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STATUTORY INSTRUMENTS

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**1997 No. 170**

**The Courts-Martial (Royal Navy) Rules 1997**

**PART II**

**PROSECUTION OF OFFENCES**

**Referring a case to the prosecuting authority**

**4.** If the higher authority refers a case in respect of an accused to the prosecuting authority in accordance with section 52C(1) of the Act, he shall forward to the prosecuting authority—

- (a) a copy of any report concerning the case prepared by the Royal Naval Regulating Branch or other investigator;
- (b) the offence or a list of offences alleged against the accused;
- (c) a list of any potential witnesses;
- (d) any written statements of the potential witnesses;
- (e) any statements made by the accused including records or transcripts of interviews conducted under caution;
- (f) a list of any exhibits;
- (g) any other evidence, real or documentary.

**Charge sheet**

**5.—(1)** A charge sheet shall state—

- (a) the name, service number, rank or rate of the accused;
- (b) the name of the ship or establishment in which the accused is serving;
- (c) particulars of how the accused is subject to or otherwise triable under the Act;
- (d) any charge preferred against the accused.

(2) A charge sheet shall contain the whole of the issue or issues to be tried at one time and shall be signed and dated by the prosecutor.

**Charges and joinder**

**6.** The rules contained in Schedule 1 to these Rules shall be observed in proceedings before courts-martial.

**Notifying the accused's commanding officer**

**7.—(1)** Where the prosecutor has preferred a charge against an accused to be tried by court-martial, the prosecutor shall notify the commanding officer of the accused of the charge by sending to the commanding officer the prosecution papers.

(2) In these Rules, “the prosecution papers” means—

- (a) a copy of the charge sheet;
- (b) a statement of the prosecution case;
- (c) a list of any witnesses whom the prosecutor proposes to call and copies of their statements;
- (d) a list of any exhibits which the prosecutor proposes to put in evidence and copies of those exhibits or details of their whereabouts;
- (e) notice of any additional evidence which the prosecutor intends to adduce;
- (f) a record of any previous convictions of—
  - (i) the accused; and
  - (ii) all witnesses to be called by the prosecutor; and
- (g) a list of all unused material.

#### **Notifying the court administration officer**

**8.—(1)** The prosecutor shall notify the court administration officer of any charge which he has preferred by sending to him a copy of the prosecution papers.

(2) On receipt of a copy of the prosecution papers from the prosecutor, the court administration officer shall send—

- (a) to the commanding officer of the accused—
  - (i) a statement explaining the opportunities available to an accused for legal assistance, and
  - (ii) a statement explaining the rights of an accused facing court-martial trial;
- (b) to the Chief Naval Judge Advocate, a copy of the prosecution papers.

#### **Appointment of judge advocate**

**9.—(1)** —On receipt of a copy of the prosecution papers, the Chief Naval Judge Advocate, or an officer on his behalf, shall appoint a judge advocate—

- (a) to conduct any hearing for directions;
- (b) to be a member of the court-martial.

(2) After the Chief Naval Judge Advocate has appointed a judge advocate in accordance with this rule, he shall notify the court administration officer, who shall serve notice in writing of the appointment on the accused and the prosecutor.

#### **Notification of trial**

**10.—(1)** This rule applies where the commanding officer has been notified in respect of an accused under his command that the prosecutor has preferred a charge.

(2) As soon as is practicable after receipt of—

- (a) the prosecution papers; and
- (b) the statements provided for in rule 8(2)(a) above,

the commanding officer shall notify the accused that he is to be tried by court-martial.

(3) On notifying the accused in accordance with paragraph (2) above, the commanding officer shall serve the accused with—

- (a) the prosecution papers;
- (b) a form for the accused's notice of alibi;

- (c) the statements explaining the rights of an accused and concerning legal assistance provided for in rule 8(2)(a) above;
- (d) a form for notifying the court administration officer of his accused's friend; and
- (e) a form for acknowledgement of receipt.

(4) At the time when the prosecution papers are given to the accused, the commanding officer shall inform the accused of the effect of section 11 of the Criminal Justice Act 1967(1) (notice of alibi).

### **Discontinuing proceedings before trial**

**11.** If before the commencement of the trial of a charge the prosecutor discontinues proceedings on that charge, he shall serve notice in writing on the accused and the court administration officer.

### **Amending charges and additional charges before trial**

**12.—**(1) If before the commencement of the trial of a charge the prosecutor—

- (a) amends, or substitutes another charge or charges for, that charge;
- (b) prefers an additional charge against the accused and directs that the additional charge shall be tried at the same court-martial trial as the original charge,

he shall serve notice on the accused and the court administration officer.

(2) Except with the consent of the accused, notice under paragraph (1) above shall not be served less than 24 hours before the time appointed for the trial of the original charge.

(3) Where the prosecutor is required to serve notice on the accused in accordance with this rule, he shall do so by sending to the accused's commanding officer or, with the consent of the accused, by serving directly on the accused—

- (a) a copy of the amended charge sheet;
- (b) any papers which are required to be added to the prosecution papers as a result of amending the charge sheet; and
- (c) where in the opinion of the prosecutor it is necessary, a statement explaining the effect of section 11 of the Criminal Justice Act 1967 and a form for the accused's notice of alibi.

(4) Where any document is received by the commanding officer in accordance with paragraph (3) above, he shall serve it on the accused as soon as is practicable.

(5) Where the prosecutor is required to serve notice on the court administration officer in accordance with this rule, he shall do so by sending to the court administration officer or, if less than 24 hours before the time appointed for the trial of the original charge, the judge advocate—

- (a) a copy of the amended charge sheet; and
- (b) any papers which are required to be added to the prosecution papers as a result of amending the charge sheet.

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(1) 1967 c. 89; section 11 is applied to proceedings before courts-martial by section 12 of the Criminal Justice Act 1967, subject to the modifications prescribed by the Criminal Justice Act 1967 (Application to Courts-Martial) (Evidence) Regulations 1997 (S.I.1997/173). Section 12 was amended by the Armed Forces Act 1976 (c. 52), section 11 and Schedule 5 and the Armed Forces Act 1996, section 5 and Schedule 1.