BELIZE

DEFENCE ACT
CHAPTER 135

REVISED EDITION 2003
SHOWING THE SUBSIDIARY LAWS AS AT 31ST OCTOBER, 2003

This is a revised edition of the Subsidiary Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2000.

ARRANGEMENT OF SUBSIDIARY LAWS
This is a revised edition of the Subsidiary Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2000.

This edition contains a consolidation of the following laws-

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DEFENCE (EMPLOYMENT OF FORCE OUTSIDE BELIZE) ORDER

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2. Employment of Force outside Belize.

3. Commencement.
CHAPTER 135

DEFENCE (EMPLOYMENT OF FORCE OUTSIDE BELIZE) ORDER
(Section 7)

[12th January, 2002.]

1. This Order may be cited as the

DEFENCE (EMPLOYMENT OF FORCE OUTSIDE BELIZE) ORDER.

2. (1) Members of the Belize Defence Force are hereby authorized to participate in joint military patrols with, and as observers in law enforcement activities conducted by, members of the security forces of the Republic of Guatemala, on the Guatemalan side of the adjacency Line in the Adjacency Zone, as from the twenty-second day of December, 2001, at 6:00 a.m.

(2) This Order shall cease to have effect on the twenty-second day of January, 2002, at 6:00 a.m.

3. This Order shall be deemed to have come into force on the 22nd day of December, 2001.

MADE by the Governor-General this 28th, day of December, 2001.

(H. E. SIR COLVILLE N. YOUNG)
Governor-General of Belize
CHAPTER 135

DEFENCE (OFFICER) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.
2. Definitions.
3. Eligibility of officers generally.
4. Eligibility of officers in the regular force.
5. Educational Qualification.
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7. Promotion of officers of the regular force.
8. Acting and local rank.
10. Retirement on attaining age limit.
11. Voluntary retirement or resignation.
12. Medical unfitness.
13. Transfer to the reserve.
15. Honorary commission.

16. Eligibility of officers in the volunteer element.

17. Rank on first appointment.

18. Promotion of officers.

19. Retirement on attaining age limit.

20. Extended service.


22. Transfer to reserve.

23. Age limit for reserve.
CHAPTER 135

DEFENCE (OFFICER) REGULATIONS

(Section 14)

[4th February, 1978.]

1. These Regulations may be cited as the Defence (Officer) Regulations.

2. Expressions used in these Regulations have the same meaning as those given to them in the Defence Act.

3. No person shall be granted a commission, other than an honorary commission, in the Belize Defence Force unless he is a citizen of Belize.

Regular Force

4. No person shall be granted a commission in the regular force unless-

   (a) he has served as a soldier in the regular force and has satisfactorily passed recruit training or possesses a professional qualification required by the Force;

   (b) is medically fit; and

   (c) is recommended for officer training:

Provided that a person who has served as an Assistant Inspector or above in the Police Special Force or who has held a commission in the Volunteer Guard may be granted a commission in the regular force without first enlisting in the regular force if the Defence Commission is of opinion that he is suitable and he is medically fit.
<table>
<thead>
<tr>
<th>Regulation</th>
<th>Description</th>
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<tbody>
<tr>
<td>5.</td>
<td>Subject to Regulation 4, no person shall be considered for a Commission prior to enlistment as a soldier unless he possesses the minimum educational qualification of three passes at the General Certificate of Education (Ordinary level) (or its equivalent), including English Language and Mathematics.</td>
</tr>
<tr>
<td>6.</td>
<td>All persons commissioned into the regular force shall be granted the rank of second lieutenant: Provided that a person who has held a higher rank, or rank equivalent to a higher rank in the Police Special Force or Volunteer Guard may be commissioned in a higher rank if he is considered suitable by the Defence Commission.</td>
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<tr>
<td>7. (1)</td>
<td>An officer of the regular force shall not, unless exempted by the Governor-General after consultation with the Defence Commission, be promoted to the substantive rank of Captain or Major unless he has previously qualified for such promotion at such professional examinations or tests for that rank as may be prescribed by the Governor-General from time to time after consultation with the Defence Commission.</td>
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<tr>
<td>(2)</td>
<td>An officer of the regular force shall, subject to paragraph (1) of this regulation be eligible for promotion to higher substantive rank on completion of the following periods of commissioned service: That is to say, to lieutenant, after 2 years as a second lieutenant; to captain, after 4 years as a substantive lieutenant; to major, after 7 years as a substantive captain: Provided that the Governor-General may acting in accordance with the recommendation of the Public Services Commission allow an officer who transferred from the Belize Volunteer Guard or the Police Special Force on or before the 31st December 1978 to serve a lesser period than the number of years mentioned in this regulation before his promotion to a substantive rank.</td>
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(3) Anti-date of seniority for those officers commissioned with professional qualifications shall be as laid down by the Governor General after consultation with the Defence Commission, taking into account age on commissioning and the normal period of time for obtaining such professional qualifications and years of experience.

(4) In the case of an officer who immediately before the grant of his commission in the regular force was in full-time service in the regular force as a warrant officer, non-commissioned officer or soldier, account shall be taken, in such manner as the Defence Commission shall recommend, of one-half of any such service as a warrant officer and of one-third of any such service as a non-commissioned officer or soldier, so, however that the first ten years of service shall not be counted.

(5) Promotion to the substantive rank of lieutenant and lieutenant colonel shall be by selection by the Governor-General after consultation with the Defence Commission.

8. (1) An officer may be promoted to acting rank to fill a vacancy in the establishment of a unit.

(2) Local rank may, for the convenience of the service, be conferred on an officer for such period as may be necessary. Local rank shall not carry any pecuniary benefits or liabilities.

9. An officer shall be commissioned initially for a period of three years.

If, at the end of the three years an officer receives a recommendation in that behalf, then subject to the approval of the Public Services Commission a Permanent Regular Commission shall be granted to the officer by the Governor-General until the normal retiring age of the officer.

If an officer does not receive a recommendation for a Permanent Regular Commission at the end of the initial three year period then he shall be required
to serve a further three years to enable him to qualify for a Permanent Regular Commission.

10. (1) Subject to the provisions of this regulation and Regulation 21 an officer of the regular force shall retire on attaining the age limit appropriate to his rank that is to say: lieutenant colonel at the age of 45, major and below at the age of 42:

Provided that officers who have not been promoted to Captain after ten years commissioned service shall be required to retire.

(2) An officer who has attained the age limit appropriate to his rank may on the recommendation of the Defence Commission be permitted to enter or continue in the service subject to Regulation 14.

11. An officer may, at the discretion of the Governor-General, exercised after consultation with the Commission, be permitted to retire or resign his commission at his own request having given at least six months notice.

12. An officer who, on account of ill health, is reported by the approved medical authority as being unfit for military service under current standards laid down shall be retired.

The approved medical authority shall be such person or body of persons as the Governor-General may appoint from time to time.

13. At the discretion of the Governor-General, an officer who, under the provisions of the Defence Act or of these Regulations, falls ill or applies to resign his commission may instead be transferred to the reserve if he consents.

14. An officer who is selected to attend a course of instruction outside Belize shall be required to enter into an undertaking that he will not apply to resign his commission or apply to transfer to the reserve for a specified period of years after he has completed the course.
15. (1) A person may be granted an honorary commission in such rank and under such conditions as may be specified by the Governor-General.

(2) A person granted an honorary rank shall not, by virtue of such commission, be entitled to any pay, allowance, retired pay, pension, gratuity or other emolument.

Volunteer element

16. No person shall be granted a commission in the volunteer element unless-

(a) he has served in the regular force or in the volunteer element and has satisfactorily passed recruit training;

(b) is medically fit;

(c) is recommended for officer training:

Provided that a person who has held a commission in the Volunteer Guard may be granted a commission in the Volunteer Element without previous service in the ranks if the Governor-General, after consultation with the Defence Commission, is of opinion that he is suitable and he is medically fit.

17. All persons commissioned into the volunteer element shall be granted the rank of second lieutenant:

Provided that a person who has held a rank in the Volunteer Guard higher than second lieutenant may be commissioned in the rank he held in that force if he is considered suitable by the Governor-General after consultation with the Defence Commission.

18. The substantive promotion of officers of the volunteer element shall be made by the Governor-General after consultation with the Defence Commission.
19. Subject to the provisions of Regulation 20, an officer of the volunteer element shall retire on attaining the age limit appropriate to his rank that is to say: lieutenant colonel at the age of 45, major at the age of 42, and captains and below at the age of 38.

20. The Governor-General may, after consultation with the Defence Commission, permit any officer of the volunteer element who has reached the age of retirement set out in these Regulations to continue in service for such further period as he may specify.

21. The provisions of Regulations 7(1), 8, 11, 12 and 13 shall apply to officers of the volunteer element as they apply to officers of the regular force.

22. An officer of the volunteer element may apply to be transferred to the reserve.

### The reserve

23. An officer on the reserve shall retire therefrom on attaining the age of 55 years in the case of lieutenant colonels, the age of 50 years in the case of majors and the age of 45 years in the case of officers below that rank.
CHAPTER 135

DEFENCE (PREMATURE VOLUNTARY RELEASE) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.

2. Application for discharge.

3. Fees payable.

4. Re-enlistment after discharge.

5. Prolongation of service.

6. Liability under bonds not affected.
CHAPTER 135

DEFENCE (PREMATURE VOLUNTARY RELEASE) REGULATIONS
(Section 26)

[30th March, 1991.]

1. These Regulations may be cited as the

DEFENCE (PREMATURE VOLUNTARY RELEASE) REGULATIONS.

2. (1) A soldier of the regular force who wishes to claim his discharge before the completion of his term of engagement shall apply in writing to the Adjutant, Belize Defence Force.

(2) All applications for discharge under subregulation (1) above shall be dealt with as early as may be convenient:

Provided that in the case of an application made under regulation 3(iv), 3(v) and 3(vi) of these regulations, a minimum of three months’ notice in writing shall be given to the Commandant by the applicant.

3. The following fees shall be payable by a soldier of the regular force who applies for discharge under regulation 2 above:

   (i) if the application is made during the first 28 days of his training counted from the date of enlistment ........................................... $50.00

   (ii) if the application is made during the period 29 - 56 days of his date of enlistment ......................................................$100.00
(iii) if the application is made during the period 57 - 91 days of his date of enlistment
..........................…………$150.00

(iv) if the application is made after 91 days of the date of enlistment but before the completion of 12 years’ service.........................
one month’s gross pay for each year or part thereof remaining unserved, subject to a maximum of three months’ gross pay.

(v) if the application is made during the period 12 - 18 years of service .........................two weeks’ gross pay for each year or part thereof remaining unserved, subject to a maximum of two months’ gross pay.

(vi) if the application is made after the completion of 18 years of service .........................
No charge.

4. A member of the Force who obtained his discharge under these Regulations shall not be precluded from re-enlistment, subject to the provisions of Part IV of the Act.

5. A soldier of the regular force shall not be entitled to claim his discharge under these Regulations while soldiers of that force are required to continue their regular service under the provisions of section 19 of the Act.
Liability under bonds not affected.

6. Nothing in these Regulations shall affect the obligations incurred by a soldier under a bond executed by him to serve for a specified period of time and to pay a specified sum in lieu of such service.

MADE this 19th day of March, 1991.

(DR. DAME MINITA ELMIRA GORDON)
Governor-General
CHAPTER 135

DEFENCE (PROCEDURE) RULES

ARRANGEMENT OF RULES

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CHAPTER 135

DEFENCE (PROCEDURE) RULES

(Section 107)

[18th February, 1978.]

Citation and Commencement

1. These Rules may be cited as the

DEFENCE (PROCEDURE) RULES.

Definitions and Interpretation

Definitions

2. (1) In these Rules-

“Act” means the Defence Act;

“convening a fresh court” includes dissolving the existing court;

“member” when used in relation to a court-martial does not include the president;

“special finding” means when used in relation to-

(a) section 84 of the Act, any finding which a court-martial may make in accordance with that section;

(b) section 95 of the Act, a finding in accordance with subsection (2) of that section that the accused is guilty
but insane;

(c) Rule 58(3), a finding that the accused is guilty of the charge subject to the exception or variation specified in the finding.

(2) Other expressions in these Rules have the same meanings as if these Rules formed part of the Act.

(3) Any reference in these Rules to an enactment contained in the Act being an enactment amended by another enactment or by an instrument having effect under an enactment, whether passed or made before or after the coming into effect of this paragraph, shall, unless the contrary intention appears, be construed as referring to that enactment as so amended.

Interpretation

3. The Interpretation Act, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act and, in particular, words importing the masculine gender shall include females, and words in the singular shall include the plural, and words in the plural shall include the singular.

Investigation of Charges by Commanding Officer

Method of Investigating Charges

4. (1) Subject to paragraph (3) of this rule, when a commanding officer investigates a charge he shall first read and, if necessary, explain the charge to the accused and shall then-

(a) hear the evidence himself in accordance with Rule 5; or
(b) cause the evidence to be reduced to writing, in accordance with paragraph (2) of this rule, and read and consider it:

Provided that-

(a) notwithstanding that he has heard all or part of the evidence himself, he may cause the evidence to be reduced to writing;

(b) after the evidence has been reduced to writing and he has considered it, he may hear evidence in accordance with Rule 5; and

(c) before he remands an accused for trial by court-martial he shall cause the evidence to be reduced to writing.

(2) Evidence may be reduced to writing in the form of a summary of evidence taken in accordance with Rule 6 or an abstract of evidence made in accordance with Rule 7.

Provided that a summary of evidence must be taken if-

(a) the maximum punishment for the offence with which the accused is charged is death; or

(b) the accused, at any time before the charge against him is referred to the Convening officer in accordance with Rule 9 requires in writing that a summary of evidence be taken; or

(c) the commanding officer is of the opinion that the interest of justice require that a summary of evidence be taken.
(3) Where the evidence taken in accordance with paragraph (1) of this rule discloses an offence other than the offence which is the subject of the investigation, a new charge alleging that offence may be preferred against the accused in addition to, or in substitution for, the original charge and the investigation of the original charge may be treated, for the purpose of these Rules, as the investigation of the added or substituted charge.

**Hearing of Evidence by Commanding Officer**

5. When a commanding officer investigates a charge by hearing the evidence himself-

   (a) each prosecution witness shall give his evidence orally in the presence of the accused, or the commanding officer shall read to the accused a written statement made by the witness:

   Provided that a written statement of prosecution witness shall not be used if the accused requires that the witness shall give his evidence orally;

   (b) the accused shall be allowed to cross-examine any prosecution witness;

   (c) the accused may, on his own behalf, give evidence on oath or may make a statement without being sworn;

   (d) the accused may call witness in his defence, who shall give their evidence orally and in his presence;

   (e) the evidence shall not be given on oath unless the commanding officer so directs or the accused so demands;
Defence

(f) if the evidence is given on oath, the commanding officer shall, subject to the accused’s right to make a statement without being sworn, administer the oath to each witness and to any interpreter in accordance with Rule 27.

Summary of Evidence

6. A summary of evidence shall be taken in the following manner and shall be in accordance with the form set out in the First Schedule to these Rules—

(a) it shall be taken in the presence of the accused by the commanding officer or by another officer on the direction of the commanding officer;

(b) the prosecution witnesses shall give their evidence orally and the accused shall be allowed to cross-examine any prosecution witness:

Provided that, if a person cannot be compelled to attend as a prosecution witness or if owing to the exigencies of the service or on other grounds (including the expense and loss of time involved), the attendance of any prosecution witness cannot, in the opinion of the officer taking the summary (to be certified by him in writing), be readily procured, a written statement of his evidence, purporting to be signed by him, may be read to the accused and included in the summary of evidence; but, if such witness can be compelled to attend, the accused may insist that he shall attend for cross-examination;

(c) after all the evidence against the accused has been given, the accused shall be asked—

“Do you wish to say anything? You are not obliged to do so, but if you wish, you may give evidence on oath, or you may make a statement without being sworn. Any evidence you
give or statement you make will be taken down in writing and may be given in evidence.”

Any evidence given or statement made, by the accused shall be recorded in writing and, immediately thereafter, the record of his evidence or statement shall be read over to him and corrected where necessary, and he shall be asked to sign it;

(d) the accused may call witnesses in his defence, who shall give their evidence orally:

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

(e) neither the accused nor the witness for the defence shall be subject to cross-examination;

(f) the evidence of each witness (other than the accused) who gives evidence orally shall be recorded in writing and, immediately thereafter, the record of his evidence shall be read over to him, corrected where necessary and signed by him;

(g) the record of the evidence may be in narrative form, save that any question put to a witness in cross-examination by the accused, and the answer thereto, shall be recorded verbatim if the accused so requires;
(h) the oath shall be administered in accordance with Rule 27 by the officer taking the summary of evidence to each witness, before he gives his evidence, and to any interpreter:

Provided that, where any child of tender years, called as a witness, does not, in the opinion of the officer taking the summary, understand the nature of an oath, his evidence may be received, though not given upon oath, if, in the opinion of the officer taking the summary, he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth; and

(i) at the conclusion of the taking of the summary of evidence, the officer taking it shall certify thereon that he has complied with the provisions of this rule.

Abstract of Evidence

7. (1) An abstract of evidence shall be made in the following way and shall be in accordance with the form set out in the First Schedule to these Rules-

(a) it shall be made by the commanding officer or by another officer on the direction of the commanding officer;

(b) the accused should not be present while the abstract of evidence is being made;

(c) it shall consist of signed statements by such witnesses as are necessary to prove the charge:
Provided that if, in the case of any witness, a signed statement is not readily procurable, a precis of the evidence to be given by that witness may be included instead of a signed statement; and

(d) an oath shall not be administered to a witness making a statement for inclusion in an abstract of evidence, but use may be made, where necessary, of sworn statements which are already in existence.

(2) When an abstract of evidence has been made in accordance with paragraph (1) of this rule, a copy of it shall be handed to the accused and he shall then be cautioned in the following terms:

“This is a copy of the abstract of evidence in your case: you are not obliged to say anything with regard to it unless you wish to do so, but you should read it and, when you have read it, if you wish to say anything, what you say will be taken down in writing and may be given in evidence.”

Any statement made by the accused after he has read the abstract of evidence shall be taken down in writing and he shall be asked to sign it.

(3) After the accused has been given an opportunity of making a statement in accordance with paragraph (2) of this rule, and after his statement (if any) has been recorded, he may submit to the officer making the abstract the statements of any witnesses he wishes to be attached to the abstract of evidence.

(4) Any statement made by the accused in accordance with paragraph (2) of this rule and any statements of witnesses submitted by him in accordance with paragraph (3) of this rule shall be attached to the abstract of evidence.
(5) A certificate by the person who recorded the statement made by the accused in accordance with paragraph (2) of this rule, stating that the accused was duly cautioned in accordance with this rule, shall be attached to the abstract of evidence and shall thereafter form part of it. This certificate shall be in the form set out in the First Schedule to these Rules.

Investigation before Summary Dealing by Commanding Officer

8. Before a commanding officer deals summarily with a charge after the evidence has been reduced to writing-

   (a) any prosecution witness who has not given his evidence orally shall do so if the accused requires it; and

   (b) the commanding officer shall give the accused a further opportunity to give evidence on oath or to make a statement without being sworn and to call witnesses in his defence.

Reference of Charges to Convening Officer

9. (1) When a commanding officer has remanded an accused for trial by court-martial he shall send to the convening officer-

   (a) a copy of the charge on which the accused is held;

   (b) a draft charge-sheet containing the charges upon which the commanding officer considers that the accused should be dealt with summarily or tried by court-martial;

   (c) the summary or abstract of evidence;
(d) a statement of the character and service record of the accused; and

(e) a recommendation as to how the charge should be proceeded with.

(2) After a commanding officer has referred a charge to the convening officer in accordance with paragraph (1) of this rule he shall not dismiss it unless it has been referred back to him with a direction to dismiss it.

Preparation of Charge-Sheets and Framing of Charges

Charge-Sheets

10. (1) A charge-sheet shall contain the whole of the issue or issues to be tried at one time and may contain more than one charge if the charges are founded on the same facts or form or are part of a series of offences of the same or similar character:

Provided that charges under section 41(1), section 42, section 49(1), (where the charge is connected with a charge under either of the before-mentioned provisions) or section 52 of the Act may be included in any charge-sheet, notwithstanding that other charges in that charge sheet are not founded on the same facts and do not form or are not part of a series of offences of the same or similar character.

(2) Every charge-sheet shall in its layout follow the appropriate illustration given in the Second Schedule to these Rules.

(3) The commencement of each charge-sheet shall be in the appropriate form set out in the Second Schedule to these Rules and shall state the number, rank, name and unit of the accused and show by the description of the accused or directly by an express averment that he is subject to military law or otherwise liable to trial by court-martial.
Defence

Charges

11. (1) Each charge shall state one offence only.

(2) Offences may be charged in the alternative in separate charges but in no case shall they be charged in the alternative in the same charge. When charges are laid in the alternative they should be set out in order of gravity commencing with the most serious.

(3) Each charge shall consist of two parts, namely-

(a) the statement of the offence; and

(b) the particulars of the act, neglect or omission constituting the offence.

(4) The statement of an offence, if it is not a civil offence, shall be in the appropriate form set out in the Second Schedule of these Rules, if it is a civil offence in such words as sufficiently describe that offence.

(5) The particulars shall state-

(a) such circumstances respecting the alleged offence as will enable the accused to know every act, neglect or omission which it is intended to prove against him as constituting the offence;

(b) when the offence charged is one which can be committed either in circumstances involving a higher degree of punishment or in circumstances involving a less degree of punishment, facts which it is intended to prove as rendering the accused liable to the higher degree of punishment if convicted; and
(c) any additional facts which it is intended to prove as rendering the accused liable to the punishment of stoppages if convicted.

Joint Charges

12. (1) Any number of accused may be charged in the same charge-sheet with offences alleged to have been committed by them separately if the acts on which the charges are founded are so connected that it is in the interests of justice that they be tried together.

(2)

(a) Any number of accused may be charged jointly in one charge for an offence alleged to have been committed by them jointly.

(b) Where so charged any one or more of such accused may at the same time be charged in the same charge-sheet with any other offence alleged to have been committed by him or them “individually or jointly, provided that such charges could, if the accused to whom they relate had been tried separately, have been included under Rule 10(1) in the same charge sheet as the other charges against him.

Construction of Charge-Sheets and Charges

13. In the construction of a charge-sheet or charge there shall be presumed in favour of supporting it every proposition which may reasonably be presumed to be impliedly included, though not expressed therein, and the statement of the offence and the particulars of the offence shall be read and construed together.
Action by Convening Officer on Receipt of a Charge

14. Where the convening officer receives a charge against an accused he shall, if he does not refer it back to the commanding officer convene a court-martial to try the accused.

Convening of Courts-Martial

Duties of Convening Officer when Convening Courts-Martial

15. When an officer convenes a court-martial he shall-

(a) issue a convening order in the appropriate form set out in the Third Schedule to these Rules;

(b) direct upon what charges the accused is to be tried and ensure that the accused has been remanded for trial by court-martial upon those charges either by his commanding officer or by the appropriate superior authority who has investigated them;

(c) if he is of the opinion that charges should be put in separate charge-sheets, so direct and direct the order in which they are to be tried;

(d) direct, if there is more than one accused, whether the accused are to be tried jointly or separately;

(e) appoint the president and members of the court and any waiting members in accordance with Rule 16;
(f) if convening a court-martial at which he considers there should be a judge advocate, appoint a suitable person so there to act;

(g) appoint an officer subject to military law or Attorney-at-law assisted by such an officer to prosecute or detail a commanding officer to appoint an officer subject to military law to prosecute:

Provided that the convening officer may appoint two such officers to prosecute if he thinks fit;

(h) appoint the date, time and place for the trial;

(i) send to the president the charge-sheet, and the convening order and in any case in which a judge advocate has not been appointed a copy of the summary or abstract of evidence from which any evidence which in his opinion would be inadmissible under the Act at the court-martial has been expurgated;

(j) send to each member of the court and to each waiting member a copy of the charge-sheet;

(k) send to the prosecutor copies of the charge-sheet and convening order and the original summary or abstract of evidence together with an unexpurgated copy thereof showing the passages (if any) copies which have been, expurgated in any copy sent to the president;

(l) send to the judge advocate (if any) of the charge-sheet and convening order and an
unexpurgated copy of the summary or abstract of evidence;

(m) ensure that the accused is given a proper opportunity to prepare his defence in accordance with Rule 18; and

(n) take steps in accordance with Rule 82 to procure the attendance at the court-martial of all witnesses to be called for the prosecution and all witnesses whose attendance the accused has reasonably requested in accordance with Rule 18:

Provided that the convening officer may require the accused to defray or to undertake to defray, as the convening officer thinks fit, the cost of the attendance of a witness whose attendance he has requested and if the accused refuses to defray or to undertake to defray, as the case may be, such cost, the convening officer shall not be obliged to take any further steps to procure the attendance of that witness.

Appointment of President and Members

16. The convening officer shall-

(a) appoint the president of a court-martial by name and appoint the members either by name or by detailing a commanding officer to appoint an officer of a specified rank; and

(b) appoint such waiting members as he thinks expedient either by name or by detailing a commanding officer to appoint an officer of a specified rank.
Officers under Instruction

17. (1) Subject to Rule 71 any officer subject to military law, may, by
direction of the convening officer or at the discretion of the president, remain
with a court-martial throughout the proceedings as an officer under instruction.

(2) An officer under instruction, although allowed to be present in
closed court, shall take no part in any of the deliberations or decisions of the
court.

Preparation of Defence

18. (1) An accused who has been remanded for trial by court-martial
shall be afforded a proper opportunity for preparing his defence and shall be
allowed proper communication with his defending officer or Attorney-at-law
and with his witnesses.

(2) A defending officer or Attorney-at-law shall be appointed to
defend an accused who has been remanded for trial by court-martial unless
the accused states in writing that he does not wish such an appointment to be
made.

(3) If the prosecution is to be undertaken by a legally qualified
officer or by an Attorney-at-law, the accused shall be notified of this fact in
sufficient time to enable him, if he so desires and it is practicable, to make
arrangements for a legally qualified officer or Attorney-at-law to defend him.

(4) As soon as practicable after an accused has been remanded
for trial by court-martial and in any case not less than twenty-four hours before
his trial he shall be given-

(a) a copy of the charge-sheet;

(b) an unexpurgated copy of the summary or abstract of
Defence

When an accused is given a copy of the charge-sheet and of the summary or abstract of evidence in accordance with this Rule, he shall-

(i) if necessary, have the charge explained to him; and

(ii) be informed that, upon his making a written request to his commanding officer not less than twenty-four hours before his trial requiring the attendance at his trial of any witness (other than a witness for the prosecution) whom he desires to call in his defence (such witness to be named by him), reasonable steps will be taken in accordance with these Rules to procure the attendance of any such witness at his trial.

When it is intended to try two or more accused jointly notice of this fact shall be given to each such accused when he is given a copy of the charge-sheet. Any such accused may, before trial, by written notice to the convening officer claim to be tried separately on the ground that he would be prejudiced in his defence if he were not tried separately. In such case the convening officer shall, if he is of the opinion that the interests of justice so require, direct that the accused who has so claimed shall be tried separately.
(7) When a charge-sheet contains more than one charge, the accused may, before trial, by written notice to the convening officer claim to be tried separately on any charge in that charge-sheet on the ground that he would be prejudiced in his defence if he were not tried separately on that charge, and in such case the convening officer shall, if he is of the opinion that the interests of justice so require, direct that the accused shall be tried separately on that charge.

Assembly and Swearing of Court

Preliminary Matters to be considered by Court and Beginning of Trial

19. (1) Upon a court-martial assembling, the court shall, before opening satisfy themselves-

(a) that the court has been convened in accordance with the Act and these Rules;

(b) that the court consists of not less than the legal minimum of officers;

(c) that the president and members are of the required rank;

(d) that the president and members have been duly appointed and are not disqualified under the Act;

(e) if there is a judge advocate, that he has been duly appointed;

(f) that the accused appears from the charge-sheet to be subject to military law or otherwise liable to trial by court-martial and to be subject to the jurisdiction of the court; and
(g) that each charge is on its face correct in law and framed in accordance with these Rules.

(2)

(a) Where a vacancy occurs through a member of the court being disqualified under the Act or being absent when the court assembles, the president may appoint a duly qualified waiting member to fill that vacancy.

(b) The president may, if the interest of justice so require, substitute a duly qualified waiting member for a member appointed by the convening officer.

(3) If the court is not satisfied on any of the matters mentioned in paragraph (1) above and is not competent to rectify such matter itself under the Act or these Rules, it shall, before commencing the trial, report to the convening officer thereon.

(4) When the court has complied with this rule and is ready to proceed with the trial the president shall open the court and the trial shall begin.

Objections to the Court

20. (1) The order convening the court and the names of the officers appointed to try the accused shall be read in the hearing of the accused who shall be given an opportunity to object to any of those officers in accordance with section 78 of the Act.

(2) When a court is convened to try more than one accused whether separately or jointly, each accused shall be given an opportunity to object to any officer on the court in accordance with the preceding paragraph and shall be asked separately whether he has any such objection.
(3) An accused shall state the names of all the officers to whom he objects before any objection is disposed of.

(4) If more than one officer is objected to, the objection to each officer shall be disposed of separately and the objection to the lowest in rank shall be disposed of first, except where the president is objected to, in which case the objection to him shall be disposed of before the objection to any other officer.

(5) An accused may make a statement and call any person to make a statement in support of his objection.

(6) An officer to whom the accused has objected may state in open court anything relevant to the accused’s objection whether in support or in rebuttal thereof.

(7) An objection to an officer shall be considered in closed court by all the other officers on the court including any officer who has been appointed by the president in accordance with paragraph (9) of this rule in place of an officer who has retired.

(8) When an objection to an officer is allowed that officer shall forthwith retire and take no further part in the proceedings.

(9) When an officer objected to (other than the president) retires and there is a duly qualified waiting member in attendance the president should immediately appoint him to take the place of the officer who has retired.

(10) The court shall satisfy itself that a waiting member who takes the place of a member of the court is of the required rank and not disqualified under the Act and shall give the accused an opportunity to object to him and shall deal with any such objection in accordance with this rule.
(11) If an objection to the president is allowed the court shall report to the convening officer without proceeding further with the trial.

(12) If as the result of the allowance of an objection to a member there are insufficient officers available to form a court in compliance with the Act the court shall report to the convening officer without proceeding further with the trial and the convening officer may either appoint an officer as a member to fill the vacancy or convene a fresh court to try the accused.

**Swearing of Court**

21. (1) Immediately after Rule 20 has been complied with, an oath shall be administered to the president and each member of the court in accordance with Rule 27 and in the presence of the accused.

(2) If there is a judge advocate, the oath shall be administered by him to the president first and afterwards to each member of the court. If there is no judge advocate, the oath shall be first administered by the president to the members of the court and then to the president by any member of the court already sworn.

(3) A court may be sworn at one time to try any number of accused then present before it, whether they are to be tried jointly or separately.

(4) When a court is convened to try two or more accused separately and one accused objects to the president or to any member of the court, the court may, if they think fit, proceed to determine that objection in accordance with Rule 20 or postpone the trial of that accused and swear the court for the trial of the other accused only.

**Swearing of Judge Advocate**

22. After the court has been sworn, an oath shall be administered to the judge advocate (if any) in accordance with Rule 27 and in the presence of the
accused. -

Swearing of Officers under Instruction

23. After the court and judge advocate (if any) have been sworn, an oath shall be administered to any officer under instruction with Rule 27 and in the presence of the accused.

Appointment and Swearing of and Objection to, Interpreters and Shorthand Writers

24. (1) A competent and impartial person may be appointed at any time to act as an interpreter or shorthand writer at a trial by court-martial and before he so acts an oath shall be administered to him in accordance with Rule 27 and in the presence of the accused.

(2) Before a person is sworn as an interpreter or as a shorthand writer, the accused shall be given an opportunity to object to him in the same manner as an objection may be taken to a member of the court and, if the court thinks that the objection is reasonable, that person shall not act as interpreter or shorthand writer.

No Right of Objection to Judge Advocate, Prosecutor and Officer under Instruction

25. The accused shall have no right to object to a judge advocate, prosecutor or any officer under instruction.

Order of Trials

26. (1) When a court has been convened to try two or more accused separately and they have been sworn in accordance with these Rules, the court shall try them in the order indicated by the convening officer or, where he has given no such indication, then in such order as the court thinks fit.
(2) When a court has been convened to try an accused on charges which are included in more than one charge-sheet, the court shall take the charge-sheets in the order indicated by the convening officer or, where he has given no such indication, in such order as the president thinks fit.

Oaths and Solemn Affirmations

27. (1) An oath which is required to be administered under these Rules shall be administered in the appropriate form and in the manner set out in the Sixth Schedule to these Rules:

Provided that the opening words of the oath may be varied to such words and the oath may be administered in such manner as the person taking the oath declares to be binding on his conscience in accordance with his religious beliefs.

(2) Subject to Rule 21(2) every oath shall be administered at a court-martial by the president, a member of the court or the judge advocate.

(3) Where a person is permitted to make a solemn affirmation instead of swearing an oath, the affirmation shall be in the appropriate form set out in the Sixth Schedule to these Rules.

(4) The provisions of section 88 of the Act shall apply to proceedings before a commanding officer and the taking of summaries of evidence as they apply to proceedings before a court-martial.

Arraignment of Accused

28. (1) When the court and judge advocate (if any) have been sworn the accused shall be arraigned.
(2) If there is more than one charge against the accused before the court he shall be required to plead separately to each charge.

(3) If there is more than one charge-sheet against the accused before the court, the court shall arraign and try the accused upon the charge in the first of such charge-sheets and shall announce its finding thereon and if the accused has pleaded guilty the court may either proceed to comply with Rule 38(1) and (2) before it arraigns him upon the charge in any subsequent charge-sheet or they may defer compliance with those paragraphs until after the accused has been arraigned and tried upon such charge.

Plea to the Jurisdiction of the Court

29. (1) The accused, before pleading to the charge, may offer a plea to the jurisdiction of the court. If he does so-

(a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto; and

(b) the prosecutor may address the court in answer to the plea and the accused may reply to the prosecutor’s address.

(2) If the court allows the plea it shall adjourn and report to the convening officer.

(3) When a court reports to the convening officer under this rule, the convening officer shall-

(a) if he approves the decision of the court to allow the plea, dissolve the court;
Objection to Charge

30. (1) An accused before pleading to a charge may object to it on the grounds that it is not correct in law or is not framed in accordance with these Rules, and if he does so, the prosecutor may address the court in answer to the objection and the accused may reply to the prosecutor’s address.

(2) If the court upholds the objection, they shall either amend the charge, if permissible under Rule 74 or adjourn and report to the convening officer:

Provided that if there is another charge or another charge-sheet before the court the court may, before adjourning under this rule, proceed with the trial of such other charge or other charge-sheet.

(3) When a court reports to the convening officer under this rule, the convening officer shall-

(a) if he approves the decision of the court to allow the objection-

(i) dissolve the court; or

(ii) where there is another charge or another charge-sheet before the court to which the plea does not relate and which the court has not tried, direct the court to proceed with the
trial of such other charge or charge-sheet only; or

(iii) amend the charge to which the objection relates if permissible under Rule 75 and direct the court to try it as amended;

(b) if he disapproves the decision of the court to allow the objection-

(i) direct the court to try the charge; or

(ii) where there is another charge or another charge-sheet before the court to which the objection does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; or

(iii) convene a fresh court to try the accused.

Plea in Bar of Trial

31. (1) An accused before pleading to a charge, may offer a plea in bar of trial in reliance upon section 101 or section 103 of the Act.

If he does so-

(a) the accused may adduce evidence in support of the plea and the prosecutor may adduce evidence in answer thereto; and

(b) the prosecutor may address the court in answer to the plea and the accused may reply to the
prosecutor’s address.

(2) If the court allows the plea they shall adjourn and report to the convening officer:

Provided that if there is another charge or another charge-sheet before the court, the court may, before adjourning under this rule, proceed with the trial of such other charge or other charge-sheet.

(3) When a court reports to the convening officer under this rule, the convening officer shall-

(a) if he approves the decision of the court to allow the plea-

(i) dissolve the court; or

(ii) where there is another charge or another charge-sheet before the court to which the plea does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only;

(b) if he disapproves the decision of the court to allow the plea-

(i) direct the court to try the charge; or

(ii) where there is another charge or another charge-sheet before the court to which the plea does not relate and which the court has not tried, direct the court to proceed with the trial of such other charge or charge-sheet only; or
(iii) convene a fresh court to try the accused.

Application by an Accused at a joint Trial to be Tried Separately

32. Where two or more accused are charged jointly or are charged in the same charge-sheet with offences alleged to have been committed by them separately, any one of the accused may, before pleading to the charge or charges, apply to the court to be tried separately on the ground that he would be prejudiced in his defence if he were not tried separately. If the accused makes such an application the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor’s address. If the court is of the opinion that the interests of justice so require it shall allow the application and try separately the accused who made it.

Application by an Accused at a Trial to have a Charge Trial Separately

33. Where a charge-sheet contains more than one charge the accused may, before pleading to the charges, apply to the court to be tried separately on any charge in that charge-sheet on the ground that he would be prejudiced in his defence if he were not tried separately on that charge. If the accused makes such an application the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor’s address. If the court is of the opinion that the interests of justice so require, it shall allow the application and try the accused separately on the charge to which it relates as if that charge had been inserted in a separate charge-sheet.

Pleas to the Charge

34. (1) After any pleas under Rules 29 and 31 any objection under Rule 30 and any applications under Rules 32 and 33, have been dealt with, the accused shall be required (subject to paragraph (2) of this rule) to plead either guilty or not guilty to each charge on which he is arraigned.
Defence

(2) Where a court is empowered by section 84 of the Act to find an accused guilty of an offence other than that charged or guilty of committing the offence in circumstances involving a less degree of punishment or where it could, after hearing the evidence, make a special finding of guilty subject to exceptions or variations in accordance with Rule 58, the accused may plead guilty to such other offence to the offence charged as having been committed in circumstances involving a less degree of punishment or to the offence charged subject to such exceptions or variations.

Acceptance of Pleas of Guilty

35. (1) If an accused pleads guilty to a charge under either paragraph (1) or paragraph (2) of Rule 34, the president or judge advocate shall, before the court decides to accept the plea explain to the accused the nature of the charge and the general effect of his plea and in particular the difference in procedure when an accused pleads guilty and when an accused pleads not guilty.

(2) A court shall not accept a plea of guilty under either paragraph (1) or paragraph (2) of Rule 34 if:

(a) the court is not satisfied that the accused understands the nature of the charge or the effect of his plea; or

(b) the president having regard to all the circumstances, considers that the accused should plead not guilty; or

(c) the accused is liable if convicted to be sentenced to death;

(3) In the case of a plea of guilty under Rule 34(2) a court shall also not accept the plea unless the convening officer concurs and it is satisfied of the justice of such course. The concurrence of the convening officer may be signified by the prosecutor.
(4) When a plea of guilty under either paragraph (1) or paragraph (2) of Rule 34 is not accepted by the court or the accused either refuses to plead to the charge or does not plead to it intelligibly, the court shall enter a plea of not guilty.

(5) When a court is satisfied that it can properly accept a plea of guilty under either paragraph (1) or paragraph (2) of Rule 34 it shall record a finding of guilty in respect thereof.

Pleas on Alternative Charges

36. (1) When an accused pleads guilty to the first of two or more alternative charges, the court, if it accepts the accused’s plea of guilty, shall record a finding of guilty in respect of the first charge and the prosecutor shall withdraw any alternative charge before the accused is arraigned on it.

(2) When an accused pleads guilty to one of two or more charges which are laid in the alternative other than the first of such charges, the court may-

(a) proceed as if the accused had pleaded not guilty to all the charges; or

(b) with the concurrence of the convening officer (which may be signified by the prosecutor) record a finding of guilty on the charge to which the accused has pleaded guilty and a finding of not guilty on any alternative charge which is placed before it in the charge-sheet. Where the court records such findings, the prosecutor shall before the accused is arraigned on it withdraw any charge which is alternative to the charge of which the court has found the accused guilty and which is placed after it in the charge-sheet.
Procedure after Recording a Finding of Guilty

Order of Trial where Pleas of Guilty and Not Guilty

37. After the court has recorded a finding of guilty, if there is no other charge in the same charge-sheet to which the accused has pleaded not guilty and no other accused who has pleaded not guilty to a charge in that charge-sheet, it shall proceed with the trial as directed by Rule 58. If there is another charge in the charge-sheet to which the accused has pleaded not guilty or there is another accused who has pleaded not guilty to a charge in that charge-sheet, the court shall not comply with Rule 58 until after it has dealt with such other charge or tried such other accused and has announced and recorded its finding in respect thereof.

Procedure on Finding of Guilty after Plea of Guilty

38. (1) After the court has recorded a finding of guilty in respect of a charge to which an accused pleaded guilty, the prosecutor shall, subject to Rule 37 read the summary or abstract of evidence to the court or inform the court of the facts contained therein:

Provided that if the summary or abstract of evidence contains evidence which, in the opinion of the convening officer, is inadmissible under the Act the prosecutor shall not read to the court those parts of the summary or abstract which are inadmissible or inform the court of the facts contained in those parts, and shall not hand the original summary or abstract to the court until the trial is concluded.

(2) If there is no summary or abstract of evidence or the summary or abstract is, in the opinion of the court, inadequate or incomplete, the court shall hear and record in accordance with these Rules sufficient evidence to enable it to determine the sentence.
(3) After paragraphs (1) and (2) of this rule have been complied with, the accused may-

(a) adduce evidence of character and in mitigation of punishment; and

(b) address the court in mitigation of punishment.

(4) After paragraph (3) of this rule has been complied with, the court shall proceed as directed in Rule 63(1), (2), (3) and (4).

Changes of Plea

39. (1) An accused who has pleaded not guilty may at any time before the court closes to deliberate on its finding withdraw his plea of not guilty and substitute a plea of guilty (including a plea of guilty under Rule 34(2)) and in such case the court shall, if it is satisfied that it can accept the accused’s changed plea under these Rules, record a finding in accordance with the accused’s change of plea and so far as is necessary proceed as directed by Rule 38.

(2) If at any time during the trial it appears to the court that an accused who has pleaded guilty does not understand the effect of his plea or the nature of the charge, the court shall enter a plea of not guilty and proceed with the trial accordingly.

(3) When a court enters a plea of not guilty in respect of any charge under paragraph (2) of this rule, it shall, if there was a charge laid in the alternative thereto which the prosecutor withdrew under Rule 38 reinstate such alternative charge, arraign the accused thereon and proceed with the trial as if it had never been withdrawn.
Procedure on Pleas of Not Guilty

Application for Adjournment of Trial

40. After a plea of not guilty to any charge has been entered-

(a) the court shall ask the accused whether he wishes to apply for an adjournment on the ground that any of these Rules relating to procedure before trial have not been complied with and that he has been prejudiced thereby or on the ground that he has not had sufficient opportunity for preparing his defence;

(b) if the accused applies for an adjournment-

(i) the accused may adduce evidence in support of his application and the prosecutor may adduce evidence in answer thereto; and

(ii) the prosecutor may address the court in answer to the application and the accused may reply to the prosecutor’s address;

(c) the court may grant an adjournment if it thinks the interests of justice so require.

Case for the Prosecution

41. (1) The prosecutor may, if he desires, and shall, if required by the court, make an opening address explaining the charge, where necessary, and the nature and general effect of the evidence which he proposes to adduce.

(2) The witnesses for the prosecution shall then be called and give their evidence.
Calling of Witnesses whose Evidence is not Contained in Summary or Abstract of Evidence

42. If the prosecutor intends to adduce evidence which is not contained in any summary of abstract of evidence given to the accused, notice of such intention together with the particulars of the evidence shall, when practicable, be given to the accused a reasonable time before the evidence is adduced. If such evidence is adduced without such notice or particulars having been given, the court may, if the accused so desires, either adjourn after receiving the evidence or allow any cross-examination arising out of that evidence to be postponed, and the court shall inform the accused of his right to apply for such an adjournment or postponement.

Notice to an Accused that a Witness will not be called by the Prosecutor

43. The prosecutor shall not be bound to call all the witnesses against the accused whose evidence is contained in the summary or abstract of evidence nor a witness whom he has notified the accused that he intends to call under Rule 42, but if the prosecutor does not intend to call such a witness to give evidence he shall either tender him for cross-examination by the accused, or give the accused reasonable notice that he does not intend to call the witness and that the accused will be allowed to communicate with him and to call him as a witness for the defence, if he so desires and if the witness is available.

Calling and Examination of Witnesses

Swearing of Witnesses

44. Save as is otherwise provided by the Act an oath shall be administered to each witness in accordance with Rule 27 before he gives evidence and in the presence of the accused.
Exclusion of Witnesses from Court

45. During a trial a witness other than the prosecutor or accused shall not, except by leave of the court, be in court while not under examination, and if while he is under examination a discussion arises as to the allowance of a question or otherwise with regard to the evidence the court may direct the witness to withdraw during such discussion.

Examination of Witnesses

46. (1) A witness may be examined by the person calling him and may be cross-examined by the opposite party to the proceedings and on the conclusion of any such cross-examination may be re-examined by the person who called him on matters arising out of the cross-examination.

(2) The person examining a witness shall put his questions to the witness orally and unless an objection is made by the witness, court, judge advocate, prosecutor or by the accused, the witness shall reply forthwith. If such an objection is made, the witness shall not reply until the objection has been disposed of.

(3) The court may allow the cross-examination or re-examination of a witness to be postponed.

Examination of Witnesses by Court

47. (1) The president, the judge advocate and, with permission of the president, any member of the court may put questions to a witness.

(2) Upon any such question being answered, the prosecutor and the accused may put to the witness such questions arising from the answer which he has given as seem proper to the court.
48. (1) The record which has been made of the evidence given by a witness shall be read back to him before he leaves the court and when this is done he may ask for the record to be corrected or explain the evidence which he has given. If any such correction is made or explanation given, the prosecutor and the accused may put such questions to the witness respecting the correction or explanation as seem proper to the court.

(2) When a shorthand writer is employed it shall not be necessary to comply with paragraph (1) of this rule, if, in the opinion of the court and the judge advocate (if any), it is unnecessary to do so:

Provided that if any witness so demands paragraph (1) of this rule shall be complied with.

Calling of Witnesses by Court and Recalling of Witnesses

49. (1) The court may, at any time before it closes to deliberate on its finding or if there is a judge advocate before he begins to sum up, call a witness or recall a witness, if in the opinion of the court it is in the interests of justice to do so. If the court calls a witness or recalls a witness under this rule, the prosecutor and the accused may put such questions to the witness as seem proper to the court.

(2) The prosecutor and the accused may, at any time before the court closes to deliberate on its finding or if there is a judge advocate before he begins to sum up, recall a witness by leave of the court and the prosecutor and the accused may put such questions to the witness as seem proper to the court.
Submission of No Case to Answer and Stopping of Cases

50. (1) At the close of the case for the prosecution the accused may submit to the court in respect of any charge that the prosecution had failed to establish a prima facie case for him to answer and that he should not be called upon to make his defence to that charge. If the accused makes such a submission, the prosecutor may address the court in answer thereto and the accused may reply to the prosecutor’s address.

(2) The court shall not allow the submission unless it is satisfied that:

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

(b) it is not open to it on the evidence adduced to make a special finding under either section 84 of the Act or Rule 58(3).

(3) If the court allows the submission it shall find the accused not guilty of the charge to which it relates and announce this finding in open court forthwith; if the court disallows the submission it shall proceed with the trial of the offence as charged.

(4) Irrespective of whether there has been a submission under this rule or not, the court may at any time after the close of the hearing of the case for the prosecution, and after hearing the prosecutor find the accused not guilty of a charge, and if it does so it shall also announce such finding in open court forthwith.
Case for the Defence

Explanation to Accused of his Rights when Making his Defence

51. (1) After the close of the case for the prosecution, the president or judge advocate (if any) should explain to the accused that-

   (a) if he wishes, he may give evidence on oath as a witness or make a statement without being sworn, but that he is not obliged to do either;

   (b) if he gives evidence on oath, he will be liable to be cross examined by the prosecutor and to be questioned by the court and the judge advocate (if any), but that, if he makes a statement without being sworn, no one will be entitled to ask him any questions; and

   (c) whether he gives evidence or makes a statement or remains silent, he may call witnesses on his behalf both to the facts of the case and to his character.

(2) After the president or judge advocate has complied with paragraph (1) of this rule, he shall ask the accused if he intends to give evidence on oath or to make a statement without being sworn and if he intends to call any witness on his behalf and, if so, whether he is a witness to fact or to character only.

(3) If the accused intends to call a witness to the facts of the case other than himself, he may make an opening address outlining the case for the defence before the evidence for the defence is given.
Evidence for the Defence

52. (1) After Rule 51 has been complied with the witnesses for the defence (if any) shall be called and give their evidence.

(2) Rules 44 to 49 shall apply to the witnesses and the evidence for the defence as they apply to the witnesses and the evidence for the prosecution.

Evidence in Rebuttal

53. After the witnesses for the defence have given their evidence the prosecutor may call evidence to rebut the evidence given by the accused in his defence which the prosecution could not properly have mentioned to the court before the accused disclosed his defence or which the prosecution could not reasonably have foreseen.

Closing Addresses

54. (1) After all the evidence has been given the prosecutor and the accused may each make a closing address to the court.

(2) The accused shall be entitled to making his closing address after the closing address by the prosecutor.

(3) Where two or more accused are represented by the same defending officer or Attorney-at-law he may make one closing address only.

(4) Where the accused is not represented by a defending officer or Attorney-at-law, then, whether or not he himself has given evidence, the prosecutor shall not make a closing address unless the accused has called witnesses as to the facts of the case.
55. For the purposes of Rule 51 the handing in by the accused of a written statement shall be treated as the calling of a witness by him.

56. After the closing addresses, if there is a judge advocate, he shall sum up the evidence and advise the court on the law relating to the case in open court.

57. (1) After the closing addresses, or if there is a judge advocate after his summing up, the court shall close to deliberate on its finding on the charge.

(2) While the court is deliberating on its finding on the charge no person shall be present except the president and members of the court and any officer under instruction.

(3) If there is a judge advocate, and the court while deliberating on its finding on the charge requires further advice from him, the court shall suspend its deliberation and ask and be given such advice in open court.

58. (1) The opinion of the president and each member as to the finding shall be given in closed court, orally and, on each charge separately and their
opinions shall be given in order of seniority commencing with the junior in rank.

(2) Save as is otherwise provided in paragraph (4) of this rule the court shall record on every charge on which a plea of not guilty has been recorded-

(a) a finding of guilty or a special finding in accordance with section 84 or section 95(2) of the Act or paragraph (3) of this rule;

(b) a finding of guilty or of not guilty and honourably acquitted of the charge.

(3) Where the court is of the opinion as regards any charge that the facts which it finds to be proved in evidence differ from the facts alleged in the particulars of 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, the court may, instead of recording a finding of not guilty, record a finding that the accused is guilty of the charge subject to any exception or variation which it shall specify in the finding.

(4) Where the court has recorded a finding of guilty on a charge which is laid in the alternative it shall find the accused not guilty of any charge alternative thereto which is placed before it in the charge-sheet and record no finding on any charge alternative thereto which is placed after it in the charge-sheet.

**Announcement of Finding**

59. (1) The finding on each charge shall be announced in open court forthwith.

(2) Every finding which requires confirmation shall be announced as being subject to confirmation.
(3) The finding shall be in the appropriate form set out in the Third Schedule to these Rules.

Procedure after Announcement of Finding

Completion of Procedure on Plea of Guilty before Deliberation on Sentence

60. After the court has announced its finding on any charge on which the court has entered a plea of not guilty, if there is another charge in the same charge-sheet on which the court has accepted a plea of guilty, the court shall comply with Rule 38(1)(2) in respect of that charge before proceeding further with the trial.

Trial of Charges in Other Charge-Sheet before Deliberation on Sentence

61. Where there is another charge-sheet against the accused before the court, the court shall not comply with Rules 62 and 63 until it has arraigned and tried the accused and has complied with Rule 59 and, if necessary, with Rule 60, in respect of each charge in such other charge-sheet unless that charge-sheet is withdrawn under Rule 73.

Release of Accused

62. If the findings on all charges against the accused are not guilty the court shall order the accused to be released and the president and judge advocate (if any) shall date and sign the record of the proceedings. The president or the judge advocate shall then forward it as directed in the convening order.

Accused’s Record and Plea in Mitigation

63. (1) If the finding on a charge against the accused is guilty, or the court makes a special finding in accordance with section 84 of the Act or Rule
58(3) the court before deliberating on its sentence shall whenever possible take evidence of his age, rank and service record. Such service record shall include-

(a) any recognised acts of gallantry or distinguished conduct on the part of the accused and any decoration to which he is entitled; and

(b) particulars of any offence of which the accused has been found guilty during his service and which is recorded in the service books relating to the accused and of the length of time he has been under arrest awaiting trial or in confinement under a current sentence.

(2) Evidence of the matters referred to in paragraph (1) of this rule may be given by a witness producing to the court a written statement containing a summary of the entries in the service books relating to the accused, after the witness has in court verified such statement and identified the accused as the person to whom it relates. Such statement shall be in the form set out in the Third Schedule to these Rules.

(3) In addition to the evidence contained in the statement referred to in paragraph (2) of this rule, it shall be the duty of the prosecutor whenever possible to call as a witness an officer to give to the court any information in the possession of the military authorities regarding-

(a) the accused’s family background and responsibilities and any other circumstances which may have made him more susceptible to the commission of the offence charged;

(b) his general conduct in the service; and

(c) particulars of offences which do not appear in the
statement above referred to of which the accused has been found guilty by a civil court not being offences of which he was found guilty under the age of fourteen years:

Provided that the court shall not be informed of any such civil offence unless the finding is proved in accordance with section 159 of the Act or the accused has admitted, after the purpose for which such admission is required has been explained to him, that he has been found guilty of the offence.

(4) The accused may cross-examine any witness who gives evidence in accordance with paragraphs (2) and (3) of this rule and if the accused so requires the service books, or a duly certified copy of the material entries therein, shall be produced, and if the contents of the form are in any respect not in accordance with the service books or such certified copy, the court shall cause the form to be corrected accordingly.

(5) After paragraphs (1), (2), (3) and (4) of this rule have been complied with the accused may-

(a) give evidence on oath and call witnesses in mitigation of punishment and to his character; and

(b) address the court in mitigation of punishment.

Deliberation on Sentence

Persons Entitled to be Present during Deliberation on Sentence

64. While the court is deliberating on its sentence no person shall be present except the president, members, judge advocate (if any) and any officer under instruction.
Sentence and Recommendation to Mercy

65. (1) The court shall award one sentence in respect of all the offences of which the accused is found guilty.

(2) The sentences awarded pursuant to paragraph (1) of this rule shall be in the appropriate form set out in the Fourth Schedule to these Rules.

(3) The opinion of the president and each member as to the sentence shall be given orally and in closed court and their opinions shall be given in order of seniority commencing with the junior in rank.

(4) The court may make a recommendation to mercy and if it does so shall record in the proceedings its reasons for making it.

Postponement of Deliberation on Sentence

66. Where two or more accused are tried separately by the same court upon charges arising out of the same transaction, the court may, if it thinks that the interests of justice so require, postpone its deliberation upon the sentence to be awarded to any one or more of such accused until it has recorded and announced its findings in respect of all of such accused.

Announcement of Sentence and Conclusion of Trial

Announcement of Sentence and Conclusion of Trial

67. (1) The sentence, and any recommendation to mercy together with the reasons for making it, shall be announced in open court. The sentence shall also be announced as being subject to confirmation.

(2) When paragraph (1) of this rule has been complied with the president shall announce in open court that the trial is concluded.
(3) Immediately after the conclusion of the trial the president and judge advocate (if any) shall date and sign the record of the proceedings. The president or the judge advocate shall then forward it as directed in the convening order.

General Duties of the President, Prosecutor and the Defending Officer or Attorney-at-law

General Duties of the President

68. It shall be the duty of the president to ensure that the trial is Conducted in accordance with the Act and these Rules and in a manner befitting a court of justice and in particular-

(a) to ensure that the prosecutor and the defending officer or Attorney-at-law conduct themselves in accordance with these Rules;

(b) to ensure that the accused does not suffer any disadvantage in consequence of his position as such or of his ignorance or of his incapacity to examine or cross-examine witnesses or to make his own evidence clear and intelligible, or otherwise;

(c) to ensure that an officer under instruction does not express an opinion to the court on any matter relating to the trial before the court has come to its finding, nor on sentence before the court has decided upon the sentence;

(d) when there is no judge advocate present, to ensure that a proper record of the proceedings is made in accordance with Rule 83 and that the record of the proceedings and exhibits are properly safeguarded.
in accordance with Rule 55.

**General Duties of Prosecutor and Defending Officer or Attorney-at-Law**

69. (1) It shall be the duty of the prosecutor and of the defending officer or Attorney-at-law to assist the court in the administration of justice, to treat the court and judge advocate with due respect and to present their cases fairly and in particular-

(a) to conform with these Rules and the practice of the civil courts in Belize relating to the examination, cross-examination and re-examination of witnesses;

(b) not to refer to any matter not relevant to the charge before the court; and

(c) not to state as a matter of fact any matter which is not proved or which they do not intend to prove by evidence.

(2) Without prejudice to the generality of any of the provisions of paragraph (1) of this rule, it shall be the duty of the prosecutor to bring the whole of the transaction before the court and not to take any unfair advantage of, or to withhold any evidence in favour of, the accused.

**Attorney-at-Law**

70. (1) Subject to these Rules the following persons shall be allowed to appear as Attorneys-at-Law at a court-martial-

(a) every person who is qualified as an Attorney-at-law according to the law of Belize; and
(b) with the consent of the convening officer, any person who is recognised by him as having in any Commonwealth country or territory outside Belize rights and duties similar to those of an Attorney-at-law in Belize, and being subject to punishment or disability for a breach of professional rules.

(2) Any right granted by these Rules to the accused at a court-martial to call or examine witnesses or to address the court, any right of the accused to object to the admissibility of evidence at a court martial and any right granted to the accused by Rules (18) (e), (f) and (g), 20, 24, 29 - 33, 40, 50, 71(2), 83 and 85(9) may be exercised by his defending officer or his Attorney-at-law on his behalf, and any reference in these Rules to any address, request, application, claim, submission, objection or plea to the jurisdiction or in bar of trial made, taken or offered at a court-martial by the accused shall be construed as including any address, request, application, claim, submission, objection or plea to the jurisdiction or in bar of trial made, taken or offered at a court-martial by his defending officer or Attorney-at-law on his behalf.

(3) If the accused is to be defended at his court-martial by an Attorney-at-Law not nominated by the convening officer the accused shall give the convening officer notice of this fact not less than twenty-four hours before his trial.

Powers and Duties of the Judge Advocate

General Duties of the Judge Advocate

71. (1) The judge advocate shall be responsible for the proper discharge of his functions to the Attorney General.

(2) The prosecutor and the accused respectively are at all times after the judge advocate is named to the trial entitled to his opinion on any
question of law or procedure 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.

(3) On the assembly of the court the judge advocate shall advise the court of any defect in the constitution of the court or in the charge sheet, and during the trial he shall advise the court upon all questions of law or procedure which may arise. The court shall accept his advice on all such matters unless it has weighty reasons for not doing so, and if the court does not accept it, its reasons for not doing so shall be recorded in the proceedings.

(4) After the closing addresses the judge advocate shall sum up the evidence and advise the court upon the law relating to the case before the court closes to deliberate on its findings. If in the course of deliberating on its finding the court requires further advice from the judge advocate, it shall suspend its deliberation and ask and be given such advice in open court.

(5) If when the court announces a finding of guilty or a special finding under either sections 84 of the Act or Rule 58(3) the judge advocate is of the opinion that such finding or special finding is contrary to the law relating to the case, he shall once more, but not more than once more, advise the court what findings are, in his opinion, open to it. The court shall then reconsider its finding in closed court. The record of the proceedings relating to such reconsideration shall be in the form set out in the Third Schedule to these Rules.

(6) The judge advocate shall be present whenever the court is sitting whether in open or closed court, except when the court is deliberating on the finding on the charge or on a revision thereof.

(7) The judge advocate has equally with the president the duty of ensuring that the accused does not suffer any disadvantage in consequence of his position as such or of his ignorance or of his incapacity to examine or cross-examine witnesses, or to make his own evidence clear and intelligible, or otherwise.
(8) The judge advocate shall be responsible for seeing that a proper record of the proceedings is made in accordance with Rule 83 and responsible for the safe custody of the record of the proceedings under Rule 85.

Judge Advocate Sitting Alone

72. (1) Where there is a judge advocate and-

(a) an accused before pleading to a charge offers a plea in bar of trial; or

(b) during the course of a trial any questions as to the admissibility of evidence arises; or

(c) during a joint trial an application is made by any of the accused for a separate trial; or

(d) an application is made by an accused that a charge should be tried separately; or

(e) an application is made by a party calling a witness for permission to treat that witness as hostile; or

(f) a submission is made to the court in respect of any charge that the prosecution has failed to establish a prima facie case for him to answer;

the president may direct that the point at issue shall be determined by the judge advocate in the absence of the president and the members of the court and of any officer under instruction. Where the president so directs he, the members of the court and any officer under instruction shall withdraw from the court.
(2) The judge advocate shall, when the president and members of the court and any officer under instruction have withdrawn in accordance with paragraph (1) of this rule, hear the arguments and evidence relevant to the point at issue and shall give his ruling upon this point and such reasons therefor as he may consider necessary. After the judge advocate has given his ruling, the president and members of the court and any officer under instruction shall return to the court room and the judge advocate shall announce his ruling to them and the court shall follow his ruling.

(3) When a judge advocate sits alone in accordance with this rule the proceedings before him shall form part of the proceedings of the court, and sections 93, 94(1) and (2), 95, 99, 100 to 102 of the Act and Rules 27, 44 to 49, 69, 70, 76 to 78, 81 to 85, 88, 89 and 95 and 100 shall apply to proceedings before the judge advocate sitting alone as they apply to proceedings before the president and members of the court, and anything which is authorised by those sections and those rules to be done by the court or by the president may be done by the judge advocate when sitting alone.

(4) When a judge advocate is sitting alone in accordance with this rule and a person subject to military law commits an offence against section 53(1) of the Act, the judge advocate shall report the occurrence to the president who shall take such action as he considers appropriate.

(5) The judge advocate shall be responsible for ensuring that the president and members do not see the record of the proceedings before the judge advocate when sitting alone until after the court has announced its finding.

Withdrawal and Amendments of Charge-Sheets and Charges

Withdrawal of Charge-Sheets and Charges

73. A court may with the concurrence of the convening officer (which may be signified by the prosecutor) allow the prosecutor to withdraw a charge before the accused is arraigned thereon or a chargesheet before the accused is arraigned
on any charge therein.

Amendment of Charge-Sheets and Charges by the Court

74. (1) At any time during a trial if it appears to the court that there is in the charge-sheets-

(a) a mistake in the name or description of the accused;

(b) a mistake which is attributable to a clerical error or omission;

the court may amend the charge-sheet so as to correct the mistake.

(2) If at any time during a trial at which there is a judge advocate it appears to the court before it closes to deliberate on its finding, that it is desirable in the interests of justice to make any addition to, omission from, of alteration in, a charge which cannot be made under paragraph (1) of this rule it may, if such addition, omission, or alteration can be made without unfairness to the accused, so amend the charge if the judge advocate concurs.

(3) If at any time during a trial at which there is no judge advocate it appears to the court before it closes to deliberate on its finding, that in the interest of justice it is desirable to make any addition to, omission from or alteration in a charge which cannot be made under paragraph (1) of this rule, it may adjourn and report its opinion to the convening officer, who may-

(a) amend the charge if permissible under Rule 75 and direct the court to try it as amended after due notice of the amendment has been given to the accused; or

(b) direct the court to proceed with the trial of the charge without amending it; or
(c) convene a fresh court to try the accused.

*Amendment of Charges by Convening Officer*

75. When a court reports to the convening officer under either Rule 30(2) or Rule 74(3) he may amend the charge in respect of which it has reported to him by making any addition to, omission from or alteration in the charge which, in his opinion, is desirable in the interests of justice and which he is satisfied can be made without unfairness to the accused.

*Sittings and Adjournment of the Court*

*Sitting of the Court*

76. Subject to the provisions of the Act and of these Rules relating to adjournment, a trial shall be continued from day to day and the court shall sit for such time each day as may be reasonable in the circumstances:

Provided that the court shall not sit on Sunday, Christmas Day or Good Friday, unless in the opinion of the court or of the convening officer the exigencies of the service make it necessary to do so.

*Adjournment*

77. (1) During a trial the court may adjourn from time to time and from place to place as the interests of justice require.

(2) A court may adjourn at any time to consult the convening officer on a point of law.

(3) If during a trial any reason emerges which makes it advisable that the court should not continued to hear the case, the court shall adjourn and report thereon to the convening officer.
(4) If at any time during a trial the accused becomes ill and it appears to the court that the illness is such that it will be impracticable to continue the trial, the court shall ascertain the facts of the illness and shall then adjourn and report to the convening officer.

View by Court

78. If at any time during a trial before the court closes to deliberate on its finding it appears to the court that it should, in the interests of justice, view any place or thing, it may adjourn for this purpose. When the court views any place or thing the president, members of the court, judge advocate (if any), prosecutor, accused and defending officer or Attorney-at-law (if any) shall be present.

Absence of President, Members or Judge Advocate

79. (1) If after the commencement of a trial the president dies or is otherwise unable to attend, the court shall adjourn and the senior member shall report to the convening officer.

(2) If after the commencement of a trial any member of the court dies or is otherwise unable to attend, the court, if not thereby reduced below the legal minimum, shall continue with the trial, but if reduced below the legal minimum the court shall adjourn and the president shall report to the convening officer.

(3) If a judge advocate who has been appointed to act at a trial dies or is otherwise unable to attend, the court shall adjourn and report to the convening officer.

(4) If the president or a member of the court is absent during any part of a trial, he shall take no further part in it and the like steps shall be taken as if the president or member, as the case may be, had died.
(5) An officer cannot be added to the court after the accused has been arraigned.

Unfitness to Stand Trial and Insanity

80. (1) If at any time during a trial it appears to the court that the accused may be unfit to stand his trial by reason of insanity it shall take evidence as to his mental condition. If the court after considering the evidence is of the opinion that the accused is fit to stand his trial, it shall proceed with the trial; but if it is of the opinion that the accused is unfit to stand his trial by reason of insanity it shall so find and, its finding shall be announced in open court forthwith and as being subject to confirmation.

(2) If a court, in the course of its deliberation on its finding on a charge finds pursuant to section 95(2) of the Act that the accused was guilty of the offence but was insane at the time of the act or omission which constituted it, its finding shall be announced in open court forthwith as being subject to confirmation.

(3) Immediately after a finding has been announced under either paragraph (1) or paragraph (2) of this rule the president shall announce in open court that the proceedings are terminated and thereupon the president and judge advocate (if any) shall date and sign the record of the proceedings. The president or judge advocate shall forward it as directed in the convening order.

Interviewing and Attendance of Witnesses

Interviewing of Witnesses

81. (1) The prosecution shall not without the consent of the convening officer, or, after the trial has begun without the consent of the president, interview
any witness who was called for the defence at the taking of the summary of evidence, whose statement of evidence was included in the summary of evidence if attached to the abstract of evidence, or whose attendance at the trial the accused has requested in accordance with Rule 18(5).

(2) Except as provided in Rule 48 neither the accused nor any person on his behalf shall without the consent of the convening officer, or, after the trial has begun, without the consent of the president, interview any witness who was called for the prosecution at the taking of the summary of evidence, whose statement of evidence was included in the summary of evidence or whose evidence is included in the abstract of evidence, or in respect of whom the prosecution has given the accused notice under Rule 42 that it intends to call him as a witness at trial.

**Procuring Attendance of Witnesses**

82. (1) A witness who is subject to military law may be ordered by the proper military authority to attend at the taking of a summary of evidence or a trial by court-martial.

(2) A witness who is not subject to military law may be summoned to attend-

(a) the taking of a summary of evidence by an order under the hand of the commanding officer of the accused; or

(b) a trial by court-martial by an order under the hand of an officer authorised to convene a court-martial or of a staff officer on his behalf, or, after the assembly of the court, of the president.

(3) The summons referred to in paragraph (2) of this rule shall, when it relates to the taking of a summary of evidence be in the appropriate
form set out in the First Schedule to these Rules, and, when it relates to a trial by court-martial be in the appropriate form set out in the Third Schedule to these Rules, and shall be served on the witness either personally or by leaving it with some person at the witness’s normal place of abode.

(4) At the time of service of the summons referred to in paragraph (2) of this rule there shall be paid or tendered any expenses which by regulations made by the Minister are payable to a witness in respect of his journey to, attendance at and return from the taking of the summary of evidence or the trial as the case may be:

Provided that for the purposes of this paragraph-

(i) the tender of a warrant or voucher entitling the witness to travel free of charge shall be deemed to constitute tender of his expenses in respect of any travelling authorised by the warrant or voucher; and

(ii) the tender of a written undertaking on behalf of the Minister to defray at the taking of the summary of evidence of the trial, as the case may be, any other expenses payable under such regulations in respect of the witness’s attendance shall be deemed to constitute tender of these expenses.

(5) The provisions of section 87 of the Act shall apply in relation to proceedings at the taking of a summary of evidence as they apply in relation to proceedings at a court-martial, and when so applied they shall be construed as though the words “officer taking the summary of evidence” were substituted for the words “president of the court-martial”.
83. (1) The proceedings of courts-martial shall be recorded in accordance with the following provisions-

   (a) the proceedings of a court-martial shall be recorded in writing in accordance with the appropriate form set out in the Third Schedule to these Rules and in sufficient detail to enable the confirming officer to follow the course of the proceedings and to judge the merits of the case;

   (b) when there is no shorthand writer present the evidence should be taken down in narrative form as nearly as possible in the words used:

       Provided that if the court, judge advocate, prosecutor or accused consider it necessary any particular question and answer shall be taken down verbatim;

   (c) when an objection, submission or application is made during a trial at which there is no shorthand writer, a record shall be made of the proceedings relating to such objection, submission or application if, and in such detail as, the court or judge advocate thinks fit:

       Provided that if the prosecutor or accused so requests a note shall be made of the objection, submission or application, the grounds therefor, the advice of the judge advocate (if any) thereon and the decision of the court;
(d) when any address by the prosecutor or the accused or summing up of the judge advocate is not in writing and there is no shorthand writer present, it shall only be necessary to record so much of such address or summing up as the court or judge advocate thinks proper:

Provided that if the prosecutor or accused so requests, a note shall be made of any particular point in such address or summing up;

(e) there shall not be recorded in the record of the proceedings any matter not forming part of the trial; but if any comment or report seems to the court to be necessary, the president may forward it to the proper military authority in a separate document.

(2) When a shorthand writer has been appointed to act at a trial by court-martial in pursuance of Rule 24, a transcript of the short-hand note of the proceedings shall only be made of that portion of the proceedings which relates to any charge upon which the accused has been found guilty and such other portions of the proceedings as may be required by the confirming officer or in the event of the accused being found not guilty of all the charges, the officer who would have been the confirming officer if the accused had been found guilty of any of the charges.

Exhibits

84. (1) Subject to paragraph (2) of this rule, any document or thing admitted in evidence shall be made an exhibit.

(2) When an original document or book is produced to the court by a witness, the court may at the request of the witness compare a copy of it or an extract of the relevant parts therefrom with the original, and after it has
satisfied itself that such copy or extract is correct and the president or the judge advocate has certified thereon that the court has compared it with the original and found it correct, the court may return the document or book to the witness and attach the copy or extract to the record of the proceedings as an exhibit.

(3) Every exhibit shall-

(a) be marked with a number or letter and be signed by the president or judge advocate or have a label bearing a number or letter and the signature of the president or judge advocate affixed to it;

(b) be attached to or kept with the record of the proceedings, unless in the opinion of the court having regard to the nature of the exhibit or for other good reason it is not expedient to attach it to or keep it with the record.

(4) When an exhibit is not attached to or kept with the record of the proceedings under paragraph (3)(b) of this rule, the president shall ensure that proper steps are taken for its safe custody.

Custody and Inspection of Record of Proceedings during Trial

85. (1) During a trial at which there is no judge advocate, the record of the proceedings and the exhibits shall be deemed to be in the custody of the president. During a trial at which there is a judge advocate the record and the exhibits shall be deemed to be in the custody of the judge advocate, save when he is not present in closed court when they shall be deemed to be in the custody of the president.
(2) With the permission of the court, the prosecutor or the accused may at any reasonable time before the trial is concluded have a particular part of the record of the proceedings read to him, and, if proper precautions are taken for its safety, inspect any exhibit.

Confirmation, Revision and Promulgation

Confirmation and Promulgation

86. (1) When a confirming officer receives the record of the proceedings of a court-martial and the finding of the court requires confirmation, he shall record his decision thereon and on any sentence on the record of the proceedings in the appropriate form set out in the Third Schedule to these Rules, and such record of his decision shall form part of the record of the proceedings.

(2) When a court has accepted a plea of guilty made under Rule 34(2) the confirming officer may confirm its finding notwithstanding that the court has accepted the plea without the concurrence of the convening officer if, in the opinion of the confirming officer, it is in the interests of justice to do so.

(3) When a court has rejected a plea to the jurisdiction of the court or a plea in bar of trial or has overruled an objection to a charge, it shall not be necessary for the confirming officer to approve specifically the decision of the court, but his approval shall be implied from his confirming the finding on the charge to which the plea or objection relates. If he disapproves the decision of the court to reject the plea or to overrule the objection he shall withhold confirmation of the finding on the charge to which the plea or objection relates.

(4) A confirming officer may state his reasons for withholding confirmation in any case, but if he withholds confirmation where a court has rejected a plea to the jurisdiction or a plea in bar of trial or has overruled an objection to the charge, because he disapproved this decision of the court, he shall when recording his decision under paragraph (1) of this rule state that he has withheld confirmation for this reason.
(5) If the sentence of a court-martial is informally expressed, the confirming officer may in confirming the sentence vary the form thereof so that it shall be properly expressed.

(6) Whenever it appears that there is sufficient evidence or a plea of guilty under either paragraph (1) or paragraph (2) of Rule 34 to justify the finding of the court, such finding and any lawful sentence consequent thereon may be confirmed, and if confirmed shall be valid, notwithstanding any deviation from these Rules, if the accused has not been prejudiced by such deviation.

(7) When a confirming officer has confirmed a finding and sentence of a court or has withheld confirmation thereof, he shall send the record of the proceedings to the commanding officer of the accused for promulgation to the accused of the finding and sentence, or of the fact that confirmation has been withheld, as the case may be. The fact of promulgation shall be recorded on the record of the proceedings in the form set out in the Third Schedule to these Rules. If confirmation has been withheld because the confirming officer disapproves the court’s decision to reject a plea to the jurisdiction or a plea in bar of trial or to overrule an objection to the charge, the accused shall be so informed.

Revision

87. (1) The proceedings and decision of a court on revision shall be recorded on the record of the proceedings in the appropriate form set out in the Third Schedule to these Rules, and the president shall date and sign such record and decision and return it to the confirming officer, after it has been signed by the judge advocate (if any).

(2) When an accused is acquitted on revision the revised finding shall be communicated to the accused in such manner as may be specified by the confirming officer.
Loss of Proceedings

Loss of Original Record of Proceedings before Confirmation

88.  (1) If before confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and a copy exists, such copy may, if the president or the judge advocate certifies it to be correct, be accepted and used in lieu of the original.

             (2) If before confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and no copy thereof exists, but evidence of the proceedings of the court can be procured to enable the record or part thereof which has been lost to be reconstituted sufficiently to permit the confirming officer to follow the course of the proceedings and to judge the merits of the case, the record as so reconstituted may, with the consent of the accused, be accepted and used in lieu of the original:

Provided that where part only of the original record of the proceedings of a court-martial has been lost, and the part which remains is sufficient to enable the confirming officer to follow the course of the proceedings and judge the merits of the case, such remaining part may, with the consent of the accused, be accepted and used as if it were the complete record, and in such case it shall not be necessary to reconstitute the part of the record which has been lost.

             (3) If before confirmation the whole or any part of the original record of the proceedings of a court-martial is lost and such loss cannot be made good under either paragraph (1) or paragraph (2) of this rule, the confirming officer shall withhold confirmation and shall record his decision in the appropriate form set out in the Fourth Schedule to these Rules.

Loss of Original Record of Proceedings after Confirmation

89.  If after confirmation the whole or any part of the original record of the
proceedings of a court-martial is lost and a copy thereof is certified by the president or the judge advocate to be correct, or a sufficient record of the charge, finding, sentence and proceedings before the court and of the confirmation of the finding and sentence remains or can be reconstituted to permit of the case being reviewed or the sentence reconsidered, such copy or reconstituted record or remaining part of the record may be accepted and used in lieu of the original.

**Custody of the Record after Confirmation**

**Custody and Preservation of Proceedings after Confirmation**

90. For the purposes of section 106(1) of the Act the prescribed period during which the record of the proceedings of a court-martial shall be kept in the custody of the Governor-General shall be six years from the conclusion of the trial.

**Petitions**

91. If an accused who has been sentenced by a court-martial or who has been found by a court-martial to be unfit to stand his trial or who has been found guilty but insane wishes to petition against the finding or sentence or both he shall present a petition to the confirming authority in the appropriate form set out in the Sixth Schedule to these Rules.

**Miscellaneous Provisions**

**Exceptions from Rules on account of the Exigencies of the Service**

92. (1) Where in the opinion of the officer who is or would be responsible for convening a court-martial to try the accused or, if he is not
available, of the senior officer on the spot, the exigencies of the service render compliance with all or any of the provisions of the Rules mentioned in paragraph (4) of this rule impracticable, the officer who is or would be responsible for convening a court-martial to try the accused, or the senior officer on the spot as the case may be, may make a declaration to that effect in the appropriate form set out in the Third Schedule to these Rules.

(2) Any declaration made under paragraph (1) of this rule by the senior officer on the spot shall be forwarded by him as soon as possible to the officer who is or would be responsible for convening a court martial to try the accused.

(3) When a declaration has been made under paragraph (1) of this rule it shall not be necessary to comply with any provision of these Rules which is mentioned in such declaration and these Rules shall be construed accordingly.

(4) The provisions of these Rules in respect of which a declaration may be made under paragraph (1) of this rule are:

(a) Provisos (a) and (b) to Rule 4(1);

(b) Rule 6(2) insofar as it relates to the accused’s right to insist that a witness shall be compelled to attend the taking of a summary of evidence for cross-examination;

(c) Rule 18 paragraphs (2) and (3) and paragraph (4) insofar as it provides that the documents specified therein shall be given to the accused not less than twenty-four hours before his trial.

(5) If an accused is brought to trial by court-martial, any declaration which has been made in his case under paragraph (1) of this rule shall be
attached to the record of the proceedings of the court-martial.

*Exceptions from Rules in the Interests of Security*

93. (1) When in the opinion of the officer who is or would be responsible for convening a court-martial to try the accused, or, if he is not available, of the senior officer on the spot a charge-sheet, summary or abstract of evidence or other document which, or a copy of which, is required under these Rules to be given to an accused contains information the disclosure of which would or might be directly or indirectly useful to an enemy, the officer who is or would be responsible for convening a court-martial to try the accused, or the senior officer on the spot, as the case may be, may make a declaration to that effect in the appropriate form set out in the Third Schedule to these Rules specifying the document concerned.

(2) Any declaration made under paragraph (1) of this rule by the senior officer on the spot shall be forwarded by him as soon as possible to the officer who is or would be responsible for convening a court-martial to try the accused.

(3) When a declaration has been made under paragraph (1) of this rule it shall not be necessary to give to the accused any document mentioned in that declaration, or any copy of such a document, and it shall be a sufficient compliance with these Rules if the accused is given a proper opportunity to inspect such document while preparing and making his defence.

(4) If an accused is brought to trial by court-martial, any declaration which has been made in his case under paragraph (1) of this rule shall be attached to the record of the proceedings of the court-martial.
Defence

94. A deviation or omission from a form or form of words set out in a Schedule to these Rules shall not, by reason only of such deviation or omission, render any document, act or proceeding invalid.

Cases Not Covered by Rules

95. In any case not provided for by these Rules such course shall be adopted as appears best calculated to do justice.
FIRST SCHEDULE

Rules 7, 6 and 93

FORMS FOR COMMANDING OFFICERS

(1) SUMMARY OF EVIDENCE.

(2) ABSTRACT OF EVIDENCE.

(3) CERTIFICATE TO BE ATTACHED TO ABSTRACT OF EVIDENCE AFTER IT HAS BEEN HANDED TO THE ACCUSED.

(4) SUMMONS TO A WITNESS TO ATTEND THE TAKING OF A SUMMARY OF EVIDENCE.

(1) SUMMARY OF EVIDENCE

Summary of evidence in the case of ………………………………. (number, rank, name, unit or other description).

Taken by (the commanding officer of the accused) ( ...................................
.................................................... (rank, name, unit)
on the direction of the commanding officer of the accused.) .....................................................
.................................... (number, rank, name, unit or other description),
having been duly sworn1 states-
(Cross-examined by the accused).

1 Question 1 .....................................................
Answer 1 .....................................................

or
FIRST SCHEDULE (cont.)

(The accused declines to cross-examine this witness)

...........................................................................................
(Signature and rank (if any) of witness)

or

...........................................................................(number, rank, name, unit or other description).

A written statement of this witness’s evidence purporting to be signed by him has been read to the accused and is included in this summary at page .................................. Having regard to ............................ (insert grounds for non-attendance of witness-see Rule 6 (b)) the attendance of this witness cannot in my opinion be readily procured.

(The accused does not demand the attendance of this witness for cross-examination.)

(The accused demands the attendance of this witness for cross-examination but the witness is not compellable and has refused to attend.)

...........................................................................................
(Signature of officer taking the summary of evidence)

or

................................................................................................... (description)

A written statement of this witness’s evidence has been read to the accused and is included in this summary at page .................................. (The accused does not object to the application of Rule of Procedure 6 (b)). (The accused objects to the application of Rule of Procedure 6 (c) but the witness is not compellable and has refused to attend.)
FIRST SCHEDULE (cont.)

The accused having been duly cautioned in accordance with Rule of Procedure 6(d) reserves

or

The accused having been duly cautioned in accordance with Rule of Procedure 6(d) elects (to give evidence on oath) (to make a statement without being sworn) and to call a witness(es). 3

The accused .................................. (number, rank, name, unit or other description) having been duly sworn states-

.................................................................

(Signature and rank (if any) of accused if he signs)

(number, rank, name, unit or other description) having been duly sworn states-

.................................................................

(Signature and rank (if any) of witness)

or

................................................................. (number, rank, name, unit or other description)

A written statement of this witness’s evidence purporting to be signed by him has been read to the accused and is included in this summary at page ........................ Having regard to .................................................................

................................................................. (insert grounds for non-attendance of witness—see Rule 9(e) the attendance of this witness cannot in my opinion be readily procured.

.................................................................

(Signature of officer taking the summary of evidence)

Certified that Rule of Procedure 6 has been complied with.

witness for the defence.

witness for the defence.

witness for the defence.
FIRST SCHEDULE (cont.)

This summary of evidence was taken by me at ............................... in the presence and hearing of the accused on the ......................... day(s) of .................................................... 20 .........

........................................................................................................
(Signature and rank of officer taking the summary of evidence)

1 When a witness or the accused affirms the words “duly affirmed” should be substituted for the words “been duly sworn” and when a witness is a child who is too young to give evidence on oath or the accused makes statement without being sworn the words “without being sworn” should be substituted for the words “having been duly sworn”.
2 See, however, Rule 6(g).
3 Omit the words “and to call a witness(es)” if they are not applicable.

(2) ABSTRACT OF EVIDENCE

Abstract of evidence in the case of ...................................................(number, rank, name, unit or other description) consisting of the .............................. (insert the number of statements) attached statements and ......................... (insert the number of precis) precis of evidence of witnesses for the prosecution and compiled by me (the commanding officer of the accused) (................................. on the direction of the commanding officer of the accused).

Dated ........................................ 20 ............ ...........................................
(Signature and rank)

1 Strike out any references to statements or precis which are not applicable.
2 Insert name and rank of the officer making the abstract.
FIRST SCHEDULE (cont.)

(3) CERTIFICATE TO BE ATTACHED TO ABSTRACT OF EVIDENCE AFTER IT HAS BEEN HANDED TO THE ACCUSED

Certified that I \(^1\) ..............................................................

..............................................................
on the .................................. day of ........................................ 20 ..............
handed to the accused ..............................................................

..............................................................
a copy of the abstract of evidence relating to him dated the .....................

............. day of ..................... 20 ............ and duly cautioned him
in accordance with Rule of Procedure 7(2) and that (on the ..............................
day of ........................................ 20 .............) he elected to make
and sign the statement which is marked ..............................................................
and attached to this certificate (he did not make a statement).

(The accused submitted .......................................................... statements of
evidence for the defence which are marked ...........................................
respectively) and attached to this certificate).

Dated ........................................ 20 .............. ....................................................

(Signature of certifying officer)

\(^1\) Insert rank, name and unit of officer signing the certificate.

\(^2\) Insert number, rank, name, unit or other description of the accused.

(4) SUMMONS TO A WITNESS TO ATTEND THE TAKING
OF A SUMMARY OF EVIDENCE

To ..............................................................

WHEREAS a charge has been preferred against ..........................................

AND WHEREAS I have directed a summary of the evidence to be taken at
................................................................ on the ......................... day of ..........20 ..............

YOU ARE PURSUANT TO SECTION 107 OF THE DEFENCE ACT
AND RULE 83 OF THE RULES OF PROCEDURE MADE THEREUNDER HEREBY SUMMONED and required to attend as a witness the taking of the said summary of evidence at .................................................................................................................. on the ...................................... day of ................................. 20 ............ at .......... o’clock in the ............................... noon and bring with you the documents hereinafter mentioned, viz: ........................ ............................................................ ........................ ............................................................ Whereof you shall fail at your peril.

Given under my hand at ........................................... on the ................................. day of ................................. 20 ............

(Signature rank and unit)
Commanding officer of the accused

1 Insert name and address of the person to whom the summons is to be sent.
2 Insert the number, rank, name, unit or other description of the accused.
3 Insert the place where the summary of evidence is to be taken.
4 Specify the documents (if any) which the witness is to bring. If the witness is not required to bring any documents, strike out the words relating to documents.

SECOND SCHEDULE

Rules. 10 and 11.

CHARGE-SHEETS

(1) COMMENCEMENT OF CHARGE-SHEETS.
(2) STATEMENTS OF OFFENCES.
(3) ILLUSTRATION OF CHARGE-SHEETS.
(1) COMMENCEMENT OF CHARGE-SHEETS DEFENCE ACT

SECTION 161

(1) (a) The accused ......................... an officer of the regular force is charged with-
        a soldier

(1) (b) The accused ......................... an officer attached to the Force is charged with-
        a soldier

(1) (c) The accused ......................... an officer of the volunteer element of the Force is charged with-

(1) (d) The accused ......................... a soldier of the volunteer element of the Force when

    called out on permanent service
    called out on temporary service
    undergoing training
    performing training or duty
    serving on the permanent staff
    of the volunteer element of the Force

    is charged with-

(1) (e) The accused ......................... an officer of the reserve of the Force when called out on
        a soldier
        permanent service is charged with-

SECTION 100

(1) The accused ..................... formerly ................ (set out how accused was formerly subject to military law).

(2) and not liable to trial by court-martial under the provisions of section 100(1) of the Defence Act.
(2) STATEMENTS OF OFFENCES

Defence Act

*Misconduct in action and other offences arising out of Military service*

SECTION 30

(1) Misconduct in action contrary to section 30(1) of the Defence Act

(a) Misconduct in the presence or vicinity of the enemy contrary to section 30(2)

(b) Misconduct in action when under orders

SECTION 31

(a) Assisting the enemy contrary to section 31(1) of the Defence Act.

(b) Misconduct in action when under orders

(c) Misconduct in the presence or vicinity of the enemy

(d) Misconduct in action when under orders

SECTION 32

Obstructing an action or operation contrary to section 32 of the Defence Act.
SECTION 33

(a) Sleeping when on guard duty contrary to section 33(a) of the Defence Act.

Leaving his place of duty when under orders to regulate traffic contrary to section 33(a) of the Defence Act.

(b) Striking on guard duty contrary to section 33(b) of the Defence Act.

Using force against a person under orders to regulate traffic contrary to section 33(b) of the Defence Act.

(c) Compelling a person under orders to regulate traffic to let a person pass contrary to section 33 (c) of the Defence Act.

SECTION 34

(a) Failing to attend for a duty contrary to section 34 (a) of the Defence Act

Leaving a duty

(b) Neglecting to perform a duty contrary to section 34(b) of the Defence Act.

Negligently performing
SECTION 35

(a) Looting contrary to section 35 of the Defence Act.

(b) Incitement to mutiny contrary to section 35 of the Defence Act.

(c) Failing to suppress or prevent mutiny contrary to section 35 of the Defence Act.

SECTION 36

(a) Mutiny relating to the enemy contrary to section 36 (1) (a) of the Defence Act.

(b) Incitement to mutiny relating to the enemy contrary to section 36 (1) (e) of the Defence Act.

(2) Mutiny contrary to section 36 (2) of the Defence Act.

SECTION 37

(a) Failing to suppress or prevent mutiny contrary to section 37 (a) of the Defence Act.

(b) Failing to report mutiny contrary to section 37 (b) of the Defence Act.

SECTION 38

(a) Striking using violence to his superior officer contrary to section 38(1) (a) of the Defence Act.
SECTION 38

(1) (b) Using threatening or insubordinate language to his superior officer contrary to section 38(1)(b) of the Defence Act.

SECTION 39

Disobeying a lawful command contrary to section 39 of the Defence Act.

SECTION 40

(1) Disobedience to standing orders contrary to section 40(1) of the Defence Act.

Desertion, absence without leave, etc.

SECTION 41

(1) Desertion contrary to section 41(1) of the Defence Act.

SECTION 42

Absence without leave contrary to section 42 of the Defence Act.
SECTION 43

(a) Failing to report a deserter or absentee without delay or a person who has improperly absented himself contrary to section 43(a) of the Defence Act.

(b) Failing to take steps to cause the apprehension of a person attempting to desert or absent himself contrary to section 43(b) of the Defence Act.

Malingering and drunkenness

SECTION 44

(1) Malingering contrary to section 44(1) of the Defence Act.
SECTION 45

Drunkenness contrary to section 45(1) of the Defence Act.

Disorderly conduct

SECTION 46

(a) Fighting contrary to section 46(a) of the Defence Act.
(b) Using threatening, abusive, insulting or provocative words likely to cause a disturbance contrary to section 46(b) of the Defence Act.

SECTION 47

(1) (a) Stealing public property contrary to section 47(1)(a) of the Defence Act.
       (Fraudently misapplying) service property property belonging to a person subject to military law.

(1) (b) Receiving public property service property property belonging to a person subject to military law.
       (contrary to section 47(1)(b) of the Defence Act.)
SECTION 47 (Cont’d)

(1) (c) Wilfully damaging public property contrary to section 47(1)(c) of the Defence Act.

(1) (d) By wilful neglect causing damage to public property contrary to section 47(1)(d) of the Defence Act.

(2) (a) By negligence causing damage to public property contrary to section 47(2) of the Defence Act.

(2) (b) Being guilty of a wilful act likely to cause damage to public property contrary to section 47(2)(b) of the Defence Act.
SECTION 48

Misapplying Wastefully property contrary to section 48 of the Defence Act.

SECTION 49

(1) (a) Making away with Losing this equipment contrary to section 49(1)(a) of the Defence Act.

(1) (b) Negligently damaging Negligently allowing to be damaged a decoration contrary to section 49(1)(b) of the Defence Act.

Offences relating to and by persons in custody

SECTION 50

(1) Wilfully allowing a person to escape contrary to section 50(1) of the Defence Act.

(2) (a) Releasing a person without authority contrary to section 50(2)(a) of the Defence Act.

(2) (b) Allowing a person to escape contrary to section 50(2)(b) of the Defence Act.

SECTION 51

(1) Refusing to obey Striking Using Offering an officer who orders him into arrest contrary to section 51(1) of the Defence Act.
SECTION 51 (Cont’t)

(2) Striking, Using, Offering violence to a person whose duty it is to apprehend him in whose custody he is contrary to section 51 (2) of the Defence Act.

SECTION 52

Escaping from custody contrary to section 52 of the Defence Act.

Offences relating to courts-martial and civil authorities.

SECTION 53

(1) Contempt of a court-martial contrary to section 53(1).

SECTION 54

Making a false statement contrary to section 54 of the Defence Act.

SECTION 55

(a) Obstructing a police officer contrary to section 55 of the Defence Act. (b) Preventing an arrest}
Miscellaneous offences

SECTION 56

Disclosing information without authority contrary to section 56(1) of the Defence Act.

Purporting to disclose

SECTION 57

Making a false answer on enlistment contrary to section 57 of the Defence Act.

SECTION 58

(a) Making a false official document contract to section 58(a) of the Defence Act.

Making

Signing

Making a false entry in an

(b) Altering an entry in

Altering

Suppressing

Defacing

Making away with

(c) Failing to make an entry in an official document with intent to deceive contrary to section 58(c) of the Defence Act.
SECTION 59
Spreading reports relating to operations likely to create despondency or unnecessary alarm contrary to section 59 of the Defence Act.

SECTION 60
Scandalous conduct unbecoming the character of an officer contrary to section 60 of the Defence Act.

SECTION 61
(a) Striking or ill-treating
(an officer of inferior rank or
a warrant officer of less seniority)
(b) Striking or ill-treating
(a warrant officer of less seniority
of an officer of inferior rank or
a soldier)

SECTION 62
(a) Cruel and unnatural
(kind contrary to section 62 of the Defence Act.
(b) Disgraceful conduct of
(a non-commissioned officer
of an inferior rank or
a soldier
)
SECTION 63

(a) Making a false accusation contrary to section 63(a) of the Defence Act.

(b) { Making a false statement in a complaint contrary to section 63(b) of the Defence Act.
      Wilfully suppressing a material fact

SECTION 64

Attempting to commit an offence contrary to section 64 of the Defence Act that is to say (set out the offence.)

SECTION 66

Conduct to the prejudice of good order and military discipline contrary to section 66 of the Defence Act.

Civil Offences

SECTION 67

Committing a civil offence contrary to section 67 of the Defence Act (here describe the civil offence in such words as sufficiently describe the civil offence).
(3) ILLUSTRATION OF CHARGE-SHEETS

CHARGE-SHEET

The accused No .................................. Sergeant James Black the Belize Defence Force a soldier of the regular force is charged with:

STEALING PUBLIC PROPERTY CONTRARY TO SECTION 47 (1) (a) OF THE DEFENCE ACT.

First charge in that he
at Belize City on the ............. day of ................. 2 ......, stole a pair of binoculars public property.

ABSENCE WITHOUT LEAVE CONTRARY TO SECTION 42 OF THE DEFENCE ACT.

Second charge in that he
at Belize City absented himself without leave from the ................. day of ..................... 2 ......
to the ...................... day of .................... 2 ........ .

Belize City

(A.N. Other) Lt. Colonel
Commanding the Belize Defence Force

To be tried by court-martial

Belmopan
10th March 2003.

(Colville N. Young)
Governor-General of Belize, or

(S Brown) Captain authorised to sign
for the Governor-General of Belize.
THIRD SCHEDULE
[Rules 15, 59, 63, 82, 83, 86, 87, 92 and 93]

COURT-MARTIAL FORMS

(1) CONVENING ORDERS.
(2) DECLARATION UNDER RULES 92 AND 93.
(3) SUMMONS TO A WITNESS TO ATTEND A COURT-MARTIAL.
(4) RECORD OF PROCEEDINGS OF A COURT-MARTIAL.
(5) FINDINGS.
(6) RECORD OF RECONSIDERATION OF FINDING UNDER RULE 71(5).
(7) SERVICE RECORD OF ACCUSED.
(8) RECORD OF PROCEEDINGS ON REVISION UNDER SECTION 91 OF THE ACT.
(9) CONFIRMATION.
(10) PROMULGATION.

(1) CONVENING ORDERS

CONVENING ORDERS FOR A COURT-MARTIAL

ORDERS BY ........................................................................................................................................
Commanding ........................................................................................................................................
(Place) ........................................................................................................................................

The detail of officers as mentioned below will Name, etc.
assemble at of accused

.............................. at ........................ hours on the ................................. ....................................

..................................

day of .................................. 2 ................ for the purposes of .............................................. trying by a court-martial the accused person(s) named in the margin.
PRESIDENT

MEMBERS

WAITING MEMBERS

JUDGE ADVOCATE*

................................. is hereby appointed judge advocate.

A field officer having suitable qualification is not in the opinion of the convening officer available with due regard to the public service.

The record of the proceedings will be forwarded to ............................................................

Signed this .........................day of ............................................ 2 ..................................

(Signature, rank and appointment of the convening officer)

*Strike out if not applicable

1Insert rank and name of convening officer.

2 Insert number, rank, name, unit or other description of the accused.

3 A member or a waiting member may be described either by giving his rank, name and unit or thus: “A .......... (rank) to be detailed by the officer commanding ................. (unit)” see Rule of Procedure 16 (a).

4Insert the judge advocate’s name and any legal qualifications which he has.
THIRD SCHEDULE (con’t)

(2) DECLARATIONS UNDER RULES 92 AND 93

Declaration under Rule of Procedure 92

In the case of ........................................................................................................................................ 1
I ................. 2 (the officer who (is) (would be) responsible for convening a court-martial to try the accused) (the senior officer on the spot) hereby declare that in my opinion the following exigencies of the service, namely: ........................................................................................................................................
.........................................................................................................................................................
.........................................................................................................................................................
.........................................................................................................................................................
render compliance with the following provisions of the Rules of Procedure .................................
.........................................................................................................................................................
.........................................................................................................................................................
.........................................................................................................................................................
impracticable.
Signed at .................. this .................. day of .................. 2 .................. .

...........................................................................................................................
(Signature)

1Insert number, rank, name, unit or other description of accused.
2Insert rank, name and appointment of officer making the declaration.

Declaration under Rule of Procedure 93

In the case of ........................................................................................................................................ 1
I ........................... 2 (the officer who (is) (would be) responsible for convening a court-martial to try the accused) (the senior officer on the spot) hereby declare that in my opinion the 3.......................... contain(s) information the disclosure of which would or might be directly or indirectly useful to an enemy.
THIRD SCHEDULE (con’t)

Signed at ................................... this ................ day of 2 ...............

...............................................................

(Signature)

1Insert number, rank, name, unit or other description of accused.
2Insert name and appointment of officer making the declaration.
3Here indicate the document(s).

(3) SUMMONS TO A WITNESS TO ATTEND A COURT-MARTIAL

To ......................................................................................................................................................... 1
WHEREAS a court-martial (has been ordered to assemble at ......................) (has assembled at ......................) on the ...................... day of ...................... 2 ...............

YOU ARE PURSUANT TO SECTION 107 OF THE DEFENCE ACT AND RULE 82 OF THE RULES OF PROCEDURE, MADE THEREUNDER HEREBY SUMMONED and required to attend as a witness at the sitting of the said court at ...................... day of ...................... 2 ...............
at ...................... o’clock in the ...................... noon and to bring with you the documents hereinafter mentioned, viz 3 ......................

...............................................................

and so to attend from day to day until you shall be duly discharged; whereof you shall fail at your peril.

Given under my hand at ........................ on the ...................... day of ........................ 2 ...............

...............................................................

(Signature, rank and appointment)

An officer authorised to convene a Court-martial.*

President of the court.*
An officer authorised to convene a court-martial.

(4) RECORD OF PROCEEDINGS OF A COURT-MARTIAL

A PAGE 1

RECORD OF PROCEEDINGS OF A COURT-MARTIAL

Proceedings of a .............................................. court-martial held at ..............................................
on the .................................... day of .......................................... 2 ..................... by order of

Commanding ...............................................................
dated the .................................... day of .............................................. 2 .............

PRESIDENT

MEMBERS

JUDGE ADVOCATE

Trial of ............................................................................................................................1

The court complies with Rule of Procedure

............................................................................................................ not being available
owing to ...........................................................................................................................
the president appoints ................................................................... a qualified waiting member
to take his place.
THIRD SCHEDULE (4) A (cont.)

The accused is brought before the court.
Prosecutor ...............................................................................................................................
Defending (officer) (Attorney-at-Law) ....................................................................................
At .............................................. hours the trial begins.
The convening order is read in the hearing of the accused,
marked ......................................... signed by the president or judge advocate and attached to
the record.
The names of the president and members of the court are read in the hearing of the accused and
they severally answer to their names.
Q. Do you object to being tried by me as president, or by any of the officers whose names
you have heard read?
A. ....................................................................................................................................
The proceedings relating to the objection(s) are recorded on ............................................ 2

1Insert the number, rank, name, unit or other description of the accused as given in the
charge-sheet.
2Strike out if not applicable.

B PAGE ......

SWARING

The president, members of the court and judge advocate are duly sworn. The (following)
officers under instruction (listed on page ..............) are duly sworn.
Q. Do you object to ................................................................. as shorthand writer?
A. ....................................................................................................................................
........................................................................................ is duly sworn as shorthand writer.
Q. Do you object to ................................................................. as interpreter?
A. ....................................................................................................................................
........................................................................................ is duly sworn as interpreter.
SPECIAL PLEAS AND OBJECTIONS

The accused offers a plea to the jurisdiction under Rule of Procedure 29. The proceedings relating to his plea are recorded on page ........................................ 2

The accused objects to the .............................. charge(s) under Rule of Procedure 37. The proceedings relating to his objection(s) are recorded on page ........................................ 2

The accused offers (a) plea(s) in bar of trial under Rule of Procedure 31 in respect of the ........................................... charge(s). The proceedings relating to his plea(s) are recorded on page ...................... 2

The accused .......................... applies under Rule of Procedure 32 to be tried separately. The proceedings relating to his application are recorded on page ...........

The accused applies under Rule of Procedure 33 to have charges ........................................ and ..................................... tried separately. The proceedings relating to his application are recorded on page ...................... 2

1If there is an objection the proceedings relating to it should be recorded on a separate numbered page and the fact that this has been done should be recorded in this space with the number of the page.

2Strike out if not applicable.

ARRAIGNMENT

The charge-sheet is read to the accused and he is arraigned on each charge.
The charge-sheet is signed by the president or judge advocate and inserted in the record immediately before this page as page(s) ........
Q. Are you guilty or not guilty of the first1 charge against you which you have heard read?
A. ...............................................................
Q. Are you guilty or not guilty of the second charge against you which you have heard read?2

THE SUBSIDIARY LAWS OF BELIZE

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REVISED EDITION 2003
THIRD SCHEDULE (4) C1 (cont.)

A. ...........................................................................................................................................................................
Q. Are you guilty or not guilty of the third charge against you which you have heard read?²
A. ...........................................................................................................................................................................
Q. Are you guilty or not guilty of the fourth charge against you which you have heard read?²
A. ...........................................................................................................................................................................
Q. Are you guilty or not guilty of the fifth charge against you which you have heard read?²
A. ...........................................................................................................................................................................
Q. Are you guilty or not guilty of the sixth charge against you which you have heard read?²
A. ...........................................................................................................................................................................

The accused having pleaded guilty to the ............................................ charge(s) Rule of Procedure 42 is duly complied with in respect of (this) (these) charge(s).²

The accused’s pleas to the remaining charges are recorded overleaf.²

1 Strike out “first” if there is only one charge.
2 Strike out if not applicable

Q. Are you guilty or not guilty of the seventh charge against you which you have heard read?¹
A. ...........................................................................................................................................................................
Q. Are you guilty or not guilty of the eighth charge against you which you have heard read?¹
A. ...........................................................................................................................................................................

1 Strike out if not applicable.
THIRD SCHEDULE (4) (cont.)

D1 PAGE ......  

PROCEDINGS ON PLEA(S) OF NOT GUILTY

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

The prosecutor (makes an opening address shortly outlining the facts) (makes an opening address which is summarised below) (hands in a written address which is read, signed by the president or judge advocate, marked and attached to the record.)

1Remove this page if there are no pleas of not guilty.

2If the accused asks for an adjournment, the proceedings relating to his application should if necessary, be recorded on a separate page and a record made here that this has been done.

D2 PAGE .....  

The witnesses for the prosecution are called.

being duly sworn says: 1

Continued on page .....  

1When a witness affirms the words “having duly affirmed” should be substituted for the words “being duly sworn” and where a witness is a child who is too young to give evidence on oath the words “without being sworn” should be substituted for the words “being duly sworn”.

1Remove this page if there are no pleas of not guilty.

2If the accused asks for an adjournment, the proceedings relating to his application should if necessary, be recorded on a separate page and a record made here that this has been done.
THIRD SCHEDULE (4) (cont.)

D3 PAGE  ......  

PROCEEDINGS ON PLEA(S) OF NOT GUILTY (continued)\(^1\)

The prosecution is closed. The accused submits under Rule of Procedure 50 that there is no case for him to answer in respect of the .................................................. charge(s). The proceedings relating to this submission are recorded on pages .................. \(^2\)

DEFENCE

Rule of Procedure 51 is complied with.

Q. Do you apply to give evidence yourself on oath or do you wish to make a statement without being sworn?
A. .................................................................

Q. Do you intend to call any other person as a witness in your defence?
A. ........................................................................................................

Q. Is he a witness as to fact or to character only?
A. ........................................................................................................

Q. Do you wish to make an opening address?
A. ........................................................................................................

The accused (makes an opening address which is summarised below) (hands in a written address which is read, signed by the president or judge advocate, marked ........................................................................................................ and attached to the record).

\(^1\) Remove this page if there are no pleas of not guilty.

\(^2\) Strike out this paragraph if not applicable.

\(^3\) Strike out if the accused does not intend to call witnesses as to fact, other than himself.
(Where the accused makes a statement without being sworn)

The accused makes a statement, which is recorded on page .......... (hands in a written statement which is read, marked ...................... and signed by the president or judge advocate, and attached to the record).

(Where evidence on oath is given for the defence)

The witnesses for the defence (including the accused if sworn) are called. witness for the defence being duly sworn says:

Continued on page ......

---

1 Strike out this paragraph if not applicable.
2 When a witness or the accused affirms, the words “having duly affirmed” should be substituted for the words “being duly sworn”; and when a witness is a child who is too young to give evidence on oath the words “without being sworn” should be substituted for the words “being duly sworn”.

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THIRD SCHEDULE (4) *(cont.)*

PROCEEDINGS ON PLEA(S) OF NOT GUILTY *(continued)*

The prosecutor (makes a closing address which is summarised on page ......) (hands in a closing address which is read, marked ....................... signed by the president or judge advocate and attached to the record).  

The accused (makes a closing address which is summarised on page ......) (hands in a closing address which is read, marked ....................... signed by the president or judge advocate and attached to the record).  

The note of the summing-up of the judge advocate is recorded on page ..........  

FINDINGS

The court close to deliberate on their finding(s).  
The court finds that the accused is:  

ANNOUNCEMENT OF FINDING(S)

The court being re-opened the accused is again brought before it.  
The finding(s) (is) read and (with the exception of the finding(s) of “not guilty”) (is) (are) announced as being subject to confirmation.
PROCEEDINGS ON ACQUITTAL ON ALL CHARGES

The accused is released.

Signed at ................................ this ................................ day of ...................... 2 ........

.......................................................... .....................................................

Judge Advocate  President

1Strike out this page if not applicable.
2Strike out if not applicable.
3Insert the number, rank, name, unit or other description of the accused as given on the charge-sheet.
4Set out the finding on each charge in the appropriate form set out in the Fourth Schedule to the Rules of Procedure.
PROCEEDINGS ON PLEA(S) OF GUILTY

The accused is found guilty of

The finding(s) (is) (are) read in open court and (is) (are) announced as being subject to confirmation.

The (summary) (abstract) of evidence is read to the court by the prosecutor, marked ................................................... signed by the president or judge advocate and attached to the record.

or

The prosecutor informs the court of the facts contained in the (summary) (abstract) of evidence which is marked ......................... signed by the president or judge advocate and attached to the record.

1 Strike out this page if not applicable.

2 Insert number, rank and name, unit or other description of the accused as given on the charge-sheet.

3 Record the finding on each charge of which the accused is found guilty in the appropriate form set out in the Third Schedule to the Rules of Procedure.

4 Strike out if not applicable. If this paragraph is struck out, Rule of Procedure 38(2) must be complied with.
F1

PROCEEDINGS ON CONVICTION

Note:  *F2 should be completed before F1 if the accused has pleaded not guilty to all charges. F1 should normally be completed before F2 if the accused has pleaded guilty to any charge but the president may in his discretion complete F2 before F1 if there is no danger of the accused making an inconsistent plea.*

Q. Do you wish to give evidence yourself or to call other witnesses as to your character or in mitigation of punishment?
A. ....................................................................................................

The evidence for the defence as to the accused’s character and in mitigation of punishment, is recorded on pages ........................................................1

Q. Do you wish to address the court in mitigation of punishment?
A. ....................................................................................................

The ......................... (makes an address in mitigation of punishment, which is summarised (below) (on page ..................) (hands in an address in mitigation of “punishment”, which is read, marked ......................................, signed by the president or judge advocate and attached to the record).1
THIRD SCHEDULE (4) F1 (cont.)

The list of offences which the court has, at the request of the accused, agreed to take into consideration is read to the accused, signed by him, marked ......................... signed by the president or judge advocate and attached to the record.²

Final question addressed to the accused personally.

Q. Is there anything further that you wish to say to the court?
A. ........................................................................................................................

The accused makes a statement which is recorded on page ............
The court closes to deliberate on sentence.

* Strike out if F1 is completed before F2
1 Strike out this paragraph if not applicable.
2 Strike out this paragraph if the accused has not requested other offences to be taken into consideration.

F2 PAGE ......

PROCEEDINGS ON CONVICTION

Note: F2 should be completed before F1 if the accused has pleaded not guilty to all charges.

The prosecutor calls evidence as to the accused’s character and record.

........................................................................................................................
is duly sworn.
Q. Do you produce the service record of the accused?
A. I produce .................................................................
Q. Have you compared it with the service books?
A. .................................................................
Q. Do the entries on it correspond with the entries in the service books?
A. .................................................................
THIRD SCHEDULE F2 (Cont.)

The ...................... is read marked ................... signed by the president or judge advocate and attached to the record.

The accused (declines) (elects) to cross-examine this witness (and the cross-examination is recorded on pages ......................).

The prosecutor adduces evidence under Rule of Procedure 63(3) which is recorded on pages ..........................

Final question addressed to the accused personally.

Q. Is there anything further that you wish to say to the court?

A. ........................................................................................................

The accused makes a statement which is recorded on page ............

The court closes to deliberation on sentence.

*Strike out if F2 is completed before F1.

1Strike out this paragraph if the prosecutor does not adduce evidence under Rule of Procedure 63(3).

G PAGE ...... SENTENCE1

The court (having taken into consideration that he has spent .................. days in civil custody and .................. days in close arrest and .................. days in open arrest in connection with the matters for which he is before the court) sentence the accused .................. to .......... 4
ANNOUNCEMENT OF SENTENCE

The court being re-opened, the accused is again brought before it.

The sentence (and recommendation to mercy) is announced in open court; the sentence is announced as being subject to confirmation.

The president announces that the trial is concluded.
Signed at this day of 2

Judge Advocate                  President

1Remove this page if not applicable.
2 The words in brackets are to be struck out when the sentence is mandatory e.g. “to be imprisoned for life” where the offence is murder. In all other cases only words which are inapplicable should be deleted.
3 Insert the number, rank, name, unit or other description of the accused as given on the charge-sheet.
4 Record the sentence in the appropriate form of words set out in the Fourth Schedule to the Rules of Procedure.
5 Strike out if not applicable.

CONFIRMATION1

1 For minutes of confirmation see the Third Schedule to the Rules of Procedure. Promulgation should be recorded immediately below the minute of confirmation in accordance with Rule of Procedure 86(7).
(5) FINDINGS

Acquitted on all charges

not guilty of (the charge) (all the charges).
not guilty of (the charge) (all the charges), and honourably acquit him thereof.

Acquittal on some but not all charges

not guilty of the .......................\(^1\) charge(s) but is guilty of the .......................\(^1\) charge(s).

not guilty of the .......................\(^1\) charge(s) and honourably acquit thereof but is guilty of the .......................\(^1\) charge(s).

Conviction on all charges

guilty of (the charge) (all the charges).

Special findings

guilty of the .......................\(^1\) charge(s) (with the exception of the words .............................\(^2\)) (with the exception that .............................\(^2\)).
not guilty of the offence but is guilty of .................................\(^3\)
THIRD SCHEDULE (5) (cont.)

No finding on alternative charge

guilty of the .........................................\(^1\) charge; the court record no finding
on the ............................................. (alternative) charge.

\(^1\)Insert the number of the charge or charges as numbered in the charge-sheet.

\(^2\)Specify the exception in detail. This form is appropriate when a special finding is made
under Rule of Procedure 58(3).

\(^3\)State the offence of which the accused is found guilty. This form is applicable when a
special finding is made under section 95(2), (5) and (6) of the Defence Act.

Where the accused is unfit to stand his trial by reason of insanity - “By
reason of insanity unfit to stand his trial”.

Accused guilty but insane at the time when the offence was committed -
“Guilty but insane”.

(6) RECORD OF RECONSIDERATION OF
FINDING UNDER RULE 71

The judge advocate advises the court that the finding(s) on the ...............\(^1\)
charge(s) (is) (are) contrary to the law relating to the case, and that in his opinion
the following finding(s) (is) (are) open to them:

................................................................................................................... 2

The court is closed for reconsideration of finding.
The court on reconsideration finds that the accused is\(^3\) .........................

The finding(s) on reconsideration (is) (are) read in open court and (with the exception
of the finding(s) of “not guilty”\(^4\)) (is) (are) announced as being subject to confirmation.

\(^1\) Insert number of charge as numbered in the charge-sheet.

\(^2\) Insert the advice given by the judge advocate.

\(^3\) Set out the finding(s) of the court in the appropriate form(s).

\(^4\) Strike out the words relating to findings of “not guilty” if there is no such finding.
(7) SERVICE RECORD OF ACCUSED

(SERVICE RECORD OF ACCUSED)

<table>
<thead>
<tr>
<th>Number</th>
<th>Rank</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. (i)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. (ii)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. He was enlisted on .................. and commissioned on ..................................
2. He is serving on a.................................................................
3. His age is ........................................... years.
4. He is single/married/divorced/widowed and has ........................ children under the age of 16 years.
5. His gross rate of pay is ........................................... per day, but he is ..........................................
6. His reckonable service towards discharge or transfer to the reserve is ....................... years.
7. His reckonable service towards pension, gratuity, etc, is ............... years.
8. (i) He is entitled to the following decorations and awards:
   (ii) The following acts of gallantry or distinguished conduct are recorded in his conduct sheet:
9. He holds the substantive rank of ......................... with seniority from ................................. and has held the acting rank of ..................... continuously since .................................
10. He has been awaiting trial for ............... days since he was first (in connection with the matters for which he is before the court) charged or placed under arrest, of which ............... days were spent in civil custody, ............... days were spent in close arrest and ............... days were spent in open arrest.
11. He is not now under sentence.
12. According to his conduct sheets, he has been found guilty by his commanding officer or by the commandment of a military establishment of the following offences: 
13. The details, according to his conduct sheets, of offences of which he has been convicted by court-martial or of which he has been found guilty during his service by a court other than a court-martial as set out in the Schedule hereto.

---

1 Delete inapplicable wording.
2 Insert the type and length of the commission or nature and length of the engagement.
3 To be deleted in the case of an officer.
4 If there are no entries in his conduct sheets, enter “nil”
<table>
<thead>
<tr>
<th>No.</th>
<th>Rank</th>
<th>Name</th>
<th>Date and Place of trial</th>
<th>Description of Court</th>
<th>Charges on which convicted or found guilty</th>
<th>Sentence or order of the court as confirmed</th>
<th>Punishment omitted on re-consideration</th>
</tr>
</thead>
</table>

THE SCHEDULE HEREINBEFORE REFERRED TO

I HEREBY CERTIFY that this form and schedule contain a summary of entries in the service books relating to the accused.

Signed this day of ..........................................................

(Name, rank and appointment of officer signing)

A verbatim extract from the service books, stating these convictions, etc., must be inserted.

1 Ommit automatic remission.
THIRD SCHEDULE (cont.)

(8) RECORD OF PROCEEDINGS ON REVISION UNDER SECTION 91 OF THE ACT

At ...................... 1 on the ...................... day ...................... at ...................... hours the court re-assembled by order of ...................... 2 the confirming authority for the purpose of re-considering their finding(s) on the .......... charge(s) Present 4 ..............................................................................................................................

The order directing the re-assembly of the court and giving the reasons therefore is read, marked ......................, signed by the president or judge advocate and attached to the record.

The court having considered the observations of the confirming authority and the whole of the record of the proceedings do now revoke their finding(s) on the .......... charge(s) and find that the accused 5 ................. is 6 .......... and (adhere to their sentence) (sentence the accused to 7 .............................................................................................................................. in substitution for the original sentence).

or

The court having considered the observations of the confirming authority respectfully adhere to their finding(s) on the .......... charge(s) (and to their sentence) (but sentence the accused ................. 5 to 7 ........................................ in substitution for the original sentence).

or

of the record of the proceedings do now revoke their finding(s) on the ...................... 3 charge(s) and find the accused 5 ................. not guilty of (that) (those) charge(s).
Signed at ................................ this .................. day of .................. 2
................................................................. .................................
Judge advocate                  President

1 Insert the name of the place.
2 Insert the rank, name, appointment, etc., of the confirming authority.
3 Specify the number(s) of the charge(s) concerned, e.g., the fifth charge.
4 Give the name of the president and members of the court who are present. If the
   president is absent the senior member must report to the confirming officer. If a
   member is absent and the court is thereby reduced below the legal minimum the
   president must report to the confirming officer.
5 Insert accused’s number, rank, name, or other description as given in the charge-sheet.
6 Set out the finding in the appropriate form of words given in this Schedule.
7 Set out the new sentence in accordance with the appropriate form set out in the Fourth
   Schedule.
THIRD SCHEDULE (cont.)

(9) CONFIRMATION

NOTE: These forms are for guidance only and do not constitute an exhaustive list of all the possible variations and should be adapted to the circumstances of each case.

Confirmed.
I confirm the court’s finding(s), sentence
but (remit ........................................ 1) (commute ........................................ 2).
I confirm the court’s finding(s), sentence
but mitigate the sentence so that it shall be as follows:
I vary the sentence so that it shall be as follows ........................................ and confirm the finding and sentence as so varied.
I confirm the finding(s) but substitute the sentence of .......................................................... for the sentence of the court.
I substitute a finding of ........................................ for the finding of the court and confirm the sentence but (remit ........................................ 1) (commute ........................................ 2) I substitute a finding of ........................................ for the finding of the court and substitute the sentence of ........................................ for the sentence of the court.
I substitute a finding of ........................................ for the finding of the court on the ........................................ charge and confirm the finding(s) of the court on the ........................................ charge(s) and the sentence.
Not confirmed (on the grounds that ........................................)
I confirm the finding(s) of the court on the ........................................ charge(s) but do not confirm their finding(s) on the ........................................ charge(s)
THIRD SCHEDULE (9) (cont.)

(on the grounds that ..............................................)\(^7\), I confirm the sentence but
(remit ..............................................\(^1\)) (commute ..............................................\(^2\))
(The record) (Part of the record) of the proceedings of the .........................
court-martial which tried ................................. at .................................
on the ................................. day of ................................. 2 ........................ having
been lost I do not confirm the finding(s) of the court.
Signed at ........................... this ........................... day of ........................... 2 .......

........................................................................................
(Signature of confirming authority)

---
\(^1\) State what part of the sentence is remitted.
\(^2\) State what the sentence is commuted to.
\(^3\) This form of words may be used when it is impracticable to use either “remit” or
“commute”.
\(^4\) This form of words is appropriate when the court has expressed the sentence informally
or incorrectly and the confirming authority desires to put it into the correct legal form.
\(^5\) This form of words is appropriate when the court has passed an illegal sentence on
the accused and the confirming authority desires to substitute a legal sentence.
\(^6\) This form of words is appropriate where the court has recorded no finding on some
charge alternative to a charge upon which it has recorded a finding of guilty and the
confirming authority being of opinion that the court must have been satisfied of the
accused’s guilt on the alternative charge, wishes to substitute a finding of guilty on
that charge for the findings of the court and to substitute a proper sentence not greater
than that imposed by the court.
\(^7\) Where a confirming authority withholds confirmation because he disapproves of the
decision of the court on a plea to the jurisdiction, in bar of trial or on an objection to a
charge, he should specifically state that he is withholding confirmation for this reason.
In other cases the confirming authority is not bound to give his reasons for withholding
confirmation.
(10) PROMULGATION

Promulgated and extracts taken at ......................... (place) this ........................... day of ......................... 2 ............
(Signature, rank and appointment of officer making the promulgation)
FOURTH SCHEDULE  

SENTENCES

Note: The words in the margin should be entered in the righthand margin of the record of the proceedings of a court-martial opposite the record of the sentence.

OFFICERS

Death. 
To suffer death.

Imprisonment. 
To be imprisoned for .........................

Dismissal with disgrace. 
To be dismissed with disgrace.

Fine. 
To be fined .........................

(Severe reprimand. (Reprimand.)

Stoppages. 
To be put under stoppages of pay until he has made good the sum of .............................. 1 in respect of .......................... 2

WARRANT OFFICERS AND NON-COMMISSIONED OFFICERS

Death. 
To suffer death.

Imprisonment and reduction to the ranks.

To be imprisoned for ......................... and to be reduced to the ranks.
FOURTH SCHEDULE (cont.)

To be dismissed with disgrace and to be reduced to the ranks.

To be reduced (to the ranks) (to the rank of .............................. )

To be fined ............................

To be (severely reprimanded) (reprimanded).

To be put under stoppages of pay until he has made good the sum of
......................... 1 in respect of ......................... 2

Dismissal with disgrace and reduction to the ranks.

(Reduction to the ranks.)

Fine.

(Severe reprimand.)

(Reprimand.)

Stoppages.
FOURTH SCHEDULE (cont.)

SOLDIERS

<table>
<thead>
<tr>
<th>Category</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death.</td>
<td>To suffer death.</td>
</tr>
<tr>
<td>Imprisonment.</td>
<td>To be imprisoned for ................................</td>
</tr>
<tr>
<td>Dismissal with disgrace.</td>
<td>To be dismissed with disgrace.</td>
</tr>
<tr>
<td>Fine.</td>
<td>To be fined ...........................................</td>
</tr>
<tr>
<td>Stoppages.</td>
<td>To be put under stoppages of pay until he has made good the sum of ............... 1 in respect of ................. 2</td>
</tr>
</tbody>
</table>

---

1 Insert the amount which has to be made good by stoppages in respect of the charge or article specified.

2 Specify the charge or article in respect of which the stoppage is to be imposed. If stoppages are being imposed in respect of more than one charge or article the amount which has to be made good in respect of each charge or article must be stated separately.
FIFTH SCHEDULE

OATHS AND AFFIRMATIONS

(1) OATHS AT INVESTIGATIONS BY COMMANDING OFFICERS.

(2) OATHS AT COURTS-MARTIAL.

(3) MANNER OF ADMINISTERING OATHS.

(4) SOLEMN AFFIRMATIONS.

(1) OATHS AT INVESTIGATIONS BY COMMANDING OFFICERS

Interpreter

I swear by Almighty God that I will to the best of my ability truly interpret and translate as I shall be required to do touching the matter being investigated.

Witness

I swear by Almighty God that the evidence which I shall give at this investigation shall be truth, the whole truth and nothing but the truth.
FIFTH SCHEDULE (cont.)

(2) OATHS AT COURTS-MARTIAL

President and members

I swear by Almighty God that I will well and truly try the (accused) (accused persons) before the court according to the evidence, and that I will duly administer justice according to the Defence Act without partiality, favour or affection, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of the president or any member of this court-martial, unless thereunto required in due course of law.

Judge advocate

I swear by Almighty God that I will to the best of my ability carry out the duties of judge advocate in accordance with the Defence Act and the rules made thereunder and without partiality, favour or affection, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion on any matter of the president or any member of this court-martial, unless thereunto required in due course of law.

Officer under instruction

I swear by Almighty God that I will not on any account at any time whatsoever disclose or discover the vote or opinion of the president or any member of this court-martial unless thereunto required in due course of law.

Shorthand writer

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

Interpreter

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

Witness

I swear by Almighty God that the evidence which I shall give before this court-martial shall be the truth, the whole truth, and nothing but the truth.

(3) MANNER OF ADMINISTERING OATHS

Christians taking the oath, shall unless female, remove their head-dress and, holding the Bible or New Testament in their right hand, say to or repeat after the person administering the oath the words of the oath. Jews shall take the oath in the same manner except that they shall wear their head-dress and hold the Old Testament in their right hand.

(4) SOLEMN AFFIRMATIONS

The person making a solemn affirmation shall say to or repeat after the person administering the solemn affirmation the words of the appropriate form of oath except that for the words “I swear by Almighty God” he shall I substitute the words “I (name in full) do solemnly, sincerely and truly declare and affirm” and for the word “swear” wherever it occurs the words “solemnly, sincerely and truly declare and affirm.”
SIXTH SCHEDULE

PETITIONS

Petition to confirming Authority

To the confirming authority.
I ..................................... 1 having been convicted by court-martial on 
.............................. 2 at ..................................... 3 and having been sentenced 
to .................................................. hereby petition against the finding(s) on 
the ..................................... charge(s)4 and the sentence5 on the following 
.............................................................................................................
.............................................................................................................

Signed.....................................6
Dated .....................................

1 Insert the accused’s number, rank, name or other description.
2 Insert the date when accused was convicted.
3 Insert the place where the trial was held.
4 The words ‘the finding(s) on the charge(s)’ should be omitted if the accused is only petitioning against sentence.
5 The words “and the sentence” should be omitted if the accused is not petitioning against sentence.
6 Petitions should be signed by the accused personally but may, if necessary, be signed on his behalf by his representative.
CHAPTER 135

A PROCLAMATION
CALLING OUT THE BELIZE DEFENCE
FORCE VOLUNTEER ELEMENT

By His Excellency
Sir Colville N. Young
G.C.M.G., M.B.E., Ph.D., J.P. (S)
GOVERNOR-GENERAL OF BELIZE.

[30th September, 2000.]

WHEREAS, by sub-section (1) of section 119 of the Defence Act, Chapter 106 of the Laws of Belize, Revised Edition 1980-1990, it is provided that the Governor-General may, at any time when the occasion appears to require, call out the volunteer element of the Belize Defence Force on temporary service;

AND WHEREAS, it appears to me that the danger posed by hurricane “KEITH” requires the calling out of the volunteer element of the Belize Defence Force;

NOW THEREFORE, I, Sir Colville N. Young, Governor-General of Belize, in exercise of the powers vested in me by the aforesaid Act and otherwise, and acting in accordance with the advice of the Minister responsible for National Security, DO HEREBY CALL OUT the volunteer element of the Belize Defence Force (or as many members thereof as is thought necessary) on temporary service.

GIVEN under my hand and the public seal of Belize this 30th day of September in the year of our Lord Two Thousand.

GOD SAVE BELIZE.
CHAPTER 135

A PROCLAMATION
CALLING OUT THE BELIZE DEFENCE FORCE
VOLUNTEER ELEMENT

By His Excellency,
Mr. Robert Leslie,
Acting Governor-General

[8th October, 2001.]

WHEREAS, by sub-section (1) of section 120 of the Defence Act, Chapter 135 of the Laws of Belize, Revised Edition 2000, it is provided that the Governor-General may, at any time when the occasion appears to require call out the volunteer element of the Belize Defence Force on temporary service.

AND WHEREAS, it appears to me that the danger posed by hurricane “IRIS” requires the calling out of the volunteer element of the Belize Defence Force.

NOW THEREFORE, I, ROBERT LESLIE, Acting Governor-General of Belize, in exercise of the powers vested in me by the aforesaid Act and otherwise, and acting in accordance with the advice of the Minister responsible for Defence, DO HEREBY CALL OUT the volunteer element of the Belize Defence Force (or as many members thereof as is thought necessary) on temporary service.

This Proclamation shall come into force on such time and date as the Minister responsible for Defence may specify by public notification.

GIVEN under my hand and the Public Seal of Belize this 8th day of October in the Year of our Lord Two Thousand One.

GOD SAVE BELIZE!!

THE SUBSIDIARY LAWS OF BELIZE
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the Government of Belize.

REVISED EDITION 2003
CHAPTER 135

DEFENCE (MISCELLANEOUS) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.
2. Interpretation.
3. Ranks in the force.
4. Committal to prison.
5. Promulgation.
7. Precedence of officers.
8. Precedence of soldiers.
10. Form of certificate of arrest or surrender.
11. Form of certificate of surrender.
12. Temporary confinement in civil custody.
14. Jurisdiction in respect of civil offences committed in Belize.
CHAPTER 135

DEFENCE (MISCELLANEOUS) REGULATIONS

(Section 166)

[4th February, 1978.]

1. These Regulations may be cited as the

DEFENCE (MISCELLANEOUS) REGULATIONS.

2. (1) In these Regulations “Act” means the Defence Act.

(2) Other expressions in these Regulations have the same meanings
as if these Regulations formed part of the Act.

3. The rank of officers and soldiers of the force shall be in the case of-

(a) officers - second lieutenant, lieutenant, captain, major,
lieutenant colonel, colonel and brigadier general; and

(b) soldiers - private, lance corporal, corporal, sergeant,
staff sergeant, warrant officer Class 2 and warrant
officer Class 1.

4. Where a person has been sentenced to imprisonment by his
commanding officer or a court-martial the commanding officer of that person
shall make an order on the form specified in Part 1 of the Schedule hereto and
shall cause the form to be delivered to the civil prison with the person named
therein in accordance with section 99 of the Act.

5. Any matter required to be promulgated by the Defence Act, shall be
promulgated-
6. (1) An officer appointed to command a unit will, irrespective of seniority, exercise command over all other officers serving therein.

(2) An officer holding an authorised appointment of second in command of a unit will, irrespective of seniority, exercise command over all other officers serving therein except the officer appointed to command the unit.

(3) In the absence of both the officer in command of a unit and the officer appointed second in command thereof, the senior officer in that unit will exercise command over all other officers serving therein.

(4) The powers of command to be exercised by officers will be officers junior to them and over all soldiers.

(5) A person in command of an aircraft, whether or not he is a member of the force shall in respect of all matters relating to the control or safety of the aircraft, have powers of command over members of the force who are on board that aircraft in that capacity.

7. The relative precedence of officers is as under-

(a) Officers holding substantive rank will take precedence of all those holding temporary, acting or local rank of
the same grade, and precedence amongst themselves according to their seniority;

(b) Officers holding temporary or acting rank will take precedence of all those holding local rank of the same grade and precedence amongst themselves according to the date of their appointment;

(c) Officers holding local rank of the same grade will take precedence amongst themselves according to the date of their appointment;

(d) Officers of the regular force will take precedence of officers of the volunteer element or the reserve of the same rank.

8. The relative precedence of soldiers is as under-

(a) Holders of the substantive rank will be senior to all holders of the same acting rank, who in turn will be senior to all holders of the same local rank;

(b) Seniority between those of the same substantive rank will be determined in accordance with their dates of promotion to that rank;

(c) Seniority between those of the same acting or local rank will be respectively determined in accordance with their dates of promotion to that acting rank or the date on which their local rank was granted. When the date is the same, seniority will depend on the date of promotion to the next lowest rank at which seniority can be clearly established and if necessary by seniority as a soldier;
(d) Warrant officers and non-commissioned officers of the regular force take precedence of volunteer element or the reserve of warrant officers and non-commissioned officers of the same rank.

9. Seconded personnel will take precedence with personnel of the regular force of equivalent rank according to their respective dates of appointment to their rank.

10. Where in pursuance of section 149 of the Act a magistrate’s court has dealt with a person as illegally absent the certificate which is required by section 14(1) of the Act to be handed over when that person is delivered into military custody shall be in the form specified in Part II of the Schedule hereto and shall contain the particulars therein set out as to that person’s arrest and surrender and of the proceedings before the court.

11. Where under section 150 of the Act a person is delivered into military custody without being brought before a magistrate’s court the certificate which is required by section 151(2) of the Act to be handed over shall be in the form specified in Part III of the Schedule hereto and shall contain the particulars therein set out relating to that person’s surrender.

12. Where a person in military custody is committed into civil custody in Belize for temporary detention in accordance with section 152 of the Act the orders for commitment and release shall be in the form set out in Part IV of the Schedule hereto and will be signed by his commanding officer.

13. (1) The service books and other documents in which records may be made for the purpose of section 158 of the Act shall be:

- Unit order books;
- Force Routine, and Pay and Record Orders;
- Register of deserters;
- Guard report;

Precedence of seconded Personnel.

Form of certificate of arrest or surrender.

Form of certificate of surrender.

Temporary confinement in civil custody.

Service books.
Conduct sheet;
Record of service;

Record of reports of courts of inquiries on illegal absence of officers and soldiers.

(2) The record of a report of a court of inquiry on illegal absence referred to in paragraph (1) shall be in the form specified in Part V of the Schedule hereto.

14. (1) Civil offences alleged to have been committed in Belize by members of the Force when subject to military law will normally be dealt with in the civil courts but where the alleged civil offence (other than those mentioned in section 67(4) of the Act) relates solely to service property or public property or to service personnel or was alleged to have been committed on service property and no civilian is involved in the offence, the offence may be dealt with under the Act after consultation with the Commissioner of Police.

(2) To this end a commanding officer shall report to the Commissioner of Police all alleged civil offences by members of the Force when subject to military law and the Commissioner of Police shall after consultation with the commanding officer decide whether the offence is to be dealt with by the civil courts or under the Act.

(3) In making his decision the Commissioner of Police shall take into account the principles set out in paragraph (1).

(4) If an alleged civil offence by a member of the Force when subject to military law comes to the notice of the Commissioner of Police he may after consultation with the commanding officer of the alleged offender request that the alleged offence be dealt with under the Act if the principles set out in paragraph (1) apply.
(5) Nothing in this regulation shall prevent a commanding officer dealing with an alleged civil offence (other than the offences mentioned in section 67(4) of the Act) if the circumstances of the case render such a course essential for the good conduct and well being of the Force.

THE SCHEDULE

PART I

Order for the committal of a person sentenced to imprisonment by his commanding officer or a court-martial.

To the Superintendent or other person in charge of (Prison) a .........................
Whereas No. ......................... Rank ......................... Name .........................
of the Belize Defence Force was on the ................... day of ................... 2 ....
sentenced by (his commanding officer) (court-martial) to imprisonment for a term of ......................... (days) (months) (years) b for the offence c ................................................................. and whereas the sentence of the court-martial has been duly confirmed. Now, therefore, in pursuance of section 99 of the Defence Act and of all other powers me enabling, I hereby order you to receive the said person into your custody and to retain him to undergo his sentence according to law and for so doing this shall be your warrant.
Signed ......................... this ......................... day of ................... 2 ....
(Signature)

Commanding Officer of the said Person

a. Insert name of person
b. Delete as appropriate
c. Give brief particulars of offence(s)
d. Delete when sentence was passed by a commanding officer.
PART II

CERTIFICATE IN ACCORDANCE WITH SECTION 151(1) OF THE DEFENCE ACT

I certify that on the .................. day of ........................ 2 ..........
there was brought before the magistrate’s court, at ..........................
............................... (Place)

Number: .............................................................

Rank:  .............................................................

Name: .............................................................

a member of the Belize Defence Force, alleged to be an illegal absentee who
had been arrested by/surrendered to * .............................................................
(Insert the name of the person who effected the arrest or to whom surrender
was made)

at ........................ (place) at ........................ (time) on the ..................
............................... day of ........................ 2 ............. (date), and that he
was dealt with in accordance with the provisions of section 149 of the Defence
Act.

The said member of the Belize Defence Force admitted that he had been
illegally absent from the said unit at .............................................................

(Place from which he absented himself, if known)

Dated this .................. day of ........................ ............. 2 ...........

.....................................................................................

*Signature of Magistrate

*Delete as necessary
Delete this paragraph if no admission made.
PART III

CERTIFICATE IN ACCORDANCE WITH SECTION 150(2) OF THE DEFENCE ACT.

I certify that .................................................................................... (full names)
surrendered himself at ..................................................................................

(Place) at (hour)

on the ......................... day of ......................... 2 ...... as being illegally absent
from ........................................ (unit) at ........................................ (Place)
on ....................................... (date) and gave the following particulars:
No. ............................................................

Rank: ......................................................

Name: ....................................................

Unit: ......................................................

Dated this ....................................... day of ....................................... 2 ........

Signature of officer of police in charge of )

police station where the above-named person)
surrendered or was taken on surrender.) .................................................
PART IV

ORDER FOR TEMPORARY CONFINEMENT IN CIVIL CUSTODY

To the

(Superintendent of ........................................ Prison)
(Officer of Police in charge of .................................... Police Station)

In pursuance of section 152 of the Defence Act, I, the undersigned, commanding officer of .................................................................

(number, rank and Name), a person in military custody, order you to receive him into custody and to detain him until you receive from me an order for his release, but not longer than seven days.

Place ........................................................................................................

Date ........................................................................................................

.................................................................................................

(Signature of Commanding Officer)

ORDER FOR RELEASE FROM TEMPORARY CONFINEMENT IN CIVIL CUSTODY

To the ......................................................................................................

I, the undersigned, the commanding officer of ................................................

........................................................................................................ (number, rank and name)

a person now in your custody require you to deliver him to the escort producing this authority.

Place ...............................................................-

Date ...............................................................-

.................................................................................................

(Signature of Commanding Officer)
PART V

REPORT OF A COURT OF INQUIRY INTO THE ILLEGAL ABSENCE OF

.................................................................................. (number, rank and name)

The court of inquiry sitting at ........................................ on the .........................
day of .......................................................... 2 ............... and consisting of:
(rank and name) .......................................................... President

..................................................................................)

..................................................................................)

.................................................................................. Members

..................................................................................

Report that .......................................................... (number, rank and name)
has been absent from his unit at .................................. without leave or other
sufficient excuse for a period beginning on the ......................... day of
.......................................................... 2 ........... and is still so absent.

And further report that the said ........................................ was on the
.......................................................... day of ......................... 2 ........... and still is deficient
of the articles of public and service property of which he had the charge or
which had been entrusted to his care which are set out below:

Dated this ......................... day of ......................... 2 ........
CHAPTER 135

DEFENCE (REGULAR FORCE ENLISTMENT AND SERVICE) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.
2. Definitions.
4. Rank on enlistment.
5. Promotion.
6. Courses of instruction outside Belize.
7. Discharge certificate.
8. Warrant to warrant officer.
CHAPTER 135

DEFENCE (REGULAR FORCE ENLISTMENT AND SERVICE) REGULATIONS

(Section 166)

[4th February, 1978.]

1. These Regulations may be cited as the

DEFENCE (REGULAR FORCE ENLISTMENT AND SERVICE) REGULATIONS.

2. (1) In these Regulations “Act” means the Defence Act.

(2) Other expressions in these Regulations have the same meanings as if these Regulations formed part of the Act.

3. (1) The recruiting officer, after a person offering to enlist has been given a notice paper, shall satisfy himself that the person understands the contents of the notice paper and the conditions of engagement upon which he is about to enter and he shall warn the person to be enlisted that if he knowingly makes any false answers to the questions in the attestation paper which are to be put to him, he will be liable to be punished as provided by the Act.

(2) The recruiting officer shall satisfy himself that the person offering to enlist is over the apparent age of eighteen years.

(3) The recruiting officer shall read or cause to be read to the person the questions set out in the attestation paper and shall ensure that the answers are duly recorded thereon.

(4) The recruiting officer shall then ask the person to make and sign the declaration set out in the attestation paper as to the truth of the answers.
and shall administer to him the oath of allegiance set out in the attestation paper:

Provided that if the person objects to be sworn and states as a ground for his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief or if it is not reasonable to administer an oath to such person in the manner appropriate to his religious belief, the person shall be required to make a solemn affirmation instead of taking the oath.

(5) Upon signing the declaration in the attestation paper and upon taking the oath, or as the case may be, making the solemn affirmation, the person shall become a soldier and subject to military law.

(6) The recruiting officer shall by signature confirm on the attestation paper that the requirements of the Act and these Regulations have been duly complied with and shall deliver the attestation paper duly dated to the Commandant or such other officer as may have been authorised by the Commandant to receive it and who shall on receiving the attestation paper sign it in the appropriate place and thereby signify that the person is finally approved for service.

(7) The soldier on being finally approved for service shall be entitled to receive a certified true copy of the attestation paper.

4. A person enlisted into the regular force shall be given the rank of private: Provided that a person who was at the time he enlisted serving in the Police Special Force, may be granted a higher rank if his rank in the said Force was that of corporal or higher if the Commandant is of opinion that the person was suitable for such higher rank.

5. Promotion in the regular force shall be by selection.
6. A warrant officer or non-commissioned officer or a private soldier who is selected to attend a course of instruction outside Belize shall be required to enter into an undertaking that he will continue in regular service for a specified period after he has completed the course by applying to re-engage or continue in service under the provisions of section 18 of the Act.

7. The particulars to be contained in a certificate of discharge shall be-

(a) number;

(b) name, including christian or forenames;

(c) date and place of enlistment;

(d) physical description of soldier on leaving regular service;

(e) rank of soldier on leaving regular service;

(f) assessment of conduct and character on leaving regular service with the signature of the officer making the assessment;

(g) date of discharge;

(h) reason for discharge;

(i) total regular service on discharge;

(j) signature of issuing officer.

8. A warrant in the form set in the Schedule hereto shall be signed by the Chairman and one other member of the Security Services Commission and shall be issued to every person appointed to the substantive rank of warrant officer.
Defence

[CAP. 135] 167

SCHEDULE

FORM OF WARRANT TO WARRANT OFFICER

WARRANT

The Security Services Commission

To

By virtue of the authority granted to us under the Belize Constitution and the Defence Act, we do hereby Constitute and Appoint you the said

to be a Warrant Officer in the Belize Defence Force from the
day of 2 and to continue in the
said office during the pleasure of the Defence Commission. You are therefore carefully and diligently to discharge your duty as such by doing and performing all manner of things thereto belonging, as required by or under the Defence Act, or any Regulations made thereunder, and you are to observe and follow such orders and directions as you shall receive from your commanding officer or any other, your superior officer, according to the Rules and Discipline of War.

Given under our Hand this day of
Warrant Officer
Belize Defence Force

Chairman, Security Services Commission
Member, Security Services Commission

SEAL
CHAPTER 135

DEFENCE (PAY AND ALLOWANCES) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.
2. Definitions.
3. Pay of members of the force.
4. Allowances for members of the force.
5. Deductions from pay.
6. No deductions from allowances.
7. Forfeiture of pay for absence, etc.
8. Forfeiture of pay while a prisoner of war.
9. Investigation as to barrack damages.
CHAPTER 135
DEFENCE (PAY AND ALLOWANCES) REGULATIONS
(Section 166)

[4th January, 1978.]

1. These Regulations may be cited as the Defence (Pay and Allowances) Regulations.

2. (1) In these Regulations-

   “Act” means the Defence Act;

   “public claim” means any public debt or disallowance, including any over-issue or advance of pay made through error as to the facts;

   “service claim” means any debt due to any service mess, club, institution or other service organisation.

   (2) Other expressions in these Regulations have the same meanings as if these Regulations formed part of the Act.

3. The pay to be granted to members of the regular force, to members of the volunteer element when training pursuant to section 119 of the Act, called out on temporary service pursuant to section 120 of the Act or called out on permanent service pursuant to section 121 of the Act and to members of the reserve when called out on permanent service pursuant to section 133 of the Act shall be promulgated from time to time in the Gazette.

4. The allowances to be paid to members of the regular force, to members of the volunteer element when training pursuant to section 119 of the Act, called out on temporary service pursuant to section 120 of the Act or called out on permanent service pursuant to section 121 of the Act and to members of the reserve when called out on permanent service pursuant to section 133 of the Act shall be promulgated from time to time in the Gazette.
service when called out on permanent service pursuant to section 133 of the Act shall be promulgated from time to time in the *Gazette*.

5. (1) Save under authority of the Act or some other enactment, no deduction shall be made from the pay granted by these Regulations to a member of the force by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(2) Subject to the provisions of this regulation, the pay granted by these Regulations to a member of the force shall, by virtue of these Regulations be held liable to deductions, on the order of the Commandant to meet any public or service claim that there may be against him.

(3) The pay of a member of the force shall be available to meet all fines, deductions of pay, stoppages or forfeitures to which he is properly liable except that he shall (subject to any forfeiture) remain in receipt of pay of not less than the percentage prescribed in section 110(3) of the Act.

6. No deductions shall be made from any allowance payable to a member of the force.

7. The pay of a member of the force shall be forfeited for every day-

(a) of absence in such circumstances as to constitute an offence under section 41 or section 42 of the Act;

(b) of imprisonment or detention awarded under the Act by a court-martial or commanding officer, or of imprisonment or detention of any description, including remand pending trial, to which he is liable in consequence of an order or sentence of a civil court;
(c) on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by an offence under the Act of which he has been or is subsequently found guilty.

8. (1) The pay of a member of the force shall not be forfeited for absence by reason of his having been made a prisoner of war unless the Commandant is satisfied that-

(a) he was made a prisoner of war through disobedience to orders or wilful neglect of his duty; or

(b) having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin the force; or

(c) having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage:

Provided that pay for any day of such absence may be provisionally withheld in accordance with the provisions of paragraph (2) of this regulation.

(2) Where the Commandant is satisfied that the conditions of subparagraphs (a), (b) or (c) of paragraph (1) of this regulation are fulfilled, pay shall be forfeited for every day of absence from the date of capture or from the first day of the month in which the Commandant is so satisfied whichever is the later:

Provided that where pay has been provisionally withheld under the provisions of paragraph (3) of this regulation the whole of the pay so withheld shall be forfeited.
(3) Where a member of the Force who has been absent as a prisoner of war rejoins for duty, pay for the period from the first day of the month in which he was released to the day before that on which he rejoins for duty will be withheld pending an investigation of the circumstances of his case.

9. (1) Without prejudice to any proceedings under any other section of the Act the cause and extent of every damage or loss to which section 114 relates and the time at which such damage or loss was occasioned shall be investigated-

(a) if more than one unit or part of a unit is concerned, by a court of inquiry convened by an officer under whose command the units are; or

(b) if only one unit or part of a unit is concerned-

(i) by a court of inquiry convened by the commanding officer of the unit or part of the unit; or

(ii) by an examination by the commanding officer of the unit or part of the unit concerned, or by an officer appointed by him, of the evidence, whether written or oral, relating to such damage or loss and time.

(2) The amount which a person may be required to contribute under the said section 115, towards compensation for any damage or loss shall be the amount of the damage or loss divided by the number of persons who could under the said sub-section be required to contribute towards compensation for the said damage or loss:
Provided that-

(a) where any part of the amount of the damage or loss has been written off, or is the subject of an application for write-off, as a charge against the public under the regulations for the time being in force relating to write-off, the amount of the damage or loss for the purposes of this sub-paragraph shall be the total amount of the damage or loss less the part which has been so written off, or is the subject of such application; or

(b) in calculating the number of persons by which the amount of the damage or loss is to be divided as aforesaid, no account shall be taken of persons who it appears on investigation in accordance with the said section 115(2) could not have occasioned the damage or loss.
CHAPTER 135

DEFENCE (PENSIONS AND OTHER GRANTS) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I
PRELIMINARY

1. Short title.
2. Interpretation
3. Rates of pension.
5. Provision for prior service.
6. Revision of Term.
7. Compulsory Deductions.
8. Payment of Pensions etc.
9. Power to Reduce Pensions etc.
10. Pension etc. not Payable and to cease on Bankruptcy.
11. Power to Dispense with Probate.
12. Service in a Foreign Power.
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OFFICERS

13. Compulsory.
14. Retirement on Pension at full Rate.
15. Early retirement at officer’s request.
16. Pension on being invalided out.
17. Retirement in Public Interest.
18. Retirement for Misconduct etc.
19. Terminal Grant.
20. Gratuity may be granted for service prematurely terminated.
21. Qualifying service of officer.
22. Reckonable service under this part.

PART III
SOLDIERS

23. Full pension awarded after 22 years.
24. Calculation of full pension.
25. Reduced pension after 18 years.
26. Award of terminal grant.
27. Gratuity may be granted for service prematurely terminated.

28. Pension where service exceed 22 years.

29. Reckonable service under Part III.

**PART IV**

**GENERAL**

30. Reduced pension and gratuity.

31. Service preceding 5 years interval.

32. Payment of pension when pensioner becomes of unsound mind.

33. Minimum pension.

**PART V**

**DEATH IN SERVICE**

34. Death in harness gratuity.

35. Pension to widow children, etc.

36. Commencement and Repeal.
CHAPTER 135

DEFENCE (PENSIONS AND OTHER GRANTS) REGULATIONS

(Section 166)

[8th September, 1990.]

PART I

PRELIMINARY

1. These regulations may be cited as the DEFENCE (PENSIONS AND OTHER GRANTS) REGULATIONS

2. (1) In these regulations unless the context otherwise requires:

   “appropriate authority” means the Governor-General acting in accordance with the advice of the Security Services Commission.

   “Commed pension gratuity” means the gratuity, if any, which might have been granted to a member under regulations 30 if, in the case of such member as is described in regulation 34 on the date of his death he had retired from the Force in circumstances which enabled the grant of a pension to be made and had elected to receive a gratuity and reduced pension;

   “pay” under these regulations refers to basic salary and does not include pay of higher rank, specialist pay, living out allowance, entertainment allowance or any other emoluments.

   “public claim” means any public debt or disallowance including any over-issue or advance of pay, retired pay, pension or other emoluments made through an error as to the facts; or the sum required to make good any loss, deficiency or irregular expenditure of public money, any deficiency, loss, damage or destruction of public property.
of public stores, buildings or other public property of which after due investigation no explanation satisfactory to the appropriate authority is given by the person who is responsible for the same;

“service claim” means any service dept or sum required to make good any loss, deficiency or irregular expenditure of service money of which after due investigation no explanation satisfactory to the appropriate authority is given by the person who is responsible for the same;

“substantive rank” shall exclude honorary, acting or local rank.

“widow” in relation to a deceased person means the person who immediately before his death was his wife.

“wife” does not include a wife whom a person marries after leaving the Belize Defence Force.

(2) Other expressions in these regulations have the same meanings as those ascribed to them in the Defence Act.

3. The rates of pensions payable to officers and soldiers are set out in Part II and Part III respectively.

4. In computing the amount of pension or other grant which may be awarded under these regulations, allowance shall be made for service in the Police Special Force or other Government Service as may be fixed by the appropriate authority.

Provided that where an officer or soldier who has served in a pensionable post in the Public Service has transferred to the Belize Defence Force on or before the 31st December, 1978, he shall be entitled to have the entire period of service in the Public Service and the Belize Defence Force counted towards the grant of a pension, at his election, either-
(a) under the Pensions Act and Regulations made thereunder; or

(b) under the Defence Act and Regulations made thereunder.

5. (1) An officer or soldier who has to his credit any pensionable service within the meaning of the Pensions Act or regulations made thereunder or under the School Teachers Pensions Act immediately before enlisting in the Belize Defence Force shall be entitled to have such pensionable service counted, with the approval of the appropriate authority, as reckonable service for the grant of a pension under these regulations.

(2) An officer or soldier who immediately before enlisting in the Belize Defence Force has been serving full time for a period in a civil capacity in the service of the Government otherwise than in a pensionable office may be permitted to have such period of service counted with the approval of the appropriate authority as reckonable service for the grant of pension under these regulations.

6. Except where otherwise provided, no person shall be entitled to claim any pension or other advantage conferred by any provision of these regulations in the event of such provision being at any time added to, varied or cancelled.

7. Any pension or other grant awarded under these regulations to any person shall be liable to deductions on the order of the appropriate authority to meet any public claim or service claim.

8. The payment of a pension or other grant awarded under these regulations may be made provisionally or upon any other basis and for such period as the appropriate authority may think fit and either generally or in any particular case or class of cases, and any pension, gratuity or other grant awarded in terms of a monthly amount may be paid quarterly or monthly in arrears.
9. (1) The appropriate authority may withhold or reduce any pension or grant awarded under these regulations—

(a) If satisfied that it was obtained by the wilful suppression of material facts or granted in ignorance of facts which, had they been known at the time of the grant, would have justified the reduction or withholding thereof; or

(b) if the person to or in respect of whom such pension or grant is awarded is sentenced to death or to any term of imprisonment, by any court of competent jurisdiction whether in Belize or elsewhere, for any crime or offence, or who is, in the opinion of the appropriate authority, unworthy of a grant from public funds.

(2) Where any pension or other grant has been withheld or reduced under the provisions of these regulations, the appropriate authority may, at any time in any case in which it is considered equitable to do so, grant or restore the whole pension or grant or a portion thereof.

10. (1) No pension or other grant shall be awarded to a person who, having been adjudicated a bankrupt or declared insolvent by a judgement of a court of competent jurisdiction whether in Belize or elsewhere, has not obtained his discharge from such adjudication or declaration.

(2) If any person to whom a pension, gratuity or other grant has been awarded under these regulations is adjudicated bankrupt or is declared insolvent by a judgement of a court of competent jurisdiction whether in Belize or elsewhere, such pension or other grant shall forthwith cease.

(3) Notwithstanding the provisions of paragraph (2) of this regulation, it shall be lawful for the appropriate authority from time to time to...
during the remainder of the life of such person as is referred to in paragraph (1) and (2), or during such shorter period as the said authority shall think fit, to cause all or any part of the monies to which such person would have been entitled by way of a pension or other grant, had he not become bankrupt or insolvent to be paid to, or applied for the maintenance and personal support of all or any of the persons mentioned in paragraph (4) of this regulation.

(4) The person referred to in paragraph (3) above are the following:

(a) person mentioned in paragraphs (1) and (2)

(b) wife of such person aforesaid

(c) child or children of such person as aforesaid

(d) any other person for whose maintenance or support the person as aforesaid was responsible.

(5) For the purposes of Paragraphs (3) and (4) of this regulation, it shall be wholly at the discretion of the appropriate authority to determine in what manner and in what proportion the aforesaid monies shall be paid to, or applied for the maintenance or support of the persons mentioned in paragraph (4), and in exercising their discretion the appropriate authority may exclude any one or more of the persons mentioned in paragraph (4) from the payment or application of the monies as aforesaid.

(6) The appropriate authority may in their discretion apply the monies as aforesaid to discharge of debts of such person and all monies so applied shall for the purposes of this regulation, be regarded as applied for his benefit.

(7) Where a person to whom any pension or other grant has not been awarded or whose pension or other grant has ceased under the provisions of this regulation, obtains a discharge from his bankruptcy or insolvency, the
appropriate authority may direct that the pension or other grant be awarded or restored to him as the case may be with effect from the date of the discharge.

11. Where a person to whom any payment could have been made under these regulations before his death dies before payment is made and the amount unpaid does not exceed $500.00, the amount so unpaid may be paid to the personal representatives of the deceased person without proof of title or may be paid or distributed to or among any one or more persons appearing to the appropriate authority to be the person’s beneficiary entitled to the personal estate of the deceased person and, in determining the persons to whom and the proportions in which the amount so unpaid shall be paid or distributed, the appropriate authority may have regard to any payment made or expenses incurred by any such person for or on account of the funeral of the deceased person.

12. If a person to whom an award of a pension has been made under these regulations enters the service of a foreign power without the consent of the appropriate authority, or if he continues in such service after the consent has been withdrawn, he shall be liable to have his pension suspended or withheld as the said authority may decide.

PART II

OFFICERS

13. It shall be compulsory for officers to retire on attaining the age limits set out in regulations 10 of the Defence (Officer) Regulations, 1978.

14. (1) An officer who retires at the compulsory age for retirement in his rank and whose reckonable service is equal to or greater than the minimum qualifying service as set out in paragraph (3) may be granted a pension calculated in accordance with the provisions of paragraph (2).

(2) A pension at full rate shall be calculated on the basis of seven days pay for each year of reckonable service at the average rate in issue to the
15. An officer permitted to retire at his own request before the compulsory retirement age for his rank but with at least 15 years qualifying service may be granted a pension as follows:

(1) If he is within two years of the compulsory age for his retirement the award shall be computed as if he had retired in the circumstances mentioned in regulation 14, less a deduction of five percentum per annum deducted in accordance with paragraph (2) thereof.

(2) If otherwise the award shall be computed at the rate for which he would have been eligible had he continued to serve in his substantive rank on the date of his retirement until he retired at the compulsory retirement age for that rank, less a deduction of ten percentum (upon the amount remaining after the preceding deduction has been made) for each year of difference between the length of reckonable service on compulsory retirement and the length of service on voluntary early retirement.

16. An officer who is invalided from the Belize Defence Force before the compulsory retirement age for his rank with at least ten years qualifying service may be awarded a pension as follows:

(1) If his qualifying service is less than 15 years the award shall be that for which he would have been eligible under paragraph (1) of regulation 15 had he completed 15 years qualifying service and then retired in the rank of major (or in his existing rank, if higher), less a deduction of seven and a half percentum for each year less than 15 years, deducted in accordance with paragraph (2) of regulation 15.
Provided that where the circumstances leading to an officer’s being invalided out of the Belize Defence Force are due to his own fault or to causes within his control, the grant and amount of award (not exceeding the amount which might otherwise have been awarded under this regulation) shall be determined by the appropriate authority.

17. An officer who is retired or called upon to retire in the public interest and not due to causes within his control, and who has had at least 15 years qualifying service, may be granted a pension as if he had retired in the circumstances mentioned in regulation 15.

18. An officer who is removed or called upon to resign for misconduct, or who is dismissed with disgrace and who has at least 15 years qualifying service may be granted, if the appropriate authority decides, a compassionate pension at such reduced rate as the authority determines of the rate of pension which would have been admissible had he retired at his own request.

19. (1) An officer awarded a pension under these regulations (otherwise than under regulation 18) may in addition be awarded a terminal grant in the case of officers of the rank of major and below of an amount equal to four times the annual rate of pension, and in the case of lieutenant colonel of an amount equal to three and one half times the annual rate of pension.

(2) Where an officer has been granted a compassionate pension under regulation 18, the appropriate authority may award a compassionate terminal grant not exceeding three times the rate of the compassionate pension.

20. Upon retirement an officer not otherwise eligible for a pension may be granted a gratuity in accordance with the following provisions:-

(1) an officer who has retired at his own request or upon reaching the compulsory retirement age for his rank or who is removed or called upon to retire or resign in the public interest, and not due to causes within his own control and who has at least ten years qualifying service may be granted a
gratuity of an amount equal to forty-two days pay for each year of reckonable 
service at the average rate in issue to the officer over the three years immediately 
preceding the date of retirement;

(2) an officer who is invalided from the Belize Defence Force may 
be granted a gratuity of an amount equal to sixty-three days pay for each year 
of reckonable service at the average rate in issue to the officer over the period 
of three years immediately preceding the date of retirement;

(3) an officer who is removed or is called upon to retire or resign 
or who is dismissed with disgrace may be granted, if the appropriate authority 
so decides, a compassionate gratuity at such reduced rate as would have been 
applicable had he retired at his own request.

21. Subject to the conditions set out, the following periods may be included 
in assessing the qualifying service for the purpose of this part:-

(1) paid commissioned service in the Force.

(2) unforfeited paid regular service which would be service 
admissible for a soldier’s pension under Part III.

22. Subject to Regulations 4 and 5 service that may be taken into account 
for the grant of a pension shall be so much of the officer’s qualifying service as 
was given after his date of commissioning.

Provided that where the officer served in the ranks before he was 
commissioned his service as a soldier may be included in accordance with 
regulation 21(2).
PART III
SOLDIERS

23. A soldier may be awarded, upon completion of twenty-two years reckonable service, a full pension calculated in accordance with the provisions of regulation 24.

24. A full monthly pension shall be an amount equal to twelve days pay at the average rate in issue to the soldier over the three years immediately preceding the date of completion of twenty-two years service, discharge or in validating out of the service, as the case may be.

25. A soldier who has completed a minimum of eighteen years reckonable service may be awarded a pension calculated in accordance with the provisions of regulation 24 subject to the following modifications:

   1. the pension shall be calculated at the date of discharge as if the soldier had twenty-two years reckonable service;

   2. a deduction shall be made at the rate of ten percentum (upon the amount remaining after the preceding deduction has been made) for each year or part of a year by which the reckonable service falls short of twenty-two years.

26. A soldier who has been awarded a pension under this Part may in addition, be awarded a terminal grant of an amount equal to one hundred and fifty days pay at the rate in issue on the date of discharge;

 Provided that where the soldier’s reckonable service is less than twenty-two years a sum equivalent to ten percentum of the terminal grant shall be deducted (upon the amount remaining after the preceding deduction has been made) in respect of each year or part of a year by which the reckonable service is less than twenty-two years.
27. A gratuity of an amount equal to twenty one days pay for each year of reckonable service at the average rate in issue over the preceding three years may be awarded upon termination of service to a soldier whose service is terminated for reasons other than misconduct after completing a period of twelve years or more but not exceeding eighteen years reckonable service;

Provided that:

(a) a soldier invalided after completing recruit training but not exceeding eighteen years reckonable service shall receive a gratuity of forty two days pay for each year of reckonable service at the average rate in issue over the preceding three years;

(b) where the soldier invalided has completed less than one year reckonable service the gratuity paid shall equal forty two days pay at the rate in issue on the day of invaliding;

(c) where the circumstances leading to a soldier being invalided are due to his own fault or to causes within his control, the grant or award may be such lesser sum as shall be determined by the appropriate authority.

28. A soldier who has been permitted to serve for a period exceeding twenty-two years reckonable service may, upon his final discharge, be awarded a pension calculated in respect of his full reckonable service at the rate of pay in issue on the date of discharge.

29. For the purpose of Part III reckonable service shall be unforfeited paid service in the Regular Force after attaining the age of eighteen years.
PART IV
GENERAL

30. (1) Any member of the Belize Defence Force to whom a pension is granted under these Regulations may at his option exercisable as in this regulation provided, be paid in lieu of such pension, a reduced pension at the rate of three-fourths, of such pension together with a commuted pension gratuity equal to twelve and a half times the amount by which the pension is so reduced.

(2) An option exercisable in accordance with this regulation-

(a) shall be exercisable, and if exercised may be revoked, before the date of the members’ retirement or, with the permission of the appropriate authority, at any time between that date and the date of the final award of the pension granted to him under these regulations;

(b) shall be exercised or revoked by notice in writing addressed to the appropriate authority through the Commandant, Belize Defence Force;

(c) shall be deemed to have been exercised or revoked on the date on which such notice is received by the Commandant.

(3) If a member of the Belize Defence Force who has not exercised an option in accordance with this regulation dies after he has retired but before a pension has been granted to him under these regulations, the appropriate authority may, if it thinks fit, grant to his legal personal representative a commuted pension gratuity and reduced pension as provided in paragraph (1) of this regulation, as if the officer or soldier had exercised the option before his death.
31. Service preceding a five year break in service shall not be included for the purpose of assessing reckonable service under Parts II and III unless especially allowed by the appropriate authority in exceptional circumstances and eligibility to count such service shall normally be determined at the time service is resumed.

32. If any person to whom a pension has been awarded under these regulations is or becomes of unsound mind the appropriate authority may direct that this pension or such part of it as appears necessary for his care and maintenance be paid to his wife, son, daughter or other person in whose care he may be or who may be responsible for the cost of his care and maintenance. The receipt by the person or persons to whom the whole or part of the pension is so paid shall be sufficient voucher and discharge for so much of the amount as stated therein.

33. Subject to the provisions of Part I, a pension granted under these regulations to an officer or soldier who has opted for a full pension shall not be less than two thousand four hundred dollars per annum.

**PART V**

**DEATH IN SERVICE**

34. Where a member of the Regular Force dies whilst in the service of the Belize Defence Force (whether or not on duty at the time of his death), the appropriate authority may grant to his legal personal representative a gratuity of an amount not exceeding his annual rate of pay or his commuted pension gratuity, if any, whichever is the greater.

35. (1) Where an officer or soldier, while in service in the Belize Defence Force dies as a result of any wounds or injuries received or suffered in such service or as a result of any disease or illness to which he has been subjected and which is directly attributable to such service, it shall be lawful for the appropriate authority, in addition to any gratuity that may be granted under regulation 34-
(a) if the deceased leaves a widow to grant to her, a pension not exceeding one-third of the pension the deceased would have been entitled to at the date of his injury or death;

(b) if the deceased leaves a widow and a child or children, to grant to each child a pension not exceeding a portion equal to the sum that would be obtained by dividing one third of his pension at the date of his injury by the number of children so entitled;

(c) if the deceased does not leave a widow but leaves a child or children or if the widow dies after she has been granted a pension under paragraph (a) of this regulation, to grant to each child a pension of double the amount it would have received if there had been a widow still surviving;

(d) if the deceased does not leave a widow or if no pension is granted to this widow and his mother was wholly or mainly dependent on him for her support, to grant to the mother a pension of an amount not exceeding the pension which might have been granted to this widow;

(e) if the deceased does not leave a widow or mother or if no pension is granted to his widow or mother and his father was wholly or mainly dependent on him for his support, to grant a pension to the father of an amount not exceeding the pension which might have been granted to his widow;

(f) if the deceased does not leave a child or children who is or are eligible for a pension under the
provisions of this regulation and if any brother or sister was wholly or mainly dependent on him for support, to grant a pension to any brother or sister until he or she attains the age of eighteen years, of the same amount and subject to the above conditions as the pension which might have been granted under sub-paragraphs (b) or (c) of paragraph (1) of this regulation.

Provided that:

(a) if in the opinion of the appropriate authority there are compassionate grounds for so doing, the appropriate authority may grant to any child of a deceased, being a child who at the time of his death was wholly or mainly dependent on him for support and who has attained the age of eighteen, a pension for such period as the appropriate authority may determine of an amount not exceeding the pension which may be granted under sub-paragraphs (b) or (c) of paragraph (1) of this regulation, as the case may be;

(b) if the deceased leaves a child who was incapacitated at the time of his death (hereinafter in this regulation referred to as an incapacitated child), the appropriate authority may, notwithstanding any pension which may have been granted under sub-paragraphs (a) or (b) of this paragraph, grant an additional pension in respect of such incapacitated child after he has reached the age of eighteen years and so long as his incapacity shall continue, of an amount not exceeding one-half of the pension which might have been granted under sub-paragraphs (a) or (b) aforesaid, as the case may be;
Defence

(c) no pension shall be payable under this paragraph at any time in respect of more than six children exclusive of the incapacitated children and where there are more than six such children in respect of whom, but for this proviso, a pension would be payable “then the amount payable in respect of six children shall be divided equally among all such children during the period in which there are more than six children under the age of eighteen years;

(d) in the case of a pension granted under subparagraphs \((d), (e)\) or \((f)\) of this regulations if it appears to the appropriate authority at any time that. the mother or father or any brother or sister is adequately provided, with other means of support such pension shall cease as from such date as, the appropriate authority may determine.

Provided further that the pension granted to-

\((a)\) a widow shall cease upon her remarriage or upon her cohabiting with any man;

\((b)\) a child shall cease upon its marriage or, subject to proviso \((b)\) above in regard to an incapacitated child, upon attaining the age of eighteen years;

(2) No pension shall be granted to the widow of the deceased if at the time of his death she was cohabiting with a person other than the deceased.

Commencement and Repeal of S.I 8 of 1981.

36. (1) These Regulations shall come into force on signature except-

\((a)\) Regulation 24 which shall be deemed to have come into force with effect from 1st October 1988;
(b) Regulations 34 and 35 which shall be deemed to have come into force with effect from 1st April 1990.

(2) Subject to Sub-Regulation 1 above, The Defence (Retired Pay, Pensions and Other Grants) Regulations 1981, as amended, are hereby repealed.

MADE this 4th day of September, 1990.

(MINITA ELMIRA GORDON)
Governor-General
CHAPTER 135

DEFENCE (RESERVE) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.
2. Definition.
3. Composition.
4. Period of Engagement.
5. Structure of the reserve.
6. Change of address.
7. Reception Centres.
8. Discharge.
10. Medical Examination.
11. Pay and Allowances.
Chapter 135

Defence (Reserve) Regulations

These Regulations may be cited as the Defence (Reserve) Regulations.

In these Regulations “Act” means the Defence Act.

Other expressions in these Regulations have the same meaning as if these Regulations formed part of the Act.

The Reserve shall be composed of such officers and soldiers as are referred to in section 131 of the Act.

Officers referred to in paragraphs (a) and (b) of section 130 of the Act shall hold office until the determination of their commission.

Soldiers transferred to the reserve shall serve such period as would, when added to their years of service in the regular force, be equivalent to service for a term of twelve years.

Soldiers referred to in sub-regulation (2) above may, subject to the provisions of section 132 of the Act, volunteer to remain in the reserve on the completion of their reserve service, until they reach the age of 50 years.

Officers and soldiers transferred to the reserve will retain the rank held by them in the regular force.

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(2) Subject to approval of the Security Services Commission, Officers of the reserve will be eligible for promotion upon completion of the following minimum periods of service in the reserve-

   (a) Second Lieutenant to Lieutenant   - 3 years

   (b) Lieutenant to Captain             - 9 years

   (c) Captain to Major                 - 15 years

6. (1) Every member of the reserve shall keep the Force Headquarters informed at all times of any change in his address.

   (2) Notice to call out on service will in addition to the notice Call out etc. required by section 133 of the Act, be broadcast on Government radio.

   (3) Any member of the reserve who receives a notice under subregulation (2), or who hears or hears of a broadcast under sub-regulation (2) shall within twenty-four hours thereof-

       (i) report at the Belize Defence Force Centre indicated in his Reserve Commitment Form; or

       (ii) if he is travelling, report to the nearest Belize Defence Force Centre.

   (b) Where any member of the reserve anticipates any delay in reporting as required by the preceding provisions of this subregulation he shall so inform the Headquarters of the Force at Price Barracks.
(4) Failure to comply with any of the provisions of this regulation will render the member of the reserve concerned liable to punishment under the Act.

7. All Belize Defence Force stations shall be reception centres for the members of the reserve when called out.

8. For the purposes of section 139 of the Act, the grounds upon which a soldier of the reserved may be discharged shall be-

   (a) medically unfit for service;

   (b) compassionate reason;

   (c) his reaching the age limits prescribed by any regulation made in that behalf;

   (d) services no longer required for any other reason.

9. Once each year every reservist is expected on a date, time and place to be notified to him to report at the place specified in the notice and submit to examination by the Officer in charge of the centre at which the reservist reports and undergo a period of training, not exceeding forty-eight hours, as may be given thereat.

10. A member of the reserve will only be subjected to medical examination, if he declares himself unfit for duty. A member of the reserve who is found upon examination to be unfit for active service may be either discharged from service or retained to perform such duties as his health permits.

11. Where a reserve is, on notification of call out, mobilised for service, members thereof shall be entitled to such pay and allowances as are payable to the regular Force and such pay and allowance shall cease on the termination of the emergency service.
CHAPTER 135

DEFENCE (LONG SERVICE MEDAL) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.


3. Eligibility of members of the regular force.

4. Eligibility of members of the volunteer element.

5. Qualifying Service defined.

6. Award of Clasp.

7. Recommendations for award of Medal or Clasp.

8. Award of Medal or Clasp.


10. Replacement of Lost Medal or Clasp.
CHAPTER 135

DEFENCE (LONG SERVICE MEDAL) REGULATIONS

(Section 166)

[24th June, 1989.]

1. These Regulations may be cited as the

DEFENCE (LONG SERVICE MEDAL) REGULATIONS.

2. The Belize Defence Force Long Service Medal may be awarded to officers and soldiers of the Belize Defence Force (hereinafter referred to as “the force”) in recognition of their long service with exemplary conduct over an extended period of time as hereinafter specified.

3. An officer or soldier of the regular force, in order to be eligible for the grant of the Belize Defence Force Long Service Medal, must-

   (a) be on the active list of the regular force at the time of the completion of the qualifying service as hereinafter defined;

   (b) have completed at least twelve years’ qualifying service in the force;

   (c) have been of exemplary character, that is to say, he shall have, subject to Regulation 7, no entries on his Force Conduct Sheet; and

   (d) have been recommended by the Commandant.
4. An officer or soldier of the volunteer element of the force, in order to be eligible for the grant of the Belize Defence Force Long Service Medal, must-

(a) be on the active list of the volunteer element of the force at the time of the completion of the qualifying service as hereinafter defined;

(b) have completed at least twelve years’ qualifying service in the force (whether in the regular force or the volunteer element);

(c) have been of exemplary character, that is to say, he shall have subject to Regulation 7, no entries on his Force Conduct Sheet;

(d) have completed at least nine Annual Camps during the qualifying period; and

(e) have been recommended by the Commandant.

5. For the purpose of these Regulations “qualifying service” means continuous service for the required period, provided that in exceptional circumstances one break in service of not more than six months may be waived. Service in Her Majesty’s Armed Forces, whether, on secondment, on recall or when called upon to serve, may be allowed to reckon towards the required period of qualifying service, provided that such service is uninterrupted and was continuous with the qualifying service in the force. Service prior to the formation of the force shall not count towards qualifying service.

6. An officer or soldier, who is the recipient of the Belize Defence Force Long Service Medal, may be considered for the award of a clasp when, in the case of a member of the regular force, he completes a further six years’ qualifying service, and, in the case of a member of the volunteer element, he completes...
five out of six Annual Camps during the said period. In every such case, the other conditions of eligibility as specified in Regulations 3 and 4 of these Regulations shall, as far as may be, apply.

7. Recommendations for the award of the Medal or Clasp shall be submitted by the Commandant to the Belize Defence Board. The Commandant shall recommend only such persons who satisfy the conditions of eligibility specified in these Regulations, provided that in exceptional and deserving cases he may submit a recommendation for the award of the Medal if, in his opinion, the offences recorded on a person’s Force Conduct Sheet are of trivial or technical nature, and where there is no evidence of misconduct; and every such recommendation shall be supported by a statement by the Commandant giving reasons why the normal qualifications should be waived.

8. The Belize Defence Force Long Service Medal or Clasp shall be awarded by the Governor-General on the advice of the Belize Defence Board and a notification of such an award shall be published in the Gazette.

9. (1) A recipient of the Belize Defence Force Long Service Medal or Clasp who is convicted of an offence which, in the opinion of the Belize Defence Board, is serious enough to warrant the forfeiture of the Medal or Clasp, or a recipient who is removed from the Force for misconduct, shall forfeit the Medal or Clasp, as the case may be, unless the Governor-General directs otherwise.

   (2) A Medal or Clasp so forfeited may be restored to the recipient by the Governor-General on the advice of the Belize Defence Board.

   (3) A notice of every forfeiture or restoration shall be published in the Gazette.

10. Where a Medal or Clasp has been lost, the recipient shall report the facts to the Commandant, who shall investigate the circumstance in which the loss occurred, and shall submit a recommendation to the Belize Defence Board.
as to whether the Medal or Clasp (as the case may be) should be replaced and, if so, whether free of charge or at the expense of the recipient.
CHAPTER 135

DEFENCE (15TH ANNIVERSARY MEDAL) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.

2. Interpretation.


4. Eligibility of members of regular Force for Medal.

5. Eligibility of members of the volunteer element of Force for Medal.

6. Eligibility of Board members for Medal.

7. List of persons eligible for Medal to be Submitted to Adjutant.

8. Award of Medal to be published.

9. Forfeiture and restoration of Medal.

10. Replacement of lost Medal.
CHAPTER 135

DEFENCE (15TH ANNIVERSARY MEDAL) REGULATIONS

(Section 166)

[13th February, 1993.]

1. These Regulations may be cited as the
DEFENCE (15TH ANNIVERSARY, MEDAL)
REGULATIONS.

2. In these Regulations unless the context otherwise requires,
“Board” means the Belize Defence Board;
“Force” means the Belize Defence Force;
“Medal” means the Belize Defence Force 15th Anniversary Medal;
“qualifying service” means continuous service for the required period, provided
that in exceptional circumstances one break in service of not more than six
months may be waived. Service in Her Majesty’s Armed Forces whether on
secondment, on recall, or when called upon to serve, may be allowed to reckon
towards the required period of qualifying service, provided that such service is
 uninterrupted and was continuous with the qualifying service in the Force.
Service prior to the formation of the Force shall not count towards qualifying
service.

3. The Belize Defence Force 15th Anniversary Medal may be awarded
to officers and soldiers of the Force in recognition of the achievements of the
Force during the fifteen (15) years of its formation.
4. An officer or soldier of the regular Force, in order to be eligible for the grant of the Medal shall,

(a) be on the active list of the regular Force as of 05 February, 1993; or

(b) be on the posted strength of the Belize Defence Force (British Element) as of 05 February, 1993.

5. An officer or soldier of the volunteer element of the Force, in order to be eligible for the grant of the Medal shall,

(a) be on the active list of the volunteer element of the force as at 05 February, 1993; and

(b) have, completed four (4) years’ qualifying service (whether in the regular Force or the volunteer element).

6. Members of the Board shall qualify for the grant of the Medal provided that they are members of the Board as at 05 February, 1993.

7. A list of names of persons eligible for the award of the Medal under these Regulations shall be submitted by sub units to the Adjutant of the Force who shall verify the list of names. After verifying the list of names, the Adjutant of the Force shall submit such list to the Board for approval.

8. The Medal shall be awarded by the Governor-General on the advice of the Board and a notification of every such award shall be published in the Gazette.

9. (1) A recipient of the Medal who

(a) is convicted of any offence which, in the opinion of the Board is serious enough to warrant the forfeiture...
of the medal; or

(b) is removed from the Force,

shall forfeit the Medal unless the Governor-General directs otherwise.

(2) A Medal forfeited under subsection (1) above may be restored to the recipient by the Governor-General on the advice of the Board.

10. Where a Medal has been lost, its recipient shall report the facts of its loss to the Commandant of the Force who shall investigate the circumstances surrounding the loss and the Commandant shall submit a recommendation to the Board as to whether the Medal should be replaced and if so, whether free of charge or at the expense of the recipient of the Medal.

MADE this 30th day of January, 1993.

(MINITA ELMIRA GORDON)
Governor-General
CHAPTER 135

BELIZE DEFENCE FORCE (RULES OF ENGAGEMENT IN PEACETIME) REGULATIONS

ARRANGEMENT OF REGULATIONS

1. Short title.

2. General rules of engagement.


4. Fire in time of hostilities against uniformed enemy soldiers.
CHAPTER 135

Belize Defence Force (Rules of Engagement in Peacetime)

(Section 166)

[29th June, 2002.]

1. These Regulations may be cited as the

BELIZE DEFENCE FORCE (RULES OF ENGAGEMENT IN PEACETIME) REGULATIONS.

2. (1) Every member of the Belize Defence Force shall always endeavour to promote a cordial relationship with a civilian, and shall, in particular-

(a) always approach a civilian humanely and respectfully;

(b) speak kindly and friendly but firmly to civilians in their language where possible, (in the case of patrols, a soldier who is a Ketchi, Spanish and Maya linguist must accompany all such patrols);

(c) explain cordially the reason for contact with the civilian;

(d) not maintain contact for more than 10 to 15 minutes with a civilian while on patrol; (contact longer than this is a task for the intelligence service);

(e) not harbor less than 1 kilometer from the outskirts of a civilian habitation;
(f) not become too friendly with civilians encountered while on duty;

(g) not accept invitations for meals or other favours from civilians while on duty (such conduct causes familiarity and leads to a relaxation of patrol security);

(h) purchase only military necessities from community shops (a member of the Belize Defence Force shall always be prepared to prevent this possibility);

(i) protect all civilians from ill-treatment;

(j) respect all civilian property and refrain from stealing and damaging such property;

(k) if unsure of the status of a person, treat that person as a civilian;

(l) not search a civilian unless the civilian is reasonably suspected of carrying a firearm and a law enforcement officer is not available; 83 of 2002.

(m) treat journalists as civilians;

(n) when encountering an aggressive or provocative civilian, warn the civilian of the possible results of his actions;

(o) further to the warning referred to in paragraph (n), always attempt to disarm or disable the aggressive or provocative civilian if possible;
(p) not fire warning shots over the heads of civilians (the civilians may conclude that they were under attack and they may respond in kind);

(q) ensure that the force used to respond to a threat is proportional to the threat (a member of the Belize Defence Force shall not fire at hostile civilians unless the threat of loss of life or serious injury is imminent;

(r) fire observed warning shots in a safe area and direction, but not above the heads of civilians, when the threat of loss of life or serious injury is imminent;

(s) if time and space permits, use other means of engaging an aggressive civilian other than by lethal means;

(t) make weapons ready when ordered by his patrol commander, and when -

(i) there is a likelihood of encountering hostile civilians in his area of operation;

(ii) the threat of being ambushed is high;

(iii) approaching marijuana fields or places conducive to aircraft landings;

(iv) previous hostile acts have been committed against patrols in the past in the area of operation and such acts are likely to re-occur;

(u) carry non-lethal weapons (FRGs) on patrol in addition to his rifle and use such non lethal weapons
to engage an aggressive civilian where possible;

(v) avoid attacking hostile civilians armed with sticks, knives, spear guns, and machetes, with lethal force unless the loss of life or serious injury is imminent;

(w) fire aimed shots at the center of a target -

(i) only after warning shots have been ignored and there are no other means of preventing loss of life or serious injury;

(ii) to prevent a person from throwing a bomb or incendiary device at a building containing people or into a crowd, or at any instance where such action may kill or seriously injure the member of the Belize Defence Force, a member of his unit, or civilians;

(iii) when a person has killed or seriously injured a soldier or civilian and does not halt when called upon to do so by the officer in command and there are no other means of effecting a lawful arrest, or when the person tries to escape after being lawfully arrested;

(x) avoid taking reprisals against civilians, if a member of his patrol suffers injury as a result of the actions of a civilian (a member of the Belize Defence Force shall make all efforts to detain the suspect and turn him over to the Belize Police Department, and shall not fire at a fleeing suspect);
(2) Paragraphs (a) to (m) of subregulation (1) apply to the rules of engagement to be observed by soldiers encountering civilians, and for the purpose of these regulations, they shall be referred to as “Orders for Engaging Civilians”, and Paragraphs (n) to (z) of subregulation (1) apply to rules to be observed by soldiers when opening fire, and for the purpose of these Regulations they shall be referred to as “Orders for Opening Fire”.

3. (1) Every member of the Belize Defence Force has a duty to protect the territorial integrity of Belize and its borders, and shall, in pursuance of this duty, engage with and fire at foreign hostile soldiers threatening the territorial integrity of Belize.

(2) No member of the Belize Defence Force shall cross Belize’s borders while on duty or in uniform (in particular Belize’s border with Guatemala) except -

(a) under fire from foreign enemy soldiers and in circumstances where it is impossible to take cover from such fire within, or withdraw into, Belize without risking life or injury;

(b) when authority to enter the foreign country has been given by the Belize Defence Force Headquarters.

4. (1) Every member of the Belize Defence Force may open fire against uniformed enemy soldiers -

(a) on the orders of the senior officer in command; or
(b) at his own discretion, subject to any orders to the contrary from a senior officer present, when -

(i) foreign soldiers within Belize have opened fire or threatened the lives of civilians or other soldiers;

(ii) fire is opened on members of the Belize Defence Force or members of an allied force, or the lives of such members are under imminent threat, or serious injury to such members is reasonably apprehended.

(2) Every member of the Belize Defence Force may open fire against armed or hostile civilians -

(a) when in danger of injury or loss of life;

(b) engaged in hostile, subversive or terrorist activities against any public institution in Belize; or involved in sabotage attempts against any military or civil installation under the protection of the Belize Defence Force.

MADE by the Governor-General this 18th day of June, 2002.

(COLVILLE N. YOUNG)
Governor-General