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STATUTORY INSTRUMENTS

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**2000 No. 2374**

**The Courts-Martial (Army) (Amendment) Rules 2000**

**Amendments to Rules**

2.—(1) The Courts-Martial (Army) Rules 1997(1) shall be amended in accordance with following provisions of this rule.

(2) In rule 2 (interpretation) the following definition shall be inserted after the definition of “the judge advocate”—

““preliminary charge” means the charge which would have been dealt with summarily had the accused not elected court-martial trial;”.

(3) For rule 4 (referring a case to the prosecuting authority) there shall be substituted—

“4. Where the higher authority refers a case in accordance with section 76A(1) of the Act, he shall forward to the prosecuting authority—

- (a) all documents and any other materials forwarded to him by the commanding officer in accordance with regulations made by the Defence Council under section 83 of the Act;
- (b) any other information in his possession which may be material to the prosecutor’s consideration of the institution of proceedings; and
- (c) where the accused has elected trial by court-martial, notification of that fact.”.

(4) After rule 4 (referring a case to the prosecuting authority) there shall be inserted—

**“Withdrawal of election in a multiple charge case**

4A. Where—

- (a) an election for court-martial trial relates to two or more preliminary charges; and
- (b) that election is withdrawn with the leave of the prosecuting authority,

section 83B(2) of the Act shall have effect as if it required the prosecuting authority to refer back to the appropriate superior authority or, as the case may be, the commanding officer of the accused each of the preliminary charges to be dealt with summarily.”.

(5) After rule 6 (conduct of formal preliminary examination) there shall be inserted—

**“Referring back in a multiple charge case before charges are preferred**

6A.—(1) Where—

- (a) an election for court-martial trial relates to two or more preliminary charges; and
- (b) the prosecutor considers that a charge or charges different from or additional to a preliminary charge should be preferred,

section 83BB(1) of the Act shall have effect as if it required the prosecuting authority to refer back to the commanding officer of the accused any additional preliminary charge as well as the charge or charges which he would otherwise be required to refer back under that section.

(2) In paragraph (1), the reference to any additional preliminary charge is to any preliminary charge which is different from the preliminary charge referred to in paragraph (1)(b) above.”.

(6) After rule 13 (description of the court-martial) there shall be inserted—

**“Referring back in a multiple charge case after charges already preferred**

**13A.** Where—

- (a) an election for court-martial trial relates to two or more preliminary charges; and
- (b) the prosecutor considers that a charge which has already been preferred (“the original charge”) should be amended, or that a charge should be preferred in addition to or in substitution for the original charge,

section 83BB(1) of the Act shall have effect as if it required the prosecuting authority to refer back to the commanding officer any charge (other than the original charge) which has already been preferred, as well as the charge or charges which he would otherwise be required to refer back under that section.”.

(7) In rule 76(2) (evidence before sentencing)—

- (a) at the end of sub-paragraph (g) the word “and” shall be omitted; and
- (b) after the word “unit” in sub-paragraph (h) there shall be inserted—
  - “; and
  - (i) whether the accused elected trial by court-martial”.

(8) Rule 85 (periodic review of arrest) shall be revoked.