

AIR FORCE RULES, 1969

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SCHEDULE 1 :- FIRST SCHEDULE**SCHEDULE 2 :- SECOND SCHEDULE****SCHEDULE 3 :- THIRD SCHEDULE****SCHEDULE 4 :- FOURTH SCHEDULE****AIR FORCE RULES, 1969**

S.R.O. 310, dated the 24th September, 1969.- In exercise of the powers conferred by section 189 of the Air Force Act, 1950 (45 of 1950) and in supersession of the Indian Air Force Act, Rules published with the notification of the Government of India No. 248, dated the 29th April, 1933, and the Air Force Rules, 1950, published with the notification of the Government of India in the Ministry of Defence No. S.R.O. 126, dated 22nd July, 1950, the Central Government hereby makes the following rules, namely:-

CHAPTER 1 Preliminary**1. Short title :-**

(1) These rules may be called the Air Force Rules, 1969.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "The Act" means the Air Force Act, 1950;

(b) "Form" means a Form set forth in the Schedule;

(c) "minor punishment" means punishment inflicted without the intervention of the court martial under section 82 or section 86;

(d) "proper air force authority" when used in relation to any power, duty, act or matter means such air force authority as, in pursuance of the Act or these rules or the regulations for the air force or the usages of the service, exercises or performs that power or duty or is concerned with the act or matter;

(e) "Schedule" means a Schedule appended to these rules;

(f) "section" means a section of the Act.

3. Reports and applications :-

Any report or application directed by these rules shall be made to a superior authority, or proper air force authority, shall be made in writing through the proper channel, unless the authority on account of agencies of the service or otherwise, dispenses with the writing.

4. Forms set forth in schedule :-

(1) The Forms with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient, but a deviation from such forms shall be, by reason only of such deviation, render any

charge, warrant, order, proceedings or other document invalid.

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

(3) The notes to, and instructions in, the Forms shall be considered as instructions which it is expedient to follow in all cases to which such notes and instructions apply, but shall not have the force of the rules.

5. Exercise of power vested in holder of air force appointment :-

Any power or jurisdiction conferred on, and any act or thing to be done by, to or before any person holding any air force appointment may be exercised by, to or done by, or before any other person for the time being authorised in that behalf according to the usages of the service.

6. Cases unprovided for :-

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

CHAPTER 2 Enrolment and Attestation

7. Enrolling officers and form of enrolment :-

8. Persons to be attested :-

All combatants shall, when reported Fit for the duties of their trade, be attested as provided in section 16 .

9. Oath or affirmation to be taken on attestation :-

CHAPTER 3 Dismissals, Discharges, etc

10. Discharge not to be delayed :-

[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 a person shall not be so entitled to be discharged during the period during which the Central Government, by a notification in this behalf suspends the entitlement to discharge in respect either of all the persons enrolled under the Act, or of any class of such persons to which he belongs.]

11. Discharge certificate :-

A certificate furnished in accordance with the provisions of section 23 hereinafter called a "discharge certificate", may be so furnished either by personal delivery thereof by or on behalf of the commanding officer to the person dismissed, removed, discharged, retired or released or by its transmission by registered post to such person.

12. Date from which retirement, discharge, release, removal or dismissal otherwise than by sentence of a court-martial takes effect :-

(1) The dismissal of a person subject to the Act, whose dismissal otherwise than by sentence of court martial is duly authorised, or the retirement, discharge, release or removal of a person so subject, whose retirement, discharge, release or removal, as the case may be, is duly authorised, shall be carried out by the commanding officer of such person with all convenient speed. The competent authority may, when authorising the dismissal, retirement, discharge, release or removal, specify any future date from which it shall take effect: Provided that if no such date is specified, it shall take effect from the date on which it was duly authorised, or from the date on which the dismissed, retired, discharged, released or removed person ceased to do air force duty, whichever is later.

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

13. Release :-

A person subject to the Act may be released from the air force in accordance with these rules, or in accordance with any orders or instructions made in that behalf by or under the authority of the Central Government.

14. Retirement :-

Subject to the other provisions of these rules, a person subject to the Act may be retired in accordance with the terms and conditions of his service by or under the authority of the Central Government.

15. Authorities empowered to authorise discharge :-

(1) Each of the authorities specified in column 3 of the Table below shall be the authority competent in respect of persons subject to the Act specified in column 1 thereof for the causes specified in column 2 and in the manner specified in column 4, to discharge such persons from the service.

16. Dismissal or removal of officers for misconduct :-

(1) An officer may be dismissed or removed from service for misconduct by the Central Government, but before doing so and subject to the provisions of sub-rule (2) he shall be given an opportunity to show cause against such action.

(2) Where the dismissal or removal of an officer is proposed on ground of misconduct which has led to his conviction by a criminal court, or where the Central Government is satisfied that for reasons to be recorded in writing, it is not expedient or reasonably practicable to do so, it shall not be necessary to give an opportunity to the officer of showing cause against his dismissal or removal.

(3) Where an officer has been convicted by a criminal court and the Central Government, after examining the judgment of the criminal court in his case and considering the recommendation about him of the chief of the Air Staff, is of opinion that further retention of such officer in the service is undesirable that Government may dismiss or remove such officer from the service.

(4) In any case not falling under sub-rule (3), when the Chief of the Air Staff after considering the reports on an officers misconduct, is of opinion that the trial of the officer by a court-martial is inexpedient or impracticable but the further retention of the officer in the service is undesirable, he shall so inform the officer and subject to the provisions of sub-rule (5) furnish to the officer all reports adverse to him calling upon him to submit in writing within a reasonable period to be specified, his explanation in defence and any reasons which he may wish to put forward against his dismissal or removal.

(5) The Chief of the Air Staff may withhold from disclosure any report adverse to an officer or any portion [hereof, if in his opinion its disclosure is not in the interests of the security of the State.

(6) If no explanation is received from the officer within the specified period or if the explanation received is considered to be not satisfactory or, when so directed by the Central Government, the reports against the officer as well as his explanation if any shall be submitted to the Central Government by the Chief of the Air Staff together with his recommendation as to the dismissal or removal of the officer from the service.

(7) The Central Government may, after considering the reports against the officer and his defence, if any, and the recommendations of the Chief of the Air Staff, dismiss or remove the officer from service.

17. Removal from service of officers on grounds other than misconduct :-

(2) If no reply is received from the officer within the specified period, or the reasons submitted by him are considered not satisfactory by the Chief of the Air Staff, the matter shall be submitted to the Central Government for orders, together with the explanation of the officer, if any, and the recommendation of the Chief of the Air Staff for the removal of the officer from the service.

(3) The Central Government may, after considering the explanation, if any, of the officer and the recommendations of the Chief of the Air Staff, and after satisfying itself that the failure, where applicable, to disclose matters adverse to the officer was in the interests of the security of the State, may remove or compulsorily retire the officer from the service.

18. Dismissal or removal of a person subject to the Act other than an officer :-

(2) Notwithstanding anything contained in sub-rule (1), if in the opinion of the officer competent to order the dismissal or removal of such person, it is not expedient or reasonably practicable to comply with the provisions of sub-rule (1), he may after certifying to that effect, order the dismissal or removal.

(3) All cases of dismissal or removal without complying with the procedure prescribed in sub-rule (1) shall, without delay, be reported to the Central Government.

CHAPTER 4 Restrictions on Fundamental Rights and Provisions Relating to Arrests, etc

19. Membership of Organisations :-

No person subject to the Act shall without express sanction of the

Central Government,-

(b) be a member of or be associate in any way with any trade union or labour union, or any class or trade or labour unions.

20. Political and other activities :-

(1) No person subject to the Act shall attend, address, or take active part in, any meeting or demonstration held for party or political purposes, or belong to or join, or subscribe in 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 Parliament, Legislature of a State, local authority, or other public body, or act as a member of a candidates election committee, or in any way actively prosecute a candidates interest.

21. Communications to the Press, Lectures, etc :-

No person subject to the following shall-

(a) publish in any form whatever or communicate directly or indirectly to the press any matter 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 matter or containing such information, without the previous sanction of the ^Central Government); or

22. Manner and extent of custody pending trial or confirmation of court- martial proceedings :-

(2) Detention in air force custody beyond a total period of sixty days whether continuously or in broken periods, of a person subject to the Act, who is not on active service and for whose trial a court-martial has not assembled, shall require the sanction of the Chief of the Air Staff or any other officer duly authorised, with the approval of the Central Government, by the Chief of the Air Staff in that behalf.

(3) The Chief of the Air Staff or such other officer may sanction further detention of such person as is described in sub-rule (2) for a specific period, which he may extend from time to time, provided that the total period of detention under sub-rule (2) and this sub-rule, whether continuous or broken, shall not exceed ninety days.

(4) No such person as is described in sub-rule (2) shall be detained in air force custody beyond a period of ninety days, whether continuously or in broken period except with the approval of the Central Government.

(5) As soon as the proceedings of a court-martial have been received by an officer having powers to confirm them, that officer shall, as soon as may be, order the release (without prejudice to re-arrest) of the accused if the finding of the court-martial is "not guilty" on the charge, or where there are more charges than one, on all the charges, on which he was tried.

(7) No person shall be detained in air force custody pending confirmation of the proceedings of a Court-martial, for a period in excess of the term of imprisonment or detention to which the court-martial has sentenced him.

23. Delay report :-

CHAPTER 5 INVESTIGATION OF CHARGES AND TRIAL BY COURT-MARTIAL

24. Disposal of the charge or adjournment for taking down the summary of evidence :-

(2) The commanding officer shall dismiss a charge brought before him if, in his opinion, the evidence does not show that some offence under the Act has been committed, and may do so if, in his discretion, he thinks the charge ought not to be proceeded with.

(4) Where the case is adjourned for the purpose of having the evidence reduced in 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.

(5) The accused may put questions in cross-examination to any witness, and the questions with the answers shall be added in writing to the evidence taken down.

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

(8) 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 commanding officer or the officer taking the summary (to be certified in writing by the commanding officer or such officer), 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.

(9) Any witness who is not subject to the air force law may be

summoned to attend by order under the hand of the commanding officer of the accused. the summons shall be in Form C.1 as provided in the Third Schedule.

25. Remand of accused :-

(2) If the accused is remanded for trial by court-martial, the commanding officer shall without unnecessary delay apply to the proper air force authority to convene a court-martial.

(3) The summary of evidence, or a true copy thereof, shall be furnished to the convening authority with the application to convene a court-martial, and shall be laid before the court-martial before which the accused is tried on the assembly of the court.

26. Application of rules 24 and 25 to officers exercising powers of a commanding officer :-

The provisions of rule 24 and rule 25 shall, so far as practicable, also apply to an officer exercising the powers of a commanding officer.

27. Action by officer having power to convene a district court-martial :-

[An officer having power to convene a district court-martial to whom an application for the convening of court-martial is made or to whom a case is referred under the provisions of clause (b) of sub-rule (1) of rule 25, may, at his discretion,-

(a) authorise in writing the commanding officer or other officer exercising the powers of a commanding officer to dismiss the charge or dispose of the case summarily; or

(b) refer the case to a superior authority; or

(c) order the assembly of a district court-martial for the trial of the accused person.]

28. Action by officer having power to convene a general court-martial :-

[An officer having power to convene a general court-martial to whom an application for the convening of a court-martial is made or to whom a case is referred under the provisions of clause (b) of sub-rule (1) of Rule 25, or of clause (b) of rule 27, may, at his discretion,-

(a) return the case to the commanding officer or other officer exercising the powers of a commanding officer authorising such officer in writing to dismiss the charge or dispose of the case summarily; or

(c) order the assembly of a court-martial for the trial of the accused person; or

(d) refer the case to a superior authority.]

29. Limitation of powers of minor punishment according to rank :-

. .-

(2) A commanding officer, or other officer exercising the powers of a commanding officer, of the rank of Flight Lieutenant, shall have the powers of punishment specified in the said section, provided that he shall not award detention or field punishment for a period exceeding seven days.

(4) Notwithstanding anything contained in sub-rules (2) and (3) where a commanding officer or other officer exercising the powers of a commanding officer below the rank of Squadron Leader, an officer superior in command to such commanding or other officer,

may if he considers desirable, restrict the powers under the said sub-rule of such commanding officer or other officer to any extent as he thinks fit.

30. Powers of minor punishment of Subordinate Commanders :-

(1) Subject to the provisions of sub-rule (2), an officer other than a commanding officer, who has with the consent of the Central Government been specified by the Chief of the Air Staff as a "Subordinate Commander", may award such minor punishments and to such extent as specified in this rule.

31. Summary disposal of charge against officers and warrant officers :-

(4) The accused may put questions in cross-examination to any witness, call any witnesses and make a statement in his defence.

(5) The proceedings shall be recorded as far as practicable in accordance with Form D.1 or Form D.2 (as may be appropriate) of the forms for use for summary disposal of charges against officers and warrant officers contained in the Fourth Schedule and in every case in which a punishment is awarded, the original and a certified true copy of the proceedings together with the summary of evidence shall be forwarded through the proper channel to the superior air force authority as defined in Seel 89.

32. Summary award of punishment by commanding or other officer :-

When a commanding officer, or other officer having power to dispose of an offence summarily, has once awarded a punishment

for that offence, he cannot afterwards increase the punishment for that offence.

33. Revision of minor punishments awarded under section 82 :-

[

(4) Any authority specified in sub-rule (1) may, in addition to or without any order passed under sub-rule (1), (2) or (3), issue such direction in any case as may appear to such authority to be necessary for doing justice in the matter.]

34. Charge-sheet and charge :-

(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.

35. Commencement of charge-sheet :-

Every charge-sheet shall begin with the name and description of the person charged, and state, in the case of an officer, his rank, name, number, and unit, and in the case of a warrant officer, or other enrolled person, his number, rank, name and unit. When the accused person does not belong to the regular air force, 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.

36. 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.

(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.

37. Signature on charge-sheet :-

[The charge-sheet shall be signed by the commanding officer of the accused or by the officer who, in respect of the accused, is an officer empowered under section 82 to exercise the powers of a commanding officer, and shall contain the place and date of such signature.]

38. Validity of charge-sheet :-

(1) A charge-sheet shall not be invalid by reason only of any mistake in the name or description of the person charged, if he does not object to the charge-sheet during the trial, and it is not shown that 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.

39. Opportunity for accused to prepare defence :-

An accused person for whose trial a court-martial has been ordered to assemble shall be afforded proper opportunity of preparing his defence, and shall be allowed free communication with his witnesses, and with any friend or legal adviser whom he may wish to consult.

40. Warning of accused for trial :-

(1) The accused before he is arraigned shall be informed by an officer of every charge on which he is to be tried; and also that, on his giving the names of witnesses 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 of the charges against him and his arraignment must be such as to allow him to have his witnesses present, and to consider his defence.

(3) If he desires it, a list of the names, ranks, and units of the officers who are to form the court, and where officers in waiting are named, also of these officers, will be given to the accused.

(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

41. 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, whether charged, jointly or not, 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.

(3) Where the accused persons are so charged under sub-rule (1) or (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 persons at the time of his being informed of the charge, 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 person 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 person 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.

(5) Where any such claim as is referred to in sub-rule (4) has been made and disallowed by the authority convening the court, or by the court, the disallowance of such claim shall 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.

(6) Where the proceedings of any court-martial in respect of any charge against an accused person are not confirmed on the ground stated in sub-rule (5) such accused person may be tried again on that charge.]

42. Suspension of rules on the ground of the exigencies of the service or the necessities of discipline :-

Where it appears to the officer convening a court-martial, or to the senior officer on the spot, that exigencies of the service or the necessities of discipline, render it impossible or inexpedient to observe any of the provisions of Rule 24, sub-rule (4), sub-rule (5), sub-rule (6) and sub-rule (7) and of rule 25, rule 39 and rule 40 he may, by order under his hand, make a declaration to that effect specifying the nature of such exigencies or necessities, and there upon the trial or other proceedings shall be as valid as if the rule mentioned in such declaration had not been contained herein; and the declaration may be made with respect to all or any of the provisions of the rules aforesaid mentioned: 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.

43. Convening of general and district court-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 offence 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 description of court-martial he proposes to convene.

(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 send to the senior member thereof, the original charge sheet on which the accused is to be tried, the summary of evidence and the order for the assembly of the court-martial.

44. 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 the 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 required minimum, proceed 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.

45. Ineligibility and disqualification of officers for court-martial :-

(1) An officer is not eligible to serve on a court-martial unless he is subject to air force law.

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

46. Composition of general court-martial :-

(1) The senior member of a general court-martial shall be of a rank not below that of a Group Captain, unless in the opinion of the convening officer, to be stated in the order convening the report and to be conclusive, an officer of that rank is not (having due regard to the public service) available.

(2) All members of a general court-martial for the trial of an officer shall be equal if not superior rank to the accused, unless in the opinion of the convening officer, to be stated in the order convening the court and to be conclusive, officers of the required rank are not (having due regard to the public service) available. Provided that in no case shall an officer below the rank of Flight Lieutenant be appointed a member of a court-martial for the trial of an officer of or above the rank of Squadron Leader.

47. Composition of a district court-martial :-

The senior member of a district court martial shall be of a rank not below that of Squadron Leader, unless in the opinion of the convening officer, to be stated in the order convening the court and to be conclusive, an officer of that rank is not (having due regard to the public service) available.

48. Units of members of court-martial :-

A general or district court-martial shall not be composed exclusively of officers of the same unit, unless the convening officer states in the order convening the court that in his opinion other officers are not (having due regard to the public service) available, and in no case shall it consist exclusively of officers belonging to the same unit as the accused.

49. Inquiry by court as to legal constitution :-

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

50. Inquiry by court as to amenability of accused and validity of charge :-

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

51. Appearance of accused and prosecutor :-

When the court is satisfied as to the above facts, it shall cause the accused to be brought before the court, and the prosecutor who must be a person subject to air force law, shall take his place.

52. Proceedings for challenges of members of court :-

The order convening the court and the names of the presiding officer and members of the court shall then be read over to the accused and he shall be asked, as required by section 129 , whether he objects to be tried by any officer sitting on the court. Any such objections shall be disposed of in accordance with the provisions of section 129 : Provided that-

(a) the accused shall state the names of all the officers to whom he objects 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 officer 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 to any of those officers;

(d) when an objection to an officer is allowed that officer shall forthwith retire, and take no further part in the proceedings;

(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.

53. Swearing or affirming of members :-

As soon as the court is constituted with the proper number of officers who are not objected to, or the 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 as the same purport as the court ascertains to be according to his religion or otherwise binding on his conscience:- \ \ \ \ Form of Oath \ "I..... do swear in the name of 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 Air Force Act, 1950 with out 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 affirm that I will well and truly try the

accused or accused persons) before the court according to the evidence that I will duly administer justice according to the Air Force Act, 1950, with and 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 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.

54. Swearing or affirming of judge advocate and others :-

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:-

55. Persons to administer oaths and affirmation :-

All oaths and affirmations shall be administered by a member of the court, the judge-advocate, or some other person empowered by the court to administer such oath or affirmation.

56. Arraignment of accused :-

(1) After the members of the court and other persons are sworn or affirmed as above-mentioned, 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.

57. 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.

58. 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 they have begun to examine the witnesses, that in the interests of justice any addition to, omission from, or alteration in the charge is required, they may report their opinion to the convening authority, and may adjourn, and the convening authority may either direct a 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.

59. 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 no jurisdiction, they shall receive any evidence offered in support, together with any evidence offered by the prosecutor in disproof or qualification thereof, and any address by the accused and reply by the prosecutor in reference thereto.

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

60. General plea of "guilty" or "not guilty" :-

(3) When an accused person pleads "guilty" to the first of two or more charges laid in the alternative, the prosecutor may, after the provisions of sub-rule (2) have 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.

61. Plea in bar :-

(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 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 with 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 reassembled by the confirming authority, and proceed as if the plea had 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 Finding shall be subject to confirmation like any other finding of the court.

62. Procedure after plea of "guilty" :-

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(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 the accused person as if he had pleaded "not guilty" to all the charges: Provided that this sub-rule shall not apply if the concurrence of the convening officer has been signified by the prosecutor.

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

63. 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 plea "guilty", and such case the court will at once, subject to a compliance with sub-rules (2) and (4.) of Rule 60. record a plea and finding of "guilty", and shall,

so far as is necessary. proceed in the manner directed by rule 62.

64. Plea of "not guilty" and case for prosecution :-

After the plea of "not-guilty" to any charge is recorded, the trial shall proceed as follows-

(a) the prosecutor may, if he desires, make an opening address;

(b) the evidence for the prosecution shall then be taken;

(c) 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 address, and he must be sworn and give his evidence in detail;

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

65. Plea of no case :-

(1) At the close of the case for 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 fade case against him and that he should not, therefore, be called upon for his defence as respects such charge or charges.

(2) The court shall hear the address by the accused in support of such plea and the reply by the prosecutor thereto, and shall consider the plea in closed court; and if it is satisfied that the plea is well-founded in respect of any one of more charges to which it relates, it shall record a Finding of "not guilty" in respect of such charge or charges, and the accused shall thereafter be called upon for his defence only in respect of the remaining charges, if any, in the charge-sheet.

66. Procedure for defence :-

(1) At the close of the evidence for the prosecution if the plea for "no case" is not offered by the accused, or if offered is overruled, the accused may, if he so desires, make an opening address.

(2) The accused shall be asked if he has any thing to say in his defence and may make a statement in his defence.

(3) Any statement allowed under this or any other of these rules to be made by the accused, may be made either orally or in writing; but the accused making the statement shall not be sworn.

(4) The court or the judge advocate, if any, may question the accused 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 the court may draw such inference from such refusal or answers as it thinks fit.

67. Procedure where accused does not call witnesses to the facts of the case :-

(1) The accused may call witnesses as to character.

(2) The prosecutor may, in reply to the witnesses as to character, produce proof of formal conviction either by a court-martial or by a criminal court and entries in the service conduct sheets.

(3) The prosecutor may address the court for the purpose of

summing up the evidence for the prosecution.

(4) The accused may then address the court in his defence. The time at which such address is allowed is in these rules referred to as the time for the second address of the accused.

68. Procedure where accused calls witnesses to the facts of the case :-

(1) The accused may call witnesses, including witnesses as to character.

(2) The prosecutor may with the permission of the court, call witnesses in reply.

(3) The accused may again address the court. The time at which such second address is allowed is in these rules referred to as the time for the second address of the accused.

(4) The prosecutor shall be entitled to address the court in reply.

69. Summing up by judge advocate :-

(1) The judge advocate, if any, shall unless both he and the court think summing up unnecessary, sum up in open court the whole case.

(2) After the summing up of the judge advocate, no other address shall be allowed.

70. Consideration of finding :-

70. Consideration of finding :-

- (1) The court shall deliberate on its finding in closed court.
- (2) The opinion of each member of the court shall be taken separately on each charge.

71. Form, record and announcement of finding :-

- (1) The Finding on every charge shall be recorded, and, except, as mentioned in these rules, shall be recorded simply as a Finding of "guilty" or of "not-guilty".
- (2) Where the court is of opinion as regard any charge that the facts proved do not disclose the offence charged or any offence of which he might under the Act be found guilty on the charge as laid, the court shall acquit the accused of the charge.
- (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 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 of exceptions or variations specified therein.

(6) Where there are alternative charges and the facts proved appears 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, but 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, then 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 in such one or another of the alternative charges and may, if necessary, adjourn for the purpose.

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

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

72. 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 to the person specified in rule 101.

73. 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 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 82 or 86 the length of time he has been in arrest or is confinement on any previous sentence, and any military or air force decoration, or military or air force 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 service records 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 service records 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 service records or such certified copy, as the case may be the court shall compare the summary with those records or copy, and if it finds it is not in accordance therewith, shall cause the summary to be corrected accordingly.

(4) When all the evidence on the above matters has been given the accused may address the court thereon.

74. Sentence :-

The court shall award one sentence in respect of all the offence 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 given, and not to be awarded in respect of any offence in a charge in respect of which it cannot be given.

75. Recommendation to 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 a recommendation to mercy mentioned in this rule, or any question relative thereto, is adopted or rejected, may be entered in the proceedings.

76. 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 shall be announced in open court 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.

77. Revision :-

(2) 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 a new finding, and if such new finding involves a sentence, pass sentence afresh.

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

(4) After 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 be at once transmitted for confirmation.

78. Promulgation :-

The charge, finding, sentence, and any recommendations 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.

79. 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 seems just, having regard to the offences in the charges the findings on 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 of such charges or 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 seems just, having regard to the offences in the charges which with the findings thereon are not invalid, and punishment as so modified shall be as valid as if it had been originally awarded only in respect of those offences.

80. 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 is in excess of the punishment authorised by law, the confirming authority may vary the sentence so that the punishment shall not be in excess of the punishment authorized by law; and the confirming authority may confirm the finding and the sentence, as so varied, of the court-martial.

81. Member or prosecutor not to confirm proceedings :-

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

82. Seating of members :-

The members of a court-martial shall take their seats according to their rank.

83. Responsibility of Presiding Officer :-

(1) The presiding officer is responsible that the trial is conducted in proper order, and in accordance with the Act and these rules, and will take care that everything is conducted 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.

84. Power of court over address of prosecutor and accused

:-

(1) It shall be 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 to restrain any undue violence of language or want of fairness of moderation on the part of the prosecutor.

85. 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 all 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.

86. Separate charge-sheets :-

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

(4) If the convening officer directs that, in the event of the conviction of the 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 before directed by 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 it thinks 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.

87. Sitting in closed court :-

(1) When a court-martial sits in closed court on any deliberation amongst the members or otherwise, no person shall be present except the members of the court, the judge advocate, any officers under instruction, and if interpreter has been appointed and the court considers his presence necessary, the interpreter; and the court may either retire, or may cause the place where they sit to be cleared of all other persons not entitled to be present.

(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.

88. 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 air force authority or, in the absence of any such direction, as the court-martial may, from time to time, determine: Provided that no court-martial shall, subject to the provisions of sub-rules (2) and (3), sit for more than six hours in any one day.

(2) Where the court-martial 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, the court-martial shall record in the proceedings the reasons for so doing,

(3) In cases requiring an immediate disposal or when the convening officer certifies under his hand that it is expedient in public interest, trials may be held at my hour.

(4) Where the court-martial or the convening officer or the senior officer on the spot is of the opinion that service exigencies or the interests of discipline require the court-martial to sit on Sunday or any other day declared as a holiday. The court-martial may sit accordingly but in no other case the court-martial shall sit on any of these days.

89. Continuity of trial and adjournment of court :-

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

(3) A court-martial, in the absence of a judge advocate (if such has been appointed for that court-martial), shall not proceed, and, if necessary shall adjourn.

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

(5) If the time to which an adjournment is made is not specified, the adjournment shall be until further orders from the proper air force 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 of the proper air force authority.

90. Suspension of trial :-

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

91. Proceedings on death or illness of the 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 fact of the death or illness by evidence, and record the same, and adjourn, and transmit the proceedings to the convening authority.

92. 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.

93. Presence of members during trial :-

(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 proceedings of the court shall not be invalid unless reduced below the required minimum.

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

94. Taking of opinions of members of court :-

(1) Every member of a court must give his opinion 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 opinions of the members of the court shall be taken in succession, beginning with the member lowest in rank.

95. Procedure on incidental question :-

If any question arises incidentally during the trial, the person, whether prosecutor or accused, requesting the opinion of the court, is to speak first: the other person is then to answer, and the first person is to be allowed to reply.

96. 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 together 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 member.

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

97. Swearing of interpreter and shorthand writer :-

(1) At any lime during the trial an impartial person may, if the court thinks it necessary, and shall if either the prosecutor or the accused request it on any reasonable ground, be sworn or affirmed to act as interpreter.

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

(3) Before a person is sworn or affirmed as 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.

98. 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 understands. If an interpreter in such language has been appointed by the convening officer, and duly sworn or affirmed, the evidence shall be interpreted by them. 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

97. Then documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause as much to be interpreted as appears necessary.

99. Record in proceedings of transaction 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 in the English language, all transactions of that court, and shall be responsible for the accuracy of the record (in these rules referred to as above 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 the 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 where the prosecutor, the accused person, Judge advocate or the court consider it material, the question and answer shall be taken down verbatim.

(3) Any question which has been objected to, and the tender of any evidence which has been objected to, shall, if the prosecutor or accused so requests, or the court thinks fit, be entered with the grounds of the objection, and the decision of the court thereon.

(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 part of the trial; but if any such comment or report seems to the court necessary, the court may forward it to the proper air force authority in a separate document, signed by the presiding officer.

100. 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 times.

101. Transmission of proceedings :-

The proceedings shall, as required under rule 72 or rule 76 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.

102. Defending officer and friend of accused :-

(1) At any court-martial an accused person may be represented by any officer subject to air force law 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 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 service 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 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.

103. Counsel allowed in certain general and district courts-martial :-

(1) Subject to these rules counsel shall be allowed to appear on behalf of the prosecutor and accused at general and district courts-martial if the Chief of the Air Staff, or the convening officer declares that it is 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 seems expedient.

104. Requirements for appearance of counsel :-

(1) Where an accused person gives notice of his intention to have counsel to assist him during the trial, either on the day on which he is informed of the charge or at any time not being less than seven days before the trial, or such shorter time before the trial as the opinion of the court would have enabled the prosecutor to obtain. If he had thought fit, counsel to assist him during the trial or where such notice is given to the accused on the part of the prosecution, counsel may appear at the court-martial to assist the accused.

(2) If the convening officer so directs, counsel may appear on behalf of the prosecutor, but in that case, unless the notice under 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.

105. Counsel for prosecution :-

The counsel appearing on behalf of the prosecution shall have the

same duty as the prosecutor, and is subject to be stopped and restrained by the court in the manner provided by sub-rule (2) of rule 84.

106. 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 84 in the case of accused.

107. General rules as to counsel :-

A counsel, whether for the prosecution or for 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 counsel.

108. Qualifications of counsel :-

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

(2) A counsel shall be deemed to be properly qualified if he is a legal practitioner authorized 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 country rights and duties similar to those of such a legal practitioner in India and as being subject to punishment or disability for a breach of professional rules.

109. Statement by accused when defended by counsel or officer :-

Notwithstanding the fact that he is represented at the trial by a counsel or an officer subject to [* * *] air force law, an accused may, if he thinks fit, make a statement as provided in sub-rule (3) of rule 62 and sub-rule (2) of rule 66 giving his own account of the subject of the charges against him.

110. Disqualifications of judge-advocate :-

An officer who is disqualified for sitting on a court-martial, shall be disqualified for acting as judge-advocate at that court-martial.

111. Powers and duties of judge-advocate :-

The powers and duties of a judge- advocate are as follows:

(a) The prosecutor or the accused is 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;

(c) 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.

(d) 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.

(e) At the conclusion of the case he shall, unless both he and the court consider it unnecessary, sum up the evidence and give his opinion upon the legal hearing of the case before the court proceeds to deliberate upon its finding.

(f) 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.

(g) 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.

(h) In fulfilling his duties, the judge-advocate must be careful to maintain an entirely impartial position.

112. Calling of all prosecutors witnesses :-

The prosecutor is not bound to call on the witnesses for the prosecution whose evidence is in the summary of evidence or whom the accused has been informed it is intended to call, but should ordinarily call all such of them as the accused desires in order that they may be cross-examined and shall, for this reason, so far as practicable, secure the attendance of all such witnesses.

113. Calling of witnesses whose evidence is not contained in summary :-

If the prosecutor intends to call a witness whose evidence is not contained in any summary given to the accused, notice of the intention shall be given to the accused, a reasonable time before the witness is called; and if such witness is called without such notice 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.

114. List of witnesses for 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, and for whose attendance the accused has not requested steps to be taken as provided by sub-rule (1) of rule 40.

115. Procuring attendance of witness :-

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.

116. 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 reasonably be 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) adjourn and report the circumstances to the convening officer.

117. 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.

118. 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 a member of the court, the judge-advocate, 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,..... do swear in the name of God that what I shall state shall be the truth, the whole truth, and nothing but the truth."

Form of Affirmation

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

119. Mode of questioning witness :-

(1) Every question shall be put to a witness orally by the presiding officer, the judge-advocate, the prosecutor or the accused person 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 after he has given all his evidence and before he leaves the court, and shall, if necessary, be corrected.

(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.

120. Question to witness by court or judge-advocate :-

(1) At any time before the time for the second address of the, accused the presiding officer, the judge advocate and, with the permission of the court, any member of the court may address any

question to a witness. .

(2) Upon any such questions being answered, the officer conducting the proceeding shall also put to the witness any question relative to that answer which he may be requested to put by the prosecutor or the accused, and which the court deems reasonable.

121. Recalling of witnesses and calling of witnesses in reply :-

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(1) At the request of the prosecutor or accused person, a witness may, by leave of the court, be re-called at any time before the time for the second address of the accused, for the purpose of having any question put to him through the officer conducting the proceedings.

(2) A witness may, in special cases, be allowed by the court to be called or recalled by the prosecutor before the time for the second address of the accused, for the purpose of rebutting any material statement made by a witness for the defence upon his examination by the accused 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 time for the second address of the accused, may call or recall witnesses for the purpose of proving a previous conviction or entries in the service records 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.

122. Addresses may be in writing :-

Addresses by the prosecutor and the accused and the summing up of the judge advocate may either be given orally or be in writing, and if in writing, shall be read in open court.

123. Provisions as to finding of insanity :-

Where the court finds either 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, the presiding officer shall date and sign the finding and the proceedings, upon being signed by the judge-advocate if any, shall be at once transmitted to the confirming officer.

124. Preservation of Proceedings :-

The proceedings of a court-martial shall after promulgation be forwarded, as circumstances require, to the office of the Chief Legal Adviser 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.

125. Right of person tried to copy of proceedings :-

[Every person tried by a court-martial shall, after the proceedings have been signed by the presiding officer and where applicable, by the judge advocate, and before they are destroyed, on a request made by such person in writing for the supply of a copy of such proceedings, be furnished within a reasonable time and free of cost a copy thereof including the proceedings upon revision, if any.]

126. Copy of proceedings not to be given in certain cases :-

Notwithstanding anything contained in rule 125, if the Central Government certifies that it is against the interest or 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 a finding or sentence, it shall permit inspection of the proceedings by 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

127. Loss of proceedings :-

(1) If before confirmation the original proceedings of a court-martial, or any part thereof, are lost, a copy thereof, if any, certified by the presiding officer of 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 consent of the accused, be accepted in lieu of the original proceedings, or part thereof lost.

(3) In any case mentioned above 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 proceedings, or part thereof, were lost before confirmation, and there is no such copy or evidence, or the accused refuses such consent as mentioned above, the accused may be tried again, and on the issue of an order convening the court for the trial, the finding and sentence of the previous court of which the proceedings were so lost, shall be null.

(5) If, after confirmation, the original proceedings of a court-martial or any part thereof are lost and there is sufficient evidence of the charge, finding sentence, and transactions of the court, and of the confirmation of the finding and sentence, that evidence shall be valid and sufficient record of the trial for all purposes.

128. 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, such finding and any sentence which the court-martial had jurisdiction to pass there on may be confirmed, and shall, if so confirmed, 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.

129. Offences of witnesses and others :-

When any court-martial is of opinion that there is ground for inquiring into any offence specified in Secs. 59 and 60 of the Act 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-

(b) if the person who appears to have done the act is subject to the Army Act, 1950 or the Navy Act, 1957, the court may bring his conduct to the notice of the proper military or naval authority;

130. Convening the court and record of proceedings :-

(1) The court may be convened and the proceedings of the court recorded in accordance with Form F. 3 in the Sixth Schedule, 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 commissions for not less than one year, but if any officers, who have held commission for not less than three years, are available they shall be selected in preference to officers of less service.

(3) A provost-marshal, assistant provost-marshal or officer who is a prosecutor or witness for prosecution shall not be appointed a member of the court.

131. Charge :-

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

132. Trial of several accused persons :-

The court may be sworn, at the same time to try any number of accused persons than present before it, but except is provided in rule 41, the trial of each accused person shall be separate.

133. 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.

134. Swearing or affirming the court, judge-advocate etc :-

The provisions of rule 53, rule 54 and rule 55 relating to administering and taking of oaths and making of affirmations shall apply to every Summary general court-martial.

135. Arraignment :-

When the court is sworn or affirmed, the judge-advocate, if any, or the presiding officer shall inform the accused then to be tried, the offence with which he is charged, if necessary, with an explanation giving him full information of the act or omission with which he is charged, and shall ask of the accused whether he is guilty or not of the offence.

136. Plea to 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.

137. 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.

138. 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, whether a legal adviser or any other person.

(2) The court, or the judge-advocate, if any, may question the accused 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 the court may draw such inference from such refusal or answers as it thinks fit.

139. 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 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: Provided that if it appears to the convening officer that exigencies of the service or other circumstances prevent compliance with this provision, he may direct that the trial may be carried on without any such brief record being taken down.

(2) If the accused pleads "guilty" the summary 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 evidence so read.

140. 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

141. Adjournment :-

(1) A summary general court-martial may adjourn from time to time and from place to place and may when necessary inspect 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.

142. Application of rules :-

The rules specified in the Table below shall, so far as practicable, apply to Summary General Courts-Martial as if Summary Courts-

Martial were District Courts-Martial.

143. 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.

144. Committal warrant :-

A warrant for the committal of a person to a civil prison, or to a military or an Air Force prison or to detention barracks under the provisions of Section 165 , Section 166 or Section 170 shall be in the relevant form given in the Seventh Schedule. Such warrant shall be- signed and forwarded by the commanding officer of the prisoner or by an officer superior in command to such commanding officer or by any staff officer of such superior officer.

145. Warrants under Sec. 171 :-

146. Sentence of cashiering or dismissal :-

(1) A sentence of cashiering awarded by a court-martial shall take effect from the date on which the sentence is promulgated to the person under sentence: Provided that when cashiering is not combined with imprisonment or death and the confirming officer has specified a date for cashiering to take effect, the cashiering shall take effect from the date of promulgation or from the date so specified, whichever is later.

(2) A sentence of dismissal awarded by a court-martial shall take effect from the date on which the sentence is promulgated to the person under the sentence, or from such subsequent date as may be specified by the commanding officer at the time of such promulgation: Provided that where dismissal is combined with imprisonment or detention which is carried out in a military or air force prison, or in military or air force detention barracks, detention cells or other military or air force custody, or with field punishment,

the dismissal shall not take effect until the date on which the prisoner is duly released from such military or air force prison or military or air force detention barracks, detention cells or other military or air force custody, or until the completion of the field punishment, unless such field punishment is remitted by competent authority: Provided further that, when dismissal is combined with imprisonment which is carried out in a civil prison, the dismissal shall not take effect until the date on which the prisoner is received in the civil prison.

147. Custody of person under sentence of death :-

148. Opportunity for petition against sentence of death :-

(1) While confirming a 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.

(4) A 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.

149. Death warrant :-

(1) The officer commanding the air force station to which the person sentenced belongs or is attached, or where there is no such air force station, the air or other officer commanding the command or the group to which such person belongs or is attached shall

nominate a provost-marshal or other officer not below the rank of Squadron Leader 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 the Seventh Schedule.

(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).

150. Execution of sentence of death :-

151. Procedure on pardon, or where proceedings are set aside or where sentence of death is commuted or remitted :-

Where a person sentenced to death is pardoned, or where the proceedings against him are set aside under the Act or where the sentence of death is not confirmed or is commuted or remitted under the Act, then-

(b) if he has been detained in air force custody he shall be released or, as the case may be, any warrant which may be necessary to give effect to the sentence as so commuted or remitted shall be issued by such commanding officer.

152. Field Punishment :-

(3) Where an offender is sentenced to Field punishment No. 2, the provisions of sub-rule (2) with respect to Field punishment No. 1 shall apply in his case except that he shall not be liable to be attached to a Fixed object as provided in Cl. (b) of that sub-rule.

(4) Every portion of a field punishment shall be inflicted in such a manner as is calculated not to cause injury or leave any permanent

mark on the offender; and a portion of a field punishment must be discontinued upon a report by a responsible Medical Officer that the continuance of that portion would be prejudicial to the offenders health.

(5) Field punishment shall be carried out within the unit to which the offender belongs or is attached so long as that unit is actually on the move, but when the unit is halted at any place where there is a provost-marshal or any other officer appointed by the commander of the forces or the air forces in the Field to execute such punishment, the punishment shall be carried out under the orders of such officer.

(6) When the unit to which the offender belongs or is attached is actually on the move, an offender awarded field punishment No.1 shall be exempt from the operation of Cl. (b) of sub-rule (2) but all offenders awarded Field punishment shall march with their unit, carry their arms and equipment, perform all their air force duties as well as extra fatigue duties, and be treated as defaulters.

153. Nature of punishment of detention :-

A sentence of detention awarded by a court-martial or by an officer exercising authority under Section 82 may be carried out-

(a) in a military or air force detention barrack;

(b) in a barrack detention room under the control of a military or air force unit;

(c) on active service, when the unit is halted at any place where there is a provost-marshal, under the orders of such officer.

CHAPTER 6 Courts of Inquiry

154. General :-

(1) A court of inquiry is an assembly of officers or of officers and warrant officers directed to collect evidence, and if so required, to report with regard to any matter which may be referred to them.

(2) A court of inquiry may be assembled by the officer in command of any unit or portion of the Air Force.

(3) The court may consist of any number of officers of any rank or of one or more officers together with one or more warrant officers. The members of the court may belong to any branch or department of the service, according to the nature of the investigation.

(4) Previous notice shall 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).

(5) It is the duty of a court of inquiry to 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.

(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.

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

155. Court of inquiry under Sec. 107 for the purpose of determining the illegal absence of persons subject to the Act :-

(2) The court of inquiry shall take down the evidence given by them in writing and at the end of 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 court of inquiry shall examine all witnesses who may be desirous of coming forward on behalf of 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 weight to the evidence of all such witnesses.

(4) The court of inquiry shall administer the same oath or affirmation to the witnesses as if the court were a court-martial, but the members of such court shall not themselves be sworn or affirmed.

(5) The commanding officer of the unit to which the absent person belongs shall enter in the court-martial book of the unit a record of the declaration of the court, and the original proceedings will be destroyed.

156. Courts of inquiry other than those held under Sec. 107

:-

(1) The court shall be guided by the written instructions of the authority which 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) Save in the case of a prisoner of war who is still absent, whenever any inquiry affects the character or service 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 statements 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 service reputation, and producing any witnesses in defence of his character or service reputation.

(3) When a court of inquiry is held on prisoners of war, and in any other case in which the officer who assembled the court has so directed, the evidence shall be taken on oath or affirmation, in which case the court shall administer the same oath or affirmation to witnesses as if the court were a court-martial.

(4) 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 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. In other cases, the court shall give no opinion on the conduct of any person unless so directed by the officer who assembled the court.

(5) The members of the court shall not themselves 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,A.....B..... 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 rules and regulations made under the Air Force Act, 1950, 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.

(6) The proceedings of a court of inquiry, or any confession or 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 Air Force Law, 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.

(8) Any person subject to the Act who is tried by a court-martial in respect of any matter or thing which has been reported on by a court of inquiry shall be entitled to a copy of the proceedings of such court, including any report made by the Court: Provided that if the Chief of the Air Staff considers that it is against the interests or the security of the State or friendly relations with a foreign State to supply a copy of the proceedings or any part thereof, such person shall not be furnished with such copy, but in such cases he shall, subject to suitable precautions as to security, be permitted inspection of such portions of the proceeding of the court of inquiry, on the basis of which the charges, on which he is arraigned before the court-martial, have been framed.

(9) A copy of the proceedings of the court of inquiry shall be furnished under sub-rules (7) and (8) on payment for the same of a sum calculated at the rate of fifty paise for every two hundred words or part thereof.

(10) A person subject to the Act before he is, under sub-rule (7) or sub-rule (8), furnished with a copy of the proceedings of the court of inquiry or is permitted to inspect any portion of the proceedings shall be required to render certificate that he is aware that he may render himself liable to prosecution under the Official Secrets Act, 1923 (19 of 1923) for any breach of the provision of the said Act, in relation to such proceedings or portion thereof.]

157. Imposition of collective fines under sub-section (1) of Section 90 :-

[The collective fine imposed under sub-section (1) of Section 90 shall not exceed the current official price of the weapon or part of the weapon, the loss or their of which was reported upon by the court of inquiry, or where more than on such weapon or parts of weapons were so reported upon, the aggregate of the current official prices of such weapons or parts of weapons."

CHAPTER 7 Prescribed Authorities, Officers and other Matters

158. Conditions prescribed under Sec. 4 (xxiii)(b) :-

For the purposes of the Act and these rules, the expression "officer", in relation to a person subject to the Act, includes a person gazetted, commissioned or in pay as an officer of the regular Army or the Navy, as the case may be, when the person subject to the Act is serving under any of the following conditions, namely:-

(a) when he has been placed under the orders of such officer;

(b) when he is being conveyed in or on board a vehicle, vessel or aircraft which is being commanded by such officer;

(c) when he is serving in or is a patient in a hospital or medical establishment in which such officer is on duty;

(d) when he forms part of or is serving with a body of the Air Force which is acting with a body of the regular Army or the Navy, and any one of these bodies is on active service;

(e) when he forms part of or is serving with a body of the Air Force acting in an emergency with a body of the regular Army or the Navy and an order in writing is made by the officer commanding that body of the Air Force that an emergency exists and it is necessary for the officers of the regular Army or the Navy, as the case may be, to exercise command over persons subject to the Act.
NOTE:- A copy of every such order shall forthwith be sent to the Central Government:

(f) when he is serving in any place in which or with any body of the

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

159. Conditions prescribed under Sec. 4 (xxvii) :-

When a person subject to the Act has been placed under the orders of an officer, junior commissioned officer, warrant officer, petty officer or non-commissioned officer of the regular Army or the Navy, such officer, junior commissioned officer, warrant officer, petty officer or non-commissioned officer, as well as those other officers, junior commissioned officers, warrant officers, petty officers or non-commissioned officers of the regular Army or the Navy who are directly superior in command to such officer, junior commissioned officer, warrant officer, petty officer or non-commissioned officer shall for the purposes of the Act and these rules be superior officers in relation to such persons.

160. Prescribed officer under Sec. 7(1) :-

The prescribed officer for the purposes of sub-section (1) of Section 7 shall be the officers commanding a station, wing squadron or unit, nominated in this behalf by the Air or other officer commanding the command or group in which the person is for the time being serving.

160A. Prescribed officers under Sec. 20(3) :-

[The Prescribed officer for the purpose of sub-section (3) of Section 20 shall be the air or other officer commanding a group.]

161. Prescribed officer under Sec. 80 :-

The prescribed officer for the purposes of Section 80 shall be the officer commanding the Forces in the field, or the air or other officer commanding the Command, group, or in the field any detached portion of the air force, in which the trial was held, or any officer superior in command to such air or other officer.

162. Prescribed officer under Sec. 92(i) :-

The prescribed officer for the purposes of Cl. (i) of Section 92 shall be the Chief of the Air Staff.

163. Prescribed officer under Sec. 94 of the Act :-

The prescribed officer for purposes of Section 94 shall, in the case of an officer or a warrant officer, be the Chief of the Air Staff and, in the case of a person other than an officer or a warrant officer, be the officer empowered to convene a court-martial for his trial.

164. Prescribed authority under Sec. 98 :-

Any penal deduction from the pay and allowances of a person subject to the Act, made under Chapter VIII thereof, may be remitted as provided below-

(a) the Central Government may remit to any extent any penal deduction from the pay and allowances of any person.

(b) where an airman absents himself without leave for a period not exceeding five days, the officer who is in command of the unit, for which he absented himself, at the time when such absence terminates, or the Chief of the Air Staff may, if a satisfactory explanation is given by such airman, remit in whole or in part the forfeiture of pay and allowances to which that absence renders him liable provided that the airman is not convicted by a court-martial on a charge for such absence.

165. Prescribed authorities under Secs. 99 and 100 :-

(2) Any such authority may, in its discretion and subject to a maximum of 50 per cent of the pay and allowances of the prisoner of war or the person missing, make such provisions from time to time for the dependents of the prisoner of war or the person missing, as the case may be, for whom in its judgment such provision should be made.

166. Prescribed officers under Sec. 108(1) :-

The following shall be the prescribed officers for the purposes of sub-section (1) of Section 108 , namely:-

(b) the Air Officer incharge of Administration at the Air Headquarters may appoint any person subject to the Act serving in the Air Headquarters or the units directly under the Air Headquarters to exercise the powers of a provost-marshal in relation to all persons serving in the Air Headquarters and such units;

(c) an officer commanding the air forces in the field may appoint any person subject to Act and serving under him to exercise the powers of a provost- marshal in relation to such air forces.

167. Prescribed officers under Sec. 124 :-

The prescribed officers for the purposes of Section 124 shall be the air or other officer commanding the command or the officer commanding the Forces or the air forces in the field, under whom the accused person is serving.

168. Prescribed officer under Sec. 141(1) :-

The prescribed officer for the purposes of sub-section (1) of Section 141 shall be the officer commanding the unit to which the person appears to have belonged, or alleges that he belongs or had belonged, but:-

(a) in the case of officers, the Director of Personnel (Officers); and

(b) in the case of airmen, Officer Commanding, Air Force Record Office, shall also be the prescribed officer.

169. Manner of custody under Sec. 144(4) :-

For the purposes of sub-section (4) of Section 144 , the accused shall be confined in such manner as may, in the opinion of the

proper air force authority, be best calculated to keep him securely without unnecessary harshness.

170. Prescribed officer under Sec. 145 :-

The prescribed officer for the purposes of Section 145 shall be the Chief of the Air Staff or the air or other officer who has powers to convene a court-martial for the trial of the accused person.

171. Prescribed officer under Sec. 161(2) :-

The prescribed officer for the purposes of sub-section (2) of Section 161 shall be any officer superior in command to the officer who confirmed the proceedings, provided that he has powers not less than that of an air officer commanding a command.

172. Prescribed officer under Sec. 162 and annulment of proceedings :-

(2) The proceedings of any court-martial may be annulled under the said section after considering the advice of the Chief Legal Adviser or Deputy Chief Legal Adviser.

173. Prescribed officer under Sec. 166(1) :-

The prescribed officer for the purposes of sub-section (1) of Section 166 shall be any officer superior in command to the officer who confirmed the proceedings.

174. Prescribed officer under Sec. 177 :-

The prescribed officer for the purposes of Section 177 shall be the air or other officer commanding a command but in relation to persons convicted on active service, the officer commanding the air forces in the field shall also be the prescribed officer.

SCHEDULE 1

FIRST SCHEDULE

FIRST SCHEDULE

(See rule 7)

FORM A. I - Form of enrolment as combatant

AIR FORCE

FORM OF ENROLMENT AS COMBATANT

The prescribed periods for which persons shall be enrolled are stated in the appropriate orders of the 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 (in block letters).....as a.....in air force.

PART I

(Questions to be put before enrolment)

You are warned that if after enrolment, it is found that you have given a will fully false answer to any of the first thirteen or the following questions you will be liable to be punished as provided in the Air Force Act, 1950.

(ALL THE ANSWERS ARE TO BE WRITTEN IN BLOCK LETTERS)

Questions.

1. What is your name?

(underline surname)

2. (a) What is your place of birth?

State, Village/Town, District and State, of birth

(b) What is your date of birth? (State in Christian Era)

(N.B.: To support the date of birth the person being enrolled will be required to

produce in original, together with an attested copy, one of the certificates specified in Government orders from time to time).

3. What is your permanent home address?

(a) Village/Town

(b) Thana

(c) Pergunnah/Tehsil

(d) District/Taluka

(e) State

4. (a) & nbsp; What is your religion?

(b) Are you a member of a Scheduled Caste or Scheduled Tribe? If so, state caste or tribe

5. (a) Are you a citizen of India? if so, whether by birth or descent or registration or naturalisation or otherwise?

(b) Are you a subject of Nepal or Sikkim? If so, state of which of the two?

(c) If you are not a citizen of India or a subject of Nepal or Sikkim, what is your Nationality?

(N.B.: In the case of foreign nationals other than subjects of Nepal or Sikkim, consent of the Government of India signified in writing, if any, should be produced before a person is enrolled.

(d) Have you migrated from areas now in Pakistan. If so, state:

(i) What was the date of your migration?

(ii) If you migrated from Pakistan on or after the 19th July, 1948, was a certificate of eligibility issued to you by the Government of India?

6. What are your educational qualifications?

(Original certificates, with one attested copy of each, are to be produced).

7. Are you married*? If so, state:

(i) Date of Marriage(s).

(ii) Name(s) of wife/wives.

(iii) Nationality of wife/wives.

*(This does not include widower/divorcee.)

8. (a) What is your father's name and address? If dead, state last address, District and State.

(b) What is or was the nationality of your father? If he is or was an Indian citizen, state whether by birth, descent, registration, naturalisation or otherwise.

9. Are you or have you ever been a party or Organisation of a political, communal or cultural nature? If so, state the name of the party or Organisation with the period/ periods of your membership therein.

10. (a) Are you in Government Service or have you been a Government Servant? If so, state full particulars.

(b) Are you in receipt of any allowance from Government? If so, on what account?

11. Do you now belong to any of the Armed Forces of India, the Reserves of any of the three Services, the Auxiliary Air Force, the territorial Army or the nepal State Army or any of the Forces of a foreign country?

12. (a) Have you ever served in any of the Armed Forces in India, the Reserves of any of the three Services, the Auxiliary Air Force, the Territorial Army or Nepal State Army or any of the forces of a Foreign country? If so, state in which and the cause of discharge. If you have served in more than one of the above named forces, or if you have served the same force in two o- more distinct periods, state the cause of discharge separately in each case.

(b) Do you desire your former service in the Indian Armed Forces to count for the purpose of calculation of the Good Conduct Pay and/or Pension, if admissible? If so, do you agree to recovery being effected of any gratuity you may have received for your former service in not more than 36 monthly instalments from your pay commencing from the date of this enrolment and undertake to refund to the Government through such recoveries or otherwise the above gratuity in full within 36 months of the date of your present enrolment?

13. Have you ever been arrested, prosecuted, convicted, imprisoned, bound over, interned, externed or otherwise dealt with under any law in force in India or outside? If so, state particulars.

14. Have you ever suffered from any of the following--

(a) Head injury or any serious injury_____

(b) Fits or convulsions of any kind_____

(c) Leprosy_____

(d) Pulmonary Tuberculosis (including any family history of Pul. T.B.).

15. Are you willing to be inoculated or reinoculated and vaccinated or re-vaccinated?

16. Are you willing to be enrolled as a combatant in the Air Force?

17. Are you willing to go wherever ordered by land, sea or air and not to allow any caste or social usages to interfere with the duties for which you are enrolled?

18. Are you willing to serve in the Air Force until discharged, and in the Regular Air Force Reserve, in accordance with the conditions of service as specified in Part II of this form of Enrolment, provided that the President shall so long require your services?

19. Do you have any objection to take the following oath or to make the following affirmation at the time of your attestation?

FORM OF OATH

I,.....do swear in the name of God 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 Air Force, of the Union of India, and go wherever ordered by Air, Land or Sea and that I will observe and obey all

commands of the President of the Union of India and the commands of any office 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 Air Force of the Union of India and go wherever ordered by Air, Land or Sea 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.

CERTIFICATE

I,.....do solemnly declare that the above answers made by me to the above questions are true.

Place.....

Date..... ; &
 (Signature of person enrolled).

 Signature

 Name*

.....

&n bsp; of witness

..... Address

.....

(*Name in Block letters)

PART II

SECTION 1. -Conditions of Service for Persons enrolled for Regular and Reserve Service.

A. Liability for Regular Service and Training.

1. *For Persons Enrolled for Service Involving Apprentice Training.

(a) You will serve as an apprentice under training for such period not

exceeding four years as may be specified by the Government of India from time to time, provided that you may be discharged from the Air Force at any time during such training if you are found unfit for further training. In the event of your not qualifying for regular service in the Air Force within the specified period of training, you shall be discharged from the Air Force with all convenient speed at the expiry of such period. The period of training as apprentice is not counted towards regular service in the Air Force.

(b) After you have qualified for regular service in the Air Force you will serve in that force for a period of 15 years of regular service. On completion of this period you may extend your regular service, if permitted to do so, by such specified period or periods as may be fixed.

Or

For Persons Enrolled for Service not Involving Apprentice Training

You will serve in the Air Force for a period of not less than.....years of regular service. On completion of this period you may extend your regular service, if permitted to do so, by such specified period or periods as may be fixed.

2. On your completion of the initial period of regular service in the Air Force and of such extensions of regular service as have been granted to you, you will be liable to be transferred to the Regular Air Force Reserve.

3. In the event of your desertion, service between the day of desertion and that of apprehension or surrender shall not count towards regular service.

4. If on completion of the initial period of regular service and of the extensions if any as have been granted to you, you are still in regular service and continue thus to serve, you will be either transferred to the Regular Air Force Reserve or discharged from the Air Force Service within three months from the date of your applying that you do not wish to continue in Air Force Service; but you will be liable for such transfer or discharge of on the completion of the aforesaid initial period of regular service or the further extension or at any time thereafter at the discretion of the competent authority.

5. You will be entitled to receive your discharge from the Air Force with all convenient speed if-

(*Strike out whichever is not applicable.)

(a) On completion of the initial period of regular service or of such extension or extensions, if any, of regular service as have been granted to you, you are not transferred to the Regular Air Force Reserve, and are not permitted to extend or further extend your regular service; or

(b) Within three months from the date of submitting your application under paragraph 4 above, you are not transferred to the Regular Air Force Reserve:

Provided, that you will not be entitled to discharge if war is imminent or existent, or if the strength of the trade in which you are mustered is 10 percent below authorised establishment.

B. Liability for Reserve Service

6. Following the termination of your service in the Air Force and subject to the provisions of paragraphs 7 to 10 below, you will be liable to serve in the Regular Air Force Reserve for the periods as specified hereunder:

Period of service in the Air Force	Liability for Reserve service
(a) For Persons enrolled for service involving apprentice training.	
(i) Where liability for regular service in the Air Force, under the terms of enrolment (including the extensions, if granted), or the actual regular service rendered, whichever is greater, does not exceed 15 years.	Nine years
Explanation: For the purposes of this sub-clause, any period during which you have been retained in the Air Force primarily for the disposal under the Air Force Act of any offence pending against you on the due date of discharge, will not be considered as "actual regular service".	
(ii) In any other case	Six years

(b) For persons enrolled for service not involving apprentice training.	
In all cases	
	Six years

7. In case you are discharged from the Air Force at your own request before you have completed the initial period of regular service for which you are now enrolled or such further extensions as have been granted to you, the unexpired portion of the initial period of regular service the further extension will be added to the period of your above reserve liability.

8. You may, at any time during the period of your reserve liability, be transferred from service to the Regular Air Force Reserve for the remaining period of such liability.

9. You shall cease to be a member of the Regular Air Force Reserve after you have completed the aforesaid period of service in that reserve; but if the competent authority so thinks he may require you further to serve in that Reserve for such period or periods and under such conditions, if any, as may from time to time be laid down in the Reserve and Auxiliary Air Force Act, 1952, and the rules made thereunder.

10. Notwithstanding anything contained above, you shall not be liable to serve in the Regular Air Force Reserve after attaining such age as may, from time to time, be prescribed in the Reserve and Auxiliary Air Forces Act/Rules.

When you have served for.....years in the Air Force you will be entitled to received your discharge with all convenient speed.

DECLARATION

I,.....do solemnly declare that fully understand and consent to fulfil the above conditions of service for which I am being enrolled.

Place

Date &nb sp; ; &nb sp;
; (Signature of person enrolled).

 &nb
sp;Signature

 &nb
sp;Name*

 ..,.....&hel lip; &nb sp; of
witness

 &nb
sp;Address

4. I further certify that I have examined the original certificates from which it is proved that his educational qualifications are.....

5. I am satisfied that he fully understands the questions put to him and the conditions of service which he has undertaken, and that he consents to those conditions.

Signed at _____ this p; _____ &n bsp;day
of 19 _____

Signature of Enrolling Officer

Rank and Name of Enrolling Officer

(*Strike out whatever is not applicable).

FORM A.2-FORM OF ATTESTATION CERTIFICATE*

No.....Rank.....Name.....Unit&he llip;.....

CERTIFIED that the above named person took the prescribed oath/affirmation before me at.....(place) on this the.....day of.....19.....

Signature of person attested

Signature and appointment

of attesting Officer

(UNIT SEAL)

*To be forwarded to Officer Commanding, Air Force Record Office for being kept permanently on record, in the enrolment papers.

† Strike out whatever is not applicable. For prescribed form and manner of Oath/Affirmation, refer to rule 9 of the Air Force Rules, 1969.

FORM A.3-Form for Variation in Conditions of service*

In the case of No _____ Rank _____ Name (**) _____

Unit_____

*On completion, this form is to be forwarded to officer commanding, Air Force Record Office, for being kept permanently on record.

(**) Name in block letters.

† Provisions of para (2) may, where necessary, be suitably amended as required to meet government orders from time to time.

FORM A.4- Form for Transfer to Reserve*

(For use on transfer to the Reserve)

In the case of No_____Rank_____ Name £_____Unit_____

This is to certify that I understand that I am being transferred to the Regular Air Force Reserve w.e.f_____and that I am fully acquainted with the obligations and liabilities as defined in the Reserve and Auxiliary Air Forces Act, 1952, and the rules made thereunder:

 () £

Date _____ Signature and Rank

2. The above named was transferred to the Reserve with effect from (date)

3. Reason for transfer(%)_____

Signed at _____ this _____ day of 19

Signature of Commanding Officer

Rank and Name_____

Unit_____

*On completion, this form is to be forwarded to officer commanding, Air Force Record Office, for being kept permanently on record.

£ Name in block capital letters.

1. Number, rank and name of the accused_____

2. Particulars of offences:-

Sl. No.	Date of Commission	Particulars of offence (Give facts, brief)	Date of Discovery of offence

3. Date and nature of initial arrest ie., close or open

4. Total period of arrest upto the date of this report

(to be calculated as per section 39, Air Force Act, 1950).

(a) Close arrest &n bsp; &nbs p; Total period in days

From _____ to _____ &n bsp; _____

From _____ to _____ &n bsp; _____

Total period in close arrest _____ days

(b) Open Arrest &n bsp; &nbs p; Total period in days.

& nbsp;

From _____ to _____ &nbs p; _____

From _____ to _____ &nbs p; _____

& nbsp; &nb sp;

Total period in open arrest _____ days

.....

(c) Total period of arrest (i.e _____ days (a) plus (b) above)

5. On the date of this report the accused

is in close arrest*

is in open arrest*

has been released without

prejudice to re-arrest*

6. Reasons for his continued retention in arrest are

7. If the total period of retention in arrest exceeds 60/90 days quote Air Headquarters letter communicating the approval of the C.A.S./Central Government for continued retention in arrest_____ Air/HQ/_____
dated_____

8. Investigation under rule 24 of the Air Force Rules, 1969:-

completed on the same date *

completed on (date)*

is in progress.*

(a) Commenced on _____(date) and

(b) Reasons for delay in the commencement/completion of the investigation are _____

9. Summary of evidence: -

completed on the same date*

completed on (date)*

is in progress*

(a) Commenced on _____(date) and

(b) Reasons for delay in the commencement/completion of the summary of evidence are _____

10. Application for trial:-

*(a) made vide letter No _____ dated _____

*(b) Not yet made because _____

11. Date of trial has not yet been fixed*/

has been fixed as _____*

Name and Rank

Officer Commanding

_____ (Unit)

To

The _____ (Convening Officer)

Copy to: -

(1) Air or other officers commanding intermediate formations

(2) C.L.A. _____ Air Hea ; In the case of third and subsequent

 *D.C.L.A. _____ HQ sp; ; reports only.
[See rule

 Command sp; 23(2)
of the Air Fore Rules,

 sp; ;
sp; 1969.]

*Strike out whatever is not required.

SCHEDULE 3

THIRD SCHEDULE

THIRD SCHEDULE

[See rule 24 (9)]

Froms of summons

FORM C. 1.

To

Form of summons to a witness to attend the taking of a Summary of evidence.

_____ (a)

Whereas a charge for having committed an offence triable by court-martial has been preferred before me against (b) Number _____ Rank _____ Name _____ Unit _____ and whereas I have directed a Summary of Evidence to be taken in writing at (Place) _____ (c) on the _____ day of _____ 19__ At _____ O`clock in the (d) _____

Now, therefore, pursuant to section 134 of the Air Force Act, 1950, I do hereby summon and require you to attend as a witness the taking of the said summary of evidence at the said place and hour and to bring with you the documents hereinafter mentioned namely (e) Whereof you shall fail at your peril. Given under my hand at _____ on the _____ day of _____ 19_____

(Signature, rank and Unit)

Commanding Officer of the accused.

(a) Insert the name and address of the person to whom the summons is to be sent.

- (b) Insert the number, rank, name and unit of the accused.

- (c) Insert the place where the Summary of Evidence is to be taken.

- (d) Specify forenoon or afternoon.

- (e) Specify the documents (if any) which the witness is to bring, (otherwise delete).

NOTE: The Summons shall be served in the mannerspecified in section 134 of the Air Force Act, 1950.

FORM C.2

Form of Summons to a witness summoned to attend a Court-Martial.

_____ A. B _____

Whereas a _____ Court-Martial has been ordered to assemble at _____ on the _____ day of _____ 19_____, for the trial of _____ of the (unit), now therefore, pursuant of section 134 of the Air Force Act, 1950, I do hereby summon and require you A _____ B _____ to attend, as a witness, the sitting of the said Court at _____ on the _____ day of _____ at _____ O'clock in the forenoon (and to bring with you the documents hereinafter mentioned, namely _____), and so to attend from day to day until you shall be duly charged, whereof you shall fail at your peril.

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

(Signature)

Convening Officer (or Judge-Advocate or Presiding Officer of the Court or Commanding Officer of the Accused).

SCHEDULE 4

FOURTH SCHEDULE

FOURTH SCHEDULE

[See rule 31 (5)]

FORMS FOR SUMMARY DISPOSAL OF CHARGES UNDER SECTION 86, AIR FORCE ACT, 1950.

FORM E. I

Summary Disposal Form

[When the authority dealing summarily with the case decides (with the written consent of the accused) to dispense with the attendance of witnesses against the accused and the accused has no witness in defence].

Particulars of the accused

(a) Service No _____

(b) Rank (Substantive Acting) _____

(c) Name _____

(d) Unit _____

	Proceedings	
	Questions to be put to the accused by the	

	<p>questions to be put to the accused by the officer dealing with the case before the charge is read.</p>	
Question No. 1 to the Accused.	<p>Have you received a copy of the charge-sheet and summary of evidence not less than forty-eight hours ago?</p>	Answer.....
Question No. 2 to the Accused.	<p>Have you had sufficient time to prepare your defence? (If the answer to any of the above questions is in the negative, the officer dealing summarily with the case should record whether any adjournment was allowed or other orders were issued by him). The officer dealing with the</p>	Answer.....
Exhibit 'A'	<p>The charge-sheet is then, attached to the proceedings as Exhibit 'A'.</p>	
Question No. 3 to the Accused.	<p>Have you agreed in writing that the witnesses against you need not give their evidence in person?</p>	Answer....
Exhibit 'B'	<p>The written consent of the accused to dispense with the attendance of witnesses is then examined and attached to the proceedings as Exhibit 'B'.</p>	
Question No. 4 to the Accused.	<p>Are you guilty or not guilty of the charge(s) against you which you heard read?</p> <p>The summary of evidence is then read aloud or the authority dealing with the case informs the accused that he has already pursued it. The summary of evidence is Attached to the proceedings as Exhibit 'C'.</p>	<p>Answer.....</p> <p>First charge....</p> <p>Second charge.</p> <p>Third charge..</p>
Exhibit 'C'		

Question No. 5 to the Accused.	<p>Do you wish to make (or hand in) a statement?</p> <p>Your statement may deal with the facts of the case, with your character and with matters in mitigation of punishment.</p>	Answer...
	<p>(If the accused makes an oral statement, its gist, or the statement, if in writing, should be attached to the proceedings as Exhibit 'D'.</p>	
Exhibit 'D'	<p>The officer dealing with the case shall then (i) consider all the evidence and determine whether the accused is guilty of the offence(s) or not and (ii) if he determines that the accused is guilty, examine and consider the accused's record of service or conduct sheet. Copy of the conduct sheet is attached to the proceedings as Exhibit 'E'.</p>	
Exhibit 'E'		
	<p>If he intends to award either the punishment of forfeiture of seniority or rank or service or the punishment of stoppages of pay and allowances, he shall not announce and record his finding unless the accused says in answer to the following question that he will accept his award.</p>	Answer.....
Question No. 6 to the Accused.	<p>Will you accept my award, or do you elect to be tried by court-martial?</p>	

Signature

(Name)

Place _____ ; (Rank and
designation of the officer Date _____
sp; _____ dealing summarily with the case).

NOTE: In every case in which a punishment is awarded, the original and a certified true copy of the proceedings together with Exhibits shall be forwarded through proper channel to the superior Air Force authority as defined in section 89, Air Force Act, 1950.

FORM E.2

Summary Disposal Form

	(When the authority dealing summarily with the case does not decide to dispense with the attendance of witnesses against the accused or when the accused requires the attendance of witnesses for or against him).	
	Particulars of the accused	
	(a) Service No.....	

	(b) Rank (Substantive/Acting).....	
	(c) Name	
	(d) Unit..... /p>	
	Proceedings	
	Questions to be put to the accused by the officer dealing with the case before the charge is read.	
Question No. 1 to the Accused.	Have you received a copy of the charge-sheet and summary of evidence, not less than forty-eight hours ago?	Answer.....
Question No. 2 to the Accused.	Have you had sufficient time to prepare your defence?	Answer....
	(If the answer to any of the above questions is in the negative, the officer dealing summarily with the case should record whether any adjournment was allowed or other orders were issued by him).	
Exhibit 'A'	The officer dealing with the case shall then read the charge(s) to the accused. The charge-sheet is then attached to the proceedings as Exhibits 'A'.	
Question No. 3 to the Accused.	Are you guilty or not guilty of the charge(s) against you which you heard read?	Answer.... First charge..... Second charge...

	<p>The officer dealing with the case shall then proceed to examine the prosecution witnesses if any in relation to the charge(s) to which the accused pleads "not guilty" or in relation to which the accused's plea of "guilty" is not accepted by him, but before doing so, he shall put the following questions to the accused.</p>	Third charge.....
Question No. 4 to the Accused.	Do you wish that the evidence be taken on oath	Answer.....
Exhibit 'B'	<p>(If the accused desires that the evidence shall be taken on oath, the oath or affirmation contained in rule 118 of the Air Force Rules, 1968, shall be administered to each witness before he gives evidence. The accused shall be allowed to put questions in cross-examination to prosecution witnesses. (Also see Note 1 below). The evidence of prosecution witnesses shall be recorded in brief on a separate sheet and attached to the proceedings as Exhibits 'B'.</p>	
Exhibit 'C'	<p>*The summary of evidence is then read aloud or the authority dealing with the case informs the accused that he has already perused it in so far as it relates to the charges to which the accused has pleaded guilty, but see Note I below. The summary of evidence is attached to the proceedings as Exhibit 'C'.</p>	Answer....

<p>Exhibit 'D'</p> <p>Question No. 6 to the Accused.</p>	<p>Do you wish to make or hand in a statement? Your statement may deal with the facts of the case, with your character and with matters in mitigation of punishment.</p> <p>If the accuse makes an oral statement, its gist, or the statement, if in writing, should be attached to the proceeding as Exhibit "D".</p>	<p>Answer.....</p>
<p>Exhibit 'E'</p>	<p>Do you wish to addue any evidence in your defence?</p>	
<p>Exhibit "F"</p>	<p>If the accused calls any witness the evidence for the defence shall be recorded in brief on a separate sheet and attached to his record as Exhibit "E". The officer dealing with the case shall then (i)consider all the evidence and determine whether the accused is guilty of the offence (s) or not and (ii) if he determines that the accused is guilty, examine, and consider the accused's record of service or conduct sheet.</p>	
<p>Question No. 7 to the Accused.</p>	<p>A copy of the conduct sheet shall be attached to</p> <p>this record as Exhibit "F". If the officer dealing with the case intends to award either the punishments of for feiture of seniority of rank of service or the punishment of stoppages of pay and allowances, he shall not announce and record his finding, unless the accused says in answer to the following question that he will accept his award.</p>	<p>Answer.....</p>
	<p>Will you accept my award or do you elect</p>	

	to be tried by court martial.	
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Finding _____ &n bsp; &nbs p;
p;

Award _____ &n bsp; &nbs p;
bsp; &n

Signature (Name)

(Rank and designation of the officer dealing summarily with the case).

Place _____

Date _____

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*To be struck out if not required.

NOTE:-1. If a witness gives evidencedifferent from that given by him when the summary of evidence was taken, the officer dealing summarily with the case

should put questions to the witness as to the difference. He may also put to a witness and questions which he may otherwise wish for eliciting the truth in the case.

2. In every case in which a punishment is awarded, the original and a certified true copy of the proceedings together with exhibits and the original and a certified true copy of summary of evidence, shall be forwarded through proper channel to the superior Air Force authority as defined in section 89, Air Force Act, 1950.