
STATUTORY INSTRUMENTS

2009 No. 2041

The Armed Forces (Court Martial) Rules 2009

PART 10

ARRAIGNMENT

Arraignment

56.—(1) A defendant shall be arraigned in preliminary proceedings on each charge brought against him, but need not be arraigned on every charge at the same time.

(2) A defendant shall be required to plead separately to each charge on which he is arraigned.

(3) Where a defendant pleads guilty to a charge, the judge advocate may accept the plea if satisfied that the defendant understands—

- (a) the nature of the charge;
- (b) the general effect of the plea; and
- (c) the difference in procedure following pleas of guilty and not guilty.

(4) Where the judge advocate accepts a plea of guilty to a charge—

- (a) the defendant shall stand convicted of the charge; and
- (b) unless there is a further charge against him to which he has not pleaded guilty (or as respects which a plea of guilty has not been accepted by the judge advocate), the court administration officer shall appoint a time and place for sentencing proceedings.

(5) Where—

- (a) a plea of guilty is not accepted by the judge advocate, or
- (b) the defendant does not plead (or does not plead intelligibly) to the charge,

the judge advocate shall record a plea of not guilty.

Order that charge lie on the file

57. Where the judge advocate accepts a plea of guilty to any charge, the judge advocate may (with the Director's consent) order that any other charge—

- (a) to which the defendant has not pleaded,
- (b) to which the defendant has pleaded not guilty, or
- (c) as respects which the judge advocate has recorded a plea of not guilty under rule 56(5),

is to lie on the file, not to be proceeded with without the leave of the court or the Appeal Court.

Offer of no evidence

58.—(1) Where—

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- (a) a defendant has pleaded not guilty to a charge, or the judge advocate has recorded a plea of not guilty to the charge under rule 56(5), and
 - (b) the Director indicates that he intends to offer no evidence on the charge,
- the judge advocate shall record a finding of not guilty in respect of the charge.
- (2) A finding of not guilty recorded under this rule shall have effect for all purposes as an acquittal by the court.

Change of plea

- 59.**—(1) At any time before the lay members withdraw to deliberate on their finding on a charge, a defendant who has pleaded not guilty to the charge may withdraw his plea and substitute a plea of guilty.
- (2) But a judge advocate may not accept a plea of guilty substituted under paragraph (1) unless satisfied that the defendant understands the matters mentioned in rule 56(3).
- (3) At any time before the court begins to deliberate on its sentence for an offence, a defendant who has pleaded guilty to the charge of the offence may, with the leave of a judge advocate, withdraw his plea and substitute a plea of not guilty.
- (4) Where a defendant changes his plea under paragraph (3)—
- (a) in the course of sentencing proceedings in relation to the offence, or
 - (b) in the course of trial proceedings in relation to another charge,
- the judge advocate shall terminate the proceedings.

Powers of Director after arraignment

- 60.**—(1) After a defendant has been arraigned on a charge, the Director may not exercise any of the powers under section 125(2) in relation to him without the leave of the court.
- (2) Where—
- (a) section 130(2) prohibits the Director from referring a charge to the defendant's commanding officer without the written consent of the defendant, and
 - (b) the defendant gives his written consent to such a referral,
- this rule does not require leave for the referral.
- (3) Where a defendant has been arraigned and the Director (with leave) exercises any of the powers under section 125(2)(a) to (c) in relation to him, the Director shall serve the amended charge sheet on every defendant in the way that would be required by regulations made under section 128 if the power had been exercised before arraignment.

Retrial authorised by Appeal Court

- 61.**—(1) This rule applies where the Appeal Court quashes a conviction and makes an order under section 19 of the 1968 Act authorising the appellant to be retried.
- (2) Rule 56 (arraignment) applies, but rule 60 applies whether or not the defendant has been re-arraigned.
- (3) Rule 60(1) does not require leave of the court for anything authorised by the order of the Appeal Court (including any direction by that court under section 19(4) of the 1968 Act).
- (4) The Director may not refer any charge to the defendant's commanding officer, or allocate it for trial by the Service Civilian Court.

(5) The Director may not discontinue proceedings on any charge, unless at the same time he makes a direction under section 127(2) (direction barring further service or civilian proceedings) in relation to the charge.

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