AG/PS 2(a)/3770-S/D(AG), dated 26th July, 1984 and A/49453/AG/PS2(a)/Minor Corps-S/D(AG), dated 26th July, 1985, as applicable, shall continue to be so governed.

Notes.—(a) A substantive Lieutenant Colonel (Time Scale) belonging to the Defence Research and Development and Production and Inspection Organisation, Army Medical Corps (Non-Technical), Remount Cadre of Remount and Veterinary Corps and Military Farms, promoted to that rank on completion of 24 years reckonable commissioned service and held against the appointment tenable in the rank of Major will be retained in service in that rank up to 3 years or up to the age of compulsory retirement or up to completion of 27 years commissioned service (rendered as Permanent Commissioned Officer including the period of ante-date of full pay commissioned service of non-regular officers reckoned for purposes of seniority and promotion on grant of permanent Commission), whichever is the earliest.

(b) Provision contained in item (a) above shall continue to apply to such of the officers of Army Service Corps (including Food Inspection Organisation) Army Ordnance Corps, Electrical and Mechanical Engineers, Pioneer Corps, Intelligence Corps, Army Education Corps and Judge-Advocate General's Department as were granted the rank of Lieutenant Colonel (Time Scale) prior to the 1st December, 1976 and are held against the appointment tenable in this rank of Major and are adversely affected by the application of the age limits prescribed for retirement for this rank. In

the operation of the said provision, the age of compulsory retirement in their case shall be taken as applicable to the rank of Major of their respective service.

(c)(1) Officers who are not approved for retention in service beyond the minimum age of retirement or the minimum period of service, specified to earn full pension, if that occurs after attaining the minimum age of retirement, shall be retired.

(2) Cases for retention in service beyond the minimum age of retirement of the minimum period of qualifying service (reckonable commissioned service in the case of Defence Research and Development and Production and Inspection Organisations and Army Medical Corps) required to earn full pension shall be assessed by the appropriate Selection Board sufficiently in advance of the attainment of that age or completion of that period. Retention in service shall be subject to the following conditions, namely—

- (i) an officer shall not be in a medical classification lower than Grade 1 in 'S' factor and 2 in any one of the other SHAPE factors in the case of Army Medical Corps and Army Dental Corps, and S1 H1 A1 P1 or H2 A1 P1 E1 or S1 H1 A1 P1 E2 in the case of Defence Research and Development and Production and Inspection Organisation. In other cases, an officer shall be in an acceptable Medical Classification Colonels of the Remount and Veterinary Corps and Military Farms in Medical Classification lower than S1 H1 A1 P1 E1 or S1 H2 A1 P1 that E1 or S1 H1 A1 P1 E2 may also be retained in service provided that—
 - (A) such retention would be in public interest;
 - (B) an officer of the Armoured Corps, Artillery Engineers capable of performing the normal active service duties of the rank in which he is being retained.
 - (C) any defect, disability or disease from which the officer is suffering is not likely to be aggravated by service conditions;
- (ii) the officer's efficiency for his rank shall be of a sufficiently high standard in the cases of Armoured Corps, Engineers, Signals, Infantry, Army Service Corps (excluding Food Inspection Organisation) Army Ordnance Corps, Electrical and Mechanical Engineers and Pioneer Corps and of a specially high standard in the case of others;
- (iii) an officer found fit for further promotion but not so promoted for want of vacancies in the higher rank shall be preferred;
- (iv) an officer shall not block (seriously block in the case of Armoured Corps, Artillery, Engineers, Signals, Infantry, Army Service Corps (excluding Food Inspection Organisation), Army Ordnance Corps, Electrical and Mechanical Engineers and Pioneer Corps) the promotion prospects of deserving junior officers;
- (v) an officer of the Armoured Corps Artillery, Engineers, Signals, Infantry, Army Service Corps (excluding Food Inspection Organisation), Army Ordnance Corps, Electrical and Mechanical Engineers and Pioneer Corps, whose performance or medical fitness deteriorates during the period of his retention in service shall be retired from service.]

³⁰[16-B. Retirement of an officer at his own request.—(1) The retirement of an officer at his own request before he becomes liable to ³¹[* * *] retirement under Rule 16-A shall require the sanction of the Central Government.

(2) An officer whose request to retire is granted may, before he is retired, apply to the Central Government for withdrawal of his request. The Central Government may, at its discretion, grant such withdrawal of his application.

16-C. Registration of Commission.—(1) An officer shall have no right to resign his commission but may submit an application to the Central Government to resign his commission. He shall not be relieved of his duties until the Central Government has accepted his resignation.

(2) An officer whose application to resign his commission has been accepted may, before he is relieved of his duties, apply to the Central Government for withdrawal of the said application. The Central Government may, at its discretion, grant withdrawal of his application.]

³²[17. Dismissal or removal by Chief of the Army Staff and by other officers.—Save in the case where a person is dismissed or removed from service on the ground of conduct which has led to his conviction by a criminal court or a court-martial, no person shall be dismissed or removed under sub-section (1) or sub-section (3) of Section 20; unless he has been informed of the particulars of the cause of action against him and allowed reasonable time to state in writing any reasons he may have to urge against his dismissal or removal from the service: /

Provided that if in the opinion of the officer competent to order the dismissal or removal, it is not expedient or reasonably practicable to comply with the provisions of this rule, he may after certifying to that effect, order the dismissal or removal without complying with the procedure set out in this rule. All cases of dismissal or removal under this rule where the prescribed procedure has not been complied with shall be reported to the Central Government.]

18. Date from which retirement, resignation, removal, release, discharge or dismissal otherwise than by sentence of court-martial takes effect.—(1) The dismissal of an officer under Section 19 or the retirement, resignation, release or removal of such officer shall take effect from the date specified in that behalf in the notification of such dismissal, retirement or removal in the Official Gazette.

(2) The dismissal of a person subject to the Act, other than an officer whose dismissal otherwise than by sentence of a court-martial is duly authorised or the discharge of a person so subject whose discharge, if duly authorised, shall be carried out by the Commanding Officer of such person with all convenient speed. The authority competent to authorise such dismissal or discharge may, when authorising the dismissal or discharge, specify any future date from which it shall take effect:

Provided that if no such date is specified the dismissal or discharge shall take effect from the date on which it was duly authorised or from the date on which the person dismissed or discharged, ceased to perform military duty, whichever is the later date.

30. Ins. by S.R.O. 188, dt. 4-6-1979.

31. Omitted by S.R.O. 17(B), dt. 6-12-1993.

32. Subs. by S.R.O. 205, dt. 12-7-1961.

(3) The retirement, removal, resignation, release, discharge or dismissal of a person subject to the Act shall not be retrospective.

CHAPTER IV

RESTRICTIONS OF FUNDAMENTAL RIGHTS

19. Unauthorised organisation.—No person subject to the Act shall, without the express sanction of the Central Government—

- (i) take official cognizance of, or assist or take any active part in, any society, institution or organisation, not recognised as part of the Armed Forces of the Union; unless it be of a recreational or religious nature in which case prior sanction of the superior officer shall be obtained;
- (ii) be a member of, or be associated in any way with, any trade union or labour union, or any class of trade or labour unions.

20. Political and non-military activities.—(1) No person subject to the Act shall attend, address, or take part in any meeting or demonstration held for a party or political purposes, or belong to or join or subscribe in the aid of, any political association or movement.

(2) No person subject to the Act shall issue an address to electors or in any other manner publicly announce himself or allow himself to be publicly announced as a candidate or as a prospective candidate for election to the Parliament, the legislature of a State or a local authority, or any other public body or act as a member of a candidate's election committee, or in any way actively promote or prosecute a candidate's interests.

21. Communications to the press, lectures, etc.—No person subject to the Act shall,—

- (i) publish in any form whatever or communicate directly or indirectly to the press any matter in relation to a political question or on a service subject or containing any service information, or publish or cause to be published any book or letter or article or other document on such question or matter or containing such information without the prior sanction of the Central Government, or any officer specified by the Central Government in this behalf; or
- (ii) deliver a lecture or wireless address, on a matter relating to a political question or on a service subject or containing any information or views on any service subject without the prior sanction of the Central Government or any officer specified by the Central Government in this behalf.

Explanation.—For the purposes of this rule, the expression "service information" and "service subject" include information or subject, as the case may be, concerning the forces, the defence or the external relation of the Union.

CHAPTER V

INVESTIGATION OF CHARGES AND TRIAL BY COURT-MARTIAL

SECTION 1 — INVESTIGATION OF CHARGES AND REMAND FOR TRIAL

Power of Commanding Officers

³³**[22. Hearing of Charge.**—(1) Every Charge against a person subject to the Act shall be heard by the Commanding Officer in the presence of the accused. The accused

shall have full liberty to cross-examine any witness against him, and to call such witness and make such statement as may be necessary for his defence:

Provided that where the charge against the accused arises as a result of investigation by a court of inquiry, wherein the provisions of Rule 180 have been complied with in respect of that accused, the Commanding Officer may dispense with the procedure in sub-rule (1).

(2) The Commanding Officer shall dismiss a charge brought before him if, in his opinion the evidence does not show that an offence under the Act has been committed, and may do so if, he is satisfied that the charge ought not to be proceeded with:

Provided that the Commanding Officer shall not dismiss a charge which he is debarred to try under sub-section (2) of Section 120 without reference to superior authority as specified therein.

(3) After compliance of sub-rule (1), if the Commanding Officer is of opinion that the charge ought to be proceeded with, he shall within a reasonable time—

- (a) dispose of the case under Section 80 in accordance with the manner and form in Appendix III; or
- (b) refer the case to the proper superior military authority; or
- (c) adjourn the case for the purpose of having the evidence reduced to writing; or
- (d) if the accused is below the rank of Warrant Officer, order his trial by a summary court-martial:

Provided that the Commanding Officer shall not order trial by a summary court-martial without a reference to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender unless—

- (a) the offence is one which he can try by a summary court-martial without any reference to that officer; or
- (b) he considers that there is grave reason for immediate action and such reference cannot be made without detriment to discipline.

(4) Where the evidence taken in accordance with sub-rule (3) of this rule discloses an offence other than the offence which was the subject of the investigation, the Commanding Officer may frame suitable charge(s) on the basis of the evidence so taken as well as the investigation of the original charge.]

23. Procedure for taking down the summary of evidence.—(1) Where the case is adjourned for the purpose of having the evidence reduced to writing, at the adjourned hearing the evidence of the witnesses who were present and gave evidence before the Commanding Officer, whether against or for the accused, and of any other person whose evidence appears to be relevant, shall be taken down in writing in the presence and hearing of the accused before the Commanding Officer or such officer as he directs.

(2) The accused may put in cross-examination such questions as he thinks fit to any witness, and the questions together with the answers thereto shall be added to the evidence recorded.

(3) The evidence of each witness after it has been recorded as provided in the rule when taken down, shall be read over to him, and shall be signed by him, or if he cannot write his name shall be attested by his mark and witnessed as a token of the correctness

of the evidence recorded. After all the evidence against the accused has been recorded, the accused will be asked: "Do you wish to make any statement? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence." Any statement thereupon made by the accused shall be taken down and read over to him, but he will not be cross-examined upon it. The accused may then call his witnesses, if he so desires, any witnesses as to character.

(4) The evidence of the witnesses and the statement (if any) of the accused shall be recorded in the English language. If the witness of accused, as the case may be, does not understand the English language, the evidence or statement, as recorded, shall be interpreted to him in a language which he understands.

(5) If a person cannot be compelled to attend as a witness, or if owing to the exigencies of service or any other grounds (including the expense and loss of time involved), the attendance of any witness cannot in the opinion of the officer taking the summary (to be certified by him in writing), be readily procured, a written statement of his evidence purporting to be signed by him may be read to the accused and included in the summary of evidence.

(6) Any witness who is not subject to military law may be summoned to attend by order under the hand of the Commanding Officer of the accused. The summons shall be in the form provided in Appendix III.

24. Remand of accused.—(1) The evidence and statement (if any) taken down in writing in pursuance of Rule 23 (hereinafter referred to as the "summary of evidence"), shall be considered by the Commanding Officer, who thereupon shall either—

- (a) remand the accused for trial by a court-martial; or
- (b) refer the case to the proper superior military authority; or
- (c) if he thinks it desirable, rehear the case and either dismiss the charge or dispose of it summarily.

(2) If the accused is remanded for trial by a court-martial, the Commanding Officer shall without unnecessary delay either assemble a summary court-martial (after referring to the officer empowered to convene a district court-martial when such reference is necessary) or apply to the proper military authority to convene a court-martial, as the case may require.

25. ³⁴[Omitted]

26. Summary disposal of charges against officer, Junior Commissioned Officer or Warrant Officer.—(1) Where an officer, a Junior Commissioned Officer or a Warrant Officer is remanded for the disposal of a charge against him by an authority empowered under Sections 83, 84 or 85 to deal summarily with that charge, the summary of evidence ³⁵[* * *] shall be delivered to him, free of charge, with a copy of the charge as soon as practicable after its preparation and in any case not less than twenty-four hours before the disposal.

(2) Where the authority empowered under Sections 83, 84 or 85, decides to deal summarily with a charge against an officer, junior commissioned officer or Warrant Officer, he shall unless he dismisses the charge, or unless the accused has consented

34. Omitted by S.R.O. 17(E), dt. 6-12-1993.

35. Omitted by S.R.O. 17(E), dt. 6-12-1993.

in writing to dispense with the attendance of the witnesses, hear the evidence in the presence with the accused. The accused shall have full liberty to cross-examine any witness against him, and to call any witness and make a statement in his defence.

(3) The proceedings shall be recorded as far as practicable in accordance with the form in Appendix IV and in every case in which punishment is awarded, the proceedings together with the conduct sheet, summary ³⁶[* * *] of evidence and written consent to dispense with the attendance of witnesses (if any) of the accused, shall be forwarded through the proper channel to the superior military authority as defined in Section 88.

27. Delay reports.—(1) In every case where a person subject to the Act, who is not on active service, is in military custody for a period longer than eight days without a court-martial for his trial having been ordered to assemble, or without a punishment having been awarded to him under Section 80, the Commanding Officer shall make a report in the form specified in Appendix III to the officer empowered to convene a general or a district court-martial for the trial of such person. Such report shall be made to the authority mentioned in this rule at intervals of every eight days until a court-martial is ordered to assemble, or a punishment is awarded under Section 80, or such person is released from custody as the case may be.

(2) A copy of every such report made on or after the forty-eighth day of such custody shall be sent by the Commanding Officer direct to the Deputy Judge-Advocate General of the command in which such person is held in custody.

(3)(i) Detention in military custody beyond two months of a person subject to the Act, who is not on active service and in whose case a court-martial for trial has not been ordered to assemble, shall require the sanction of the Chief of the Army Staff, or any officer authorised by him in this behalf with the approval of the Central Government, who may sanction further detention for a specified period, which he may extend from time to time, subject to a total period of detention of three months.

(ii) Any such detention beyond a period of three months shall require the approval of the Central Government.

Framing Charges

28. Charge-sheet and charge.—(1) A charge sheet shall contain the whole issue or issues to be tried by a court-martial at one time.

(2) A charge means an accusation contained in a charge-sheet that a person subject to the Act has been guilty of an offence.

(3) A charge-sheet may contain one charge or several charges.

29. Commencement of charge-sheet.—Every charge-sheet shall begin with the name and description of the person charged and state his number, rank, name and the corps or department (if any) to which he belongs. When the accused person does not belong to the regular Army, the charge-sheet shall show by the description of him, or directly by an express averment, that he is subject to the Act in respect of the offence charged.

30. Contents of charge.—(1) Each charge shall state one offence only and in no case shall an offence be described in the alternative in the same charge.

36. Omitted by S.R.O. 1705, dt. 6-12-1953.

(2) Each charge shall be divided into two parts—

- (a) statement of the offence; and
- (b) statement of the particulars of the act, neglect or omission constituting the offence.

(3) The offence shall be stated, if not a civil offence, as nearly as practicable in the words of the Act, and if a civil offence, in such words as sufficiently describe that offence but not necessarily in technical words.

(4) The particulars shall state such circumstances respecting the alleged offence as will enable the accused to know what act, neglect or omission is intended to be proved against him as constituting the offence.

(5) The particulars in one charge may be framed wholly or partly by a reference to the particulars in another charge, and in that case so much of the latter particulars as are so referred to, shall be deemed to form part of the first mentioned charge as well as of the other charge.

(6) Where it is intended to prove any facts in respect of which any deduction from pay and allowances can be awarded as a consequence of the offence charged, the particulars shall state those facts and the sum of the loss or damage it is intended to charge.

31. Signature on charge-sheet.—The charge-sheet shall be signed by the Commanding Officer of the accused and shall contain the place and date of such signature.

32. Validity of charge-sheet.—(1) A charge-sheet shall not be invalid merely by reason of the fact that it contains any mistake in the name or description of the person charged, provided that he does not object to the charge-sheet during the trial, and that no substantial injustice has been done to the person charged.

(2) In the construction of a charge-sheet or charge, there shall be presumed in favour of supporting the same every proposition which may reasonably be presumed to be impliedly included though not expressed therein.

Preparation for defence by accused person

33. Right of accused to prepare defence.—(1) Correspondence between the accused and his legal advisers shall not be liable to be censored. The accused shall inform his Commanding Officer of the names of such advisers and shall also inform him of any distinctive marks that such correspondence will bear.

(2) An accused person shall have the right to interview any witnesses whom he may wish to call in his defence. The provisions of Rule 137 shall apply to procuring the attendance of such witnesses.

(3) If the accused so desires, the Commanding Officer of the accused shall take such steps as the circumstances of the case permit to obtain a written statement from a witness whom the accused may wish to call in his defence. The statement shall be obtained in a closed envelope which shall be given to the accused person unopened.

(4) If the accused person gives to his Commanding Officer the name of any person whom he wishes to call in his defence, no person shall interview such witness with reference to the charges against the accused except in the presence of the accused, unless the accused agrees to dispense with his presence in writing. Similarly if the

accused wishes to interview a witness whom the prosecutor intends to call, the interview shall be in the presence of an officer detailed by the Commanding Officer of the accused person.

(5) The Commanding Officer of the accused person or the officer responsible for his custody shall take adequate precautions so that no conversation which the accused person may have with his legal advisers or witnesses is liable to be overheard.

(6) The accused person shall have the right to address an application to the Deputy or Assistant Judge-Advocate General of the command within which he for the time being is, if he is kept under arrest longer than forty-eight days without being brought to trial or is not given full liberty for preparing his defence.

(7) As soon as practicable after an accused has been remanded for trial by a general or district court-martial, and in any case not less than ninety-six hours or on active service twenty-four hours before his trial, an officer shall give to him free of charge a copy of the summary of evidence, ³⁷[* * *] an abstract of the evidence and explain to him his rights under these rules as to preparing his defence and being assisted or represented at the trial, and shall ask him to state in writing whether or not he wishes to have an officer assigned by the convening officer to represent him at the trial, if a suitable officer should be available. The convening officer shall be informed whether or not the accused so elects.

34. Warning of accused for trial.—(1) The accused before he is arraigned shall be informed by an officer of every charge for which he is to be tried and also that, on his giving the names of witnesses or whom he desires to call in his defence, reasonable steps will be taken for procuring their attendance, and those steps shall be taken accordingly.

The interval between his being so informed and his arraignment shall not be less than ninety-six hours or where the accused person is on active service less than twenty-four hours.

(2) The officer at the time of so informing the accused shall give him a copy of the charge-sheet and shall if necessary, read and explain to him the charges brought against him. If the accused desires to have it in a language which he understands, a translation thereof shall also be given to him.

(3) The officer shall also deliver to the accused a list of the names, rank and corps (if any), of the officers who are to form the court, and where officers in waiting are named, also of those officers in courts-martial other than summary courts-martial.

(4) If it appears to the court that the accused is liable to be prejudiced at his trial by any non-compliance with this rule, the court shall take steps and, if necessary, adjourn to avoid the accused being so prejudiced.

35. Joint trial of several accused persons.—(1) Any number of accused persons may be charged jointly and tried together for an offence averred to have been committed by them collectively.

(2) Any number of accused persons, although not charged jointly, may be tried together for an offence averred to have been committed by one or more of them and to have been abetted by the other or others.

37. Omitted by S.R.O. 17(E), dt. 6-12-1953.

(3) Where the accused are so charged under sub-rules (1) and (2), any one or more of them may at the same time be charged with and tried for any other offence averred to have been committed individually or collectively, provided that all the said offences are based on the same facts, or form or are part of a series of offences of the same or similar character.

(4) In the cases mentioned above, notice of the intention to try the accused persons together shall be given to each of the accused at the time of his being informed of the charges, and any accused person may claim, either by notice to the authority convening the court or, when arraigned before the court, by notice to the court, that he or some other accused be tried separately on one or more of the charges included in the charge-sheet, on the ground that the evidence of one or more of the other accused persons proposed to be tried together with him, will be material to his defence, or that otherwise he would be prejudiced or embarrassed in his defence. The convening authority or court, if satisfied that the evidence will be material or that the accused may be prejudiced or embarrassed in his defence as aforesaid, and if the nature of the charge admits of this, shall allow the claim, and such accused person, or, as the case may be, the other accused person or persons whose separate trial has been claimed, shall be tried separately. Where any such claim has been made and disallowed by the authority convening the court, or by the court, the disallowance of such claim will not be a ground for refusing confirmation of the finding or sentence unless, in the opinion of the confirming authority, substantial miscarriage of justice has occurred by reason of the disallowance of such claim.

36. Suspension of rules on the ground of military exigencies or the necessities of discipline.—Where it appears to the officer convening a court-martial, or to the senior officer on the spot, that military exigencies, or the necessities of discipline render it impossible or inexpedient to observe any of the Rules 23, 24, ³⁸[* * *], 33 and 34 and sub-rule (2) of Rule 95, he may, by order under his hand, make a declaration to that effect specifying the nature of such exigencies or necessities, and thereupon the trial or other proceedings shall be as valid as if the rule mentioned in such declaration had not been contained herein; and such declaration may be made with respect to any or all of the rules aforesaid in the case of the same court-martial:

Provided that the accused shall have full opportunity of making his defence, and shall be afforded every facility for preparing it which is practicable, having due regard to the said exigencies or necessities.

SECTION 2 — GENERAL AND DISTRICT COURTS-MARTIAL

Convening of Court

37. Convening of General and District Courts-martial.—(1) An officer before convening a general or district court-martial shall first satisfy himself that the charges to be tried by the court are for offences within the meaning of the Act, and that the evidence justifies a trial on those charges, and if not so satisfied, shall order the release of the accused, or refer the case to superior authority.

(2) He shall also satisfy himself that the case is a proper one to be tried by the kind of court-martial, which he proposes to convene.

38. The letter "25" omitted by S.R.O. 17(E), dt. 6-12-1993.

(3) The officer convening a court-martial shall appoint or detail the officers to form the court and, may also appoint, or detail such waiting officers as he thinks expedient. He may also, where he considers the services of an interpreter to be necessary, appoint or detail an interpreter to the court.

(4) The officer convening a court-martial shall furnish to the senior member of the court with the original charge-sheet on which the accused is to be tried and, where no Judge-Advocate has been appointed, also with a copy of the summary ³⁹[* * *] of evidence and the order for the assembly of the court-martial. He shall also send, to all the other members, copies of the charge-sheet and to the Judge-Advocate when one has been appointed, a copy of the charge-sheet and a copy of the summary ⁴⁰[* * *] of evidence.

38. Adjournment for insufficient number of officers.—(1) If, before the accused is arraigned, the full number of officers detailed are not available to serve, by reason of non-eligibility, disqualification, challenge or otherwise, and if there are not a sufficient number of officers in waiting to take the place of those unable to serve, the court shall ordinarily adjourn for purpose of fresh members being appointed, but if the court is of opinion that in the interests of justice, and for the good of the service, it is inexpedient so to adjourn, it may, if not reduced in number below the legal minimum, proceed, after recording their reasons for so doing.

(2) If the court adjourns for the purpose of the appointment of fresh members, whether under these rules or otherwise the convening officer may, if he thinks fit, convene another court.

39. Ineligibility and disqualification of officers for court-martial.—(1) An officer is not eligible for serving on a court-martial if he is not subject to the Act.

(2) An officer is disqualified for serving on a general or district court-martial if he—

- (a) is an officer who convened the court; or
- (b) is the prosecutor or a witness for the prosecution; or
- (c) investigated the charges before trial, or took down the summary of evidence, or was a member of a court of inquiry respecting the matters on which the charges against the accused are founded, or was the squadron, battery, company, or other commander, who made preliminary inquiry into the case, or was a member of a previous court-martial which tried the accused in respect of the same offence; or
- (d) is the Commanding Officer of the accused, or of the corps to which the accused belongs; or
- (e) has a personal interest in the case.

(3) The provost-marshal or assistant provost-marshal is disqualified from serving on a general court-martial or district court-martial.

40. Composition of General Court-martial.—(1) A general court-martial shall be composed, as far as seems to the convening officer practicable, of officers of different

39. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

40. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

corps or departments, and in no case exclusive of officers of the corps or department to which the accused belongs.

(2) The members of a court-martial for the trial of an officer shall be of a rank not lower than that of the officer unless, in the opinion of the convening officer, officers of such rank are not (having due regard to the exigencies of the public service) available. Such opinion shall be recorded in the convening order.

(3) In no case shall an officer below the rank of captain be a member of court-martial for the trial of a field officer.

Procedure at Trial—Constitution of Court

41. Inquiry by court as to legal constitution.—(1) On the court-assembling, the order convening the court shall be laid before it together with the charge-sheet and the summary of evidence or a true copy thereof, and also the ranks, names and corps of the officers appointed to serve on the court; and the court shall satisfy itself that it is legally constituted; that is to say—

- (a) that, so far as the court can ascertain, the court has been convened in accordance with the provisions of the Act and these rules;
- (b) that the court consists of a number of officers, not less than the minimum required by law and, save as mentioned in Rule 38, not less than the number detailed;
- (c) that each of the officers so assembled is eligible and not disqualified for serving on that court-martial; and
- (d) that in the case of general court-martial, the officers are of the required rank.

(2) The court shall, further, if it is a general or district court-martial to which a Judge-Advocate has been appointed, ascertain that the Judge-Advocate is duly appointed and is not disqualified for sitting on that court-martial.

(3) The court, if not satisfied with regard to the compliance with the aforesaid provisions, shall report its opinion to the convening authority, and may adjourn for that purpose.

42. Inquiry by court as to amenability of accused and validity of charge.—(1) If the court is satisfied that the requirements of Rule 41 have been complied with, it shall further satisfy itself in respect of each charge about to be brought before it—

- (a) that it appears to be laid against a person subject to the Act, and subject to the jurisdiction of the court, and
- (b) that each charge discloses an offence under the Act and is framed in accordance with these rules, and is so explicit as to enable the accused readily to understand what he has to answer.

(2) The court, if not satisfied on the above matters, shall report its opinion to the convening authority and may adjourn for that purpose.

Procedure at Trial—Challenge and Swearing

43. Appearance of prosecutor and accused.—When the court has satisfied itself that the provisions of Rules 41 and 42 have been complied with, it shall cause the accused to be brought before the court, and the prosecutor, who must be a person subject to the Act, shall take his due place in the court.

44. Proceedings for challenges of members of court.—The order convening the court and the names of the presiding officer and the members of the court shall then be read over to the accused and he shall be asked, as required by Section 130, whether he has any objection to being tried by any officer sitting on the court. Any such objection shall be disposed of in accordance with the provisions of the aforesaid section:

Provided that—

- (a) the accused shall state the names of all the officers constituting the court in respect of whom he has objection, before any objection is disposed of,
- (b) the accused may call any person to give evidence in support of his objection and such person may be questioned by the accused and by the court,
- (c) if more than one officer is objected to, the objection to each officer shall be disposed of separately, and the objection in respect of the officers of the lowest in rank shall be disposed of first; and on an objection to an officer, the remaining officers of the court shall, in the absence of the challenged officer, vote on the disposal of such objection, notwithstanding that objections have also been made to any of those officers,
- (d) when an objection in respect of an officer is allowed, that officer shall forthwith retire, and take no further part in the proceedings,
- (e) when an officer so retires or is not available to serve owing to any cause, which the court may deem to be sufficient, and there are any officers in waiting detailed as such, the presiding officer shall appoint one of such officers to fill the vacancy. If there is no officer in waiting available, the court shall proceed as required by Rule 38,
- (f) the eligibility, absence of disqualification, and freedom from objection of an officer filling a vacancy shall be ascertained by the court, as in the case of other officers appointed to serve on the court.

45. Swearing or affirming of members.—As soon as the court is constituted with the proper number of officers who are not objected to, or objections in respect of whom have been overruled, an oath or affirmation shall be administered to every member in one of the following forms or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

Form of Oath

"I,, swear by Almighty God that I will well and truly try the accused (or accused persons) before the court according to the evidence, and that I will duly administer justice according to the Army Act without partiality, favour or affection and if any doubt shall arise, then, according to my conscience, the best of my understanding and the custom of war in the like cases; and I do further swear that I will not on any account at any time, whatsoever, disclose, or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial in due course of law."

Form of Affirmation

"I,, do solemnly, sincerely and truly declare and affirm that I will well and truly try the accused (or accused persons) before the court according to the evidence, and that I will duly administer justice according to the Army Act without partiality, favour or affection; and if any doubt shall arise, then, according to

my conscience, the best of my understanding, and the custom of war in the like cases; and I do further solemnly, sincerely and truly declare and affirm that I will not, on any account at any time, whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial in due course of law”.

46. Swearing or affirming of Judge-Advocate and other officers.—After the members of the court are all sworn or have made affirmation, an oath or affirmation shall be administered to the following persons or such of them as are present at the court-martial, in such of the following forms as shall be appropriate, or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the person to be sworn or affirmed—

(A) JUDGE-ADVOCATE

Form of Oath

“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 Army 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 any particular member of this court-martial, unless required to give evidence thereof by a court of justice or, a court-martial in due course of law.”

Form of Affirmation

“I,, do solemnly, sincerely and truly declare and affirm that I will to the best of my ability carry out the duties of Judge-Advocate in accordance with the Army Act and the rules made thereunder and without partiality, favour or affection, and I do further solemnly, sincerely and truly declare and affirm that I will not on any account, at any time whatsoever disclose or discover the vote or opinion on any matter or any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial in due course of law.”

(B) OFFICER ATTENDING FOR THE PURPOSES OF INSTRUCTION

Form of Oath

“I,, swear by Almighty God that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial, in due course of law.”

Form of Affirmation

“I,, do solemnly, sincerely and truly declare and affirm that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless required to give evidence thereof by a court of justice or a court-martial, in due course of law.”

(C) SHORTHAND WRITER

Form of Oath

“I,, swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as I may be required, and will, when required, deliver to the court a true transcript of the same.”

Form of Affirmation

"I, do solemnly, sincerely and truly declare and affirm that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as I may be required, and will, when required deliver to the court a true transcript of the same."

(D) INTERPRETER

Form of Oath

"I,, swear by Almighty God that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial."

Form of Affirmation

"I,, do solemnly, sincerely and truly declare and affirm that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial."

47. Persons to administer oaths and affirmations.—All oaths and affirmations shall be administered by the Judge-Advocate (if any), a member of the court, or some other person empowered by the court to administer such oath or affirmation.

Prosecution, Defence and Summing-up

48. Arraignment of accused.—(1) After the members of the court and other persons are sworn or affirmed as abovementioned, the accused shall be arraigned on the charges against him.

(2) The charges upon which the accused is arraigned shall be read and, if necessary, translated to him, and he shall be required to plead separately to each charge.

49. Objection by accused to charge.—The accused, when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Act, or is not in accordance with these rules. The court after hearing any submission which may be made by the prosecutor or by or on behalf of the accused, shall consider the objection in closed court and shall either disallow it and proceed with the trial, or allow it and adjourn to report to the convening authority or, if it is in doubt, it may adjourn to consult the convening authority.

50. Amendment of charge.—(1) At any time during the trial, if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, the court may amend the charge-sheet so as to correct that mistake.

(2) If, on the trial of any charge, it appears to the court at any time before it has begun to examine the witnesses, that in the interest of justice any addition to, omission from, or alteration in, the charge is required, it may report its opinion to the convening authority, and may, adjourn and the convening authority may either direct the new trial to be commenced, or amend the charge, and order the trial to proceed with such amended charge after due notice to the accused.

51. Special plea to the jurisdiction.—(1) The accused, before pleading to a charge, may offer a special plea to the general jurisdiction of the court, and if he does so, and the court considers that anything stated in such plea shows that the court has not jurisdiction it shall receive any evidence offered in support, together with any evidence offered by the prosecutor in disproof or qualification thereof, and, any address by or on behalf of the accused and reply by the prosecutor in reference thereto.

(2) If the court overrules the special plea, it shall proceed with the trial.

(3) If the court allows the special plea, it shall record its decision, and the reasons for it, and report it to the convening authority and adjourn; such decision, shall not require any confirmation, and the convening authority shall either forthwith convene another court for the trial of the accused, or order the accused to be released.

(4) If the court is in doubt as to the validity of the plea, it may refer the matter to the convening authority, and may adjourn for that purpose or may record a special decision with respect to such plea, and proceed with the trial.

52. General plea of "Guilty" or "Not Guilty".—(1) If no special plea to general jurisdiction of the court is offered, or if such plea being offered, is overruled, or is dealt with by a special decision under sub-rule (4) of Rule 51, the accused person's plea "Guilty" or "Not Guilty" (or if he refuses to plead, or does not plead intelligibly either one or the other a plea of "Not Guilty") shall be recorded on each charge.

(2) If an accused person pleads "Guilty", that plea shall be recorded as the finding of the court; but before it is recorded, the presiding officer or Judge-Advocate, on behalf of the court, shall ascertain that the accused understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty, and of the difference in procedure which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence that the accused ought to plead "Not Guilty".

⁴¹[(2-A) Where an accused pleads "Guilty", such plea and the factum of compliance of sub-rule (2) of this rule, shall be recorded by the court in the following manner—

Before recording the plea of "Guilty" of the accused, the court explained to the accused the meaning of the charge(s) to which he had pleaded "Guilty" and ascertained that the accused had understood the nature of the charge(s) to which he had pleaded "Guilty". The court also informed the accused the general effect of the plea and the difference in procedure, which will be followed consequent to the said plea. The court having satisfied itself that the accused understands the charge(s) and the effect of his plea of "Guilty", accepts and records the same. The provisions of Rule 52(2) are thus complied with.]

(3) Where an accused person pleads "Guilty" to the first of two or more charges laid in the alternative, the prosecutor may, after sub-rule (2) has been complied with by the court and before the accused is arraigned on the alternative charge or charges, withdraw such alternative charge or charges without requiring the accused to plead thereto and a record to that effect shall be made upon the proceedings of the court.

(4) A plea of "Guilty" shall not be accepted in cases where the accused is liable, if convicted to be sentenced to death, and where such plea is offered, a plea of "Not Guilty" shall be recorded and the trial shall proceed accordingly.

53. Plea in bar.—(1) The accused, at the time of his general plea of "Guilty" or "Not Guilty" to a charge for an offence, may offer a plea in bar of trial on the ground that—

(a) he has been previously convicted or acquitted of the offence by a competent criminal court or by a court-martial, or has been dealt with summarily under Sections 80, 83, 84 and 85, as the case may be, for the offence, or that a charge in respect of the offence has been dismissed as provided in sub-rule (2) of Rule 22; or

(b) the offence has been pardoned or condoned by competent military authority;
 42[(c) the period of limitation for trial as laid down in Section 122 has expired.]

(2) If he offers such plea in bar, the court shall record it as well as his general plea, and if it considers that any fact or facts stated by him are sufficient to support the plea in bar, it shall receive any evidence offered, and hear any address made by or on behalf of the accused and the prosecutor in reference to the plea.

(3) If the court finds that the plea in bar is proved, it shall record its finding and notify it to the confirming authority, and shall either adjourn, or if there is any other charge against the accused, whether in the same or in a different charge-sheet, which is not affected by the plea in bar, may proceed to the trial of the accused on that charge.

(4) If the finding that the plea in bar is proved is not confirmed, the court may be re-assembled by the confirming authority, and proceed as if the plea has been found not proved.

(5) If the court finds that the plea in bar is not proved, it shall proceed with the trial, and the said findings shall be subject to confirmation like any other finding of the court.

54. Procedure after plea of "Guilty".—(1) Upon the record of the plea of "Guilty", if there are other charges in the same charge-sheet to which the plea is "Not Guilty", the trial shall first proceed with respect to the latter charges, and after the finding on those charges, shall proceed with the charges on which a plea of "Guilty" has been entered, but if they are alternative charges, the court may either proceed with respect to all the charges as if the accused had not pleaded "Guilty" to any charge or may subject to sub-rule (2), instead of trying him, record a finding of "Guilty" upon any one of the alternative charges to which he has pleaded "Guilty" and a finding of "Not Guilty" upon all the other alternative charges.

(2) Where alternative charges are preferred and the accused pleads "Not Guilty" to the charge, which alleges the more serious offence and "Guilty" to the other, the court shall try him as if he had pleaded "Not Guilty" to all the charges.

(3) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges) the court, shall receive any statement which the accused desires to make in reference to the charge, and shall read the summary ⁴³[* * *] of evidence, and annex it to the proceedings, or if there is no such summary ⁴⁴[* * *] shall take and record sufficient evidence to enable it to determine the sentence and the confirming officer to know all the circumstances connected with the offence. This evidence shall be taken in the manner provided in these rules in the case of plea of "Not Guilty".

42. Subs. by S.R.O. 17(E), dt. 6-12-1993.

43. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

44. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

(4) After evidence has been so taken or the summary ⁴⁵[* * *] of evidence has been read, as the case may be, the accused may make a statement in mitigation of punishment, and may call witnesses as to his character.

(5) If from the statement of the accused or from the summary ⁴⁶[* * *] of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of "Guilty", the court shall alter the record and enter a plea of "Not Guilty", and proceed with the trial accordingly.

(6) If a plea of "Guilty" is recorded and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under sub-rules (3) and (4) shall take place when the findings on the other charges in the same charge-sheet are recorded.

(7) When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, affect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

55. Withdrawal of plea of "Not Guilty" subject to compliance with sub-rules (2) and (4) of Rule 52.—The accused may, if he thinks fit, at any time during the trial, withdraw his plea of "Not Guilty", and plead "Guilty", and in such case the court will at once, subject to a compliance with sub-rules (2) and (4) of Rule 52, record a plea and finding of "Guilty", and shall, so far as is necessary, proceed in manner directed by Rule 54.

56. Plea of "Not Guilty", application for adjournment, and case for the prosecution.—After the plea of "Not Guilty" to any charge is recorded, the trial shall proceed as follows, that is to say,—

- (1) the court shall ask the accused whether he wishes to apply for an adjournment on the ground that any of the 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, and shall record his answer;
- (2) if the accused shall make any such application, the court shall hear any statement of evidence which he may desire to adduce in support thereof, and any statement of the prosecutor or evidence in answer thereto; and if it shall appear to the court that the accused has been prejudiced by any non-compliance with any of such rules relating to procedure or that he has not had sufficient opportunity of preparing his defence, it may grant such adjournment as may appear to it in the circumstances to be proper;
- (3) the prosecutor may, if he desires, and shall, if so required by the court make an opening address, and shall state therein the substance of the charge against the accused and the nature and general effect of the evidence which he proposes to adduce in support of it without entering into any unnecessary detail;
- (4) the evidence for the prosecution shall then be taken;
- (5) if it should be necessary for the prosecutor to give evidence for the prosecution on the facts of the case, he shall give it after the delivery of his

45. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

46. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

address (if any), and he must be sworn or affirmed, as the case may be, and give his evidence in detail; and

- (6) he may be cross-examined by or on behalf of the accused and afterwards may make any statement which might be made by a witness on re-examination.

⁴⁷[57. **Plea of no case.**—(1) At the close of the case for the prosecution, the accused may offer a plea that the evidence given on behalf of the prosecution, in respect of any one or more charges, has not established a prima facie case against him and that he should not, therefore, be called upon to make his defence to that charge or charges.

(2) Where the accused takes such a plea, the prosecutor may address the court in answer thereto and the accused may reply.

(3) The court shall consider the plea in closed court and shall not allow the plea unless satisfied that—

(a) the prosecution has not established a prima facie case on the charge or charges as laid; and

(b) it is not open to it on the evidence adduced to make a special finding either under Section 139 or sub-rule (4) of Rule 62.

(4) If the court allows the plea, it shall record a finding of "Not Guilty" on the charge or charges, to which the plea relates, and shall announce the finding forthwith in open court as subject to confirmation.

(5) If the court overrules the plea, it shall proceed with the trial.

(6) If the court has any doubt as to the validity of the plea, it may refer the matter to the convening authority, and adjourn for that purpose.

(7) The court may, of its own motion, after the close of the case for the prosecution, and after hearing the prosecutor find the accused "Not Guilty" of the charge, and announce the finding forthwith in open court as subject to confirmation.

(8) The court shall record brief reasons while arriving at the finding on the plea, in accordance with sub-rule (1) of Rule 62.]

⁴⁸[58. **Examination of the accused and defence witnesses.**—(1)(a) In every trial, for the purpose of enabling the accused personally to explain any circumstances appearing in evidence against him, the court of the Judge-Advocate—

(i) may at any stage, without previously warning the accused, put such questions to him as considers necessary;

(ii) shall, after the close of the case for the prosecution and before he is called on for his defence, question him generally on the case.

(b) No oath shall be administered to the accused when he is examined under clause (a).

(c) The accused shall not render himself liable to punishment by refusing to answer questions referred in clause (a) above, or by giving answer to them which he knows not to be true.

47. Subs. by S.R.O. 17(E), dt. 6-12-1993.

48. Subs. by S.R.O. 17(E), dt. 6-12-1993.

(2) After the close of the case for the prosecution, the presiding officer or the Judge-Advocate, if any, shall explain to the accused that he may make an unsworn statement, orally or in writing, giving his account of the subject of the charge(s) against him or if he wishes, he may give evidence as a witness, on oath or affirmation, in disproof of the charge(s) against him or any person charged together with him at the same trial:

Provided that,—

- (a) he shall not be called as a witness except on his own request in writing;
- (b) his failure to give evidence shall not be made the subject of any comment by any of the parties of the court or give rise to any presumption against himself or any person charged together with him at the same trial;
- (c) if he gives evidence on oath or affirmation, he shall be examined as first witness for defence and shall be liable to be cross-examined by the prosecutor and to be questioned by the court.

(3) The accused may then call his witnesses including, if he so desires, any witnesses as to character. If the accused intends to call witnesses as to the facts of the case other than himself, he may make an opening address before the evidence for defence is given.]

⁴⁹[59. **Closing addresses.**—After the examination of the witnesses, the prosecutor may make a closing address and the accused or his counsel or the defending officer, as the case may be, shall be entitled to reply:

Provided that where any point of law is raised by the accused, the prosecutor may, with the permission of the court, make his submission with regard to that point.)

⁵⁰[* * *]

60. Summing up by the Judge-Advocate.—(1) The Judge-Advocate (if any) shall sum up in open court the evidence and advise the court upon the law relating to the case.

(2) After the summing up of the Judge-Advocate, no other address shall be allowed.

Finding and Sentence

61. Consideration of findings.—(1) The court shall deliberate on its finding in closed court in the presence of the Judge-Advocate.

(2) The opinion of each member of the court as to the finding shall be given by word of mouth on each charge separately.

62. Form, record and announcement of finding.—⁵¹[(1) The finding on every charge upon which the accused is arraigned shall be recorded and, except as provided in these rules, shall be recorded as finding of "Guilty" or of "Not Guilty". After recording the finding on each charge, the court shall give brief reasons in support thereof. The Judge-Advocate or, if there is none, the presiding officer shall record or cause to be recorded such brief reasons in the proceedings. The above record shall be signed and dated by the presiding officer and the Judge-Advocate, if any.]

(2) Where the court is of opinion as regards any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act legally be found guilty on the charge as laid, the court shall acquit the accused of that charge.

49. Subs. by S.R.O. 17(E), dt. 6-12-1993.

50. Rule 59-A ins. by S.R.O. 246 of 1982 and omitted by S.R.O. 17(E), dt. 6-12-1993.

51. Subs. by S.R.O. 17(E), dt. 6-12-1993.

(3) If the court doubts as regards any charge whether the facts proved show the accused to be guilty or not of the offence charged or of any offence of which he might under the Act legally be found guilty on the charge as laid, it may, before recording a finding on that charge, refer to the confirming authority for an opinion, setting out the facts which it finds to be proved, and may if necessary, adjourn for that purpose.

(4) Where the court is of opinion as regards any charge that the facts which it finds to be proved in evidence differ materially from the facts alleged in the statement of particulars in 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, it may, instead of a finding of "Not Guilty", record a special finding.

(5) The special finding may find the accused guilty on a charge subject to the statement or exceptions or variations specified therein.

(6) Where there are alternative charges, and the facts proved appear to the court not to constitute the offence mentioned in any of those alternative charges, the court shall record a finding of "Not Guilty" on that charge.

(7) The court shall not find the accused guilty on more than one of two or more charges laid down in the alternative, even if conviction upon the charge necessarily connotes guilty upon the alternative charge or charges.

(8) If the court thinks that the facts proved constitute one of the offences stated in two or more of the alternative charges, but doubts which of those offences the facts do at law constitute, it may, before recording a finding on those charges, refer to the confirming authority for an opinion, setting out the facts which it finds to be proved and stating that it doubts whether those facts constitute in law the offence stated in such one or other of the charges and may, if necessary, adjourn for that purpose.

(9) In any case where the court is empowered by Section 139 to find the accused guilty of an offence other than that charged, or guilty of committing an offence in circumstances involving a less degree of punishment, or where it could, after hearing the evidence, have made a special finding of guilty subject to exceptions or variations in accordance with sub-rules (4) and (5) it may, if it is satisfied of the justice of such course, and if the concurrence of the convening officer is signified by the prosecutor, accept and record a plea of guilty of such other offences or of the offence as having been committed in circumstances involving such less degree of punishment or of the offence charged subject to such exceptions or variations:

Provided that failure to obtain the concurrence of the convening officer as aforesaid shall not invalidate the proceedings when confirmed notwithstanding such failure.

(10) The finding on each charge shall be announced forthwith in open court as subject to confirmation.

63. Procedure on acquittal.—If the finding on all the charges is "Not Guilty", the presiding officer shall date and sign the finding and such signature shall authenticate the whole of the proceedings, and the proceedings upon being signed by the Judge-Advocate (if any) shall be at once transmitted for confirmation.

64. Procedure on conviction.—(1) If the finding on any charge is "Guilty" then, for the guidance of the court in determining its sentence, and of the confirming authority in considering the sentence, the court, before deliberating on its sentence, shall, whenever possible, take evidence of and record the general character, age, service,

rank and any recognised acts of gallantry or distinguished conduct of the accused, any previous convictions of the accused either by a court-martial or a criminal court any previous punishments awarded to him by an officer exercising authority under Section 80, 83, 84, or 85, as the case may be, the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military reward, of which he may be in possession or to which he is entitled.

(2) Evidence on the above matters may be given by a witness verifying a statement, which contains a summary of the entries in the regimental books respecting the accused and identifying the accused as the person referred to in that summary.

(3) The accused may cross-examine any such witness, and may call witnesses to rebut such evidence; and if the accused so requests, the regimental books, or a duly certified copy of the material entries therein, shall be produced, and if the accused alleges that the summary is in any respect not in accordance with the regimental books, or such certified copy, as the case may be, the court shall compare the summary with those books or copy, and if it finds it is not in accordance therewith, shall cause the summary to be corrected.

(4) When all the evidence on the above matters has been given, the accused may address the court thereon and in mitigation of punishment.

65. Sentence.—The Court shall award a single sentence in respect of all the offences of which the accused is found guilty, and such sentence shall be deemed to be awarded in respect of the offence in each charge in respect of which it can be legally given and not to be awarded in respect of any offence in a charge in respect of which it cannot be legally given.

66. Recommendation of mercy.—(1) If the court makes a recommendation to mercy, it shall give its reasons for its recommendation.

(2) The number of opinions by which the recommendation to mercy mentioned in this rule, or any question relative thereto, is adopted or rejected, may be entered in the proceedings.

67. Announcement of sentence and signing and transmission of proceedings.—(1) The sentence together with any recommendation to mercy and the reasons for any such recommendation will be announced forthwith in open court. The sentence will be announced as subject to confirmation.

(2) Upon the court awarding the sentence, the presiding officer shall date and sign the sentence and such signature shall authenticate the whole of the proceedings and the proceedings upon being signed by the Judge-Advocate (if any), shall at once be transmitted for confirmation.

Confirmation and Revision

⁵²**68. Revision.**—(1) Where the finding is sent back for revision under Section 160 the court shall reassemble in open court the revision order shall be read, and if the court is directed to take fresh evidence, such evidence shall also be taken in open court.

(2) Except where the court is directed to take fresh evidence, no fresh evidence shall be adduced.

(3) The court may, on a request from the prosecutor, in the interest of justice, allow a witness to be called or recalled for the purpose of rebutting any material statement made by a witness for the defence during revision.

(4) After the revision order has been read in open court whether the revision is of finding or sentence and the evidence, if any, in accordance with sub-rules (1), (2) and (3) has been taken, the prosecutor and the accused shall be given a further opportunity to address the court in the order as laid down in Rule 59. If necessary, the Judge-Advocate, if any, may sum up the (additional) evidence and advise the court upon the law relating to the case. The court shall then deliberate on its finding or the sentence, as the case may be, in closed court.

(5) Where the finding is sent back for revision and the court does not adhere to its former finding, it shall revoke the finding and sentence, and record the new finding, in the manner laid down in Rule 62, and if such new finding involves a sentence, pass sentence afresh, after complying with Rule 64.

(6) Where the sentence alone is sent back for revision, the court shall not revise the finding.

(7) After the revision, the presiding officer shall date and sign the decision of the court, and the proceedings, upon being signed by the Judge-Advocate, if any, shall at once be transmitted for confirmation.]

69. Review of court-martial proceedings.—The proceedings of a general court-martial shall be submitted by the Judge-Advocate at the trial for review to the deputy or assistant Judge-Advocate general of the command who shall then forward it to the confirming officer. The proceedings of a district court-martial shall be sent by the presiding officer or the Judge-Advocate direct to the confirming officer who must, in all cases, where the sentence is dismissal or above, seek advice of the deputy or assistant Judge-Advocate general of the command before confirmation.

70. Confirmation.—Upon receiving the proceedings of a general or district court-martial, the confirming authority may confirm or refuse confirmation, or reserve confirmation for superior authority, and the confirmation, non-confirmation, or reservation shall be entered in and form part of the proceedings.

71. Promulgation.—The charge, finding, and sentence, and any recommendation to mercy shall, together with the confirmation or non-confirmation of the proceedings, be promulgated in such manner as the confirming authority may direct; and if no direction is given, according to the custom of the service. Until promulgation has been effected, confirmation is not complete and the finding and sentence shall not be held to have been confirmed until they have been promulgated.

72. Mitigation of sentence on partial confirmation.—(1) Where a sentence has been awarded by a court-martial in respect of offences in several charges, and the confirming authority confirms the finding on some but not on all of such charges, that authority shall take into consideration the fact of such non-confirmation, and shall if it seems just, mitigate, remit, or commute the punishment awarded according as it seems just, having regard to the offences in the charges in respect of the findings which are confirmed.

(2) Where a sentence has been awarded by a court-martial in respect of offences in several charges and has been confirmed, and any one or such charges the finding

thereon is found to be invalid, the authority having power to mitigate, remit, or commute the punishment awarded by the sentence shall take into consideration the fact of such invalidity, and if it seems just, mitigate, remit or commute the punishment awarded according as it seems just, having regard to the offences in the charges which with the findings thereon are not invalid, and the punishment as so modified shall be as valid as if it had been originally awarded only in respect of those offences.

73. Confirmation notwithstanding informality in or excess of punishment.—If the sentence of a court-martial is informally expressed, the confirming authority may, in confirming the sentence, vary the form so that it shall be properly expressed; and if the punishment awarded by the sentence in excess of the punishment authorised by law, the confirming authority may vary the sentence so that the sentence shall not be in excess of the punishment authorised by law; and the confirming authority may confirm the finding and the sentence, as so varied, of the court-martial.

74. Member or prosecutor not to confirm proceedings.—A member of a court-martial, or an officer who has acted as a prosecutor at a court-martial, shall not confirm the finding or sentence of that court-martial, and where such member or prosecutor becomes confirming officer, he shall refer the finding or sentence of the court-martial to a superior authority competent to confirm the findings and sentences of the like description of court-martial.

Proceedings of General and District Court-Martial

75. Seating of members.—The members of a court-martial shall take their seats according to their army rank.

76. Responsibility of presiding officer.—(1) The presiding officer is responsible for the trial being conducted in proper order, and in accordance with the Act, rules made thereunder and in a manner befitting a court of justice.

(2) It is the duty of the presiding officer to see that justice is administered, that the accused has a fair trial, and that he does not suffer any disadvantage in consequence of his position as a person under trial, or of his ignorance, or of his incapacity to examine or cross-examine witnesses, or otherwise.

77. Power of court over address of prosecutor and accused.—(1) It is the duty of the prosecutor to assist the court in the administration of justice, to behave impartially, to bring the whole of the transaction before the court, and not to take any unfair advantage of, or suppress any evidence in favour of, the accused.

(2) The prosecutor may not refer to any matter, not relevant to the charge or charges then before the court, and it is the duty of the court to stop him from so doing and also restrain any undue violence of language or want of fairness or moderation on the part of the prosecutor.

(3) The court shall allow great latitude to the accused in making his defence; he must abstain from any remarks contemptuous or disrespectful towards the court, and from coarse and insulting language towards others, but he may for the purposes of his defence impeach the evidence and the motives of the witnesses and the prosecutor, and charge other persons with blame and even criminality, subject, if he does so, to any liability which he may thereby incur. The court may caution the accused as to the irrelevance of his defence, but shall not, unless in special cases, stop his defence solely on ground of such irrelevance.

78. Procedure on trial of accused persons together.—Where two or more accused persons are tried together and any evidence as to the facts of the case is tendered by any one or more of them, the evidence and addresses on the part of or on behalf of all the accused persons shall be taken before the prosecutor replies, and the prosecutor shall make one address only in reply as regards all the accused persons.

79. Separate charge-sheets.—(1) The convening officer may direct any charges against an accused person to be inserted in different charge-sheets, and when he so directs, the accused shall be arraigned and until after the finding tried, upon each charge-sheet separately, and the procedure in Rules 48 to 62, both inclusive, shall, until after finding, be followed in respect of each of charge-sheet, as if it contained the whole of the charges against the accused.

(2) The trials upon the several charge-sheets shall be in such order as the convening officer directs.

(3) When the court have tried the accused upon all the charge-sheets they shall, in the case of the finding being "Not Guilty" on all the charges, proceed, as directed by Rule 63, and in case of the finding on any one or more of the charges being "Guilty" proceed as directed by Rules 54 and 64 to 67, both inclusive, in like manner in each case as if all the charges in the different charge-sheets had been contained in one charge-sheet, and the sentence passed shall be of the same effect as if all the charges had been contained in one charge-sheet.

(4) If the convening officer directs that, in the event of the conviction of an accused person upon a charge in any charge-sheet, he need not be tried upon the subsequent charge-sheets the court in such event may, without trying the accused upon any of the subsequent charge-sheets, proceed as provided in sub-rule (3).

(5) Where a charge-sheet contains more than one charge, the accused may, before pleading, claim to be tried separately in respect of any charge or charges in that charge-sheet, on the ground that he will be embarrassed in his defence if he is not so tried separately; and in such case the court unless they think his claim unreasonable, shall arraign and try the accused in like manner as if the convening officer had inserted the said charge or charges in different charge-sheets.

(6) If a plea of "Guilty", to any charge in a charge-sheet has been recorded as the finding of the court, the provisions of sub-rules (3) and (4) of Rule 54 shall not be complied with until after the court has arrived at its findings on all the charge-sheets.

80. Sitting in closed court.—(1) A court-martial shall, where it is so directed by these rules, and may in any other case on any deliberation amongst the members, sit in closed court.

(2) No person shall be present in closed court except the members of the court, the Judge-Advocate (if any) and any officers under instruction.

(3) For the purpose of giving effect to the foregoing provisions of this rule, the court-martial may either retire or cause the place where they sit to be cleared of all other persons not entitled to be present.

(4) Except as hereinbefore mentioned all proceedings, including the view of any place, shall be in open court and in the presence of the accused subject to sub-rule (5).

(5) The court shall have the power to exclude from the court any witness who has yet to give evidence or any other person, other than the accused, who interferes with its proceedings.

⁵³[**80-A. Courts-martial to be public.**—Subject to Rule 80, the place in which a court-martial is held for the purpose of trying an offence under the Act shall be deemed to be an open court to which the public generally may have access, so far as the same can conveniently contain them:

Provided that if the court is satisfied that it is necessary or expedient in the public interest or for the ends of justice so to do, the court may at any stage of the trial of any particular case order that the public generally or any portion thereof or any particular person shall not have access to, or be or remain in, the place in which the court held.]

81. Hours of sitting.—(1) A court-martial may sit at such times and for such period between the hours of six in the morning and six in the afternoon as may be directed by the proper superior military authority, and so far as no such direction extends, as the court from time to time determines but no court shall sit for more than six hours in any one day.

(2) If the court considers it necessary to continue the trial after six in the afternoon or to sit for more than six hours in any one day, it may do so but if it does so, should record in the proceedings the reason for so doing.

(3) In cases requiring an immediate example or when the convening officer certifies under his hand that it is expedient for the public service, trials may be held at any hour.

(4) If the court or the convening officer or other superior military authority thinks that military exigencies or the interests of discipline require the court to sit on Sunday or on any other day declared as a holiday in Army or Command Orders, the court may sit accordingly, but otherwise the court shall not sit on any of those days.

82. Continuity of trial and adjournment of court.—(1) When a court is once assembled and the accused has been arraigned, the court shall continue the trial from day to day, in accordance with Rule 81, unless it appears to the court that an adjournment is necessary for the ends of justice or that such continuance is impracticable.

(2) A court may adjourn from time to time and from place to place and may, when necessary, view any place.

(3) The senior officer on the spot may also, for military exigencies, adjourn or prolong the adjournment of the court.

(4) A court-martial, in the absence of a Judge-Advocate (if such has been appointed for that court-martial) shall not proceed, and shall adjourn.

(5) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the proper military authority; and, if the place to which an adjournment is made is not specified, the adjournment shall be to the same place or to such other place as may be specified in further orders from the proper military authority.

83. Suspension of trial.—(1) Where, in consequence of anything arising while the court is sitting, the court is unable by reason of dissolution as specified in Section 117,

or otherwise, to continue the trial, the presiding officer or, in his absence, the senior member, present, will immediately report the facts to the convening authority.

(2) Where a court-martial is dissolved before the finding, or, in case of a finding of guilty, before award of the sentence, the entire proceedings before the court-martial shall be null and the accused may be tried before another court-martial.

84. Proceedings on death or illness of accused.—In case of the death of the accused, or of such illness of the accused as renders it impossible to continue the trial, the court shall ascertain the facts of the death or illness by evidence, and record the same and adjourn, and transmit the proceedings to the convening authority.

85. Death, retirement or absence of presiding officer.—In the case of the death, retirement on challenge or unavoidable absence of the presiding officer, the next senior officer shall take the place of the presiding officer and the trial shall proceed if the court is still composed of not less than the minimum number of officers of which it is required by law to consist.

86. Presence throughout of all members of court.—(1) A member of a court who has been absent while any part of the evidence on the trial of an accused person is taken, shall take no further part in the trial by that court of that person, but the court will not be affected unless it is reduced below the legal minimum.

(2) An officer shall not be added to a court-martial after the accused has been arraigned.

87. Taking of opinions of members of court.—(1) Every member of a court must give his opinion by word of mouth on every question which the court has to decide, and must give his opinion as to the sentence, notwithstanding that he has given his opinion in favour of acquittal.

(2) The opinion of the members of the court shall be taken in succession, beginning with the member lowest in rank.

88. Procedure on incidental questions.—If any objection is raised on any matter of law, evidence, or procedure by the prosecutor or by or on behalf of the accused during the trial, the prosecutor or the accused or counsel or the defending officer (as the case may be) shall have a right to answer the same and the person raising the objection shall have a right of reply.

89. Swearing of court to try several accused persons.—(1) A court may be sworn or affirmed at one time to try any number of accused persons then present before it, whether those persons are to be tried collectively or separately, and each accused person shall have power to object to the members of the court, and shall be asked separately whether he objects to any members.

(2) In the case of several accused persons to be tried separately, the court, upon one of those persons objecting to a member, may, according as it thinks fit, proceed to determine that objection or postpone the case of that person and swear or affirm the members of the court for the trial of the others alone.

(3) In the case of several accused persons to be tried separately, the court when sworn or affirmed shall proceed with one case postponing the other cases, and taking them afterwards in succession.

(4) Where several accused persons are tried separately by the same court upon charges arising out of the same transaction, the court may, if it considers it to be

desirable in the interests of justice, postpone consideration of any sentence to be awarded to any one or more of such accused persons until the trials of all such accused persons have completed.

90. Swearing of interpreter and shorthand writer.—(1) At any time during the trial an impartial person may, if the court thinks it necessary and shall, if either the prosecutor or the accused requests it on any reasonable ground, be sworn or affirm to act as interpreter.

(2) An impartial person may at any time of the trial, if the court thinks it desirable, be sworn or affirm to act as a shorthand writer.

(3) Before a person is sworn or affirmed as an interpreter or shorthand writer the accused shall be informed of the person who is proposed to be sworn or affirmed, and may object to the person as not being impartial or for any reasonable cause; and the court, if it thinks that the objection is reasonable, shall not swear or affirm that person as interpreter or shorthand writer.

91. Evidence when to be translated.—When any evidence is given in a language which any of the officers composing the court, the Judge-Advocate, the prosecutor or the accused, or his defending officer or counsel does not understand, that evidence shall be interpreted to such officer or person in a language which he does understand. If an interpreter in such language has been appointed by the convening officer, and duly sworn or affirmed, the evidence shall be interpreted by him. If no such interpreter has been appointed and sworn or affirmed, an impartial person shall be sworn or affirmed by the court as required by Rule 90. When documents are put in for purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

92. Record in proceedings of transactions of court-martial.—(1) At a court-martial the Judge-Advocate, or, if there is none, the presiding officer shall record, or cause to be recorded ⁵⁴[in the Hindi or English language], all transactions of that court, and shall be responsible for the accuracy of the record (in these rule referred to as the proceedings); and if the Judge-Advocate is called as a witness by the accused, the presiding officer shall be responsible for the accuracy of the record in proceedings of the evidence of the Judge-Advocate.

(2) The evidence shall be taken down in a narrative form in as nearly as possible the words used, but in any case when the prosecutor, the accused person, the Judge-Advocate, or the court considers it material, the question and answer shall be taken down verbatim.

(3) Where an objection has been taken to any question or to the admission of any evidence or to the procedure of the court, such objection shall, if the prosecutor or accused so requests or the court thinks fit, be entered upon the proceedings together with the grounds of the objection and the decision of the court thereon.

(4) Where any address by, or on behalf of, the prosecutor or the accused, is not in writing, it shall not be necessary to record the same in the proceedings further or otherwise than the court thinks proper, except that—

54. Subs. by S.R.O. 17(E), dt. 6-12-1993.

- (a) the court shall in every case make such record of the defence made by the accused as will enable the confirming officer to judge of the reply made by, or on behalf of, the accused to each charge against him; and
- (b) the court shall also record any particular matters in the address by or on behalf of, the prosecutor or the accused which the prosecutor or the accused, as the case may be, may require.

(5) The court shall not enter in the proceedings any comment or anything not before the court, or any report of any fact not forming of the trial, but if any such comment or report seems to the court necessary, the court may forward it to the proper military authority in a separate document, signed by the presiding officer.

93. Custody and inspection of proceedings.—The proceedings shall be deemed to be in the custody of the Judge-Advocate (if any), or, if there is none, of the presiding officer but may, with proper precaution for their safety, be inspected by the members of the court, the prosecutor and accused, respectively, at all reasonable time before the court is closed to consider the finding.

94. Transmission of proceedings after finding.—The proceedings shall be at once sent by the person having the custody thereof to such person as may be directed by the order convening the court, or, in default of any such direction, to the confirming officer.

Defending Officer, Friend of Accused and Counsel

95. Defending officer and friend of accused.—(1) At any general or district court-martial, ⁵⁵[an accused person] may be represented by any officer subject to the Act who shall be called "the defending officer" or assisted by any person whose services he may be able to procure and who shall be called "the friend of the accused".

(2) It shall be the duty of the convening officer to ascertain whether an accused person ⁵⁶[* * *] desires to have a defending officer assigned to represent him at his trial and, if he does so desire, the convening officer shall use his best endeavours to ensure that the accused shall be so represented by a suitable officer. If owing to military exigencies, or for any other reason, there shall in the opinion of the convening officer, be no such officer available for the purpose, the convening officer be no such officer available for the purpose, the convening officer shall give a written notice to the presiding officer of the court-martial, and such notice shall be attached to the proceedings.

(3) The defending officer shall have the same rights and duties as appertain to counsel under these rules and shall be under the like obligations.

(4) The friend of the accused may advise the accused on all points and suggest the questions to be put to the witnesses, but he shall not examine or cross-examine the witnesses or address the court.

⁵⁷**96. Counsel allowed in general and district courts-martial.**—In every general and district courts-martial, counsel shall be allowed to appear on behalf of the prosecutor as well as the accused:

55. Subs. by S.R.O. 407, dt. 28-12-1958.

56. Omitted by S.R.O. 407, dt. 28-12-1958.

57. Subs. by S.R.O. 17(E), dt. 6-12-1993.

Provided the convening officer may declare that it is not expedient to allow the appearance of counsel thereat and such declaration may be made as regards all general and district courts-martial held in any particular place or as regards any particular general or district court-martial, and may be made subject to such reservation as to cases on active service, or otherwise, as deemed expedient.]

97. Requirements for appearance of counsel.—(1) An accused person intending to be represented by a counsel shall give to his Commanding Officer or to the convening officer the earliest practicable notice of such intention and, if no sufficient notice has been given, the court may, if it thinks fit, on the application of the prosecutor, adjourn to enable him to obtain, a counsel on behalf of the prosecutor at the trial.

(2) If the convening officer so directs, counsel may appear on behalf of the prosecutor, but in that case, unless the notice referred to in sub-rule (1) has been given by the accused, notice of the direction for counsel to appear shall be given to the accused at such time (not in any case less than seven days) before the trial, as would, in the opinion of the court, have enabled the accused to obtain counsel to assist him at the trial.

(3) The counsel, who appears before a court-martial on behalf of the prosecutor or accused, shall have the same right as the prosecutor or accused for whom he appears, to call, and orally examine, cross-examine, and re-examine witnesses, to make an objection or statement, to address the court, to put in any plea, and to inspect the proceedings, and shall have the right otherwise to act in the course of the trial in the place of the person on whose behalf he appears, and he shall comply with these rules as if he were that person and in such case that person shall not have the right himself to do any of the aforesaid matters except as regards the statement allowed by clause (a) of sub-rule (2) of Rule 58 and clause (b) of Rule 59 or except so far as the court permits him so to do.

(4) When counsel appears on behalf of the prosecutor, the prosecutor, if called as a witness, may be examined and re-examined as any other witness and sub-rules (5) and (6) of Rule 56 shall not apply.

98. Counsel for prosecution.—The counsel appearing on behalf of the prosecutor shall have the same duty as the prosecutor, and is subject to be stopped or restrained by the court in the manner provided in sub-rule (2) of Rule 77.

99. Counsel for accused.—The counsel appearing on behalf of the accused has the like rights, and is under the like obligations as are specified in sub-rule (3) of Rule 77 in the case of the accused.

100. General rules as to counsel.—Counsel, whether appearing on behalf of the prosecutor or of the accused, shall conform strictly to these rules and to the rules of criminal courts in India relating to the examination, cross-examination, and re-examination of witnesses, and relating to the duties of a counsel.

101. Qualifications of counsel.—(1) Neither the prosecutor nor the accused has any right to object to any counsel if properly qualified.

(2) Counsel shall be deemed properly qualified if he is a legal practitioner authorised to practise with right of audience in a Court of Sessions in India, or if, he is recognised by the convening officer in any other country where the trial is held as having in that part, rights and duties similar to those of such legal practitioner in India and as being subject to punishment or disability for a breach of professional rules.

Judge-Advocate

102. Disqualification of Judge-Advocate.—An officer, who is disqualified for sitting on a court-martial, shall be disqualified for acting as a Judge-Advocate at that court-martial.

103. Invalidity in the appointment of Judge-Advocate.—A court-martial shall not be invalid merely by reasons of any invalidity in the appointment of the Judge-Advocate officiating thereat, in whatever manner appointed, if a fit person has been appointed and the subsequent approval of the Judge-Advocate General or Deputy Judge-Advocate General obtained, but this rule shall not relieve from responsibility the person who made the invalid appointment.

104. Substitute on death, illness or absence of Judge-Advocate.—If the Judge-Advocate dies, or from illness or from any cause whatever is unable to attend, the court shall adjourn, and the presiding officer shall report the circumstances to the convening authority; and a fit person not disqualified to be Judge-Advocate may be appointed by that authority, who shall be sworn, or affirmed, and act as Judge-Advocate for the residue of the trial, or until the Judge-Advocate returns.

105. Powers and duties of Judge-Advocate.—The powers and duties of a Judge-Advocate are as follows—

- (1) The prosecutor and the accused, respectively, are, at all times after the Judge-Advocate is named to act on the court, entitled to his opinion on any question of law 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.
- (2) At a court-martial, he represents the Judge-Advocate General.
- (3) He is responsible for informing the court of any informality or irregularity in the proceedings. Whether consulted or not, he shall inform the convening officer and the court of any informality or defect in the charge, or in the constitution of the court, and shall give his advice on any matter before the court.
- (4) Any information or advice given to the court, on any matter before the court shall, if he or the court desires it, be entered in the proceedings.
- (5) At the conclusion of the case, he shall sum up the evidence and give his opinion upon the legal bearing of the case, before the court proceeds to deliberate upon its findings.
- (6) The court, in following the opinion of the Judge-Advocate on a legal point, may record that it has decided in consequence of that opinion.
- (7) The Judge-Advocate has, equally with the presiding officer, the duty of taking care that the accused does not suffer any disadvantage in consequence of his position as such, or of his ignorance or incapacity to examine or cross-examine witnesses or otherwise, and may for that purpose, with the permission of the court, call witnesses and put questions to witnesses, which appear to him necessary or desirable to elicit the truth.
- (8) In fulfilling his duties, the Judge-Advocate must be careful to maintain an entirely impartial position.

SECTION 3 — SUMMARY COURTS-MARTIAL.

106. Proceedings.—(1) The officer holding the trial hereinafter called the court, shall record, or cause to be recorded ⁵⁸[in the Hindi or English language], the transactions of every summary court-martial.

(2) The evidence shall be taken down in a narrative form in as nearly as possible the words used; but in any case where the court considers it material, the question and answer shall be taken down verbatim.

107. Evidence when to be translated.—When any evidence is given in a language which the court or the accused does not understand, that evidence shall be interpreted to the court or officers or junior commissioned officers attending the proceedings in accordance with sub-section (2) of Section 116 or the accused as the case may be in a language which it or he does understand. The court shall, for this purpose, either appoints an interpreter, or shall itself take the oath or affirmation prescribed for an interpreter at a summary court-martial. When documents are put in for the purpose of formal proof, it shall be in discretion of the court to cause as much to be interpreted as appears necessary.

108. Assembly.—When the court, the interpreter (if any), and the officers or junior commissioned officers attending the trial are assembled, the accused shall be brought before the court, and the oaths or affirmation prescribed in Rule 109 taken by the persons therein mentioned.

109. Swearing or affirming of court and interpreter.—(1) The court shall make oath or affirmation in one of the following forms or in such other form to the same purport as may be according to its religion or otherwise binding on its conscience.

Form of Oath

"I,, swear by Almighty God that I will well and truly try the accused (or accused persons) before the court according to the evidence, and that I will duly administer justice according to the Army Act without partiality, favour or affection; and if any doubt shall arise, then according to my conscience, the best of my understanding and custom of war in the like cases."

Form of Affirmation

"I,, do solemnly, sincerely and truly declare and affirm that I will well and truly try the accused (or accused persons) before the court according to the evidence, and that I will duly administer justice according to the Army Act without partiality, favour or affection; and if any doubt shall arise, then according to my conscience the best of my understanding, and the custom of war in the like cases."

(2) After which the court, or some person empowered by it, shall administer to the interpreter (if any), an oath or affirmation in one of the following forms, or in such other form to the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience.

Form of Oath

"I,, swear by Almighty God that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial."

Form of affirmation

"I,, solemnly, sincerely and truly declare and affirm that I will faithfully interpret and translate, as I shall be required to do, touching the matter before this court-martial."

(3) After the oaths and affirmations have been administered, all witnesses shall withdraw from the court.

110. Swearing of court to try several accused persons.—(1) A summary court-martial may be sworn or affirmed at one time to try any number of accused persons then present before it whether those persons are to be tried collectively or separately.

(2) In the case of several accused persons to be tried separately, the court, when sworn or affirmed, shall proceed with one case postponing the other cases and taking them afterwards in succession.

(3) Where several accused persons are tried separately upon charges arising out of the same transaction, the court may, if it considers it to be desirable in the interests of justice, postpone consideration of any sentence to be awarded to any one or more such accused persons until the trials of all such accused persons have been completed.

111. Arraignment of accused.—(1) After the court and interpreter (if any) are sworn or affirmed as abovementioned, the accused shall be arraigned on the charges against him.

(2) The charges on which the accused is arraigned shall be read and, if necessary, translated to him, and he shall be required to plead separately to each charge.

112. Objection by accused to charge.—The accused when required to plead to any charge, may object to the charge on the ground that it does not disclose an offence under the Act, or is not in accordance with these rules.

113. Amendment of charge.—(1) At any time during the trial if it appears to the court that there is any mistake in the name or description of the accused in the charge-sheet, it may amend the charge-sheet so as to correct that mistake.

(2) If on the trial of any charge it appears to the court at any time before it has begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration in, the charge is required, it may amend such charge and may, after due notice to the accused, and with the sanction of the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the accused if the amended charge requires such sanction, proceed with the trial on such amended charge.

114. Special pleas.—If a special plea to the general jurisdiction of the court, or a plea in bar of trial, is offered by the accused, the procedure laid down for general and district courts-martial when disposing of such pleas shall, so far as may be applicable, be followed, but no finding by a summary court-martial on either of such pleas shall require confirmation.

115. General plea of "Guilty" or "Not Guilty."—(1) The accused person's plea—"Guilty" or "Not Guilty" (or if he refuses to plead, or does not plead intelligible either one or the other, a plea of "Not Guilty")—shall be recorded on each charge.

(2) If an accused person pleads "Guilty", that plea shall be recorded as the finding of the court; but before it is recorded, the court shall ascertain that the accused

understands the nature of the charge to which he has pleaded guilty and shall inform him of the general effect of that plea, and in particular of the meaning of the charge to which he has pleaded guilty and of the difference in procedure which will be made by the plea of guilty, and shall advise him to withdraw that plea if it appears from the summary of evidence (if any) or otherwise that the accused ought to plead not guilty.

⁵⁹[(2-A) Where an accused pleads "Guilty", such plea and the factum of compliance of sub-rule (2) of this rule, shall be recorded by the court in the following manner—

"Before recording the plea of "Guilty" of the accused the court explained to the accused the meaning of the charge(s) to which he had pleaded "Guilty" and ascertained that the accused had understood the nature of the charge(s) to which he had pleaded "Guilty". The court also informed the accused the general effect of the plea and the difference in procedure, which will be followed consequent to the said plea. The court having satisfied itself that the accused understands the charge(s) and the effect of his plea of "Guilty", accepts and records the same. The provisions of Rule 115(2) are thus complied with.]

(3) Where an accused person pleads guilty to the first of two or more charges laid in the alternative, the court may, after sub-rule (2) of this rule has been complied with and before the accused is arraigned on the alternative charge or charges, withdraw such alternative charge or charges without requiring the accused to plead thereto, and a record to that effect shall be made upon the proceedings of the court.

116. Procedure after plea of "Guilty".—(1) Upon the record of the plea of "Guilty", if there are other charges in the same charge-sheet to which the plea is "Not Guilty", the trial shall first proceed with respect to the latter charges, and, after the finding of those charges, shall proceed with the charges on which a plea of "Guilty" has been entered; but if they are alternative charges, the court may either proceed with respect to all the charges as if the accused had not pleaded "Guilty" to any charge, or may, instead of trying him, record a finding upon any one of the alternative charges to which he has pleaded "Guilty" and a finding of "Not Guilty" upon all the other alternative charges.

(2) After the record of the plea of "Guilty" on a charge (if the trial does not proceed on any other charges), the court shall read the summary of evidence, and annex it to the proceedings or if there is no such summary, shall take and record sufficient evidence to enable it to determine the sentence, and the reviewing officer to know all the circumstances connected with the offence. The evidence shall be taken in like manner as is directed by these rules in case of a plea of "Not Guilty".

(3) After such evidence has been taken, or the summary of evidence has been read, as the case may be, the accused may address the court in reference to the charge and in mitigation of punishment and may call witnesses as to his character.

(4) If from the statement of the accused, or from the summary of evidence, or otherwise, it appears to the court that the accused did not understand the effect of his plea of "Guilty", the court shall alter the record and enter a plea of "Not Guilty", and proceed with the trial accordingly.

(5) If a plea of "Guilty" is recorded and the trial proceeds with respect to other charges in the same charge-sheet, the proceedings under sub-rules (2) and (3) shall take place when the findings on the other charges in the same charge-sheet are recorded.

(6) When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, effect the amount of punishment, the court may permit the accused to call witnesses to prove the same.

(7) In any case where the court is empowered by Section 139 to find the accused guilty of an offence other than that charged, or guilty of committing an offence in circumstances involving a less degree of punishment, or where it could, after hearing the evidence, have made a special finding of guilty subject to exceptions or variations in accordance with sub-rule (3) of Rule 121, it may, if it is satisfied of the justice of such course accept and record a plea of guilty of such other offence, or of the offence as having been committed in circumstances involving such less degree of punishment, or of the offence charged subject to such exceptions or variations.

117. Withdrawal of plea of "Not Guilty".—The accused may, if he thinks fit, at any time during the trial withdraw his plea of "Not Guilty" and plead "Guilty", and in such case the court shall at once, subject to a compliance with sub-rule (2) of Rule 115, record a plea and finding of "Guilty", and shall, so far as may be, proceed in the manner provided in Rule 116.

118. Procedure after plea of "Not Guilty".—After the plea of "Not Guilty" to any charge is recorded, the evidence for the prosecution shall be taken. At the close of the evidence for the prosecution, the accused shall be asked if he has anything to say in his defence, and may address the court in his defence, or may defer such address until he has called his witnesses. The court may question the accused on the case for the purpose of enabling him to explain any circumstances appearing in his statement or in the evidence against him. The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving answers to them which he knows not to be true; but ⁶⁰[* * *] no oath shall be administered to the accused.

The accused may then call his witnesses, including also witnesses to character.

119. Witnesses in reply to defence.—The court may, if it thinks it necessary in the interest of justice, call witnesses, in reply to the defence.

120. Verdict.—After all the evidence, both for prosecution and defence, has been heard, the court shall give its opinion as to whether the accused is guilty or not guilty of the charges.

121. Form and record of finding.—(1) The finding on every charge upon which the accused is arraigned shall be recorded, and except as mentioned in these rules, such finding shall be recorded simply as a finding of "Guilty", or of "Not Guilty".

(2) When the court is of opinion as regards any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act legally be found guilty on the charge as laid, the court shall acquit the accused of that charge.

(3) When the court is of opinion as regards any charge that the facts found to be proved in evidence differ materially from the facts alleged in the statement of particulars in the charge, but are nevertheless sufficient to prove the offence stated in the charge,

60. Omitted by S.R.O. 17(E), dt. 6-12-1993.

and that the difference is not so material as to have prejudiced the accused in his defence, it may, instead of a finding of "Not Guilty", record a special finding.

(4) The special finding may find the accused guilty on a charge subject to the statement of exceptions or variations specified therein.

(5) The court shall not find the accused guilty on more than one of two or more charges laid down in the alternative, even if conviction upon one charge necessarily connotes guilty upon the alternative charge or charges.

122. Procedure on acquittal.—If the finding on each of the charges in a charge-sheet is "Not Guilty", the court shall date and sign the proceedings, the findings shall be announced in open court, and the accused will be released in respect of those charges.

123. Procedure on conviction.—(1) If the finding on any charge is "Guilty", the court may record of its own knowledge, or take evidence of and record, the general character, age, service, rank, and any recognised acts of gallantry or distinguished conduct of the accused, and previous convictions of the accused either by a court-martial, or a criminal court, any previous punishments awarded to him by an officer exercising authority under Section 80; the length of time he has been in arrest or in confinement on any previous sentence, and any military decoration, or military reward, of which he may be in possession or to which he is entitled.

(2) If the court does not record the matters mentioned in this rule of its own knowledge, evidence on these matters may be taken in the manner provided in Rule 64 for similar evidence at general and district court-martial.

124. Sentence.—The court shall award one sentence in respect of all the offences of which the accused is found guilty.

125. Signing of proceedings.—The court shall date and sign the sentence and such signature shall authenticate the whole of the proceedings.

126. Charges in different charge-sheets.—When the charges at a trial by summary court-martial are contained in different charge-sheets, the procedure laid down for general and district court-martial when trying charges contained in different charge-sheets shall, so far as may be applicable, be followed.

127. Clearing of court.—(1) The officer holding the trial may clear the court to consider the evidence or to consult with the officers or junior commissioned officers, attending the trial.

(2) Except as above-mentioned, all the proceedings, including the view of any place, shall be in open court, and in the presence of the accused.

128. Adjournment.—A summary court-martial may adjourn from time to time, and from place to place, and may, when necessary, view any place.

129. Friend of accused.—In any summary court-martial, an accused person may have a person to assist him during the trial, whether a legal advisor or any other person. A person so assisting him may advise him on all points and suggest the questions to be put to witnesses, but shall not examine or cross-examine witnesses or address the court.

CASE LAW ▶ Summary Court Martial.—In this case in terms of Rule 129, Army Rules, 1954 appellant was entitled to assistance of legal adviser or any other person in summary court martial. Appellant had rendered seven years of service and was pitted against Commanding Officer. Denial of benefit of legal representation which appellant desired at his own expense resulted in violation of principles of natural justice. Consequently,

punishment imposed on basis of summary court martial was liable to be set aside. Moreover, appellant was prejudiced inasmuch as he was dismissed from service and sentenced to six months' imprisonment depriving him of both livelihood and liberty, *Jaswant Singh v. Union of India*, (2019) 2 SCC 360.

130. Memorandum to be attached to proceedings.—An explanatory memorandum is to be attached to the proceedings when a summary court-martial tries, without reference, an offence which should not ordinarily be so tried.

131. Promulgation.—The sentence of a summary court-martial shall (except as provided in Rule 132) be promulgated, in the manner usual in the service, at the earliest opportunity after it has been pronounced and shall be carried out without delay after promulgation.

132. Promulgation to be deferred in certain circumstances.—When the officer holding the trial has less than five years' service, the sentence of a summary court-martial shall not (except on active service) be carried out until approved by superior authority as provided in sub-section (2) of Section 161.

133. Review of proceedings.—The proceedings of a summary court-martial shall, immediately on promulgation, be forwarded (through the Deputy Judge-Advocate General of the command in which the trial is held) to the officer authorised to deal with them in pursuance of Section 162. After review by him, they will be returned to the accused person's corps for preservation in accordance with sub-rule (2) of Rule 146.

SECTION 4 — GENERAL PROVISIONS

Witnesses and Evidence

134. Calling of all prosecutor's witnesses.—The prosecutor or, in the case of a trial by summary court-martial, the court is not bound to call all the witnesses for the prosecution whose evidence is in the summary ⁶¹[* * *] of evidence or whom the accused has been informed he or it intends to call, but he or it should ordinarily call such of them as the accused desires, in order that he may cross-examine them, and shall, for this reason, so far as practicable, secure the attendance of all such witnesses.

135. Calling of witness whose evidence is not contained in summary.—If the prosecutor, or, in the case of a summary court-martial, the court intends to call a witness whose evidence is not contained in any summary ⁶²[* * *] of evidence given to the accused, notice of the intention shall be given to the accused a reasonable time before the witness is called together with an abstract of his proposed evidence; and if such witness is called without such notice ⁶³[* * *] having been given the court shall, if the accused so desires it, either adjourn after taking the evidence of the witness, or allow the cross-examination of such witness to be postponed and the court shall inform the accused of his right to demand such adjournment or postponement.

136. List of witnesses of accused.—The accused shall not be required to give to the prosecutor or court a list of the witnesses whom he intends to call, but it shall rest with the accused alone to secure the attendance of any witness whose evidence is not contained in the summary ⁶⁴[* * *] and for whose attendance the accused has not requested steps to be taken as provided by sub-rule (1) of Rule 34.

61. The words "or abstract" omitted by S.R.O. 17(B), dt. 6-12-1993.

62. The words "or abstract" omitted by S.R.O. 17(B), dt. 6-12-1993.

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137. Procuring attendance of witnesses.—(1) In the case of trials by general or district court-martial, the Commanding Officer of the accused, the convening officer or, after the assembly of the court, the presiding officer, shall take proper steps to procure the attendance of the witnesses whom the prosecutor or accused desires to call, and whose attendance can reasonably be procured, but the person requiring the attendance of a witness may be required to undertake to defray the cost (if any) of their attendance.

(2) The court shall, in the case of trials by summary court-martial, take proper steps to procure the attendance of the witnesses whom the accused desires to call and whose attendance can reasonably be procured, but the accused may be required to undertake to defray the cost (if any) of their attendance.

138. Procedure when essential witness is absent.—If such proper steps as mentioned in the preceding rule have not been taken as to any witness, or if any witness whose attendance could not be reasonably procured before the assembly of the court is essential to the prosecution or defence, the court shall—

- (a) take steps to procure the issue of a commission for the examination of such witness; or
- (b) if it is a general or district court-martial, adjourn and report the circumstances to the convening officer; or
- (c) if it is a summary court-martial, adjourn to enable the witness to attend, or adopt such other course as appears to the officer holding the trial best calculated to do justice.

139. Withdrawal of witnesses from court.—During the trial a witness, other than the prosecutor, shall not, except by special leave of the court, be permitted to be present in court while not under examination and if, while he is under examination, a discussion arises as to the allowance of a question, or the sufficiency of his answers, or otherwise as to his evidence, he may be directed to withdraw.

140. Oath or affirmation to be administered to witnesses.—An oath or affirmation shall, if so required by the Act, be administered to every witness before he gives his evidence by the Judge-Advocate (if any), a member of the court, or some other person empowered by the court in one of the following forms or in such other form to the same purport as the court ascertains to be according to the religion or otherwise binding on the conscience of the witness.

Form of Oath

"I....., swear by almighty God that what I shall state shall be the truth, the whole truth and nothing but the truth.

Forms of Affirmation

"I....., do solemnly, sincerely and truly declare and affirm that what I shall state shall be the truth, the whole truth, and nothing but the truth."

141. Mode of questioning witness.—(1) Every question shall be put to a witness orally by the officer holding the trial, by the prosecutor, by or on behalf of the accused, or by the Judge-Advocate and the witness will forthwith reply, unless an objection is made by the court, Judge-Advocate, prosecutor, or accused, in which case he shall not reply until the objection is disposed of. The witness shall address his reply to the court.

(2) The evidence of a witness as taken down shall be read to him if he so requests before he leaves the court, and shall, if necessary, be corrected. If he makes any

explanation or correction, the prosecutor and accused or counsel or the defending officer may respectively examine him respecting the same.

(3) If the witness denies the correctness of any part of the evidence when the same is read over to him, the court may instead of correcting the evidence, record the objection made to it by the witness.

(4) If the evidence is not given in English and the witness does not understand that language, the evidence as recorded, shall be interpreted to him in the language in which it was given, or in a language, which he understands if he so requests before he leaves the court.

(5) Where evidence is recorded by shorthand writer, it shall not be necessary to read the evidence of the witness to him under sub-rule (2) or (4), if, in the opinion of the court and the Judge-Advocate, if any (such opinion to be recorded in the proceedings), it is unnecessary so to do.

142. Questions to witnesses by court or Judge-Advocate.—(1) The presiding officer, the Judge-Advocate (if any), or the officer holding the trial and, with the permission of the court, any member of the court may address a question to a witness while such witness is giving his original evidence and before he withdraws.

(2) Upon any such question being answered, the presiding officer, the Judge-Advocate (if any), or the officer holding the trial, shall also put to the witness any question relative to that answer which the prosecutor or the accused or counsel or the defending officer may request him to put and which the court deem reasonable.

143. Recalling of witnesses and calling of witnesses in reply.—(1) At the request of the prosecutor or of the accused, a witness may, by leave of the court, be recalled at any time before the closing address of or on behalf of the accused (or at a summary court-martial at any time before the finding of the court) for the purpose of having any question put to him through the presiding officer, the Judge-Advocate (if any), or the officer holding the trial.

(2) The court may, if it considers it expedient, in the interests of justice, so to do, allow a witness to be called or recalled by the prosecutor, before the closing address of or on behalf of the accused for the purpose of rebutting any material statement made by a witness for the defence or for the purpose of giving evidence on any new matter which the prosecutor could not reasonably have foreseen.

(3) Where the accused has called witnesses to character, the prosecutor before the closing address of or on behalf of the accused, may call or recall witnesses for the purpose of proving a previous conviction or entries in the defaulters book against the accused.

(4) The court may call or recall any witness at any time before the finding, if it considers that it is necessary for the ends of justice.

Addresses

144. Addresses.—All addresses by the prosecutor and the accused and the summing up of the Judge-Advocate may, either be given orally or in writing, and if in writing, shall be read in open court.

Insanity

⁶⁵[145. **Finding of insanity.**—(1) Where the court finds either that the accused by reason of unsoundness of mind, is incapable of making his defence; or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law. The court shall give brief reasons in support thereof. The Judge-Advocate, if any, or the presiding officer or in the case of summary court-martial, the officer holding the trial, shall record or cause to be recorded such brief reasons in the proceedings.

(2) The presiding officer or in the case of summary court-martial, the officer holding the trial, shall date and sign the above record, and the proceedings, upon being signed by the Judge-Advocate, if any, shall at once be transmitted to the confirming officer or to the authority empowered to deal with the finding under Section 162, as the case may be.]

Preservation of Proceedings

146. Preservation of proceedings.—(1) The proceedings of a court-martial (other than a summary court-martial) shall, after promulgation, be forwarded as circumstances require, to the office of the Judge-Advocate General, and there preserved for not less, in the case of a general court-martial, than seven years, and in the case of any other court-martial, than three years.

(2) The proceedings of a summary court-martial shall be preserved for not less than three years, with the records of the corps or department to which the accused belonged.

147. Right of person tried to copies of proceedings.—⁶⁶[Every person tried by a court-martial (other than summary court-martial) shall, after the proceedings have been signed by the presiding officer and in the case of summary court-martial the officer holding the trial, and before they are destroyed, on a request made by such person in writing to the court or the officer holding the trial or the person having the custody of his proceedings, be entitled for the supply of a copy of such proceedings, within a reasonable time and free of cost, including the proceedings upon revision, if any.]

⁶⁷[147-A. **Copy of proceedings not to be given in certain cases.**—Notwithstanding anything contained in Rule 147, if the Central Government certifies that it is against the interests of the security of the State or friendly relations with foreign States to supply a copy of the proceedings or any part thereof under the said rule, he shall not be furnished with such copy:

Provided that if the Central Government is satisfied that the person demanding the copy is desirous of submitting a petition in accordance with the Act or instituting any action in a court of law in relation to the finding or sentence, it shall permit inspection of the proceedings to such person or his legal adviser, if any, on the following conditions, namely—

- (a) the inspection shall be made at such times and such places as the Central Government or any authority authorised by it, may direct; and

65. Subs. by S.R.O. 17(B), dt. 6-12-1993.

66. Subs. by S.R.O. 169, dt. 15-5-1987.

67. Ins. by Noti. No. E-7, dt. 17-6-1960.

- (b) the person allowed to inspect the proceedings shall, before such inspection, furnish—
- (i) an undertaking, in writing, that he shall not make copies of the proceedings or any part thereof and that the information or documents contained in such proceedings shall not be used by him, for any purpose whatsoever other than for the purpose of submitting a petition in accordance with the Act or instituting an action in a court of law in relation to the said finding or sentence; and
 - (ii) a certificate that he is aware that he may render himself liable to prosecution under Sections 3 and 5 of the Indian Official Secrets Act, 1923 (19 of 1923), if he commits any act specified in the said sections in relation to the documents or information contained in the said proceedings.]

148. Loss of proceedings.—(1) If, before confirmation, the original proceedings of a court-martial which require confirmation or any part thereof, are lost, a copy thereof, if any, certified by the presiding officer or the Judge-Advocate at the court-martial may, be accepted in lieu of the original.

(2) If there is no such copy, and sufficient evidence of the charge, finding, sentence, and transactions of the court can be procured, that evidence may, with the assent of the accused, be accepted in lieu of the original proceedings, or part thereof, which have been lost.

(3) In any case above in this rule mentioned, the finding and sentence may be confirmed and shall be as valid as if the original proceedings, or part thereof, had not been lost.

(4) If the accused refuses the assent referred to in sub-rule (2), he may be tried again, and the finding and sentence of the previous court of which the proceedings have been lost shall be void.

(5) If, after confirmation or in any case where confirmation is not required, the original proceedings of a court-martial or any part thereof are lost, and there is sufficient evidence of the charge, findings, sentence, and transactions of the court and of the confirmation (if required) of the finding and sentence, that evidence shall be a valid and sufficient record of the trial for all purposes.

Irregular procedure when no injustice is done

149. Validity of irregular procedure in certain cases.—Whenever, it appears that a court-martial had jurisdiction to try any person and make a finding and that there is legal evidence or a plea of guilty to justify such finding and any sentence which the court-martial had jurisdiction to pass thereon may be confirmed, and shall, if so confirmed and in the case of a summary court-martial where confirmation is not necessary, be valid, notwithstanding any deviation from these rules or notwithstanding that the charge-sheet has not been signed by the Commanding Officer or the convening officer, provided that the charges have, in fact, before trial been approved by the Commanding Officer and the convening officer or notwithstanding any defect or objection, technical or other, unless it appears that any injustice has been done to the offender, and where any finding and sentence are otherwise valid, they shall not be invalid by reason only of a failure to administer an oath or affirmation to the

interpreter or shorthand writer; but nothing in this rule shall relieve an officer from any responsibility for any wilful or negligent disregard of any of these rules.

Offences of witnesses and others

150. Offences of witnesses and others.—When any court-martial is of opinion that there is ground for inquiring into any offence specified in Sections 59 and 60 and committed before it or brought under its notice in the course of its proceedings, or into any act done before it or brought under its notice in the course of its proceedings, which would, if done by a person subject to the Act, have constituted such an offence, such court-martial may proceed as follows, that is to say—

- (1) If the person who appears to have committed the offence is subject to the Act, the court may bring his conduct to the notice of the proper military authority, and may also order him to be placed in military custody with a view to his punishment by an officer exercising authority under Sections 80, 83, 84 or 85 or to his trial by a court-martial.
- (2) If the person who appears to have done the act is amenable to naval or air force law, the court may bring his conduct to the notice of the proper naval or air force authority, as the case may be.
- (3) If the person who appears to have done the act is not subject to military, naval or air force law, then in the case of acts which would, if done by a person subject to the act, have constituted an offence under clause (a), (b), (c) or (d) of Section 59, the officer who summoned the witness to appear or the presiding officer or officer holding the court, as the case may be, may forward a written complaint to the nearest Magistrate of the first class having jurisdiction, and in the case of acts which would, if done as aforesaid, have constituted an offence under clause (e) of Section 59 or Section 60, the court, after making any preliminary inquiry that may be necessary, may send the case to the nearest Magistrate of the first class having jurisdiction for inquiry or trial in accordance with ⁶⁸[Section 340 of the Code of Criminal Procedure, 1973 (2 of 1974)].

SECTION 5 — SUMMARY GENERAL COURTS-MARTIAL

The foregoing rules in this Chapter shall not, save as hereinafter mentioned apply to a summary general court-martial which shall be subject to the following rules, namely—

151. Convening the court and record of proceedings.—(1) The court may be convened and the proceedings of the court recorded in accordance with the form in Appendix III, with such variations as the circumstances of each case may require.

(2) The officer convening the court shall appoint or detail the officers to form the court, and may also appoint or detail such officers as waiting members as he thinks expedient. Such officers should have held commission, for not less than one year, but, if any officers are available who have held commissions for not less than three years, they should be selected in preference to officers of less service.

(3) The provost-marshal, an assistant provost marshal, or an officer who is a prosecutor or witness for the prosecution shall not be appointed a member of the court, but subject to sub-rule (2), any other available officer may be appointed to sit.

152. Charge.—The statement of an offence may be made briefly in any language sufficient to describe or disclose an offence under the Act.

153. Trial of several accused persons.—The court may be sworn at the same time to try any number of accused persons then present before it, but except as provided in Rule 35, the trial of each accused person shall be separate.

154. Challenges.—(1) The names of the presiding officer and members of the court shall be read over to the accused who shall thereupon be asked if he objects to be tried by any of these officers.

(2) Any objection shall be decided as provided for in Section 130 and Rule 44 — the vacancies being filled from among the waiting members (if any), or by fresh members being appointed by the convening officer.

155. Swearing or affirming the court, Judge-Advocate, etc.—The provisions of Rules 45, 46 and 47 relating to administering and taking of oaths and making of affirmations shall apply to every summary general court-martial.

156. Arraignment.—When the court is sworn or affirmed, the Judge-Advocate (if any) or the presiding officer shall state to the accused then to be tried, the offence with which he is charged with, if necessary, an explanation giving him full information of the act or omission with which he is charged and shall ask the accused whether he is guilty or not guilty of the offence.

157. Plea of jurisdiction.—If a special plea to the general jurisdiction is offered by the accused, and is considered by the court to be proved, the court shall report the same to the convening officer.

158. Evidence.—(1) The witnesses for the prosecution will be called and the accused shall be allowed to cross-examine them and to call any available witnesses for his defence.

(2) An oath or affirmation as laid down in Rule 140 shall be administered to every witness, if so required by the Act, before he gives his evidence, by one of the persons specified in that rule.

159. Defence.—(1) The accused shall be asked what he has to say in his defence and shall be allowed to make his defence. He may be allowed to have any person to assist him during the trial, ⁶⁹[* * *].

(2) The court or the Judge-Advocate, if any, may question the accused on the case for the purpose of enabling him to explain any circumstances appearing in his statement or in the evidence against him. The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving answers to them which he knows not to be true, ⁷⁰[* * *].

160. Record of the evidence and defence.—(1) The Judge-Advocate (if any) or the presiding officer shall take down or cause to be taken down a brief record of the

69. Omitted by S.R.O. 17(E), dt. 6-12-1993.

70. Omitted by S.R.O. 17(E), dt. 6-12-1993.

evidence of the witnesses at the trial and of the defence of the accused; the record so taken down shall be attached to the proceedings.

(2) If it appears to the convening officer that military exigencies or other circumstances prevent compliance with sub-rule (1), he may direct that the trial will be carried on without any such brief record being taken down.

(3) If the accused pleads "Guilty" the summary ⁷¹[* * *] of evidence, if any, may be read and attached to the proceedings, and it shall not be necessary for the court to hear witnesses for the prosecution, respecting matters contained in the summary of ⁷²[* * *] evidence so read.

161. Finding and sentence.—The court shall then be closed to consider its finding. If the finding on any charge is "Guilty", the court may receive any evidence as to previous convictions and character, which is available. The court shall then deliberate in closed court as to its sentence.

162. Signing and transmission of proceedings.—Upon the court arriving at a finding of "Not Guilty", or awarding the sentence in case of having arrived at a finding of "Guilty", the presiding officer shall date and sign the finding or sentence, as the case may be. The signature shall authenticate the whole of the proceedings and the proceedings upon being signed by the Judge-Advocate, if any, shall at once be transmitted to the confirming officer, for confirmation.

163. Adjournment.—(1) A summary general-court-martial may adjourn from time to time and from place to place and may when necessary view any place.

(2) The proceedings shall be held in open court, in the presence of the accused except on any deliberation among the members when the court may be closed.

164. Application of rules.—The foregoing rules, namely, Rules 22 (hearing of charge), 23 (procedure for taking down the summary of evidence), 24 (remand of accused), ⁷³[* * *], 27 (delay report), 33 (rights of accused to prepare defence), 34 (warning of accused for trial), 36 (suspension of rules on grounds of military exigencies or the necessities of discipline), 38 (adjournment for insufficient number of officers), 49 (objection by accused to charge), 51 (special plea to the jurisdiction), 52 (general plea of "Guilty" or "Not Guilty"), 53 (plea in bar), 54 (procedure after plea of "Guilty"), 55 (withdrawal of plea of "Not Guilty"), 61 (consideration of finding), 62 (form, record and announcement of finding), 64 (procedure on conviction), 65 (sentence), 66 (recommendation of mercy), 67 (announcement of sentence), 71 (promulgation), 72 (mitigation of sentence on partial confirmation), 73 (confirmation notwithstanding informality in, or excess of, punishment), 74 (member or prosecutor not to confirm proceedings), 76 (responsibility of presiding officer), 77 (power of court over address of prosecutor and accused), 78 (procedure on trial of accused persons together), 80 (sitting in closed court), ⁷⁴[80-A (courts-martial to the public)], 84 (proceedings on death or illness of accused), 85 (death, retirement or absence of presiding officer), 86 (presence throughout of all members of the court), 94 (transmission of proceedings after finding),

71. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

72. The words "or abstract" omitted by S.R.O. 17(E), dt. 6-12-1993.

73. Omitted by S.R.O. 17(E), dt. 6-12-1993.

74. Added by S.R.O. 17(E), dt. 6-12-1993.

95 (defending officer and friend of accused), ⁷⁵[96 (counsel allowed in certain general and district courts-martial), 97 (requirement for appearance of counsel), 98 (counsel for prosecution), 99 (counsel for accused), 100 (general rules as to counsel), 101 (qualification of counsel)], 102 (disqualification of Judge-Advocate), 103 (invalidity in the appointment of Judge-Advocate), 104 (substitute on death, illness or absence of Judge-Advocate), 105 (powers and duties of Judge-Advocate), 145 (finding of insanity), 146 (preservation of proceedings), 147 (right of person tried to copies of proceedings), 148 (loss of proceedings), 149 (validity of irregular procedure in certain cases), shall, so far as practicable, apply as if a summary general court-martial were a district court-martial.

165. Evidence of opinion of convening officer.—Any statement in an order convening a summary general court-martial as to the opinion of the convening officer shall be conclusive evidence of that opinion, but this rule shall not prejudice the proof at any time of any such opinion when not so stated.

SECTION 6 — EXECUTION OF SENTENCES

166. Committal warrants.—A warrant for the committal of a person sentenced by a court-martial to a prison under the provision of Section 168 and sub-section (2) of Section 169, shall be in one of the forms given in Appendix IV. Such warrant shall be signed and despatched by the Commanding Officer of the prisoner or by any higher authority or his staff officer and forwarded to the proper prison authority.

167. Warrants under Section 173.—Any warrant issued under the provisions of Section 173 shall be in one of the forms given in Appendix IV, and shall be signed by the officer making the order in pursuance of which such warrant is issued, or by his staff officer, or by the Commanding Officer of the unit to which the person undergoing sentence belonged.

168. Sentence of cashiering or dismissal.—(1) A sentence of cashiering or dismissal awarded by a court-martial shall take effect from the date on which the sentence is promulgated to the person under sentence, or except in the case of an officer, from such subsequent date as may be specified by the Commanding Officer at the time of such promulgation.

(2) When dismissal is combined with imprisonment, which is to be carried out ⁷⁶[in a military prison or in military custody] ⁷⁷[* * *], the dismissal shall not take effect until the date on which the prisoner is released ⁷⁸[from a military prison or from military custody], ⁷⁹[* * *].

(3) When cashiering or dismissal is combined with ⁸⁰[imprisonment for life] or with imprisonment, which is to be carried out in a civil prison, the cashiering or dismissal shall not take effect until the date on which the prisoner is received into a civil prison.

75. Added by S.R.O. 17(E), dt. 6-12-1993.

76. Subs. by S.R.O. 331, dt. 23-9-1960.

77. Omitted by S.R.O. 17(E), dt. 6-12-1993.

78. Subs. by S.R.O. 331, dt. 23-9-1960.

79. Omitted by S.R.O. 17(E), dt. 6-12-1993.

80. Subs. by S.R.O. 331, dt. 23-9-1960.

169. Custody of person under sentence of death.—When a person is sentenced by a court-martial to suffer death, the Commanding Officer for the time being of such person may, if he thinks fit, by a warrant in one of the forms in Appendix V, commit the said person for safe custody in a civil prison pending confirmation or the carrying out of the sentence.

⁸¹[**170. Opportunity for petition against sentence of death.**—(1) While confirming the sentence of death, the confirming authority shall specify the period within which the person sentenced may, after the sentence has been promulgated to him, submit a petition against the finding or sentence against him of the court-martial.

(2) The person against whom a sentence of death has been confirmed shall at the time of promulgation, be informed of his rights under sub-section (2) of Section 164 and of the period specified by the confirming authority within which he may, if he so wishes to do, submit, a petition against the finding or sentence of the court-martial.

(3) Every petition against a finding or sentence submitted by a person against whom a sentence of death has been confirmed, and every order in respect of such petition shall be transmitted, where the confirming authority is the Chief of the Army Staff or the Central Government, through the Adjutant-General at the Army Headquarters and in any other case, through the confirming officer.

(4) Sentence of death shall not be carried into effect until the expiry of the period specified by the confirming authority under sub-rule (1) or if, within the period so specified, the person under sentence submits a petition against the finding or sentence of the court-martial, until the authority legally competent to dispose of such petition finally, after considering the petition, orders that the sentence of death may be carried into effect.]

⁸²[**170-A. Death warrant.**—(1) The officer commanding the Army, Army corps or division or an officer commanding forces in the field shall nominate a provost-marshal or other officer not below the rank of Lieutenant Colonel who shall be responsible for the due execution of the sentence of death passed under the Act; and shall issue to such officer the death warrant in the relevant form contained in Appendix V.

(2) The officer specified in sub-rule (1) shall not issue the death warrant until he is satisfied that having regard to the provisions of Rule 170, the sentence of death may be carried into effect.

(3) No sentence of death passed under the Act shall be carried into effect until the death warrant has been received by the provost-marshal or other officer nominated under sub-rule (1).

(4) If the authority specified in sub-rule (1) is of the opinion that the sentence of death be carried out in a civil prison, shall be forward a warrant in one of the forms in Appendix V together with an order of the confirming authority certifying the confirmation of the sentence, to the civil prison for the execution of the sentence.

170-B. Execution of sentence of death.—(1) On receipt of the death warrant, the provost-marshal or other officer, nominated under sub-rule (1) of Rule 170-A shall—

81. *Subs.* by S.R.O. 17(B), dt. 6-12-1993.

82. *Ins.* by S.R.O. 17(E), dt. 6-12-1993.

- (a) inform the person sentenced as soon as possible of the date on which the sentence will be carried out;
- (b) if the person sentenced has been committed to a civil prison under Rule 169, obtain the custody of his person by issuing a warrant in one of the forms in Appendix V; and
- (c) proceed to carry out the sentence as required by the death warrant and in accordance with any general or special instructions, which may from time to time be given by or under the authority of the Chief of the Army Staff.

(2) During the execution of a sentence of death passed under the Act, no person except those specified below, shall be present without the authority of the officer who issued the death warrant. The following persons shall attend the execution of the sentence of death—

- (a) the provost marshal or other officer who is responsible for the due execution of the sentence in accordance with these rules;
- (b) a commissioned medical officer of the armed forces of the Union;
- (c) an officer nominated by the officer who issued the death warrant, who is able to identify the person under sentence as the person described in the death warrant and as the person who was tried and sentenced by the court-martial mentioned therein;
- (d) such non-commissioned officers as may be detailed by the provost-marshal or the other officer aforesaid for escort and security purposes or to assist in the execution;
- (e) if the execution is carried into effect in an army unit, the officer for the time being in command of such unit.

(3) After the sentence of death has been carried into effect, the provost marshal or other officer nominated under sub-rule (1) of Rule 170-A or the Superintendent of the civil prison, as the case may be, shall complete or cause to be completed Parts II and III of the death warrant, and shall, without unnecessary delay return the completed death warrant to the officer who had issued the same.]

171. Procedure or commutation of sentence of death.—If a sentence of death is commuted under the Act or if the person sentenced to death is pardoned, and

- (a) if he has been committed to a civil prison under a warrant issued under Rule 169, a further warrant in one of the forms given in Appendix V shall be issued by the Commanding Officer of such person;
- (b) if he has been detained in military custody, any warrant which may be necessary to give effect to the sentence as so commuted, shall be issued in one of the forms given in Appendix IV.

172 to 176.—⁸³[Omitted]

CHAPTER VI COURTS OF INQUIRY

⁸⁴[177. **Courts of Inquiry.**—(1) A court of inquiry is an assembly of officers or of junior commissioned officers or of officers and junior commissioned officers, Warrant

83. Omitted by S.R.O. 17(E), 6-12-1993.

84. Subs. by S.R.O. 8(E), dt. 23-6-2003.

Officers or non-commissioned officers, directed to collect evidence, and if so required to report with regard to any matter which may be referred to them.

(2) The court may consist of a Presiding Officer, who will either be an officer or a junior commissioned officer, and of one or more members. The Presiding Officer and members of court may belong to any Regt or Corps of the service according to the nature of the investigation.

(3) A court of inquiry may be assembled by the officer in command of any body of troops, whether belonging to one or more corps.]

178. Members of court not to be sworn or affirmed.—The members of the court shall not be sworn or affirmed, but when the court is a court of inquiry on recovered prisoners of war, the members shall make the following declaration—

"I, do declare upon my honour that I will duly and impartially inquire into and give my opinion as to the circumstances in which.....became a prisoner of war, according to the true spirit and meaning of the regulations of the regular Army; and I do further declare, upon my honour that I will not, on any account, or at any time disclose or discover my own vote or opinion or that of any particular member of the court, unless required to do so by competent authority."

179. Procedure.—(1) The court shall be guided by the written instructions of the authority who assembled the court. The instructions shall be full and specific and shall state the general character of the information required. They shall also state whether a report is required or not.

(2) The officer who assembled the court shall, when the court is held on a returned prisoner of war or on a prisoner of war who is still absent, direct the court to record its opinion whether the person concerned was taken prisoner through his own wilful neglect of duty, or whether he served with or under, or aided the enemy; he shall also direct the court to record its opinion in the case of a returned prisoner of war, whether he returned as soon as possible to the service and in the case of a prisoner of war still absent whether he failed to return to the service when it was possible for him to do so. The officer who assembled the court shall also record his own opinion on these points.

(3) Previous notice should be given of the time and place of the meeting of a court of inquiry, and of all adjournments of the court, to all persons concerned in the inquiry except a prisoner of war who is still absent.

(4) The court may put such questions to a witness as it thinks desirable for testing the truth or accuracy of any evidence he has given and otherwise for eliciting the truth.

(5) The court may be re-assembled as often as the officer who assembled the court may direct, for the purpose of examining additional witnesses, or further examining any witness, or recording further information.

⁸⁵[(5-A) Any witness may be summoned to attend by order under the hand of the officer assembling the court. The summons shall be in the Form provided in Appendix III.]

(6) The whole of the proceedings of a court of inquiry shall be forwarded by the presiding officer to the officer who assembled the court.

180. Procedure when character of a person subject to the Act is involved.—Save in the case of a prisoner of war who is still absent whenever any inquiry affects the character or military reputation of a person subject to the Act, full opportunity must be afforded to such person of being present throughout the inquiry and of making any statement, and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence in his opinion, affects his character or military reputation and producing any witnesses in defence of his character or military reputation. The presiding officer of the court shall take such steps as may be necessary to ensure that any such person so affected and not previously notified receives notice of and fully understands his rights, under this rule.

181. Evidences when to be taken on oath or affirmation.—Evidence shall be recorded on oath or affirmation when a court of inquiry is assembled—

- (a) on a prisoner of war, or
- (b) to inquire into illegal absence under Section 106, or
- (c) in any other case when so directed by officer assembling the court.

Explanation.—The court shall administer the oath or affirmation to witnesses as if the court were a court-martial.

⁸⁶[**182. Proceedings of court of inquiry not admissible in evidence.**—The proceedings of a court of inquiry, or any confession, statement, or answer to a question made or given at a court of inquiry, shall not be admissible in evidence against a person subject to the Act, nor shall any evidence respecting the proceedings of the court be given against any such person except upon the trial of such person for wilfully giving false evidence before that court:

Provided that nothing in this rule shall prevent the proceedings from being used by the prosecution or the defence for the purpose of cross-examining any witness.]

183. Court of inquiry as to illegal absence under Section 106.—(1) A court of inquiry under Section 106 shall, when assembled, require the attendance of such witnesses as it think sufficient to prove the absence and other facts specified as matters of inquiry in that section.

(2) It shall take down the evidence given it in writing and at the end of the proceedings shall make a declaration of the conclusions at which it has arrived in respect of the facts it is assembled to inquire into.

(3) The Commanding Officer of the absent person shall enter in the court-martial book of the corps of department a record of the declaration of the court, and the original proceedings will be destroyed.

(4) The court of inquiry shall examine all witnesses who may be desirous of coming forward on behalf or the absentee, and shall put such questions to them as may be desirable for testing the truth or accuracy of any evidence they have given and otherwise for eliciting the truth, and the court in making its declaration shall give due weight to the evidence of all such witnesses.

(5) An oath or affirmation shall be administered to the witnesses in the manner specified in Rule 181.

⁸⁷[184. **Right of certain persons to copies of statements and documents.**—(1) Any person subject to the Act who is tried by a court-martial shall be entitled to copies of such statements and documents contained in the proceedings of a court of inquiry, as are relevant to his prosecution or defence at his trial.

(2) Any person subject to the Act whose character or military reputation is affected by the evidence before a court of inquiry shall be entitled to copies of such statements and documents as have a bearing on his character or military reputation as aforesaid unless the Chief of the Army Staff for reasons recorded by him in writing, orders otherwise.]

Losses or Thefts of Arms

185. Court of inquiry when rifles, etc., are lost or stolen.—(1) Whenever any weapon or part of a weapon, which forms part of the equipment of a squadron, battery, company or other similar unit, and in respect of the loss or theft of which a fine may be imposed under Rule 186 is lost or stolen, a court of inquiry shall be assembled, under the orders of the officer commanding the army, army corps, division or independent brigade, to investigate the circumstances under which the loss or theft occurred.

(2) The officer who assembled the court shall direct it to record an opinion as to the circumstances of the loss or theft.

186. Collective fines may be imposed.—⁸⁸(1) The officer commanding the army, army corps, division or independent brigade shall then record his opinion on the circumstances of the loss or theft, and may impose for each weapon or part of a weapon lost or stolen, collective fines to the extent of the current official prices of such weapons or part of weapons on the junior commissioned officer, Warrant Officers, non-commissioned officers, and men of such unit or upon so many of them as he considers should be held responsible for the occurrence.]

	Rs	A.	P.
Gun Machine Bren 303 in.	1200	0	0
Block Breech	82	0	0
Barrel	100	0	0
Magazine	15	8	0
Gun Machine Vickers 303 in.	2880	0	0
Block Breech	490	0	0
Barrel	93	0	0
Gun Machine Cal. 30 Browning	3600	0	0
Block Breech	660	0	0
Barrel	120	0	0
Gun Machine Cal. 50 Browning	4800	0	0
Block Breech	600	0	0
Barrel	180	0	0
Gun Machine Besa 7.2 mm.	1150	0	0

87. Subs. by S.R.O. 44, dt. 24-1-1985.

88. Subs. by S.R.O. 17(E), dt. 6-12-1993.

Block Breech	..	110	0	0
Barrel	..	440	0	0
Carbine Machine Sten 9 mm.	..	95	0	0
Block Breech	..	16	12	0
Barrel	..	15	8	0
Discharger Grenade	..	42	0	0
Projector Grenade	..	15	0	0
Pistol	..	130	0	0
Rifle	..	170	0	0
Bolt	..	25	0	0
Bayonet	..	12	0	0
Ordnance ML 2-in Mortar	..	580	0	0
Barrel	..	300	0	0
Ordnance ML 3-in Mortar	..	860	0	0
Barrel	..	480	0	0
Base Plate	..	110	0	0
Launcher Rocket Anti-tank	..	600	0	0
Barrel	..	480	0	0
Base Plate	..	110	0	0
Launcher Rocket Anti-tank	..	600	0	0
Barrel	..	480	0	0
Grenades	..	18	0	0

(2) Such fine will be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VII

PRESCRIBED OFFICERS, AUTHORITIES AND OTHER MATTERS

187. 'Corps' prescribed under Section 3(vi).—(1) Each of the following separate bodies of persons subject to the Act shall be a "corps" for the purposes of Chapter III and Section 43(a) of the said Act and of ⁸⁹[Chapters II and III] of these rules, ⁹⁰[except Rule 13], namely—

- (a) President's Body Guard.
- (b) The Armoured Corps, Horsed Cavalry Regiments, including Training Centres and non-combatants.
- (c) The Regiment of Artillery.
- (d) The Corps of Engineers including non-combatants.
- (e) The Corps of Signals including non-combatants.
- (f) Each regiment or each ungrouped battalion (as the case may be) of Infantry, or, in the case of grouped Gorkha Regiments, each group of Infantry including non-combatants.

⁸⁹. *Ins.* by S.R.O. 1, dt. 22-12-1961.

⁹⁰. *Subs.* by S.R.O. 1, dt. 12-3-1964.

- (g) Each parachute battalion.
- (h) The Army Service Corps (including postal).
- (i) The Remount, Veterinary and Farms Corps.
- (j) The Army Medical Corps.
- (k) The Army Dental Corps.
- (l) The Army Ordnance Corps.
- (m) The Corps of Electrical and Mechanical Engineers.
- (n) The Technical Development Establishments.
- (o) The Intelligence Corps.
- (p) The Corps of Military Police.
- (q) The Pioneer Corps.
- ⁹¹(r) The Defence Security Corps.]
- (s) The Army Education Corps.
- (t) The Army Physical Training Corps.
- (u) The General Service Corps.
- (v) The Frontier Defence Corps.
- (w) Each Boys Battalion.
- (x) Gorkha Boys Company.
- (y) Any other separate body of persons subject to the Act, employed on any service and not attached to any of the above corps or to any department.

(2) Every unit in which a court-martial book is maintained shall be a "corps" for the purposes of Section 106 and Rule 183.

(3) For the purposes of every other provision of the said Act and of these rules each of the following separate bodies shall be "corps"—

- (a) Every battalion.
- (b) Every company which does not form part of battalion.
- (c) Every regiment of cavalry, armoured corps or artillery.
- (d) Every squadron or battery, which does not form part of a regiment of cavalry, armoured corps or artillery.
- (e) Every school of instruction, training centre, or regimental centre.
- (f) Every other separate unit composed wholly or partly of persons subject to the Act.

188. Conditions prescribed under Section 3(xviii)(f).—In the Act and in these rules, the expression 'officer', in relation to a person subject to the Act, includes a person holding a commission in the Indian Navy or the Air Force, when he is serving under any of the following conditions, namely—

- (a) when he is a member or a body of the regular Army, acting with a body of the Indian Navy or the Air Force, which is on active service;
- (b) when he is being conveyed on any vessel, or aircraft employed as a transport or troop ship;
- (c) when he is serving in or is a patient in any hospital or medical unit in which any officer of Indian Navy or the Air Force is on duty or is a patient;
- (d) when he is a member of a body of the regular Army acting in an emergency with a body of the Indian Navy or the Air Force and an order in writing

is made by the officers commanding the bodies concerned stating that an emergency exists and that it is necessary for officers of the Indian Navy or the Air Force to exercise command over persons subject to the Act. A copy of every such order shall forthwith be sent to the Central Government;

- (e) when he is serving in any place in which or with any body of the regular Army with which, there is present any officer of the Navy or the Air Force and the Central Government has by special order declared that it is necessary for officers of the Indian Navy or the Air Force to exercise command over persons subject to the Act in that place or with that body of the regular Army.

189. Prescribed officer under Section 7(1).—The prescribed officer for the purposes of sub-section (1) of Section 7 shall be the officer commanding the Army, Army corps, division, or brigade or any equivalent formation with which the person subject to the Act under clause (i) of sub-section (1) of Section 2 is for the time being serving.

190. Prescribed form under Section 13.—The prescribed form for the purposes of Section 13 shall be the same as set forth in Appendix 1.

191. Prescribed officer under Section 78.—The prescribed officer for the purposes of Section 78 shall be the officer commanding the forces in the field, or, in the case of a sentence which he confirms or could have confirmed or which did not require confirmation, the officer commanding the Army, Army corps, division, brigade, or any detached portion of regular Army within which the trial was held.

192. Prescribed extent of punishments under Section 80.—Subject to the other provisions of the Act, a Commanding Officer or other officer as is specified under Section 80, may,—

- (i) if not below field rank, award punishments specified in Section 80 to the full extent;
- (ii) if below field rank, award imprisonment and detention up to seven days and other punishments to the full extent. An officer having power not less than an officer commanding a division may, however, empower such officer to award imprisonment and detention to the full extent:

⁹²[Provided that where the punishment awarded consists of reduction to a lower grade of pay, such reduction shall be to the immediately next lower grade and shall not be effective for a period exceeding one year.]

⁹³[**193. Prescribed officer under Sections 90(i) and 91(i).**—The prescribed officer for the purposes of clause (i) of Section 90 and clause (i) of Section 91 shall be the Chief of the Army Staff or the officer commanding the Army.]

194. Prescribed officer under Section 93.—The prescribed officer for the purposes of Section 93 shall be, in the case of an officer, the Chief of the Army Staff or the officer commanding an Army and, in the case of a person other than an officer, the officer empowered to convene a court-martial for his trial.

92. *Subs.* by S.R.O. 215, dt. 17-6-1965.

93. *Subs.* by S.R.O. 17(E), dt. 6-12-1993.

195. Prescribed authorities under Section 97.—Any penal deduction from the pay and allowances of a person subject to the Act made under Chapter VIII thereof, may be remitted as hereinafter provided, that is to say—

- (a) A penal deduction from the pay and allowances of any such person may be remitted by the Central Government,
- (b) The Commanding Officer of any such person, other than an officer, who has been absent without leave for a period not exceeding five days may, unless the person is convicted by a court-martial on a charge for such absence, remit the forfeiture of pay and allowances to which that absence renders him liable,
- (c) A forfeiture of pay and allowances incurred by any such person owing to his absence as a prisoner of war may, (unless it shall have been proved before a court of inquiry that he was taken prisoner through his own wilful neglect of duty, or that he served with or under, or aided, the enemy or that he did not, as soon as possible, return to the service) be remitted by the Chief of the Army Staff, by the officer commanding an Army, Army corps, division or independent brigade, or by the officer commanding the forces in the field.

196. Prescribed authorities under Sections 98 and 99.—The prescribed authorities for the purposes of Sections 98 and 99 shall be—

- (i) in the case of officers of the Army Medical Corps, Director General Armed Forces Medical Services,
- (ii) in the case of all other officers, the Director of Personal Services, and
- (iii) in all other cases, the officer not below the rank of Lieutenant-Colonel commanding a Training Battalion, Training Centre, Depot or Record Office who maintains the accounts of the individual, or any superior authority.

197. Prescribed officer under Section 107(1).—The prescribed officer for the purposes of sub-section (1) of Section 107 shall be the officer commanding an Army, Army corps, division or independent brigade or an officer commanding the forces in the field.

197-A. Prescribed officer under Section 125.—The prescribed officer for the purpose of Section 125 of the Act shall, except in cases falling under Section 69 of the Act in which death has resulted, be the officer commanding the brigade or station in which the accused person is serving.

198. Prescribed officer under Section 142.—The prescribed officer for the purposes of sub-section (1) of Section 142 shall be the officer commanding the corps, department or detachment to which the person appears to have belonged or alleges that he belongs or had belonged.

199. Prescribed manner of custody and prescribed officer under Sections 145 and 146.—(1) The prescribed officer for the purposes of Section 146 shall be—

- (a) in the case of trial by summary court-martial, the Commanding Officer of the corps, department or detachment to which the accused person belongs, or any authority superior to the Commanding Officer,
- (b) in the case of trial by any other court-martial, the convening officer or any authority superior to him.

(2) Where an officer who proposes to act as a prescribed officer under sub-rule (8) is under the command of the officer who has taken action in the case under sub-section (4) of Section 145, he shall ordinarily obtain the approval of such officer before he acts; but if he is of opinion that military exigencies, or the necessities of discipline, render it impossible or inexpedient to obtain such approval, he may act without obtaining such approval but shall report his action and the reasons therefor to such officer.

(3) For the purposes of sub-section (4) of Section 145 the manner in which an accused person shall be kept in custody shall be as follows:

The accused shall be confined in such manner as may, in the opinion of the proper military authority, be best calculated to keep him securely without unnecessary harshness, as he is not to be considered as a criminal but as a person labouring under a disease.

200. Prescribed officer under Section 162.—The prescribed officer for the purposes of Section 162 shall, whenever any division or brigade is temporarily withdrawn from its territorial area, be the officer, not being below the rank of field officer, commanding the corresponding divisional or brigade area, within which the trial is held:

Provided that, when the officer who held the trial is himself the commander of such area, he shall forward the proceedings to superior authority.

When the trial is held on board a ship the prescribed officer shall be the officer commanding the troops on board the ship or the officer who would have had power to deal with the proceedings had the trial been held at the port of disembarkation:

Provided that, when the officer who held the trial is himself the officer commanding the troops on board the ship, he shall forward the proceedings to the authority at the port of disembarkation.

201. Prescribed officer under Section 164(2).—The prescribed officer for the purposes of sub-section (2) of Section 164 shall be any officer superior in command to the Commanding Officer and in the case of a summary court-martial, any officer superior in command to the officer who held the summary court-martial, provided that such superior officer has power not less than a brigade commander.

202. Prescribed officer under Section 165.—The prescribed officer for the purposes of Section 165 shall be the officer commanding an Army, Army corps, division or brigade in respect of proceedings confirmed by him or by a person under his command.

203. Prescribed officer under Section 169.—The prescribed officer under sub-section (1) of Section 169, for the purposes of directing whether the sentence shall be carried out by confinement in a civil prison or by confinement in a military prison, shall be, in the case of a sentence which has been confirmed, any higher authority than the confirming officer, and in the case of a sentence which does not require confirmation, any higher authority to the officer holding the trial.

204. Prescribed officer under Section 179.—The prescribed officer for the purposes of Section 179 shall be—

- (a) as regards persons undergoing sentence in a civil prison or any other place, the officer commanding the Army, Army corps, division, or independent

brigade within the area of whose command the prisoner subject to such punishment may for the time being be:

- (b) as regards persons convicted on active service, the officer commanding the forces in the field.

205. Authorised deductions.—The following deductions may be made from the pay, non-effective pay and all other emoluments payable to a person subject to the Act, namely—

- (a) upon the general or special order of the Central Government, any sum required to meet any public claim there may be against him, any regimental debt that may be due from him or any regimental claim;
- (b) any sum required to meet compulsory contributions to any provident fund or any benevolent or other fund approved by the Central Government.

Explanation.—(i) “Public claim” means any public debt or disallowance including any overissue; or a deficiency or irregular expenditure of public money or store of which, after due investigation, no explanation satisfactory to the Central Government is given by the person who is responsible for the same.

(ii) The aforesaid deductions shall be in addition to those specified in the Act.

APPENDICES TO THE ARMY RULES

Appendix I	Enrolment Forms.
Appendix II	Form of Charges.
Appendix III	Part I.—Forms as to courts-martial. Part II.—Forms as to summary disposal of charges against non-commissioned officers and other ranks. Part III.—Forms of summons to witnesses. Part IV.—Form of delay report.
Appendix IV	Part I.—Form as to summary disposal of charges against officers, junior commissioned officers and warrant officers. Part II.—Forms of warrants of commitment to prison in cases of sentences of transportation or imprisonment
Appendix V	Forms of warrants to commitment to prison in cases of sentence of death.

APPENDIX I ENROLMENT FORMS FORM NO. I COMBATANTS

The prescribed periods for which persons shall be enrolled are stated in the appropriate orders of the Central Government; and save as is hereinafter provided, no person shall, by reason of an error of his enrolment paper or otherwise, be compelled to serve for a period longer than that for which he should have been enrolled though he may do so voluntarily, provided his services are required.

No. Name..... Department
as a Combatant in the Corps

94[Category in which the person desires to be enrolled] (a).....

Question to be put before enrolment

You are warned that if after enrolment it is found that you have given a wilfully false answer to any of the following ⁹⁵[first ten] question, you will be liable to be punished as provided in the Army Act.

- | | | | |
|---------------------|--|-------|---|
| 1. | What is your name? (In BLOCK Capitals) | ..... | 1..... |
| 2. | What is your father's name? | ..... | 2..... |
| ⁹⁶ [3.] | (a) Are you a citizen of India? | ..... | 3.(a)
..... |
| | If so, whether by birth or descent or registration
or naturalisation or otherwise? | | |
| | (b) Where were you born? | ..... | (b)..... |
| | (c) Are you a subject of Nepal? | ..... | (c)..... |
| | (d) If not a citizen of India or subject of Nepal,
what is your nationality? | | (d)..... |
| 4. | (a) Are you married? | ..... | 4.(a)
..... |
| | (b) If so, have you more than one wife living? | ..... | (b)
..... |
| [5.] | What is your religion, class and sub-class? | ..... | ⁹⁷ [5]..... |
| ⁹⁸ [5-A. | What is your mother tongue? | ..... | .....] |
| ⁹⁹ [6.] | What is your Village, Post Office, Telegraph
Office, Thana, Pargana or Tehsil and District? | | ¹⁰⁰ [6]
.....
Village.....
Post Office.....
Telegraph Office
Thana.....
Pargana or Tehsil
District..... |

(a) Enter rank and Entry Rate of pay, e.g. "Boy", "Sepoy (Normal Entry Rate)", "Sepoy (Matric Entry Rate)".

Enrolment for army Service and Reserve Service

¹⁰¹[When you have served (f) (as a boy till you reach the age of seventeen years you will be transferred to the ranks as a man provided you have attained the specified standards and thereafter when you have served) for not less than]years in Army Service and, if required to do so, ¹⁰²[for a further period of.....years in the Reserve Service or till the attainment of.....years of age, whichever is earlier] you will be discharged with all convenient speed: provided that (1) in the event of your deserting, service between the date of desertion and that of apprehension or surrender shall not reckon as service towards discharge, (2) you will not be entitled to be discharged if war is imminent or existing, (3) you will not be entitled to be discharged

95. Subs. by S.R.O. 348, dated 3rd October, 1960.

96. Ins. by S.R.O. 348 dated 3rd October, 1960.

97. Renumbered by S.R.O. 348 dated 3rd October, 1960.

98. Ins. by S.R.O. 386, dated 2nd December, 1967.

99. Renumbered by S.R.O. 348 dated 3rd October, 1960.

100. Renumbered by S.R.O. 348 dated 3rd October, 1960.

101. Subs. by S.R.O. 111, dated 10th April, 1956.

102. Ins. by S.R.O. 386, dated 2nd December, 1967.

if you are in Army Service and the regiment, battalion, company, establishment or unit to which you belong is ten per cent, below strength.

Transfer to the Reserve shall be in the lowest rank and subject to the regulations for the Reserve you will be liable to be transferred thereto on completion of the aforesaid period of Army Service or of any period of extension of Army Service. If you are not then transferred to the Reserve and are not permitted to extend or further extend your period of Army Service you will be discharged subject to the conditions stated above.

If on completion of any period of Army Service you are a substantive non-commissioned officer you shall have the right to extend your Army Service for the total period of service for which you are liable under this enrolment, or, if permitted to do so, you may extend your Army Service by such specified period as may be fixed, if, on completion of the aforesaid period of Army Service or of any period of extension of Army Service you are not a substantive non-commissioned officer you will, if efficient and of good character, and not transferred to the Reserve, be permitted to extend your Army Service by such specified period as may be fixed.

If on the completion of the aforesaid total period of service you are in Army Service and continue to serve therein, you will, subject to the provisos stated above, be entitled to receive your discharge within three months from the date of applying for it. But you will be liable to be discharged on the completion of the aforesaid total period of service or at any time thereafter, ¹⁰³[by the Commanding Officer as defined in Army Rule 13, but if you are of the rank of havildar (or equivalent rank) and the Commanding Officer is below the rank of Lieutenant Colonel, then, by the Officer Commanding the Brigade, or higher authority].

Enrolment for Army Service only, transfer to the Reserve where such exists being voluntary

When you have served for.....years from this date you will be entitled to receive your discharge within three months from the date of applying for it unless war is imminent or existing or the squadron, battery, company, establishment or unit to which you belong is ten per cent, below strength, provided that, in the event of your deserting, service between the date of desertion and that of apprehension or surrender shall not reckon as service towards discharge, and when you have ¹⁰⁴[completed.....years service] reckoning towards discharge, or at any time thereafter you will, ¹⁰⁵[be liable to be discharged by the Commanding Officer as defined in Army Rule 13 but if you are of the rank of havildar (or equivalent rank) and the Commanding Officer is below the rank of Lieutenant Colonel, then, by the Officer Commanding the Brigade, or higher authority].

Enrolment direct into the Reserve

When you have served for.....years from this date or until you have attained the age ofyears whichever occurs first you will be discharged with all convenient speed provided that, (i) in the event of your deserting, service between the date of desertion and that of apprehension or surrender shall not reckon as service towards discharge, (ii) you will not be entitled to be discharged if war is imminent or existing, (iii) you will not be entitled to be discharged if you are in Army Service and the squadron, battery, company, establishment or unit to which you belong is ten per cent, below strength.

I,, do solemnly declare that the above answer made by me to the above questions are true, and that I am willing to fulfil the engagements made.

Signature of Recruit.

Signature of witness.

(Thumb-impression if recruit is unable to write).

Certificate of Enrolling Officer

The conditions of service for which he is now enrolled were read and explained to the above named person by me (or in my presence). After having cautioned him that if he made a false answer

103. Subs. by S.R.O. 116, dated 27th March, 1965.

104. Subs. by S.R.O. 111, dated 10th April, 1956.

105. Subs. by S.R.O. 116, dated 27th March, 1965.

to any of the above ¹⁰⁶[Question Nos. 1 to 10] he should be liable to be punished as provided in the Army Act. I put all the above questions to him and his answer to each question has been duly entered as replied to. I am satisfied that he fully understands all the questions put to him and consents to the conditions of service.

Signed at.....this.....day of.....20.....

Signature of Enrolling Officer

Attestation

Certified that the above name person took the prescribe ^{oath}-----before me at.....
affirmation

this.....day of.....20.....

Signature of Attesting Officer

Extension of Army Service in Lieu of Transfer to the Reserve

(1) For use when a person extends his Army Service for the whole period of his enrolment.

I agree to extend my Army Service for the whole period of my enrolment instead of being transferred to the Reserve.

Signature

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer

(2) For use when a person extends his Army Service for a limited period with liability to serve in the Reserve for the remainder of his period of enrolment.

I agree to extend my Army Service for.....years with liability to transfer to the Reserve until I have completed the total period of service for which I am liable under this enrolment.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

I agree to extend my Army Service for.....years with liability to transfer to the Reserve until I have completed the total period of service for which I am liable under this enrolment.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

I agree to extend my Army Service foryears with liability to transfer to the Reserve until I have completed the total period of service for which I am liable under this enrolment.

Signature

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

Note.—A person may extend his Army Service on this form as often as may be permitted until he is no longer liable to serve in the Reserve.

Transfer to the Reserve

The form which is not applicable is to be struck out.

(1) For use when the transfer is in accordance with the conditions of the person's enrolment.

(Name).....was transferred to the Reserve from (date).....

Strike out the He was not given the option of extending his Army Service.
line which is not or
applicable.

He was given the option of extending his Army Service, but elected not to exercise it.

106. Subs. by S.R.O. 116, dated 27th March, 1965.

Signed at.....this.....day of.....20.....

Signature of Commanding Officer.

(2) For use when a person is transferred with his own consent in accordance with the regulations for the time being in force of the Central Government.

I consent to the conditions as to discharge accepted by me on my enrolment being cancelled from the date of my transfer to the Reserve
----- and the following being substituted for them.
the expiry of the period of my enrolment

I will be entitled to receive my discharge at any time unless war is imminent or existing provided that, if I am discharged at my own request before having served two years in the Reserve exclusive of any portion of the period of my enrolment, I will, before being so discharged, refund the amount expended on my passage consequent on my transfer to the Reserve.

I am aware that I am liable to be discharged at any time, should Government no longer require my services.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

TRANSFER TO ARMY SERVICE FROM THE RESERVE

The set of conditions which is not applicable is to be struck out.

(1) For use when the person was originally enrolled for both Army Service and Reserve Service.

On being transferred to Army Service at my own request for a period of.....years I declare that I understand that all conditions accepted by me on my enrolment are still applicable, so far as they can be applied, and that subject to any right I may have of extending this period of Army Service, I am liable on completion thereof or of any period of extension thereof, to be transferred to the Reserve for the remainder, if any, of the total period of my enrolment; but have no right to be so retransferred, and am liable to be discharged at any time should Government no longer require my services.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(2) For use when the person was originally enrolled for Army Service only or direct into the Reserve for a corps for which Reserve Service is not compulsory.

On being transferred to Army Service from the Reserve, I consent to the conditions as to discharge
accepted by me on my-----the Reserve being cancelled and the following being
transfer to
enrolment to

substituted for them:

When I have served.....years from this date, I will be entitled to receive my discharge with three months from the date of applying for it unless war is imminent or existing, or the squadron, battery, company, establishment, or unit to which I belong is ten per cent, below strength, provided that, in the event of my deserting, service between the date of desertion and that of apprehension or surrender, shall not reckon as service towards discharge.

I am aware that I am liable to be discharged at any time, should Government no longer require my services.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(3) For use when the person was enrolled direct into the Reserve for a Corps for which Reserve Service is compulsory.

On being transferred to Army Service at my own request I consent to the conditions as to discharge accepted by me on my enrolment into the Reserve being cancelled and to the conditions

contained in this enrolment form for persons enrolled for Army Service and Reserve Service being substituted for them; my period of service to be for not less than.....years in Army Service and, if so required, for a further period in Reserve Service sufficient to complete a total period of.....years' service from this date.

I am aware that I am liable to be discharged at any time, should Government no longer require my services.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

Variation of Conditions as to Discharge

(This verification may be repeated, if necessary)

For use when a person—

- (1) agrees to extend or vary his period of service for such period as may be authorised by the regulations for the time being in force of the Central Government; or
- (2) is transferred with his own consent to a class, arm or branch having a period of service different from that in which he was enrolled; or
- (3) on commencing with his own consent, training in special duties, agrees to serve for the period required by the regulations for the time being in force of the Central Government from persons trained in such specified duties.

I agree to serve in Crops until I shall have completed before being entitled to my discharge.
Department

Strike out the conditions which are not applicable.

- (1) I am aware that all other conditions as to discharge previously accepted by me hold good and also that I am liable to be discharged at any time should Government no longer require my service.
- (2) I agree to all other conditions of service as enumerated under the heading "Enrolment for Army and Reserve Service".
- (3) I agree to all other conditions of service as enumerated under the heading "Enrolment for Army Service only, transfer to the Reserve where such exists being voluntary".

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

VARIATION OF CONDITIONS AS TO DISCHARGE ¹⁰⁷[IN] SPECIAL CASES

1. I agree to serve in the.....Corps/Department for not less thanyears in Army Service reckoned from the date of my enrolment and, if required to do so, for a further period in Reserve Service sufficient to complete a total period of.....years' service before being entitled to my discharge with all convenient speed; provided that (i) in the event of my deserting, service between the date of my desertion and that of apprehension or surrender, shall not reckon as service towards discharge, (ii) I will not be entitled to be discharged if war is imminent or existing, and (iii) I will not be entitled to be discharged if I am in Army Service and the unit or establishment to which I belong is ten per cent, below strength.

2. I am aware that transfer to the Reserve shall be in the lowest rank and subject to the regulations for the Reserve I will be liable to be transferred thereto on completion of the aforesaid period of Army Service or of any period of extension of army Service, but that if I am not then transferred to

107. Subs. by S.R.O. 111, dated 10th April, 1956.

the Reserve and am not permitted to extend or further extend my period of Army Service I will be discharged subject to the conditions stated above.

3. If on completion of aforesaid period of Army Service I am a substantive non-commissioned officer I shall have the right to extend my Army Service for the total period of service for which I am liable under this enrolment or if permitted to do so, I may extend my Army Service by such specified period as may be fixed. If, on completion of the aforesaid period of Army Service or of any period of extension of Army Service, I am not a substantive non-commissioned officer I will, if efficient and of good character and not transferred to the Reserve, be permitted to extend my Army Service by such specified period as may be fixed.

4. If, on the completion of the aforesaid total period of service I am in Army Service and continue to serve therein, I will, subject to the provisos stated above, be entitled to receive my discharge within three months from the date of applying for it. I realise, however, that I will be liable to be discharged on the completion of the aforesaid total period of service or at any time thereafter, by the competent authority, that is to say, if I am of the rank of havildar (or equivalent rank) by the officer Commanding the Brigade or equivalent formation (or higher authority), or if I am of a rank below that of havildar or equivalent rank, by the commanding officer as defined in Army Rules 13 (or higher authority).

Signature.

(Thumb-impression if the man is unable to write.)

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

Notes 1.—In the case of persons not required to accept liability for transfer to the Reserve the portion in italics in Para 1 and the whole of Paras 2 and 3 will be deleted as being inapplicable. Deletions will be signed by the C.O.

2. The italicised portion in Para 2 will be deleted in the case of men required for arms/services the reserve of which includes N.C.Os. Deletion will be signed by the CO.

DESCRIPTION ON ENROLMENT

(See instruction below)

(to be completed by ¹⁰⁸[Enrolling Officer])(a)

*Date of birth.....

Apparent age.....years

Height.....feet.....inches

Weight.....
pounds.

Chest measurement

{ Minimum.....inches } (b)
Maximum.....inches

(a) To be completed by the Medical Officer of the unit in the case of a recruit enrolled at unit headquarters.

(b) The measuring tape should be applied evenly but not lightly, its upper edge touching the lower border of the shoulder blades, and its lower edge passing just over the nipples, the arms hanging by the sides, the minimum measurement will be taken after the breath has been expelled from the chest and the maximum, when the chest is fully expanded. There should be a difference of at least two inches between the minimum and maximum measurements."

* Should tally with the date of birth/age given in one of the certificates specified in Government orders. If an individual is not in possession of any of these certificates, the apparent age shall be assessed by the Enrolling Officer in consultation with the Medical Officer. In such cases a certificate of age as given below shall be obtained from the individual.

Certificate of Age.—I certify that I am not in possession of any documentary evidence regarding my age or date of birth. I further certify that I am aware that my age as assessed by the Enrolling Officer

is.....years as on the date of enrolment and my date of birth as calculated from the assessed age under the rule is.....day of.....of the year Nineteen hundred.....

Signature of Recruit.

(Thumb-impression, if recruit is unable to write.)

(To be completed by Medical Officer)

I Consider him ^{fit #Category} _____
unfit for the Army

Identification marks

or cause of unfitness

Date.....

Place.....

Medical Officer.

Instructions

1. The "Corps" for purposes of enrolment and "corps" in which a recruit is enrolled will be shown, as laid down in Rule 187(1), Army Rules.

2. Previous to the medical inspection of a recruit of his rejection by the ¹⁰⁹[Enrolling Officer] his name, date of birth, age, height and chest measurements, together with the name of the Corps in which he desires to be enrolled and the answers to Questions 1 to 2 should be entered on the form. Subsequent to the medical inspection ¹¹⁰[Question 1 to 16] with the warning as to the penalty for making a false answer to certain of them, must be put to the recruit and his answers checked or recorded before his final approval and enrolment.

3. The form will be forwarded by the ¹¹¹[Enrolling Officer] to the Officer Commanding the Corps of the recruit concerned, immediately on enrolment. After the necessary entries have been transcribed in the sheet roll of the soldier it will be attached to the sheet roll as a permanent record.

4. This is a basic document and every care must be taken in its completion: implications of ¹¹²[Question 8, 9 and 11] will be fully explained to a recruit and he will be warned that the choice made by him with regard to ¹¹³[Question No. 11] will be final.

5. When a recruit arrives in a training centre the Commander concerned will ensure after interrogating him that the answer recorded against ¹¹⁴[Question 9 and 11] of his enrolment form are in order. Where these answers are not in order, and conditions 2 and 3 of Rule 213, Pension Regulations, Part II, are not fulfilled, the Commander will take immediate steps to obtain, in deserving cases, the orders of the Government of India for the relaxation of these conditions.

FORM NO. II

ALL NON-COMBATANTS, INCLUDING FOLLOWERS

The prescribed periods for which person shall be enrolled are stated in the appropriate orders of the Central Government; and save as is hereinafter provided no person shall, by reason of an error in his enrolment paper or otherwise, be compelled to serve for a period longer than that for which he should have been enrolled though he may do so voluntarily, provided his services are required.

Enrolment of

No.Name.....

As a Non-Combatant in the.....Corps

Category in which the person desires to be enrolled

109. Subs. by S.R.O. 111, dated 10th April, 1956.

110. Subs. by S.R.O. 348, dated 3rd October, 1960.

111. Subs. by S.R.O. 111, dated 10th April, 1956.

112. Subs. by S.R.O. 348, dated 3rd October, 1960.

113. Subs. by S.R.O. 111, dated 10th April, 1956.

114. Subs. by S.R.O. 111, dated 10th April, 1956.

(a).....

Question to be put before enrolment

You are warned that if after enrolment it is found that you have given a wilfully false answer to any of the ¹¹⁵[first ten] out of the following questions, you will be liable to be punished as provided in the Army Act.

- | | | | |
|-----------------------|--|-------|-------------------------|
| 1. | What is your name? (In BLOCK Capitals) | ..... | 1..... |
| 2. | What is your father's name? | ..... | 2..... |
| ¹¹⁶ [3.] | (a) Are you a citizen of India? | ..... | 3.(a)..... |
| | If so, whether by birth or descent or registration or naturalisation or otherwise? | ..... | ..... |
| | (b) Where were you born? | ..... | (b)..... |
| | (c) Are you a subject of Nepal? | ..... | (c)..... |
| | (d) If not a citizen of India or subject of Nepal, what is your nationality? | ..... | (d)..... |
| 4. | (a) Are you married? | ..... | 4.(a)..... |
| | (b) If so, have you more than one wife living? | ..... | (b)..... |
| [5.] | What is your religion, class and sub-class? | ..... | ¹¹⁷ [5]..... |
| ¹¹⁸ [5-A.] | What is your mother tongue? | ..... | .....] |
| ¹¹⁹ [6.] | What is your Village, Post Office, Telegraph Office, Thana, Pargana or Tehsil and District? | ..... | ¹²⁰ [6]..... |
| | | | Village..... |
| | | | Post Office..... |
| | | | Telegraph Office..... |
| | | | Thana..... |
| | | | Pargana or Tehsil..... |
| | | | District..... |
| ¹²¹ [7.] | Have you ever been imprisoned by the Civil power? | ..... | ¹²² [7]..... |
| ¹²³ [8.] | Do you now belong to the Indian Armed Forces, the Reserve, the Territorial army the Nepalese Army or to any Police Force? | ..... | ¹²⁴ [8]..... |
| ¹²⁵ [9.] | Have you ever served in the Indian Armed Forces, the Reserve, the Territorial Army, the Forces of any State, the Nepalese Army, the British Gorkha Brigade or in any Police Force? | ..... | ¹²⁶ [9]..... |
| | | | |
| | | | |

115. Subs. by S.R.O. 348, dated 3rd October, 1960.

116. Ins. by S.R.O. 348 dated 3rd October, 1960.

117. Renumbered by S.R.O. 348 dated 3rd October, 1960.

118. Ins. by S.R.O. 386, dated 2nd December, 1967.

119. Renumbered by S.R.O. 348 dated 3rd October, 1960.

120. Renumbered by S.R.O. 348 dated 3rd October, 1960.

121. Renumbered by S.R.O. 348 dated 3rd October, 1960.

122. Renumbered by S.R.O. 348 dated 3rd October, 1960.

123. Renumbered by S.R.O. 348 dated 3rd October, 1960.

124. Renumbered by S.R.O. 348 dated 3rd October, 1960.

125. Renumbered by S.R.O. 348 dated 3rd October, 1960.

126. Renumbered by S.R.O. 348 dated 3rd October, 1960.

If so, state in which and the cause or discharge? (b)

- 127 [10.] Are you in receipt of any allowance from Government?
 If so, on what account? 128 [10].....
- 129 [11.] Do you desire your former service in the Indian Armed Forces to
 reckon towards colour service, pension/gratuity, increments of pay
 and good service pay, if such i.e. admissible and agree to recovery
 being effected of any gratuity you may have received on or since
 discharge in not more than 36 monthly installments from your pay
 commencing from the date of re-enrolment 1(c)
- 131 [12.] Are you willing to be enrolled in the (d)? 132 [12].....
- 133 [13.] Are you willing to be enrolled in the above corps as a wet and dry
 sweeper? (dd) 134 [13].....
- 135 [14.] Are you willing to go wherever ordered by land, sea or air and not to
 allow any caste usage to interfere with the duties for which you are
 enrolled? (If the enrolment is under any special order of the Central
 Government for local service, the locality will be indicated in the
 question after the word "ordered", e.g. in INDIA.) 136 [14].....
- 137 [15.] Are you willing to be vaccinated or re-vaccinated? 138 [15].....
- 139 [16.] Are you aware that, during your service you are not permitted to
 belong to, or to subscribe in aid of any political association or
 movement? 140 [16].....
- 141 [17.] Are you willing to serve until discharge in accordance with the
 following conditions provided Government shall so long require you
 service?(e) 142 [17].....

(a) Enter category in which enrolled (e.g. water-carrier, sweeper, barber, washerman, etc.)

(b) If so, the recruit should be asked to produce his discharge certificate.

(c) To be omitted in cases where no former service is declared in answer to Question 9 and in cases in which, under the special orders of the Central Government, former service may be reckoned for these purposes without refund of gratuity.

(d) Enter corps in which enrolled.

(dd) To be struck out in the case of persons other than those enrolled as sweepers.

(e) The appropriate period of service will be entered in the set of conditions.

- 127. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 128. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 129. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 130. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 131. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 132. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 133. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 134. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 135. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 136. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 137. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 138. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 139. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 140. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 141. Remembered by S.R.O. 348 dated 3rd October, 1960.
- 142. Remembered by S.R.O. 348 dated 3rd October, 1960.

Enrolment for Army Service only

When you have served for.....years from this date you will be entitled to receive your discharge within three months from the date of applying for it unless war is imminent or existing or the squadron, battery, company, section, unit or establishment is ten per cent, below strength, provided that in the event of your deserting, service between the date of desertion and that of apprehension or surrender, shall not reckon as service towards discharge and when you have completed.....years' service reckoning towards discharge, or at any time thereafter you will be liable to be discharged by order of the Commanding Officer as defined in Army Rule 13, without reference to higher authority.

I,, do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfill the engagements made.

Signature of Recruit.
(Thumb-impression, if recruit is unable to write)

Signature of witness.

CERTIFICATE OF ENROLLING OFFICER

The conditions of service for which he is now enrolled were read and explained to the above named person by me (or in my presence). After having cautioned him that if he made a false answer to any of the above ¹⁴³[Question Nos. 1 to 10], he would be liable to be punished as provided in the Army Act, I put all the above questions to him and his answer to each question has been duly entered as replied to. I am satisfied that he fully understands all the questions put to him and consents to the conditions of service.

Signed at.....this.....day of.....20.....

Signature of Enrolling Officer.

Attestation

(To be completed if the enrolled person is attested)

Certified that the above named person took the prescribe oath before me
affirmation at.....

this.....day of.....20.....

Signature of Attesting Officer.

Extension of Army Service

(1) I agree to extend my Army service a period of.....years.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(2) I agree to extend my Army service of a period of.....years.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(3) I agree to extend my Army service of a period of.....years.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(4) I agree to extend my Army service a period of.....years.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(5) I agree to extend my Army service a period of.....years.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

(6) I agree to extend my Army service a period of.....years.

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

VARIATION OF CONDITIONS AS TO DISCHARGE

(This variation may be repeated, if necessary)

For use when a person—

- (1) agrees to extend or vary his period of service for such period as may be authorised by the regulations for the time being in force of the Central Government; or
- (2) is transferred with his own consent in a class of section having a period of service different from that in which he was enrolled; or
- (3) on commencing with his own consent, training in special duties, agrees to serve for the period required by the regulations for the time being in force of the Central Government from persons trained in such special duties.

I agree to serve in.....Corps for.....until I shall have completed before being entitled to my discharge.

Strike out the conditions which are not applicable.

- (1) I am aware that all other conditions as to discharge previously accepted by me hold good and also that I am liable to be discharged at any time should Government no longer require my service.
- (2) I agree to all other conditions of service as enumerated under the heading "Enrolments for Army Service only".

Signature.

Signed in my presence at.....this.....day of.....20.....

Signature of Commanding Officer.

DESCRIPTION ON ENROLMENT

(See Instructions Mow)

(To be completed by Enrolling Officer) (a)

*Date of birth.....

Apparent age.....years

Height.....feet.....inches.

Weight.....pounds.

Chest measurement

{ Minimum.....inches }
{ Maximum.....inches } (b)

(To be completed by Medical Officer)

fit to carry out the work

I consider him physically-----for which he is intended for service in any part

unfit for the Army

of the world.

Identification marks.

or

Cause of unfitness

Date.....

Place.....

Medical Officer.

(a) To be completed by the Medical Officer of the unit in the case of a recruit enrolled at unit headquarters.

(b) The measuring tape should be applied evenly but not lightly, its upper edge touching the lower border of the shoulder blades, and its lower edge passing just over the nipples, the arms hanging by the sides. The minimum measurement will be taken after the breath has been expelled from the chest and maximum, when the chest is fully expanded. There should be a difference of at least two inches between the minimum and maximum measurements.

* Should tally with the date of birth/age given in one of the certificates specified in Government orders. If an individual is not in possession of any of these certificates, the apparent age shall be assessed by the Enrolling Officer in consultation with the Medical Officer. In such cases a certificate of age as given below shall be obtained from the individual: **CERTIFICATE OF AGE.**—I certify that I am not in possession of any documentary evidence regarding my age or date of birth. I further certify that I am aware that my age as assessed by the Enrolling Officer is.....years as on the date of enrolment and my date of birth as calculated from the assessed age under the rules is.....day of.....of the year Nineteen hundred and.....

Signature of Recruit.

[Thumb-impression, (if recruit is unable to write).]

**FOR USE ON MOBILISATION ONLY IN THE CASE OF DIRECT ENROLMENT
OF MEN NOT REQUIRING PREVIOUS TRAINING**

Rate of pay for which enrolled Rsper mensem.

Instructions

1. The "Corps" for purposes of enrolment and "Corps" in which a recruit is enrolled will be shown, as laid down in Rule 187(1), Army Rules.

2. Previous to the medical inspection of a recruit or his rejection by the enrolling officer his name, date of birth, age, height and chest measurements, together with the name of the Corps in which he desires to be enrolled and the answers to Questions 1 and 2 should be entered on the form. Subsequent to the medical inspection ¹⁴⁴[Question 1 to 17] with the warning as to the penalty for making a false answer to certain of them, must be put to the recruit and his answers checked or recorded before his final approval and enrolment.

3. The form will be forwarded by the Enrolling Officer to the Officer Commanding the Corps of the recruit concerned, immediately on enrolment. After the necessary entries have been transcribed in the sheet roll the soldier it will be attached to the sheet roll as a permanent record.

4. This is a basic document and every care must be taken in its completion. Implications of ¹⁴⁵[Question 8, 9 and 11] will be fully explained to a recruit and he will be warned that the choice made by him with regard to ¹⁴⁶[Question No. 11] will be final.

5. When a recruit arrives in a training centre the Commander concerned will ensure after interrogating him that the answers recorded against ¹⁴⁷[Question 9 and 11] of his Enrolment Form are in order. Where these answers are not in order, and conditions 2 and 3 of Rule 213, Pension Regulations, Part II, are not fulfilled, the Commander will take immediate steps to obtain, in deserving cases, the orders of the Government of India for the relaxation of these conditions.

144. Subs. by S.R.O. 348, dated 3rd October, 1960.

145. Subs. by S.R.O. 348, dated 3rd October, 1960.

146. Subs. by S.R.O. 348, dated 3rd October, 1960.

147. Subs. by S.R.O. 348, dated 3rd October, 1960.

APPENDIX II
FORMS OF CHARGES

PART I

COMMENCEMENT OF CHARGE-SHEET

(Description of the accused)

(Refer to Army Rule 29)

1. The accused, Number....., Rank....., Name....., Unit....., is charged with—
2. The accused, Number....., Rank....., Name....., Unit....., an officer holding a permanent (or short service or temporary.....) commission in the regular Army, is charged with—
3. The accused, Number....., Rank....., Name....., Unit....., attached to(unit), is charged with—
4. The accused, Number....., Rank (Reservist)....., Name....., Unit....., is charged with—
5. The accused, Number....., Rank....., Name....., Unit....., a person enrolled in the Territorial Army and called out to provide essential guards, (or embodied....., or when attached to.....), is charged with—
6. The accused, Number....., Rank (or appointment or grade)....., Name....., Unit....., a person subject to the Army Act as an Officer (or Junior Commissioned Officer or Warrant Officer or Non-Commissioned Officer or a Sepoy) under Section 4(1) thereof read with S.R.O.....dated, is charged with—
7. The accused, Name Shri....., Unit....., a person subject to the Army Act as an Officer (or Junior Commissioned Officer or Warrant Officer or Non-Commissioned Officer or Sepoy) under Section 2(1)(i) read with section thereof, is charged with—
8. The accused, Name....., formerly Number, Rank....., Name, Unit, now attached to (unit), and liable to trial by court martial under Section 123 of the Army Act, is charged with—

PART II

ILLUSTRATION OF CHARGE-SHEET

Note—The following is an illustration of a complete charge-sheet, as it would be placed before a district court-martial for the trial of a Sepoy charged with two offences:

Charge-sheet

The accused, No. 12345678 Sepoy (P/A/Naik) Prem Chand, 1st battalion. The Punjab Regiment attached 2nd Battalion. The Dogra Regiment, is charged with—

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER
in that he,

First Charge Army Act Section 41(2)	at Allahabad on 28th Jan. 1977, when ordered by IC 23456 Subedar Vijay Chand of 1st Battalion, The Punjab Regiment to turn out for Commanding Officer's parade, did not do so.
-------------------------------------	--

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he,

Second Charge Army Act Section 41(2)	at the place and date aforesaid, when arrested by IC-23456 Subedar Vijay Chand of 1st Battalion, The punjab Regiment, said to him, "You know only how to arrest a Sepoy, You are good for nothing", or words to that effect.
--------------------------------------	--

Place: Allahabad

Date: 30th Jan., 1977

+To be tried by a District Court Martial.

(Sd.) Veer Pratap Lt. Col.
Commanding

2nd Battalion The Dogra Regiment

(Sd.) Dayanand Brigadier
Commanding Allahabad Sub-Area
(or Staff Officer, who should sign
"for" Commander Allahabad Sub-
Area).

Place: Allahabad

Date: 1 February, 1977

+ When sanction is accorded for the trial of an offence by a Summary Court Martial vide Army Act, Section 120(2), a similar endorsement should be made on the charge-sheet.

Note.—The accused will be described by his substantive rank and his acting rank or appointment, if any, may be stated in bracket e.g. Capt. (A/Major), Sep. (L./Nk).

PART III

STATEMENT OF OFFENCES

Offences in relation to the enemy and punishable with death

(Section 34)

(e) Shamefully	Abandoning a	garrison fortress post place guard	commit to his charge which it was his duty to defend	Committed to
his Using means to	delivering up a	shamefully to	abandon a	charge which it was his duty to defend.
	compel	a commanding officer	deliver up a	
	induce	a person		
(b) Intentionally using means to	compel	a person subject to	law	to abstain from acting against the enemy.
	induce	a person subject to	law	from acting against the enemy.
	discourage	casting away his	ammunition tools equipment	
(c) In the presence of the enemy shamefully	misbehaving in such manner as to show cowardice.	holding correspondence with communicating intelligence to		
(d) Treacherously		the enemy. a person in arms against the Union		

(e) Directly or indirectly assisting the enemy with.

money.
arms.
ammunition
stores.
supplies.

(f) Treacherously Through cowardice

(g) In time of war

sending a flag of truce to the enemy.
intentionally occasioning a false alarm in
spreading reports calculated to create

action.
camp.
garrison.
quarters.
alarm.
despondency.

During a military operation

(h) In time of action leaving his

Commanding officer
post
guard
picquet
patrol
party
serving with
aiding party
an enemy not being a
prisoner.
war
alarm

without being regularly relieved.
without leave.
the enemy.

(i) Having been made a prisoner of war, voluntarily

(j) Knowingly
harbouring
protecting

(k) When a sentry, in time of

sleeping upon his post
being intoxicated

(l) Knowingly doing an act calculated to imperil the success of the

military
naval
air
forces cooperating with
part of forces
cooperating with.

forces of India
military
naval
air

forces of India

Offences in relation to the enemy and not punishable with death
(Section 35)

- (a) Being taken prisoner
 } by want of due precaution
 } through disobedience of
 } orders, through wilful neglect
 } of duty
- Having been taken prisoner failing to rejoin his service when able to do so.
- (b) Without due authority
 } holding correspondence with
 } communicating intelligence to
 } the enemy.
 } the enemy.
- Having come by the knowledge of a
 } communication of
 } intelligence to
 } the enemy.
 } the enemy.
 } Wilfully omitting
 } to discover it
 } immediately to his
 } commanding officer.
 } supervisor officer.
- (c) Without due authority sending a flag
 of trace to the enemy

Offences punishable more severely on active service than at other times
(Section 36)

- (a) Forcing a safeguard
 Forcing
 Using criminal force to
- (b) Breaking into a
 } (house)
 } (other place)
 } sleeping upon his post
 } being intoxicated
- (c) When a sentry
 } guard
 } picket
 } patrol
 } post
 } without
 } orders from his
 } superior
 } officer.
 } camp.
 } garrison.
 } quarters.
- (d) Leaving his
 } occasioning a false alarm
- (e) Intentionally
 Through neglect

<p>Spreading reports calculated to create unnecessary</p>	<p>alarm despondency</p>	<p>to a person not entitled to receive it.</p>	<p>forces of India</p>
<p>(f) Making known the</p>	<p>parole watchword countersign</p>	<p>different from what he received.</p>	<p>forces of India</p>
<p>Knowingly giving a</p>	<p>Parole watchword countersign</p>	<p>received.</p>	<p>forces of India</p>
<p>(a) Beginning inciting Causing Conspiring with other persons to cause</p>	<p>a mutiny in the</p>	<p>Mutiny (Section 37) Military naval air</p>	<p>forces of India</p>
<p>(b) joining in a mutiny in the</p>	<p>military naval air forces cooperating with the</p>	<p>forces co-operating with the forces of India.</p>	<p>military naval air forces of India</p>
<p>(c) Being present at a mutiny in the</p>	<p>military naval air forces cooperating with</p>	<p>not using his utmost endeavours to suppress the same.</p>	<p>forces of India.</p>

(d) Knowing
 Having
 reason to
 believe in

the existence of

a mutiny in the an
 intention to mutiny
 in the
 a conspiracy to
 cause a mutiny
 in the

military
 naval
 air forces
 cooperating
 with the

forces of India.
 military
 naval
 air

forces of
 India.

not giving information
 thereof without delay to
 his commanding or other
 superior officer.

(e) Endeavouring to
 seduce a
 person in the

military
 naval
 air

forces of India
 from his

duty
 allegiance

to the Union.

Desertion and aiding desertion
 (Section 38)

- (1) Deserving the service
 Attending to desert the service.
- (2) Harboring a person, subject to the Army Act knowing him to be a deserter.

(3) Being cognizant of

the desertion
 attempt at
 desertion

of a person subject to
 the Army Act not

Giving notice forthwith to his own or other superior
 officer taking forthwith any steps in his power to
 cause such person to be apprehended.

Absence without leave
 (Section 39)

(a) Absenting himself without leave.
 (b) Without sufficient cause
 overstaying leave granted to him.
 (c) being on leave of absence
 and having received information
 from proper authority that the

corps
 portion of a
 corps
 department

to which he belongs has been ordered on active service failing without sufficient cause to
 rejoin without delay.

(d) without sufficient cause failing
 to appear at the time fixed at the

appointed
 for

exercise
 duty.

(e) Quitting

} parade
the line of
march

} without sufficient cause
without leave from his superior of

(f) When in camp
When in garrison
when in (elsewhere)

} being found

} beyond the limits
fixed by } a general
in a place prohibited by } a local
(other)

} order without pass.
or written leave from his
superior officer.

(g) without leave from his superior
officer without due cause.

} absented himself from a school when duly ordered to attend there.

Striking or threatening superior officers
(Section 40)

(a) Using criminal force
to assaulting } his superior officer.

(b) Using threatening language to his superior officer.

(c) Using insubordinate language to his superior officer.

Disobedience to superior officer
(Section 41)

(1) Disobeying in such manner as to show a wilful defiance of authority a lawful command given [personally by his superior officer in the] execution of his office.

(2) Disobeying a lawful command given by his superior officer.

Insubordination and obstruction
(Section 42)

} quare
affray
disorder

} refusing to obey
using criminal force to
assaulting

} an officer who ordered him into
arrest.

(b) Using criminal force to assaulting

} a person in whose custody he was lawfully placed.

(c) Resisting an escort whose duty it was

} to apprehend him.

} to have him in charge.

(d) Breaking out of

} barracks
camp.
quarters.

- (e) Neglecting to obey
 - general } order.
 - local }
 - (other) }
 - (f) When called upon refusing to assist
 - the provost-marshal } in the execution of his duty.
 - a person lawfully acting on behalf } of the provost-marshal }
 - provisions } to the force.
 - supplies }
 - (g) Using criminal force to assist
 - a person bringing }
 - the same } crops } forces of India.
 - another a } department }
 - part of the } naval }
 - Territorial Army } air }
 - the crops } to which he belongs.
 - the department } forces of India.
 - another corps }
 - another department. } naval }
 - a part of the } air }
 - Territorial Army }
- Fraudulent enrolment*
(Section 43)
- (e) Without having obtained a regular discharge from his
 - crops } enrolling himself in entering }
 - department }
 - Without having fulfilled the conditions enabling him to
 - enroll } enrolling himself in entering }
 - enter }
 - (f) Being concerned in the enrolment in any part of the Forces of a person when
 - knowing } such person to be so circumstanced that by enrolling he would commit an offence against the Army Act.
 - having reason } to believe }

Falsis answers on enrolment
(Section 44)

Making at the time of enrolment wilfully false answer to a question set forth in the prescribed form of enrolment which was put to him by the enrolling officer before whom he appeared for the purpose of being enrolled.

Being	} an officer } a junior } commissioned officer } a warrant officer	<i>Unbecoming conduct</i> (Section 45)	} behaving in a manner unbecoming his position and the character expected of him.
(e) Disgraceful conduct of	} a cruel } an indecent } an unnatural } disease } infirmity } delaying his cure } aggravating his } himself a person	<i>Certain forms of disgraceful conduct</i> (Section 46)	} kind. } in } himself.
(b) Malingering Feigning Producing Intentionally	} disease } infirmity } with intent to } tender	} disease } infirmity } with intent to } tender	} himself } that person } unfit for service.
(c) Voluntarily causing hurt to	} a person subject to } the Army Act being } his subordinate in	<i>Ill-treating as subordinate</i> (Section 47)	} rank. } position.
Using criminal force to Ill-treating	} guard } picket } patrol } post	<i>Intoxication</i> (Section 48) <i>Intoxication</i> <i>Permitting escape of person in custody</i> (Section 49)	} wilfully } without reasonable } excuse } refusing to receive } releasing without proper authority a person committed } to his charge. } prisoner } person } committed to his charge.
(a) When in command			

<p>(b) Willfully without reasonable excuse</p>	<p>allowing to escape a person</p>	<p>committed to his charge whom it was his duty to keep guard</p>	<p>Irregularity in connection with arrest or confinement (Section 50)</p>
<p>(a) Unnecessarily detaining a person in Unnecessarily failing to bring the case of a person in</p>	<p>arrest confinement</p>	<p>without bringing him to trial.</p>	<p>before the proper authority for investigation.</p>
<p>(b) Having committed a person to military custody failing without reasonable cause to deliver</p>	<p>at the time of committal as soon as practicable within forty-eight hours after such committal</p>	<p>Officer Person</p>	<p>into whose custody the person arrested was committed, an account in writing signed by himself of the offence with which the person so committed was discharged.</p>
<p>Escape from custody (Section 51)</p>			
<p>When in lawful custody</p>	<p>Escaping attempting to escape.</p>		
<p>(a) Committing theft of property belonging to</p>	<p>the Government a military a naval an air force a person subject to misappropriating converting to his own use</p>	<p>military naval air force</p>	<p>law</p>
<p>(b) Dishonesty</p>	<p>property belonging to</p>	<p>the Government a military a naval an air force a person subject to</p>	<p>mess band institution military naval air force law</p>
<p>Offences in respect of property (Section 52)</p>			

(c) Committing criminal breach of trust in respect of property belonging to

the Government
a military
an air force
a person
subject to

mess
band
institution
military
naval
air force

law

(d) Dishonesty } Receiving
 } retaining

the Government
a military
a naval
an air force
a person subject to

mess
band
institution
military
naval
air force

Knowing
having
reason
to
believe
knowing
having
reason to
believe

that theft
had been
committed
in respect of
the same
the same
to have been
dishonestly
that criminal breach
of trust had been
committed in respect
of the same

misappropriated
converted to
his own use

by a person
subject to
the Army
Act.

(e) Wilfully

destroying
injuring
with intent to

(f) Such an offence as is mentioned
in clause (f) of Section 52 of the
Army Act.

property of the government entrusted to him.

deftraud cause
wrongful gain to
a person cause
wrongful loss to
a person.



<p>(a) Wilfully Without reasonable Excuse</p>	<p>destroying injuring</p>	<p><i>Injury to property</i> (Section 55)</p> <p>arms ammunition equipments instruments tools clothing a thing property belonging to</p>	<p>the property of the Government</p>	<p>assigned to him for his use entrusted to him</p>
<p>(b) Wilfully without reasonable excuse</p> <p>(c) Wilfully without reasonable excuse</p>	<p>Committing an act causing killing injuring making away with ill-treating losing</p>	<p>a military a naval an air force a person subject to a person a serving with a person attached to</p>	<p>mess band institution military naval Air force</p>	<p>the regular Army Property of the Government by law</p>
		<p>Damage to destruction of an animal entrusted to him</p>		

<p>(a) Making a false accusation against a person subject to the Army act</p> <p>(b) In making a complaint</p> <p>Under Section 26 of the Army Act</p> <p>under Section 27 of the Army Act</p>	<p><i>False accusations</i> (Section 56)</p>	<p>Knowing having reason to believe making a statement affecting the character of a person subject to the Army Act</p>	<p>such accusation to false knowing having reason to believe</p>
		<p>Knowingly and willfully suppressing</p>	<p>A material fact</p>
<p><i>Falsifying official documents and false declaration</i> (Section 57)</p>			
<p>(a) In a</p> <p>report</p> <p>return</p> <p>list</p> <p>certificate</p> <p>book</p> <p>(other document)</p>	<p>(Section 57)</p>	<p>made by him signed by him of the contents of which it was his duty to ascertain the accuracy</p>	<p>knowingly making being privy to the making of</p> <p>a false statement.</p> <p>a fraudulent statement</p>
<p>(b) In a</p> <p>report</p> <p>return</p> <p>list</p> <p>certificate</p> <p>book</p> <p>(other document)</p>		<p>made by him signed by him of the contents of which it was his duty to ascertain the accuracy</p>	<p>knowingly making being privy to the making of</p> <p>an omission with intent to defraud.</p>
<p>(c) Knowingly and with intent to</p> <p>injure a person</p> <p>defraud</p>		<p>suppressing defacing altering making away with</p>	<p>a document which it was his duty to preserve.</p> <p>produce</p>

(d) where it was his official duty to make a declaration respecting a matter knowingly making a false declaration.
 (e) Obtaining
 } for himself
 } for a person
 } a pension
 } an allowance
 } an advantage
 } a privilege
 } by a false statement
 } which he
 } by making a false
 } entry in a
 } by using a false
 } entry in a
 } book record
 } knew
 } believed did not
 } believe to be
 } true
 } To be false
 } by making a document containing a false statement.
 } By omitting to make a true entry or a document containing
 } a true statement.

Signing in blank and failure to report
 (Section 58)

(a) When signing a document relating to
 } pay
 } arms
 } ammunition
 } equipment
 } clothing
 } supplies
 } stores
 } property of the Government
 } make
 } send
 } fraudulently leaving a blank a material part for which his signature is a voucher.
 } a report
 } a return
 } which is/was
 } his duty to
 } make
 } send

(b) Refusing to
 by culpable neglect
 committing to

Offences relating to courts-martial
 (Section 59)

(a) When duly
 } summoned
 } ordered to
 } attend
 } take an oath legally required by a court-martial to be taken.
 } make an affirmation legally required by a court-martial to be made.
 } produce
 } deliver
 } a document in his
 } power
 } control
 } legally required
 } by a court-martial
 } to be
 } produced
 } delivered
 } by him.
 } wilfully without
 } reasonable
 } excuse
 } Making default in attending

(b) Refusing to
 (c) Refusing to

(d) Refusing when a witness to answer a question which he was by law bound to answer.

(e) Contempt of court-martial by

using }
causing }

insulting }
threatening on }
interception }
a disturbance }
Falsis evidence

language }
in the proceedings }
of such court. }

Having been duly

sworn }
affirmed }
before }

(Section 60)
a court-martial }
a court competent }
under the army act }
to administer an }
oath or affirmation }

making a }
false statement }
which he }
knew believed }
did not believe }
to be true }

to be false. }

Having received
the pay of a person
subject to the Army
Act unlawfully

detaining the same }
refusing to pay the }
same }

Unlawful detention of pay
(Section 61)

when due }

(a) Wilfully without
reasonable excuse

damaging }
destroying }
losing }

(b) An Act
Neglect

likely to }
cause }

(c) Without lawful authority disposing of

in flying }
in the use of aircraft }
in relation to aircraft }
in relation to aircraft material }

Offences in relation to aircraft and flying

(Section 62)

aircraft }
aircraft material }
damage to }
destruction of }
loss }

belonging to the }
Government }
aircraft }
aircraft material }
aircraft }
aircraft material }
loss of life }
bodily injury }

belonging }
the }
Government. }

belonging to the }
Government. }

to a person }

to

During the state of war	} Willfully and without proper occasion negligently	} causing	} the requisitioning by or under the authority of the destruction in	} a neutral state of an aircraft belonging to the Government
<i>Violation of good order and discipline (Section 63)</i>				
An Act	} prejudicial to good order or military discipline			
An omission	} prejudicial to good order or military discipline			
<i>Miscellaneous offences (Section 64)</i>				
(a) When in command	} at a post on the march	} having received a complaint that a person under his command has	} a person a fire a market a riot a trespass	} have due reparation made to the injured person report the case to proper authority
(b) By defiling a place of worship Otherwise	} intentionally	} insulting the religion wounding the religious feeling	} of a person	
(c) Attempting to commit suicide and in such attempt doing act towards the commission of the same				
(d) Being below the rank of Warrant Officer and carrying when off duty	} a rifle a sword an offensive weapon	} without proper authority	} a carriage a horse a harness a load	

(e) Accepting }
 Obtaining }
 Agreeing to }
 accept }
 Attempting to }
 obtain }
 for himself }
 for another }
 person }
 a }
 gratification }
 as a }
 motive }
 reward }
 when }
 returning from }
 for procuring }
 a bazar. }
 the enrolment }
 of a person }
 leave of absence }
 promotion an }
 advantage an }
 indulgence }

(f) Committing an }
 offence against the }
 property }
 person }
 an advantage }
 of an inhabitant of }
 of a resident in }
 the country in which he }
 was serving. }
Attempt
 (Section 65)

Attempting to (specify offence attempted) and in such attempt doing an act towards the commission of the same.
Abetment of offences that have been committed

(Section 66)

Abetment of an offence specified in section (specify the section and sub-section) of the Army Act in consequence of which abetment such offence was committed.
Abetment of offence punishable with death and not committed

(Section 67)

Abetment of an offence punishable with death under Section }
 34 }
 37 }
 38(1) }
 of the Army Act in consequence of which abetment }
 such offence was not committed. }
Abetment of offences punishable with imprisonment and not committed
 (Section 68)

Abetment of an offence specified in section (specify the section and sub-section) of the Army Act and punishable with imprisonment in consequence of which abetment such offence was not committed.

Civil Offences
 (Section 69)

Committing a civil offence, that is to say, (state the offence as described in Indian Penal Code or other law in force in India), contrary to section..... (specify the section of the Indian Penal Code or other law).

Abetment of offences punishable with imprisonment and not committed

(Section 68)

Abetment of an offence specified in section (specify the section and sub-section) of the Army Act and punishable with imprisonment in consequence of which abetment such offence such offence was not committed.

Civil Offences

(Section 69)

Committing a civil offence, that is to say, (state the offence as described in Indian Penal Code or other law in force in India), contrary to section..... (specify the section of the Indian Penal Code or other law).

PART IV
SPECIMEN CHARGES

The following specimen charges (which are not, however, prescribed in any Rules) may be found useful. Only statements of offences and particulars of the charges have been given.

No. 1

Charge-Sheet

[Section 34(a)]

Shamefully abandoning a post committed to his charge,

in that he,

at....., on....., when in charge of Post No.in Sector.....and attacked by the enemy, shamefully abandoned the said post, without any attempt to resist the enemy.

No. 2

Charge-Sheet

[Section 34(b)]

Intentionally using means to induce a person subject to
Military Law to abstain from acting against the enemy,

in that he,

at....., on....., when both he and No., Rank.....Name....., of his Regiment were in forward post under enemy fire said to the said.....(insert the words in vernacular) of which the following is an English translation—

“We are likely to be killed. Think of your wife and children. Let us run away from the post and hide in the nallah nearby”.

No. 3

Charge-Sheet

[Section 34(c)]

In the presence of the enemy misbehaving in such manner as to show cowardice,

in that he,

at....., on....., when Sep.....of....., one of the sentries at the Regimental Quarter Guard, had mortally wounded one Sepoy of the said guard and seriously wounded another and was firing his rifle in all directions, showed cowardice by abandoning the said Quarter Guard and hiding himself.

No. 4

Charge-Sheet

[Section 34(h)]

In time of action leaving his picquet without leave,

in that he,

at....., on....., in time of action, between 2000 hrs. and 2200 hrs. being on duty at picquet....., left the said picquet without leave.

No. 5

Charge-Sheet

[Section 35(b)]

Without due authority communicating intelligence to enemy,

in that he,

at....., on....., without due authority communicated to..... an enemy agent, that 1st Battalion. The Dogra Regiment was moving toon.....

No. 6

Charge-Sheet

[Section 36(a)]

Forcing a sentry,

in that he,

at....., on....., after being warned by No.Rank.....Name.....
of....., Regiment, a sentry on post No., not to pass, passed the said sentry.

No. 7

Charge-Sheet

[Section 36(b)]

Breaking into a house in search of plunder,

in that he,

when on active service, at....., on....., broke into the house of Shri.....
of.....in search of plunder.

No. 8

Charge-Sheet

[Section 36(c)]

When a sentry sleeping, upon post,

in that he,

when on active service, at....., on....., between 100 hrs. and 200 hrs, when a sentry
at.....post, was asleep.

No. 9

Charge-Sheet

[Section 36(d)]

Leaving his post without orders from his superior officer,

in that he,

at field, between 400 hrs. and 600 hrs. on....., when on sentry duty at.....post, quitted
his post without orders from his superior officer.

No. 10

Charge-Sheet

(Joint Trial)

[Section 37(a)]

Conspiring with other persons to cause a mutiny in the military forces of India,

in that they,

at....., on....., agreed together and with No.Rank..... Name.....
of..... battalion (and certain other persons unknown) to cause a mutiny in.....Company of
the said battalion, to with, to cause the said Company to refuse to march on the.....to.....to
which place the said Company was under orders to march.

No. 11

Charge-Sheet

(Joint Trial)

[Section 37(b)]

Joining in a mutiny in the military forces of India,

in that they, together,

at....., on....., in company with a number of other sepoy's of the.....Company,
 (unit), in a mutinous spirit marched to the orderly room of the said (unit)
 with the object of making a combined representation on a matter of supposed grievance
 to their Commanding Officer and then and there, they with the exception of No.
Rank.....Name*.....on.....seeing the said*.....marched
 out of the orderly room in custody, insubordinately took off their belts and threw them on the ground.

No. 12

Charge-Sheet

[Section 37(c)]

Being present at a mutiny in the military forces of India,
 not using his utmost endeavours to suppress the same,

in that he,

at....., on....., being present when Sepoy.....Sepoy....., and other
 soldiers of the same Regiment together refused to go on a route march when ordered to do so by the Company
 Commander, failed to use his utmost endeavours to suppress the said mutiny.

No. 13

Charge-Sheet

[Section 38(1)]

Deserting the Service,

in that he,

at....., on....., absented himself from.....Regiment, until apprehended by the civil
 police at....., on.....

No. 14

Charge-Sheet

[First Charge, Section 38(1)]

Deserting the service,

in that he,

at....., on....., absented himself from the Regiment, until apprehended by the Civil police,
 at....., on.....

[Second Charge, Section 52(a)]

Committing theft in Respect of Property belonging to the Government,

in that he,

when absenting himself from his Regiment at the place and on the day aforesaid, committed theft by
 dishonestly taking with him one rifle..... (give description) value.....and twenty rounds
 of .303 ball ammunition value....., the property belonging to the Government.

Note 1.—As a rule, proof of the date and circumstances in which the period of absence terminated is
 necessary to enable the court to decide whether the absence constituted desertion or merely absence without
 leave. Occasionally, however, these facts are not material, and proof of them cannot be obtained without
 inconvenience to the public service and great delay. In such cases they need not be proved, and should,
 therefore, not be averred in the particulars of the charge. See Charge-Sheet No. 16 below.

Note 2.—It is immaterial whether the rifle is the one issued to the accused or to a comrade. See IPC,
 Section 27 and illustration (d) to IPC, Section 378.

No. 15

Charge-Sheet

[Section 38(1)]

Deserting the service,

in that he,

at....., on....., when under orders for embarkation for foreign service, absented himself from.....to.....with intent to avoid such embarkation.

No. 16

Charge-Sheet

[Section 38(1)]

Deserting the service,

in that he,

at....., on....., deserted from the Regiment.

Note.—This form may be used when the date and circumstances of the termination of the absence are not material facts, and proof of them cannot be obtained without an unreasonable amount of delay or expense. See Note 1 to Charge-Sheet No. 14.

No. 17

Charge-Sheet

[Section 38(1)]

Deserting the service,

in that he,

at....., on....., having been placed under orders for active and having been granted leave of absence from.....to.....to proceed to....., did not rejoin at.....on the expiry of the said leave but absented himself with intent to avoid such active service.

Note.—It will often be advisable to frame an alternate charge for without sufficient cause overstaying leave granted to him. See Charge-Sheet No. 22 below. With respect to a case in which the accused has been apprehended by the civil police. See Note 1 to Charge-Sheet No. 14.

No. 18

Charge-Sheet

[Section 38(1)]

Attempting to desert the service,

in that he,

at....., on....., attempted to quit the lines of his Regiment disguised as a woman, with the intention to desert the service.

No. 19

Charge-Sheet

[Section 38(2)]

Harbouring a person subject to the Army Act knowing him to be a deserter,

in that he,

at....., on....., concealed in his house, No.Rank....., Name..... of..... Regiment, whom he knew to be a deserter from the said..... Regiment.

No. 20

Charge-Sheet

[Section 38(3)]

Being cognizant of the desertion of a person subject to the Army Act not giving notice forthwith to his own or other superior officer,

in that he,

at....., on....., when cognizant of the desertion of No.Rank..... Name..... of the said unit, did not give notice thereof forthwith to his own or other superior officer.

No. 21

Charge-Sheet

[Section 39(a)]

Absenting himself without leave,

in that he,

at....., absented himself without leave from the unit lines from....., to.....

No. 22

Charge-Sheet

[Section 39(b)]

Without sufficient cause overstaying leave granted to him,

in that he,

at....., on....., having been granted leave of absence from.....to.....to proceed to....., failed without sufficient cause, to rejoin at....., on....., on the expiry of the said leave.

No. 23

Charge-Sheet

[Section 39(c)]

Being on leave of absence having received information from proper authority that corps to which he belongs has been ordered on active service failing without sufficient cause to rejoin without delay,

in that he,

on....., while on leave of absence at....., having received information from.....that the.....Regiment had been ordered on active service, failed, without sufficient cause, to rejoin the said Regiment without delay.

No. 24

Charge-Sheet

[Section 39(d)]

Without sufficient cause failing to appear, at the time fixed, at the place appointed for duty,

in that he,

at....., on....., failed without sufficient cause to appear at.....hrs. at.....the place appointed for PT (Commanding Officer's) parade.

No. 25

Charge-Sheet

[Section 39(e)]

Quitting the line of march without leave from his superior officer,

in that he,

at....., on....., when on the line of march from.....to.....fell out without leave from the Officer Commanding his Company.

No. 26

Charge-Sheet

[Section 40(a)]

Using criminal force to his superior officer,

in that he,

at....., on....., struck with a stick on the head of No.....Rank.....,
Name.....of the same Regiment.

No. 27

Charge-Sheet

[Section 40(a)]

Assaulting his superior officer,

in that he,

at....., on....., when ordered by No., Rank....., Name....., of the
same Regiment to report to him at.....hrs. that day, picked up a stone and threatened to throw it
at the said.....

No. 28

Charge-Sheet

Using threatening language to his superior officer,

[Section 40(b)]

in that he,

at....., on....., when ordered by No.....Rank....., Name of the same
Regiment to fall in for parade, said to the said..... "who the hell are you to fall me in, I will bash
your head", or words to that effect.

No. 29

Charge-Sheet

[Section 40(c)]

Using insubordinate language to his superior officer,

in that he,

at....., on....., said to No., Rank....., Name....., of the same
Regiment, "You know only how to get drunk everyday. You are good for nothing", or words to that effect.

No. 30

Charge-Sheet

[Section 41(1)]

Disobeying in such manner as to show a wilful defiance of authority, a lawful
command given personally by his superior officer in the execution of his officer,

in that he,

at....., on....., when ordered by No., Rank....., Name....., the
guard commander to proceed to sentry post, said "I shall not go, do what you feel like" and did not proceed
to the sentry post from the guard room.

No. 31

Charge-Sheet

[Section 41(2)]

Disobeying a lawful command given by his superior officer,

in that he,

at....., on....., when ordered by No., Rank....., Name....., of the
same Regiment to eat his food, did not do so.

No. 32

Charge-Sheet

[Section 41(2)]

Disobeying a lawful command given by his superior officer,

in that he,
 at....., on....., when ordered by No., Rank....., Name....., of the
 same Regiment to fall in for PT parade, did not do so.

No. 33

Charge-Sheet

[Section 42(b)]

Using criminal force to a person in whose custody he was lawfully placed,

in that he,

at....., on....., when placed by No., Rank....., Name.....
 Regiment..... with custody of No., Rank....., Name*.....of the same unit
 struck with his web belt on the head, the said*.....

No. 34

Charge-Sheet

[Section 42(b)]

Using criminal force to a person in whose custody he has been lawfully placed,

in that he,

at....., on....., struck on the head Civil Police Constable
 No.....Name....., of.....Police Station, in whose custody he was lawfully
 placed.

No. 35

Charge-Sheet

[Section 42(e)]

Neglecting to obey Regimental orders,

in that he,

at....., on....., bathed in the river....., above camp,
 which contrary to Regimental Daily Order Part I No., dated directed all persons to
 abstain from bathing in that part of the river.

No. 36

Charge-Sheet

[Section 42(e)]

Neglecting to obey Regimental orders,

in that he,

at....., on....., neglected to obey battalion daily order Part I No.,
 dated.....by entering Lai Chowk which had been placed out of bounds by the said order.

No. 37

Charge-Sheet

[Section 42(f)]

When called upon refusing to assist the provost marshal, in the execution of his duty,

in that he,

at....., on....., when called upon by No., Rank....., Name.....,
 Assistant Provost Marshal of HQ.....Corps to assist him in arresting No.Rank.....
 Name..... Regiment, an offender, refused to do so.

No. 38

Charge-Sheet

[Section 42(g)]

Using criminal force to a person bringing supplies to the Forces.

in that he,

at....., on....., struck on the face Shri,, a civilian contractor bringing supplies to the forces.

No. 39

Charge-Sheet

[Section 43(a)]

Without having obtained a regular discharge from his Corps enrolling himself in another Corps,

in that he,

at....., on....., without having obtained a regular discharge from the.....Regiment, enrolled himself in the.....Regiment.

No. 40

Charge-Sheet

(Section 44)

Making at the time of enrolment a wilfully false answer to a question set forth in the prescribed form of enrolment which was put to him by the Enrolling Officer before whom he appeared for the purpose of being enrolled,

in that he,

at....., on....., when appeared before IC....., Rank....., Name....., an enrolling officer, for the purpose of enrolled for service in the.....Regiment, to the question put to him "Have you ever served in the Indian Armed Forces?" answered "No", whereas he had served as he well knew in the.....Regiment.

No. 41

Charge-Sheet

(Section 45)

Being an officer behaving in a manner unbecoming his position and the character expected of him,

in that he,

at....., on....., in payment of his mess bill No.....dated..... gave to the Mess Secretary cheque dated For Rsdrawn on the SBI..... (Branch) which was dishonoured when presented, well knowing that he had not sufficient funds in the said branch of the Bank to meet the said cheque, and having no reasonable grounds for supposing that the said cheque would be honoured when presented.

No. 42

Charge-Sheet

[Section 46(a)]

Disgraceful conduct of an indecent kind,

in that he,

at....., on....., at about 2340 hrs. with indecent intent got into bed with No., Rank....., Name....., of the same Regiment.

No. 43

Charge-Sheet

[Section 46(a)]

Disgraceful conduct of an unnatural kind,

in that he

at....., on....., committed an unnatural offence on the person of....., a Sepoy in the same Regiment.

No. 44

Charge-Sheet

[Section 46(b)]

Malingering,

in that he,

at....., on....., falsely pretended to Capt....., Regimental Medical Officer, that he (the accused) was suffering from a sprained ankle.

No. 45

Charge-Sheet

[Section 46(b)]

Malingering,

in that he,

at....., on....., between.....and.....hrs. with the intention of evading his duties as a member of the Quarter Guard Counterfeited dumbness.

No. 46

Charge-Sheet

[Section 46(b)]

Feigning disease in himself,

in that he,

at....., on....., pretended to Captain....., Regimental Medical Officer, that he was suffering from violent pain in the head and down his back, whereas he was not so suffering.

No. 47

Charge-Sheet

[Section 46(b)]

Intentionally delaying his cure,

in that he,

at....., on....., when under medical treatment for a wound in his leg removed the bandages from the said wound with intent thereby to delay his cure and did thereby delay his cure.

No. 48

Charge-Sheet

[Section 46(c)]

Voluntarily causing hurt to a person with intent to render that person unfit for service,

in that he,

at....., on....., at the request of No., Rank....., Name....., cut off the trigger finger of the said.....with intent to render him unfit for service.

No. 49
Charge-Sheet
(Section 47)

Using criminal force to a person subject to
the Army Act being his subordinate in rank,

in that he,

at....., on....., when drilling a squad of Sepoys, struck Sepoy.....of the same
Regiment on the shoulder with a pacestick.

No. 50
Charge-Sheet
(Section 47)

Ill-treating a person subject to the Army Act being his subordinate in rank,

in that he,

at....., on....., ill-treated No., Rank.....Name....., of the
same unit, by making him stand in the sun between 10 a.m. and 4 p.m. and not allowing him to drink water
during the said period.

No. 51
Charge-Sheet
(Section 48)

Intoxication,

in that he,

at....., on....., when on duty (specify duty) was intoxicated.

No. 52
Charge-Sheet
[Section 49(a)]

When in command of a guard wilfully releasing without
proper authority a person committed to his charge,

in that he,

at....., on....., when in command of the Quarter Guard of the..... Regiment,
wilfully released, without proper authority, No., Rank....., Name....., Regiment, who
was confined in the said Quarter Guard and committed to his charge.

No. 53
Charge-Sheet
[Section 49(b)]

Without reasonable excuse allowing to escape
a person whom it was his duty to guard,

in that he,

at....., on....., when posted as sentry over No.
Rank.....Name....., of..... Regiment, allowed the said.....to escape
without reasonable excuse.

No. 54
Charge-Sheet
[Section 50(a)]

Unnecessary detaining a person in confinement without bringing him to trial,

in that he,
 at....., on....., when officiating Commanding Officer.....Regiment unnecessary
 detained No. Rank..... Name..... of the same Regiment in confinement
 from.....to.....without bringing the said.....to trial.

No. 55

Charge-Sheet

(Section 51)

When in lawful custody escaping,

in that he,
 at....., on....., when under close arrest in the unit quarter guard escaped therefrom.

No. 56

Charge-Sheet

[Section 52(a)]

Committing theft of property belonging to the Government,

in that he,
 at....., on....., committed theft in respect of one rifle 7.62 SLR Registered No.
 value....., the property of the Government.

No. 57

Charge-Sheet

[Section 52(a)]

Committing theft of property belonging to a person subject to Military Law,

in that he,
 at....., on....., committed theft in respect of a watch, the property of No.
 Rank....., Name....., of the same Regiment.

No. 58

Charge-Sheet

[Section 52(b)]

Dishonestly misappropriating property belonging to the Government,

in that he,
 at....., between.....and.....dishonestly misappropriated rounds, of 7.62 SLR
 ammunition, the property of the Government value.....which had been entrusted to his charge for
 the target practice of.....Company.

[Second Charge, Section 63 (Alternative to first charge)]

An act prejudicial to good order and military discipline,

in that he,
 at....., on....., through neglect lost twenty rounds of 7.62 SLR ammunition, the property of
 the Government value....., which had been entrusted to him for the target practice of.....
 Company.

No. 59

Charge-Sheet

[Section 52(c)]

Committing criminal breach of trust in respect
 of property belonging to the Government,

in that he,

at....., on....., dishonestly, misappropriated a sum of Rs, the property belonging to the Government, which was entrusted to him as OC 9 Bihar Bn NCC.

No. 60

Charge-Sheet

[Section 52(d)]

Dishonestly receiving the property belonging to the Government knowing that theft had been committed in respect of the same by a person subject to Military Law,

in that he,

at....., on....., dishonestly received 2 jerricans of 70 MT, the property belonging to the Government, which he knew to have been stolen by No., Rank.....Name....., of..... Regiment.

[Second Charge Section 63(Alternative)]

An act prejudicial to good order and military discipline,

in that he,

at.....on....., was in unauthorised possession of 2 jerricans of 70 MT, the property belonging to the Government.

No. 61

Charge-Sheet

[Section 25(e)]

Wilfully destroying property of the Government entrusted to him,

in that he,

at....., on....., wilfully destroyed by breaking it up one heliograph value.....the property of the Government which had been entrusted to him for his use as a Regimental signaller.

No. 62

Charge-Sheet

[Section 52 (f)]

Such an offence as is mentioned in clause (f) of Section 52 of the Army Act with intent to defraud,

in that he,

at....., on....., with intent to defraud, obtained from....., a shopkeeper, three tins of Gold Flake cigarettes valued at Rsby falsely pretending that he, the accused, was an orderly to Capt.....Regiment and that he had been sent by the said Capt.....for the said cigarettes.

No. 63

Charge-Sheet

[Section 52(f)]

Such an offence as is mentioned in clause (f) of Section 52 of the Army Act with intent to defraud,

in that he,

at....., on....., with intent to defraud, forged the name of Captain....., to a post office order for Rupees.....and thereby detained the sum of Rupees.....

No. 64

Charge-Sheet

[Section 52(f)]

Such an offence as is mentioned in clause (f) of Section 52 of the Army Act with intent to cause wrongful loss to a person,

in that he,

at....., on....., with intent to cause wrongful loss to No., Rank*.....
Name.....debited the said*.....in the acquittance roll for Rsof..... Coy.....
Regiment, with a deduction of Rs on account of clothing, which deduction he did not credit to
the said*.....clothing account.

No. 65

Charge-Sheet

[Section 52(f)]

Such an offence as is mentioned in clause (f) of Section 52 of
the Army Act, with intent to cause wrongful loss to a person,

in that he,

at....., on....., having received from No., Rank....., Name....., of
the same Regiment, the sum of rupees hundred (Rs 100) for the purpose of despatching a money order, did
not despatch the money order, but with intent to cause wrongful loss to the said* converted rupees hundred
to his own use.

No. 66

Charge-Sheet

[Section 53(a)]

Committing extortion,

in that he,

at....., on....., by threatening to make a false report to the Officer Commanding their
Coy to the effect that No., Rank....., Name*....., and No.Rank.....,
Name*.....had committed an unnatural offence together, extorted Rsfrom each of the
said*.....persons.

No. 67

Charge-Sheet

[Section 53(b)]

Extracting without proper authority money from a person,

in that he,

at....., on....., extracted, without proper authority Rs from No.
..... Rank....., Name.....of the same Regiment,

No. 68

Charge-Sheet

[Section 54 (a)]

Making away with clothing the property of
the Government issued to him from his use,

in that he,

at....., on....., sold his great coat (value Rs) property of the Government,
issued to him for his use to.....for Rupees.....

No. 69

Charge-Sheet

[Section 54(b)]

Losing by neglect identity card the property
of the Government issued to him for his use,

in that he,

at....., on....., lost by neglect identity card No., the property of the Government, issued to him for his use.

No. 70

Charge-Sheet

[Section 54(b)]

**Losing by neglect identity card the property
of the Government issued to him for his use,**

in that he,

at....., on....., was deficient of identity card No., the property of the Government, issued to him for his use.

Note.—Ordinarily proof of the date and circumstances of the loss of the property is necessary. Occasionally, proof of them cannot be obtained. In such cases the particulars of the charge need that the accused was deficient of the property in question on a specified date.

No. 71

Charge-Sheet

[Section 55(a)]

**Without reasonable excuse destroying ammunition,
the property of the Government entrusted to him,**

in that he,

at....., on....., when NCO i/c of the ammunition dump, without reasonable excuse destroyed 100 rounds of 7.62 SLR ammunition, the property of the Government entrusted to him.

No. 72

Charge-Sheet

[Section 56(a)]

**Making a false accusation against a person subject to
the Army Act knowing such accusation to be false,**

in that he,

at....., on....., when appearing before Colonel A.....B.....Commanding the..... Regiment to answer for an offence, used language to the following effect, that is to say, "Maj C....., the Coy Commander takes interest in his work and is entirely in the hands of the Platoon Commanders who in their turn take bribes all round and allow no one without a bribe to approach the "Maj Sahib", well knowing the said statement to be false.

No. 73

Charge-Sheet

[Section 56(b)]

**In making a complaint under Section 27 of the Army Act
making a statement affecting the character of a person
subject to the Army Act knowing such statement to be false,**

in that he,

at....., on....., in a complaint under Section 27 of the Army Act addressed to the Central Government, made the following statement "The CO is indulging in all sorts of malpractices in spending the money received by the unit out of the Annual Training Grant", well knowing the said statement to be false.

No. 74

Charge-Sheet

[Section 57(a)]

In a certificate signed by him knowingly making a false statement,

in that he,

at..... on..... in a certificate signed by him in the TA/DA claim for his temporary duty from his unit to..... for the duration from.....to....., stated that he was not provided with free messing at the outstation, well knowing the said statement to be false.

No. 75

Charge-Sheet

[Section 57(c)]

Knowingly and with intent to defraud making away with a document which it was his duty to preserve.

in that he,

at..... on....., when accounts officer of his unit knowingly and with intent to defraud destroyed by burning the cash book pertaining to the Regimental Accounts of the unit, a document which it was his duty to preserve.

No. 76

Charge-Sheet

[Section 57(d)]

Where it was his official duty to make a declaration respecting a matter knowingly making a false declaration,

in that he,

at..... on..... when being the custodian of classified documents of his unit, rendered a quarterly certificate that he checked and found correct all the said documents, well knowing that a secret document ATM No.had been lost by him.

No. 77

Charge-Sheet

[Section 57(c)]

Obtaining for a person a pension by false statement which he knew to be false,

in that he,

at..... on..... when examined by Major AB,Regiment who was investigating a claim to family pension preferred by Shri C inhabitant of..... stated that he knew the said Shri C to be the father of late Sepoy.....Regiment well knowing such statement to be false, and consequent to which a family pension of Rsp.m. was sanctioned to the said Shri C.

No. 78

Charge-Sheet

[Section 58(a)]

When signing a document relating to supplies fraudulently leaving in blank a material part for which his signature, is a voucher,

in that he,

at..... on..... when Officer Commanding Sub Depot.....and when signing the Receipt of articles supplied by contractor (IAFS-1520) for the month of..... fraudulently left in blank the columns, wherein the total quantity of fresh rations received from the contractor were to be shown.

No. 79

Charge-Sheet

[Section 59(e)]

Refusing to produce a document in his control legally required by a court martial to be produced by him,

in that he,

at....., on....., when a witness, refused to produce a letter dated..... in his control written to him by No. Rank..... Name..... Regiment, when legally required by the Summary Court Martial trying the said..... to be produced by him (accused).

No. 80

Charge-Sheet

[Section 59(e)]

Contempt of Court Martial by using insulting language,

in that he,

at....., on....., when being tried by a General Court Martial said in a loud tone "It is no use my making any defence, the Court has been told by the Convening Officer to convict me and of course they will" or words to that effect.

No. 81

Charge-Sheet

(Section 60)

Having been duly affirmed before a Court Martial making a false statement which he knew to be false,

in that he,

at....., on....., when examined as a witness before a District Court Martial stated on solemn affirmation that Sepoy Regiment the person charged before the said Court was in his (the witness's) company in the lines at..... between 0200 hrs. and 0500 hrs. on....., which statement was, as he well knew, false.

No. 82

Charge-Sheet

(Section 61)

Having received the pay of a person subject to the Army Act, unlawfully refusing to pay the same when due,

in that he,

at....., on....., having received Rs as an advance of pay for the month of..... in respect of No. Rank..... Name..... of the same unit, unlawfully refused to pay the same to the said..... on.....

No. 83

Charge-Sheet

[Section 62(d)]

Neglect in flying which was likely to cause loss of life or bodily injury to a person,

in that he,

at....., on....., while flying aircraft No. over village..... negligently flew the same at a dangerously low altitude which was likely to cause loss of life or bodily injury to the inhabitants of the said village.

No. 84

Charge-Sheet

(Section 63)

An Act prejudicial to good order and military discipline,

in that he,

at....., on....., when JCO i/c at the butts, during the repetition of Musketry No. by certain Sepoys of the Regiment, improperly caused it to be signalled to the firing point that four fair hits had been made on No. 3 target, whereas actually only one fair hit and one ricochet had been made on the said target, as he well knew.

No. 85

Charge-Sheet

(Section 63)

An Act prejudicial to good order and military discipline,

in that he,

at....., on....., improperly wrote and sent to his Commanding Officer No., Rank....., Name....., an anonymous letter in which he made use of the following words".....".

No. 86

Charge-Sheet

(Section 63)

An Act prejudicial to good order an military discipline,

in that he,

at....., on....., was improperly in possession of a pair of boots, the property of No., Rank....., Name.....of the same Regiment.

No. 87

Charge-Sheet

(Section 63)

An Act prejudicial to good order and military discipline,

in that he,

at....., on....., so negligently drove vehicle BA No.....8 Ton, the property of the Government as to cause the said vehicle to be damaged to the amount of Rs

No. 88

Charge-Sheet

(Section 63)

An Act prejudicial to good order and military discipline,

in that he,

at....., on....., while concerned with the care of public money, so negligently performed his duties as to be unable to account for Rspart of the said money.

No. 89

Charge-Sheet

(Section 63)

An omission prejudicial to good order and military discipline,

in that he,

at....., between.....and.....when I/C (incharge) of Military Farm, omitted to exercise proper supervision over the stacking and the issue of bhoosa at the said farm and thereby caused a loss to the Government of Rsor thereabout.

No. 90

Charge-Sheet

(Section 63)

An omission prejudicial to good order and military discipline,

in that he,

at..... on....., so negligently handled a rifle as to cause it to be discharged and thereby injuring No., Rank....., Name....., of the same Regiment.

No. 91

Charge-Sheet
(Section 63)

An Act prejudicial to good order and military discipline,
in that he,

at....., on....., when appearing at part 'D' promotion examination for paper II-Tactics, was in improper possession of a USI precis of Tactics.

No. 92

Charge-Sheet
[(Section 64(b))]

By defiling a place of worship intentionally
wounding the religious feelings of a person,
in that he,

at....., on....., entered the unit Mandir in a drunken state and spat around, thereby wounding the religious feeling of the unit personnel.

No. 93

Charge-Sheet
[Section 64(c)]

Attempting to commit suicide and in such attempt
doing an Act towards the commission of the same,
in that he,

at....., on....., attempted to commit suicide by drinking a bottle of Tik-20.

No. 94

Charge-Sheet
[Section 64(e)]

Obtaining for himself a gratification as a reward for
procuring leave of absence for a person in the service,
in that he,

at....., on....., while performing the duties of CHM of 'A' Coy, obtained for himself Rs50 from No., Rank....., Name*.....of his Coy a gratification as a reward for having procured leave of absence for the said*.....from.....to.....

No. 95

Charge-Sheet
[Section 64(e)]

Attempting to obtain for himself a gratification as
a motive for procuring the enrolment of a person,
in that he,

at....., on....., while working as a clerk in the enrolment section of the Branch Recruiting office, attempted to obtain Rs. 200 a gratification as a motive for procuring the enrolment of Shri AB, by demanding the said sum from the said Shri AB.

No. 96

Charge-Sheet

[Section (A (f))]

Committing an offence against the property of a resident in the country in which he was serving,

in that he,

at....., on....., maliciously damaged motor car belonging to.....of..... a resident in.....by thrusting a knife into one of the tyres.

No. 97

Charge-Sheet

(Section 65)

Attempting to incite a mutiny in the military forces of India and in such attempt doing an act towards the commission of the same,

in that he,

at....., on....., attempted to incite the non-commissioned officers and of his Squadron to combine together and refused to eat their rations next day and to demand from No., Rank....., Name....., Commanding the said Regiment that No., Rank....., Name....., be removed from his employment as.....i/c of ration issue and to this end addressed Dafadar..... and Sowars and.....in the following word..... (set out the language used).

No. 98

Charge-Sheet

(Section 66)

Abetment of an offence specified in Section 40(a) of the Army Act, in consequence of which abetment such offence was committed,

in that he,

at....., on....., abetted by instigating No., Rank....., Name..... of the same regiment to strike Nb. Sub..... of the same regiment, in consequence of which the said.....struck the said JCO on the head with a stick.

No. 99

Charge-Sheet

(Section 66)

Abetment of an offence specified in Section 52(a) of the Army Act, in consequence of which abetment such offence was committed,

in that he,

at....., on....., when sentry over the Magazine Guard between.....and.....by omitting to keep on the alert, intentionally aided No., Rank....., Name..... of the same regiment to commit theft of one box of ammunition, value Rs the property of the Government in consequence of which the said.....committed theft of one box of ammunition.

Note.—If there is any doubt as to the assistance being intentional an alternative charge under AA, Section 63 may be added.

No. 100

Charge-Sheet

(Section 67)

Abetment of an offence, punishable with death under Section 38(1) of the Army Act, in consequence of which abetment such offence was not committed,

in that he,

at....., on....., when on active service instigated No.Rank..... Name*.....of the same Regiment to desert the service which offence was not committed by the said*.....

No. 101

Charge-Sheet

(Section 68)

Abetment of an offence specified in Section 52(a) of the Army Act, and punishable with imprisonment in consequence of which abetment, such offence was not committed,

in that he,

at....., on....., instigated No.Rank..... Name....., who was working as abatement to No.Rank..... Name.....of the same Regiment to commit theft of the Transistor belonging to the said*....., which offence was not committed by the said Sepoy.

No. 102

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, causing death by a rash or negligent act, not amounting to culpable homicide contrary to Section 304-A of the Indian Penal Code,

in that he,

at....., on.....by reshly or naglignently driving vehicle BA No.caused the death of Shri..... a civilian.

No. 103

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, murder, contrary to Section 302 of the Indian Penal Code,

in that he,

at....., on....., by causing the death of No.Rank..... Name.....of his unit committed murder.

No. 104

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, voluntarily having carnal intercourse against the order of nature with a man, contrary to Section 377 of the Indian Penal Code,

in that he,

at....., on....., voluntarily had carnal intercourse against the order of nature with No.Rank..... Name.....of his unit.

No. 105

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, rioting,
contrary to Section 147 of the Indian Penal Code,

in that he,

at....., on....., was a member of an unlawful assembly, which, in prosecution of the common object of such assembly to use criminal force to the Civil Police, beat the Civil Police with lathis, thereby committing the offence of rioting.

No. 106

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, attempt to
murder, contrary to Section 307 of the Indian Penal Code,

in that he,

at....., on....., fired two shots from a rifle at No., Rank.....
Name*.....of the same Regiment with intent to murder him and thereby wounded the said*.....
in the right ear and left thigh.

No. 107

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, voluntarily causing
grievous hurt, contrary to Section 325 of the Indian Penal Code,

in that he,

at....., on....., voluntarily caused grievous hurt to No., Rank.....
Name....., of the same regiment by fracturing his left arm with an iron rod.

No. 108

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, theft,
contrary to Section 379 of the Indian Penal Code,

in that he,

at....., on....., committed theft of a tin of ghee, value Rsfrom the shop of
Shri.....in the Sadar Bazar, the property of the said Shri.....

No. 109

Charge-Sheet

(Section 69)

Committing a civil offence, that is to say, using criminal force to a woman with
intent to outrage her modesty, contrary to Section 354 of the Indian Penal Code,

in that he,

at....., on....., used criminal force to Smt.....wife of Shri....., by putting his
right hand on her thigh intending thereby to outrage her modesty.

No. 110

Charge-Sheet

[Indian Reserve Forces Act, 1888, Section 6(1)(a)]

When required in pursuance of a rule under the Indian Reserve Force Act to attend at a place, failing without reasonable excuse,

in that he,

having in pursuance of the Indian Reserve Forces Rule 5A been required by his Commanding Officer, the Officer Commanding, Regiment to attend at....., on....., for training, failed without reasonable excuse so to attend.

APPENDIX III

PART I(A)

IAFD-937(Revised)

FORM OF APPLICATION FOR A COURT MARTIAL

Place.....dated.....20.....

Application for a Court Martial

Sir,

I have the honour to submit charge/s.....against No., Rank..... Name.....of the..... (unit) under my command, and request you to obtain sanction of.....that a.....court martial may be assembled for his trial at..... (place).

The case was investigated by (a)

A court of inquiry (b) was held on..... (date) at..... (station).

Presiding Officer..... Ranks..... Names and Corps Members..... The accused is now at..... (place).

His general character is (c)enclose the following documents(d):

- (1) Tentative Charge-sheet (in duplicate).
- (2) Summary of Evidence original and.....copy/copies.
- (3) Original exhibits.
- (4) List of witnesses for the prosecution and defence (with their present stations of addresses).
- (5) List of exhibits.
- (6) Correspondence.
- (7) Statement as to character (IAFD-905) and the conduct-sheet of accused (e).
- (8) Statement by accused as to whether or not he desires to have an officer assigned by the convening officer to represent him at the trial [AR 33(7)].

Yours faithfully,

Signature of Officer Commanding

(a) Here insert the name of—

- (i) officer who investigated the charges.
- (ii) Company, etc., Commander who made preliminary enquiry into the case.
- (iii) officer who took down the Summary of Evidence [Army Rule 39(2)(c)].

(b) To be filled in if there has been a court of inquiry respecting any matter connected with the charges; otherwise to be struck out [Army Rule 39(2) (c)].

(c) To be filled in by the Commanding Officer personally in accordance with Army Regulations Para 171.

(d) Any item not applicable to be struck out.

(e) 3, 4, 5, 6, 7 and 8 to be returned to the Officer Commanding the unit of the accused with the notice of trial.

MEDICAL OFFICER'S CERTIFICATE

I certify that No., Rank....., Name.....of.....(unit), is fit/unfit to undergo trial by Court Martial.

Place.....

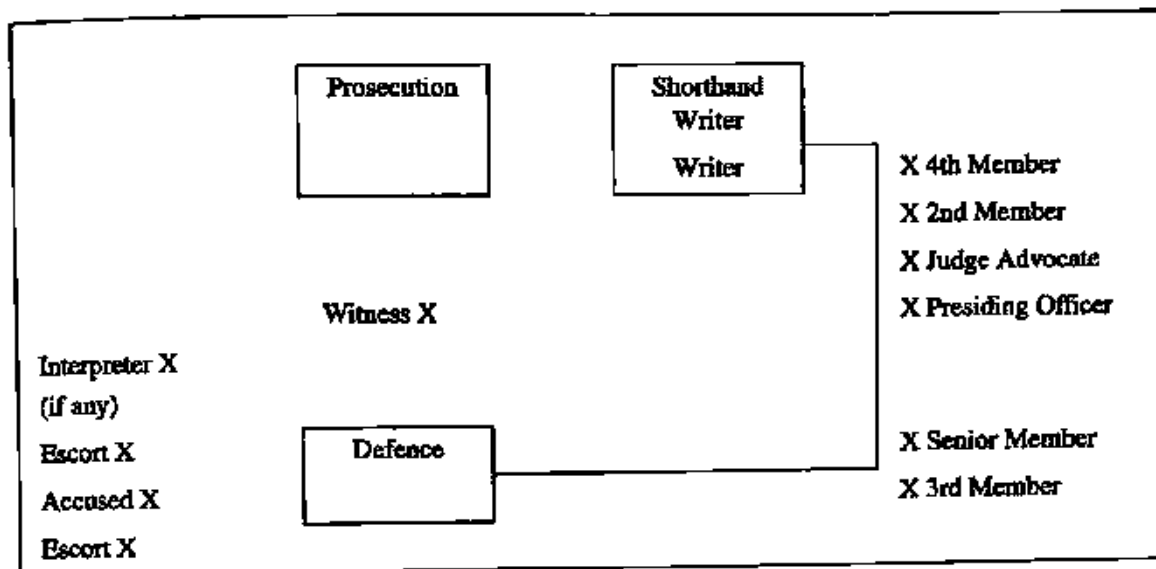
Date.....

Signature of the Medical Officer

Arrangement of the Court room

There is nothing stated in the Army Rules but the following seating arrangement has been found convenient in practice—

X Court Orderly



IAFD-916

PART I(B)

FORMS FOR ASSEMBLY OF COURTS MARTIAL

General and District

Form of order for the Assembly of a General (or District) Court Martial under the Army Act

Orders by.....

Commanding the.....

Place.....

Date.....

The details of officers as mentioned below will assemble at.....on the day of..... for the purpose of trying by a.....Court Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them)*

The senior officer to sit as Presiding Officer.

Members

Waiting Members

Judge Advocates

..... is appointed Judge Advocate

Interpreter

..... is appointed Interpreter

Prosecutor

..... is appointed Prosecutor

+The accused will be warned, and all witnesses duly required to attend.

The proceedings (of which only..... (●) copies are required) will be forwarded to this HQ through DJAG.....Command.

Signed this.....day of.....20.....

..

Rank
Appointment

FORM OF DECLARATION FOR SUSPENSION OF RULES UNDER ARMY RULE 36

In my opinion [§]military exigencies, namely (state them) render it [®] (impossible) to observe the provisions of Rule [£] on the trial of.....by.....

Court Martial assembled pursuant to the order of the.....
of

Signed at.....this..... day of..... 20.....

(Instructions.—This declaration must be signed by the officer whose opinion is given, and will be annexed to the proceedings. It should not be included in the Convening Order but should be a separate document.)

IAFD-406

* Any opinion of the Convening Officer with respect to the composition of the Court (see Army Rule 40) should be added here, thus:

"In the opinion of the convening officer, it is not practicable to appoint officers of different corps or departments" or,

"In the opinion of the convening officer, officers of equal or superior rank to the accused are not, having due regard to the exigencies of the public service, available".

Note.—The members and waiting members may be mentioned by name, or the number and ranks and the mode of appointment may alone be named.

+ Add here any order regarding counsel—see Army Rule 96.

(@) The number of copies of the proceedings required is two plus the number of accused persons in case of GCM and one plus the number of accused persons in case of DCM.

** The convening order must be signed by the convening officer personally, or "for" him by a staff officer authorised by the custom of service to sign his orders, or by a staff officer as such. The date of the convening order must not be prior to the date on which the order for trial was endorsed by the convening officer on the charge-sheet.

PART I(C)

*FORMS OF PROCEEDINGS OF COURT MARTIAL

'A'

Form of Proceedings of a General (or District) Court Martial under the Army Act (including some of the incidents which may occur to vary the ordinary course of procedure with instructions for the guidance of the court)

Proceedings of a.....Court Martial held at.....*on the.....day of.....
20.....by order of.....Commanding..... Dated the.....day of.....
20.....

Presiding Officer

No., Rank, Name, Unit

Members

No., Rank, Name, Unit

Judge Advocate

§ (the necessities of discipline).

@ (or inexpedient)

£ State the rule or rules which cannot be observed. (See Army Rule 36).

* All printed matter not applicable to the particular Court being held should be struck out and initialled by the officer responsible for the record (Army Rule 92).

@ Insert place of assembly.

No., Rank....., Name....., Unit.....

Interpreter

No., Rank....., Name....., Unit.....

Trial of.....

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

[*Instructions.*—All documents relating to Court, or the matters before it, which are intended to form part of the proceedings (such as an order respecting military exigencies, or a letter answering any question referred to the convening officer) at whatever period of the trial they are received should be read in open court, marked so as to identify them, signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.]

The Court satisfy themselves that §.....is not available to serve owing to+[£].....waiting member, takes his place as a member of the Court.

The Court as reconstituted is as follows—

Presiding Officer

No., Rank....., Name....., Unit.....

Members

No., Rank....., Name....., Unit.....

Judge Advocate

No., Rank....., Name....., Unit.....

Interpreter

No., Rank....., Name....., Unit.....

The Court satisfy themselves as provided by Army Rules 41 and 42.

Note.—Before certifying that the Court have satisfied themselves as provided by Army Rules 41 and 42, the Presiding Officer will, in every case where a Court of Inquiry has been held respecting a matter upon which a charge against the accused is founded, insert an asterisk after the words "Army Rules 41 and 42" and sign a footnote at the bottom of the first page of the proceedings, to the following effect—

"I have satisfied myself that none of the officers detailed as members of this Court has previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial."

(Signature of Presiding Officer)

The accused is brought before the Court.

Prosecutor[¶].....

Counsel.....[®] or Defending Officer.....[®] At.....hrs.....the trial commences

The order convening the Court is read and is marked.....^{®®} signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

The names of the Presiding Officer and Members of the Court are read over in the hearing of the accused and they severally answer to their names.

Question by the Presiding Officer to the accused[®]

* Insert Number, Rank, Name, Unit and appointment (if any) of the accused.

§ Insert rank, name and unit.

+ Insert reasons.

£ Insert number, rank, name and unit.

¶ Here state his number, rank, name, unit and legal qualifications, if any.

® Here state name and legal qualifications [see Army Rule 101(2)] in respect of counsel, and number, rank, name, unit, and legal qualifications in respect of defending officer.

® Here state name and legal qualifications [see Army Rule 101(2)] in respect of counsel, and number, rank, name, unit, and legal qualifications in respect of defending officer.

®® All exhibits to be noted in the margin.

* All questions and answers will be numbered serially throughout the proceedings.

Do you object to be tried by me as Presiding Officer, or by any of the officers whose names you have heard read over?

Variations

Challenging officer (Army Rule 44)

I object to.....

Do you object to any other officer?

(This question must be repeated until all the objections are ascertained).

What is your objection to (the junior most officer objected to)?

(Set out)

The accused in support of his objection to.....requests permission to call....., etc., etc.,
.....is called into court, and is questioned by accused.

(Set out)

The member (objected to) in reply states.

(Set out).

The court is closed to consider the objection in the absence of (the challenged officer).

The court decides to disallow the objection.

The court decides to allow the objection.

The court is reopened and the accused is again brought before it. The above decision is announced in the open court.

*Waiting Member.....takes his place as a member of the Court.

(This only applies in the case of there being a waiting member of the Court).

The Court satisfy themselves that No., Rank.....

Name....., Unit..... is eligible and not disqualified to serve on this Court Martial.

Do you object to be tried by (the waiting member)?

(Set-out).

(If he objects, the objection will be dealt with in the same manner as the former objection.)

What is your objection to.....(the junior of the officers objected to)?

(This objection will be dealt with in the same manner as the former objection).

The Court adjourns for the purpose of fresh members being appointed.

or,

The Court is of the opinion that in the interests of justice and for the good of the service, it is inexpedient to adjourn for the purpose of fresh members being appointed, because (here state the reasons).

At.....hrs. on.....the Court resume its proceedings. An order appointing fresh officer(s) is read, marked.....signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

The Court satisfy themselves with respect to such fresh officers as provided by Army Rule 41.

(Instructions.—The procedure as to challenging fresh officers and the procedure, if any objection is allowed, will be the same as above.)

The Presiding Officer and members of the Court, as constituted after the above proceedings, are as follows—

Presiding Officer

No., Rank....., Name....., Unit.....

Members

No., Rank....., Name....., Unit.....

*B'

The Presiding Officer, Members and Judge Advocate (also any officers under instruction) are duly sworn ** (or affirmed).

In case objection is allowed.

@ Fresh Page

@@ Strike out if not applicable.

(Instructions.—The witnesses, if in Court, other than the Prosecutor, should be ordered out of the Court after the oath ceremony.)

Do you object to.....as interpreter?

(Set out)

[Instructions.—(1) In case the accused does not object the interpreter should be sworn/affirmed. In case the accused objects to the appointment of interpreter, the same procedure will be followed as in the case of an objection to a member of the court.

(2) A member of the court appointed interpreter must take the interpreter's oath/affirmation in addition to the oath/affirmation administered to him as a member of the court,]

§.....is duly sworn (or affirmed) as interpreter.

§Do you object to.....as shorthand writer?

(Set out)

.....is duly sworn (or affirmed) as shorthand writer,

(Instructions.—If he objects, the objection will be disposed of as in the case of an interpreter.)

Charge-Sheet^{§§}

The charge-sheet is signed by the Presiding Officer (or Judge-Advocate) marked B-2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.*

Are you guilty or not guilty of the (first) charge against you, which you have heard/read?

(Set out)

[Instructions.—(1) When there is more than one charge the foregoing question will be asked after each charge (whether alternative or not) is read, the number of the charge being stated].

(2) If the accused pleads guilty to any charge the provisions of Army Rule 52(2) must be complied with, and the fact that they have been complied with must be recorded. Where there are alternative charges and the accused pleads guilty to the less serious charge, the Court will enter after the plea is recorded: "The Court proceeds as though the accused had not pleaded guilty to any charge" [Army Rule 54(2) refers].

Variations

Objection to charge (Army Rule 49)

The accused objects to the charge on the ground that (set out).

[Instructions.—Provisions of Army Rule 88 will be followed on all such incidental matters as shown below.)

The Prosecutor answers (Set out).

The accused (or defending officer) replies (Set out).

Advice by the Judge Advocate—The Judge Advocate advises (Set out).

The Court is closed to consider its decision.

The Court decides to disallow the objection (or the Court decides to allow the objection and agrees to report to the convening authority).

The Court being reopened, the accused is again brought before it and the above decision is announced in the open court.

The court proceeds with the trial (or adjourns).

Amendment to Charge (Army Rule 50)

The Court, being satisfied that the name (or description) of the accused is.....and not as stated in the charge-sheet, amend the charge-sheet accordingly.

The Court, before any witnesses are examined, considers that, in the interest of justice, the following addition to (or omission from or alteration in) the charge is required (set out), and adjourns to report its opinion to the convening authority.

§ Strike out this Para if there is no interpreter or shorthand writer, as the case may be.

§ Strike out this Para if there is no interpreter or shorthand writer, as the case may be.

§§ If the trial proceeds on more than one charge-sheet, the trial on each charge-sheet from arraignment to finding inclusive will be kept separate and distinct.

* In case of joint trial each accused will be arraigned separately on each charge, Army Rule 78 refers.

Plea to the Jurisdiction (Army Rule 51)

The accused pleads to the general jurisdiction of the Court on the ground that
(Set out).

Do you wish to produce any evidence in support of your plea?
(Set out).

Witness is examined on oath (or affirmation).
(Set out).

(Instructions.—The examination, etc., of the witnesses called by the accused and of any witness called by the prosecutor in reply, will proceed as directed below in the case of witnesses to the facts of the trial. Provisions of Army Rule 88 will be complied with.)

The Court is closed to consider its decision.

The Court (a) decides to overrule the plea and to proceed with the trial;
or (b) decides to allow the plea and to report to the convening authority and adjourn;
or (c) is in doubt as to the validity of the plea and decides to refer the matter to the convening authority and adjourn (or make the following special decision (set out) and decides to proceed with the trial).

The Court is reopened, the accused is brought before it and the above decision is announced in open court.

The Court proceeds with the trial (or adjourns)

Plea in Bar of Trial (Army Rule 53)

Accused besides the plea of guilty (or, not guilty) offers a plea in bar of trial on the ground that (set out).
Do you wish to produce evidence in support of your plea?

(Set out).

(Instructions.—The examination, etc., of the witnesses called by the accused, and of any witness called by the prosecutor in reply, will proceed as directed below in the case of witnesses to the facts at the trial. Provisions of Army Rule 88 will be complied with.)

The Court is closed to consider its decision.

The Court decides to allow the plea and resolve to adjourn (or to proceed with the trial on another charge) (or the Court decides to overrule the plea).

The Court is reopened, the accused is brought before it and the above decision is announced in the open Court as being subject to confirmation.

The Court adjourns (or proceeds with the trial on another charge) (or proceeds with the trial).

Refusal to Plead [Army Rule 52(1)]

As the accused does not plead intelligibly (or refuses to plead) to the above charge, the Court enters a plea of "not guilty".

The accused having pleaded guilty to the.....charge the provisions of Army Rule 52(2) are here complied with.

©C

Proceedings on plea of Guilty

*(The Court having been reopened, the accused is again brought before it, and the charge (charges) to which he has pleaded guilty is (are) read to him again).

The accused No. Rank.....Name.....
Regiment.....

is found guilty of the charge (all the charges).

or,

is found guilty of the.....charge, and is found not guilty of the.....charge.

(Instructions.—If the trial proceeds upon any charge to which there is a plea of "not guilty", the Court will not proceed upon the record of the plea of "guilty" until after the findings on that other charge; and

@ Fresh page

* To be struck out in case no plea of 'not guilty' Has been proceeded with.

in that case the Court will be reopened and the charge on which the record is "guilty" must be read to the accused again.)

Announcement of Findings

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

(The accused may, in accordance with Army Rule 54(3) make any statement he wishes in reference to the charge).

Do you wish to make any statement in reference to the charge?

(Set out).

The Summary (or abstract) of evidence is read (orally translated) marked..... signed by the Presiding Officer (or Judge Advocate), and attached to the proceedings.

[Instructions.—If there is no summary (or abstract) of evidence, sufficient evidence to enable the Court to determine the sentence, and the confirming officer to know all the circumstances connected with the offence will be taken on a separate sheet in the same manner as on a plea of "not guilty".]

Do you wish to make any statement in mitigation of punishment?

The accused in mitigation of punishment says (or, if the statement is in writing hands in a written statement, which is read, marked..... signed by the Presiding Officer (or Judge Advocate), and attached to the proceedings).

[Instructions.—If the statement of the accused is not in writing, the material portion should be taken down in the first person, and as nearly as possible in his own words.

If counsel or defending officer addresses the Court on behalf of the accused the material portions of his address should be recorded.

In any case any matter which is requested by or on behalf of the accused to be recorded should be recorded, and care must be taken, whether a request is made or not, to record every point brought forward in mitigation of punishment.)

³The Court being satisfied from the statement of the accused (or the summary (or abstract) of evidence otherwise) that the accused did not understand the effect of the plea of "guilty", alter the record and enter a plea of "not guilty".

Variations

Alteration of Plea [Army Rule 54(5)]

The Court being satisfied from the statement of the accused (or the summary of evidence, or otherwise) that the accused did not understand the effect of the plea of "Guilty" enters in the proceedings; the Court consider that the accused does not understand the effect of his plea of "Guilty", alter the record and enters a plea of "not guilty".

[Instructions.—The Court will then proceed in respect of the charge as on a plea of "not guilty".]

*DD

Witnesses for defence on Plea of Guilty [Army Rule 54(7)]

The Court permits the accused to call witnesses to prove his above statement that (set out the statement which is to be proved).

[Instructions.—The examination, etc., of witnesses called in pursuance of this permission will proceed in the same manner as on a plea of "not guilty".]

Do you wish to call any witnesses as to character?

(Set out)

[Instructions.—The examination, etc., of witnesses as to character will proceed as in the case of a witness giving evidence as to the facts of the case.]

*G

Proceedings on plea of not Guilty

[Army Rule 56(1)]

\$ To be struck out if not applicable, see Army Rule 54(5).

* Fresh page.

* Fresh page.

Do you wish to apply to an adjournment on 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?

(Set out.)

(*Instructions.*—In case of request for adjournment the accused's statement together with the decision of the Court is to be recorded.)

The prosecutor makes an opening address (or hands in a written address, which is read (orally translated), marked.....signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

The prosecutor proceeds to call witnesses.

.....⁺ being duly sworn (affirmed) is examined by the prosecutor.

(Note.—For form of oath or affirmation see Army Rule 140).

Cross-examined by the accused (or by counsel, or Defending Officer).

Re-examined by the Prosecutor.

Questioned by the Court.

(*Instructions.*—(1) The fact that Army Rule 141(2)(3) and (4), as applicable has been complied with must be recorded at the conclusion of the evidence of each witness as under—

"Provisions of Army Rule 141 (2) (3) and (4) are complied with" or "The witness does not wish his evidence to be read over to him. Provisions of Army Rule 141(2) are complied with".

(2) In case the Presiding Officer or Judge Advocate or a member addresses any question to the witness Army Rule 142(2) should be complied with and the fact recorded.

(3) If the accused or his counsel, or defending officer declines to cross-examine a witness that fact must be recorded.]

Variations

Postponement of cross-examination (Army Rule 135)

The Court, at the request of the accused, allows the cross examination of the witness to be postponed.

Objections to Evidence of Procedure

(Army Rule 88)

The accused (or counsel or defending officer, or the prosecutor) objects to the following question on the ground that (set out).

The prosecutor (or counsel or Defending Officer, or accused, as the case may be, answers that (set out).

The accused (or counsel or Defending Officer or the prosecutor) in reply states that (set out).

The Court is closed to consider its decision.

The Court decides to over-rule (allow) the objection.

The Court is reopened, the accused is brought before it and the above decision is announced in open Court.

The Court proceeds with the trial.

Explanation or Correction of Evidence

[Army Rule 141(2)]

The witness, on his evidence being read to him, makes the following explanation or correction (set out).

Examined by the prosecutor as to the above explanation or correction.

Examined by (or on behalf of) the accused as to the above explanation or correction.

The prosecutor and accused (or counsel or defending officer) decline to examine him respecting the above explanation or correction.

Second witness for prosecution.

.....^{*} being duly sworn (or affirmed) is examined by the prosecutor. (The examination, etc., of this and every other witness proceeds as in the case of the first witness).

+ Here insert No., Rank, Name and appointment, if any, or other description, including the religion of the witness.

* Here insert his No., Rank, Name, Unit and appointment (if any) or any other description.

Variations
Adjournment

At.....hrs. on.....the Court adjourn until.....hrs.
on.....20.....

At.....hrs. on.....20.....the Court re-assemble, pursuant to the adjournment; present the same members and the Judge-Advocate as on Here insert No., Rank, Name and appointment, if any, or other description, including the religion of the witness.....20.....

[Instructions.—(1) If upon re-assembly a member is absent and his absence will reduce the Court below the legal minimum and, it appears to the members present that the absent member cannot attend within a reasonable time, the Presiding Officer or senior member present will thereupon report the case to the convening authority (Army Rule 83).

(2) If the Judge Advocate is absent, and cannot attend within a reasonable time, the court will adjourn and the presiding Officer will thereupon report the case to the convening authority (Army Rule 104).]

Absence of Member

(No., Rank....., Name.....Unit.....) being absent a medical certificate (or letter, or as the case may be) is produced, read, markedand attached to the proceedings.

The Court adjourns until.....

or

There being present.....(not less than the legal minimum) members, the trial is proceeded with.

Examination (Cross-examination) of.....continued.

'D

The prosecution is closed.

DEFENCE

Do you intend to call any witness in your defence?

(Set out)

Is he a witness as to character only?

(Set out).

[Instructions to the Court.—(1) When the answers to the above questions have been recorded the Court will follow the provisions of Army Rule 58 or 59 respecting the order of evidence and addresses which are applicable to the circumstances of the case.

(2) All addresses by prosecutor, accused, counsel, or defending officer whether recorded by the Court or handed in writing (and the written summing up by Judge Advocate) will be attached to the proceedings in the order in which they are made. Written addresses (and summing up) will be read to the Court, marked and signed by the Presiding Officer (or Judge-Advocate) except summing up.]

If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the witnesses for the defence (including witnesses as to character) is recorded. Such evidence will be taken after the questions, if any, to the accused have been addressed under Army Rule 58(2) (a) or 59(b).

*The accused (counsel or defending officer) makes an opening address, or [hands in a written opening address which is read, marked....., signed by the Presiding Officer (or Judge-Advocate) and attached to the proceedings] or declines to make an opening address.

Have you anything to say in your defence?

The accused in his defence says (see Instruction (1) below) (or hands in a written address, which is read (orally translated) marked.....signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

* Fresh page.

@ See Army Rule 59 (a).

Instructions.—(1) In this space will be recorded any oral statement or address made by the accused in his defence. (For any additional address which he is entitled to make, see Instructions to the Court above.

(2) If the statement of the accused is not in writing, and is delivered by himself, the material portions should be taken down in the first person and as nearly as possible in his own words.

(Any matter which is requested by or on behalf of the accused to be recorded, should be recorded and care must be taken, whether a request is made or not, to record every point brought forward in the defence or in mitigation of punishment.)]

Question to the accused

The Presiding Officer (or Judge Advocate) reads and explains the provisions of Army Rule 58(2)(a) or 59(b). Having ascertained that the accused understands the provisions read over to him, the Court (or Judge Advocate) proceeds to ask the following question—

(Set out)

Instructions to the Court

(1) The accused should be questioned only to afford him an opportunity offering an explanation, if he so desires, where absence of such explanation would affect him adversely.

(2) Questions put to the accused should be such as will enable him to explain any circumstances appearing against him in the evidence, which if unexplained may lead to a conviction.

(3) Question must not be put to the accused in order to supplement the case for the prosecution.

(4) Questions to the accused and the answers both will be recorded verbatim as far as possible.

®D2

(The accused calls the following witnesses* as to character).

Instructions.—All evidence given upon oath (affirmation) will be recorded in the following form—

“.....being duly sworn (or affirmed) is examined by the accused (or counsel, or defending officer).]

Cross-examined by the prosecutor.

Re-examined.

Questioned by the Court.

Instructions.—(1) The fact that Army Rule 141(2),(3) and (4) as applicable, has been complied with must be recorded at the conclusion of the evidence of each witness.

(2) If the prosecutor declines to cross-examine that fact must be recorded.

(3) Evidence of witnesses as to character will be taken in the same manner as that of witnesses to the facts.

(4) In case the Presiding Officer or the Judge-Advocate or a member addresses any question to the witness Army Rule 142(2) should be complied with and the fact recorded.]

Recalling Witness (Army Rule 143)

(1) At the request of the prosecutor (or the accused).....is recalled and examined on his former oath/affirmation through the Presiding Officer (or Judge Advocate) and states as follows—

(Set out).

or

(2) The prosecutor with leave of the Court, calls (or recalls).....for the purpose of rebutting material statement made by a witness for the defence. The witness being duly sworn (or affirmed) is (or on his former oath/affirmation) being examined by the prosecutor states as follows—

(Set out with any cross-examination, re-examination etc.)

or

(3) The prosecutor calls (or recalls).....in reply to the witness(es) as to character called by the accused. The witness being duly sworn (or affirmed) is (or on his former oath/affirmation) being examined by the prosecutor states as follows—

(Set out with any cross-examination re-examination etc.)

® Fresh page

* If witnesses are called excepting as to character, these words are to be struck out.

** Here insert his No., Rank, Name, Unit and appointment (if any) or any other description.

or

(4) The Court in accordance with Army Rule 143(4) calls (or recalls)..... who being duly sworn (or affirmed), (or his former oath/affirmation) states in reply to the Presiding Officer (or Judge Advocate) as follows—

(Set out)

[*Instructions.*—In (1), (2), and (3) witnesses must be called or recalled before the closing address of or on behalf of the accused. In (4) witnesses may be called or recalled by the Court at any time before the finding; in this case the accused or counsel or defending officer and the prosecutor should be given the opportunity of asking further questions through the Court.]

Adjournment to prepare addresses, etc.

The Court, at the request of the accused (counsel or defending officer) adjourn until.....to enable him to prepare his address.

The Court at the request of the prosecutor adjourn until.....to enable him to prepare his reply.

The Court at the request of Judge adjourn until.....to enable him to prepare his summing up.

The accused (counsel or defending officer) makes the following closing address (or hands in a written closing address) which is read (orally translated) marked.....signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

or

The accused (counsel or defending officer) declines to make a closing address.

The prosecutor makes the following reply (or hands in a written reply) which is read (orally translated) marked..... signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

or

The prosecutor declines to reply.

Summing-Up

The Judge Advocate hands in a written Summing-Up which is read (orally translated) marked..... signed by the Presiding Officer and attached to the proceedings.

[*Instructions.*—(1) The occasion when the prosecutor's closing address must precede that of the accused (counsel or defending officer) is given in Army Rule 58(2).

(2) Where the address of the prosecutor (or counsel or defending officer) is not in writing, the Court should record as much as appears to it material, and so much as the prosecutor (counsel or the defending officer) requires to be recorded.

Care must be taken, whether request is made or not, to record every point brought forward in the defence or in mitigation of punishment.

If the address of the accused is not in writing and is delivered by himself, the material portions should be taken down in the first person and as nearly as possible in his own words.]

*F

FINDING

Court-closed.

The Court is closed for the consideration of the finding.

(1) Acquittal on all the charges.

The Court find that the accused (No., Rank....., Name....., Unit.....) is not guilty of the charge (or, of all the charges).

Announcement of Finding(s)

The Court being reopened, the accused is again brought before it. The finding(s) is/are read in open Court and is/are announced as being subject to confirmation.

Signed at.....this..... day of.....20.....

Signature

@ Fresh Page

* To be omitted except in case of a plea of "Not guilty" having been proceeded.

Presiding Officer

(2) Acquittal on some but not all charges.

is not guilty of the.....charge(s) but guilty of the.....charge(s).

(3) Conviction on all charges.

is guilty of the charge (or all the charges).

(4) Special finding.

(a) is guilty of the.....charge(s) and guilty of the.....charge with the exception of the words (set out) (or, with the exception of the words that (set out).

or

(b) is not guilty of deserting the service but is guilty of absenting himself without leave.

or

(c) is guilty of the charge with the variation that figures and words "Rs. 4200.00 (rupees four thousand two hundred)" shall read as "Rs. 3200.00 (rupees three thousand two hundred)".

[Instructions.—Any special finding permitted by Army Rule 62(4) will be framed as far as possible in accordance with (a) or (c). Any special finding allowed by Army Act Section 139 may be expressed in accordance with (b).]

Reference to Confirming Authority

[Army Rule 62(3)]

The Court find as regards the.....charge that the accused did (set out the facts which the Court find to be proved), but doubt whether the facts proved show the accused to be guilty or not of the offence charged (or of the offence of which the accused might under the Act legally be found guilty on the charge as laid). It, therefore, refers to the confirming authority or an opinion and adjourn.

or

[Army Rule 62(8)]

(Note.—This applies only to alternative charges).

The Court find that the accused did (set out such particulars of the charge as the Court find to be proved), but doubt whether such facts constitute in law the offence stated in the.....charge or in the.....charges.

It, therefore, refers to the confirming authority for an opinion and adjourn.

(in either case)

The Court re-assemble on the.....day of.....20..... The opinion of the confirming authority is read, marked.....signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.

The Court now find the accused (No., Rank....., Name....., Unit.....) is (finding to be recorded in the usual manner).

Insanity

The Court find that the accused (No., Rank....., Name....., Unit.....) is of unsound mind and consequently incapable of making his defence.

or,

Committed the act (acts) alleged as constituting the offence (offences) specified in the charge (charges) but was by reason of unsoundness of mind incapable or knowing the nature of that act (or those acts) (or but was by reason of unsoundness of mind incapable or knowing that the act was wrong (or those acts were wrong) (or contrary to law).

Announcement of finding(s)

The court being reopened, the accused is again brought before it. The finding(s) is/are read in open Court, and is/are announced as being subject to confirmation

Signed at.....this.....day of.....20.....

(Signature)

Presiding Officer

(Note.—If the finding of the Court is guilty on any charge, the proceedings are not required to be signed at this stage.)

*P

*Proceeding on Conviction
(Before Sentence)*

†No., Rank....., Name.....Unit.....is duly sworn (or affirmed).

What record have you to produce in proof of former convictions against the accused and of his character?

I produce a statement (LAFD-905) certified under the hand of the officer having custody of the Regimental (or other official) records.

The statement is read (orally translated) marked)signed by the Presiding Officer (or Judge-Advocate) and attached to the proceedings.

Is the accused the person named in the statement you have heard read?

(Set out)

Have you compared the contents of the above statement with the Regimental (or other official) record?

(Set out)

Are they true extracts from the Regimental (or other official) records and is the statement of entries in the defaulter sheet a fair and true summary of those entries?

(Set out)

Cross-examined by the accused (or by counsel or defending officer).

Re-examined.

or

The accused declines to cross-examine the witness.

[Illustrations.—(1) Army Rules 141(2), (3) and (4) and 142(2) as applicable, will be complied with and the fact recorded.

(2) Any hither question will be put and any evidence produced which the Court requires as to any point respecting the character and service of the accused on which the Court desires, to have information for the purpose of its sentence.

(3) At the request of the accused, or by the direction of the Court to Regimental or other official books, or a certified copy of the material entries therein, must be produced for the purpose of comparison with the statement.

The accused is entitled to call the attention of the Court to any entries in the Regimental or other official books, or in the certified copy above-mentioned, and to show that they are inconsistent with the statement.]

When all the evidence of the above matters has been given the accused may address the Court thereon.

(4) If by reason of the nature of the service of the accused, the finding of the Court renders him liable to any exceptional punishment, in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must enquire into the nature and amount of that additional punishment].

Do you wish to address the Court?

(Set out)

*The Court is closed for the consideration of the sentence.

Sentence

(Instructions.—The provisions of Army Act, Sections 71 to 75 and 119 must be carefully attended to by the Court in passing sentence.)

The Court sentence the accused No., RankName..... Unit.....

[Instructions.—The sentence is to be marginally noted in every case.)

(a) to suffer death by being hanged by the neck until he be dead (or to suffer death by being shot to death).

⊙ Fresh Page

† Insert No., Rank, Name, Unit and other description including the religion of the witness.

⊙ Fresh Page.

Certified that the sentence of death was passed with the concurrence of (or all members, in the case of SDCMF)

(Note.—A JCO or an enrolled person sentenced to death will not be dismissed)

(a) to suffer imprisonment for life

(a1) to suffer rigorous (or simple) imprisonment for

(Note.—Sentences of imprisonment, unless for one or more years exactly, should, if for one month or upwards, be recorded in months. Sentences consisting partly of months and partly of days should be recorded in months and days.)

(a2) to be cashiered (in case of officers only.)

(Instructions.—An officer must be sentenced to be cashiered before he is awarded the punishment of death, imprisonment for life or of imprisonment.)

(a3) to be dismissed from the service.

(a4) to suffer field punishment No. for

(This punishment is awardable if the accused is below the rank of Warrant Officer and the offence was committed on active service.)

(Instructions.—In case a Warrant Officer and a non-commissioned officer, is awarded imprisonment for life, imprisonment, field punishment or dismissal he is deemed to be reduced to the ranks, however, it is desirable to specify the reduction in the sentence, which should precede such sentences.)

(5) In case of warrant officers—

to be reduced to the ranks.

or

to be reduced to (a lower rank).

or

to be reduced to (a lower grade)

or

to be reduced to an inferior class of warrant officer, that is to say.....

to be reduced in the list of his rank as if his appointment there to bore date the.....day of.....

20.

In case of non-commissioned officers—

to be reduced to the ranks.

or

to be reduced to (a lower rank).

or

to be reduced to (a lower grade)

(g) (In case of an officer, JCO, WO or an NCO)—to take rank and precedence as if his appointment as* bore date the.....day of.....20.....

or

to take precedence in the rank of held by him, as if his name had appeared (to specified number of places) lower in the Army list in case of officers and JCOs and list of his rank in the case of WOs and NCOs

to forfeit service for the purpose of promotion.

(Instructions.—This applies, only in case of a person whose promotion depends upon length of service and a sentence can be inflicted in respect of all or any part of his service.)

(h) to forfeit (all or.....year's or.....months) past service for the purpose of.

(i) (In case of an officer, JCO, WO and NCO) to be severely reprimanded (or reprimanded).

(j) to forfeit pay and allowances for a period of (not exceeding 3 months for an offence committed on active service).

(k) to forfeit all arrears of pay and allowances and other public money due to him at the time of his (cashiering or dismissal).

* Here insert rank to which the punishment pertains.

(1) to be put under stoppage of pay and allowances until he has made good the sum of.....in respect of or (and) until he has made good the value of the following articles, viz—

Recommendations to Mercy

The Court recommend the accused to mercy on the ground that (set out).

Announcement of Sentence

The Court being reopened, the accused is brought before it. The sentence (and recommendations to mercy) is/are announced in open Court, the sentence is announced as being subject to confirmation.

Signed at.....this.....day of.....20.....

(Signature)

Judge Advocate

(Signature)

Presiding Officer

ⓈRevision

At.....on the.....day of.....20.....at.....hrs. the Court re-assembles by order o....., for the purpose of reconsidering its.....

Present the same members and the Judge Advocate as on the.....20.....

*[Instructions.—*If a member is absent and the absence will reduce the Court below the legal minimum, and it appears to the members present that such absent member cannot attend within a reasonable time, the Presiding Officer, or in his absence, the senior member present shall thereupon report the case to the convening authority.

The order directing the reassembly of the Court for the revision, and giving reasons of the confirming authority for requiring a revision of the finding (or finding and sentence) (or sentence) is read, marked.....signed by the Presiding Officer (or Judge Advocate) and attached to the proceedings.]

[Instructions.—(1) If the confirming authority so orders, additional evidence may be taken on revision.

(2) If a new Judge Advocate has been appointed, he should be sworn (or affirmed) and a record to that effect made before the revision order is read.

(3) If the accused (or counsel or defending officer) wishes to address the Court, gist of his address should be taken down or his written address be read, marked and attached to the proceedings as usual [Army Rule 92(4) refers].

(4) If the Judge Advocate wishes to clear any points, he may make an additional summing-up which should be read, marked and attached to the proceedings as usual.]

The Court is closed to reconsider their finding or finding(s) and sentence (or sentences).

The Court having attentively considered the observations of the confirming authority and the whole of the proceedings—

(a) do now revoke their finding and sentence and find the accused (guilty) or (not guilty) of the charge(s) and sentence him to.....

or

(b) do now revoke their sentence and now sentence the accused to.....

or

(c) do now respectfully adhere their sentence (or finding and sentence) or (finding).

[Instructions.—(1) In case the revision pertains to Court's findings on some of the charges only record at (a) above should be made accordingly. If the Court do not adhere to their former finding(s) (and the sentence), and pass a fresh sentence if the revised finding(s) involve(s) a sentence.

(2) If the new finding entails a sentence, normal proceedings on conviction should be followed, if necessary and form at (a) above amended accordingly.

(3) All the decisions of the Court with respect to the finding and sentence should be announced in open Court as being subject to confirmation and a record made to that effect in normal manner.]

Signed at.....this.....day of.....20.....

(Signature)
Judge Advocate

(Signature)
Presiding Officer

Confirmation

1. Confirmed.

"I direct that the sentence of (rigorous or simple) imprisonment shall be carried out by confinement in military custody (or in civil prison or in military prison).

The accused is recommended Division 'A' (or I), or 'B' (or II) or 'C' (or III) while undergoing sentence in the civil prison. If there are only two divisions of prisoners, the accused is recommended Division 'A' (or I) or 'B' (or II)."

or

2. I vary the sentences so that it shall be as follows and confirm the finding and the sentence as so varied.

or

3. I confirm the finding and sentence of the Court, but mitigate (or remit or commute).

or

4. (Where the confirming authority desires partly to reserve his confirmation).

I confirm the finding(s) of the Court on the.....and.....charges and reserve for confirmation by superior authority the findings on the.....charges, and the sentence:

or

5. I confirm the findings of the Court, but reserve the sentence for confirmation by superior authority.

or

6. I confirm the finding(s) of the Court and the sentence of the Court as to.....and reserve the sentence so far as it relates to.....for confirmation by superior authority.

or

7. (Where the finding is not confirmed).

Not confirmed.

or

8. (Where a plea in bar of trial had been under Army Rule 53).

"The finding of the Court that the plea in bar is proved (or not proved) is confirmed (or not confirmed)."

9. Where the Court finds that the accused is of unsound mind and consequently incapable of making his defence or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law.

"Confirmed (or not confirmed)."

or

10. "I confirm the finding of the Court on the first charge but do not confirm the finding on the second charge."

I confirm the sentence but mitigate (remit or commute).

Signed at.....this.....day of.....20.....

(Signature of confirming authority)

(Instructions—Any remark of the confirming authority should be separate and form no part of proceedings.)

*Promulgation

Promulgated and extracts taken at.....this.....day of.....20.....

(Signature of Officer-in-Charge of documents)

[Instructions.—(1) Proceedings which are not confirmed must be promulgated.]

* Such direction to be given in every case where a sentence of imprisonment is awarded and confirmed.
% Such recommendation to be made in every case where a sentence of imprisonment is to be carried out in civil prison.
@ Fresh Page

(2) No extracts are required to be taken in respect of the charge(s) on which the accused is acquitted or on which the finding of 'guilty' is not confirmed.]

Form of proceeding of a summary Court Martial

Proceedings of a Summary Court Martial held at.....on the..... day of..... 20.....by.....Commanding the.....for the trial of all such accused persons as he may duly have brought before him.

Present

.....
.....

Commanding the.....

Attending the trial

.....
.....

Friend of the Accused

.....
.....

Interpreter

(1) The officers* and Junior Commissioned Officers assemble at the trial commences at.....hrs. The accused No..... of the..... is brought ("called" if a non-commissioned officer) into Court,

..... the court is duly sworn (affirmed).

..... is duly sworn (affirmed) as interpreter.

*(Instructions.—*If the CO of the accused (i.e. the Court) acts as interpreter, he must take the interpreter's oath in addition to the oath prescribed for the Court.) All witnesses are directed to withdraw from the Court.

B*

The charge-sheet is read, (translated) and explained to the accused marked "B-2", signed by the Court and attached to the proceedings.

*(Instructions.—*The sanction of superior authority for trial by SCM should be entered with the date and signature of that authority, or of a staff officer on his behalf, at the foot of the charge-sheet, when such sanction is necessary. See Army Act Section 120(2).]

Arraignment

By the Court—How say you are guilty or not guilty of the.....charge preferred against you? (Set out)

Are you guilty or not guilty of the.....charge preferred against you? (Set out)

The accused having pleaded guilty to.....charge(s), the provisions of Army Rule 115(2) are here complied with.

Note.—If the accused pleads guilty to any charge the provisions of Army Rule 115(2) must be complied with.

(Instructions.—(1) If the accused pleads "Guilty", adopt (2) and omit (3), (4) and (5); if he pleads "Not guilty", adopt (3) and (4) or (5) and omit (2); if he pleads "Guilty" to some charge of charges and Not Guilty, to other (not alternative), adopt (3), (4) or (5) and (2).

(2.) The questions are to be numbered throughout consecutively in a single Series.]

* Strike out if inapplicable.
* Strike out if inapplicable.

C**

Proceedings on plea of guilty

(2) The accused (No. Rank..... Name..... Regiment.....) is found guilty of the charge (all the charges).

or

is found guilty of the.....charge, and is found not guilty of the.....charge.

[Instructions.—If the trial proceeds upon any charge to which there is a plea of "not guilty" the court will not proceed upon the record of the plea of "Guilty" until after the finding on those other charges; and in that case the charge on which the record is "Guilty" must be read to the accused again. [Army Rule 116(1) refers.]]

The summary of evidence is read (translated), explained, marked.....signed by the Court and attached to the proceedings.

[Instructions.—If there is no summary of sufficient evidence to enable the Court to determine the sentence and to enable the reviewing officer to know all the circumstances connected with the case will be taken as in paragraph (3). No address will be allowed. [Army Rule 116(2) refers.]]

Variation

The Court being satisfied from the statement of the accused (or the summary of evidence, or otherwise) that the accused did not understand the effect of the plea of "Guilty" alters the record and enters a plea of "Not guilty".

[Instructions.—The Court will then proceed in respect of this charge as in paragraph(3).]

Do you wish to make any statement in reference to the charge or in mitigation of punishment?

(Set out)

Do you wish to call any witness as to character?

(Set out)

[Instructions.—(1) The examination of witnesses as to character will proceed as in paragraph(3).]

(2) Evidence as to character and particulars of service will be taken as in paragraph(6).

D*

*Proceedings on a plea of not guilty**Prosecution*

(3) ".....being sworn (affirmed) is examined by the Court.

Cross-examined by the accused.

Re-examined by the Court.

[Instructions.—(1) The fact that Army Rule 141(2), (3) and (4) has been complied with must be recorded at the conclusion of the evidence of each witness.

(2) If the accused declines to cross-examine a witness the fact must be recorded.]

*Variation**Postponement of cross-examination*

(Army Rule 135)

The Court, at the request of the accused, allow the cross examination of the witness to be postponed.

E*

The prosecution is closed.

Do you intend to call any witness in your defence

(Set out)

** Fresh page.

* Fresh page.

** (a) Here insert No., Rank, Name and Unit or other description.

(b) Religion to be recorded, (Hindus and Musalmans should be affirmed. Sikhs and Christians should be sworn).

* Fresh page.

Defence

The accused is called upon for his defence and states—

Questions (if any) by the Court under Army Rule 118.

*[Instructions to the Court.—*1. The accused is to be questioned only to afford him an opportunity of offering an explanation, if he so wishes where absence of such explanation would affect him adversely.

2. Questions put to the accused should be such as will enable him to explain any circumstances appearing against him which if unexplained may lead to a conviction.

3. Questions must not be put to the accused in order to supplement the case for the prosecution.

4. Questions to the accused and his answers both will be recorded verbatim as far as possible.

5. No oath shall be administered to the accused.]

*P

*..... being duly sworn (affirmed) is examined by the accused.

Cross-examined by the Court.

Re-examined by the accused.

*[Instructions.—*The fact that Army Rule 141(2), (3) and (4) has been complied with must be recorded at the conclusion of the evidence of each witness.]

The defence is closed.

**G

Reply

**.....being duly sworn (affirmed) is examined by the Court.

*H†

Verdict of the Court

Acquittal on all charges.

(4) I am of opinion on the evidence before me that the accused No.of the.....is not guilty of the charge. (or all the charges).

The verdict is read out and the accused released. He is to return to his duty.

Signed at.....this.....day of.....20.....

Commanding the.....
holding the trial.

The trial closes at.....hrs.

§I

Verdict of the Court

Acquittal on some but not on all charges

(5) I am of opinion on the evidence before me that the accused No.of the is not guilty of the.....charge(s) but is guilty of the.....charge(s).

Conviction on all charges.

I am of opinion on the evidence before me that the accused No.ofis guilty of the charge (all charges).

Special Findings (Army Act, Section 139 and Army Rule 121).

@ Fresh Page. Defence 1st witness.

* (a) Here insert No., Rank, Name, Unit and other descriptions.

@@ Fresh Page, Reply of 1st witness.

** (a) Here insert No., Rank, Name and Unit and other descriptions.

(b) Religion to be recorded. (Hindus and Musalmans should be affirmed. Sikhs and Christians should be sworn).

* (a) Here insert No., Rank, Name, Unit and other descriptions.

(b) Religion to be recorded. (Hindus and Musalmans should be affirmed. Sikhs and Christians should be sworn).

† Fresh Page.

§ Fresh Page.

I am of opinion on the evidence before me that the accused No.of the..... charge(s) and guilty of the.....charge with the exception of words (set out) is not guilty of (deserting the service) but is guilty or (absenting himself without leave).

Proceedings before sentence

(6) The following minutes by the Court are read and explained.

(Instructions.—If the Court does not record the accused person's convictions and character of its own knowledge, evidence as to these matters will be taken as in the Form of Proceedings for a GCM or DCM, [Army Rule 123 refers.]

It is within my own knowledge from the records of the.....that the accused has.....been previously convicted by Court Martial or Criminal Court. (A separate statement giving full particulars of and previous conviction to be annexed when necessary.)*

That the following is a fair and true summary of the entries in his defaulters sheet exclusive of convictions by a Court Martial or a Criminal Court

Within last 12 months. †Since enrolment.

For.....times.....times.

For.....times.....times

That he is at present undergoing.....sentence.

That irrespective of this trial, his general character has been.....*

That his age is.....his service is.....and his rank is,

That he has been in arrest (confinement) for.....days.

That he is in possession of or entitled to the following military decorations and rewards—

Note.—Any recognised acts of gallantry or distinguished conduct should also be entered here.

Sentence by the Court

Talking all these matters into consideration, I now sentence the accused No., Rank..... Name.....of the.....

(a) **to suffer rigorous (simple) imprisonment for(and I direct that the sentence of rigorous/ simple imprisonment shall be carried out by confinement in military custody/military prison/civil prison). †(The accused is recommended for Division 'A' (or I) or 'B'(or II) or 'C'(or III) while undergoing sentence in the civil prison. If there are only two divisions of prisoners, the accused is recommended Division 'A'(or I) or 'B'(or II).

(Instructions.—Sentences of imprisonment, unless for one or more years exactly should if for one month or upwards, be recorded in months. Sentence consisting partly of months and partly of days should be recorded in months and days.)

(b) to be dismissed from the service.

(c) (if on active service) to suffer field punishment No.for.....

(d) (if non-commissioned officer)—

(1) to be reduced to the ranks, or

(2) to be reduced to (a lower rank).

or

(3) to take rank and precedence as if his appointment to the rank of.....bore date.....

(4) to forfeit.....service for the purpose of promotion.

(Instructions.—This applies only in the case of a non-commissioned officer whose promotion depends upon length of service.)

(e) to forfeit.....past service for the purpose of.....

* Strike out if inapplicable

† The offence during the last 12 months must be included under this heading.

@ Character to be assessed in accordance with Regs Army para. 171.

@@ Fresh Page

** Inapplicable words to be struck out and initialled by the court.

† Inapplicable in case the accused is sentenced to imprisonment in military custody/military prison.

(f) to be severely reprimanded (or reprimanded),

(g) (if on active service) to forfeit pay and allowances for a period of.....

(h) to forfeit all arrears of pay and allowances and other public money due to him at the time of his dismissal;

(j) to be put under stoppage of pay and allowances until he has made good the sum of.....in respect of.....or (and) until he has made good the value of the following articles, viz.....value..... etc.

Signed at.....this.....day of.....20.....

Commanding the.....
holding the trial

The trial, closed, at.....hrs.

Remarks by Reviewing Officer

(Army Act, Section 162)

Form for Assembly and Proceedings of a Summary general court martial

A—Order Convening the Court

At (place).....this.....day of.....20.....

*⁽¹⁾ *Beginning of Form in case of falling under clause (a) of Army Act, Section 112.*

Whereas it appears to me.....an officer empowered in this behalf by an order of the Central Government/Chief of the Army Staff that the person/persons named in the annexed schedule, and being subject to Army Act has/have committed the offence/offences in said schedule mentioned;

*⁽²⁾ *Beginning of Form in cases falling under clause (b) of Army Act, Section 112.*

Whereas it appears to me.....the/an officer.....commanding the forces in the Field (or empowered in this behalf by the officer commanding the forces in the Field) on active service that the person/persons named in the annexed schedule, and being subject to Army Act has/have committed the offence/offences in said schedule mentioned.

*⁽³⁾ *Beginning of Form in cases falling under clause (c) of Army Act, Section 112.*

Whereas it appears to me.....an officer now in command of..... being a detached portion of the Regular Army on active service that the person/persons named in the annexed schedule, and being subject to Army Act, has/have committed the offence/offences in the said schedule mentioned and whereas I am of opinion that it is not practicable with due regard to discipline and the exigencies of the service that the said offence/offences should be tried by general court-martial.

*Only one of these will be used, the two which are inapplicable being struck out.

(4) *End of form applicable to all cases.*

I hereby convene a summary general court-martial to try the said person/persons and to consist of—[£]

(Here enter the special order (if any) under Army Rule 160 and any order under Army Act, Section 157).

(Signature of Convening Officer)

B—Certificate of presiding officers as to the Proceedings

I certify that the above Court assembled on the.....day of.....20..... and duly tried the person/persons named in the said schedule and that plea, findings and sentence in the case of such/each such person were as stated in the third and fourth columns of that schedule.

I further certify that the members of the Court, the witnesses and the interpreter were duly sworn or affirmed.

Signed at (Place)this.....day of.....20.....

* Strike out inapplicable portion.

* Strike out inapplicable portion.

* Strike out inapplicable portion.

* Strike out inapplicable portion.

£ The members and waiting members (if any) may be appointed by name, or only their Ranks units may be mentioned in the latter event the Ranks, Names etc., of the members of the court, as constituted, will be recorded in the proceedings.

(Signature of Presiding Officer)

C—Confirmation

I have dealt with the finding/findings and sentence, sentences in the manner stated in the last column of the said schedule, and, subject to what I have there stated I hereby confirm the above finding/findings and sentence/sentences.**

I direct that the sentence of rigorous (or simple/imprisonment shall be carried out by confinement in military custody (or in civil prison).

The accused is recommended Division 'A' (or I) or 'B' (or II) or 'C' (or III) while undergoing sentence in the civil prison. If there are only two divisions of prisoners, the accused is recommended Division 'A' (or I) or 'B' (or II).

Signed at (place).....this.....day of.....20.....
(Signature of confirming officer)

D—Promulgation

Promulgated and extracts taken at.....this.....day of.....20.....
Date.....20.....
(Signature of officer in charge of documents)

SCHEDULE

Name of alleged offender*	Offence Charged	Place	Finding (S), and if Convicted Sentence ⁺	How dealt with by Confirming Officer
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Signature of Convening Officer	Signature of Presiding Officer	Signature of Confirming Officer
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PART I

Statement as to Character and Particulars of service of accused

Number....., Rank....., and Name.....of the.....Regt.

1. The following is a fair and true summary of the entries in the squadron, battery or company conduct sheet of the accused, exclusive of convictions by a court-martial or a criminal court and of summary awards under Section 83, 84 or 85 of the Army Act.

Within last 12 months	Since enrolment
For(a) .....times	.....times
For.....times	.....times
For.....times	.....times

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheet of the accused.

2. Irrespective of this trial the accused's general character **is.....

** Strike out inapplicable portion.
* If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.
+ recommendation to mercy to be inserted in this column.
* The character of soldier will be recorded in terms of Regs Army Para 171.

3. The present age of the accused according to his (record of service)(enrolment paper) is.....

4. The date of his commission/(enrolment) specified in his (record of service/enrolment papers) is.....and his total service is.....

5. (In the case of an officer/ICO). The accused holds the substantive rank of.....dated.....and Acts/Temp rank of.....dated.....

6. The accused has served as a non-commissioned officer continuously, without reduction to the present date.

Date of Promotion

In the rank of.....years.....

In the rank of.....years.....

In the rank of.....years.....

7. The accused is entitled to reckon.....years service for the purpose of determining his pension/gratuity.

8. The accused is in possession of or entitled to the following military decorations and rewards.....

9. The accused has been in arrest (confinement) awaiting trial on the present charge(s) for.....days in civil custody and.....days in military custody, making a total of.....days of which.....days were spent in hospital.

10. The accused is not under sentence at the present time.

or

The accused at the present time is under sentence for.....beginning on the.....day of.....20.....

11. There are no previous conviction against the accused.

or

The previous convictions of the accused by a court-martial or a criminal court and summary awards under Sections 83, 84 and 85 of the Army Act are set out in the Schedule annexed to the statement.

Schedule of convictions by a Court-martial or Criminal Court
a under Section 83, 84 or 85 of the Army Act

Of accused No.Rank.....Name.....

Note.—Verbatim extract from the regimental records stating these convictions must be inserted

Description of court/ authority awarding punishments	Place and date of trial/ summary/ award	Charges of which convicted	Sentence/ Summary award	Minute of confirmations (where convicted by court-material)	Remarks
--	---	----------------------------	-------------------------	---	---------

I hereby certify that the foregoing schedule of convictions is a true extract from the regimental records in my custody.

Station:.....

Date:.....

Commanding.....

PART II

Form for use at summary trials of NCOs and other ranks under Section 80-82 of the Army Act, 1950

Offence Report Battery, Squadron, Company etc. Serial No.
 Charges against No. Rank..... For week ending.....
 Last report submitted on.....
 Name.....

Place and date of offence	Offence	Plea	Name of witness	Punishment awarded	Signature, Rank and designation of office by whom awarded date of award	Date of entry in conduct sheet	Remarks
1	2	3	4	5	6	7	8

.....
 Signature of OC unit

Instructions.—

- Col. 1. In cases of absence without leave/desertion, the 'date of offence' will be the first day of absence.
 Col. 2. The section and sub-section of the Army Act under which the charge is preferred will be inserted above the statement of offence.
 Col. 3. An officer cannot deal summarily with a case in which he is the sole prosecution witness.
 Col. 5. Must be completed strictly in accordance with the heading.
 Col. 7. In cases of absence without leave/desertion, the automatic forfeiture of pay and allowance under P & A Regulations must be entered here.

Note.—A Lance Naik is an NCO for the purpose of Army Act Section 80. Punishment of imprisonment, and punishment as specified in clauses (a), (b), (c) and (f) of this Section shall not be awarded to NCOs.

PART III

*Forms of summons to Witnesses**(a) In the case of Summary of Evidence*

To,

Whereas a charge of having committed an offence triable by court-martial has been preferred before me, against (No., Rank....., Name....., Unit.....), and whereas I have directed a summary of the evidence to be taken in writing at..... (place) on the.....day of.....at.....hrs.; I do hereby summon and require you (name)to attend as a witness at the said place and hour and to bring with you the documents hereinafter mentioned, namely.....)

Whereof you shall fail at your peril.

Given under my hand at.....on the.....day of.....20.....

Commanding Officer of the accused.

(Signature)

(b) In the case of a Court Martial

IAFD-919B

To,

Whereas a.....Court Martial has been ordered to assemble at.....on the.....day of.....20.....for trial of..... of the..... Regiment, I do hereby summon and require you A.....B.....to attend, as a witness at the sitting of the said Court at..... (Place) on the.....day of.....hrs.(and to bring with you the documents hereinafter mentioned, namely.....), and so to attend from day to day until you shall be duly discharged, whereof you shall fall at your peril.

Given under my hand at.....on the.....day of.....20.....

(Signature)

Convening Officer for Judge Advocate or
Presiding Officer of the Court or
Commanding Officer of the accused.

¹⁴⁸[(c) *In the case of a Court of Inquiry IAFD-919C*

To,

Whereas a Court of Inquiry has been ordered to assemble at.....on the..... day..... 20.....for investigating into..... I do hereby summon and require you A.....B..... to attend as a witness at the sitting of the said Court at.....(Place) on the.....(day), at.....hrs, and to bring with you the documents hereinafter mentioned, namely....., 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.....20.....

(Signature)

Officer Assembling the Court of Inquiry]

PART IV

Form of Delay Report

Confidential

No.

Unit address.....

Date.....

To.....

(Convening Officer)

Subject—1st (2nd), (3rd), (4th), etc, etc. Eight-day delay report pursuant to AA Section 103 and Army Rule 27.

1. Army No.Rank.....Name.....
2. Offence.....
3. Date of offence.....
4. Date offence was discovered.....
5. Date of (open/close) arrest.....
6. Date of release to open arrest/release.....Without prejudice to re-arrest (If NOT released, reasons)
7. Summary of Evidence recorded on.....
(if not recorded reasons)
8. Application for trial made on.....
9. Date due to be tried.....
10. Reason for delay.....

(Rank)

Officer Commanding.....

Copy to—

Brigade/Sub Area Commander (if he is NOT also the Convening Officer).

Headquarters.....Command in the case of (6th and)

DJAG.....Command subsequent reports.

Memoranda for the guidance of Officers Concerned with Courts-Martial

The following memoranda as to courts-martial are intended for the guidance of commanding and convening officers and others with a view to securing uniformity of practice and to avoiding some common mistakes.

These memoranda do not form part of the Appendices to the Army Rules, 1954.

Summary of Evidence

1. The officer detailed to record a summary of evidence should—

- (a) Make himself acquainted with all the circumstances of the case and the testimony of the witnesses who gave evidence before the CO, and carefully consider whether the additional evidence is relevant and necessary [see Army Rule 23(1)]. Intelligent and patient investigation will often result in the discovery of a missing link in the chain of evidence, of corroborating evidence, or of evidence tending to exculpate the accused. It may even save an unnecessary or abortive court-martial.
- (b) Before taking down the evidence—
 - (i) Consider what offence or offences appear to have been committed.
 - (ii) Consider the essential elements of such offence, or of each offence.
 - (iii) Consider what facts and circumstances must be proved in order to establish not only the commission of an offence but also the commission of it by the accused, i.e., what facts are relevant to the issue.
 - (iv) Consider what evidence should be adduced in order to prove each material fact; in other words, how it is proposed to prove each of the necessary facts by admissible evidence. He will generally find it convenient to ascertain from each witness roughly what evidence that witness can give before actually taking down the evidence.
- (c) When reducing the evidence of witnesses to writing—
 - (i) Take down the evidence and arrange it, both in the statements of witnesses and in the summary, as far as possible so that events are set out in chronological order and the court may have a connected story to consider.
A statement of evidence as to facts should commence by recording the place, date and time (if material), to which the evidence refers.
 - (ii) Ensure that only such evidence as is admissible in law is adduced; particularly eliminate all irrelevant and hearsay statements.
 - (iii) Avoid attempting to tell the story of the crime by recording conversations at which the accused was not present.
 - (iv) Ascertain that any document intended to be produced is legally admissible in evidence. Every document intended to be produced to the court must be produced by a witness and described and, where necessary, identified by a witness, who is able to do so. For example, where a document has been acknowledged as correct or signed by an accused, evidence must be given to show that he has acknowledged it or his signature must be identified.
Mark and number documents according to order of production.
 - (v) Arrange for the preparation, production and proof of plans where necessary.
 - (vi) Record the evidence of witnesses as nearly as possible in their own words and expressions. When evidence is not given in English, it will be interpreted and recorded in English.
 - (vii) If the accused has to any person or at any time said anything by way of explanations or admission of any of the facts in issue, consider the circumstances in which the statement was made and if it is admissible let a witness be called to prove it.
 - (viii) Remember that, when it is proposed to tender evidence of an admission or confession, it is desirable that evidence should first be adduced by the prosecution of the circumstances in which it was made to show that it was voluntary, though under the law the onus lies upon the accused of showing that a confession made by him was not voluntary.

- (ix) With regard to the attendance of witnesses, take advantage where desirable of the provisions of Army Rule 23(5). The written statements of such witness must be signed and certified as required by the said rule.
- (x) Remember that a civilian witness, can be compelled to attend the taking of the summary [Army Act, 135 and 136 and Army Rule 23(6)].
- (xi) At the close of the evidence of each witness who is not cross-examined by the accused, make a note that "accused declines to cross-examine" [Army Rule 23(2)].
- (xii) Ensure that the evidence of each witness is signed by the witness [Army (Rule 23(3))].
- (xiii) Ensure that the record of any statement made by the accused is prefaced by a note that he was formally "cautioned" Army Rule 23(3).
- (xiv) Enter at the end of the summary of evidence a statement that the requirements Army Rule 23(1), (2), (3) and (4) have been complied with, and sign the summary. The place and date should be stated.

2. Evidence in special cases,—

- (a) Where the charge is for deficiency of kit, unless IAFD 918 is to be produced in evidence, the fact that the accused has been at some time previously in possession of a complete kit, or of the articles alleged to be deficient, the date and place of discovering any subsequent deficiencies, and that none of the articles have since been recovered, should be included in the summary of evidence. Any articles recovered will be omitted from the charge.
- (b) Where a certified true copy of a record of any Regimental book is to be produced [Army Act, Section 142(4)], the copy should show clearly that the record purports to have been signed by the CO or by the officer whose duty it was to make the record [Army Act, Section 142(3)].
- (c) Where the charge is for neglecting to obey a battalion or similar order, the order should be proved as provided in Army Act, Section 142(3) or (4) [see (b) above], but if the order is not included in the "Regimental books" (Regulations Army, Para 610), as for example a station or a company order or an order for sentries, the original order must be produced.
- (d) Where IAFD-918 is to be produced, it must be signed by the officer having the custody of the books from which it is compiled. The original declaration of the court of inquiry, even if in existence, is not admissible in evidence. Nor is IAFD-918, unless the entry in the court-martial book (of which it is a certified copy) purports to have been signed by the officer in actual command of the accused's corps or department, as required by Army Act, Section 106.
- (e) A certificate of surrender or apprehension under Army Act, Section 142(6) (IAFD-910) or under Army Act, Section 142(5) should only state the fact, date and place of the surrender or apprehension of the absentee and the manner in which he was dressed and is only admissible as evidence of those facts and only in cases of desertion or absence without leave. The circumstances of the surrender or apprehension must be proved by a witness. The certificate must be signed by a police officer not below the rank of an officer in charge of a police station. For the surrender/apprehension certificate under Army Act, Section 142(5), see Army Regulations, para. 378.

The CO of the deserter or absentee should forward IAFD-910 without unnecessary delay to the officer in charge of the police station for completion and signatures.

- (f) Many cases depend on the identification of persons or things. Evidence should be recorded to show that each witness identifies the accused, and any other person or thing mentioned in his evidence whose identity is relevant to the charge, e.g., on a charge for theft, the articles, the subject of the charge, must be produced and identified or their absence satisfactorily accounted for.

Articles alleged to have been damaged should be produced and identified.

- (g) Where the charge is for any offence which has occasioned any expense, loss, damage or destruction for which it is expedient to award stoppages under Army Act, Section 71(1), values should be assessed and evidence taken as follows—
 - (i) When an article which has an official value has been lost or rendered unserviceable, a witness is required who can prove the value (inclusive of authorised departmental expenses) of the article at the date of loss upon a basis of its age and/or condition and by reference to the regulations which should be produced for fixing the value of the article at that age or in that condition.
 - (ii) When the article has no official value competent evidence is required to prove the approximate value.

(iii) When an article has been damaged but not rendered unserviceable, competent evidence is required to prove the pecuniary amount of the damage, which will be either the cost of repairing it, if it can be repaired, or the loss of value caused by the act of the accused, if it cannot be repaired, or the cost of repair plus any ultimate loss of value due to the act of the accused.

(iv) In the case of absence or desertion, the deficiencies to be alleged in a charge under Army Act, Section 54(b) are those ascertained when the soldier rejoins, not necessarily those found on the commencement of the absence, or by a court of inquiry.

Evidence should not be taken of the values of personal clothing and necessaries the property of a person subject to Army Act the value of which has not to be made good to the public.

(h) Where the charge is for misappropriation or losing by neglect money or stores, etc., the evidence should show—

(i) The period during which the accused held office and was responsible for certain money or stores, etc.,

(ii) That at the opening of this period the accounts, money, stores, etc., were correct;

(iii) Receipts and expenditures of money, stores, etc., during this period; (iv) That at the close of this period there was a specific deficiency of money, stores, etc., items (ii), (iii), (iv) must, as a rule, be proved by the production by a witness of the original account books, and vouchers, and evidence that they were kept or signed by the accused. Witnesses should then give evidence explaining the deficiency, which is checked with the original books, etc., and recorded.

(i) In cases of attempts to commit suicide, medical evidence giving an opinion on the state of mind of the accused at the time of the commission of the alleged offence should be taken.

(j) In cases of self-maiming the medical witness or witnesses should be asked whether the injury sustained by the accused will render him unfit for further service.

3. Where the accusation arises out of complaint made by an individual who has not yet identified the person whose conduct is complained of, the complainant, and any other alleged eye-witness in the same circumstances, should have an opportunity of picking out from a group the person against whom they are prepared to give evidence. For this purpose an identification parade should be held in the presence of an officer before the witness(es) give evidence at the summary, or otherwise see the accused in circumstances which may suggest that they are expected to recognise one particular person as the offender. At such parade a witness should not be permitted to see or hear anything which might induce him to take a cue from the behaviour of another witness. Regulations Army, Para 406 refers.

4. If in any case two or more persons are suspected of complicity in an offence, and it is found necessary to call one of these as a witness for the prosecution against the other or others charged in connection with the offence, one of two courses must be taken either—

(a) proceedings against him must be abandoned and any charge therein already preferred against him dismissed; or

(b) steps must be taken to ensure that the case against him is disposed of summarily or tried by court-martial, before the trial of persons concerned against whom he is to give evidence; and that he is, only tendered as a witness when he has already been acquitted or convicted.

In all such cases the circumstances and the course proposed should be fully set out in a covering letter to the convening officer.

Commanding Officers

5. A CO will take care that an accused person is not detained in custody beyond 48 hours without the charge, being investigated, unless investigation is impracticable, in which case a report will be made to the officer to whom application to convene a GCM or DCM would be made (Army Act, Section 102).

6. Before applying for the trial of an offender a CO should satisfy himself—

(a) That the accused is subject to the Army Act, and is charged with an offence which is an offence against that Act;

(b) That the offender is not exempt from trial under the provisions of Army Act, Section 122;

(c) That the offence is not one which he should dispose of himself summarily or one which he should and can try by SCM (Regulations Army, Para 447) without reference [Army Act, Section 120(2)] or, if it is one of those offences, that from its gravity, or from the previous character of the accused, he ought not to deal with it on account of the inadequacy of his powers of punishment;

- (d) That the summary of evidence is properly recorded (see Paras 1 and 2 ante);
- (e) That the evidence justifies the trial of the offender on the charge;
- (f) That the charge is properly framed under appropriate section (see Army Rules 28 to 30).
- (g) That an officer has given the accused a copy of the summary (or abstract) of evidence as soon as practicable after he had been remanded for trial and that his rights as to preparing his defence and of being assigned or represented at the trial have been explained to him by that officer [Army Rule 33(7)].

7. When making application for the trial of the offender the CO should satisfy himself that the following provisions are complied with—

- (a) The application for trial (IAFD-937) (must be accompanied by all necessary documents as therein specified; and the medical officer's certificate at the foot completed;
- (b) The convening officer must be informed whether or not the accused desires to have a defending officer assigned to represent him at the trial;
- (c) The information required as to officers who have investigated the case; or sat on a court of inquiry, must be given with great care;
- (d) The charge-sheet must be signed by the officer in actual command of the unit to which the accused belongs or is attached and should state the place and date of signature;
- (e) Sufficient space be left at the foot of the charge-sheet for the orders of the convening officer, or officer sanctioning trial under Army Act, Section 120(2), to be entered. The place and date should be entered by the officer signing such orders;
- (f) The section of the Army Act under which each charge is framed should be entered in the margin, opposite the charge to which it refers;
- (g) When it is intended to prove any facts in respect of which any deduction from the pay and allowances (i.e., stoppages) of the accused can be awarded in consequence of the offence charged, those facts must be clearly shown in the particulars of the charge and the sum of the loss or damage it is intended to charge [see Para 2(g) above];
- (h) IAFD-905 by whomsoever produced, is to be signed by the officer having custody of the books from which it is compiled; custody includes temporary custody for the purpose of the trial. In preparing this form, minor offences may be grouped as "miscellaneous" offences of the same class as that being charged should be shown in a separate group.

8. After trial has been ordered the CO should satisfy himself that the following provisions are complied with—

- (a) The accused be warned for trial not less than 96 hours (24 hours where he is on active service) before the court assembles, must be informed by an officer of every charge on which he is to be tried, must be given a copy of the charge-sheet and a vernacular translation of the same and of the summary (or abstract) or evidence, and notice of the intention to call witnesses whose evidence is not contained in the summary (or abstract) and an abstract of their evidence, and must be informed of the ranks, names and units of the officers who are to form the court as well as of any waiting members (Army Rule 34).
- (b) The accused must be informed that on his giving the names of any witnesses for the defence, reasonable steps will be taken to procure their attendance;
- (c) The accused must be afforded proper opportunity for preparing his defence.
- (d) The CO must not detail as a member of the court an officer who is ineligible or disqualified to serve under the provisions of Army Rule 39;
- (e) The accused must be seen by a medical officer on the morning of each day the court is sitting for his trial and the medical officer's report should be produced by the prosecutor to the court immediately after it opens;
- (f) In a case of a joint trial, the accused persons should be informed of the intention to try them together and of their right under Army Rule 35(4) to claim separate trials if the nature of the charge admits of it.

9. After confirmation (or refusal thereof), the CO must see that the following provisions are complied with—

- (a) The proceedings must be promulgated as laid down in Regulations Army, Para 472;
- (b) The record of the promulgation must be entered on the proceedings in form shown on page.....and, if the proceedings have been confirmed, extracts recorded in the Regimental books;

- (c) After promulgation the proceedings must be forwarded without delay to DJAG of the Command direct. Regulations Army, para. 477 refers.

Convening Officer

10. The convening officer should satisfy himself as regards the matters mentioned in Paras 6 and 7(above); and in addition he will ensure—

- (a) In all cases for trial by GCM, and in all cases of indecency, fraud, theft (except ordinary theft), and civil offences; and in all other cases which present doubt or difficulty, that the charge-sheet and summary (or abstract) of evidence are submitted to the Deputy or Assistant Judge-Advocate General concerned before trial is ordered (see Regulations Army, Para 458);
- (b) That he holds the necessary court-martial warrant empowering him to convene the description of court-martial that he considers appropriate;
- (c) That the court which he has decided to convene is properly composed in accordance with the Army Act: see also Army Rule 40 — any opinion of the convening officer with respect to the composition of the court under the said rule should be stated in the convening order;
- (d) That no officer is detailed to serve on the court who is ineligible or disqualified under Army Rule 39;

Note.—In the case of theft from an officers' mess, all the officers of that mess are regarded as interested, and are therefore disqualified.

- (e) That application is made to the Deputy or Assistant Judge Advocate General concerned for the service of a JA when the appointment of a JA is legally required or is desirable (see Army Act, Section 129);
- (f) That the No., Rank, Name and unit of each officer detailed to serve are stated in the convening order correctly;
- (g) That in trials by GCM and in complicated cases a prosecutor is specially selected for his experience and knowledge of military law;
- (h) That the order for trial at the foot of charge-sheet is signed by him, or by an officer of his staff signing "for" him;
- (i) That the convening order is signed by him, or by a staff officer authorised by custom and usage of the service to sign his orders or by the staff officer, as such.

11. Where the convening officer, or the senior officer, on the spot considers that military exigencies or the necessities of discipline render it impossible or inexpedient to observe any of the rules referred to in Army Rule 36, he must make on IAFD-920 a declaration to that effect specifying the nature of those exigencies or necessities.

12. The convening officer must ascertain whether the accused desires to have a defending officer assigned to assist him at his trial, and, if so, must endeavour to meet his wishes. Should no suitable officer be available, the convening officer must notify the Presiding Officer in writing [see Army Rule 95(2)].

13. The convening officer must send to the senior member of the court-martial the convening order and charge-sheet and, where no JA has been appointed with a copy of the summary (or abstract) of evidence. He should also send, to all the other members, copies of the charge-sheet and to the JA when one has been appointed, a copy each of the charge-sheet, convening order and summary (or abstract) of evidence Army Rule 37(4) refers. Except in the case of joint trial of two or more persons a separate copy of the convening order should be supplied in respect of every person to be tried.

General

14. The original convening order must be before the court and the Presiding Officer must satisfy himself that the court is duly constituted according to its terms. The court must not make any alteration or correction in the convening order, nor, save as allowed by Army Rule 50(1) in the charge-sheet.

15. In any case of doubts as to constitution of the court, or any other matter affecting jurisdiction of the court or validity of the charges the Presiding Officer should consult the convening officer before the court assembles, or if the court has assembled, before proceeding with the trial.

16. When, in accordance with Army Rule 89, the court is sworn/affirmed at one time in the presence of several accused persons who are to be tried separately. In succession the time at which the convening order is read should be recorded on page 'A' of each IAFD-906, as the time at which the trial of each of the accused commences. In such cases it is desirable that the time of arraignment of each such accused should be inserted on page 'B' of each IAFD-906 before the words: "The accused is arraigned", etc.

17. The full name and description of the accused should be entered on the first page of the proceedings.

18. Care should be taken that, whenever a court of inquiry has been held, the relevant certificate (on the first page of the proceedings) is properly completed.

19. Any person addressing the court or examining or cross-examining a witness, should always do so standing.

20. Every witness, including the officer, producing IAFD-905 must be sworn or affirmed in the presence of the accused to whom his evidence refers; he must not be examined on a former oath taken in the presence of another accused person.

The prosecutor or other person producing documents must be sworn/affirmed. By the custom of court-martial, however, the accused is allowed to hand in letters and certificates of character purporting to be in the handwriting of absent officer of former employers, and unless there is reason to doubt their authenticity, they may be accepted.

21. The evidence will usually be taken down in narrative form. Questions and answers recorded verbatim will be numbered consecutively ("Q 1", "A 1", etc.), throughout.

22. When original documents are not retained by the court and copies are attached to the proceedings, it must be stated in the proceedings that the copies have been compared with the originals and found to be correct. As a rule, it is preferable to attach copies and not original documents, to the proceedings.

23. In accepting IAFs D-905, D-918, D-910 and certified copies or records in Regimental books, attention should be given to Para 7(i), 2(d), (e), and (b) ante, respectively. Where these documents are given in evidence it is sufficient to record upon the proceedings the mere fact of their production without setting out the facts, which they purport to prove; but the record of evidence should always show that witness identified the accused as the person to whom the particular document relates.

24. A certified true copy of a record in a Regimental book (e.g. on IAFD-918 of an entry in the court-martial book) is sufficient evidence thereof; it is not necessary for the court to compare the copy with the Regimental book.

25. Where the value of arms, ammunition, equipment or public clothing lost or damaged is proved, the accused if convicted should be sentenced to be put under stoppages, notwithstanding the fact that he may also be sentenced to be dismissed from the service, in case the latter part of the sentence should be remitted.

26. Arrears of pay and allowances forfeited by sentence of court-martial under Army Act, Section 71 (k) cannot be applied as compensation for loss or damage. If, therefore, loss or damage has been averred and proved, stoppages should be awarded, even if the accused is also sentenced to forfeiture of arrears, so that compensation may first be paid and any balance remaining over forfeited.

27. Included in IAFD-906 are two sets of pages "C" and "D"—one for proceedings on a plea of "Not Guilty" and one for proceedings on a plea of "Guilty". Where the pleas recorded are all "Not Guilty" or all "Guilty", the set pertaining to the plea or pleas recorded is alone to be used, and the unused set should be removed from the proceedings.

When some of the pleas are "Not Guilty" and some "Guilty", both sets will be used, the court proceedings first on the plea or pleas of "Not Guilty" up to and including the findings, and then on the plea or pleas of "Guilty". It is not necessary to insert before page "D" a separate sheet containing the findings of the court upon the plea or pleas of "Not Guilty".

28. Where two or more persons are charged and tried jointly on a charge-sheet, only one set of proceedings should normally be used, the relevant pages of IAFD-906 being adopted accordingly, and the replies of each of the accused to the questions set out therein being separately recorded. A separate sheet, however, should be used for the finding and proceeding on conviction, and for the sentence in each case.

29. Where trial proceeds on more than one charge-sheet, all printed matter on page 'A' and the two printed lines at the top of page 'B' should be struck out in the case of the second or any subsequent charge-sheet, the word "second", "third" (or as the case may be) being inserted before the word "charge-sheet" on page 'B'.

30. The charge-sheet is to be inserted in the proceedings after page "B" and marked as "B 2". All other documents are to be attached at the end of the proceedings in the order of their production to the court.

31. Every document attached to the proceedings should be signed by a Presiding Officer (or JA) and marked with a reference letter, preferably not one used in IAFD-906.

32. In case of a plea of "Guilty" the summary of evidence is to be annexed to the proceedings. In case of a plea of "Not Guilty", it will be annexed if it or any part of it has been put in evidence at the trial. In other cases the summary will merely be enclosed with the proceedings when sent to the confirming officer.

33. All erasures of written or printed matter, and all interlineations and corrections should be initialed by the Presiding Officer or JA.

34. Pages should be numbered consecutively or to the end of the proceedings after they have been put together in the order prescribed. In case of revision, the latter proceedings are added at the end, and the numbering of pages carried on.

35. Care must be taken that the proceedings are both signed and dated by the Presiding Officer and the JA (if any). Army Rule 67(2) refers.

Duties of Prosecutor

36. For the general duties of a prosecutor see Army Rule 77(1).

37. *Duties before trial.*—The prosecutor should have previous knowledge of the subject-matter of the charge or charges. For that reason the officer detailed as prosecutor must make it his business to acquaint himself with the circumstances, and assure himself that the various rules relating to procedure before trial have been complied with. He will, as a rule, be the officer who recorded the summary of evidence. The court will look to him for an explanation of any defect or omission apparent or alleged by the accused.

On being detailed for duty he should—

- (a) Obtain a copy of the charge-sheet and summary of evidence, and enquire whether there is any correspondence or other material relative to the case, which he should peruse and note.
- (b) If he thinks there is any legal defect, irregularity or serious omission in either the charge-sheet or the summary of evidence, he should refer to the CO of the accused's unit. The ability to detect irregularities connotes a working knowledge of the Army Rule 1954, and of the laws of evidence.
- (c) Satisfy himself that Army Rules 33 and 34 and in the case of joint trial Army Rule 35, have been complied with.
- (d) Satisfy himself that proper steps are being taken to secure the attendance of all necessary witnesses.
- (e) Obtain or repair a record of the accused's service (IAFD-905) for production at the trial if required. This form must be signed by the officer having the custody of the Regimental book.
- (f) Consider whether an opening address is desirable, or is likely to be required from him by the court [Army Rule 56(3)]. If so, prepare such an opening address, setting out in the form of a narrative the facts which are alleged against the accused, and the nature of the evidence by which those facts are to be proved. The opening address must be as impartial as he can make it, free from unnecessary comment, denunciation or prejudice. There must be no reference in it to any allegation which is not to be proved in evidence subsequently at the trial. An opening address is not ordinarily required in disciplinary cases of a simple nature, but is valuable where accounts are involved or the evidence is largely circumstantial.
- (g) On the morning of the trial, take with him to the court a certificate by a medical officer stating that he has examined the accused on that morning and, that he is fit for trial.
- (h) Assure himself that all witnesses and necessary exhibits are present.

38. *Duties at the trial.*—

- (a) On the opening of the court the prosecutor presents the medical certificate to the Presiding Officer.
- (b) If any material witness is absent, the prosecutor should inform the court at once, and if necessary, apply for an adjournment (Army Rule 138.)
- (c) If a court of inquiry has been held respecting a matter upon which a charge against the accused is founded, the prosecutor should hand to the court a list of the names of the officers who sat on the court of inquiry. The written record of the proceedings of such court of inquiry must be laid before the court-martial (Army Rule 41).
- (d) As to the prosecutor's right to address the court and call witnesses in reply in the event of a special plea or plea in bar of trial, see Army Rules 49, 51 and 53.
- (e) Where the accused pleads "Guilty", the duties of the prosecutor are confined to calling such witnesses as may be necessary if the summary be insufficient [Army Rule 54(3)], and producing IAFD-905.

Note.—If the accused in a statement with reference to the charge or in mitigation says something which is inconsistent with his plea, the prosecutor should call the attention of the court to Army Rule 54(5), and prepare to call his witnesses as on a plea of "Not Guilty".

- (f) Where the accused pleads "Not Guilty", the prosecutor makes his opening address, if any, and if it is in writing hands it in and calls his first witness.
- (g) Before calling his witnesses, and as the case proceeds, the prosecutor must consider whether he should call all those whose evidence is in the summary (or abstract) of evidence, and whether it is his duty to call as a witness any person whose evidence is not contained in summary (Army Rule 134 and 135).
- (h) As to accomplices as witnesses for the prosecution see Para 4 ante.
- (i) After a witness for the prosecution has been sworn or affirmed, the prosecutor will ascertain the witness's No., Rank, Name, unit, station, address, occupation, etc, as may be material and will elicit from the witness the relevant facts to which the witness can speak. This may be done by means of questions of a non-leading character or by permitting the witness to tell his own story, questions being subsequently asked to make good any omissions. A series of short simple questions will generally assist the witness to recount facts in chronological order, and the Presiding Officer or JA in making the record.
- (j) It may happen that a question in cross-examination has been so framed as to compel the witness to answer simply "Yes" or "No", whereas there is within the prosecutor's knowledge an explanation which should in fairness be made. In such a case the prosecutor may in re-examination refer the witness to that question and answer, and ask him if he has anything to add or explain.
The prosecutor should not dismiss a witness until he has ascertained whether the court desires to question him and until Army Rule 141(2), (3), (4) has been complied with.
- (k) The prosecutor must take care that each exhibit which he desires to put before the court is produced and identified by one of his witnesses. If an exhibit (e.g. the property in respect of which theft is alleged to have been committed) is to be referred to by more than one witnesses, each witness who refers to it must be invited to look at the exhibit, and say whether he identifies it. If the prosecutor is himself producing documents he should do so, after being sworn or affirmed as a witness, before he calls his other witnesses [Army Rule 56(5)]. Neither the prosecutor nor a witness may refer to the contents of a document which is not before the court, unless evidence is given accounting for its absence.
- (l) The prosecutor having called his witnesses the case for the prosecution is closed. The subsequent procedure depends upon the exercise by the accused of his rights and is fully set out in Army Rules 58 and 59.
- (m) If the accused calls any witnesses to the facts, it is the duty of the prosecutor to assist the court to test the value of their evidence by cross-examination. The result of omission to cross-examine is frequently that the evidence for the defence stands unchallenged, and the prosecutor cannot properly, in a subsequent address, characterise as untrue a defence which he has not attempted, by question to the witnesses at the proper time, to impugn cross-examination is not limited to the matters dealt with in the examination-in-chief. It must, however, be confirming to matters relevant, directly or indirectly, to the issue. Leading questions may be asked in cross-examination, but not questions which assume that facts have been given in evidence which have not been given. As to calling witnesses in reply to the defence, see Army Rule 143.
- (n) The desirability of making a closing address at the appropriate time as provided in Army Rules 58 and 59, it is a matter for the prosecutor's discretion. If there is any evidence or argument put forward by the defence which he thinks might seriously mislead the court, he should comment on it. He is entitled to sum up the evidence generally and to point out any weakness in the defence, and to suggest the inference which the court may draw from the fact which has not been proved in evidence.
- (o) If the accused is convicted on any charge, the prosecutor or some other person in a position to do so, is sworn or affirmed (if he has not already been sworn or affirmed as a witness in the case) and produces evidence (1AFD-905) of the character, age, service, rank, etc., of the accused.

Duties of Defending Officer

39. Duties before trial.—

- (a) The defending officer, like the prosecutor requires a working knowledge of the Army Rules, 1954 and of the laws of evidence. He must also make himself acquainted with the details of the case.
- (b) The proper preparation of the defence.

- (i) Study of the charge-sheet and summary of evidence and consideration of legal points which he may raise, or which may arise upon them, e.g., objection to a charge, plea to the jurisdiction, plea in bar of trial, admissibility of a confession or of other evidence.
- (ii) Ascertaining from the accused what is his answer, if any, to each charge.
- (iii) Communication with possible witnesses for the defence, to ascertain if they are able to give evidence in support of the accused's case, and the taking of appropriate steps to secure their attendance at the trial [Army Rules 34(1) and 13b].

Note.—He is not entitled to interview witnesses for the prosecution without special authority.

- (c) The defending officer must bear in mind that the ultimate responsibility for the decision on the plea which is to be offered on each charge must rest upon the accused himself. He may properly advise on this point, but should put no pressure on the accused, except to dissuade him from pleading guilty, where he appears to have an answer, however slight, to the charge. The defending officer's duty at the trial will be to present the accused's defence in the best possible manner. He may properly prepare arguments on fact or law, which his own reason of ingenuity may suggest, but it would be improper for him to advise or suggest to the accused on account of the facts, other than that which the accused himself desires to give.
- (d) The defending officer is not called upon to judge the truth or otherwise of the accused's defence, nor is he permitted to express his own opinion or belief (Army Rule 100). To avoid, however, giving countenance to a line of defence which is incompatible with his duty as an officer, he should apply through his CO to the convening officer for permission to withdraw from the case.

40. Duties at the trial.—

- (a) Having the rights, duties and obligations of counsel, the defending officer must himself conduct the case as representing the accused, i.e., he will himself cross-examine witness for the defence, take any objections, make any submissions, and address the court on the accused's behalf.
- (b) The defending officer has the right to make an application for adjournment [Army Rule 34(4)] and to address the court in support of it. It should not be made on the ground of technical irregularity or omission, merely as a protest, where no benefit can accrue to the presentation of the defence from the postponement of the trial.
- (c) It is the defending officer's duty to question each witness for the prosecution on any matter which is to be alleged in defence insofar as this matter is or should be within the witness's knowledge. As to injurious question, see Para 110.
- (d) The defending officer may take objection to any question put by the prosecutor to a witness for the prosecution on one of the following grounds; the objection should be made if possible before the witness answers [Army Rule 141(1)]—
 - (i) That it is a leading question.
 - (ii) That it invites hearsay, or on account of an involuntary confession, or evidence of the accused's bad character when that character has not been put in issue, etc.
- (e) At the close of the case for the prosecution, the defending officer may submit that the accused has no case to answer, and therefore should not be called upon for his defence, because, the prosecution have not produced evidence in support of one or more essentials in the charge (Army Rule 57).

Note.—This submission must be to the effect that there is no evidence at all on the point or points, and not that the evidence is untrustworthy.
- (f) Where a witness not examined at the summary of evidences is called by the prosecutor, the defending officer may apply for any adjournment, or [postponement of cross-examination (Army Rule 135)].
- (g) The defending officer is entitled to consult the JA, if one has been appointed, on any question of law or procedure relative to the charge or trial [Army Rule 105(1)].
- (h) The defending officer must throughout the proceedings, treat the court with respect and candour.

APPENDIX IV

PART I

FORM I

Form for use at summary trials of Officers, JCOs and WOs under Sections 83 to 85 of the Army Act

Accused.....

Rank and Name.....

Unit.....

When the authority dealing summarily with the case decides (with the written consent of the accused) to dispense with the attendance of witnesses—

Questions to accused—

- 1. Have you received a copy of the charge-sheet and summary or abstract of evidence? Answer.....
- 2. Have you had sufficient time to prepare your defence? The charge-sheet is read. Answer.....
- 3. Are you guilty or not guilty of the charge(s) against you which you heard read? Answer.....

The summary or abstract of evidence is read aloud or the authority dealing summarily with the case informs the accused that he has already perused it.

- 4. Do you wish to make a statement? Answer.....

If the accused desires to make a statement, he should do so now.

If at the conclusion of the hearing the authority dealing summarily with the case considers that the charge should be dismissed, he is to examine the accused's record of service of conduct sheet.

If the authority dealing summarily with the case proposes to award a punishment other than a reprimand, severe reprimand, or penal deductions, in the case of an officer, a JCO or a WO, he shall put the following questions to the accused—

- 5. Do you elect to be tried by court-martial or will you accept my award? Answer.....

Finding.....

Award.....

Station:

Date:

Signed.....

Note 1.—The oral statement of the accused made in answer to question 4 will be either recorded or a gist thereof prepared and attached.

Note 2.—After disposal of a charge, if the finding is that of guilty, this form accompanied by Army Form IAFF-3013 (in duplicate), summary or abstract of the evidence, statement of the accused and written consent of the accused will be forwarded through the usual channels to Headquarters Command concerned who will show them to the DJAG of the Command. In the case of punishments awarded by GOC-in-C of a Command, these documents will be forwarded to the Adjutant General (PS-1), Army Headquarters, DHQ, PO NEW DELHI-11. When the finding is that of not guilty, only the finding will be communicated to Headquarters Command concerned in the case of JCOs and WOs and to Army Headquarters in the case of officers.

In the case of a JCO or a WO this form together with the summary of evidence, statement of the accused and the written consent of the accused will be returned to the unit for attachment to his Regimental Conduct Sheet (IAFF- 3013).

FORM 2

*Form for use at summary trials of officers, JCOS
and WOS under Sections 83 to 85 of the Army Act*

Accused.....

Rank and Name.....

Unit.....

When the authority dealing summarily with the case does not decide to dispense with the attendance of witnesses or when the accused requires their attendance.

Questions to accused—

1. Have you received a copy of the charge-sheet and summary or abstract of evidence? Answer.....

2. Have you had sufficient time to prepare your defence? Answer.....
The Charge-sheet is read.

3. Are you guilty or not guilty of the charge(s) against you which you heard/read? Answer.....

The witnesses give their evidence, accused being permitted to cross-examine.

4. Do you wish to make a statement? Answer.....

5. Do you desire to call any witnesses? Answer.....

The accused makes a statement and his witnesses give evidence.

If at the conclusion of the hearing the authority dealing summarily with the case considers that the charge should not be dismissed: he is to examine the accused's record of service or conduct sheet.

If the authority dealing summarily with the case proposes to award a punishment other than a reprimand, severe reprimand or penal deductions, in the case of an officer a Junior Commissioned Officer or a Warrant Officer, he shall put the following question to the accused—

6. Do you elect to be tried by court-martial or will you accept my award? Answer.....

Finding.....

Award.....

Station:

Date:

Signed.....

Note.—The oral statement of the accused made in answer to Question 4 will be either recorded or a gist thereof prepared and attached.

After disposal of a charge, if the finding is that of guilty, this form accompanied by Army Form IAFF-3013 (in duplicate) summary or abstract of evidence and the statement of the accused will be forwarded through the usual channels to Headquarters Command concerned who will show them to the DJAG of the Command. In the case of punishments awarded by GOC-in-C of a Command, these documents will be forwarded to the Adjutant General (PS-1), Army Headquarters DHQ PO New Delhi-11.

When the finding is that of not guilty, only the finding will be communicated to Headquarters Command concerned in the case of JCOS and WOS and to Army Head Quarters in the case of officers.

In the case of a JCO or a WO this form together with the summary of evidence and the statement of the accused will be returned to the unit for attachment to his Regimental Conduct Sheet (IAFF-3913).

PART II

Warrants under Sections 168, 169(2) and 173 of the Army Act

FORM A

Warrant of commitment for use when a prisoner is sentenced for Life Imprisonment (SRO 404/60)

(Army Act, Section 168)

To,

The Superintendent of the (a).....prison.

Whereas at a (b).....Court Martial held at.....on the.....day of..... 20..... (Number, Rank, Name).....of the..... Regiment.....was convicted of (the offence to be briefly stated here as "desertion on active service", " corresponding with the enemy", as the case may be).

And whereas the said (b).....Court Martial on the.....day of..... 20..... passed the following sentence upon the said (Name).....that..... is to say—

.....

(Sentence to be entered in full, but without signature).....

And whereas the said sentence has been duly confirmed by (c) as required by law (d).....as required by law (e).....is by law valid without confirmation.

This is to require and authorise you to receive the said (name).....into your custody in the said prison as by law is required, together with this warrant, until he shall be delivered over by you with the said warrant to the proper authority and custody for the purpose of undergoing the aforesaid sentence of imprisonment for life. The aforesaid sentence has effect from the (e).....

Given under my hand at.....this the.....day of.....20.....

Signature(f)

- (a) Enter name of civil prison.
(b) General, or summary general.
(c) Name and description of confirming authority.
(d) Add if necessary "with a remission of.....".
(e) Enter date on which the original proceedings were signed.
(f) Signature of commanding officer of prison or other prescribed officer. See AR 166.

FORM B

Warrant of Commitment for use when a prisoner is sentenced to imprisonment which is to be undergone in a Civil Prison

[Army Act, Section 169(2)]

To,

The Superintendent of the(a).....Prison.

Whereas at a (b).....Court Martial held at.....on the..... day of.....20..... (Number, Rank, Name).....of the..... Regiment.....was duly convicted of (the offence to be briefly stated here, as "desertion", "theft", "receiving stolen goods", "fraud", "disobedience of lawful command" or as the case may be).....

And whereas the said(d)..... Court Martial.....on the.....day of.....20..... passed the following sentence upon the said (Name).....that is to say—

(Sentence to be entered in full, but without signature).....

And whereas the said sentence, (c) has been duly confirmed by (d).....as required by law (e).....is by law valid without confirmation.

This is to require and authorise you to receive the said (name)..... into your custody together with the warrant, and there carry the aforesaid sentence of imprisonment into execution according to law. The sentence has effect from the (f).....

¹⁴⁹[The period spent by (Name).....in civil custody/military custody during the investigation, inquiry or trial of the same case is (g).....and the said period (g)..... shall be set off against the aforesaid sentence of imprisonment.]

Given under my hand at.....this the.....day of.....20.....

Signature (h)

- (a) Enter name of civil prison.
- (b) General, district, summary general or summary.
- (c) Strike out inapplicable words.
- (d) Name and description of confirming authority.
- (e) Add if necessary "with a remission of.....".
- (f) Enter date on which the Original proceedings were signed.
- (g) Enter the exact period (years, months and days) spent in military civil custody during investigation, inquiry or trial in the same case.
- (h) Signature of commanding officer of position or other officer. See Army Rule 166.

FORM C

Warrant of commitment for use when a prisoner is sentenced to imprisonment which is to be undergone in a military prison

[Army Act, Section 169(2)]

To,

The Commandant.....of the Military Prison at.....

Whereas at (a).....court-martial held at.....on the.....day of.....20..... (Number, Rank, Name).....of the..... Regiment.....was duly convicted of..... (the offence to be briefly stated here as "desertion", "theft", "receiving stolen goods", "fraud", "disobedience of lawful command" or as the case may be).

And whereas the said (a).....court-martial on.....the..... day of..... 20..... passed the following sentence upon the said (Name)..... that is to say—

(Sentence to be entered in full, but without signature)

And whereas the said sentence has been duly confirmed by (b).....

*as required by law (c).

*is by law valid without confirmation.

This is to require and authorise you to receive the said (Name).....into your custody together with this warrant, and there carry the aforesaid sentence of imprisonment into execution according to law. The sentence has effect from (d).....

The period spent by (Name).....in civil custody/military custody during the investigation, inquiry or trial of the same case is (dd).....and the said period (dd)..... shall be set off against the aforesaid sentence of imprisonment"]

Given under my hand at.....this the.....day of.....20.....

Signature (e)

- (a) General, district, summary general or summary.
- (b) Name and description of confirming authority.
- * Strike out inapplicable words.
- (c) Add if necessary "with remission of.....".
- (d) Enter date on which the original proceedings were signed.
- (dd) Enter the exact period (years, months and days) spent in military/civil custody during investigation, inquiry or trial in the same case.]
- (e) Signature of commanding officer of prison or other prescribed officer. See Army Rule 166.

FORM D

Warrant for use when a prisoner is pardoned or his trial set aside, or when the whole sentence, or the unexpired portion thereof, is remitted

(Army Act, Section 173)

To,

The Superintendent/Commandant of the (a).....Prison.

Whereas (Number, Rank, Name) (late) of the.....Regiment is confined in the (a).....Prison under a warrant issued by (b).....in pursuance of sentence of (c).....passed upon him by a (d).....court martial held at.....on.....and whereas (e).....has in the exercise of the powers conferred upon him by the Army Act, passed the following orders regarding the aforesaid sentence that is to say—(f).....

This is to require and authorise you to forthwith discharge the said (Name).....from your custody unless he is liable to be detained for some other cause; and for your so discharging him this shall be your sufficient warrant.

Given under my hand at.....this the.....day of.....20.....

Signature (g)

(a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) Enter original sentence (if this was reduced by the confirming officer or other superior authority the sentence should be entered thus):

"2 years' rigorous imprisonment reduced by confirming officer to 1 year".

(d) General, district summons general or summary.

(e) Name and designation of authority pardoning prisoner, mitigating sentence or setting aside trial.

(f) Order to be set out in full.

(g) Signature of prescribed officer. See Army Rule, 167.

FORM E

Warrant for use when a sentence of imprisonment for life is reduced by superior authority to one of a shorter period of the same

(Army Act, Section 173)

To,

The Superintendent.....Prison

Whereas (Number, Rank, Name) (late) of the.....Regiment is confined in the (a).....Prison under a warrant issued by (b).....in pursuance of a sentence.....of (c).....passed upon him by a (d)..... court-martial held at.....on.....and whereas (e).....has in the exercise of the powers conferred upon him by the Army Act, passed the following order regarding the aforesaid sentence; that is to say—(f).....

This is to require and authorise you to keep the said (Name).....in your custody together with this warrant, in the said prison as by law is required until he shall be delivered over by you with the said warrant to the proper authority and custody, for the purpose of his undergoing the punishment of imprisonment for life (SRO 404/60) under the said order. And this is further to require and authorise you to return to me the original warrant of commitment in lieu whereof the warrant is issued. The period of such imprisonment for life will reckon..... from..... the.....

(g).....

Given under my hand at.....this the.....day of.....20.....

Signature(h)

(a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) Enter original sentence (if this was reduced by the confirming officer or other superior authority the sentence should be entered thus):

"14 years-transportation reduced by confirming officer to 10 years"

(d) General, or summary general.

(e) Name and designation of authority varying the sentence.

(f) Order to be set out in full.

(g).....Enter date on which original sentence was signed.

(h) Signature of prescribed officer. See AR 167.

Note.—In view of IPC Section 53-A(4)(b), this Form is redundant.

FORM F

Warrant for use when a sentence of imprisonment is reduced by superior authority or when one of imprisonment for life is to one of imprisonment

(Army Act, Section 173)

To,

The Superintendent/Commandant of the (a).....Prison.

Whereas (Number, Rank, Name) (Late) of the.....Regiment is confined in the (a).....prison under a warrant issued by (b).....in pursuance of sentence of (c).....passed upon him by a (d).....court-martial held at.....on.....and whereas (e).....has, in the exercise of the powers conferred upon him by the Army Act, passed the following order regarding the aforesaid sentence that is to say—(f).....

This is to require and authorise you to keep the said (Name).....in your custody together with the warrant, and there to carry into execution the punishment of imprisonment under the said order according to law. And this is further to require and authorise you to return to the original warrant of commitment in lieu whereof this warrant is issued. The period of such imprisonment will be reckoned from the (g).....

Given under my hand at.....this the.....day of.....20.....

Signature(h)

(a) Enter name of civil or military prison.

(b) Enter name or designation of officer who signed original warrant.

(c) Enter original sentence (if this was reduced by the confirming or other superior authority the sentence should be entered thus:

"2 years' imprisonment reduced by confirming officer to 1 year".

(d) General, district, summary general or summary.

(e) Name and designation of authority varying the sentence.

(f) Order to be set out in full.

(g) Enter date on which original proceedings were signed.

(h) Signature of prescribed officer. See Army Rule 167.

FORM G

Warrant for use when prisoner is to be delivered in to military custody

(Army Act, Section 173)

To,

The Superintendent/Commandant of the (a).....Prison.

Whereas.....(Number, Rank, Name) (Late) of the.....Regiment is confined in the (a).....Prison under a warrant issued by (b).....in pursuance of a sentence of (c).....passed upon him by a (d).....court-martial held at.....and whereas (e).....has, in the exercise of the powers conferred upon him by the Army Act passed the following order regarding the aforesaid sentence, that is to say—(f).....

This is to require and authorise you to forthwith deliver the said (Name).....to the officer, junior commissioned officer, warrant officer, or noncommissioned officer bringing this warrant.

Given under my hand at.....this the.....day of.....20.....

Signature (g)

- (a) Enter name of civil or military prison.
 (b) Enter name or designation of officer who signed original warrant.
 (c) Enter original sentence (if this was reduced by the confirming officer or other superior authority the sentence should be entered thus).
 "2 years' rigorous imprisonment reduced by confirming officer to 1 year."
 (d) General, district, summary general or summary.
 (e) Name and designation of authority issuing order.
 (f) Order to be set out in full.
 (g) Signature of prescribed officer See Army Rule, 167.

APPENDIX V

Warrant under Army Rules, 169, ¹⁵⁰[170A] AND 171

FORM H

Warrant committing to civil prison custody a person sentenced to death

(Army Rule 169)

To,

The Superintendent of the (a)Prison.

Whereas a (b).....court-martial held at.....on the..... day of.....20.....
 (Number, Rank, Name) of the.....(offence to be briefly stated) Regiment was convicted of:

And whereas the said (b).....court-martial on the..... day
 of.....20.....passed sentence of death on the said:.....(Name)

This is to require and authorise you to receive and hold said (Name).....into your custody in the
 said prison as by law is required, together with this warrant, until such time as a further warrant in respect
 of the said (Name) shall be issued to you.

Given under my hand at.....this the.....day of.....20.....

Signature(c)

- (a) Enter name of civil prison
 (b) General or summary general
 (c) Signature of commanding officer of prison.

FORM I

*Warrant to obtain person sentenced to death from civil
 prison custody in order to carry out such sentence*Army Rule ¹⁵¹[170-E]

To,

The Superintendent of the (a).....Prison.

Whereas..... (Number, Rank, Name) (Late) of the.....Regiment having been
 sentenced to suffer death on the..... day of20....by a (b) court-martial held at.....is held
 in the said prison under a warrant issued by (c).....

And whereas the said sentence having been duly confirmed by (d).....as by law required an order
 to carry out the sentence has been issued to me (e).....(Name and Rank)

This is to require and authorise you to deliver forthwith the said (Name) to the officer/
 junior commissioned officer/warrant officer/non-commissioned officer bringing this warrant.

Given under my hand at.....this the.....day of.....20.....

Signature (f)

150. Subs. by S.R.O. 17(E), dated 6th December, 1993.

151. Subs. by S.R.O. 17(E), dated 6th December, 1993.

- (a) Enter name of civil prison.
 (b) General or summary general.
 (c) Enter name or designation of officer who signed original warrant.
 (d) Name and description of confirming authority.
 (e) Name and designation of the officer to whom the order is issued.
 (f) Signature of the officer by whom the order is issued.

152 [FORM I-A

Warrant of execution of sentence of death by Military Authorities

(Army Rules 170-A and 170-B)

PART I

(a).....

Whereas (Number, Rank, Name).....of the(Unit) having been sentenced to suffer death on theday.....20....by a (b) court, martial held at.....(c), is held the (d) prison under a Warrant issued by (e);

And Whereas, the said sentence, having been confirmed by (f) a copy of the order of the confirming authority certifying the confirmation of the sentence being annexed hereto;

This is to authorise and require you to carry the said sentence into execution by causing the said.....to be hanged by the neck until he be dead at (g)...../to be shot to death at (g)and to return this warrant to (h) with an endorsement certifying that the sentence has been executed.

Dated, thisday of.....20.....

Signature (i).....

PART II

Return of Warrant

The above sentence passed on (number)..... (rank).....(name)..... was carried into effect at (g).....hours on the.....day of.....20.....

Signature (j).....

PART III

Certificate of Medical Officer

I,, hereby certify that I have examined the body of (number)..... (rank)(number, rank, name) (name).....upon whom the sentence of death was carried into effect, this day, at (g).....and that on such examination I found that the said person was dead.

Signed at.....this the.....day of.....20.....

Signature (j).....

(Rank and Unit).....

Commissioned medical officer of the Armed Forces of India.

(a) Enter the rank, name and designation of provost-marshal or other officer responsible for carrying the sentence of death into effect.

(b) Insert "General" or "Summary General".

(c) Enter the place of trial.

(d) Enter the name of the prison.

(e) Enter name and designation of officer who signed the original warrant.

(f) Name and description of confirming authority.

(g) Time, date and place of execution.

(h) The officer Commanding the army, army corps or division or an officer commanding forces, in the field, who has issued the warrant.

(i) Signature of the officer by whom the warrant is issued.

(j) Signature of the officer executing the sentence.

FORM I-B

Warrant of execution of sentence of Death in Civil, Prison
(Army Rules 170-A and 170-B)

PART I

To,

The Superintendent of the (a)Prison.

Whereas (Number, Rank, Name).....of the(Unit) having been sentenced to suffer death on theday of.....20.....by a (b) court-martial held at.....(c), has been by a warrant issued by id) committed to your custody; and whereas, the said sentence having been confirmed by (e), a copy of the order of the confirming authority certifying the confirmation of the sentence being annexed hereto; This is to authorise and require you to carry the said sentence into execution by causing the said.....to be hanged by the neck until he be dead at (f).....and to return this warrant to (g) with an endorsement certifying that the sentence has been executed.

Dated, this.....day of.....20.....

Signature (h)

PART II

Return of Warrant

The above sentence passed on (number).....(rank).....(name)..... was carried into effect at (f).....hours on theday of.....20.....

Signature
Superintendent of Prison

- (a) Enter name of civil prison.
- (b) Insert "General" or "Summary General".
- (c) Enter the place of trial.
- (d) Enter name and designation of officer who signed the original warrant.
- (e) Name and description of confirming authority.
- (f) Time, date and place of execution.
- (g) The officer commanding the army, army corps or division or an officer commanding forces in the field, who has issued the warrant.
- (h) Signature of the officer by whom the order is issued.]

FORM J

Warrant for use when the sentence of a person under sentence of death and committed to custody in a civil prison is commuted to a sentence of Imprisonment for Life
(Army Rule 171)

To,

The Superintendent of the (a).....Prison.

Whereas.....(Number, Rank and Name) (Late) of the.....Regiment is held in the (a)..... prison under a warrant issued by (b).....in pursuance of a sentence of death passed upon him by (c).....court-martil held at..... on.....and whereas (d).....has in exercise of the powers conferred upon him by the Army Act, passed the following order regarding the aforesaid sentence that is to say—(e)

.....
.....
This is to require and authorise you to keep the said (Name).....in your custody together with this warrant in the said prison as by law is required until he shall be delivered over by you with the said warrant to the proper authority and custody for the purpose of his undergoing the punishment of imprisonment for life, under the said order. And this is further to require and authorise you to retain to me the original warrant of commitment in lieu whereof this warrant is issued. The period of such imprisonment for life will reckon from the(f).

Given under my hand at.....this the.....day of.....20.....

Signature (g)

- (a) Enter name of civil prison.
- (b) Enter name or designation of officer who signed original warrant.
- (c) General or summary general.
- (d) Name and designation of authority commuting the sentence.
- (e) Order to be set out in full.
- (f) Enter date on which original sentence was signed.
- (g) Signature of commanding officer.

FORM K

Warrant for use when the sentence of a person under Sentence of death and committed to custody in a civil prison is commuted to a sentence of Imprisonment to be served in the same prison

(Army Rule 171)

To,

The Superintendent of the (a).....Prison.

Whereas.....(Number, Rank and Name) (Late) of the..... Regiment is held in the (a).....prison under a warrant issue by (b).....in pursuance of a sentence of death passed upon him by a (c).....court-martial held at.....and whereas (d).....has in the exercise of the powers conferred upon him by the Army Act, passed the following order regarding the aforesaid sentence, that is to say—
(e)

This is to require and authorise you to keep the said (Name).....in your custody together with this warrant, and there to carry into execution the punishment of imprisonment under the said order according to law. And this is further to require and authorise you to return to me the original warrant of committal in lieu whereof this warrant is issued. The period of such imprisonment will reckon from the(f).....

Given under my hand at.....this the.....day of.....20.....

Signature (g)

- (a) Enter name of civil prison.
- (b) Enter name or designation of officer who signed original warrant.
- (c) General or summary general.
- (d) Name and designation of authority commuting the sentence.
- (e) Order to be set out in full.
- (f) Enter date on which original proceedings were signed.
- (g) Signature of commanding officer.

FORM L

Warrant for use when a person who, after having been sentenced to death, has been committed to custody in a civil prison is to be delivered into military custody for a purpose other than carrying out the sentence of death

(Army Rule 171)

To,

The Superintendent of the (a).....Prison.

Whereas.....(Number, Rank and Name) (Late) of the..... Regiment is held in the (a)..... prison under a warrant issued by (b)..... in pursuance of a sentence of death passed upon him by a (c).....court-martial held at.....on.....and whereas (A).....has in the exercise of the powers conferred upon him by the Army Act passed the following order regarding the aforesaid sentence; that is to say—(e).....

This is to require and authorise you to forthwith deliver the said (Name) to the officer, junior commissioned officer, warrant officer or non-commissioned officer bringing this warrant.

Given under my hand at.....this the.....day of.....20.....

Signature (f)

(a) Enter name of civil prison.

(b) Enter name or designation of officer who signed original warrant.

(c) General or summary general.

(d) Name and designation of authority issuing order.

(e) Order to be set out in full.

(f) Signature of commanding officer.
