DEFENCE

THE DEFENCE ACT

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[The inclusion of this page is authorized by L.N. 116F/2014]
1. These Regulations may be cited as the Defence (Officers) Regulations, 1962.

2.—(1) No person shall be granted a commission, other than an honorary commission, in the Jamaica Defence Force unless he is a citizen of a Commonwealth country.

   (2) Subject to the provisions of paragraphs (3) and (4), no officer shall be appointed to the regular Force unless he is a citizen of Jamaica.

   (3) An officer who has held a commission in the West India Regiment may, notwithstanding that he is not a citizen of Jamaica, be appointed to the regular Force.

   (4) Where the Defence Board considers it to be necessary, a citizen of a Commonwealth country may, notwithstanding that he is not a citizen of Jamaica, be appointed to the regular Force for a specified period and may be granted a commission.

3.—(1) An officer of the regular Force, other than a quartermaster officer, shall not, unless exempted by the Defence Board, be promoted to a substantive rank below that of lieutenant-colonel unless he has previously qualified for such promotion at such professional examinations or tests for that rank as may be fixed by the Defence Board from time to time.

   (2) An officer of the regular Force, other than a quartermaster officer, shall, subject to paragraph (1), be eligible for promotion to higher substantive rank on completion of the following periods of commissioned service—

   to lieutenant, after 2 years as a second lieutenant;

   [The inclusion of this page is authorized by L.N. 78/2002]
to captain, after 4 years as a substantive lieutenant;
to major, after 7 years as a substantive captain.

(3) A quartermaster officer of the regular Force shall be eligible for promotion to higher substantive rank on completion of the following periods of commissioned service—

to captain, after 6 years as a substantive lieutenant;
to major, after 6 years as a substantive captain.

(4) For the purposes of paragraph (2) in the case of an officer appointed to the regular force as a second lieutenant, the period of 2 years specified in paragraph (2) shall include any period of training as an officer cadet immediately prior to the grant of his commission in the Jamaica Defence Force at any training establishment approved by the Defence Board for the purposes of this paragraph:

Provided that any period that is added to the standard period of training as an officer cadet by virtue of a relegation shall be deducted from the total period of training for the purposes of promotion.

(5) For the purposes of paragraph (3), in the case of a quarter-master officer who immediately before the grant of his commission in the Jamaica Defence Force was in full-time service in Her Majesty’s military forces as a warrant officer, non-commissioned officer or soldier, account shall be taken, in such manner as the Defence Board shall direct, 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 neither the first 12 years of man service nor any service under the age of 17½ years or as an apprentice shall be counted.

(6) For the purposes of paragraphs (2) and (3)—

(a) in the case of any officer of the regular Force who, immediately before the grant of his commission in the Jamaica Defence Force, was in full-time commissioned service in Her Majesty’s military forces, any period of commissioned service in any rank shall include any period of full-time commissioned service in a corresponding rank in those forces; and

(b) in the case of any officer of the regular Force, a period of commissioned service in any rank shall include any period of ante-date granted by the Defence Board in respect of that rank.

(7) Promotion to the substantive ranks of lieutenant-colonel and above shall be by selection by the Defence Board.
(8) Officers of the regular Force who, immediately before the 13th day of September, 1967, were holding seniority in any rank, in accordance with the provisions of these Regulations prior to the abovementioned date, shall, with effect from that date, be deemed to have acquired such seniority in such rank in accordance with the provisions of these Regulations.

4. The substantive promotion of officers of the Reserve shall be by selection by the Defence Board.

5.—(1) An officer may be promoted to temporary 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.

6.—(1) Subject to the provisions of this regulation, an officer of the regular Force shall retire on attaining the age limit appropriate to his rank that is to say—

Major-General at the age of 56
Brigadier or Colonel at the age of 54
Lieutenant-Colonel at the age of 50
Major and below at the age of 47.

(2) Subject to the provisions of this regulation, an officer of the first class of the Reserve shall retire on attaining the age limit appropriate to his rank, that is to say—

Lieutenant-Colonel at the age of 50
Major at the age of 48
Captain and below at the age of 45.

(3) An officer who has attained the age limit appropriate to his rank may on the recommendation of the Defence Board be permitted to continue in the service.

(4) The provisions of this regulation shall not apply to officers serving on the permanent staff of the Jamaica National Reserve.

(5) Nothing in this regulation shall be taken to prevent the appointment to any rank specified or referred to in this regulation, for such period as may be specified in the instrument of appointment (and if the Defence Board so recommends), of any person who has already attained the age limit appropriate to that rank.

7. An officer may, at the discretion of the Defence Board, be permitted to retire or resign his commission at his own request.

[The inclusion of this page is authorized by L.N. 78/2002]
8. 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 by the Defence Board shall be retired.

9. The Governor-General may at any time remove an officer from the Jamaica Defence Force for misconduct.

10.-(1) An officer shall not be called upon to retire or resign his commission except by the Defence Board.

   (2) An officer may at any time be called upon by the Defence Board to retire or resign his commission for misconduct or for reasons other than misconduct.

   (3) In the event of an officer failing to retire or resign when called upon to do so under this regulation, his commission shall be terminated.

11. At the discretion of the Defence Board, an officer who, under the provisions of these Regulations, falls due or applies to retire or resign his commission may instead be required to transfer to the second class of the Reserve.

12.-(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.
THE DEFENCE ACT

THE DEFENCE RULES OF PROCEDURE, 1962

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1. Petitions.
THE DEFENCE ACT

RULES
(under section 137)

THE DEFENCE RULES OF PROEDURE, 1962
(Made by the Defence Board on the 31st day of July, 1962)

1. These Rules may be cited as the Defence Rules of Procedure, 1962.

2. In these Rules—
   “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 103 of the Act, any finding which a court-martial may make in accordance with that section;
      (b) section 117 of the Act, a finding in accordance with subsection (2) of that section that the accused is guilty but insane;
      (c) rule 65 (3), a finding that the accused is guilty of the charge subject to the exception of variation specified in the finding.

Arrest and avoidance of delay

3.—(1) When a person is detained by military authority in arrest, his commanding officer shall, unless it is impracticable, within forty-eight hours of becoming aware that he is so detained have such person brought before him, inform him of the charge against him and begin to investigate it.

    (2) Every case of such a person being detained in arrest beyond the period of forty-eight hours referred to in this rule without such investigation having begun and the reason therefor shall be reported by his commanding officer to higher authority.

4. The report required by subsection (2) of section 82 of the Act with regard to the necessity for further delay in bringing an accused to trial shall be in the form set out in the First Schedule and shall be signed by his commanding officer. The report shall be sent to the
officer who would be responsible for convening a court-martial for the trial of the accused.

5. An accused shall not be held in arrest for more than seventy-two consecutive days without a court-martial being convened for his trial, unless the officer who would be responsible for convening the court-martial directs in writing that he shall not be released from arrest. When giving such a direction such officer shall state his reasons for giving it.

**Investigation of charges by commanding officer**

6.—(1) Subject to paragraph (3), 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 7; or

(b) cause the evidence to be reduced to writing, in accordance with paragraph (2), 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 himself hear evidence in accordance with rule 7; and

(c) before he submits to higher authority a charge against an officer or warrant officer, soldier or civilian to whom Part V is applied by section 210 of the Act or remands a non-commissioned officer or private soldier 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 8 or an abstract of evidence made in accordance with rule 9:

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 higher authority in accordance with rule 12, requires in writing that a summary of evidence be taken; or

(c) the commanding officer is of the opinion that the interests of justice require that a summary of evidence be taken.

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(3) Where the evidence taken in accordance with paragraph (1) 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 purposes of these Rules, as the investigation of the added or substituted charge.

7. 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 a 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 witnesses 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;

(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 33.

8. 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—

(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 sign it unless he declines to do so;

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

(e) neither the accused nor the witnesses 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 shall be in narrative form, save that any question put to a witness in cross-examination by the accused, and the answer the witness gives in that examination, shall be recorded verbatim if the accused so requires;

(h) the oath shall be administered in accordance with rule 33 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.

9.—(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—Abstract of evidence.

(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 précis 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), 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. This statement, and a certificate by the person who recorded the statement 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.

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10. 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.

11.—(1) A commanding officer may dismiss a charge at any time during his investigation if he is of the opinion that it ought not to be proceeded with further.

(2) After a commanding officer has referred a charge to higher authority in accordance with rule 12, he shall not dismiss it unless it has been referred back to him with a direction that it shall be dismissed in accordance with the provisions of section 87 of the Act.

12. When a commanding officer submits to higher authority a charge against an officer or warrant officer or a civilian to whom Part V of the Act is applied by section 210 of the Act or has remanded a non-commissioned officer or private soldier for trial by court-martial, he shall send to higher authority—

(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.

Preparation of charge-sheets and framing of charges

13.—(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 paragraph (a) of subsection (1) of section 47, paragraph (a) of section 48, paragraph (a) of section 55 (where the charge is connected with a charge under either of the before-mentioned
paragraphs) or section 63 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.

(3) The commencement of each charge-sheet shall be in the appropriate form set out in the Second Schedule 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 under the Act or otherwise liable to trial by court-martial.

14.—(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, if it is a civil offence in such words as sufficiently described that offence.

(5) The particulars shall state—

(a) such circumstances respecting the alleged offences 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 lesser 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.
15.—(1) Any number of accused may be charged jointly in one charge for an offence committed by them jointly.

(2) 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 paragraph (1) of rule 13 in the same charge-sheet as the other charges against him.

16. 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 higher authority on receipt of a charge

17. When a higher authority receives a charge against an accused, he shall, if he does not refer it back to the commanding officer or deal summarily with it himself or himself convene a court-martial to try the accused, refer the charge either to an appropriate superior authority in order that that authority may deal summarily with it or to the officer who would be responsible for convening the appropriate court-martial to try the accused, and shall, when he so refers the charge, send to the appropriate superior authority or other officer concerned the documents mentioned in rule 12 together with his own recommendation as to how the case should be proceeded with.

Investigation of, and summary dealings with, charges by an appropriate superior authority

18. An appropriate superior authority shall ensure before investigating and dealing summarily with a charge that the accused is given, not less than twenty-four hours before the charge is so investigated and dealt with, a copy of the charge-sheet containing the charge upon which he will be so dealt with and a copy of the summary or abstract of evidence.

19. When an appropriate superior authority investigates and deals summarily with a charge—

(a) he shall first read the charge to the accused;
(b) the witnesses against the accused need not give their evidence orally if the accused has so agreed in writing but if the accused has not so agreed they shall give their evidence orally in his presence and he shall be allowed to cross-examine them. If the witnesses against the accused do not give their evidence orally the appropriate superior authority shall read the summary or abstract of evidence to the accused if he so requires;

(c) the accused in his defence may adduce evidence as to the facts of the case and as to his character and in mitigation of punishment;

(d) the accused himself may give evidence on oath, make a statement without being sworn or hand in a written statement;

(e) each witness who gives evidence shall give it on oath and the oath shall be administered by the appropriate superior authority to each witness and to any interpreter in accordance with rule 33;

(f) a record shall be made of the proceedings in accordance with the form set out in the Third Schedule.

20. An appropriate superior authority shall, if an accused elects to be tried by court-martial or the appropriate superior authority in the course of investigating a charge determines that it is desirable that the charge should be tried by court-martial, either himself convene the court-martial or refer the charge to higher authority in accordance with rule 17.

Convening of courts-martial

21.—(1) When an officer convenes a court-martial he shall—

(a) issue a convening order in the appropriate form set out in the Fourth Schedule;

(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 22;

(f) if convening—

(i) an ordinary court-martial where the maximum or only punishment for the offence is death; or

(ii) any other court-martial at which he considers there should be a judge advocate,

appoint a suitable person to act as judge advocate unless such appointment has been made or is to be made by the Defence Board;

(g) appoint an officer subject to service law or counsel assisted by such an officer to prosecute or detail a commanding officer to appoint an officer subject to service 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, the convening order and 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) which have been expurgated in the copy sent to the president;

(l) send to the judge advocate (if any) copies of the charge-sheet and convening order and an unexpurgated copy of the summary or abstract of evidence showing the passages (if any) which have been expurgated in the copy sent to the president;

(m) ensure that the accused is given proper opportunity to prepare his defence in accordance with rule 24; and

(n) take steps in accordance with rule 89 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 24:

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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.

(2) When an officer convenes a field court-martial he shall not be obliged to comply with paragraphs (g), (l) (in so far as it relates to the copy of the summary or abstract of evidence sent to the president being expurgated), (j), (k) and (l) of paragraph (1) if, in his opinion, it is impracticable to do so.

22. 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.

23.-(1) Subject to rule 79, any officer subject to service 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.

24.—(1) Subject to paragraph (2)—

(a) 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 counsel and with his witnesses;

(b) a defending officer or counsel 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;

(c) if the prosecution is to be undertaken by a legally qualified officer or by counsel, 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 counsel to defend him;

(d) 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—

(i) a copy of the charge-sheet;

(ii) an unexpurgated copy of the summary or abstract of evidence showing the passages (if any) which have been expurgated in the copy sent to the president;

(iii) notice of any additional evidence which the prosecution intends to adduce; and

(iv) if the accused so requires, a list of the ranks, names, and units of the president and members who are to form the court and of any waiting members;

(e) 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;

(f) when an accused is served with a copy of a statutory declaration which the prosecutor proposes to hand to the court in accordance with subsection (2) of section 104 of the Act and rule 56 he shall be informed of his right under the said subsection to require that oral evidence shall be given in lieu of such statutory declaration;

(g) 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

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that the interests of justice so require, direct that the accused who has so claimed shall be tried separately;

(h) 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.

(2) In the case of a field court-martial the provisions of paragraph (1) need only be complied with so far as it is practicable to do so.

Assembly and swearing of court

25.—(1) Upon a court-martial assembling, the court shall, before beginning the trial, satisfy themselves in closed court—

(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 under the Act 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 interests 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), 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.

26.—(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 97 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 paragraph (1) 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) 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 themselves 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.

27.—(1) Immediately after rule 26 has been complied with, an oath shall be administered to the president and each member of the court in accordance with rule 33 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 presented 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 26 or postpone the trial of that accused and swear the court for the trial of the other accused only.

28. After the court have been sworn, an oath shall be administered to the judge advocate (if any) in accordance with rule 33 and in the presence of the accused.

29. After the court and judge advocate (if any) have been sworn, an oath shall be administered to any officer under instruction in accordance with rule 33 and in the presence of the accused.
30.—(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 33 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 think that the objection is reasonable, that person
shall not act as interpreter or shorthand writer.

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

32.—(1) When a court has been convened to try two or more accused
separately and has been sworn in accordance with rule 27 (3), 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 think 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 they
think fit.

33.—(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:

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 accordan-e
with his religious beliefs.

(2) Subject to rule 27 (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.

(4) The provisions of section 107 of the Act shall apply to pro-
ceedings before a commanding officer, the taking of summaries of
evidence and proceedings before an appropriate superior authority as they apply to proceedings before a court-martial.

Arraignment of accused

34.—(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 their finding thereon and if the accused has pleaded guilty comply with paragraphs (1) and (2) of rule 44 before they arraign him upon the charge in any subsequent charge-sheet.

35.—(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 allow the plea they shall adjourn and report to the convening officer.

(3) When a court report 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;

(b) if he disapproves the decision of the court—

(i) refer the matter back to the court and direct them to proceed with the trial; or

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

36.—(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.

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(2) If the court uphold the objection, they shall either amend the charge, if permissible under rule 81, 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 report 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 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) amend the charge to which the objection relates if permissible under rule 82, 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.

37.—(1) An accused before pleading to a charge, may offer a plea in bar of trial in reliance upon section 126 or section 128 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 allow 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.

38. Where two or more accused are charged jointly, any one of the accused may, before pleading to the charge, 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 are of the opinion that the interests of justice so require they shall allow the application and try separately the accused who made it.

39. 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 are of the opinion that the interests of justice so require they 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.
40.—(1) After any pleas under rules 35 and 37, any objection under rule 37, and any application under rules 38 and 39, have been dealt with, the accused shall be required (subject to paragraph (2)) to plead either guilty or not guilty to each charge on which he is arraigned.

(2) Where a court is empowered by section 103 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 they could, after hearing the evidence, make a special finding of guilty subject to exceptions or variations in accordance with rule 65, the accused may plead guilty to such other offence or 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.

41.—(1) If an accused pleads guilty to a charge under either paragraph (1) or paragraph (2) of rule 40, the president or judge advocate shall, before the court decide 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 40 if—

(a) the court are 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 paragraph (2) of rule 40, a court shall also not accept the plea unless the convening officer concurs and they are 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 40 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 are satisfied that they can properly accept a plea of guilty under either paragraph (1) or paragraph (2) of rule 40 they shall record a finding of guilty in respect thereof.

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42.—(1) When an accused pleads guilty to the first of two or more alternative charges, the court, if they accept 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 record 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 have found the accused guilty and which is placed after it in the charge-sheet.

Procedure after recording a finding of guilty

43. After the court have 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, they shall proceed with the trial as directed by rule 44. 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 44 until after they have dealt with such other charge or tried such other accused and have announced and recorded their finding in respect thereof.

44.—(1) After the court have recorded a finding of guilty in respect of a charge to which an accused pleaded guilty, the prosecutor shall, subject to rule 43, read the summary or abstract of evidence to the court or inform the court of the facts contained therein:

Provided that if an expurgated copy of the summary or abstract was sent to the president, the prosecutor shall not read to the court those parts of the summary or abstract which have been expurgated 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 them to determine the sentence.

(3) After paragraphs (1) and (2) 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) has been complied with, the court shall proceed as directed in paragraphs (1), (2), (3) and (4) of rule 70.

Changes of plea

45.—(1) An accused who has pleaded not guilty may at any time before the court close to deliberate on their finding withdraw his plea of not guilty and substitute a plea of guilty (including a plea of guilty under paragraph (2) of rule 40 and in such case the court shall, if they are satisfied that they can accept the accused’s changed plea under these Rules, record a finding in accordance with the accused’s changed plea and so far as is necessary proceed as directed by rule 44.

(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 enter a plea of not guilty in respect of any charge under paragraph (2), they shall, if there was a charge laid in the alternative thereto which the prosecutor withdrew under rule 42, 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

46. 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 they think the interests of justice so require.

47.—(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.

48. If the prosecutor intends to adduce evidence which is not contained in any summary or 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.

49. 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 48, 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.
Swearing of witnesses.

Exclusion of witnesses from court.

Examination of witnesses.

Calling and examination of witnesses

50. Save as is otherwise provided by the Act an oath shall be administered to each witness in accordance with rule 33 before he gives evidence and in the presence of the accused.

51. 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.

52.—(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.

53.—(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.

54.—(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), if, in the opinion of the court and the judge advocate (if any), it is unnecessary to do so:

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

55.—(1) The court may, at any time before they close to deliberate on their 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 call a witness or recall 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 close to deliberate on their finding 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.

56. A statutory declaration which is admissible in accordance with the provisions of section 104 of the Act shall be handed to the court by the prosecutor or the accused, as the case may be, without being produced by a witness.

Submission of no case to answer and stopping of cases

57.—(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 has 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 they are satisfied that—

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

(b) it is not open to them on the evidence adduced to make a special finding under either section 103 of the Act or paragraph (3) of rule 65.

(3) If the court allow the submission they shall find the accused not guilty of the charge to which it relates and announce this finding in open court forthwith; if the court disallow the submission they shall proceed with the trial of the offence as charged.
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(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 they do so they shall also announce such finding in open court forthwith.

Case for the Defence

58.—(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), 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.

59.—(1) After rule 58 has been complied with the witnesses for the defence (if any) shall be called and give their evidence.

(2) Rules 50, 51, 52, 53, 54, 55 and 56 shall apply to the witnesses and the evidence for the defence as they apply to the witnesses and the evidence for the prosecution.

60. After the witnesses for the defence have given their evidence the prosecutor may, by leave of the court, call a witness or recall a witness to give evidence on any matter raised 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.

61.—(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 make his closing address after the closing address by the prosecutor unless the accused has called a witness to fact other than himself, in which case the prosecutor shall be entitled, subject to paragraphs (3) and (4), to make his closing address after the closing address by the accused.

(3) Where two or more accused are tried jointly, any one of them who has called a witness to fact other than himself shall make his closing address before the closing address by the prosecutor, and any one of them who has called no such witness shall be entitled to make his closing address after the closing address by the prosecutor.

(4) Where two or more accused are represented by the same defending officer or counsel he may make one closing address only. If any one of the accused for whom he appears has called no witness to fact other than himself such defending officer or counsel shall be entitled to make his closing address after the closing address by the prosecutor.

62. For the purposes of rules 58 and 61, the handing in by the accused of a statutory declaration shall be treated as the calling of a witness by him.

Summing up by Judge Advocate

63. 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.

Deliberation on, and Announcement of, Finding on the Charge

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

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

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

65.—(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) 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 103 or subsection (2) of section 117 of the Act or paragraph (3); or

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

(3) Where the court are of the opinion as regards any charge that the facts which they find 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 they shall specify in the finding.

(4) Where the court have recorded a finding of guilty on a charge which is laid in the alternative they 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.

66.—(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 Fourth Schedule.

[The inclusion of this page is authorized by L.N. 4/1976]
Procedure after Announcement of Finding

67. After the court have announced their finding on any charge on which the court have entered a plea of not guilty, if there is another charge in the same charge-sheet on which the court have accepted a plea of guilty, the court shall comply with paragraphs (1) and (2) of rule 44 in respect of that charge before proceeding further with the trial.

68. Where there is another charge-sheet against the accused before the court, the court shall not comply with rules 69 and 70 until they have arraigned and tried the accused and have complied with rule 66 and, if necessary, with rule 67, in respect of each charge in such other charge-sheet unless that charge-sheet is withdrawn under rule 80.

69. 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.

70.—(1) If the finding on a charge against the accused is guilty, or the court makes a special finding in accordance with section 103 of the Act or paragraph (3) of rule 65, the court before deliberating on their sentence shall whenever possible take evidence of his age, rank and service record. Such service record shall include—

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

(b) particulars of any offence of which the accused has been found guilty during his service 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) 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 Fourth Schedule.

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

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(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 and which are of the same general nature as that of which the accused has been found guilty by the court-martial:

Provided that the court shall not be informed of any such civil offence unless the finding is proved in accordance with section 191 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) 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) 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**

71. While the court are deliberating on their sentence no person shall be present except the president, members, judge advocate (if any) and any officer under instruction.

72.—(1) The court shall award one sentence in respect of all the offences of which the accused is found guilty. The sentence shall be in the appropriate form set out in the Fifth Schedule.

(2) 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.
(3) The court may make a recommendation to mercy and if they do so shall record in the proceedings their reasons for making it.

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

Announcement of Sentence and conclusion of Trial

74.—(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) 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 Counsel

75. 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 counsel 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 have come to their finding, nor on sentence before the court have 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 90 and that the record of the proceedings and exhibits are properly safe guarded in accordance with rule 92.

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76.—(1) It shall be the duty of the prosecutor and of the defending officer or counsel 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 Jamaica relating to the examination, cross-examination and re-examination of witness;

(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), 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.

77.—(1) Subject to these Rules the following persons shall be allowed to appear as counsel at a court-martial—

(a) every barrister-at-law who has a right of audience before, and every solicitor who is entitled to practice in, the Supreme Court of Jamaica;

(b) with the consent of the convening officer, any person who is recognized by him as having in any Commonwealth country or territory outside Jamaica rights and duties similar to those of a barrister-at-law or solicitor in Jamaica, and as 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 24 (1) (e), (g) and (h), 26, 30, 35, 36, 37, 38, 39, 46, 57, 78 (2), 90 and 92 (2) may be exercised by his defending officer or his counsel 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 counsel on his behalf.

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(3) If the accused is to be defended at his court-martial by
counsel 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

78.—(1) The prosecutor and the accused respectively are at all
times after the judge advocate is named to act at 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.

(2) 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 they have weighty reasons for not doing so,
and if the court do not accept it their reasons for not doing so shall be
recorded in the proceedings.

(3) After the closing addresses, the judge advocate shall sum up
the evidence and advise the court upon the law relating to the case be-
fore the court close to deliberate on their finding. If in the course of
deliberating on their finding the court require advice from the judge
advocate, they shall suspend their deliberation and ask and be given
such advice in open court.

(4) If when the court announce a finding of guilty or a special
finding under either section 103 of the Act or paragraph (3) of rule 65,
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 them. The court shall then reconsider their finding in closed
court. The record of the proceedings relating to such reconsideration
shall be in the form set out in the Fourth Schedule.

(5) 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.

(6) 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.
(7) The judge advocate shall be responsible for seeing that a proper record of the proceedings is made in accordance with rule 90 and responsible for the safe custody of the record of the proceedings under rule 92.

79.—(1) Where there is a judge advocate and—

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

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

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

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), 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 regulation the proceedings before him shall form part of the proceedings of the court, and subsection (1) of section 64, sections 65 and 98, subsections (1) and (2) of section 99, and sections 100, 104, 105, 106 and 107 of the Act and rules 33, 50, 51, 52, 53, 54, 55, 56, 76, 77, 83, 84, 85, 89, 90, 91, 92, 95, 96 and 104 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 authorized 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 under the Act commits an offence against subsection (1) of section 64, of the Act the judge

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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 Amendment of Charge-Sheets and Charges

80. 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 charge-sheet before
the accused is arraigned on any charge therein.

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

(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 they close to deliberate on their finding,
that it is desirable in the interests of justice to make any addition to,
omission from or alteration in, a charge which cannot be made under
paragraph (1) they 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 they close to deliberate on their
finding, that in the interests of justice it is desirable to make any
addition to, omission from or alteration in a charge which cannot
be made under paragraph (1), they may adjourn and report their
opinion to the convening officer, who may—

(a) amend the charge if permissible under rule 82 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.

82. When a court report to the convening officer under either rule 36 (2) or rule 81 (3), he may amend the charge in respect of which they have 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

83. 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.

84.—(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 continue 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.

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

86.—(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

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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.

Insanity

(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, they shall take evidence as to his mental condition. If the court after considering the evidence are of the opinion that the accused is fit to stand his trial they shall proceed with the trial; but if they are of the opinion that the accused is unfit to stand his trial by reason of insanity they shall so find and their finding shall be announced in open court forthwith and as being subject to confirmation.

(2) If a court, in the course of their deliberation on their finding on a charge find pursuant to subsection (2) of section 117 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, their finding shall be announced in open court forthwith and as being subject to confirmation.

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

Interviewing and Attendance of Witnesses

(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 or whose attendance at the trial
the accused has requested in accordance with rule 24 (1) (e), or who has made a statutory declaration, a copy of which the accused has served on the prosecution in accordance with section 104 of the Act.

(2) Except as provided in rule 49, 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 or whose evidence is included in the abstract of evidence, or in respect of whom the prosecution have given the accused notice under rule 48 that they intend to call him as a witness at the trial or who has made a statutory declaration a copy of which the prosecution have served on the accused in accordance with section 104 of the Act.

89.—(1) A witness who is subject to military law under the Act 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 under the Act 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 authorized 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) shall, when it relates to the taking of a summary of evidence be in the appropriate form set out in the First Schedule, and when it relates to a trial by court-martial be in the appropriate form set out in the Fourth Schedule and shall be served on the witness either personally or by leaving it with some person at the witness's normal place of abode, and at the time of such service there shall be paid or tendered any sum of money necessary to enable such witness to attend the taking of the summary of evidence or the trial, as the case may be, and to return.

(4) The provisions of section 106 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".

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Record of Proceedings

90.—(1) The proceedings of general and district 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 Fourth Schedule and in sufficient detail to enable the confirming officer to follow the course of the proceedings and to judge of 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) The proceedings of a field court-martial shall so far as is practicable be recorded in accordance with the provisions of paragraph (1) and the record must in any event contain the names of the president.
and members constituting the court and the judge advocate (if any), the name and description of the accused, the charge-sheet, all pleas, a brief summary of the evidence and the finding and sentence.

91.—(1) Subject to paragraph (2), 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 they have satisfied themselves 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 have a label bearing a number or letter and the signature of the president 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), the president shall ensure that proper steps are taken for its safe custody.

92.—(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.

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Confirmation, Revision and Promulgation

93.—(1) When a confirming authority 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 and any order which the court may have made under section 131 of the Act on the record of the proceedings in the appropriate form set out in the Fourth Schedule, and such record of his decision shall form part of the record of the proceedings.

(2) When a court have accepted a plea of guilty made under paragraph (2) of rule 40, the confirming authority may confirm their finding notwithstanding that the court have accepted the plea without the concurrence of the convening officer if, in the opinion of the confirming authority, it is in the interests of justice to do so.

(3) When a court have rejected a plea to the jurisdiction of the court or a plea in bar of trial or have overruled an objection to a charge, it shall not be necessary for the confirming authority 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 authority may state his reasons for withholding confirmation in any case, but if he withholds confirmation where a court have rejected a plea to the jurisdiction or a plea in bar of trial or have overruled on objection to a charge, because he disapproves this decision of the court, he shall when recording his decision under paragraph (1) state that he has withheld confirmation for this reason.

(5) If the sentence of a court-martial is informally expressed, the confirming authority 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 40 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 authority 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 Fourth Schedule. If confirmation has been withheld because the confirming authority 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.

94.—(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 Fourth Schedule, and the president shall date and sign such record and decision and return it to the confirming authority, 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 authority.

Loss of proceedings

95.—(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 authority to follow the course of the proceedings and to judge of 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 authority to follow the course of the proceedings and judge of 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), the confirming authority shall withhold confirmation and shall record his decision in the appropriate form set out in the Fourth Schedule.

96. 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 and cost of copies thereof

97. For the purposes of subsection (1) of section 134 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 Defence Board shall be six years from the conclusion of the trial.

98. The rate at which copies of the record of the proceedings of a court-martial shall be supplied in accordance with subsections (2) and (3) of section 134 of the Act shall be the estimated cost of the copy required not exceeding five cents for every folio of 72 words.

Petitions

99.—(1) If an accused who has been sentenced by a court-martial wishes to petition before confirmation against the finding or sentence or both, he shall present a petition to the confirming authority in the appropriate form set out in the Seventh Schedule.

(2) If an accused who has been sentenced by court-martial wishes to petition after promulgation against the finding he shall present a petition to a reviewing authority at any time within six months of promulgation in the appropriate form set out in the Seventh Schedule.

(3) If an accused who has been sentenced by a court-martial wishes to petition after promulgation against the sentence, he shall present a petition to a reviewing authority or an officer authorized to reconsider a sentence of a court-martial under section 115 of the Act at any time within six months of promulgation in the appropriate form set out in the Seventh Schedule.

[The inclusion of this page is authorized by L.N. 4/1976]
Miscellaneous provisions

100. A notice under proviso (c) of subsection (2) of section 104 of the Act requiring that oral evidence shall be given in lieu of a statutory declaration shall be in the appropriate form set out in the Fourth Schedule.

101.—(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) 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 Fourth Schedule.

(2) Any declaration made under paragraph (1) 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) 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) are—

(a) provisos (a) and (b) to paragraph (2) of rule 6;

(b) rule 8 (b) 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 insofar as it provides that the documents specified therein must be given to the accused not less than twenty-four hours before the appropriate superior authority investigates and deals summarily with the charge;

(d) rule 24 (1) paragraphs (b) and (c), and paragraph (d) 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 or is dealt with summarily by an appropriate superior authority, any declaration which has been made in his case under paragraph (1) shall be attached.

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to the record of the proceedings of the court-martial or to the record made by the appropriate superior authority as the case may be.

102.—(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 Fourth Schedule specifying the document concerned.

(2) Any declaration made under paragraph (1) 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) 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 or is dealt with summarily by an appropriate superior authority, any declaration which has been made in his case under paragraph (1) shall be attached to the record of the proceedings of the court-martial or to the record made by the appropriate superior authority as the case may be.

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

104. In any case not provided for by these Rules such course shall be adopted as appears best calculated to do justice.
(1) **Delay Report.**

(2) **Summary of Evidence.**

(3) **Abstract of Evidence.**

(4) **Certificate to be attached to Abstract of Evidence after it has been handed to the accused.**

(5) **Summons to Witness to attend the Taking of a Summary of Evidence.**

---

(1) **Delay Report**  
(Rule 4)

Unit Address:

.............................................................................................................
...........................................................................................................
Tel.: ........................................................................................................

To: .................................................................  
(Convening officer)

1 **Eight Day Delay Report**

pursuant to Defence Act, section 81 (2)

Number, rank, name of accused

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

Date placed in arrest ......................................................... 19....

Alleged Offence(s) | Date of Alleged Offence(s)
-------------------|------------------------
.............................................................................................................
.............................................................................................................
.............................................................................................................
.............................................................................................................
.............................................................................................................
.............................................................................................................

close

*The accused is in ——— arrest.
open
The reasons for his retention in arrest are .................................................
.............................................................................................................
.............................................................................................................

---

[The inclusion of this page is authorized by I.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

2 The abstract of evidence

was taken on.........................19.
has not yet been
made because.

2 Application for trial

was made on.........................19.
has not yet been
made because.

2 Legal advice

was received on.........................19.
has not yet been received.

2 Action

is being taken
has been taken
as follows.

2 Date of trial

has not yet been fixed
has been fixed as.........................19.

Reasons for delay since last report

Date..............................19

Officer commanding accused's unit

(To be signed personally by the C.O.)

1 Insert "1st", "2nd", "3rd", "Final" or as the case may be.
2 Strike out words not applicable.

(2) Summary of Evidence

(Rule 8)

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.]

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

........................................(number, rank, name, unit, or other description), witness
having been duly sworn\(^1\) states:

(Cross-examined by the accused)

\(^2\)Question 1.................................
Answer 1 ........................................

or

(The accused declines to cross-examine this witness)

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

or

........................................(number, rank, name, unit, or other description), witness
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 8 (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)

The accused having been duly cautioned in accordance with
Rule of Procedure 8 (c) reserves his defence.

or

The accused having been duly cautioned in accordance with Rule
of Procedure 8 (c) 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....witness
description) having been duly sworn\(^1\) states:—

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

........................................(number, rank, name, unit, or other description), witness
having been duly sworn\(^1\) states:—

(Signature and rank (if any) of witness)

Certified that Rule of Procedure 8 has been complied with.

This summary of evidence was taken by me at..........................
in the presence and hearing of the accused on the................
day(s) of........................................19........

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

[The inclusion of this page is authorized by L.N. 4/1976]
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 a statement without being sworn the words "without being sworn" should be substituted for the words "having been duly sworn."

2 See however rule 8 (a).

3 Omit the words "and to call a witness(es)" if they are not applicable.

---

(3) **Abstract of Evidence**

(Rule 9)

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 précis) précis of evidence\(^1\) of witnesses for the prosecution and compiled by me [the commanding officer of the accused] [..........................\(^2\) on the direction of the commanding officer of the accused].

Date ............................................. 19......

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

Signature and rank

\(1\) Strike out any reference to statements or précis which are not applicable.

\(2\) Insert name and rank of the officer making the abstract.

---

(4) **Certificate to be Attached to Abstract of Evidence after it has been Handed to the Accused**

(Rule 9)

Certified that I .............................................\(^1\) today handed to the accused\(^2\) the abstract of evidence relating to him dated the ............... day of ............................... 19........ and duly cautioned him in accordance with Rule of Procedure 9 (2) and that he [elected to make and sign the statement dated the ............... day of ............................... 19........ which is marked ............... and attached to this certificate] [did not make a statement].

Dated ............................................. 19......

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

(Signature of certifying officer)

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

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

---

[The inclusion of this page is authorized by L.N. 4/1976]
(5) **SUMMONS TO A WITNESS TO ATTEND THE TAKING OF A SUMMARY OF EVIDENCE**  
(Rule 89)

To:........................................................................................................1

Whereas a charge has been preferred against........................................2
and whereas I have directed a summary of the evidence to be taken at..........
........................................3 on the........................day of.............19......

You are pursuant to Section 137 of the Defence Act, and Rule 89 of the Defence Rules of Procedure, 1962, made thereunder hereby summoned and required to attend as a witness the taking of the said summary of evidence at ................................................. ...............................3 on the........................day of..............................19...... at..............................o'clock in the ........................................noon and to bring with you the documents hereinafter mentioned, viz.:4 ...........................................................

Whereof you shall fail at your peril.

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

.....................................................................................................................
(Signature, rank and unit)
Commanding officer of the accused.

---
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.

---

[The inclusion of this page is authorized by L.N. 4/1976]
SECOND SCHEDULE

CHARGE-SHEETS

(Rule 13(3) )

(1) COMMENCEMENT OF CHARGE-SHEETS.

(2) STATEMENTS OF OFFENCES.

(3) ILLUSTRATIONS OF CHARGE-SHEETS.

(1) COMMENCEMENT OF CHARGE-SHEETS

DEFENCE ACT

SECTION 209

(1) (a) The accused.........(number, rank, name and unit) being subject to military law under section 209 (1) of the Defence Act, is charged with:—

(b) (c)

SECTION 210

The accused......................(name and brief description) being liable to trial by court-martial under section 210 (1) of the Defence Act, is charged with:—

SECTION 125

(1) The accused......................(name) formerly..................(former military description including the manner in which the accused was formerly subject to military law set out in accordance with the appropriate form in this Schedule) and now liable to trial by court-martial under the provisions of section 125 (1) of the Defence Act, is charged with—
(2) **STATEMENTS OF OFFENCES**

**DEFENCE ACT**

*Treachery, cowardice and offences arising out of military service*

**SECTION 34**

(1) Aiding the enemy with intent contrary to section 34 (1) of the Defence Act.

(2) Knowingly and without lawful excuse doing an act specified in paragraph (a) of section 34 (1) of the Defence Act, contrary to section 34 (2) of the said Act.

**SECTION 35**

(1) Communicating with the enemy contrary to section 35 (1) of the Defence Act.

(2) Giving intelligence to the enemy contrary to section 35 (2) of the Defence Act.

**SECTION 36**

(1) Cowardice before the enemy contrary to section 36 (1) of the Defence Act.

(2) Inducing cowardice before the enemy contrary to section 36 (2) of the Defence Act.

**SECTION 37**

(a) Spreading reports relating to operations calculated to create despondency or unnecessary alarm contrary to section 37 (a) of the Defence Act.

(b) When before the enemy using words calculated to create despondency or unnecessary alarm contrary to section 37 (b) of the Defence Act.
SECTION 38

(1) Being captured through disobedience or wilful neglect contrary to section 38 (1) of the Defence Act.

(2) Failing to take reasonable steps after capture to rejoin Her Majesty's service contrary to section 38 (2) of the Defence Act.

SECTION 39

(1) Sleeping at his post when on duty controlling movement contrary to section 39 (1) (a)

(2) Sleeping when on duty controlling movement contrary to section 39 (1) (b)

(3) Drunkenness when on duty controlling movement contrary to section 39 (1) (c)

(4) Leaving his post when on duty controlling movement contrary to section 39 (1) (d)

(5) Striking a person on guard duty contrary to section 39 (3) of the Defence Act.

(6) Using force against a person on guard duty contrary to section 39 (3) of the Defence Act.

(7) Compelling a person on duty controlling movement to let a person pass contrary to section 39 (3) of the Defence Act.

SECTION 40

(a) Looting contrary to section 39 (a) of the Defence Act.

(b) Looting contrary to section 39 (b) of the Defence Act.

(c) Looting contrary to section 39 (c) of the Defence Act.
Mutiny and insubordination

SECTION 41

(1) (a) Mutiny with violence relating to the enemy contrary to section 41 (1) (a) of the Defence Act.

(1) (b) Incitement to mutiny contrary to section 41 (1) (b) of the Defence Act.

(2) Mutiny contrary to section 41 (2) of the Defence Act.

SECTION 42

(a) Failing to suppress or prevent mutiny contrary to section 42 (a) of the Defence Act.

(b) Failing to report mutiny contrary to section 42 (b) of the Defence Act.

SECTION 43

(1) (a) Striking, Using violence to his superior officer contrary to section 43 (1) (a) of the Defence Act.

(1) (b) Using threatening, insubordinate language to his superior officer contrary to section 43 (1) (b) of the Defence Act.

SECTION 44

(1) Disobeying a lawful command with willful defiance of authority contrary to section 44 (1) of the Defence Act.

(2) Disobeying a lawful command contrary to section 44 (2) of the Defence Act.
SECTION 45

(a) Obstructing a provost officer person exercising authority under or on behalf of a provost officer contrary to section 45 (a) of the Defence Act.

(b) Refusing to assist a provost officer person exercising authority under or on behalf of a provost officer contrary to section 45 (b) of the Defence Act.

SECTION 46

(1) Disobedience to standing orders contrary to section 46 (1) of the Defence Act.

Desertion, absence without leave, etc.

SECTION 47

(1) (a) Desertion contrary to section 47 (1) (a) of the Defence Act.

(1) (b) Persuading Procuring a person to desert contrary to section 47 (1) (b) of the Defence Act.

SECTION 48

(a) Absence without leave contrary to section 48 (a) of the Defence Act.

(b) Persuading Procuring a person to absent himself without leave contrary to section 48 (b) of the Defence Act.

SECTION 49

(a) Assisting a person to desert or absent himself contrary to section 49 (a) of the Defence Act.

(b) Failing to report without delay take steps to cause the apprehension of a deserter or absentee contrary to section 49 (b) of the Defence Act.
SECTION 50

Failing to attend for a military duty
Leaving a military duty without permission contrary to section 50 of the Defence Act.

Malingering and drunkenness

SECTION 51

(1) Malingering contrary to section 51 (1) of the Defence Act.

SECTION 52

(1) Drunkenness contrary to section 52 (1) of the Defence Act.

Offences relating to property

SECTION 53

(a) Stealing fraudulently misapplying property contrary to section 53 (a) of the Defence Act.

(b) Being concerned in the fraudulent misapplication of service of the Defence Act.

(c) Conniving at the fraudulent misapplication of service of the Defence Act.

(d) Receiving property contrary to section 53 (b) of the Defence Act.
SECTION 53, contd.

(c) Wilfully damaging { public } property contrary to section 53 (c) of the Defence Act.

Being concerned in the wilful damage of { service } of the Defence Act.

(d) By wilful neglect damaging { public service } property by fire contrary to section 53 (d) of the Defence Act.

SECTION 54

(a) Stealing { public service } property contrary to section 54 (a) of the Defence Act.

Fraudulently misapplying { stealing } the property contrary to section 54 (a) of the Defence Act.

Being concerned in { the } stealing of fraudulent misapplication of

Conniving at { the } fraudulent misapplication of

(b) Receiving property contrary to section 54 (b) of the Defence Act.

(c) Wilfully damaging { public service } property contrary to section 54 (c) of the Defence Act.

Being concerned in the wilful damage of

SECTION 55

(a) Losing { public service } property contrary to section 55 (a) of the Defence Act.

(b) Negligently damaging { public service } property contrary to section 55 (b) of the Defence Act.

(c) Negligently damaging by fire { public service } property contrary to section 55 (c) of the Defence Act.

(d) Neglect of { an animal } { a bird } contrary to section 55 (d) of the Defence Act.

Neglect of { an animal } { a bird } contrary to section 55 (d) of the Defence Act.

(e) Making away with { a decoration granted to him } contrary to section 55 (e) of the Defence Act.

Making away with { a decoration granted to him } contrary to section 55 (e) of the Defence Act.

Neglect of { his equipment } contrary to section 55 (e) of the Defence Act.
Flying Offences

SECTION 56

Doing an act } in } causing } to a person con-
Neglect } to } loss of life contrary to section
| flying | aircraft | bodily injury | 56 of the De-
the use of | aircraft | | fence Act.
| relation to | aircraft | likely to cause loss of life or bodily
| } | } | injury |
| aircraft material | } | |

SECTION 57

Signing a certificate relating to } without ensuring its accuracy contrary to section 57 of the
| aircraft | Defence Act.
| ) | |
| aircraft material | |

SECTION 58

Unlawful low flying contrary to section 58 of the Defence Act.

SECTION 59

Flying an aircraft in a manner causing or likely to cause unnecessary annoyance contrary to section 59 of the Defence Act.
Offences relating to and by Persons in Custody

SECTION 60

(1) (a) Delaying { an investigation } contrary to section 60 (1) (a) of the Defence Act

(1) (b) Failing to release a person in arrest contrary to section 60 (1) (b) of the Defence Act

(2) Failing to report the offence for which a person has been placed in custody contrary to section 60 (2) of the Defence Act.

(3) (a) Failing to give in writing information relating to a person committed to his charge as a guard commander contrary to section 60 (3) (a) of the Defence Act.

(3) (b) Failing to hand in a report relating to a person in custody received by him as guard commander contrary to section 60 (3) (b) of the Defence Act.

SECTION 61

(1) Wilfully allowing a person to escape contrary to section 61 (1) of the Defence Act.

(2) (a) Releasing a person without authority contrary to section 61 (2) (a) of the Defence Act.

(2) (b) Allowing a person to escape contrary to section 61 (2) (b) of the Defence Act.

SECTION 62

(1) Refusing to obey

  Striking

  Using violence to

  Offering

an officer who orders him into arrest contrary to section 62 (1) of the Defence Act.

(2) Striking

  Using violence to

  Offering

a person whose duty it is to apprehend him in whose custody he is contrary to section 62 (2) of the Defence Act.

SECTION 63

Escaping from custody contrary to section 63 of the Defence Act.
Offences in relation to Courts-Martial and Civil Authorities

Section 64

(1) Contempt of a court-martial contrary to section 64 (1) of the Defence Act.

Section 65

(1) Making a false statement contrary to section 65 (1) of the Defence Act.

Section 66

(a) Obstructing a constable contrary to section 66 (a) of the Defence Act.
(b) Preventing an arrest by (b) of the Defence Act.

Miscellaneous Offences

Section 67

(1) Disclosing information contrary to section 67 (1) of the Defence Act.

Section 68

Making a false answer on enlistment contrary to section 68 of the Defence Act.
SECTION 69

(a) Making, Signing, or Making a false entry in a service document contrary to section 69 (a) of the Defence Act.

(b) Altering, Altering an entry in, Making away with, Suppressing, or Defacing a service document contrary to section 69 (b) of the Defence Act.

(c) Failing to make an entry in a service document with intent to defraud contrary to section 69 (c) of the Defence Act.

(d) Being party to making, signing, making a false entry in, altering, altering an entry in, making away with, suppressing, defacing or failing to make an entry in a service document with intent to defraud contrary to section 69 (d) of the Defence Act.

SECTION 70

Scandalous conduct unbecoming the character of an officer and a gentleman contrary to section 70 of the Defence Act.
<table>
<thead>
<tr>
<th>Section</th>
<th>Offence</th>
</tr>
</thead>
<tbody>
<tr>
<td>71</td>
<td>(a) Striking or ill-treating a person of inferior rank or less seniority contrary to section 71 (a) of the Defence Act.</td>
</tr>
<tr>
<td></td>
<td>(b)</td>
</tr>
<tr>
<td>73</td>
<td>(a) Making a false accusation contrary to section 73 (a) of the Defence Act.</td>
</tr>
<tr>
<td></td>
<td>(b) Making a false statement or suppressing a material fact in a complaint contrary to section 73 (b) of the Defence Act.</td>
</tr>
<tr>
<td>74</td>
<td>Attempting to commit a military offence contrary to section 74 of the Defence Act, that is to say..........................(set out the offence)</td>
</tr>
<tr>
<td>75</td>
<td>Conduct to the prejudice of good order and military discipline contrary to section 75 of the Defence Act.</td>
</tr>
</tbody>
</table>

**Civil Offences**

**Section 76**

Committing a civil offence contrary to section 76 of the Defence Act, that is to say (here describe the civil offence in such words as sufficiently describe the offence).
THE DEFENCE RULES OF PROCEDURE, 1962

(3) ILLUSTRATIONS OF CHARGESHEETS

CHARGE-SHEET

The accused No. 54321 Private John Smith, 1st Battalion, The Jamaica Regiment being subject to military law under section 209 (1) (a) of the Defence Act, is charged with:

STEALING PUBLIC PROPERTY CONTRARY TO SECTION 53 (a) OF THE DEFENCE ACT

in that he

at Kingston on the 1st November, 1962, stole a pair of binoculars, public property.

RECEIVING PUBLIC PROPERTY CONTRARY TO SECTION 53 (b) OF THE DEFENCE ACT

in that he

at Kingston on 1st November, 1962, did receive a pair of binoculars, public property, knowing them to have been stolen or fraudulently misapplied.

B. C. GREEN, Lieutenant-Colonel,
Commanding 1st Battalion, The Jamaica Regiment,
Commanding officer of the accused.

Up Park Camp.
7th November, 1962.
To be tried by ordinary court-martial.

A. D. JONES, Brigadier
Chief of Staff, Jamaica Defence Force

Up Park Camp.
9th November, 1962.

1 The type of court will be an ordinary or a field court-martial according to the circumstances.
2 The order for trial may be signed by a staff officer "authorized to sign for" the convening officer as in the second illustration charge-sheet.

CHARGE-SHEET

The accused No. 12345, Corporal Peter Brown, and No. 10000, Private Thomas Jones, both of the 3rd Battalion, The Jamaica Regiment (National Reserve), being subject to military law under section 209 (1) (c) of the Defence Act, are charged with:

Both accused jointly

[The inclusion of this page is authorized by L.N. 4/1976]
1st charge

COMMITTING A CIVIL OFFENCE CONTRARY TO SECTION 76 OF THE
DEFENCE ACT, THAT IS TO SAY COMMON ASSAULT
in that they

at Irish Town on 1st November, 1962 assaulted Jack Sprat.

Corporal Brown only

2nd charge

STRIKING HIS SUPERIOR OFFICER CONTRARY TO SECTION 42 (1) (a)
of the Defence Act
in that he

when on active service at Irish Town on 1st November, 1962 struck No. 98765
Sergeant V. Blue, 3rd Battalion, the Jamaica Regiment (National Reserve).

Private Jones only

3rd charge

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER CONTRARY
to section 43 (1) (b) of the Defence Act
in that he

when on active service at Irish Town on 1st November, 1962, said to No. 98765
Sergeant V. Blue, 3rd Battalion, the Jamaica Regiment (National Reserve) when
asked by him for his (the accused’s) particulars “Don’t be nosey” or words to
that effect.

A. M. FIELD, Lieutenant-Colonel,
Commanding 3rd Battalion, The Jamaica Regiment
(National Reserve)
Commanding officer of the accused.

Montego Bay,
9th November, 1962.

To be tried by ordinary1 court-martial

P. M. DUNN, Captain,
Staff Captain “A”, authorized to sign for Chief of Staff,
Jamaica Defence Force.

Ocho Rios,
12th November, 1962.

1 The type of court will be an ordinary or a field court-martial according to the circumstances.

THIRD SCHEDULE (Rule 19 (f) )

RECORD OF PROCEEDINGS BEFORE AN APPROPRIATE SUPERIOR AUTHORITY

ACCUSED’S NUMBER, RANK AND NAME..........................................................
UNIT..........................................................................................................................

(The inclusion of this page is authorized by L.N. 4/1976)
THE DEFENCE RULES OF PROCEDURE, 1962

1. Questions to be put to the accused by the officer dealing with the case before the charge is read.

Q. Have you received a copy of the charge-sheet and [summary] [abstract] of evidence not less than 24 hours ago?

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

Q. Have you had sufficient time to prepare your defence?

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

2. The officer dealing with the case shall then read the charge(s) to the accused and ask him the following question:

Q. Have you agreed in writing that the witnesses against you need not give their evidence in person?

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

3. If the accused has agreed in writing that the witnesses against him need not give their evidence in person the officer dealing with the case shall read the summary or abstract of evidence to the accused if the accused so requires but, if the accused has not so agreed, the witnesses against him shall give their evidence in person and it shall be recorded on a separate sheet and be attached to this record.

4. After the summary or abstract of evidence has been read or the witnesses against the accused have given their evidence, as the case may be, the officer dealing with the case shall say to the accused:

Q. Do you wish to give evidence on oath or to make or hand in a statement without being sworn? Your evidence or statement may deal with the facts of the case, with your character and with matters in mitigation of punishment.

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

Q. Do you wish to adduce any other evidence in your defence?

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

5. If the accused elects to give evidence or to make a statement or to call witnesses the evidence for the defence including any statement made by the accused himself shall be recorded on a separate sheet and attached to this record. The officer dealing with the case shall then: (i) consider all the evidence and determine whether the accused is guilty of the offence or not; and (ii) if he determines that the accused is guilty examine and consider the accused's record of service. If he intends to award the punishment of stoppages or the finding will involve a forfeiture of pay or, in the case of a civilian, if he intends to award as punishment, he shall not announce and record his finding unless the accused says in answer to the following question that he will accept his award.

Q. Will you accept my award or do you elect to be tried by court-martial?

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

[The inclusion of this page is authorized by L.N. 4/1976]
6. FINDING.............................................................................................................................
AWARD........................................................................................................................................
Date..................................................................19......

(Signature, rank and appointment of
appropriate superior authority)

FOURTH SCHEDULE

COURT-MARTIAL FORMS

(1) CONVENCING ORDERS.
(2) DECLARATIONS UNDER RULES 101 AND 102.
(3) SUMMONS TO A WITNESS TO ATTEND A COURT-MARTIAL.
(4) NOTICES REQUIRING ORAL EVIDENCE TO BE GIVEN IN LIEU OF A STATUTORY
DECLARATION.
(5) RECORD OF PROCEEDINGS OF A COURT-MARTIAL.
(6) FINDINGS.
(7) RECORD OF RECONSIDERATION OF FINDING UNDER RULE 78 (5).
(8) SERVICE RECORD OF ACCUSED.
(9) RECORD OF PROCEEDINGS ON REVISION UNDER SECTION 110.
(10) CONFIRMATION.
(11) DIRECTION UNDER SECTION 123 (3).
(12) RESTITUTION ORDER.
(13) PROMULGATION.

(1) CONVENCING ORDERS

CONVENCING ORDERS FOR AN ORDINARY COURT-MARTIAL (Rule 21)

ORDERS BY.................................................................1

*Chief of Staff, Jamaica Defence Force* *[Commanding.............]*

(Place and date)...................................................................................................................

The detail of officers as mentioned below will assemble at........
at.............hours on the............... day of............... Name, etc., of accused.
19......for the purpose of trying by an ordinary court-martial the accused person(s) named in the margin.

President

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

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

MEMBERS

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CONVENCING ORDER FOR A FIELD COURT-MARTIAL (Rule 21)

ORDERS BY.............................................................

Commanding..........................................................

(Place and date)..........................................................

In the opinion of the convening officer it is not possible without serious detriment to the public service that the accused should be tried by an ordinary court-martial.

The detail of officers as mentioned below will assemble at....................

Name, etc., of accused. .............................................at....................hours on the.................... day of....................19........... for the purpose of trying by a field general court-martial the accused person(s) named in the margin.

PRESIDENT

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

MEMBERS

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

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WAITING MEMBER(s)

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

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

JUDGE ADVOCATE*

The judge advocate has been appointed by the Defence Board of

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

* In the opinion of the convening officer the necessary number of military officers having suitable qualifications is not available to form the court and cannot be made available with due regard to the public service.

* Three officers having suitable qualifications are not in the opinion of the convening officer available without serious detriment to the public service.

* It is not in the opinion of the convening officer practicable to appoint an officer other than himself as president.

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

Signed this...................day of....................19...........

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

(Signature, rank and appointment of the convening officer)

or

(Signature, rank and appointment of the appropriate staff officer)

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

Authorized to sign for..........................................................
(appointment held by convening officer)

*Strike out if not applicable

1 Insert 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 22 (a).
4 Insert the judge advocate's name and any legal qualification which he has.

(2) DECLARATION UNDER RULES 101 AND 102

(Rules 101 and 102)

Declaration under Rule of Procedure 101

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............................19...........
...................................................................................................................
(Signature)

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

Declaration under Rule of Procedure 102

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 information the disclosure of which would or might be directly or indirectly
useful to an enemy.

Signed at..........................this............................day of............................19...........
...................................................................................................................
(Signature)

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

[The inclusion of this page is authorized by L.N. 4/1976]
(3) Summons to a Witness to attend a Court-martial (Rule 89)

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

WHEREAS a court-martial [has been ordered to assemble at.......................]

[has assembled at.................................] on the......................day of

...................................................19........for the trial of...............................²

You are pursuant to section 137 of the Defence Act and Rule 89 of the Defence Rules of Procedure, 1962, made thereunder hereby summoned and required to attend as a witness at the sitting of the said court at......................
on the......................day of......................19......at......................
o' clock in the......................noon and to bring with you the documents herein-

after mentioned, viz.³.................................................................

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

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

and so to attend from day to day until you shall be duly discharged; whereof

you shall fall at your peril.

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

.........................................................19........

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

(Signature, rank and appointment)

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

..............¹ Authorized to sign for.....................³

An officer authorized to convene a court-

martial.*

*Strike out if not applicable.

¹ Insert name and address of the person to whom the summons is to be sent.
² Insert number, rank, name, unit or other description of the accused.
³ 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.
⁴ Insert appointment of staff officer who signs.
⁵ Insert the appointment of the officer for whom the staff officer is signing.

[The inclusion of this page is authorized by L.N. 4/1976]
(4) Notices requiring oral evidence to be given in lieu of a
Statutory Declaration (Rule 100)

Notice by a Commanding Officer

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

I............................................. commanding ..................................... hereby
give notice that I require that ........................................... shall give oral evidence
in lieu of [his] [her] statutory declaration dated...........................................at
your forthcoming trial by court-martial,

Date............................................ 19........ (Signature and rank)
Commanding officer of the accused.

Notice by an Accused

To...................................................... commanding .....................................

I............................................. hereby give notice that I require that............
........................................... shall give oral evidence in lieu of [his] [her] statutory
declaration dated...........................................at my forthcoming trial by court-martial.

Date ........................................ 19........ (Signature)
Commanding officer of the accused.

1 Insert number, rank, name, unit or other description of accused.
2 Insert rank and name of commanding officer.
3 Insert unit.
4 Insert name of witness.

(5) Record of Proceedings of a Court-Martial (Rule 90)

A

Record of Proceedings of a Court-Martial

Proceedings of a............................ court-martial held at....................
on the................................day of................................, 19........ by order of.............

*Chief of Staff, Jamaica Defence Force) *(Commanding..............]
Dated the.............................day of........................................, 19........

(The inclusion of this page is authorized by L.N. 4/1976)
Trial of.........................................................................................................................

The court comply with Rule of Procedure 25.

not being available

owing to......................................................................................................................

the president appoints...............................a qualified waiting member to
take his place.

The accused is brought before the court.

Prosecutor ...............................................................................................................

Defending [officer] [counsel] ..................................................................................

At ................................ hours the trial begins.

The convening order is read in the hearing of the accused, marked......................
signed by the president 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......................... 3

1 Insert "ordinary" or "field" as the case may be.
2 Insert the number, rank, name, unit or other description of the accused as given in the
   charge-sheet.
3 Strike out if not applicable.

B

PAGE 2

SWEARING

The president, members of the court and judge advocate are duly sworn. The

[following] officers under instruction [listed on page ............] are duly sworn.

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

Q. Do you object to ........................................... as shorthand writer?
A. ......................................................................................................

(Name) .................................................. is duly sworn as shorthand writer

Q. Do you object to .......................................................... as interpreter?
A. ......................................................................................................

(Name) .................................................. is duly sworn as interpreter.

SPECIAL PLEAS AND OBJECTIONS

The accused offers a plea to the jurisdiction under Rule of Procedure 35. The proceedings relating to his plea are recorded on page.............

The accused objects to the ......................... charge(s) under Rule of Procedure 36. The proceedings relating to his objection(s) are recorded on page.............

The accused offers (a) plea(s) in bar of trial under Rule of Procedure 37 in respect of the ......................... charge(s). The proceedings relating to his plea(s) are recorded on page.............

The accused ......................... applies under Rule of Procedure 38 to be tried separately. The proceedings relating to his application are recorded on page.............

The accused applies under Rule of Procedure 39 to have charges ................. and ......................... tried separately. The proceedings relating to his application are recorded on page.............

1 If 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.
2 Strike out if not applicable.

CI

ARRAIGNMENT

The charge-sheet is read to the accused and he is arraigned on each charge.

The charge-sheet is signed by the president and inserted in the record immediately before this page as page(s).............

[The inclusion of this page is authorized by L.N. 4/1976]
Q. Are you guilty or not guilty of the first 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?

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

Q. Are you guilty or not guilty of the third charge against you which you have heard read?

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

Q. Are you guilty or not guilty of the fourth charge against you which you have heard read?

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

Q. Are you guilty or not guilty of the fifth charge against you which you have heard read?

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

Q. Are you guilty or not guilty of the sixth charge against you which you have heard read?

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

The accused having pleaded guilty to the charge(s) Rule of Procedure 41 is duly complied with in respect of [this] [these] charge(s).

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

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 ninth charge against you which you have heard read?¹

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

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

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

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

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

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

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

¹ Strike out if not applicable.

D1

PROCEEDINGS ON PLEA(S) OF NOT GUILTY²

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?

A.² ..............................................................................................................

The prosecutor [makes an opening address shortly outlining the facts] [makes an opening address which is summarized below] [hands in a written address which is read signed by the president, marked..........................and attached to the record].

¹ Remove this page if there are no pleas of not guilty.
² If 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

The witnesses for the prosecution are called.

being duly sworn says:  

Continued on page...........

¹ When 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”.

[The inclusion of this page is authorized by L.N. 4/1976]
The prosecution is closed.

The accused submits under Rule of Procedure 57 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.

DEFENCE

Rule of Procedure 58 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 summarized below] [hands in a written address which is read, signed by the president, marked and attached to the record].

---

(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, signed by the president, 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.

---

(The inclusion of this page is authorized by L.N. 4/1976)
First Witness being duly sworn says:

Continued on page............

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

---

D5

Page

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

The...[makes a closing address which is summarized on page.......................] [hands in a closing address which is read, marked..................signed by the president and attached to the record].

The...[makes a closing address which is summarized on page.......................] [hands in a closing address which is read, marked..................signed by the president and attached to the record].

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

FINDING(S)

The court close to deliberate on their finding(s).

The court find that the accused...is:

ANNOUNCEMENT OF FINDING(S)

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

The finding(s) [is] [are] 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...19...

Judge Advocate

President

[The inclusion of this page is authorized by L.N. 4/1976]
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 and attached to the record.4 or

The prosecutor informs the court of the facts contained in the [summary] [abstract] or evidence which is marked.....................signed by the president and attached to the record.4

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 Fourth Schedule to the Rules of Procedure.
4 Strike out if not applicable if this paragraph is struck out. Rule of Procedure 44 (2) must be complied with.

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?

The.................................................[makes an address in mitigation of punishment, which is summarized [below] [on page.....................]] [hands in an address in mitigation of punishment, which is read, marked.....................signed by the president and attached to the record]1.

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

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 close 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 OF 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. ..................................................................................

The......................... is read, marked ....................... , signed
by the president 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 70 (3) which is
recorded on pages......................

1

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 close to deliberate on sentence.

*Strike out if F2 is completed before F1

1 Strike out this paragraph if the prosecutor does not adduce evidence under Rule of Procedure
70 (3).

[The inclusion of this page is authorised by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

G

Page

SENTENCE

The court sentence the accused

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

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 19

Judge Advocate

President

1 Remove this page if not applicable.
2 Insert the number, rank, name, unit or other description of the accused as given on the charge-sheet.
3 Record the sentence in the appropriate form of words set out in the Fifth Schedule to the Rules of Procedure. Any recommendation to mercy (see Rule of Procedure 72 (4), recommendation under section 123 (3) of the Defence Act, restriction order (see section 131 of the Defence Act), made by the court, should be entered on the record immediately after the sentence.
4 Strike out if not applicable.

H

Page

CONFIRMATION

1 For minutes of confirmation see the Fourth Schedule to the Rules of Procedure. Pronunciation should be recorded immediately below the minute of confirmation in accordance with Rule of Procedure 93 (7).

(6) FINDINGS

Acquittal on all charges

not guilty of [the charge] [all the charges].

not guilty of [the charge] [all the charges], and honourably acquit him thereof.

[The inclusion of this page is authorized by L.N. 4/1976]
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 him 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 [with the exception of the words
.........................................................2] [with the exception that.........................2]

not guilty of the offence charged but is guilty of.................................3

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.

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 65 (3).
3 State the offence of which the accused is found guilty. This form is applicable when a special finding is made under section 103 (2), (5) or (6) of the Defence Act.

(7) RECORD OF RECONSIDERATION OF FINDING UNDER RULE 78(5)

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

.................................................................3

The court is closed for reconsideration of finding.

The court on reconsideration find that the accused is:

.................................................................
The finding(s) on reconsideration [is] [are] read in open court and (with the exception of the finding(s) of "not guilty") [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.

(8) SERVICE RECORD OF ACCUSED (Rule 70 (2))

<table>
<thead>
<tr>
<th>Number</th>
<th>Rank</th>
<th>Name</th>
<th>Regiment or Corps</th>
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</tbody>
</table>

1. He was enlisted on ..........................19......and commissioned on ............................................ 19......

2. He is serving on a* ..........................

3. His age is ....................................years.

4. He i. 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. (1) He is entitled to the following decorations and awards:—

   (11) The following acts of gallantry or distinguished conduct are recorded in his conduct sheet:—

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

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

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

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

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

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

9. He holds the substantive rank of ..................................with seniority from ..........................19......and has held the acting rank of ..................continuously since ..........................19......

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 in 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) (He is now under sentence of ..................beginning on ..........................19......)

[The inclusion of this page is authorized by L.N. 4/1976]
12. According to his conduct sheets, he has been found guilty by his commanding officer or by the commandant of a military establishment of the following offences:

<table>
<thead>
<tr>
<th>In the last 12 months</th>
<th>During his service</th>
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<tbody>
<tr>
<td>For........................</td>
<td>times</td>
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<td>For........................</td>
<td>times</td>
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<td>times</td>
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<td>For........................</td>
<td>times</td>
</tr>
</tbody>
</table>

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 civil court, offences of which he has been found guilty by an appropriate superior authority are set out in the Schedule.

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".

(The inclusion of this page is authorized by L.N. 47/1976)
THE SCHEDULE HEREBEFOREREFERRED TO

<table>
<thead>
<tr>
<th>No.</th>
<th>Rank</th>
<th>Name</th>
<th>of</th>
<th>Regiment or Corps</th>
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</table>

<table>
<thead>
<tr>
<th>Description of Court or Appropriate Superior Authority</th>
<th>Date and Place of Trial Summary Dealing</th>
<th>Charges on which Convicted or found Guilty</th>
<th>Sentence or Order of the Court as confirmed or Award of Appropriate Superior Authority</th>
<th>Punishment remitted on Review or re-consideration</th>
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</table>

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 19

(Name, rank and appointment of Officer signing)

---

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

2 Omit automatic remission under Imprisonment and Detention Rules.
THE DEFENCE RULES OF PROCEDURE, 1962

(9) RECORD OF PROCEEDINGS ON REVISION UNDER SECTION 110 OF THE ACT

(Rule 94)

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

Present


 The order directing the re-assembly of the court and giving the reasons therefor
is read, marked................................, signed by the president 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..............................


 and [adhere to their sentence] [sentence the accused to......................
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.............................. to
...................... in substitution for the original sentence]

 or

 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 the accused..............................
not guilty of [that] [those] charge(s).

 Signed at.............. this.............. day of.............. 19......


 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 5th 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 authority. If a member is absent
and the court is thereby reduced below the legal minimum the president must report to the
confirming authority.
5 Insert accused's number, rank, name, unit, 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 Fifth Schedule.

[The inclusion of this page is authorized by L.N. 4/1976]
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 and order under section 131 of the Defence Act, but [remit............................] [commute...........................]

I confirm the court's finding(s), sentence and order under section 131 of the Defence Act, 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............................] [commute...........................].

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) (on the grounds that............................). I confirm the sentence but [remit............................] [commute...........................].

I refer the finding(s) and sentence to........................ for confirmation.

I confirm the finding(s) of the court on the ...................charge(s) and refer the finding(s) on the ...................charge(s) and the sentence to........................ for confirmation.

[The inclusion of this page is authorized by L.N. 4/1976]
I confirm the finding(s) of the court but refer the sentence to...........................
for confirmation.

(Rule 95(3) )

[The record] [Part of the record] of the proceedings of the.........................
court-martial which tried..............................at............................on the
......................day of......................19........having been lost I do not
confirm the finding(s) of the court.

Signed at..............................this......................day of......................19......

(Signature, rank and appointment 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 have expressed the sentence informally or incorrectly and the confirming officer desires to put it into the correct legal form.
5 Insert the date or event to which the carrying out of the sentence is postponed.
6 This form of words is appropriate when the court have passed an illegal sentence on the accused and the confirming officer desires to substitute a legal sentence.
7 Where a confirming officer 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 officer is not bound to give his reasons for withholding confirmation.
8 Insert the appointment of the higher authority to whom the matter is to be referred.
9 The rank and appointment of the confirming officer should be clearly stated after or under
his signature.

(11) Direction under section 122 (3) of the Act

I.................................................[confirming authority] [reviewing authority]
hereby direct that the accused...........................................(number, rank,
name or other description) shall not be required to be returned to Jamaica until
he has served [..............months] [..............years] of the sentence of
[imprisonment] [detention] passed on him.

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

Dated.............................................19,......

1 When the confirming authority is making the direction this form of words should be inserted
in the record of the proceedings of the court-martial in the confirming authority's minute of
confirmation; when made by a reviewing authority it should follow the minute of promulga-
tion.

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

(12) RESTITUTION ORDER

In accordance with subsection ......................... of section 131 of the Defence Act, I .............................................. hereby order that ........................................ and I direct that this order shall be carried out forthwith.

Dated ........................................ 19

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

[Confirming authority]

[Reviewing authority]

1 When the confirming authority is making the order this form of words should be inserted in the record of the proceedings of the court-martial in the confirming authority's minute of confirmation; when made by a reviewing authority it should follow the minute of promulgation.

2 Insert the rank, name and appointment of confirming or reviewing authority, as the case may be.

3 Insert description of article or amount of money, as the case may be.

4 Insert name of person to whom restitution is being made.

(13) PROMULGATION (Rule 93)

Promulgated and extracts taken at ..................... (place) this ..................

day of ........................................ 19

.......................................................... (Signature, rank and appointment of officer making the promulgation)

FIFTH SCHEDULE

SENTENCES

(1) SENTENCES.

(2) RECOMMENDATION UNDER SECTION 123 (3) OF THE ACT.

(3) RESTITUTION ORDER.

(1) SENTENCES (Rule 72)

NOTE: The words in the margin should be entered in the right-hand margin of the record of the proceedings of a court-martial opposite the record of the sentence.

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

OFFICERS

To suffer death.

To be imprisoned for and to be cashiered.

To be cashiered.

To be dismissed from Her Majesty’s service.

To be fined

To be [severely reprimanded] [reprimanded].

To be put under stoppage of pay until he has made good the sum of

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

.......................................\(^1\) in respect of.............................................\(^2\).

WARRANT OFFICERS AND NON-COMMISSIONED OFFICERS

To suffer death.

To be imprisoned for and to be reduced to the ranks

To be discharged with ignominy from Her Majesty’s service.

To be dismissed from Her Majesty’s service (warrant officers only).

To undergo detention for and to be reduced to the ranks.

To undergo field punishment for days and to be reduced to the ranks.

To be reduced [to the ranks] [to the rank of]

\(^1\) In respect of.

\(^2\) The inclusion of this page is authorized by L.N. 4/1976
Forfeiture. To forfeit service.

[Severe reprimand.]

To be [severely reprimanded] [reprimanded].

Fine. To be fined.

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

Death. To suffer death.

Imprisonment.

To be imprisoned for.

Discharge with ignominy.

To be discharged with ignominy from Her Majesty's service.

Detention.

To undergo detention for.

Field punishment.

To undergo field punishment for days.

Forfeiture of service.

To forfeit service.

Fine.

To be fined.

Stoppages.

To be put under stoppages of pay until he has made good the sum of...

\[1 \text{ Insert the amount which has to be made good by stoppages in respect of the charge or article specified.}\]

\[2 \text{ Specify the charge or article in respect of which the stoppage is to be imposed. If stoppages are being imposed in respect of more than one charge or article the amount which has to be made good in respect of each charge or article must be stated separately.}\]

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE RULES OF PROCEDURE, 1962

(2) Recommendation under section 122 (3) of the Act

The court recommend that the accused.....................................................(number, rank, name or other description) shall not be required to be returned to Jamaica until he has served [..................months] [..................years] of his sentence.

1 This form of words should be inserted in the record of the proceedings of the court-martial in the sentence passed by the court.

(3) Restitution Order

In accordance with subsection......................of section 131 of the Defence Act, the court hereby order that.................................................. be [delivered] [paid] to .....................................................

The court further order that this order shall be carried out forthwith.

1 This form of words should be inserted in the record of the proceedings of the court-martial in the sentence passed by the court.
3 Insert the description of the article or the amount of money, as the case may be.
8 Insert name of person to whom restitution is to be made.

SIXTH SCHEDULE
OATHS AND AFFIRMATIONS

(1) Oaths at investigations by Commanding Officers and appropriate Superior Authorities.

(2) Oaths at Courts-martial.

(3) Manner of administering oaths.

(4) Solemn Affirmations.

(1) Oaths at investigations by Commanding Officers and appropriate Superior Authorities

Interpreter (Rule 30(1))

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 the truth, the whole truth and nothing but the truth.

(2) Oaths at Courts-martial

President and Members (Rule 28)

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.

(The inclusion of this page is authorized by L.N. 4/1976)
Judge Advocate  
(Rules 28 and 29)

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  
(Rule 29)

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  
(Rule 30)

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.

Interpreter  
(Rule 30)

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  
(Rules 33 and 50)

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  
(Rule 33(3))

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 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".

SEVENTH SCHEDULE

Petitions  
(Rule 99(1))

Petition to confirming authority (before confirmation)

To the confirming authority.

I……………………………………………… having been convicted by court-martial on ……………………………………… at…………………………………… and having been sentenced to ……………………………………… hereby petition against the finding(s) on the……………… charge(s) and sentence(s) on the following grounds—

…………………………………………………………
…………………………………………………………
…………………………………………………………
…………………………………………………………
…………………………………………………………
…………………………………………………………

[The inclusion of this page is authorized by L.N. 4/1976]
PETITION TO REVIEWING AUTHORITY (AFTER PROMULGATION) (RULE 99)

To: ................................................

I, .................................................................. having been convicted by court-martial on ................................................ at ................................................ and having been sentenced to ................................................ and having had the finding(s) and sentence promulgated to me on ................................................ hereby petition against the finding(s) on the charge(s) and sentence on the following grounds—

Signed..................................................

Dated ..................................................
THE DEFENCE ACT

THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS, 1962

ARRANGEMENT OF REGULATIONS

PART I. Preliminary

Regulation
1. Citation.
2. Interpretation.

PART II. Control and Inspection of Military Establishments
3. Inspectors of military establishments.
4. Inspection of military establishments.

PART III. Provisions, Classification and Use of Military Establishments
5. Places in which persons may be required to serve military sentences of imprisonment or detention.
6. Classification of military establishments.
7. Provision of military establishments other than unit detention rooms.
8. Provision of unit detention rooms.
9. Places where officers and certain civilians may serve military sentences of imprisonment.
10. Soldiers sentenced in Jamaica.
11. Soldiers sentenced out of Jamaica.
12. Places in which sentences shall be served.
13. Places where military sentences of imprisonment may be served out of Jamaica.
14. Places in which military sentences of detention may be served in Jamaica.
15. Places in which military sentences of detention may be served out of Jamaica.
16. Places in which women may serve military sentences of imprisonment or detention.
17. Removal from Jamaica of persons serving sentences there.
18. Temporary custody of persons under sentence.
19. Committal to and removal from prisons and other establishments.
20. Release from military sentences of imprisonment or detention.
Regulation

21. Authority for release from military establishments.
22. Temporary release.
23. Detention of soldiers in safe custody.

PART IV. Remission

24. Remission of sentence.
25. Records of remission.
27. Restoration of forfeited remission.
28. Effect on remission of subsequent sentences.

PART V. Treatment, Employment, Discipline and Control of Soldiers under Sentence

29. Application of Part V of these Regulations.
30. Rules to be brought to the notice of soldiers under sentence.
32. Corporal punishment and the use of force.
33. Admission to military establishments.
34. Accommodation of soldiers under sentence.
35. Provision of miscellaneous accommodation in military establishments.
36. Daily routine.
37. Work and training of soldiers under sentence.
38. Sundays and public holidays.
39. Work in association.
40. Unauthorized work.
41. Earnings Scheme.
42. Rations for soldiers under sentence.
43. Smoking by soldiers under sentence.
44. Letters.
45. Parcels.
46. Censorship.
47. Visits by relatives and friends.
48. Visits by legal advisers.
49. Visits for the purpose of investigating offences.
50. Medical attention.
51. Medical Officer—functions.
52. Medical Officer—attendance.
53. Appeals.
54. Facilities for soldiers under sentence who wish to petition or appeal.

[The inclusion of this page is authorized by L.N. 4/1976]
Regulation
55. Complaints.
56. Searching soldiers under sentence.
57. Method of searching.
58. Persons of unsound mind.
59. Escapes.
60. Duration of sentences of persons who escape.
61. Deaths.
62. Offences against discipline.
63. Jurisdiction of commandant and company commander.
64. Procedure for dealing with offences.
65. Punishments which may be awarded by a commandant.
66. Punishments which may be awarded by a company commander.
68. Corporal punishment prohibited.
69. Restricted Diets No. 1 and No. 2.
70. Conditions with reference to the award of restricted diet No. 1.
71. Conditions with reference to the award of restricted diet No. 2.
72. Conditions affecting restricted diet No. 1 and restricted diet No. 2.
73. Close confinement.
74. Mechanical restraint.
75. Authorization of mechanical restraint.
76. Types of mechanical restraint.
77. The use of handcuffs.
78. The use of the strait waistcoat.
79. The use of the body belt.
80. The use of the canvas suit.

PART VI. Religion, Education and Welfare
82. Chaplains.
83. Duties of Chaplains.
84. Divine Service.
85. Education.
86. Welfare.

PART VII. Miscellaneous Regulations and Offences Relating to Military Establishments
87. Unlawful conveyance of spirits or tobacco into military establishments.
88. Unlawful introduction of other articles.
89. Admission of visitors and others to military establishments.

[The inclusion of this page is authorized by L.N. 4/1976]
PART VIII. Unit Detention Rooms

Regulation
90. Application of these Regulations to unit detention rooms.
91. Setting up unit detention rooms.
92. Segregation in unit detention rooms.

PART IX. Visiting Officers
93. Appointment of visiting officers.
94. Duties of visiting officer.
95. Investigation of complaints by visiting officer.
96. Redress of complaints made to a visiting officer.

PART X. Staff of Military Establishments
97. Duties of commandant.
98. Duties of members of the staff of military establishments.

SCHEDULES

First Schedule—Part I.
First Schedule—Part II.
Second Schedule.
THE DEFENCE ACT

REGULATIONS
(under section 138)

THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS, 1962

(Made by the Defence Board on the 31st day of July, 1962)

PART I. Preliminary

1. These Regulations may be cited as the Defence (Imprisonment and Detention) Regulations, 1962.

2. In these Regulations, unless the context otherwise requires—

"commandant" means—

(a) in relation to a military establishment, being a military prison or military detention barracks, the officer appointed as commandant or superintendent thereof, and any officer from time to time acting in his place;

(b) in relation to a military establishment, being unit detention rooms, the commanding officer of the unit providing the rooms in accordance with these Regulations;

"confirming authority" means in relation to a person under a sentence of imprisonment or detention passed by court-martial, the authority by whom that sentence was confirmed;

"legal adviser" means, in relation to a soldier under sentence, every barrister-at-law who has a right of audience before, and every solicitor who is entitled to practise in, the Supreme Court of Jamaica; with the approval of the commandant, any person who is recognized by him in any country or territory outside Jamaica as having rights and duties similar to those of a barrister-at-law or solicitor in Jamaica; a clerk in the full-time employment of any such person as aforesaid authorized by that person to interview a soldier under sentence; and any naval, military, or air force officer representing or assisting a prisoner for the purposes of his defence or in connection with a petition or an appeal:

[The inclusion of this page is authorized by L.N. 4/1976]
"local commander" means, in relation to a military establishment, the Chief of Staff or any officer not below the rank of colonel or corresponding rank superior in command to the commandant;

"overseas establishment" means an establishment under the control of the authorities of a country or territory outside Jamaica in which military sentences of imprisonment or detention may be served wholly or partly in accordance with arrangements made by the Minister with those authorities pursuant to section 122 of the Act;

"reconsidering authority" means, in relation to a person under a military sentence of imprisonment or detention, an officer by whom such sentences may be reconsidered;

"reviewing authority" means, in relation to a person under a military sentence of imprisonment or detention, the authority responsible for reviewing that sentence under the Act;

"room" means, any cell or room and any other place of confinement within any premises and any premises comprised of huts or tents or any part of such premises;

"soldier" includes any man or woman who is subject to military law under the Act and is not an officer or a person subject to Part V by virtue of section 210 of the Act;

"superintendent" means any officer of field rank or corresponding rank appointed to superintend a military establishment in respect of which the senior full-time member of the staff is not an officer;

"unit" includes a detachment of a unit.

PART II. Control and Inspection of Military Establishments

3. The Defence Board may appoint one or more Inspectors of Military Establishments.

4.—(1) It shall be the duty of an Inspector of Military Establishments to inspect military establishments and to report to the Defence Board on all military establishments at least once in every year. Inspectors of Military Establishments shall also be responsible to the Defence Board for the training of staff for employment in military establishments and for advising on the appointment and posting of officers for employment on the staffs of military establishments.

[The inclusion of this page is authorised by L.N. 4/1976]
(2) In the case of military establishments outside Jamaica the local commander shall from time to time inspect, or arrange for the inspection on his behalf, of any military establishment in the area of his command in addition to the inspection of those establishments by Inspectors of Military Establishments.

PART III. Provision, Classification and Use of Military Establishments

5. Subject to and in accordance with the provisions of these Regulations the places in which persons may be required to serve the whole or any part of military sentences of imprisonment or detention passed upon them shall be military establishments, civil prisons, and overseas establishments:

Provided that, save for the purposes of temporary custody in accordance with regulation 18, no person on whom a military sentence of detention has been passed shall be required to serve any part of such sentence in a prison.

6.—(1) Military establishments shall consist of establishments of the following classes—

(a) military prisons;

(b) military detention barracks; and

(c) unit detention rooms.

(2) Combined military establishments may be provided consisting of two or more military establishments of different classes:

Provided that no combined military establishment shall include unit detention rooms of a unit of the women’s forces.

7. Military prisons, military detention barracks and combined military establishments may be provided—

(a) in Jamaica only by the Defence Board; and

(b) outside Jamaica, by the Defence Board, or by the officer commanding an independent command.

8. Unit detention rooms may be provided by the commanding officer of any unit being an officer not below the rank of lieutenant-colonel or corresponding rank, and shall be provided by the commanding officer of any unit, whatever his rank, if required to do so by higher authority.

[The inclusion of this page is authorized by L.N. 4/1976]
9. An officer, and a person to whom Part V of the Act applies by virtue of section 210 of the Act, upon whom a military sentence of imprisonment has been passed shall be required to serve that sentence in a civil prison in Jamaica:

Provided that—

(a) where the sentence was for a term of more than twelve months and was passed out of Jamaica, he shall be required to serve in a military establishment or an overseas establishment that part of his sentence which he is required to serve out of Jamaica in pursuance of a direction given by the confirming or reviewing authority under section 123 of the Act; and

(b) where the sentence was for a term not exceeding twelve months and was passed out of Jamaica, he may, if the confirming or the reviewing authority so directs be required to serve the whole or any part thereof in a military establishment or an overseas establishment.

10. Save as provided in regulation 17, a soldier upon whom a military sentence of imprisonment or detention has been passed in Jamaica shall be required to serve that sentence in Jamaica.

11. A soldier upon whom a military sentence of imprisonment or detention has been passed out of Jamaica shall be required to serve that sentence—

(a) if the sentence is for a term of more than twelve months, in Jamaica:

Provided that he shall be required to serve out of Jamaica that part of his sentence which he is required to serve in pursuance of a direction given by the confirming or reviewing authority under section 123 of the Act;

(b) if the sentence is for a term not exceeding twelve months, out of Jamaica unless the confirming or reviewing authority otherwise directs.

12. A soldier shall serve the whole or any part of a military sentence of imprisonment which he is required to serve in Jamaica in a civil prison.

13. A soldier shall serve the whole or any part of a military sentence of imprisonment which he is required to serve out of Jamaica in a military establishment or an overseas establishment.

(The inclusion of this page is authorized by L.N. 4/1976)
14. A soldier shall serve the whole or any part of a military sentence of detention which he is required to serve in Jamaica in a military establishment, not being a military prison.

15. A soldier, other than a woman, shall serve the whole or any part of a military sentence of detention which he is required to serve out of Jamaica in a military establishment, not being a military prison or, if his sentence is for a term exceeding twelve months and no suitable military establishment is available, in an overseas establishment not being a prison.

16.—(1) A woman shall serve the whole or any part of a military sentence of imprisonment in a civil prison or an overseas establishment or in unit detention rooms of a unit of the women’s forces.

(2) A woman shall serve the whole or any part of a military sentence of detention in unit detention rooms of a unit of the women’s forces.

17. A person who is serving a military sentence of imprisonment or detention in Jamaica may, by order of the confirming authority, reviewing authority or reconsidering authority, be removed out of Jamaica to any place out of Jamaica where the unit or any part thereof to which for the time being he belongs is serving or is under orders to serve, but not to any other place.

18. Notwithstanding anything hereinbefore contained and subject to section 121 of the Act, where a person on whom a military sentence of imprisonment or detention has been passed—

(1) is awaiting admission to any prison or other establishment or is in transit from one prison or establishment to another; or

(2) is being removed from one country or place to another; or

(3) has appealed against his conviction to the Court of Appeal, and is entitled or ordered to be present at any place for the purposes of Part VI; or

(4) is required or entitled to be present at any civil court, court-martial, or inquiry; or

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(5) is, for any other reason connected with military duty, required to be removed temporarily from the prison or other establishment where he is for the time being serving his sentence to some other place; he may be detained temporarily—

(a) on the written order of his commanding officer in civil custody for a period not exceeding seven days in accordance with sub-section (2) of section 124 of the Act; or

(b) on the written order of his commanding officer or the commandant or other person in charge of the establishment or prison where he is for the time being—

(i) in any military establishment: Provided that a person on whom a military sentence of detention has been passed shall not be detained in a military prison for longer than seven days on any one occasion; or

(ii) in such other form of military custody as may be determined by his commanding officer or the commandant or other person in charge of the said establishment or prison.

19. Subject to the provisions of section 121 of the Act, no person under military sentence of imprisonment or detention shall be committed to a civil prison or overseas establishment, or to a military establishment or form of custody, or removed from one country or place to another, or from one prison or establishment or form of custody to another, save in pursuance of an order made on one of the forms specified in Part I of the First Schedule which is appropriate to the circumstances of the case, and every such order shall be duly completed in accordance with the instructions contained in that behalf in the said Part I and signed by an officer of such rank and appointment as are therein specified.

20. No person under military sentence of imprisonment or detention shall be released from a military or overseas establishment or form of custody otherwise than—

(a) in accordance with an order of the Court of Appeal or other civil court of competent jurisdiction;

(b) in accordance with an order made in the form specified in Part II of the First Schedule and signed by an officer of such rank and appointment as are there specified; or

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(c) on the expiration of his sentence, less any remission allowed in accordance with these Regulations:

Provided that where the sentence expires as aforesaid on a Sunday, Christmas Day or Good Friday the person shall be released on the previous day and the uncompleted day of his sentence shall be deemed to be remitted.

21. A soldier under sentence shall not be released from imprisonment or detention in a military establishment except in accordance with the provisions of regulation 20 or—

(a) in accordance with any provision of these Regulations under which a soldier may be removed from places, establishments, or forms of custody to any other place, establishment or form of custody; or

(b) for the purposes of medical examination, observation or treatment for such period and subject to such conditions as the commandant, acting on the advice of the medical officer, may determine.

22.—(1) The commandant of a military establishment may authorize the temporary release from a military establishment on compassionate grounds of a soldier under sentence in the cases and subject to the conditions set out in this regulation.

(2) The cases in which a soldier under sentence may be released temporarily under paragraph (1) of this regulation are—

(a) where the death or dangerous illness of a near relative occurs and the commandant is satisfied that the presence of the soldier under sentence is desirable;

(b) where damage has been suffered by any premises occupied by the soldier’s family or near relatives, and the commandant is satisfied that the presence of the soldier under sentence is desirable;

(c) where the soldier under sentence could not make arrangements preliminary to or consequent upon the birth of a child, and the commandant is satisfied that the presence of the soldier under sentence is desirable for that purpose;

(d) where the soldier under sentence has requested facilities to enable him to marry a woman who is expecting a child;

(e) where there are domestic difficulties concerning the soldier under sentence or his family and the commandant is satisfied.
that the personal attendance of the soldier under sentence is desirable.

(3) The conditions subject to which the commandant of a military establishment may authorize the temporary release of a soldier under sentence are—

(a) that the soldier under sentence shall comply with any conditions laid down by the commandant and to be observed by or in relation to the soldier under sentence during the period of his temporary release, including any conditions as to custody during the period of temporary release and as to the place or places where the soldier may or may not go during that period;

(b) that if the soldier under sentence fails to comply with any condition subject to which he was temporarily released the period of his temporary release shall thereby be terminated, and it shall be the duty of the soldier under sentence to return forthwith to the military establishment.

(4) The period of temporary release shall not count as part of the sentence served by the soldier.

23. On the receipt by the commandant of a military establishment of an order in writing made by the commanding officer of a soldier who has been remanded for trial by court-martial, or has been tried and is awaiting promulgation of the finding and sentence of a court-martial, or is awaiting investigation or disposal of a charge against him, the commandant may detain him in safe custody in the military establishment if—

(a) there is accommodation available in the military establishment in which the soldier may be segregated from soldiers under sentence; and

(b) the commandant can make arrangements for the soldier to be supplied with the ordinary rations of a soldier, not being a soldier under sentence.

PART IV. Remission

24.—(1) Subject to the provisions of any of these Regulations which provide for or authorize the forfeiture of remission, a soldier under sentence in a military establishment or an overseas establishment shall be entitled to have part of his sentence remitted in accordance with the following provisions—

[The inclusion of this page is authorized by L.N. 4/1976]
(a) if his sentence does not exceed twenty-four days—nil;
(b) if his sentence exceeds twenty-four days but does not exceed twenty-eight days—a period equal to the number of days by which the sentence exceeds twenty-four days;
(c) if his sentence exceeds twenty-eight days—one-third of the period of his sentence except in a case where this would result in the soldier under sentence serving less than twenty-four days when the period of remission shall be such period as will reduce the period of his sentence which he is required to serve to twenty-four days.

(2) For the purpose of calculating remission in accordance with paragraph (1) fractions of a day shall be ignored.

25.—(1) The commandant of a military establishment shall maintain a record of the remission to which the soldier is entitled in accordance with regulation 24, and of any remission forfeited in accordance with any of these Regulations.

(2) The commandant or an officer authorized by him shall verify at frequent intervals the records maintained in accordance with this regulation.

(3) The records maintained in accordance with this regulation shall be produced to a Board of Visitors, the commandant, and any company commander to whom the commandant has delegated jurisdiction under these Regulations, on each occasion when the soldier under sentence has been brought before them or him on a charge that the soldier under sentence has committed an offence against these Regulations, but the said records shall not be so produced until there has been a finding that the soldier under sentence is guilty of an offence with which he has been charged, or a decision has been reached that the alleged offence shall be reported to the local commander, or the commanding officer of the soldier under sentence disposes of the charge otherwise than in accordance with any jurisdiction conferred by these Regulations.

26. One day's remission of the sentence of a soldier under sentence in a military establishment or an overseas establishment shall be forfeited in respect of each period of two days and in respect of each odd day on which the soldier under sentence is unable to carry out the work or training which would otherwise be required of him by reason of—

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(a) his sickness occasioned by his own misconduct;
(b) his undergoing a sentence of a civil court; or
(c) his being in the lawful custody of any civil authority.

27. Remission forfeited under these Regulations may be restored by order of—

(a) the reviewing authority;
(b) the reconsidering authority;
(c) the commandant with the approval of the reviewing authority or the reconsidering authority.

28.—(1) If, while a soldier under sentence is serving a military sentence of imprisonment or detention in a military establishment (in this regulation referred to as “the earlier sentence”), a further sentence of imprisonment or detention has been passed on or awarded to him (in this regulation referred to as “the later sentence”), the remission to which he is entitled shall be calculated as follows—

a new record of remission calculated in accordance with the foregoing Regulations shall be prepared, and the date of his release shall be the date on which he would be released on the earlier sentence, or the date on which he would be released on the later sentence, whichever is the later.

(2) For the purpose of calculating the remission in respect of the earlier sentence under paragraph (1) the date on which the soldier under sentence would be released shall be the date on which he would be released having regard to the period of remission to which he was entitled on the date of the passing or award of the later sentence less, in the case of a sentence passed by court-martial, a period equal to any period of remission forfeited between the date of the passing of the later sentence and the promulgation thereof.

(3) Any reference in this regulation to the date on which a sentence by court-martial is passed shall include, in a case where the court directs pursuant to subsection (5) of section 142 of the Act that a sentence shall begin to run from the day on which the Court dismisses an application for leave to appeal, that day.
PART V. Treatment, Employment, Discipline and Control of Soldiers under Sentence

29. This Part shall apply, except where otherwise stated or the context otherwise requires, to all soldiers under sentence in military establishments.

30. A copy of this Part, or a sufficient abstract thereof in a form approved by the Defence Board, shall be displayed conspicuously in every military establishment in such places that it can be seen from time to time by every soldier under sentence.

31. The purposes of the training and treatment of soldiers under sentence are to establish in them the will, and to fit them, to become better soldiers and citizens.

32.-(1) Corporal punishment shall not be inflicted on soldiers under sentence.

(2) In the treatment of a soldier under sentence force shall not be used unnecessarily, but if the use of force is necessary no more force shall be used than is necessary.

33. On admission to a military establishment the following procedure shall be observed—

(a) the order or warrant of committal shall be examined, and the attention of the commandant shall be directed to any omission or irregularity;

(b) except for that amount of his clothing and other articles which a soldier under sentence is authorized to have in his possession, his equipment, and every other article or thing which accompanies the soldier on admission (whether the same is his own property or not) shall be taken from him. Clothing, equipment, and any other public or service property shall be dealt with in accordance with the regulations or instructions of the Service to which the soldier under sentence belongs, and the remainder shall be retained by the commandant for safe custody. A record of such property shall be kept and the said record shall be signed by the soldier under sentence and by a member of the staff of the military establishment. The said property (other than perishable articles) shall be returned to the soldier under sentence on release if he is willing to
acknowledge its return by signing a record that it has been delivered up to him. Money shall be kept in safe custody or paid into an account at a bank and the equivalent amount paid to the soldier on release or disposed of at the discretion of the commandant by sending it to any person at the request of the soldier. Perishable articles shall be disposed of at the discretion of the commandant who shall, so far as practicable, take account of the soldier's wishes in relation to them;

(c) at the discretion of the commandant, any property which he holds in safe custody on behalf of a soldier under sentence may be delivered or sent to a relative or friend of the soldier under sentence;

(d) the soldier under sentence shall be searched in accordance with these Regulations to ensure that he has not in his possession any article or thing which he is not authorized to have;

(e) the soldier under sentence shall be weighed and his weight recorded;

(f) within twenty-four hours of admission (or within forty-eight hours in a case where the soldier under sentence has been medically examined and certified as fit to undergo his sentence either on the day of admission or the previous day) the soldier under sentence shall be medically examined by a medical officer;

(g) the religious denomination (if any) of a soldier under sentence shall be recorded and a chaplain of that denomination shall be informed of his admission. If the soldier under sentence has not declared his religious denomination, or if no chaplain of that denomination has been appointed in respect of the military establishment, notification of the soldier's admission shall be given to the Church of England chaplain or, as the case may be, to a chaplain of a denomination other than that of the soldier under sentence;

(h) within twenty-four hours of admission the commandant or a member of the staff of the military establishment shall satisfy himself that a soldier under sentence has read, or has had explained to him, the Regulations governing his conduct, treatment, employment and discipline, and the means by which he may bring complaints to the notice of his commanding officer, the commandant and visiting officers, in accordance with the Act and these Regulations.

[The inclusion of this page is authorized by L.N. 4/1976]
34.—(1) No room shall be used for the confinement of a soldier under sentence unless it is certified by a medical officer that its size, lighting, heating, ventilation and fittings are adequate for health, and that it allows the soldier under sentence to communicate at any time with a member of the staff of the military establishment, and any certificate so given in relation to a room in which more than one soldier may be accommodated shall state the maximum number of soldiers under sentence who may be confined therein.

(2) The size of rooms intended for occupation by soldiers under sentence shall be such as to provide at least 600 cubic feet capacity for each soldier under sentence accommodated therein unless in any particular case, having regard to the exigencies of the service, the local commander authorizes the temporary accommodation of soldiers under sentence in accommodation of smaller capacity.

(3) In every military establishment special rooms shall be provided for the temporary confinement of soldiers under sentence who are refractory or violent.

(4) Every soldier under sentence shall be provided with separate bedding, and, where circumstances are such that beds can be provided, with a separate bed.

(5) Two soldiers shall never be confined in one room. The confinement must be solitary or at least three men in the room.

35. The commandant shall set aside within a military establishment the following accommodation—

(a) a medical detention room or rooms where soldiers under sentence may be given medical examinations, observation, treatment and attention on the occasions when in the opinion of the medical officer any such examination, observation, treatment or attention is required, and the soldier under sentence is not sufficiently ill to necessitate his admission to hospital;

(b) a room or rooms where soldiers under sentence may receive visits authorized by or under these Regulations.

36. Subject to the provisions of these Regulations with reference to the number of hours of work or training to be done by persons under sentence therein the daily routine of a military establishment shall be determined by the commandant in accordance with any instructions.
issued from time to time by or under the authority of the Defence Board.

37.—(1) Subject to the provisions of paragraph (3), and regulation 38, during the whole of his sentence a soldier under sentence shall be engaged in work or training for not more than nine, nor less than six hours a day (excluding times for meals), but a soldier shall not be engaged in work or training until he has been examined by a medical officer and certified as fit for the type of work and training which it is intended that he shall do.

(2) Training in military prisons and detention barracks shall consist of periods of physical training for the preservation of health.

(3) Nothing in this regulation shall require that a soldier shall be engaged in work or training at any time when he is—
(a) in close confinement;
(b) undergoing restricted diet as a punishment;
(c) excused work or training on medical grounds on the advice of a medical officer;
(d) excused work by the commandant or engaged in some other activity authorized by or under these Regulations.

38.—(1) On Sundays, Christmas Day and Good Friday a soldier shall not be engaged on any work or training except work which is necessary for the service of the military establishment.

(2) A soldier under sentence whose Sabbath is on a day other than a Sunday shall not be required to do more work or training on that day than other soldiers are required to do on a Sunday, but such a soldier may be required to do work or training on Sundays.

39.—(1) Subject to the following paragraphs of this regulation a soldier under sentence who is employed in productive work shall work in association with other soldiers under sentence.

(2) If it appears to the commandant of a military establishment that it is desirable—
(a) in the interests of the soldier under sentence; or
(b) for the maintenance of good order and discipline; that during any period a soldier under sentence should not work in association with others, he may arrange for that soldier to work in a room or place apart from other soldiers under sentence:

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Provided that a soldier under sentence shall not be required to work apart from other soldiers under sentence under the provisions of this regulation for more than seven days or, if authorized by a Board of Visitors, fourteen days.

(3) In deciding whether a soldier under sentence shall work apart from other soldiers under sentence, and whether such a soldier ought to resume work in association with others, the commandant shall take into consideration any advice which he may be given by a medical officer.

40. A soldier under sentence shall not be employed directly or indirectly for the private benefit or advantage of any person, nor in any way contrary to these Regulations or the orders of the commandant.

41.—(1) In military establishments where productive work is done a soldier under sentence shall be credited with weekly or daily sums of money related to the length of sentence which he has completed, as provided in the Second Schedule. He shall not be entitled to payment of the said sums in cash until his release, but during his sentence he may be provided from the canteen of the military establishment with tobacco, cigarettes, and other articles of a retail value equal to the credits earned by him.

(2) The Defence Board may from time to time issue instructions for the increase of the scales of earnings authorized by this regulation.

(3) No soldier under sentence shall be entitled to be credited with earnings in accordance with this regulation unless he is of good conduct and does the work assigned to him to the satisfaction of the commandant. He may also be deprived of earnings as a punishment in accordance with these Regulations.

(4) This regulation shall apply only to military establishments designated by the Defence Board as establishments to which the earnings scheme shall apply.

42.—(1) The food provided for soldiers under sentence shall be of a nutritional value adequate for health and strength and of wholesome quality, well prepared and served, and reasonably varied.

(2) The commandant and members of the staff of a military establishment shall endeavour to ensure that every soldier under sentence (other than a soldier undergoing restricted diet as a punishment) receives the rations to which he is entitled. A soldier under
sentence may complain if he believes that he is not getting the rations to which he is entitled, but he shall have no right to have his ration or any part of it weighed.

43.—(1) A soldier under sentence in a military establishment shall be asked as soon as practicable after his admission whether he is a smoker or a non-smoker. If he states that he is a non-smoker he will be required to sign a certificate to that effect. If he states that he is a smoker he may smoke tobacco and cigarettes to the extent authorized by this regulation.

(2) Soldiers under sentence shall be authorized to smoke any cigarettes issued to them free, or obtained by them from the canteen of the military establishment as a result of any credit to which they may be entitled from earnings authorized by these Regulations. No soldier under sentence shall be entitled to smoke tobacco or cigarettes obtained in any other manner.

(3) No soldier under sentence shall smoke or have in his possession any tobacco, cigarettes or matches or lighter, or any naked light for the purpose of igniting tobacco or cigarettes, except at such times as are authorized in accordance with the standing or other orders of the commandant.

(4) The scales of cigarettes which may be issued free to soldiers under sentence shall be laid down in ration scales or other instructions issued from time to time by the Defence Board and the first day of issue shall be the day after the admission of the soldier to the military establishment.

(5) No soldier under sentence who has signed a certificate that he is a non-smoker shall be entitled either to a free issue of cigarettes, or to purchase tobacco or cigarettes with his earnings.

(6) No soldier under sentence shall be entitled to smoke cigarettes issued free on any day other than the day of issue.

(7) Forfeiture of tobacco or cigarettes (whether free issue or by withdrawing the right to purchase them with earnings from a canteen) may not be ordered as a punishment, but it may be ordered on the advice of a medical officer during any period of sickness, and soldiers under sentence who are in close confinement or on restricted diet as a punishment shall not be entitled to smoke or have in their possession any tobacco or cigarettes.

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44.—(1) A soldier under sentence shall be allowed to write letters as follows—

(a) on admission to a military establishment—one letter; and

(b) in every week of his sentence following the week in which he was admitted—one letter.

(2) Writing paper, envelopes, and other materials required to enable a soldier to write the letters authorized by these Regulations shall be provided and, subject to the provisions of regulation 46, the letters shall be posted, free of expense to the soldier under sentence.

(3) A soldier under sentence may receive—

(a) any number of letters; and

(b) newspapers, journals and periodicals at the discretion of the commandant.

45.—(1) A parcel addressed to a soldier under sentence shall be opened and examined by or under the authority of the commandant in the presence of the soldier to whom it is addressed. Any article which the soldier under sentence is prohibited from or not authorized to receive shall be retained in safe keeping by the commandant and handed to the soldier on release, except in the case of perishable articles, which may be disposed of in accordance with the directions of the commandant by returning them to the sender or otherwise.

(2) A soldier under sentence is prohibited from receiving any articles but with the consent and at the discretion of the commandant he may receive toilet requirements, books, newspapers and other articles.

46.—(1) The commandant of a military establishment or any officer deputed by him may scrutinize letters written by or addressed to soldiers under sentence.

(2) The commandant may withhold from a soldier under sentence the whole or any part of a letter addressed to that soldier, but he shall communicate to the soldier any part of the letter which is unobjectionable.

(3) The commandant may withhold a letter written by a soldier under sentence, but in that case he shall give the soldier an opportunity of writing in its place another letter which does not contain the material to which the commandant objects. If any letter contains a complaint relating to the military establishment or the treatment of the soldier.
under sentence the commandant shall draw the attention of the soldier
to his rights as to complaints.

(4) In any case where the commandant withholds a letter written
by or addressed to a soldier under sentence he shall record the fact and
his reasons for so acting in a journal.

47.—(1) A soldier under sentence may receive visits from his relatives
and friends at the discretion of the commandant, and such visits shall
take place within the military establishment at times and places deter-
mined by the commandant.

(2) Any visit authorized under this regulation shall be within the
sight and hearing of the commandant or a member of the staff of the
military establishment.

48.—(1) The commandant shall provide reasonable facilities for a
soldier under sentence who is interested in legal proceedings,
or proposed legal proceedings, to be visited by his legal adviser.
At the discretion of the commandant he may also be visited by his
legal adviser with reference to other legal business.

(2) Any visit authorized by or pursuant to this regulation shall be
within the sight, but not the hearing of the commandant or a member
of the staff of the military establishment.

49.—(1) The commandant may permit a soldier under sentence to be
visited by a police officer or, on the written order of a staff officer or a
provost officer, by any officer or other person whose duty it is to
investigate the commission, or suspected commission, of an offence.

(2) The commandant shall permit any person to visit a soldier
under sentence if that person is authorized to visit him by a warrant or
an order of a court.

50. The commandant shall ensure that every soldier under sentence
who is—
(a) in close confinement; or
(b) subject to any form of mechanical restraint; or
(c) undergoing restricted diet as a punishment; or
(d) sick, or complains of sickness,
shall be seen by a medical officer at least once every day. The medical
officer shall also see daily every soldier under sentence to whom his
attention is especially directed by the commandant.
51. The medical officer shall have the care of the mental and physical health of soldiers under sentence, and the commandant shall act in accordance with his advice in relation to those matters unless to do so would be contrary to any enactment or these Regulations, or the officer in charge of the medical services of the command in which the military establishment is situated otherwise directs.

52. The medical officer shall attend at once, or as soon as the occasion requires, on receiving from the commandant information of the illness of a soldier under sentence.

53. The manner in which a soldier under sentence in a military establishment or an overseas establishment, who has appealed, or desires to appeal, to the Court of Appeal against his conviction by court-martial may be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of Part VI, or any place to which the Court of Appeal or a Judge thereof may order him to be taken for the purposes of any proceedings of that Court, shall be as follows—

(a) he may be taken to, kept in custody at, and brought back from any such place as aforesaid in military, naval or air force custody;

(b) he may be kept in custody at any such place as aforesaid in any manner ordered by the Court of Appeal or a judge thereof, or in a military, naval or air force establishment, in a civil prison, or in a police station:

Provided that he shall not be kept in a civil prison or in a police station for periods exceeding seven days at any one time.

54.—(1) The commandant of a military establishment shall bring to the notice of soldiers under sentence therein their rights to petition or appeal. In addition to any other means chosen by the commandant for this purpose a notice shall be exhibited in every military establishment in a form prescribed from time to time by the Defence Board to notify a soldier of his rights to petition or appeal, and such notices shall be exhibited in such places as to be seen by all soldiers under sentence.

(2) The commandant of a military establishment shall permit a soldier under sentence who intends to petition or appeal, or whose appeal is pending, for the purposes of the petition or appeal, to receive visitors, to be provided with reasonable quantities of writing materials, to write and receive letters, and to prepare and hand personally or to
send by post to his legal adviser confidential written communications as
instructions in connection with the petition or appeal. Any such
confidential written communication shall be exempt from censorship
unless the commandant has reason to believe that it contains material
unrelated to the purposes of the petition or appeal, when it may be
subject to censorship in accordance with these Regulations.

(3) For the purposes of a petition or an appeal a soldier under
sentence may receive a visit from a medical adviser, being a registered
medical practitioner, selected by him or on his behalf by relatives or
friends.

Complaints.

55.—(1) A soldier under sentence who considers himself wronged in
any matter may complain to the commandant of the military establish-
ment in which he is serving his sentence or to a visiting officer on the
occasion of a visit by him.

(2) In a case where there is a company commander of a soldier
under sentence he shall forward any complaint which he wishes to make
to the commandant through his company commander.

(3) It shall be the duty of the commandant of a military
establishment to investigate any complaint made to him in accordance
with this rule and to take any steps for redressing the matter complained
of which appear to him to be necessary.

(4) A soldier under sentence may complain to his commanding
officer as provided in section 174 of the Act and it shall be the duty of
his company commander, if any, to forward the said complaint to the
commandant, and of the commandant to forward it to the commanding
officer of the soldier under sentence.

(5) In addition, and without prejudice to the rights of a soldier
under sentence to make a complaint in accordance with the Act and the
foregoing provisions of this regulation, a soldier under sentence who has
not in his opinion received redress for any complaint made by him to the
commandant or in accordance with section 174 of the Act, may
complain to the visiting officer, who shall deal with any such complaint
as provided in regulation 95.

(6) Without prejudice to the duties of a commandant and a com-
pany commander under this regulation, a commandant or company
commander who believes that, in making a complaint where he thinks
himself wronged, a soldier under sentence has made a statement
affecting the character of an officer, warrant officer, non-commissioned
officer or soldier subject to military law under the Act, which he knows to be false or does not believe to be true, or has wilfully suppressed any material facts, may call the attention of the soldier under sentence to the provisions of section 73 of the Act, so that the soldier under sentence may, if he so wishes, withdraw his complaint or any such statement as aforesaid.

56.—(1) On admission to a military establishment a soldier under sentence shall be searched in accordance with regulation 57.

(2) The commandant of a military establishment may order that a soldier under sentence shall be searched at any time while he is serving his sentence.

57. The following provisions of this regulation shall be observed in relation to the search of any person in a military establishment pursuant to this regulation—

(a) every search shall take place in the presence of at least two members of the staff;

(b) no person shall be present at any search except the commandant or members of the staff of the military establishment and, in particular, no soldier under sentence shall be present at the search of any other soldier under sentence;

(c) no woman shall be searched except by a woman, and no woman shall be searched in the presence of any male person.

58. If a person serving a military sentence of imprisonment or detention, is a person of unsound mind, the commandant shall notify the Defence Board so that on discharge that person may be received into a mental hospital.

59.—(1) Any member of the staff of a military establishment who discovers that a soldier under sentence has escaped shall immediately report the fact to the commandant.

(2) If a soldier under sentence in a military establishment escapes, the commandant shall immediately inform the authorities and persons specified below in the cases there specified—

(i) the Chief Officer of Police in the area in which the military establishment is situated (if in Jamaica), or the local police of the said area (if outside Jamaica);
(ii) the nearest unit, detachment or other body of the Military Police;
(iii) the local commander;
(iv) the officer in charge of records;
(v) the regimental paymaster;
(vi) an Inspector of Military Establishments.

60. The following shall be the authorities specified under these Regulations for the purposes of the proviso to subsection (1) of section 119 of the Act—

(a) in the case of a person upon whom a military sentence of imprisonment or detention was passed by court-martial, the reviewing authority or the reconsidering authority;

(b) in the case of a person to whom a military sentence of detention has been awarded by his commanding officer, that officer.

61.—(1) If a soldier under sentence in a military establishment dies, the commandant shall—

(a) if the death occurs in Jamaica, immediately report the matter to the coroner having jurisdiction in the place where the military establishment is situated;

(b) if the death occurs outside Jamaica, report the matter either—

(i) to any local civil authority authorized or required to inquire into the cause of death or, if there is no such authority—

(ii) to a higher military authority, requesting that a Board of Inquiry may be convened with reference to the death, in accordance with the Defence (Board of Inquiry) Rules.

(2) Nothing in this regulation shall affect the duty of the commandant or any other military authority to record or report the death in accordance with the requirements of any other law, or instructions.

62. A soldier under sentence commits an offence against these Regulations if he—

(1) commits an offence of a nature which might be dealt with summarily by the commanding officer of a soldier of the Regular force;
(2) treats with disrespect any member of the staff of a military establishment, any visitor thereto or any person employed thereat;
(3) is idle, careless or negligent;
(4) behaves irreverently at Divine Service;
(5) uses any abusive, insolent, threatening or other improper language;
(6) is indecent in any act or gesture;
(7) communicates with any other soldier under sentence without authority;
(8) leaves his room or place of work or other appointed place without permission;
(9) commits any nuisance;
(10) has in his room or possession any unauthorized article, or attempts to obtain such an article;
(11) gives to or receives from any person any unauthorized article;
(12) makes repeated and groundless complaints;
(13) fails to observe or comply with any conditions as to parole;
(14) attempts to commit any of the offences referred to in sub-paragraphs (2), (7), (8), (9), (10) and (11).

63.-(1) The commandant of a military establishment shall have jurisdiction to punish a soldier under sentence who commits an offence against these Regulations.

(2) A company commander under the command of the commandant of a military establishment may have jurisdiction delegated to him by the commandant to punish a soldier under sentence who commits an offence against these Regulations.

64.—(1) A soldier under sentence who, while serving his sentence, commits any offence against the Act or against these Regulations shall be dealt with in accordance with the following provisions of this regulation.

(2) When any member of the staff of a military establishment reports to the commandant the commission of such an offence as is referred to in paragraph (1) by a soldier under sentence the commandant

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shall deal with it as follows. If the alleged offence is one which the commandant has no jurisdiction to punish, or if, although the commandant has jurisdiction, it appears to him that the punishment he might award would be inadequate, he shall report the alleged offence to the local commander with a request that the soldier shall be dealt with either under regulation 67 or under military law (as the case may be). In any other case the procedure set out in paragraph (3) shall be observed.

(3) The commandant shall ensure that a soldier under sentence who is alleged to have committed an offence against these Regulations shall be informed of the offence which he is alleged to have committed. He shall then be brought before the commandant, and the evidence against him shall be heard in the presence of the soldier under sentence unless he agrees that written evidence may be used. If written evidence is used punishment shall not be awarded unless he has been given an opportunity of questioning the accuracy of any written statement. The soldier under sentence shall be given a proper opportunity of hearing the facts against him and of presenting his case. The commandant shall inform the soldier under sentence whether he finds him guilty or not guilty of committing any offence which he is alleged to have committed.

65.—(1) The commandant of a military establishment may award any of the punishments set out in paragraph (2) to a soldier under sentence who has been found by him to have committed any offence against these Regulations.

(2) The punishments referred to in paragraph (1) are—
   (a) close confinement for a period not exceeding three days;
   (b) restricted diet No. 1 for a period not exceeding three days;
   (c) restricted diet No. 2 for a period not exceeding fifteen days;
   (d) deprivation of mattress for a period not exceeding three days;
   (e) forfeiture of remission of sentence for a period not exceeding fourteen days;
   (f) deprivation of library books;
   (g) forfeiture or reduction of earnings;
   (h) extra-military instruction;
   (i) admonishment.

(3) Awards of restricted diet No. 1 and restricted diet No. 2 shall comply with the conditions with reference thereto contained in these Regulations.

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66. The commandant of a military establishment may delegate to a company commander under his command, being a member of the staff of a military establishment, jurisdiction to award the following maximum punishments to a soldier under sentence who is found by the company commander to have committed an offence against these Regulations—

(a) restricted diet No. 2 for a period not exceeding seven days;
(b) deprivation of mattress for one day;
(c) forfeiture of remission of sentence for a period not exceeding three days;
(d) deprivation of library books for a period not exceeding fourteen days;
(e) extra military instruction, not exceeding three periods of 45 minutes each;
(f) admonishment.

67.—(1) The local commander may from time to time appoint Boards of Visitors to exercise disciplinary powers at any military establishment within the area of his command.

(2) A Board of Visitors shall consist of three officers one of whom shall be not below the rank of major (or corresponding rank) unless the exigencies of the service make it impracticable, when the Board may consist of two officers only, one of whom shall be not below the rank of major or corresponding rank.

(3) A Board of Visitors shall have the same jurisdiction as a commandant, and may award the punishments which may be awarded by a commandant, subject to the following modifications—

(a) the maximum period of close confinement which they may award shall be fourteen days;
(b) the maximum period which they may award on restricted diet No. 1 shall be fourteen days, with the intervals prescribed by regulation 70.
(c) the maximum period which they may award on restricted diet No. 2 shall be twenty-one days;
(d) the maximum period of forfeiture of remission which they may award shall be the whole of the period of remission, but if they award forfeiture of remission which exceeds twenty-eight days the commandant shall report the matter to the reviewing authority who may mitigate or remit the award.

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(4) A Board of Visitors shall investigate and deal with every charge brought against a soldier under sentence which they are required and have jurisdiction to hear and determine in accordance with these Regulations. When they are satisfied that the soldier under sentence has had the charges sufficiently explained to him, that all the oral evidence has been heard in his presence, that he has had an opportunity of reading and questioning the accuracy of any documentary evidence and that he has had proper opportunity of presenting his case and questioning any witnesses, they may—

(a) dismiss any charge which they find not to have been proved;

(b) record a finding of guilty and award any punishment which they are authorized by these Regulations to award in respect of any charge which they find to have been proved.

68. The commandant and members of the staff of a military establishment shall not inflict or cause or permit to be inflicted corporal punishment on any soldier under sentence.

69.—(1) Restricted diet No. 1 shall consist of 1 lb. of bread per day with unrestricted water.

(2) Restricted diet No. 2 shall consist of—

Breakfast—

Porridge, 1 pint, containing 3 oz. oatmeal;
Bread, 8 oz.
Margarine, ½ oz.
Cocoa, 1 pint, containing ½ oz. cocoa, 1 fluid oz. milk (or 4/5ths oz. tinned milk) and ½ oz. sugar.

Dinner—

Bread, 4 oz.
Soup, 1½ pints, containing 3 oz. split peas; 3 oz. dried beans; 4 oz. potatoes; 4 oz. carrots; salt, and, on Wednesdays and Saturdays only, 4 oz. meat (bone in).

Supper—

Bread, 8 oz.
Margarine ½ oz.
Cocoa, 1 pint containing ½ oz. cocoa, 1 fluid oz. milk (or 4/5ths oz. tinned milk), and ½ oz. sugar.

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70.—(1) A soldier under sentence shall not undergo restricted diet No. 1 for any consecutive period exceeding three days at a time, and if he is awarded restricted diet No. 1 for a period exceeding 3 days his diet shall consist for alternate and equal periods not exceeding three days of—

(a) 1 lb. of bread per day with unrestricted water; and

(b) the ordinary ration for soldiers under sentence.

(2) On the days on which a soldier is undergoing restricted diet No. 1 he shall not attend parades, nor shall he be required to undertake any task of labour, but he may be permitted to carry out very light work in his room.

(3) A soldier under sentence who has undergone restricted diet No. 1 shall not be required to undergo any further period on that diet in respect of any other offence until an interval has elapsed equal to the period of restricted diet No. 1 already undergone.

(4) Every soldier under sentence undergoing restricted diet No. 1 shall be visited every day by the commandant or his deputy and by the medical officer.

71.—(1) A soldier under sentence undergoing restricted diet No. 2 shall attend parades and carry out work and training at the discretion of the commandant, but he shall not be required to do any heavy work.

(2) If a soldier under sentence who is undergoing restricted diet No. 2 is found guilty of an offence against these Regulations, he may, notwithstanding the provisions of regulation 70, be required to undergo restricted diet No. 1 for a period not exceeding three days, and on the expiration of that period he may be required to undergo the remainder of the period on restricted diet No. 2:

Provided that the period spent on restricted diet No. 1 shall count as part of the period originally ordered on restricted diet No. 2.

72.—(1) A soldier who has undergone restricted diet for a consecutive period of twenty-one days shall resume the ordinary ration for soldiers under sentence for a period of at least seven days before any further period of restricted diet may commence.

(2) A soldier under sentence undergoing restricted diet shall not be issued with or permitted to have in his possession tobacco or cigarettes.

[The inclusion of this case is authorized by L.N. 4/1976]
(3) No soldier under sentence shall be required to undergo restricted diet No. 1 or restricted diet No. 2 unless the medical officer has certified that he is fit to do so.

73.—(1) No soldier under sentence shall be placed in close confinement unless he has been certified by the medical officer as fit to undergo that punishment.

(2) A soldier in close confinement shall not be permitted to attend Divine Service and, except on the recommendation of the medical officer, shall not be permitted any exercise.

(3) A soldier under sentence in close confinement shall not be deprived of his room furniture or books, nor be subjected to any form of discipline which has not been lawfully ordered in accordance with these Regulations.

(4) A soldier under sentence undergoing close confinement shall be visited at least once every day by the commandant or his deputy and the medical officer and, in addition, at least once every three hours, by a member of the staff of the military establishment who shall be detailed to do so.

74.—(1) No soldier under sentence shall be subjected to any form of mechanical restraint as a punishment.

(2) Mechanical restraint of soldiers under sentence may be used for the purposes of safe custody during the removal of a soldier under sentence from one place or establishment to another and in the circumstances and under the conditions authorized by these Regulations.

75.—(1) If it appears to the commandant of a military establishment that a soldier under sentence ought to be placed under mechanical restraint to prevent him from injuring himself or others, or damaging property or creating a disturbance, he may issue a written order that mechanical restraint shall be applied to a soldier under sentence, specifying the date and hour when restraint is to be applied, and the period, not exceeding twenty-four hours, during which it shall be applied. Immediately thereafter he shall notify the local commander and the medical officer that he has made the said order and the terms thereof.

(2) On receiving the said notification the medical officer shall examine the soldier under sentence and inform the commandant if, in his opinion, there is any objection on medical grounds to application of

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the mechanical restraint ordered. If he makes any such objection the
commandant shall revoke or modify his order in accordance with the
recommendation of the medical officer.

(3) The commandant of a military establishment shall ensure
that no soldier is kept under mechanical restraint for any period longer
than is necessary, nor for any period exceeding twenty-four hours unless
the local commander orders in writing that the mechanical restraint shall
continue for a longer period not exceeding forty-eight hours.

(4) No type of mechanical restraint shall be used except a type
authorized by these Regulations.

(5) Whenever mechanical restraint is applied or removed an
officer or senior member of the staff of a military establishment shall
be present, and the name of the officer and any other member of the
staff present on every such occasion shall be recorded.

76.—(1) The articles referred to in sub-paragraphs (a), (b) and (c),
which shall conform with patterns approved by the Defence Board,
may be used as instruments of restraint—

(a) handcuffs—figure of eight, swivel or curb chain, not exceeding
for the pair twenty-two ounces in weight;

(b) strait waistcoat—stout white duck lined with swansdown,
fasted at the back by lacing with strong webbing tapes
through eleven eyelets on each side, the sleeves covering the
entire arms and hands, and being secured by strong webbing
tapes laced through the three eyelets on each side of the cuffs,
the upper parts of the arms being tied round with three sets of
strong webbing tapes sewn to the back of the sleeves;

(c) body belt—double leather sewn together, fastened by a lock at
the waist, with steel wristlets at equal distances at the sides in
which the wrists may be locked, the whole not exceeding four
pounds in weight.

(2) Nothing in this regulation shall preclude the use of a canvas
suit in those cases where its use is authorized by regulation 80.

77. The commandant of a military establishment who orders the use
of handcuffs on a soldier under sentence shall state in his written order
authorizing their use whether they are to be placed with the hands to
the front or to the rear of the body. When they are placed to the rear
of the body they shall be moved to the front during meals and for
sleeping.
78.—(1) The strait waistcoat shall not be used except under the direction of a medical officer. It may be used only when restraint is necessary to prevent a soldier under sentence from injuring himself or others, or to prevent him from destroying clothing or other articles.

(2) The medical officer shall visit every soldier restrained in a strait waistcoat at least once in every twenty-four hours, and more often if he thinks it necessary. He shall record in his journal all such visits, the periods of restraint, and the reasons for its application.

(3) A strait waistcoat shall never be applied for more than twenty-four consecutively. If at the end of that period the medical officer considers that it must necessarily be continued he shall so order, but the restraint shall not be applied until the soldier under sentence has been free of any form of mechanical restraint for at least one hour.

(4) The medical officer shall inform the commandant in writing when the restraint is discontinued.

79.—(1) The body belt may be used only for restraining a soldier under sentence who is of violent conduct and for whom no other means of restraint is appropriate.

(2) Subject to paragraph (1), the provisions of regulation 78 as to the use of a strait waistcoat shall apply in relation to the use of a body belt.

80.—(1) The commandant of a military establishment may order a soldier under sentence to wear a canvas suit, consisting of frock and trousers made of canvas sail cloth, not exceeding twelve pounds in weight. Such an order may be made only in cases where the soldier under sentence destroys or attempts to destroy his clothing or refuses to wear uniform.

(2) The commandant shall report to the visiting officer on the occasion of every visit any subsisting orders made by him under paragraph (1), and shall arrange for the visiting officer to see every soldier under sentence who is wearing a canvas suit.

(3) The commandant shall record every order made under this regulation, the date from which any soldier under sentence is required to wear a canvas suit and the date when he authorizes its removal.
PART VI. Religion, Education and Welfare

81. The commandant shall, so far as practicable, make available for the use of every soldier under sentence such books of religious observance or instruction as are recognized for the use of his denomination and approved by the Chief-of-Staff.

82.—(1) Chaplains when present in a military establishment for the purposes of their duties shall abide by these Regulations and the standing or other orders for the regulation thereof and consult the commandant concerning the discharge of their duties.

(2) The commandant shall provide a book in which chaplains may record any matters which they wish to bring to the notice of the commandant.

(3) The commandant shall afford facilities to chaplains to have access to soldiers under sentence for the purpose of giving them religious instruction at times approved by him.

83.—(1) A chaplain of the same denomination as a soldier under sentence shall visit him on admission, and thereafter from time to time at proper and reasonable times, and shortly before his release. In a case where there is no chaplain of the same denomination as the soldier, the commandant shall arrange for the soldier to be visited by a minister of his own denomination, if the soldier under sentence so wishes and it is practicable to make the arrangements. In such cases the soldier under sentence shall be informed of the provisions of this rule as soon as possible after his admission.

(2) The commandant shall daily make available to chaplains a list of soldiers under sentence who are sick, or undergoing punishment in pursuance of these Regulations, and shall afford facilities for them to be visited, if requested by a chaplain or by the soldier under sentence.

(3) In appropriate cases a chaplain shall officiate at the burial of a soldier under sentence who dies in a military establishment.

84.—(1) Chaplains shall, whenever possible, conduct Divine Service in military establishments on Sundays and on other customary days and on such other convenient occasions approved by the commandant as they may decide.

(2) A soldier under sentence shall be allowed to attend the Divine Service of his denomination as often as he wishes, and any
soldier undergoing punishment under these Regulations may attend Divine Service unless he is in close confinement or excluded therefrom because of his disorderly conduct, or because it is considered that his conduct would be disorderly.

85.—(1) The commandant of a military establishment shall—

(a) provide educational training at such times as are available, and in accordance with any syllabus laid down by the Chief-of-Staff;

(b) where there is accommodation available, provide an information room in which soldiers under sentence, other than those in close confinement, may study current world affairs, read books, pamphlets and newspapers, and consult maps and books of reference. At the discretion of the commandant soldiers in close confinement may be permitted to use the information room at such times, and subject to such conditions, as he thinks fit;

(c) where wireless sets and loud-speakers are provided, make full use of them for broadcasting news and educational matters to soldiers under sentence;

(d) encourage soldiers under sentence to assist in the education of other soldiers under sentence;

(e) take a special interest in providing the rudiments of education to any illiterate soldiers under sentence;

(f) encourage other educational activities when circumstances permit;

(g) encourage soldiers under sentence to study any special subjects in which they are interested and, at his discretion, allow them to be provided with the text-books and reference books which will enable them to do so.

86.—(1) The commandant of a military establishment shall appoint an officer to act as welfare officer, and afford facilities for soldiers under sentence to consult the welfare officer when occasion requires.

(2) The welfare officer shall keep written records of the matters on which he is consulted by soldiers under sentence and if he has not completed any correspondence or other dealings in connection therewith when a soldier under sentence who is returning to his unit is released from a military establishment, he shall send to the commanding officer of the soldier a report on those matters accompanied by any relevant papers and correspondence.

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PART VII. Miscellaneous Regulations and Offences Relating to Military Establishments

87. No person shall, without the authority of the commandant of a military establishment, bring or attempt to bring into a military establishment or to a soldier under sentence any spirituous or fermented liquor or tobacco, or place any such liquor or tobacco outside a military establishment with intent that it shall come into the possession of a soldier under sentence, nor shall any member of the staff of a military establishment allow any such liquor or tobacco to be sold or used in the military establishment.

88. No person shall without lawful authority convey or attempt to convey any letter or any other thing into or out of a military establishment or to a soldier under sentence, or place it anywhere outside a military establishment with intent that it shall come into the possession of a soldier under sentence.

89.—(1) No unauthorized person shall enter a military establishment or make any sketch or take any photograph or communicate with any person under sentence therein, and no such person shall remain therein after being requested to leave by the commandant or any person acting under his authority. In deciding whether to grant, or grant subject to conditions, or refuse permission to enter a military establishment the commandant shall have regard to the orders of any court of competent jurisdiction, the provisions of these Regulations and the directions or instructions of any higher military authority.

(2) The commandant of a military establishment may grant permission to any person to enter a military establishment subject to any conditions and, without prejudice to the generality of the foregoing words, he may make it a condition of granting permission to any person to enter or do anything within a military establishment that such a person agrees to being examined and searched if requested.

(3) The commandant may order the removal from a military establishment of any person who, without authority, enters a military establishment, or makes any sketch or takes any photograph therein, or refuses to be examined or searched, or fails to comply with any condition imposed by the commandant under this regulation.
(4) Any member of the staff of a military establishment who suspects that a visitor or any other person has committed any offence against these Regulations, or being in improper possession of any property used or intended for use in the military establishment shall stop that person and inform the commandant immediately, so that the commandant may, if he thinks fit, order that person to be examined and searched.

PART VIII. Unit Detention Rooms

90.—(1) This Part shall apply in relation to unit detention rooms and, subject to the provisions of paragraphs (2) and (3), all the provisions of these Regulations shall apply in relation to unit detention rooms.

(2) The following provisions of these Regulations shall not apply in relation to unit detention rooms—

- regulation 35—(which relates to the provision of miscellaneous accommodation in military establishments);
- regulations 51 and 52—(which relate to the functions of a medical officer, his attendance and consultations);
- regulation 63, paragraph (2) and regulation 66—(which relate to the jurisdiction and powers of punishment of a company commander);
- regulation 85—(which relates to education);
- regulation 86—(which relates to welfare);
- regulations 97 and 98—(which relate to the commandant and members of the staff of military establishments).

(3) The provisions of the regulations specified below shall apply in relation to unit detention rooms subject to the modifications specified with reference thereto respectively—

- regulation 37, paragraph (1), the reference in this paragraph of this regulation (which relates to work and training of soldiers under sentence) to work or training for a period of not more than nine, nor less than six, hours, shall apply in relation to unit detention rooms of a unit of the women's forces as if it were a reference to work or training for a period of not more than eight, nor less than six hours;

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regulation 55—so much of this regulation (which relates to complaints) as refers to a company commander shall not apply in relation to unit detention rooms;

regulation 42—(which relates to the rations of soldiers under sentence) shall not authorize a ration scale for a woman in unit detention rooms of a unit of the women’s forces inferior to the usual ration scale for members of the women’s forces generally;

regulation 65, sub-paragraphs (b), (c), (d) and (g), and regulations 69 to 72 inclusive (which relate to the punishment of offences against these Regulations) shall not apply in relation to unit detention rooms of a unit of the women’s forces;

regulations 74 to 80 inclusive—(which relate to mechanical restraint) shall—

(a) not apply in relation to unit detention rooms of a unit of the women’s forces; and

(b) apply in relation to unit detention rooms (other than unit detention rooms of a unit of the women’s forces) only in so far as they relate to mechanical restraint by means of handcuffs.

91. Unit detention rooms shall be under the control of the commanding officer of the unit under whose authority they were set up, or of the commanding officer of another unit to which they are appropriated by order of the local commander.

92. Soldiers under sentence in unit detention rooms shall be segregated from any soldiers confined therein awaiting trial by court-martial, or disposal by a commanding officer or appropriate superior authority, or awaiting promulgation of sentence.

PART IX. Visiting Officers

93. The local commander may order that an officer in these Regulations referred to as a “visiting officer”, visits each military establishment within his command once each week. A written order appointing him shall be given to each visiting officer.

94.—(1) A visiting officer ordered to visit a military establishment shall duly attend in accordance with the instructions contained in the order appointing him.
(2) On arrival at a military establishment a visiting officer shall, if required, produce the order appointing him to the commandant or any officer or other person acting on his behalf.

(3) The visiting officer shall not inspect the staff, buildings or premises of a military establishment.

(4) Subject to the provisions of paragraph (6), a visiting officer shall on the occasion of every visit see all the soldiers under sentence in the military establishment either on parade or in their rooms. Soldiers under sentence in close confinement or in a medical detention room shall be seen in their rooms or in the medical room, as the case may be.

(5) Subject to the provisions of paragraph (6), a visiting officer shall ask all soldiers under sentence if they have any complaints to bring to the notice of the visiting officer. This question shall be asked by him and not by any member of the staff on his behalf, and the question shall not be qualified in any way, nor shall a soldier’s right to complain be made subject to any condition. A soldier under sentence who wishes to complain shall be asked by the visiting officer if he wishes to make his complaint there and then or whether he wishes to see him privately. If the soldier under sentence wishes to make his complaint privately the commandant shall arrange that a room is placed at the disposal of the visiting officer in which he may hear any complaint made by the soldier under sentence. If the commandant thinks fit a member of the staff may be present to ensure that there is no breach of discipline by the soldier under sentence, but, at the discretion of the visiting officer, that member of the staff shall remain within sight but out of hearing.

(6) A visiting officer shall satisfy himself that he has seen all soldiers under sentence in the military establishment, except any whom he is requested not to see on the advice of the medical officer on medical grounds.

95.—(1) A visiting officer shall inquire fully into every complaint made to him, and the commandant shall place at his disposal any witness or evidence he requires. The visiting officer shall ascertain if any complaint made to him had previously been made to the commandant or other officer of the staff of the military establishment and of the nature of any action taken in relation thereto.

(2) On completion of the investigation of any complaint made to him a visiting officer shall deal with it in the following manner—
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(a) if, in his opinion, the complaint was not justified, he shall so inform the soldier under sentence who made the complaint;

(b) if, in his opinion, the complaint was justified, he shall inform the soldier under sentence who made the complaint that he will report the matter to the local commander.

(3) A visiting officer shall not in any circumstances offer any redress to a soldier under sentence.

(4) On completion of each visit a visiting officer shall make a report to the local commander, including a full report of every complaint made to him and of the result of his investigation thereof.

96. On receipt of a complaint reported to him by a visiting officer the local commander shall investigate and take any steps for redressing the matter complained of which appear to him to be necessary.

PART X. Staff of Military Establishments

97.—(1) The commandant of a military establishment shall—

(a) exercise a close and constant supervision of the military establishment and, if practicable, visit and inspect daily all parts of the establishment in which soldiers under sentence are working or training. He shall also visit the military establishment during the night at least once a week. He shall make frequent inspections of rooms occupied or used by soldiers under sentence and satisfy himself that foods intended for their consumption are properly stored, cooked and served;

(b) supervise and control the duties of the officers and other members of the staff of the military establishment, and satisfy himself that the details and rosters of duties are prepared and maintained in accordance with any directions of the Defence Board and in a manner to ensure the efficiency of the establishment;

(c) maintain discipline amongst the officers and other ranks who are appointed to serve under his command as members of the staff of the military establishment;

(d) issue from time to time standing orders for the staff and for particular sections and members of the staff, and examine any orders so issued from time to time so that they may be revised and maintained in accordance with current requirements;

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(e) from time to time call the attention of all members of the staff to the provisions of the Official Secrets Act;

(f) instruct the officers and staff of the military establishment to maintain discipline with firmness, but without more repression or restriction than is required for the safe custody of the soldiers under sentence in a well-ordered community life;

(g) encourage members of the staff to enlist the willing co-operation of soldiers under sentence by their own example and leadership;

(h) interview every soldier under sentence as soon as possible after his admission to a military establishment and shortly before his release therefrom;

(i) provide a soldier under sentence who is discharged from the Defence Force on release from a military establishment in Jamaica with—

(i) a cash payment in respect of subsistence not exceeding $2.10;

(ii) travel at the public expense to a place of residence in Jamaica selected by the soldier under sentence, in those cases where the commandant is satisfied that the soldier under sentence is without available means for the purpose;

(iii) civilian clothing, on terms that the soldier under sentence shall pay the cost thereof, except in those cases where provision is made for the free issue of civilian clothing or the soldier under sentence can arrange for civilian clothing to be sent to him.

98. Members of the staff of military establishments shall—

(a) carry out their duties in accordance with these Regulations, the standing orders of the military establishment, and the orders of the commandant;

(b) in relation to the soldiers under sentence, preserve an attitude of firmness tempered with understanding, and avoid any form of harsh treatment; set an example of integrity and fairness; endeavour to create a feeling of respect and confidence among the soldiers in their charge, studying the characteristics of the soldiers under sentence and endeavouring to bring out the best in them;

[The inclusion of this page is authorized by L.N. 4/1976]
(c) direct the attention of the commandant to any soldier under sentence who may appear not to be in good health, though he may not complain, or whose state of mind appears to be deserving of special notice or care, so that arrangements may be made for the soldier under sentence to be seen by the medical officer;

(d) watch the soldiers under sentence in their various movements and employments throughout the day and use vigilance to prevent unauthorized communication between soldiers under sentence;

(e) prevent prohibited articles from being secreted for the purpose of being conveyed to soldiers under sentence, and immediately report any such occurrence;

(f) take care that no ladders, planks, wheelbarrows, ropes, chains, implements, clothing, or materials of any kind likely to facilitate escape, are left in any place where they might be accessible to soldiers under sentence;

(g) take the utmost care to guard against accidents by fire; report any apparent danger of such an accident, and not carry any naked light about within the military establishment;

(h) call attention to any defect in the sanitation or ventilation which may come to their notice;

(i) satisfy themselves, when on night duty, as to the correctness of the number of soldiers in their charge, and that the rooms are securely locked for the night;

(j) examine the state of the rooms, bedding, locks and bolts under their charge from time to time, and report thereon as required;

(k) seize all prohibited articles and deliver them forthwith to the commandant;

(l) when on night-watch, patrol the military establishment during the period of their duty, and record their patrols in the manner required;

(m) when on gate duty, record the name of every person passing through the gate and keep a record of all stores that pass through the gate; examine all articles brought in or taken out of the military establishment and stop any person suspected of bringing in or attempting to bring in any prohibited article, or of carrying out or attempting to carry out any property intended to remain in the military establishment for the purposes thereof.
THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS, 1962

FIRST SCHEDULE

PART I

FORM 1 (Regulation 19)

Order for the committal of a soldier to a military establishment on an award of detention by his Commanding Officer

To the commandant or other person in charge of ...........................................(a)

Whereas No ................................................. Rank .................................................

Name ................................................. of the ................................................. (Unit)

was on the ............................................. day of ............................................. 19 ........

awarded detention for a period of ............................................. days by his/her

Commanding Officer for the offence[s] of .................................................

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

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

................................................. (b)

Now, therefore, in pursuance 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/her to undergo his/her sentence according to law and for so doing this shall be your warrant.

Signed at ............................................. day of ............................................. 19 ........

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

Rank and Appointment .................................................

(a) Insert the name of the establishment.

(b) Set out the statement (not the particulars) of the offence and the relevant sections of the Defence Act. Where there is more than one offence, the statement of each must be set out.

(c) This form must be signed by the Commanding Officer of the person concerned.

FORM 2 (Regulation 19)

Order for the committal of a person sentenced to imprisonment or detention by a Court-Martial to a civil prison, an overseas establishment or a military establishment

To the Governor, Commandant or other person in charge of .............................................

................................................. (a).

Whereas No ................................................. Rank .................................................

Name ................................................. of the ................................................. (Unit)

was by a ................................................. (b) Court-Martial held at

convicted of the offence[s] of .................................................

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

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

................................................. (c)

[The inclusion of this page is authorized by L.N. 4/1976]
and, by a sentence passed on the ....................day of .........................
19..........., sentenced to [imprisonment/detention for a term of]...............(e)
commencing on the said day, which sentence has been duly confirmed in accordance
with the provisions of the Defence Act, ...................................................... (d); (e)

Now, therefore, in pursuance 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/her to undergo his/her sentence according to law and for so doing this shall be your warrant.

Signed at .......................this .........................day of .........................
......................................................, 19........
(Signature) ...................................................... (f)

Rank and Appointment ......................................................

(a) Insert the name and address of the prison or other establishment. A person sentenced to detention must not be committed to a prison.
(b) Insert "Ordinary", or "Field" as the case may be.
(c) Here set out the statement (not the particulars) of the offence and the relevant sections of the Defence Act. Where there is more than one
offence the statement of each must be set out.
(d) If any part of the sentence has been remitted on confirmation insert "with a remission of......................".
(e) Where the original sentence was death and has been commuted to imprisonment or detention, for the words in brackets substitute the words "to suffer death which sentence has been duly confirmed in accordance with the provisions of the Defence Act, but has been
commuted into imprisonment/detention for a term of......................
......................................................", or, where the original sentence was
imprisonment and it has been commuted to one of detention substitute "to imprisonment for a term of......................
which sentence has been duly confirmed in accordance with the provisions of the Defence Act, but has been commuted into a sentence of
detention for......................

(f) The committal form must be signed by the Commanding Officer of the person concerned, any officer under whose command that person is for
the time being, or by an administrative staff officer not below the rank of major or corresponding rank.

FORM 3 (Regulation 19)

Order for the committal of a person sentenced to imprisonment or detention
by a Court-Martial held out of Jamaica where all or part of the sentence
is to be served in a civil prison or a military establishment in Jamaica

Whereas No..................Rank..................Name..................
of the .......................(Unit) was by a .......................(a) Court-
Martial held at .......................convicted of the offence[s] of.......................
THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS, 1962

and by a sentence passed on the...day of......19...imprisonment sentenced [to...............(c) for a term of...............commencing on the said day, when sentence has been duly confirmed in accordance with the provi-sions of the Defence Act..............................(d);] (e).

And Whereas the.............................................(c) has [under section 123 reviewing authority
of the Defence Act, directed that the said person shall not be removed to Jamaica until he has served.....................years and.....................days of his sentence] [, under the Defence (Imprisonment and Detention) Regulations, 1962, directed that the said person shall serve.....................days of his sentence in Jamaica;] (c)

(f) Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I do hereby order the Governor, Commandant or other person in charge of.....................(g) to receive the said person into his custody and to retain him/her to undergo.....................years and.....................days of his/her sentence according to law;

And I do further order that the said person shall after completion of the said part of his/her sentence or at such earlier date as may be ordered be transferred to Jamaica to undergo the remainder of his/her sentence according to law in such civil prison or military establishment as may be appointed on his/her arrival in Jamaica.

And Whereas in accordance with the provisions of section 123 of the Defence Act, the said person is required to be removed to Jamaica as soon as practicable after the confirmation of the sentence;

(h) And Whereas the.............................................(c) has, under the Defence confirming authority
reviewing authority
(Imprisonment and Detention) Regulations, 1962, directed that the sentence shall be served in Jamaica.

Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I do hereby order that the said person shall be transferred to Jamaica in military custody to undergo his/her sentence according to law in such civil prison or military establishment as may be appointed on his/her arrival in Jamaica.

And I do further order that the Governor, Commandant or other person in charge of any civil prison or military establishment to which the said person may be brought in Jamaica shall receive him/her into his custody and retain his/her to undergo his/her sentence according to law and for so doing this shall be sufficient warrant;

And I do further order that the said person shall be conveyed in military custody and detained in military or civil custody so far as appears necessary or proper for effecting his/her transfer to the said civil prison or military establishment in Jamaica.

Signed at.....................this.....................day of.....................19.....

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

Rank and Appointment.............................................

[The inclusion of this page is authorized by L.N. 4/1976]
In the case of a Committal to any Intermediate Prison or Military Establishment being necessary.

For the purpose of carrying the above order into effect and in pursuance of the Defence Act, and of all other powers me enabling, I do hereby order the Governor, Commandant or other person in charge of

(1) at

(1) to receive the abovenamed person into his custody and to detain him/her until he/she can be transferred in pursuance of the above order and to produce him/her when required for the purposes of transfer, and for so doing this shall be sufficient warrant.

Signed at

this day of 19

(Signature)

(k)

Order on arrival in Jamaica.

In pursuance of the Defence Act, and of all other powers me enabling, I do hereby order the abovenamed person to be transferred to

at

(m) to undergo [the remainder of]

(n) his/her sentence according to law;

And I do further order the Governor, Commandant or other person in charge of the said

(1) to receive the said person into his custody and to retain him/her accordingly and for so doing this shall be sufficient warrant.

Signed at

this day of 19

(Signature)

(k)

Rank and Appointment

(a) Insert "Ordinary", or "Field" as the case may be.
(b) Here set out the statement (not the particulars) of the offence and the relevant sections of the Defence Act. Where there is more than one offence the statement of each must be set out.
(c) Delete as necessary.
(d) If any part of the sentence has been remitted on confirmation insert "with a remission..."
(e) Where the original sentence was for death and has been commuted to imprisonment or detention, for the words in brackets substitute the words "to suffer death which sentence has been duly confirmed in accordance with the provisions of the Defence Act, but has been commuted into imprisonment/detention for a term of..."); or, where the original sentence was imprisonment and it has been commuted to one of detention substitute "to imprisonment for a term of...", which sentence has been duly confirmed in accordance with the provisions of the Defence Act, but has been commuted into a sentence of detention for...
(f) These paragraphs must be used only where a part of the sentence is to be served overseas before return to Jamaica.
(g) Insert the name and location of the prison or other establishment where part of the sentence is to be served overseas.
(h) This paragraph must be used where the sentence exceeds twelve months and no direction has been given for any part of it to be served out of Jamaica.
(f) This paragraph must be used where the sentence does not exceed twelve months but a direction has been given under the Defence (Imprisonment and Detention) Regulations, 1962, that it shall be served wholly in Jamaica.

(j) This paragraph is to be used in conjunction with one or other of the two preceding paragraphs, where the sentence is to be served wholly in Jamaica.

(k) This form must be signed by the Commanding Officer of the person concerned, any officer in or under whose command he/she is for the time being serving or by an administrative staff officer not below the rank of major or corresponding rank.

(f) Insert the name and location of the prison or other establishment where the person concerned is to be detained temporarily while awaiting transfer to Jamaica.

(m) Insert the name and location of the prison or other establishment where the person concerned is to serve his/her sentence on arrival in Jamaica.

(n) Omit these words where the whole sentence is to be served in Jamaica.

---

**FORM 4**

(Regulation 19)

Order for the removal out of Jamaica of a person serving a military sentence of imprisonment or detention in Jamaica

To the Governor, Commandant or other person in charge of

.................................................................................................................................................................(a).

Whereas No.........................................Rank.................................................................(Unit)

Name..................................................................of the.................................................................

is now in your custody undergoing a military sentence of imprisonment—(b); detention

 confirming authority

And Whereas the reviewing authority (b) has ordered that the said person be reconsidering authority

removed out of Jamaica to.................................................................(c) being [territory] (the place where the [part of the] (d) unit to which he for the time being belongs serving

is .................................................. (b); under orders to serve

Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I hereby order you to deliver up the said person to the officer, warrant officer or non-commissioned officer producing this Order;

And I do further order that the said person shall be transferred to.................................................(e) in military custody to undergo [the remainder of] (e) his/her sentence according to law in such military or overseas establishment as may be appointed on his/her arrival.

And I do further order that the Governor, Commandant or other person in charge of the establishment to which the said person is brought on his/her arrival in.................................................................(c) shall receive him/her into his custody and retain him/her to undergo [the remainder of] (e) his/her sentence according to law and for so doing this shall be sufficient warrant.

[The inclusion of this page is authorized by L.N. 4/1976]
And I do further order that the said person shall be conveyed in military custody and detained in military or civil custody so far as appears necessary or proper for effecting his/her transfer.

Signed at ........................................ this .................. day of .......................... 19 ..........

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

Rank and Appointment.................................................................................................

(a) Insert the name and address of the prison or other establishment.
(b) Delete as necessary.
(c) Insert the name of the place to which the person is to be removed.
(d) Delete if not applicable.
(e) Delete if no part of the sentence has yet been served.
(f) This form must be signed by the Commanding Officer of the person concerned, any officer in or under whose command he/she is for the time being serving or by an administrative staff officer not below the rank of major or corresponding rank.

FORM 5 ............................................................................................................................... (Regulation 19)

Order for the transfer of a person undergoing a military sentence of imprisonment or detention from one prison or other establishment to another

To the Governor, Commandant or other person in charge of ...........................................
..................................................................................................................................................(a).

Whereas No. .................................... Rank .......................................................... Name........................................
..................................................................................................................................................

imprisonment ............................................................................................................... (b);
detention .......................................................................................................................

in your custody undergoing a military sentence of ............................................................... (Unit) is now

Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I hereby order you to deliver up the said person to the officer, warrant officer or non-commissioned officer producing this Order;

And I do further order that the said person shall be transferred in military custody to ......................................................... (c) and that the Governor, Commandant or other person in charge thereof shall receive him/her into his custody and retain him/her to undergo his/her sentence according to law, and for so doing this shall be sufficient warrant;

And I do further order that the said person shall be conveyed in military custody and detained in military or civil custody so far as appears necessary or proper for effecting his/her transfer.

Signed at ........................................ this .................. day of .......................... 19 ..........

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

Rank and Appointment.................................................................................................

(a) Insert the name and address of the prison or other establishment where the person concerned is undergoing sentence.
(b) Delete as necessary.

[The inclusion of this page is authorized by L.N. 4/1976]
(c) Insert the name and address of the prison or other establishment to which the person is to be transferred.

(d) This form must be signed by the Commanding Officer of the person concerned, any officer in or under whose command he/she is for the time being serving, or by an administrative staff officer not below the rank of major or corresponding rank.

FORM 6

(Order for the temporary removal in custody of a person undergoing a military sentence of imprisonment or detention)

To the Governor, Commandant or other person in charge of.............................................

.................................................................................................................................................(a)

Whereas No.....................................Rank......................................Name........................................

...........................................................................................................(Unit) who is now

imprisonment in your custody undergoing a military sentence of ...........................................................(b) is required

detention to be present at....................................................(c) on......................................................(d) for the

purpose of.............................................................................................................................................(e);

Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I hereby order you to deliver the said person to the officer, warrant officer or non-commissioned officer producing this Order;

And I do further order the said officer, warrant officer or non-commissioned officer, and all other officers, warrant officers or non-commissioned officers into whose custody the said person may be delivered to keep him/her in military custody and bring him/her to....................................................(c) on.........................(d) for the said purpose, and thereafter, unless he/she is released in due course of law, to return him/her to the abovenamed establishment or to such other establishment as may be appointed by proper military authority and for so doing this shall be sufficient warrant.

Signed at........................................this..................day of..................................................19..............

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

Rank and Appointment..............................................................

If the establishment to which the person is to be returned is altered.

In pursuance of the Defence Act, and of all other powers me enabling, I hereby order that the abovenamed person shall be returned in military custody to ....................................................(g) there to undergo the remainder of his/her sentence according to law;

And I do further order the Governor, Commandant or other person in charge of the said....................................................(h) to receive the said person into his custody and to retain him/her accordingly and for so doing this shall be sufficient warrant.

Signed at........................................this..................day of..................................................19..............

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

Rank and Appointment..............................................................
THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS, 1962

(a) Insert name and address of the prison or other establishment where the person concerned is serving his/her sentence.

(b) Delete as necessary.

(c) Insert the place where the person concerned is required to attend.

(d) Insert the date or dates when attendance is required.

(e) Insert the purpose for which the person concerned is required to attend, e.g., "to give evidence before a Board of Inquiry into........

..........................", or "to be present at the hearing by the Court of Appeal of his/her appeal to that Court" or as the case may require.

(f) This form must be signed by the Commanding Officer of the person concerned, any officer in or under whose command he is for the time being or by an administrative staff officer not below the rank of major or corresponding rank. This form must not be used by the Governor, Commandant or other person in charge of the establishment where the person concerned is serving his/her sentence.

(g) Insert the name and location of the prison or other establishment to which the person is to be sent.

(h) Insert the name of the prison or other establishment.

(f) This form must be signed by the Commanding Officer of the person concerned, any officer in or under whose command he is for the time being, or by an administrative staff officer not below the rank of major or corresponding rank.

FORM 7 (Regulation 19)

Order for the temporary removal in custody of a person undergoing a military sentence of imprisonment or detention. (Form for use by Governor, Commandant or other person in charge of the establishment where the person concerned is serving his/her sentence.)

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

Whereas No. ............ Rank................. Name..........................

.............................of the...........................................(Unit) is now in

imprisonment

my custody undergoing a sentence of—(a) and is required to be

detention

present at........................................(c) for the purpose of..........................

..............................................................(d);

Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I hereby order you and every other officer, warrant officer and non-commissioned officer into whose custody the said person may be delivered, to keep him/her in military custody and bring him/her to.......................(b) on..................(c) for the said purpose, and thereafter, unless he/she is released in due course of law, to return him/her to my custody or to such other establishment as may be appointed by proper military authority and for so doing this shall be sufficient warrant.

Signed at................................this ................day of..................19........

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

Rank and Appointment.............................................

[The inclusion of this case is authorized by L.N. 4/1976]
THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS,
1962

If the establishment to which the person is to be returned is altered.

In pursuance of the Defence Act, and of all other powers we enabling, I hereby order that the abovenamed person shall be returned in military custody to .................................................(f) there to undergo the remainder of his/her sentence according to law;

And I do further order the Governor, Commandant or other person in charge of the said .................................................(g) to receive the said person into his custody and to retain him/her accordingly and for so doing this shall be sufficient warrant.

Signed at................................this..........................day of.................................................19......

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

Rank and Appointment.................................................................................................

(a) Delete as necessary.

(b) Insert the place where the person concerned is required to attend.

(c) Insert the date or dates when attendance is required.

(d) Insert the purpose for which the person concerned is required to attend, e.g., “to give evidence at a Board of Inquiry into .......................”, or to “be present at the hearing by the Court of Appeal of his/her appeal to that Court”, or as the case may require.

(e) This form is for use only by the Governor, Commandant or other person in charge of the establishment where the person concerned is serving his/her sentence and must be signed by him or his deputy.

(f) Insert the name and location of the prison or other establishment to which the person is to be returned.

(g) Insert the name of the prison or other establishment.

(h) This form must be signed by the Commanding Officer of the person concerned, any officer in or under whose command he is for the time being serving or by an administrative staff officer not below the rank of major or corresponding rank.

FORM 8 (Regulation 19)

Order for the temporary committal to civil custody of a person under military sentence of imprisonment or detention

To.................................................................(a)

Whereas No..........................Rank..........................Name..................................................

...........................................................................(Unit) is a person

in military custody in pursuance of a military sentence of ...........................................(b);

Now, therefore, in pursuance of subsection (2) of section 124 of the Defence Act, and of all other powers we enabling, I hereby order you to keep the said person in custody for a period not exceeding seven days unless the said person is earlier discharged or delivered over in due course of law, and for so doing this shall be your warrant.

Signed at................................this..........................day of.................................................19......

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

Rank and Appointment.................................................................................................

[The inclusion of this page is authorized by L.N. 4/1976]
(a) Insert "the Governor, H.M. Prison......................", "the Superintendent, Prison", "the Officer in charge of Police Station" or as the case may require.
(b) Delete as necessary.
(c) This form must be signed by the Commanding Officer of the person concerned.

**FORM 9**

(Regulation 19)

Order for the return to military custody of a person under military sentence of imprisonment or detention who is temporarily detained in civil custody

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

..............................................(c)

Whereas No..........................Rank...............Name..........................

....................................................................of the.................................(Unit) is now in your custody in pursuance of subsection (2) of section 124 of the Defence Act;

Now, therefore, in pursuance of the said Act and of all other powers me enabling, I hereby order you to deliver over the said person into military custody

officer

(a) Insert “the Governor, H.M. Prison......................”, "the Superintendent, Prison", "the Officer in charge of Police Station" or as the case may require.
(b) Delete as necessary.
(c) This form must be signed by the Commanding Officer of the person concerned.

Signed at..........................this..................day of........................19........

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

Rank and Appointment..........................

**FORM 10**

(Regulation 19)

Order for the Committal of a person ordered to undergo imprisonment or detention under section 64 (2) of the Defence Act for contempt of a Court-Martial

To the Governor, Commandant or other person in charge of.......................

............................................(a)

Whereas a..............................(b) Court-Martial for the trial of..............

.........................................................................(c) of which I am the President, was on this
day sitting at............................................(d);

And whereas No..........................Rank...............Name..........................

....................................................................of the.................................(Unit) was guilty of

.................................................................................(e);

[The inclusion of this page is authorized by L.N. 4/1976]
And whereas the said Court-Martial did order the said person to be imprisoned
undergo detention

Now, therefore, in pursuance of subsection (2) of section 64 of the Defence Act, and of all other powers them enabling, the Court hereby order you to receive the said person into your custody to undergo—(f)
detention accordingly and for so doing this shall be your warrant.

Signed at..................this................day of..............................19........
(Signature).........................................................................

Rank and Appointment.........................................................

(a) Insert the name and address of the prison or other establishment.
(b) Insert "Ordinary", or "Field" as the case may be.
(c) Insert the rank and name of the person being tried.
(d) Insert the place where the Court-Martial was sitting.
(e) Insert the statement of the offence under section 64 (1) (e) or (f) of the Defence Act.
(f) Delete as necessary.
(g) This form must be signed by the President of the Court-Martial.

PART II
FORM A
(Order for the release of a person undergoing a military sentence of imprisonment or detention)

To the Governor, Commandant or other person in charge of.................................(a)

Whereas No..............Rank..............Name.....................
.......................................................................................

of the...........................................(Unit) is now in your

imprisonment custody undergoing a sentence of..............................................(b)
detention awarded by his/her Commanding Officer
.................................................................(b);

passed by Court-Martial.

Now, therefore, in pursuance of the Defence Act, and of all other powers me enabling, I do hereby order you to release the said person from custody.

Signed at..................this................day of..............................19........
(Signature).........................................................................

Rank and Appointment.........................................................

(a) Insert the name and address of the establishment.
(b) Delete as necessary.
(c) This form must be signed by the reviewing or reconsidering authority or an officer authorized to do so by the Defence Board, and in the case of a soldier serving a sentence of detention awarded by his Commanding Officer, only by his Commanding Officer.

(The inclusion of this page is authorized by L.N. 4/1976)


THE DEFENCE (IMPRISONMENT AND DETENTION) REGULATIONS, 1962

SECOND SCHEDULE (Regulation 40)

EARNINGS OF SOLDIERS UNDER SENTENCE

<table>
<thead>
<tr>
<th>Soldiers under sentences—</th>
<th>Rates per week</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. (a) During the first week of sentence following the usual pay day, and during each of the following seven weeks</td>
<td>12.5 cents</td>
</tr>
<tr>
<td>(b) During the ninth week of sentence</td>
<td>20.8 &quot;</td>
</tr>
<tr>
<td>(c) During the tenth and subsequent weeks, at least</td>
<td>20.8 &quot;</td>
</tr>
<tr>
<td>(d) During the said tenth week and subsequent weeks of his sentence a soldier under sentence who shows skill, diligence, and a sense of responsibility in carrying out the work required of him may, at the discretion of the commandant, be granted maximum weekly increments of 4.2 cents per week until he is earning a maximum of</td>
<td>41.7 &quot;</td>
</tr>
</tbody>
</table>

2. In respect of any part of a week before the first week of a sentence following a usual pay day a soldier under sentence may earn 2.1 cents a day, and during the last days of his sentence before release, following a usual pay day, he may earn for each day one-fifth of the rate of pay which he was earning in the week preceding the last usual pay day.

3. For the purposes of calculating a soldier's earnings in accordance with this Schedule, Sundays shall be included, and days during which a soldier is undergoing restricted diet as a punishment shall be excluded.

4. If the commandant considers that the skill, diligence and sense of responsibility shown by a soldier under sentence are less than they should be, the rate of earnings to which he is from time to time entitled in excess of 20.8 cents per week may be reduced by such amount as the commandant thinks fit, but so that it shall not be reduced below 20.8 cents per week.

5. A soldier under sentence who is in a medical detention room of a military establishment or in a hospital shall not be entitled to be credited with earnings greater than 20.8 cents per week, or for any period less than a week, 4.2 cents a day.

6. When a soldier under sentence is admitted to hospital the commandant shall endeavour to arrange with the Commanding Officer of the hospital that goods may be issued each week to the soldier from the canteen to a maximum retail value of 20.8 cents per week or such lower value equal to the rate of the weekly earnings of the soldier under sentence immediately before he was admitted to hospital and any sum standing to his credit, and the commandant shall pay to the Commanding Officer of the hospital from time to time sums equal to the value of the goods so issued.

7. On the release of a soldier under sentence on completion of his sentence he shall be entitled to be paid in cash the balance of any earnings standing to his credit.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations, which are made under the Defence Act, make provision with respect to the following matters—

Part I Preliminary.

[The inclusion of this page is authorized by L.N. 4/1976]
Part II relates to the control and inspection of military establishments, being places where persons under military sentences of imprisonment or detention may serve their sentences.

Part III relates to the provision, classification and use of military establishments and for the committal of soldiers under sentence to these establishments, civil prisons and overseas establishments.

Part IV contains the Regulations with reference to remission of sentences.

Part V contains a code for the treatment, employment, discipline and control of soldiers under sentence, and includes safeguards as to the size and type of accommodation used for their confinement; provision whereby they may participate in an earnings scheme; provisions as to rations, medical attention, complaints and offences against the Regulations and as to the punishments which may be awarded in respect of such offences.

Part VI concerns the welfare of soldiers under sentence, religion and education and provisions with reference to chaplains.

Part VII sets out certain regulations with reference to military establishments which must be observed by soldiers under sentence.

Part VIII contains special regulations which apply to unit detention rooms.

Part IX provides for the appointment of visiting officers and defines their duties, which include weekly visits to all military prisons, detention barracks and corrective training centres so that soldiers under sentence shall have an opportunity to make complaints.

Part X contains regulations to be observed by commandants and staffs of military establishments.
THE DEFENCE ACT

RULES
(under section 139)

THE DEFENCE (BOARD OF INQUIRY) RULES, 1962
(Made by the Defence Board on the 31st day of July, 1962) L.N. 255/62

1. These Rules may be cited as the Defence (Board of Inquiry) Rules, 1962.

2. In these Rules unless the context otherwise requires—
   “authority” in relation to a board, means the Defence Board or any officer empowered by these Rules to convene a board;
   “board” means board of inquiry;
   “president” means president of a board, or, where only one officer forms the board, that officer;
   “record of the proceedings” in relation to a board, includes the report of the board and any opinion expressed by the board in accordance with any directions given by the authority.

3. A board shall investigate and report on the facts relating to any matter referred to the board under these Rules, and, if directed so to do, shall express their opinion on any question arising out of any such matter.

4.—(1) A board may be convened with reference to the absence of any person subject to military law under the Act who has been continuously absent without leave for a period of not less than twenty-one days and with reference to the deficiency (if any) in the public and service property of which that person had the charge or which had been entrusted to his care and the value of such deficiencies:

   Provided that—
   (i) a board need not be convened if the authority is satisfied that the absence has terminated; and
   (ii) if such a board has already been convened it may be dissolved if the authority is satisfied that the absence has terminated.

[The inclusion of this page is authorized by L.N. 4/1976]
(2) A board may be convened with reference to—

(a) the capture of any person subject to military law under the Act by the enemy;

(b) the death of any such person where an inquiry as to the death is not required to be held by any civil authority

(3) A board may be convened and with reference to any matter other than those referred to in paragraphs (1) and (2) which the authority decides to refer to a board.

5.—(1) A board with reference to the matters referred to in paragraph (1) of rule 4, shall be convened by the officer commanding the unit or detachment with which the person was serving at the time of his absence.

(2) A board with reference to the matters referred to in paragraphs (2) and (3) of rule 4, may be convened by—

(a) the Defence Board; or

(b) any officer commanding a body of troops, unit or detachment.

(3) The following provisions shall apply in relation to the order convening a board—

(a) the order may, and where the matters referred to the board are those mentioned in paragraph (1) of rule 4 shall, specify the terms of reference of the board and be published in orders;

(b) the order may direct the board to express an opinion on any question arising out of any matter referred to the board; and

(c) the authority may revoke, vary or suspend the order.

6.—(1) A board convened with reference to such absences and deficiencies, (if any), as are mentioned in paragraph (1) of rule 4, shall consist of not less than three persons subject to service law.

(2) A board convened to investigate any matter referred to in paragraph (2) of rule 4, shall consist of not less than three officers subject to service law.

(3) A board convened to investigate any matter other than those referred to in paragraphs (1) and (2) may consist of one or more persons subject to service law:

Provided that where a board consists of only one member, that member shall be an officer not below the rank of captain.

[The inclusion of this page is authorized by L.N. 4/1976]
(4) Where a board consists of more than one member, the president shall be an officer not below the rank of captain.

(5) The authority shall appoint the president by name and each remaining member of the board either by name or by detailing a commanding officer to appoint a member of a specified rank:

Provided that where the authority is a commanding officer of a unit or detachment he shall appoint the members by name.

7.—(1) A board shall assemble at the time and place stated in the order convening the board.

(2) The president shall lay the terms of reference before the board and the board shall proceed to hear and record the evidence in accordance with the provisions of these Rules.

(3) The board may from time to time adjourn and sit on such occasions and in such places as the president may from time to time direct.

(4) Without prejudice to paragraph (3), the authority may at any time direct the board to reassemble for such purpose as may be specified by him.

(5) The board shall hear the evidence of the witnesses who have been made available by the authority and may hear the evidence of such other persons as the board think fit.

(6) The board may receive any evidence which is considered relevant to the matter referred to the board whether oral or written and whether or not it would be admissible in a civil court.

8.—(1) Subject to paragraph (4), every witness before a board convened with reference to any of the matters referred to in paragraphs (1) and (2) of rule 4, shall be examined on oath.

(2) Where a board is convened with reference to any matter other than those referred to in paragraphs (1) and (2) of rule 4, every witness before the board shall, if the authority so directs and subject to paragraph (4), be examined on oath.

(3) Subject to paragraph (4), an oath shall, where the authority so directs, be administered to any person in attendance on a board as an interpreter.

[The inclusion of this page is authorized by L.N. 4/1976]
(4) If a person objects to taking an oath and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief or it is not reasonably practicable to administer an oath to a person in the manner appropriate to his religious belief he shall be required to make a solemn affirmation instead of taking an oath.

(5) An oath shall be administered or an affirmation made before a board in the form and manner prescribed by the Defence Rules of Procedure.

(6) Every oath or affirmation taken or made before a board shall be administered by the president or any member of the board.

9.—(1) The president shall record or cause to be recorded the proceedings of the board in sufficient detail to enable the authority to follow the course of the proceedings.

(2) The evidence of each witness, which may be recorded in narrative form, shall as soon as it has been taken down be read over to, and be signed by him.

(3) The record of the proceedings shall be signed by the president and other members of the board and forwarded to the authority.

(4) The president shall be responsible for ensuring the safe custody of any exhibits produced to the board.

10.—(1) Where it appears to the authority or, if a board has been convened, the authority or the president that any person subject to service law may be affected by the findings of the board, the authority or, as the case may be, the president shall take such steps as are in his opinion reasonable and necessary to ensure that such person has notice of the proceedings and, if he so desires, has an opportunity of being present and represented by a lawyer or an officer subject to service law at the sittings of the board or any such part thereof as the authority or, as the case may be, the president, may specify.

(2) Any such person as is referred to in paragraph (1), may give evidences, question witnesses or procedure witnesses to give evidence on the matters which may affect him and, if he is represented as provided for in the said paragraph (1), his representative may question witnesses but neither the person nor his representative shall make any speech to the board except with the permission of the president.
11. Where a board convened in accordance with paragraph (1) of rule 4 find that a person subject to military law under the Act has been absent without leave or other sufficient cause for a period not being less than twenty-one days, the board shall make a report set out in the Schedule and a record of the report shall as required by subsection (1) of section 130 of the Act be entered in the service book and such entry shall be signed by the commanding officer.
THE SCHEDULE

Report of a Board of Inquiry into the absence of

(number, rank, name and unit)

The board of inquiry sitting at .............................................(place) on the .............................................day(s) of ................., 19 ......., and consisting of—

............................................................. (rank, name and unit) President

............................................................. (ditto) Members

............................................................. (ditto) Members

Report that .............................................................(number, rank, name and unit) has been absent from .............................................................(unit) at .............................................................(place) without leave or other sufficient cause for a period beginning on the .............................................................day of .........., 19 ......., and is still so absent.

*And further report that the said .............................................................(rank and name) was on the .............................................................day of .........., 19 ......., 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—

(Set out each article with its value)

Dated the .............................................................day of ............................................................., 19 .......

............................................................. (signature) President

............................................................. (signature) Members

............................................................. (signature) Members

*Omit this paragraph if there are no deficiencies.
THE DEFENCE ACT

REGULATIONS
(under section 140)

THE DEFENCE (SUMMARY JURISDICTION) REGULATIONS, 1962
(Made by the Defence Board on the 31st day of July, 1962)

1. These Regulations may be cited as the Defence (Summary Jurisdiction) Regulations, 1962.

2. In these Regulations, unless the context otherwise requires—

“detachment" means a part of a unit which is so separated from the unit to which it belongs that the officer commanding that unit cannot effectively exercise his disciplinary powers as commanding officer over it;

“subordinate commander" means except where otherwise expressly provided, the officer commanding a company or equivalent sub-unit.

3. A unit or detachment may be placed for disciplinary purposes under the command of the commanding officer of another unit or detachment in which event that officer is for such purposes the commanding officer of members of the unit or detachment so placed under his command and the officer commanding the latter unit or detachment is a subordinate commander for the purpose of these Regulations.

4.—(1) A commanding officer may not deal summarily with a charge under section 76 where the civil offence is murder, manslaughter, treason, treason-felony or rape, nor may he deal summarily with charges under section 34, 35, 36, 37, 38, 41, 42, 72 or 74 of the Act (where the principal offence cannot be dealt with summarily by virtue of this paragraph).

(2) A commanding officer may not without permission of higher authority deal summarily with a charge under section 40, 47, 53, 54, 56, 57, 58, 59, 64, 65, 69, 71 or 74 (where the principal offence cannot be dealt with summarily by virtue of this paragraph) or section 76 of the Act.

[The inclusion of this page is authorized by L.N. 4/1976]
5.—(1) A commanding officer below the rank of lieutenant-colonel shall not without the permission of higher authority award to a soldier detention for a period exceeding 28 days.

(2) A commanding officer if below field rank shall not, without permission of higher authority award to a soldier detention for a period exceeding 7 days or a fine of a sum exceeding the equivalent of 7 days pay.

(3) A commanding officer shall not without the permission of higher authority award the punishment of stoppages exceeding $20.00

(4) In addition to the restrictions imposed by paragraphs (1) and (2), an officer commanding a detachment who is below field rank may be further restricted either by the officer commanding the unit to which the detachment belongs or by higher authority:

Provided that where the officer commanding a detachment has had his powers restricted under this paragraph he may notwithstanding the restriction, but subject to paragraphs (1) and (2), exercise his full powers as a commanding officer if it becomes necessary for him to do so for the maintenance of discipline but, if he does so, he shall report the fact to the officer or higher authority who restricted his powers under this paragraph.

6. Subject to regulation 7, a commanding officer may delegate to a subordinate commander, whatever his rank may be, who is under his command and directly responsible to him for disciplinary matters, the powers to investigate and deal summarily with charges with which he himself may deal and, where such power has been delegated, the subordinate commander shall be, for the purpose of the Act, the commanding officer of a person subject to military law under the Act:

Provided that such delegation shall not include the power—

(a) to remand the accused for trial by court-martial; and

(b) to order the taking of a summary of evidence or the making of an abstract of evidence.

7.—(1) The punishment which may be imposed by a subordinate commander to whom power to investigate and deal summarily with charges has been delegated under regulation 6 are—

(a) in the case of a non-commissioned officer below the rank of sergeant—

[The inclusion of this page is authorized by L.N. 4/1976]
(i) a fine of a sum not exceeding the equivalent of seven days pay;
(ii) reprimand;
(iii) where the offence has occasioned any expense, loss or damage, stoppages not exceeding $10.00;
(iv) admonition;

(b) in the case of a soldier—

(i) a fine of a sum not exceeding the equivalent of seven days pay;
(ii) where the offence has occasioned any expense, loss, or damage, stoppages not exceeding $10.00;
(iii) confinement to barracks for a period not exceeding 14 days;
(iv) extra guards or piquets not exceeding 3 in number;
(v) admonition.

(2) A subordinate commander who is below the rank of captain shall not award either the punishment of a fine or the punishment of stoppages.

(3) When a Commanding Officer delegates the power to investigate and deal summarily with charges in accordance with regulation 6, he may, in addition to the restrictions imposed by paragraphs (1) and (2), impose such further restrictions as seem to him to be proper upon the exercise of that power by the officer to whom it is delegated.

(4) When a subordinate commander is dealing with a charge against a non-commissioned officer or a soldier and the accused elects to be tried by court-martial in accordance with subsection (6) of section 85 of the Act, the subordinate commander shall not deal further with the charge himself, but shall order that the accused be brought before the commanding officer who delegated to him the power to investigate the charge.

8.—(1) An appropriate superior authority may not deal summarily with a charge under section 76 of the Act where the civil offence is murder, manslaughter, treason, treason-felony or rape, or may he deal summarily with a charge under section 34, 35, 36, 37, 38, 41, 42, 70, 72 or 74 (where the principal offence cannot be dealt with summarily by virtue of this paragraph).

[The inclusion of this page is authorized by L.N. 4/1976]
(2) An appropriate superior authority may not without permission of higher authority deal summarily with a charge under section 40, 47, 53, 54, 56, 57, 58, 59, 64, 65, 69, 71 or 74 (where the principal offence cannot be dealt with summarily by virtue of this paragraph) or section 75 of the Act.

9. A soldier undergoing detention, field punishment or confinement to barracks may be dealt with summarily for a fresh offence, provided that the aggregate periods of consecutive punishment shall not exceed the following—

(a) detention or field punishment, or a combination of the two—42 days;

(b) a combination of detention or field punishment and confinement to barracks—42 days;

(c) confinement to barracks—28 days.
THE DEFENCE ACT

REGULATIONS
(under section 140)

THE DEFENCE (FIELD PUNISHMENT) REGULATIONS, 1962
(Made by the Defence Board on the 31st day of July, 1962)

1. These regulations may be cited as the Defence (Field Punishment) Regulations, 1962.

2. In these Regulations unless the context otherwise requires—
   "offender" means a person subject to military law under the Act who has been awarded field punishment by sentence of a court-martial or by a commanding officer under the Act;
   "personal restraint" means restraint by handcuffs.

3. An offender shall undergo field punishment with the unit to which he belongs or to which he is for the time being attached:
   Provided that where the commander of a body of troops (not being below the rank of lieutenant-colonel or corresponding rank) has appointed an officer to supervise the carrying out of field punishment, the offender may be required to undergo the whole or any part of his punishment elsewhere under the supervision of that officer.

4. The punishments which an offender shall be liable to undergo are as follows—
   (a) such drills or duties, in addition to those which he might be required to perform if he were not undergoing punishment;
   (b) such loss of privileges; and
   (c) confinement in such place and such manner, as may be directed by the commanding officer, or the officer appointed to supervise the carrying out of field punishment, as the case may be, but so that the offender shall not be subjected to any treatment to which he could not be subjected if he was undergoing a military sentence of detention.

[The inclusion of this page is authorized by L.N. 4/1976]
5. (1) An offender may not be placed under personal restraint except to prevent his escape or to protect himself or others from injury.

(2) An offender shall not be placed under personal restraint continuously for a longer period than twenty-four hours and handcuffs shall not be placed with the hands of the offender behind his back unless it is necessary by reason of his violence.
THE DEFENCE ACT
REGULATIONS

(under section 140)

THE DEFENCE (CUSTODY OF PERSONS FOUND INSANE) REGULATIONS, 1962

(Made by the Defence Board on the 31st day of July, 1962) L.N. 253/62

1. These Regulations may be cited as the Defence (Custody of Persons Found Insane) Regulations, 1962.

2. Where on the trial of an accused person by court-martial, the court makes a finding under subsection (1) or subsection (2) of section 117 of the Act, the manner in which the accused person shall be kept in custody shall be such as may be determined by the confirming authority after considering medical advice:

Provided that where the court-martial was held outside Jamaica and the accused is transferred to Jamaica, the manner in which he shall be kept in custody shall—

(i) during the transfer, be determined, after considering medical advice, by the commander of the Force in which the court-martial was held; and

(ii) after arrival in Jamaica, be determined, after considering medical advice, by the Chief-of-Staff.
1. These Regulations may be cited as the Defence (Retired Pay, Pensions and Other Grants) Regulations, 2004.

PART I—General

2.—(1) In these Regulations, unless the context otherwise requires—

“house allowance” means the house allowance that is granted in respect of the rank to which an officer or soldier, as the case may be, is appointed, but does not include such allowance granted on condition that it shall not be penisonable:

Provide that where such an officer or soldier is not granted a house allowance, but is provided with accommodation in quarters or barracks, an amount equal to fifteen per cent of the minimum basic pay of the rank to which such officer or soldier is appointed shall, for the purpose of these Regulations, be regarded as house allowances.

“pay” means the basic pay attached to the rank to which the officer or soldier, as the case may be, is appointed, and includes—

(a) with effect from the 1st day of January, 1986, house allowance;

(b) with effect from the 1st day of April, 1994, special allowance;

and

(c) with effect from the 19th day of July, 2005, specialist pay, flying pay and diving pay;

“public claim” means any public debt or disallowance, including any overissue 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, and deficiency, loss, damage or destruction of public stores, buildings or other public property of which, after due investigation no explanation satisfactory to the Defence Board is given by the person who is responsible for the same;

“service claim” means any service debt or the sum required to make good any loss, deficiency or irregular expenditure of service money of which after due investigation no explanation satis-

[The inclusion of this page is authorized by L.N. 116 of 2014]
factory to the Defence Board is given by the person who is responsible for the same;

“substantive rank” shall exclude brevet, honorary, acting, temporary, or local rank.

(2) References in these Regulations to officers and soldiers shall be construed as being references to officers and soldiers of the regular Force of the Jamaica Defence Force.

(3) The definition of “house allowance” in paragraph (1) shall be deemed to have come into operation on the 1st day of January, 1986.

3. No person shall have an absolute right to compensate or to retired pay, pension or other grant under these Regulations.

4. Where the computation of the retired pay, pension or other grant which may be awarded under these Regulations includes a period of reckonable service otherwise than in the regular Force, the North Caribbean Regiment or the Caribbean Regiment, no payment shall be made from the public funds of Jamaica in respect of such other service unless either—

(a) arrangements have been made to the satisfaction of the Defence Board for the reimbursement of the public funds of Jamaica by or on behalf of the Government or other authority for whose benefit such service was given; or

(b) the Defence Board is satisfied that such service does not qualify for the payment of retiring benefits by the Government or other authority for whose benefit it was given.

5. Except where otherwise provided, no person shall be entitled to claim any retired pay, pension, or other advantage conferred by any provisions of these Regulations in the event of such provision being at any time added to, varied or cancelled.

6. Any retired pay, pension or other grant awarded under these Regulations to any person shall be liable to deductions on the order of the Defence Board to meet any public or service claim.

7. The payment of retired pay, pension or other grant awarded under these Regulations may be made provisionally or upon any other basis and for such period as the Defence Board may think fit and, either generally or in any particular case or class of case, any retired pay, pension, gratuity or other grant awarded in terms of a monthly amount may be paid quarterly or monthly in arrear.

8.—(1) The Defence Board may withhold or reduce any retired pay, pension or grant awarded under these Regulations—

(a) if it is satisfied that it was obtained by the willful 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 retired pay, pension or grant is awarded is sentenced to death or to any term of imprisonment by any court of competent jurisdiction whether in Jamaica.

[The inclusion of this page is authorized by L.N. 116F/2014]
9.—(1) No retired pay, pension or other grant shall be awarded to a person who, having been adjudicated a bankrupt or declared insolvent by a judgment of a court or competent jurisdiction, whether in Jamaica or elsewhere, has not obtained his discharge from such adjudication or declaration.

(2) If any person to whom retired pay, pension, gratuity or other grant has been awarded under these Regulations is adjudicated a bankrupt or is declared insolvent by a judgment of a court of competent jurisdiction, whether in Jamaica or elsewhere, then such retired pay, pension or other grant shall forthwith cease.

(3) Notwithstanding the provisions of paragraph (2), it shall be lawful for the Defence Board from time to time, during the remainder of the life of such person as aforesaid or during such shorter period or periods, either continuous or discontinuous, as the Defence Board, shall think fit, to cause all or any part of the moneys to which such person would have been entitled by way of retired pay, pension or other grant, had he not become a bankrupt or insolvent, to be paid to, or applied for the maintenance and personal support of, all or any, to the exclusion of the other or others of the following persons, namely, such person as aforesaid and any wife, child or children of his, in such proportions and manner as the Defence Board thinks proper, and such moneys shall be paid or applied accordingly; moneys applied for the discharge of the debts of the person as aforesaid shall, for the purpose of this paragraph, be regarded as applied for his benefit.

(4) When a person to whom any retired pay, pension or other grant has not been awarded or whose retired pay, pension or other grant has ceased under the provision of this regulation, obtains a discharge from his bankruptcy or insolvency, as the case may be, retired pay, pension or other grant may be awarded or restored to him as the case may be with effect from the date of such discharge.

[The inclusion of this page is authorized by L.N. 75/2002]
10. From and after the 1st day of July, 1974, where a person to whom any payment could have been made under these Regulations before his death dies before the payment is made, and the amount unpaid does not exceed twelve hundred dollars, the amount so unpaid may be paid to the personal representative of the deceased person without probate or other proof of title or may be paid or distributed to or among the persons appearing to the Defence Board to be the persons beneficially entitled to the personal estate of the deceased person, to or among anyone or more persons, and, in determining the persons to whom and the proportions in which the amount so unpaid shall be paid or distributed, the Defence Board 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.

11. If a person to whom an award of retired pay or pension has been made under these Regulations enters the service of a foreign power without the consent of the Defence Board or, if he continues in such service after the consent is withdrawn, he shall be liable to have his retired pay or pension, as the case may be, suspended or withheld as the Defence Board may decide.

PART II—Officers

12. It shall be compulsory for officers to retire on attaining the following ages, that is to say—

   a major-general at the age of 56;
   a colonel or brigadier at the age of 54;
   a lieutenant-colonel at the age of 50;
   a major or lower rank at the age of 47.

13.—(1) An officer who retires within two years of the compulsory age for retirement in his rank and whose reckonable service is equal to or greater than the standard service period set out in paragraph (3) may be granted retired pay calculated in accordance with the provisions of paragraph (2).

   (2) Retired pay at full rate shall be calculated on the basis of seven days pay at the average rate in issue to the officer over the three years immediately preceding the date of retirement for each year of reckonable service.
(3) The standard periods of service for the purpose of qualifying for retired pay shall be as set out in the following scale—

<table>
<thead>
<tr>
<th>Rank on retirement</th>
<th>Standard period of service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lieutenant</td>
<td>20 years</td>
</tr>
<tr>
<td>Captain</td>
<td>20 years</td>
</tr>
<tr>
<td>Major</td>
<td>22 years</td>
</tr>
<tr>
<td>Lieutenant-Colonel</td>
<td>24 years</td>
</tr>
<tr>
<td>Colonel</td>
<td>26 years</td>
</tr>
<tr>
<td>Brigadier</td>
<td>28 years</td>
</tr>
<tr>
<td>Major-General</td>
<td>30 years</td>
</tr>
</tbody>
</table>

14. An officer permitted to retire at his own request before the compulsory retirement age for his rank with at least twenty years qualifying service may be granted retired pay as follows—

(a) 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 17;

(b) 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 one deduction of the scale laid down in regulation 19 for each period of three months or part of a period of three months by which the difference between his age on retirement and the compulsory retirement and the compulsory retirement age limit exceeds two years with a further deduction of ten per centum from the amount so calculated.

15. An officer who is invalided from the Jamaica Defence Force before the compulsory retirement age for his rank, with at least ten years qualifying service may be awarded retired pay as follows—

(a) if he has twenty or more years qualifying service, the award shall be computed as if he had retired in the circumstances mentioned in regulation 17;

(b) if his qualifying service is less than twenty years the award shall be that for which he would have been eligible under subparagraph (a) had he completed twenty years qualifying service and then retired in the rank of major (or in his existing rank, if higher), less a deduction of twice the amount laid down in regulation 19 for each period of three months or part of a period of three months by which his qualifying service falls short of twenty years:
THE DEFENCE (RETIRED PAY, PENSIONS AND OTHER GRANTS) REGULATIONS, 1962

Provided that where the circumstances leading to an officer's being invalided out of the Jamaica 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 Defence Board as they shall think fit.

16. An officer who is retired or called upon to retire or resign on the grounds of the interest of Her Majesty's service, and not due to causes within his own control, and who has had at least twenty years qualifying service, may be granted retired pay as if he had retired in the circumstances mentioned in regulation 17.

17. Where upon the date of an officer's compulsory retirement his reckonable service is less than the standard service period for his rank for retired pay purposes, he may be awarded retired pay reduced by one deduction according to the table set out in regulation 19, for each period of three months or part of a period of three months of the deficiency.

18. An officer who is removed or called upon to retire or resign for misconduct, or who is cashiered or dismissed from Her Majesty's service, and who has at least twenty years qualifying service, may be granted, if the Defence Board so decides, a compassionate award of retired pay at such rate as they may determine, but not in any event exceeding ninety per centum of the retired pay rate which would have been admissible had he retired at his own request.

19. For the purpose of the computation of retired pay when the officer's reckonable service is less than the standard service period set out in regulation 13, the scale of deduction shall be as follows—

<table>
<thead>
<tr>
<th>Rate of retired pay</th>
<th>Each deduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above $1,600 a year</td>
<td>$20.00 a year</td>
</tr>
<tr>
<td>$1,600 and above $1,200 a year</td>
<td>$15.00 a year</td>
</tr>
<tr>
<td>$1,200 and above $800 a year</td>
<td>$10.00 a year</td>
</tr>
<tr>
<td>$800 and above $600 a year</td>
<td>$7.50 a year</td>
</tr>
<tr>
<td>$600 and above $400 a year</td>
<td>$5.00 a year</td>
</tr>
<tr>
<td>$400 a year and below</td>
<td>208.3 cents a year</td>
</tr>
</tbody>
</table>

Deductions shall be made successively until the number of deductions due to be made has been completed, and each deduction in turn shall be...
of the amount appropriate to the rate remaining after the preceding deductions.

20.—(1) An officer awarded retired pay under this Part (otherwise than under regulation 18) may in addition, be awarded a terminal grant in accordance with the following scale—

Majors and below ... an amount equal to four times the annual rate of retired pay.

Lieutenant-Colonel ... an amount equal to three and one-half times the annual rate of retired pay.

Colonels and above ... an amount equal to three times the annual rate of retired pay.

(2) Where an officer has been granted a compassionate award of retired pay under regulation 18 the Defence Board may in their discretion award a compassionate gratuity not exceeding three times the annual rate of the compassionate award of retired pay.

21. From and after the 1st day of October, 1972, an officer retiring and ineligible for retired pay may be granted, at the cessation of his service, a gratuity in accordance with the following provisions—

(a) an officer—

(i) 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 on the grounds of the interest of Her Majesty’s service, and not due to causes within his own control; and

(ii) who has had at least ten years qualifying service, may be granted a gratuity of an amount equal to forty-two days pay at the average rate in issue to the officer over the three years immediately preceding the date of retirement for each year of reckonable service;

(b) an officer who is invalided from the Jamaica Defence Force may be granted a gratuity of an amount equal to sixty-one days pay at the average rate in issue to the officer over the three years immediately preceding the date of retirement for each year of reckonable service;
(c) an officer who is removed or is called upon to retire or resign or who is cashiered or dismissed from Her Majesty’s service may be granted, if the Defence Board so decide, a compassionate gratuity at such rate as they may determine but not in any event exceeding 90 per cent of the gratuity which would have been admissible had he retired at his own request.

22. From and after the 1st day of October, 1972, and subject to the conditions set out, the following periods may be included in assessing the qualifying service of an officer for the purpose of this Part—

(a) paid commissioned service in Her Majesty military forces;

(b) unforfeited paid colour service in any rank which would be service admissible for a soldier’s pension under Part III.

23. Service preceding a five year interval in service shall not be included for the purpose of assessing qualifying service under this Part unless specially allowed by the Defence Board in exceptional circumstances, and eligibility to count such service shall normally be determined at the time service is resumed.

24. From and after the 1st day of October, 1972, reckonable service for service retired pay shall be so much of the officer’s qualifying service, including service in the ranks before he was commissioned, as was given after he attained the age of eighteen years.

PART III—Soldiers

25. A soldier may be awarded, upon completion of twenty-two years reckonable service, a full pension calculated in accordance with the provisions of regulation 26.

26. From and after the 1st day of October, 1972, a full pension shall be an amount calculated at the rate of one-hundred and forty-fifth of the average annual pay in issue to the soldier during the three years immediately preceding his retirement of each complete month of his reckonable service.

[The inclusion of this page is authorized by L.N. 71/1979]
27. 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 26, but subject to the following modifications—

(a) the pension shall be calculated at the date of discharge as if the soldier had twenty-two years reckonable service;

(b) a deduction shall be made at the rate of ten per cent (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.

28.—(1) From and after the 1st day of October, 1972, and subject to the provisions of paragraph (2), a gratuity of an amount at the rate of ten days pay at the average rate in issue over the preceding three years for each complete period of six months of reckonable service may be awarded to—

(a) a soldier discharged (other than for misconduct) after completing a period of twelve years or more but not exceeding eighteen years reckonable service;

(b) a soldier invalid after completing a period of four years or more but not exceeding eighteen years reckonable service:

Provided that where the circumstances leading to a soldier being invalid are due to his own fault or to causes within his control, the grant or amount of award shall be determined by the Defence Board as they shall think fit.

(2) Where a soldier who is eligible for the award of a gratuity under this regulation had immediately prior to his enlistment completed at least three years continuous service as a non-commissioned officer—

(a) in the Jamaica National Reserve; or

(b) in the capacity of instructor in the Army and Air Cadet Force,

his gratuity shall be calculated as if for the reference in paragraph (1) to “ten days pay” there were substituted a reference to “fourteen days pay”.

29. From and after the 1st day of October, 1972, 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 accordance with the provisions of regulation 26 in respect of his reckonable service upon the rates of pay in issue on the date on which he retires.
30. From and after the 1st day of October, 1972, any soldier to whom a pension is granted under regulation 25 or regulation 27 may, at his option, exercisable on his retirement, be paid in lieu of such pension a pension at the rate of three-fourths of such pension together with a gratuity of twelve and one-half times the amount of the reduction so made in the pension.

31. For the purposes of this Part reckonable service shall be—

(a) unforfeited paid colour service after attaining the age of eighteen years in Her Majesty’s military forces;

(b) service as an officer which would be reckoned as qualifying service for the purposes of Part II.

32. Service preceding a five year interval of service shall not be included for the purpose of assessing reckonable service under this Part unless specially allowed by the Defence Board in exceptional circumstances and eligibility to count such service shall normally be determined at the time service is resumed.

33. If any pensioner is or becomes of unsound mind the Defence Board may direct that his pension, or such part of it as appear 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 of 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 money as is stated thereon to have been paid.

PART IV—Death and Disability

34. In this Part—

“member of the Force” or “member” means—

(a) any officer or soldier of the regular Force of the Jamaica Defence Force; and

(b) any officer or soldier of the Jamaica National Reserve.

“surviving spouse” means the widow or widower of deceased member.

35. Except where otherwise specified, this Part shall be deemed to have come into operation on the 1st day of July, 1974.

36.—(1) Where a member of the Force dies as a result of injuries received—

(a) in the actual discharge of his duty;

(b) in circumstances in which the injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; and

(c) on account of circumstances specifically attributable to the nature of his duty,
while in the Force, the Defence Board may grant in relation to that member, pensions and gratuities as prescribed by paragraph (2).

(2) Pursuant to paragraph (1), pensions may be granted in accordance with Part I of the Schedule subject to the terms and conditions specified in Part II; and gratuities may be granted in accordance with Part III.

(3) References to a member being injured in the circumstances detailed in sub-paragraphs (a), (b) and (c) of paragraph (1) and to the date on which an injury is sustained, shall respectively be construed as including references to his being diagnosed as having a disease to which he is exposed specifically by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct and to the date on which such disease is diagnosed.

(4) A member who dies as a result of injuries received while travelling by air in pursuance of official instructions shall be deemed to have died in the circumstances detailed in sub-paragraphs (a) and (b) of paragraph (1).

(5) The Defence Board may take into account in such manner and to such extent as it thinks fit in relation to any award made under this regulation—

(a) any damages that it is satisfied have been or will be recovered by the dependents of a deceased member consequent on the injury to the member which resulted in his death; and

(b) any benefits that have been or may awarded to such dependants under the National Insurance Act in respect of such injury consequent upon the death of the member, and may withhold or reduce the award accordingly.

(6) Nothing in this regulation shall authorize the making of an award where the date on which an injury is sustained is more than seven years prior to the date of the member’s death.

(7) Where the Defence Board is satisfied that the death of a member resulted from the infliction of injuries which, although not inflicted upon him while he was acting in the execution of his duty, were nevertheless inflicted upon him wholly or mainly because he was a member, it shall be lawful for the Defence Board to grant to the dependants of that member pensions and gratuities as if his death had occurred in the circumstances described in sub-paragraphs (a), (b) and (c) of paragraph (1).

(8) For the purposes of this regulation, “child” includes—

(a) a posthumous child;

(b) an adopted child, adopted in a manner recognized by law before the date of the injury; and

(c) a step-child wholly or mainly dependent on the member for support.
37.—(1) Where a member dies while in service and his death did not occur in the circumstances specified in regulation 36, the Defence Board may grant—

(a) if the deceased member leaves a surviving spouse, a pension to her while unmarried, at the rate not exceeding one-third of the annual pay of the member at the date of his death; and

(b) if the deceased member leaves a child or children, a pension in respect of such child or children until they attain the age of nineteen years, at a rate not exceeding one-sixth of the annual pay of the member at the date of his death; and

(c) a gratuity payable to the estate of the deceased member of an amount not exceeding one year's pay of such member or an amount not exceeding the commuted pension gratuity or terminal grant, as the case may be, for which the member would have been eligible if he had retired at the date of his death, whichever is the greater.

Provide that—

(i) a pension granted under this regulation to the children of a deceased member shall be divided among all such children under the age of nineteen years; and

(ii) a pension granted under this regulation to a female child shall cease upon the marriage of such child under the age of nineteen years;

(iii) notwithstanding that a pension to a child should cease when such child attains the age of nineteen years, if such child is pursuing a course of higher education when he attains that age and has been granted a pension before the effective date, the Defence Board may, in its discretion authorize the continued payment after the age of nineteen years, of a pension in respect of such child until he has completed the course of higher education or until he attains the age of twenty-three years, whichever is the earlier.

(2) In this regulation, "effective date" means February 25, 2005.

(3) In this regulation and regulation 38, "child" includes—

(a) a step-child born before the date of the death of the member and wholly or mainly dependent on the member for support; and

(b) an adopted child adopted in a manner recognized by law.

38.—(1) Where a member of the Force, who has retired and is in receipt of a pension or other allowance, dies, and at the date of his death the aggregate amounts drawn by him by way of pension or other allowance did
not amount to one year’s pay of such member at the date of his retirement, the Defence Board may grant to the estate of the deceased member a gratuity of an amount not exceeding the difference between the aggregate amounts of the pension or allowance drawn by him and one year of pay at the date of retirement.

(2) Where a member of the Force, who has retired and is in receipt of a pension or other allowance, dies, there may be granted—

(a) to the surviving spouse of the deceased member, a pension at a rate not exceeding one-third of the pension of the deceased member;

(b) to a child or children under the age of nineteen years of the deceased member a pension at a rate not exceeding one-sixth of the deceased member’s pension.

(3) For the purposes of paragraph (2), the pension of a member shall be—

(a) if the member elected to take the full pension for which he was eligible on retirement, the full amount of that pension; or

(b) if the member elected to take a reduced pension and commuted pension gratuity or terminal grant, as the case may be, the amount of such reduced pension.

39.—(1) This regulation applies to a member of the Force who—

(a) is permanently injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or

(b) contracts a disease to which he is exposed specifically by the nature of his duty, not being a disease wholly or mainly due to, or aggravated by, his own serious and culpable negligence or misconduct; or

(c) is permanently injured as a result of an accident or damage to the aircraft while traveling by air in pursuance of official instructions and the injury was not wholly or mainly due to, or aggravated by, his own serious and culpable negligence or misconduct; or

(d) while proceeding by a route approved by the Defence Board to or from Jamaica at the commencement or termination of his service therein or a period of secondment, duty leave, or leave therefrom is permanently injured as a result of damage or any act of violence to the vessel, aircraft, or vehicle in which he was traveling, if the Defence Board is satisfied that the damage or act is attributable to circumstances arising out of any war in which the Government may be engaged.

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(The inclusion of this page is authorized by L.N. 18a/2008)
(2) From and after the 1st day of April, 1976, a member of the Force, whose retirement is necessitated or materially accelerated by such injury or disease as is specified in paragraph (1), may be granted, in addition to pension or gratuity granted pursuant to regulation 21 or regulation 28, a disability allowance at a rate in relation to his pay (at the date of his injury or on which he contracted such disease) not exceeding the rates specified in paragraph (3).

(3) Where the capacity of the member to contribute to his own support is—

(a) slightly impaired, ten-forty-fifths;
(b) impaired, twenty-forty-fifths;
(c) materially impaired, thirty-forty-fifths:

Provided that—

(i) if he was permanently injured while traveling by air in pursuance of official instructions, the relevant proportion specified above shall be increased by one-half; and

(ii) the amount of the disability allowance may be reduced by such an extent as the Defence Board thinks reasonable where the injury is not the cause or sole cause of his retirement.

(4) A disability allowance granted to a member under this regulation together with pension shall not exceed his pay at retirement:

Provided that, in the case of total impairment, the disability allowance shall be equal to the difference between pay at retirement and pension.
### Schedule (Regulation 36)

**Part I — Pension which may be granted pursuant to regulation 36**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>To whom pension payable</th>
<th>The circumstances and conditions affecting eligibility for pension</th>
<th>Annual rate of pension not exceeding</th>
</tr>
</thead>
</table>
| 1.       | Surviving spouse of the member. | A. If the member leaves a surviving spouse to whom a pension is granted under item 1 and does not leave a mother or father, as the case may be, who is eligible for pension under item 3.  
B. If the member leaves a surviving spouse to whom a pension is granted under item 1 and also a mother or father, as the case may be, who is eligible for a pension under item 3.  
C. If the member leaves no surviving spouse to whom a pension is granted under item 1 but leaves a mother or father, as the case may be, to whom a pension is granted under item 3.  
D. If the member leaves neither a surviving spouse to whom a pension is granted under item 1 nor a mother or father, as the case may be, to whom a pension is granted under item 3 and there are not more than three children of the member eligible for pension under this Table.  
E. If the circumstances with regard to a surviving spouse and mother or father are as in paragraph D but the number of children of the member eligible for pension under this Table exceeds three.  
F. If pension to a child or children is payable pursuant to paragraph B and subsequently, on the death or | Two-thirds of the member’s annual pay at the date of his death.  
A. An aliquot part, determined in accordance with Part II, of one-third of the member’s annual pay at the date of his death.  
B. An aliquot part (determined as aforesaid) of one-sixth of the annual pay of the member at the date of his death.  
C. An aliquot part (determined as aforesaid) of the pension specified in item 1.  
D. An aliquot part (determined as aforesaid) of the pension specified in item 1.  
E. An aliquot part (determined as aforesaid) of the annual pay of the member at the date of his death.  
F. An aliquot part (determined as aforesaid) of one-half of the pension payable under item 1. |
| 2.       | Each child of the member. | | |
PART I — Pension which may be granted pursuant to regulation 36, contd.

<table>
<thead>
<tr>
<th>Item No.</th>
<th>To whom pension payable</th>
<th>The circumstances and conditions affecting eligibility for pension</th>
<th>Annual rate of pension not exceeding</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>The mother of the member or, where the mother is dead, the father of the member.</td>
<td>ineligibility of the mother or father, as the case may be, pension cases to be payable under item 3 then, as from the date of that cessation, pension shall be payable under this paragraph in lieu of the pension under paragraph B. G. If pension to a child or children is payable pursuant to paragraph E and subsequently, on the death or ineligibility of the surviving spouse, pension ceases to be payable under item 1 then, as from the date of such cessation, pension shall be payable under this paragraph in lieu of the pension payable under paragraph B.</td>
<td>G. An aliquot part (determined as aforesaid of the pension payable pursuant to item 1.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A. One-sixth of the annual pay of the member at the date of his death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>B. One-third of the annual pay of the member at the date of his death.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>C. One third of the annual pay of the member at the date of his death.</td>
</tr>
</tbody>
</table>
SCHEDULE, contd. (Regulation 36)

PART II— Terms and conditions applicable to the payment of pensions under Part I

1. Payment of pension to a surviving spouse shall be made only while that spouse is unmarried.

2. In the case of pension granted to two or more children of a member under item 2 of Part I, the pension payable to each child shall be determined by dividing the pension which would be payable to one such child equally among such children as are eligible for pension under that Part.

3.—(1) A child shall cease to be eligible for pension under Part I on attaining the age of nineteen years, so, however, that—

   (a) a child who is pursuing a course of higher education shall continue to be so eligible until that child attains the age of twenty-three years or completes the course of higher education, whichever is the earlier;

   (b) a child who was mentally or physically incapacitated at the time of the member’s death and was wholly or mainly dependent on him for support may, if the Defence Board so directs, be treated as continuing to be eligible, after attainment of the age of nineteen years, during the period of incapacity or for such shorter period as the Defence Board may determine; and the Defence Board may, if it thinks fit, increase or reduce the amount of pension payable in respect of that child, such amount as the Defence Board thinks fit, so, however, that where such amount is increased, the total amount pension payable in respect of all dependants of that member shall not exceed his pay at the date of his death;

   (c) a female child shall cease to be so eligible upon the marriage of that child under the age of nineteen years.

(2) For the purposes of sub-paragraph (1) “higher education” means either a course of full-time instruction at an educational establishment approved for the purpose by the Minister responsible for education or a course of instruction as an apprentice in any trade, profession or vocation under articles entered into for a period of not less than two years.

4. Payment of a pension to the mother of a member shall be made only if the mother was wholly or mainly dependent on the deceased member for support and while the mother is without adequate means of support and, if the mother is unmarried, divorced or a widow, as the case may be, at the time of the grant of the pension and subsequently marries or remarries, as the case may be, such pension shall cease as from the date of marriage or remarriage, and if it appears to the Defence Board, at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Defence Board may determine.

5. Payment of a pension to the father of a member shall be made only while the father is without adequate means of support and, if it appears to the Defence Board, at any time that the father is adequately provided with other means of support such pension shall cease as from such date as the Defence Board may determine.

PART III— Gratuities which may be granted pursuant to Regulation 36

1. Without prejudice to any pension payable pursuant to Part I a gratuity may be granted in accordance with this Part to the dependants of a member or, if there are no dependants, to the member’s legal personal representatives.

2. Such gratuity shall—

   (a) in respect of a member who dies from injuries received on or after the 1st day of July, 1974, but before the 1st day of January, 1978, not exceed—

[The inclusion of this page is authorized by L.N. 116F 2014]
THE DEFENCE (RETIRED PAY, PENSIONS AND OTHER GRANTS) REGULATIONS, 1962

SCHEDULE, contd. (Regulation 36)

PART III—Gratuities which may be granted pursuant to Regulation 36, contd.

(i) ten thousand dollars; or
(ii) a sum equal to two years' pay of the member at the date of his death; or
(iii) the aggregate of one year’s pay of the member at the date of his death plus the amount of commuted pension gratuity or terminal grant, as the case may be, for which he would have been eligible if he had retired at the date of his death, whichever is the greater.

(b) in respect of a member who dies from injuries received on or after the 1st day of July, 1978, but before the 1st day of April, 1988, not exceed—
   (i) twenty thousand dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii), whichever is the greater.

(c) in respect of a member who dies from injuries received on or after the 1st day of April, 1988, but before the 1st day of April, 1992, not exceed—
   (i) one hundred thousand dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii), whichever is the greater.

(d) in respect of a member who dies from injuries received on or after the 1st day of April, 1992, but before the 1st day of April, 1994, not exceed—
   (i) three hundred thousand dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii), whichever is the greater.

(e) in respect of a member who dies from injuries received on or after the 1st day of April, 1994, but before the 1st day of April, 1996, not exceed—
   (i) five hundred thousand dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii), whichever is the greater.

(f) in respect of a member who dies from injuries received on or after the 1st day of April, 1996, but before the 1st day of October, 1999, not exceed—
   (i) one million dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii), whichever is the greater.

(g) in respect of a member who dies from injuries received on or after the 1st day of October, 1999, but before the 1st day of April, 2000, not exceed—
   (i) one million seven hundred and fifty thousand dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii), whichever is the greater.

[The inclusion of this page is authorized by L.N. 110F/2014]
THE DEFENCE (RETIR ED PAY, PENSIONS AND OTHER GRANTS) REGULATIONS, 1962

SCHEDULE, contd (Regulation 36)

PART III—Gratuities which may be granted pursuant to Regulation 36, contd

(h) in respect of a member who dies from injuries received on or after the 1st day of April, 2000, but before the 1st day of April, 2005, not exceed—
   (i) four million dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii),
   whichever is the greater;

(i) in respect of a member who dies from injuries received on or after the 1st day of April, 2005, but before the 1st day of April, 2006, not exceed—
   (i) four million five hundred thousand dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii),
   whichever is the greater;

(j) in respect of a member who dies from injuries received on or after the 1st day of April, 2006, but before the 1st day of April, 2008, not exceed—
   (i) six million dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii),
   whichever is the greater;

(k) in respect of an officer who dies from injuries received on or after the 1st day of April, 2008, not exceed—
   (i) eight million dollars; or
   (ii) the aggregate of the amounts specified in sub-paragraph (a) (iii),
   whichever is the greater.

3. A gratuity granted pursuant to this Part shall be divided among the dependants as follows—
   (a) if there is a surviving spouse, that spouse shall be granted fifty per cent of the gratuity or such higher percentage as the Defence Board may approve and the remainder shall be divided among any other dependants in such proportion as the Defence Board thinks fit;
   (b) if there is no surviving spouse, the gratuity shall be divided among the dependants in such proportion as the Defence Board thinks fit.

4. In this Part—

"commuted pension gratuity" means the gratuity, if any, which might have been granted to a member under regulation 30 if the member had retired, at the date of the death of such member, in the circumstances described in regulation 25 or 27 and had elected to receive a gratuity and reduced pension;

"dependant" means any person entitled to a pension under Part f;

"terminal grant" means the terminal grant, if any, which might have been granted to a member under regulation 20 if he had retired, at the date of his death, in the circumstances described in regulation 12 or 13.

5.—(1) The Minister may by order subject to affirmative resolution increase the amount of any gratuity that may be granted under this Part in respect of a member who dies from injuries received on or after the relevant date.

(2) In this paragraph "relevant date" means a date specified in the order, being a date falling after the 1st day of April, 2000.

[The inclusion of this page is authorized by L.N.116/I/2014]
THE DEFENCE ACT

REGULATIONS
(under section 212)

THE DEFENCE (REGULAR FORCE ENLISTMENT AND SERVICE)
REGULATIONS, 1962

(Made by the Defence Board on the 31st day of July, 1962)

1. These Regulations may be cited as the Defence (Regular Force
Enlistment and Service) Regulations, 1962.

2. In these Regulations unless the context otherwise requires—
"commanding officer" means, in relation to a soldier, the officer for
the time being commanding the unit with which the soldier is
serving;
"enlisted" means enlisted to serve in the regular Force.

3. All officers of the regular Force may act as recruiting officers.

4. The form of notice paper set out in the First Schedule or a form
substantially to the like effect shall be the notice to be given, in accord-
ance with subsection (1) of section 18 of the Act, to a person offering
to enlist.

5.—(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 engagements 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 pun-
ished as provided by the Act.

(2) The recruiting officer shall satisfy himself that the person
offering to enlist is, or as the case may be, is not, 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 a 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 under the Act.

(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 officer in charge of the records of the regular Force 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.

6.—(1) In relation to the provisions of the Act specified in the first column of the first Part of the Second Schedule and for the purposes specified opposite thereto in the second column, the officer specified in the third column shall be the competent military authority.

(2) The officer set out in the second column of the second Part of the said Second Schedule shall in pursuance of subsection (3) of section 22 and section 27 of the Act be competent military authorities for the purpose of authorizing the discharge of a soldier for the reasons set out in the first column thereof.

7. A soldier on enlistment shall be appointed to a unit and may be transferred from one unit to another.

8.—(1) The terms of service for which in accordance with subsection (2) of section 19 of the Act a person who has apparently attained the age of eighteen years may be enlisted shall be—

[The inclusion of this page is authorized by L.N. 125/1981]
(i) a term of 6 months, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 years of colour service; or
(ii) a term of 6 years being as to 1, 2, 3 or 4 years a term of colour service and the remainder a term of service in the reserve;
(iii) a term of 12 years being as to 7, 8 or 9 years, a term of colour service and the remainder a term of service in the reserve.

(2) The terms of service for which in accordance with subsection (3) of section 19 of the Act a person who has not apparently attained the age of eighteen years may be enlisted shall be one of the following, being a term beginning with the date of his attestation and ending with the expiration of a period of—

(i) 6, 9 or 12 years beginning with the day on which he attained the age of eighteen years, being a term of colour service; or
(ii) 9 years beginning with the date on which he attained the age of eighteen years being as to 6 years, a term of colour service and as to the remainder, a term of service in the reserve.

9.—(1) A soldier may, in accordance with subsection (1) of section 20, of the Act from time to time re-engage for a period of colour service, beginning on the expiration of his then current engagement, of 6 months, 1, 2, 3, 4, 5 or 6 years but so that a total continuous period of 22 years colour service from the date of his attestation or the date upon which he attained the age of eighteen years, whichever shall be the later, shall not be exceeded.

(2) For the purposes of section 20 of the Act and this regulation, a continuous period of full-time paid service in Her Majesty's military forces immediately prior to enlistment in the regular Force shall be treated as colour service.

10. 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 colour service;
(e) rank of soldier on leaving colour service;
(f) assessment of conduct and character on leaving colour service with the signature of the officer making the assessment;

[The inclusion of this page is authorized by L.N. 4/1976]
(g) date of discharge;
(h) reason for discharge;
(i) total colour service on discharge;
(j) signature of issuing officer.

11. For the purposes of section 25 of the Act, the following officers are authorized to reduce substantive warrant officers and non-commissioned officers (other than lance-corporals) in rank in cases of inefficiency or unsuitability—

(i) any officer in executive command not below the rank of colonel; and

(ii) in the case of corporals only, any officer in executive command not below the rank of lieutenant-colonel.

12. In cases of inefficiency or unsuitability, a commanding officer may—

(a) order any warrant officer class II, non-commissioned officer or private soldier to relinquish any acting rank which he may be holding and to revert to his substantive or any intermediate rank;

(b) order any warrant officer, non-commissioned officer, or acting non-commissioned officer to be removed from any appointment which he may be holding and to assume any other appointment appropriate to his rank or acting rank;

(c) order any substantive lance-corporal to be reduced to the ranks.

13. A warrant in the form set out in the Third Schedule shall be signed by the Chairman and one other member of the Defence Board and shall be issued to every person appointed to the substantive rank of warrant officer.
NOTICE TO BE GIVEN UNDER SECTION 18 OF THE DEFENCE ACT, TO A PERSON OFFERING TO ENLIST IN THE JAMAICA DEFENCE FORCE (REGULAR FORCE)

This paper sets out the questions you will be required to answer before the officer who will attest you for the regular Force, and the general conditions of the various engagements.

Under the provisions of sections 32 and 68 of the Defence Act, if any person knowingly makes a false answer to any question contained in the attestation paper he is liable to punishment.

QUESTIONS TO BE PUT TO THE RECRUIT BEFORE ENLISTMENT

Q. 1. What is your full name?
Q. 2. What is your address?
Q. 3. State day, month and year of your birth.
Q. 4. Where were you born?
Q. 5. What is your nationality now?
Q. 6. What was the nationality at birth of—(a) yourself? (b) your father? (c) your mother? (d) your wife/husband?
Q. 7. Are you single, married, widowed, divorced?
Q. 8. How many children are dependent on you?
Q. 9. What is your trade or calling?
Q. 10. Do you belong to, or have you ever served in, Her Majesty's naval, military or air forces or in any police force? If so, state which and the periods of service and the reasons for, and dates of discharge.
Q. 11. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from Her Majesty's naval, military or air forces or from any police force?
Q. 12. Have you truly stated the whole, if any, of your previous service?
Q. 13. Have you at any time been found guilty by any civil court of any offence? If so, give particulars.
Q. 14. Have you ever been rejected for service in Her Majesty's naval, military or air force or in any police force? If so, on what grounds?
Q. 15. Are you willing to be vaccinated or re-vaccinated and to have your finger-prints taken?
Q. 16. Have you received a notice paper setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into, and do you understand the contents of the notice paper and wish to be enlisted?
Q. 17. Are you willing to serve Her Majesty in the regular Force provided Her Majesty shall so long require your services, for—
   a term of ....................... years with the colours; or
   a term of ....................... years with the colours and ...................... years in the Reserve;

   or

   if you are a boy (that is if your age is under 18 years) the period from your date of attestation up to the date on which you attain the age of 18 years and thereafter for either—
   a period of ...... years with the colours; or
   a period of ...... years with the colours and ...... years in the Reserve.

[The inclusion of this page is authorized by L.N. 4/1976]
You will be required to make the following declaration, "I.............................
do solemnly declare that the above answers made by me to the above questions
are true, and that I am willing to fulfil the engagements made". On signing the
declaration and taking the oath or making a solemn affirmation you will become
a soldier of the regular Force subject to military law under the Defence Act.

GENERAL CONDITIONS OF ENGAGEMENT

1. You will be required to engage to serve Her Majesty in the regular Force
   for such time as is agreed on attestation, provided that Her Majesty shall so long
   require your services. You will be liable to serve in Jamaica but may be ordered
to serve outside or beyond Jamaica.

2. You may engage to serve—
   (a) for a term of 6 months, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 years with
       the colours when any of these terms of service are currently open;
   (b) for a term of 6 years being as to 1, 2, 3 or 4 years with the colours
       and the remainder with the reserve;
   (c) for a term of 12 years being as to 6, 7, 8 or 9 years with the colours
       and the remainder with the reserve;
   (d) if you are under the age of 18 years, for a term up to your 18th
       birthday and thereafter for a term—
       (i) of 6, 9 or 12 years with the colours when any of these terms of
           service are currently open; or
       (ii) 6 years with the colours and 3 years in the reserve.

3. At any time within two years of your completing your colour service, you
   may apply to serve for a further term with the colours until you have completed
   a continuous period of 22 years with the colours.

4. After you have completed 22 years with the colours, you may apply to
   continue to serve with the colours and during such continued service you may
   give three months' notice to claim your discharge.

5. If immediately before the time you enlist you had been serving on a full-
time paid engagement in Her Majesty's military forces you will be entitled to
   count your prior continuous service in those forces in computing the period of
   22 years colour service referred to in paragraphs 3 and 4 and for computing
   your pension.

6. You will be enlisted in the rank of private. Subsequent promotion will
   depend on vacancies in the establishment but if you had prior service in Her
   Majesty's military forces, such service will be considered.

7. When you have been attested you will be subject to the provisions of the
   Defence Act for the time being in force, and you will be required to carry out
   whatever duties may be ordered by those in authority over you.

8. No guarantee can be given that you will be employed on any particular
duties but where you are enlisted with a view to performing particular duties or
   to being trained in a particular trade, you will be employed on these duties or,
   as the case may be, trained and employed in that trade, so far as the requirements
   of the service permit.

9. Where you are enlisted with a view to being employed on particular duties
   or in a particular trade and through no fault of your own you fail to qualify
   or are unable to be employed on those duties or in that trade, except for periods
   of limited duration, you may apply for discharge which will be granted to you
   so long as the requirements of the service permit. Employment in a trade
   depends on passing a specified trade test and there being a vacancy in the trade.

[The inclusion of this page is authorized by L.N. 4/1976]
10. If you are enlisting for the first time in the regular Force and have not had any prior service in Her Majesty's forces you will be entitled to claim your discharge subject to sections 21 and 28 of the Defence Act, at any time within three months of your attestation on payment of a sum not exceeding forty dollars.

11. In computing your service for the purpose of discharge, re-engagement or transfer to the Reserve, periods during which you have been away from your duty because of imprisonment, desertion or absence without leave exceeding 28 days will be excluded and, further, any period which you are ordered by a court-martial to forfeit will be disregarded.

12. You may be discharged at any time during your engagement by order of a competent military authority as a result of irregularities concerning your enlistment, for misconduct, for unfitness on medical grounds or for the benefit of the public service.

13. If at the time when your term of colour service expires there is a state of war, insurrection or hostilities, or a public emergency, you may be retained and your service prolonged for such further period as a competent military authority may direct.

14. If you are transferred to the Reserve at the end of your colour service you will be liable when in the Reserve to be called out by proclamation in the event of a state of war being declared or of insurrection, hostilities or public emergency, in which event you are liable to serve on permanent service until your services are no longer required.

15. If at the time you are due to be discharged or transferred to the Reserve you are liable to be proceeded against for an offence against service law, your discharge or transfer to the Reserve will be postponed until after the proceedings have been concluded.

SECOND SCHEDULE

(Regulation 6)

PART I

<table>
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<th>Purpose</th>
<th>Competent military authority</th>
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</thead>
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<td>Approving re-engagement</td>
<td>Commanding Officer</td>
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<tr>
<td>Section 20 (2)</td>
<td>Approving continuance in colour service</td>
<td>Officer-in-charge of Records</td>
</tr>
<tr>
<td>Section 21</td>
<td>Prolonging service during emergency</td>
<td>Officer-in-charge of Records</td>
</tr>
<tr>
<td>Section 23 (3)</td>
<td>Discharging a soldier when he falls to be transferred to the Reserve</td>
<td>Officer-in-charge of Records</td>
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PART II

<table>
<thead>
<tr>
<th>Reason</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Inefficiency—</td>
<td></td>
</tr>
<tr>
<td>(a) During the first 6 months of service</td>
<td>Commanding Officer</td>
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<tr>
<td>(b) At any other time</td>
<td>Chief of Staff</td>
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<td>Services no longer required</td>
<td>Chief of Staff</td>
</tr>
<tr>
<td>Misconduct</td>
<td>Chief of Staff</td>
</tr>
</tbody>
</table>
SECOND SCHEDULE, contd.

PART II, contd.

Reason | Competent military authority
--- | ---
Conviction by civil court | Chief of Staff
Medically unfit | Commanding Officer
Compassionate grounds | Chief of Staff
By purchase under section 28 | Commanding Officer
By purchase under section 29 | Defence Board
Unable to qualify for a trade | Commanding Officer
Termination of engagement | Commanding Officer
Final approval of attestation withheld | Recruiting Officer
Improper enlistment | Commanding Officer
False answer on attestation | Chief of Staff

THIRD SCHEDULE (Regulation 13)

FORM OF WARRANT TO WARRANT OFFICER

Warrant

The Defence Board.

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

By virtue of the Authority granted to us under the Defence Act, we do hereby
Constitute and Appoint you the said..................................................to
be a Warrant Officer, in the Jamaica Defence Force from the.......................day of..................................................19........and to continue in the said Office
during the pleasure of the Defence Board. You are therefore carefully and
diligently to discharge your Duty as such by doing and performing all manner
of things thereunto 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, or any other, your
superior Officer, according to the Rules and Discipline of War.

Given under our Hand this.....................day of..........................................

..................................................
Chairman, Defence Board

..................................................
Member, Defence Board

..................................................
Warrant Officer
Regular Force.

Seal.

[The inclusion of this page is authorized by L.N. 125/1981]
1. These Regulations may be cited as the Defence (Jamaica National Reserve) Regulations, 1962.

Terms and Conditions of Service of Soldiers

2.—(1) The term of service for which, in accordance with subsection (1) of section 197 of the Act, a person may be enlisted in the First Class of the Reserve shall be a term of 6 months, 1, 2 or 3 years beginning with the date of his attestation.

(2) The period of service for which, in accordance with subsection (4) of section 196 of the Act, a soldier of the First Class of the Reserve may from time to time re-engage in the said Class, shall be a period of 6 months, 1, 2 or 3 years, beginning with the expiration of his then current engagement.

(3) The term of service for which, in accordance with subsections (1) and (4) of section 197 of the Act, a person may be enlisted, or a soldier of the Second Class of the Reserve may re-engage, in the Second Class of the Reserve shall be the period beginning, in the case of enlistment, with the date of his attestation and, in the case of re-engagement, with the expiration of his then current engagement, and terminating on his fifty-fifth birthday.

3. The form of notice paper set out in the First Schedule or a form substantially to the like effect shall be the notice to be given, in accordance with subsection (1) of section 18 of the Act as applied by paragraph (a) of subsection (2) of section 197 of the Act to a person offering to enlist in the Reserve.

4.—(1) The recruiting officer, after a person offering to enlist in the Reserve 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 being put to him, he
will be liable to be punished as provided by the Act.

(2) 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.

(3) 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
of 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 a person in the manner appropriate to his
religious belief the person shall be required to make a solemn affirmation
instead of taking the oath.

(4) Upon signing the declaration in the attestation paper and upon
taking the oath or, as the case may be, making a solemn affirmation, the
person shall become a soldier of the Reserve.

(5) 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 officer in charge of records of the Reserve who shall
signify that the person is finally approved for service by signing the
attestation paper in the appropriate place.

5. For the purposes of sections 196, 197 and 207 of the Act, the
following officers shall be competent military authorities—

(a) if the soldier concerned is on the posted or attached strength
of a unit, the commanding officer of that unit;

(b) if the soldier concerned is not on the posted or attached
strength of a unit, the officer in charge of records of the
Reserve.

6.—(1) The officer in charge of records of the Reserve may authorize
the substantive promotion of a soldier:

(The inclusion of this page is authorized by L.N. 112/1978)
Provided that if the soldier is serving on the posted or attached strength of a unit, no such promotion shall be made except upon the recommendation of the commanding officer of that unit.

(2) The commanding officer of a unit may appoint a soldier to hold an acting rank in order to fill a vacancy on the authorized establishment of that unit.

7. A warrant in the form set out in the Second Schedule shall be signed by the Chairman and one other member of the Defence Board and shall be issued to every person appointed to the substantive rank of warrant officer.

8. In cases of inefficiency or unsuitability—

(a) a warrant officer, staff-sergeant or sergeant may be reduced in rank by an officer in executive command not below the rank of lieutenant-colonel;

(b) a corporal or lance-corporal may be reduced in rank by an officer in executive command not below the rank of major;

(c) a soldier holding acting rank may be ordered by his commanding officer, or by an officer in executive command not below the rank of major, to relinquish such rank and revert to his substantive rank or any lower acting rank.

9. For the purposes of subsection (1) of section 207 of the Act, the grounds upon which a soldier of the Reserve may be discharged shall be—

(a) disobedience of orders, neglect of duty or misconduct as a soldier;

(b) other misconduct (including conviction by a civil court on a charge which in the opinion of his commanding officer renders it undesirable for him to continue serving as a soldier);

(c) failure to complete training liability;

(d) medically unfit for service;

(e) compassionate reasons;

(f) inefficiency;

(g) services no longer required for any other reason.

[The inclusion of this page is authorized by L.N. 112/1978]
Training

10. Every officer and soldier of the First Class of the Reserve shall, in every year, carry out the following periods of training—

(a) an annual camp of 14 days;
(b) an annual classification course;
(c) daily training amounting to 15 days;
(d) 35 evening training periods of 3 hours each:

Provided that, with the approval of his commanding officer, an officer or soldier may interchange daily training and evening training periods on the basis that three training periods shall be the equivalent of a day’s training and vice versa.

11. The Chief of Staff may, on the recommendation of the commanding officer of an officer or soldier of the First Class of the Reserve, authorize the attendance of such officer or soldier at a course of instruction or on attachment to a unit of Her Majesty’s forces. Any officer or soldier attending any course or attachment exceeding one week shall not be under any liability to attend annual camp during the training year in which the course or attachment is carried out.

12.—(1) The place and time appointed for the training of any officer or soldier of the First Class of the Reserve at annual camp may be notified by means of a public notice exhibited at the headquarters of the sub-unit to which the officer or soldier concerned belongs or, if he does not belong to any sub-unit, at the headquarters of the unit to which he belongs. Such notification shall be sufficient notice of the time and place appointed for such training without any individual notification being made to the officer or soldier.

(2) For the purposes of subsection (1) of section 201 of the Act, the place where an officer or soldier of the Second Class of the Reserve shall attend when called out on permanent service shall be the Headquarters of the Jamaica National Reserve.

Call-out on temporary or permanent service

13. For the purposes of subsection (1) of section 201 of the Act, the place where an officer or soldier of the First Class of the Reserve shall attend when called out on temporary service or on permanent service.
shall be the headquarters of the sub-unit to which he belongs or, if he does not belong to a sub-unit, the headquarters of the unit to which he belongs.

Reporting of Reservists

14.—(1) Every officer and soldier of the Reserve shall report any change in his permanent address to the officer commanding his unit or sub-unit or, if he does not belong to any unit, to the officer in charge of records of the Reserve.

(2) Every officer and soldier belonging to the Second Class of the Reserve shall, in addition to any report made under paragraph (1), report in writing, giving his permanent address, to the officer in charge of records of the Reserve once in every year.

(3) Any officer or soldier of the Reserve who fails to comply with the provisions of this regulation shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty dollars.

Medical Treatment

15.—(1) All officers and soldiers of the permanent staff of the Jamaica National Reserve shall be given free medical attendance and treatment at all times but while in hospital shall pay such rates for the supply of food and nourishment as may be laid down from time to time.

(2) Whenever the Jamaica National Reserve is on permanent or temporary service or when attending annual camp, the officers and soldiers will be entitled to free medical attendance and treatment but while in hospital shall pay such rates for the supply of food and nourishment as may from time to time be laid down.

16.—(1) The Jamaica National Reserve Council shall consist of not more than twenty-one members of whom—

(a) two members shall be from Headquarters Jamaica Defence Force, being the Chief of Staff (or a representative in his absence) and one Staff Officer nominated by the Chief of Staff;

(b) three members shall be the officers commanding the Jamaica National Reserve Units;

(c) the remaining members shall be appointed by the Minister responsible for defence on the advice of the Defence Board, from the following categories—

[The inclusion of this page is authorized by L.N. 4/1976]
(i) leading citizens of Jamaica;
(ii) persons representing the Ministry of National Security and Justice, educational authorities and employer's organizations.

(2) The Staff Officer, Jamaica National Reserve shall be the Secretary of the Jamaica National Reserve Council.

(3) The Jamaica National Reserve Council shall act in an advisory capacity to the Minister responsible for defence and their terms of reference will be laid down by the Defence Board.

17. Nothing in these Regulations shall affect the current term of service of a soldier of the Second Class of the Reserve who re-engaged therein before the 1st day of January, 1968.
FIRST SCHEDULE (Regulation 3)
THE JAMAICA DEFENCE FORCE (NATIONAL RESERVE)

NOTICE PAPER

This paper sets out the questions you will be required to answer before the officer who will attest you for the Jamaica National Reserve, and the general conditions of the various engagements.

QUESTIONS TO BE PUT TO THE RECRUIT BEFORE ENLISTMENT

Q. 1. What is your full name?
Q. 2. What is your address?
Q. 3. State day, month and year of your birth.
Q. 4. Where were you born?
Q. 5. What is your nationality now?
Q. 6. What was the nationality at birth of—(a) yourself? (b) your father? (c) your mother? (d) your wife?
Q. 7. Are you single, married, widowed, divorced?
Q. 8. How many children are dependent on you?
Q. 9. What is your trade or calling?
Q. 10. Do you belong to, or have you ever served in, Her Majesty's naval, military or air forces or in any Commonwealth force, or in any police force? If so, state which, and the periods of service and the reasons for and dates of discharge.
Q. 11. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from Her Majesty's naval, military or air forces or from any Commonwealth force or from any police force?
Q. 12. Have you truly stated the whole, if any, of your previous service?
Q. 13. Have you at any time been found guilty by any civil court of any offence? If so, give particulars.
Q. 14. Have you ever been rejected for service in Her Majesty's naval, military or air forces or in any Commonwealth force or in any police force; if so, on what grounds?
Q. 15. Have you received a notice paper setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into, and do you understand the contents of the notice paper and wish to be enlisted?
Q. 16. Are you willing to serve in the Jamaica National Reserve or in such other Forces as may be raised under the Defence Act provided Her Majesty shall so long require your services, for a term of

On signing the declaration and taking the oath or making a solemn declaration you will become a member of the Jamaica National Reserve and subject to discipline under the Defence Act.

GENERAL CONDITIONS OF ENGAGEMENT

1. You will be enlisted for part-time service in such Forces as may be raised under the Defence Act, for such time as is agreed on attestation, provided that your services are required.

2. You will be enlisted in the rank of private. Subsequent promotion will depend on vacancies in the establishment but if you had prior service in Her Majesty's military Forces such service will be considered.

3. When you have been enlisted you will be subject to the provisions of the Defence Act, for the time being in force, and you will be required to carry out whatever duties may be ordered by those in authority over you. You will be

[The inclusion of this page is authorized by L.N. 4/1976]
liable to be called out to serve under the rules and regulations pertaining to the regular Forces at any time if by reason of invasion or war or apprehended invasion or war, or by reason of any internal emergency threatening the security of life or property the Governor-General by proclamation or the Defence Board calls out the National Reserve for actual service.

4. No guarantee can be given that you will be employed on any particular duties but where you are enlisted with a view to performing particular duties or to being trained in a particular trade, you will be employed on these duties or, as the case may be, trained and employed in that trade, so far as the requirements of the service permit.

5. You may be discharged at any time during your engagement by order of a competent military authority as a result of irregularities concerning your enlistment, for disobedience of orders while on duty, neglect of duty, misconduct or other sufficient cause.

6. If at the time when your term of service expires you are on actual service as stated in paragraph 3, you will not be entitled to be discharged until such time as your actual service is determined.

SECOND SCHEDULE

FORM OF WARRANT TO WARRANT OFFICER

Warrant

The Defence Board.

To: .......................................................... ..........................................................

By virtue of the Authority granted to us under the Defence Act, we do hereby constitute and appoint you the said ..........................................................

.......................................................... to be a warrant officer, in the Jamaica Defence Force from the .......................................................... day of .......................................................... 19............ and to continue in the said Office during the pleasure of the Defence Board. You are therefore carefully and diligently to discharge your duty as such by doing and performing all manner of things thereunto 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, or any other, your superior Officer, according to the Rules and Discipline of War.

Given under our hand this .......................................................... day of ..........................................................

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

Chairman, Defence Board

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

Member, Defence Board

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

Warrant Officer

Jamaica National Reserve.

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE ACT

REGULATIONS
(under section 212)

THE DEFENCE (CERTIFICATES OF ARREST AND SURRENDER OF DESERTERS AND ABSENTEES) REGULATIONS, 1962

(Made by the Defence Board on the 31st day of July, 1962)

1. These Regulations may be cited as the Defence (Certificates of Arrest and Surrender of Deserters and Absentees) Regulations, 1962.

2. Where in pursuance of section 179 of the Act a Resident Magistrate’s Court has dealt with a person as illegally absent the certificate which is required by subsection (1) of section 181 of the Act to be handed over when that person is delivered into military custody shall be in the form specified in Part I of the Schedule and shall contain the particulars therein set out as to that person’s arrest and surrender and of the proceedings before the court.

3. Where under section 180 of the Act a person is delivered into military custody without being brought before a Resident Magistrate’s Court the certificate which is required by subsection (2) of section 181 of the Act to be handed over shall be in the form specified in Part II of the Schedule and shall contain the particulars therein set out relating to that person’s surrender.

4. Where a person has been taken into military, naval or air force custody on arrest or surrender, the certificate which is required by paragraph (b) of subsection (3) of section 181 of the Act shall be in the form specified in Part III of the Schedule and shall contain the particulars therein set out relating to that person’s surrender or arrest.

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(The inclusion of this page is authorized by L.N. 4/1976)
THE DEFENCE (CERTIFICATES OF ARREST AND SURRENDER OF DESERTERS AND ABSENTEES) REGULATIONS, 1962

SCHEDULE (Regulation 2)

PART I

CERTIFICATE IN ACCORDANCE WITH SECTION 181(1) OF THE DEFENCE ACT

I certify that on the......................day of......................19........
there was brought before the Resident Magistrate's Court, at..............................

......................................................(place).

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

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

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

Unit:........................................................................
a member of the Jamaica 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......................19........(date), and
that he was dealt with in accordance with the provisions of section 179 of the

Defence Act.

†The said member of the Jamaica 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......................19........

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

Signature of Resident Magistrate

*delete as necessary
†Delete this paragraph if no admission made.

PART II (Regulation 3)

CERTIFICATE IN ACCORDANCE WITH SECTION 181(2) OF THE DEFENCE ACT

I certify that................................................................(full names) surrendered
himself at........................................(place) at.................................(hour) on the

......................................................day of......................19........ as being illegally absent
from .....................................(unit) at ......................(place) on ......................
(date) and gave the following particulars—

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE (CERTIFICATES OF ARREST AND SURRENDER OF
THE DEFENCE (MISCELLANEOUS) REGULATIONS, 1962

SCHEDULE, contd.

PART II, contd.

No. .............................................
Rank .............................................
Name .............................................
Unit .............................................

Dated this ......................................day of.............................................19........

Signature of officer of police in charge
of police station where the above-
named person surrendered or was
taken on surrender.

PART III
(Regulation 4)

CERTIFICATE UNDER SECTION 181 (3) (b) OF THE DEFENCE ACT

I, ................................................................. (rank, name and unit)
certify that ........................................... (number, rank, name and unit) [was arrested] [surrendered himself] at ............................................. (place) at
.......................................................... o’clock on the...........................................19........

Dated this ......................................day of.............................................19........

Signature.............................................

[Provost Officer]²
[Officer of a force raised under the law of a country in the Commonwealth, cor-
responding to a provost officer]²

[Officer in charge of [guard room]¹ [................................. 2]¹ at..............
where the person [arrested] [surrendering] was confined on being taken into
custody].¹

¹Delete words not appropriate.
²If the absentee was confined in a place other than a guard
room, the place in which he was confined should be inserted.

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE ACT

REGULATIONS
(under section 212)

THE DEFENCE (MISCELLANEOUS) REGULATIONS, 1962
(Made by the Defence Board on the 31st day of July, 1962)

1. These Regulations may be cited as the Defence (Miscellaneous) Regulations, 1962.

2. (a) The ranks of officers and soldiers of the Jamaica Defence Force shall be those set out in the first column of the First Schedule.

   (b) For the purpose of the Defence Act, any rank or rating specified in any column of the First Schedule is hereby declared to correspond with the ranks of ratings specified in relation to it in the other columns of that Schedule.

3. For the purpose of section 58 of the Act flying at less than 2,000 feet above ground or water level is prohibited, except—

   (a) when taking off, landing, preparing to land, or making a forced landing;
   (b) when necessitated by weather;
   (c) when required in connection with exercises or missions involving co-operation from the ground or water;
   (d) when specially authorized by higher authority;
   (e) when properly authorized and carried out for training purposes over areas approved by the Chief-of-Staff or an officer not below the rank of colonel or corresponding rank; or
   (f) in the case of helicopters, where, except as provided in the foregoing, the minimum height above ground or water level is to be 1,000 feet.

4.—(1) Subject to sub-paragraphs (1), (2) and (3) a non-commissioned officer or soldier who has elected to be tried by court-martial under subsection (6) of section 85 of the Act may withdraw his election at any time before his trial begins.

   (2) Subject to paragraph (3), a non-commissioned officer or soldier who has elected to be tried by court-martial will be given an
opportunity of withdrawing his election on the day following that on which he made it, and he will not be remanded for trial before the end of that day.

(3) A non-commissioned officer or soldier who has elected to be tried by court-martial shall not be entitled to withdraw his election before he has been remanded for trial if his commanding officer is of opinion that it is undesirable that he should do so.

(4) A non-commissioned officer or soldier who has elected to be tried by court-martial shall not be entitled to withdraw his election after he has been remanded for trial except with the permission of the convening officer.

5. Where a person in military custody is committed into civil custody in Jamaica for temporary detention in accordance with section 193 of the Act, the orders for commitment and release shall be in the forms set out in the Second Schedule and will be signed by his commanding officer.

6. Any matter required to be promulgated by the Defence Act shall be promulgated—

(i) by being communicated to the accused; or

(ii) if the accused absents himself without leave before any such matter can be communicated to him, by being published in the orders of the unit to which he belongs or is attached; or

(iii) in such other manner as may be directed for special reasons by the confirming authority or reviewing authority, as the case may be.

7. The service books and other documents in which records may be made for the purpose of section 190 of the Act shall be—

Unit order books;
Part II and Part III Orders;
Register of deserters;
Postage books;
Guard report;
Record of service (officers);
Record of service (soldiers);
Regimental and Company conduct sheet;
Record of reports of boards of inquiries on illegal absence of officers and soldiers.

[The inclusion of this page is authorized by L.N. 127/1980]
8.—(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 authorized 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 over officers junior to them and over all soldiers.

(5) A person in command of an aircraft or vessel, whether or not he is a member of Her Majesty's forces, will in respect of all matters relating to the control or safety of the aircraft or vessel, have powers of command over officers and soldiers of the Jamaica Defence Force who are on board that aircraft or vessel in that capacity.

(6) In this regulation "vessel" means any deck vessel or craft, whatever may be its rig or tonnage, and whether propelled by sail, steam or otherwise.

9. 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 reserve officers of the same rank.

(e) In the case of reserve officers—

(i) officers of the first class will take precedence of officers of the second class of the same rank;
(ii) an officer of the permanent staff will take precedence of other officers of the same rank in the unit to which he is appointed.

10. The relative precedence of soldiers is as under—

(a) Holders of 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 reserve warrant officers and non-commissioned officers of the same rank.

(e) In the case of warrant officers and non-commissioned officers of the reserve—

(i) a warrant officer or non-commissioned officer of the first class, will take precedence of warrant officers and non-commissioned officers of the second class of the same rank;

(ii) a warrant officer or non-commissioned officer of the permanent staff will take precedence of other warrant officers and non-commissioned officers of the same rank in the unit to which he is appointed.

11. Seconded personnel will take precedence with personnel of the regular Force of equivalent or corresponding rank according to their respective dates of appointment to their rank.

[The inclusion of this page is authorized by L.N. 127/1980]
# THE DEFENCE (MISCELLANEOUS) REGULATIONS, 1962

## FIRST SCHEDULE

(Regulation 2)

<table>
<thead>
<tr>
<th>Military</th>
<th>Naval</th>
<th>Air-force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Field-Marshal</td>
<td>Admiral of the Fleet</td>
<td>Marshal of the Royal Air Force</td>
</tr>
<tr>
<td>General</td>
<td>Admiral</td>
<td>Air Chief Marshal</td>
</tr>
<tr>
<td>Lieutenant-General</td>
<td>Vice-Admiral</td>
<td>Air Marshal</td>
</tr>
<tr>
<td>Major-General</td>
<td>Rear-Admiral</td>
<td>Air Vice Marshal</td>
</tr>
<tr>
<td>Brigadier</td>
<td>Commodore</td>
<td>Air Commodore</td>
</tr>
<tr>
<td>Colonel</td>
<td>Captain</td>
<td>Group Captain</td>
</tr>
<tr>
<td>Lieutenant-Colonel</td>
<td>Commander</td>
<td>Wing Commander</td>
</tr>
<tr>
<td>Major</td>
<td>Lieutenant-Commander</td>
<td>Squadron Leader</td>
</tr>
<tr>
<td>Captain</td>
<td>Lieutenant</td>
<td>Flight Lieutenant</td>
</tr>
<tr>
<td>Lieutenant</td>
<td>Sub-Lieutenant</td>
<td>Flying Officer</td>
</tr>
<tr>
<td></td>
<td>Acting Sub-Lieutenant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(but junior to military and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>air-force ranks)</td>
<td></td>
</tr>
<tr>
<td>Second-Lieutenant</td>
<td>Midshipman and Cadet</td>
<td>Pilot Officer</td>
</tr>
<tr>
<td></td>
<td>(but junior to military and</td>
<td>Acting Pilot Officer</td>
</tr>
<tr>
<td></td>
<td>air-force ranks)</td>
<td>(but junior to military rank)</td>
</tr>
<tr>
<td>Warrant Officer Class I</td>
<td>Warrant Officer Class II</td>
<td>Warrant Officer</td>
</tr>
<tr>
<td></td>
<td>(but junior to air-force</td>
<td>Master Aircrew</td>
</tr>
<tr>
<td></td>
<td>Warrant Officer, Master</td>
<td>Master Technician</td>
</tr>
<tr>
<td></td>
<td>Aircrew and Master Technician)</td>
<td></td>
</tr>
<tr>
<td>Staff Sergeant</td>
<td>Petty Officer</td>
<td>Flight Sergeant</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chief Technician</td>
</tr>
<tr>
<td>Sergeant</td>
<td></td>
<td>Sergeant</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Senior Technician</td>
</tr>
</tbody>
</table>

[The inclusion of this page is authorized by L.N. 4/1976]
FIRST SCHEDULE, contd.

<table>
<thead>
<tr>
<th>Military</th>
<th>Naval</th>
<th>Air-force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lance-corporals (but junior to naval and air-force ranks)</td>
<td>Leading Rating (but junior to Corporals and Corporal Technicians)</td>
<td>Corporal Corpsman (Senior Aircraftman)</td>
</tr>
<tr>
<td>Private</td>
<td>Able rating</td>
<td>Junior Technician</td>
</tr>
<tr>
<td></td>
<td>Ordinary rating</td>
<td>Senior Aircraftman</td>
</tr>
</tbody>
</table>

SECOND SCHEDULE (Regulation 5)

ORDER FOR TEMPORARY CONFINEMENT IN CIVIL CUSTODY

To the

(Governor of ............................................ Prison)

(Officer of Police in charge of ................................ Police Station)

In pursuance of section 193 of the Defence Act, I, the undersigned, the commanding officer of .................................................................

............................................ (number, rank, name and unit), 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, name and unit), a person now in your custody require you to deliver him to the escort producing this authority.

Place ..................................................

Date ..................................................

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

(Signature of commanding officer)

[The inclusion of this page is authorized by L.N. 4/1976]
THE DEFENCE ACT

REGULATIONS
(under section 212)

THE DEFENCE (DEDUCTIONS AND FORFEITURES) REGULATIONS, 1962
(Made by the Defence Board on the 28th day of November, 1962)

1. These Regulations may be cited as the Defence (Deductions and

2. In these Regulations, unless the context otherwise requires—

   "public claim" means any public debt or disallowance, including
   any over-issue or advance of pay made through an error as
   to the facts;

   "service claim" means any debt due to any service mess, club,
   institution or other service organization;

   "authorized officer" for the purpose of these Regulations means
   any officer not below the rank of major appointed by the
   Chief of Staff;

   "Board of Officers" means for the purpose of regulation 10, a
   Board appointed by the Chief of Staff consisting of not less
   than three officers of which the President is not below the
   rank of major.

3.—(1) Save under authority of the Act, other service law or some
other enactment, no deduction shall be made from the pay granted by
the Defence (Rates of Pay and Allowances) Regulations, 1962 to an
officer or soldier 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 the Defence (Rates of Pay and Allowances) Regulations, 1962, to an
officer or soldier shall, by virtue of these Regulations be held liable to
deductions, on the order of the Chief of Staff or authorized officer to
meet any public or service claim that there may be against him.

   (3) The pay of an officer or soldier 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 at not less than the appropriate minimum rate as is prescribed in regulation 4.

4. For the purpose of subsections (4) and (5) of section 159 of the Act the minimum rates of pay which an officer or soldier shall (subject to any forfeitures) receive notwithstanding any deductions from his pay shall be one-third of his pay.

5. The pay of an officer or soldier shall be forfeited for every day—

(a) of absence in such circumstances as to constitute an offence under section 47 or section 48 of the Act or if the Chief-of-Staff or an authorized officer so directs for any day of other absence without leave other than absence by reason of having been made a prisoner of war;

(b) of imprisonment, detention or field punishment awarded under service law by a court-martial or commanding officer, or of imprisonment or detention of any description 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 service law of which he has been or is subsequently found guilty:

Provided that a commanding officer of a married officer or soldier, after investigating the circumstances of the officer's or soldier's family, may award to that family a family maintenance allowance of not less than ten per cent nor more than thirty per cent of the officer's or soldier's pay, where such officer or soldier has not been discharged.

6.—(1) The pay of an officer or soldier shall not be forfeited for absence by reason of his having been made a prisoner of war unless the Chief-of-Staff 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 Her Majesty's service; 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 authorized by international usage:

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Provided that pay for any day of such absence may be provisionally withheld in accordance with the provisions of paragraph (2).

(2) Where the Chief-of-Staff is satisfied that the conditions of sub-paragraph (a), (b) or (c) of paragraph (1) 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 Chief-of-Staff is so satisfied, whichever is the later:

Provided that where pay has been provisionally withheld under the provisions of paragraph (3) the whole of the pay so withheld shall be forfeited.

(3) Where an officer or soldier 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.

7. For the purposes of paragraphs (a) and (c) of subsection (1) of section 160 of the Act and of subsection (2) of that section the number of days that a person is absent or is in hospital shall be computed as follows—

(a) the number of days shall be reckoned from the time when the absence or, as the case may be, the time spent in hospital, commences;

(b) each period of twenty-four hours shall be reckoned as one day and save as is hereinafter provided, a part of a day shall be reckoned as one day; and

(c) when the total period of the absence or the time spent in hospital is less than six hours, no account shall be taken thereof unless the person was, by reason of his being absent or in hospital, prevented from performing a military duty which was thereby thrown on some other person.

8.—(1) Subject to paragraph (2), an investigation for the purposes of subsection (1) of section 162 of the Act into the cause of any loss of, or damage to, public or service property shall be—

(a) a board of inquiry convened under section 129 of the Act; or

(b) an examination by the authorized officer of evidence, whether oral or written, relating to the cause of such loss or damage as aforesaid.
(2) Where in the course of an examination of evidence under sub-paragraph (b) of paragraph (1), it appears to the authorized officer that a person may have been responsible for such loss or damage as aforesaid, he shall be given an opportunity of making a statement, if he so desires, for consideration by the authorized officer:

Provided that where in proceedings under service law before a court-martial or an appropriate superior authority a person has been convicted in circumstances involving a finding that he was guilty of a wrongful act or negligence which occasioned such loss or damage as aforesaid it shall not be necessary to give him an opportunity of making any such statement as aforesaid.

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 163 of the Act 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 board 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 board 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 subsection (1) of section 163 of the Act 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 subsection 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; and
(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 subsection (1) of section 163 of the Act could not have occasioned the damage or loss.

10. Any deduction or forfeiture of pay imposed under sections 162, 165 and 166 of the Act may be remitted by a Board of Officers or the Defence Board as authorized by section 164 of the Act.

11. Where under section 165 or section 166 of the Act a compulsory maintenance order has been made by the authorized officer the following provisions shall have effect—

(a) there shall not be charged to the account of a soldier who makes a prescribed allotment and who incurs a forfeiture of pay the amount of the prescribed allotment payable during the period of forfeiture;

(b) where a soldier forfeits pay on the direction of the authorized officer under regulation 5 in respect of absence without leave (not being absence in such circumstances as to constitute an offence under section 47 or section 48 pursuant to paragraph (a) of subsection (1) of section 160 of the Act or in respect of absence by reason of his having been made a prisoner of war pursuant to subsection (2) of section 160 of the Act, compulsory maintenance deductions and prescribed allotments issued during the period of such forfeiture shall remain as charges against him.

12. The following provisions shall have effect with regard to the application of the foregoing regulations to officers and soldiers of the Reserve—

(a) paragraphs (2) and (3) of regulation 3, and regulations 4, 5 and 6 shall not apply to such officers and soldiers except when called out on permanent service or on temporary service or when serving on the permanent staff of the Reserve; and

(b) the pay payable to such an officer or soldier in respect of any period when he was subject to military law, not being a period when he was called out on permanent service or on temporary service or was serving on the permanent staff of the Reserve,

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shall be available to meet all fines, deductions of pay, stoppages or forfeitures to which he is properly liable, except that the minimum rate of pay which he shall (subject to any forfeiture) receive, notwithstanding any deductions from his pay, shall be one-fifth of his pay.