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STATUTORY INSTRUMENTS

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**1997 No. 170**

**The Courts-Martial (Royal Navy) Rules 1997**

**PART VI**

**SENTENCING**

**Pre-sentence report**

**66.** Where the court administration officer has arranged for a pre-sentence report to be prepared in advance of the trial, he shall serve a copy on the accused and the judge advocate before the time appointed for the trial.

**Evidence before sentencing**

**67.—(1)** This rule applies where the court has recorded a finding of guilty on any charge.

(2) Where practicable the court shall take evidence of—

- (a) the accused's age and rank;
- (b) the accused's service certificate (or equivalent record for officers);
- (c) any recognised acts of gallantry or distinguished conduct on the part of the accused and any decoration to which he is entitled;
- (d) particulars of any offence (whether under the Act or otherwise) of which the accused has been found guilty (during his service or otherwise) provided that any convictions treated as spent for the purposes of the Rehabilitation of Offenders Act 1974(1) shall be clearly marked as such;
- (e) particulars of the length of time he has been in custody awaiting trial; and
- (f) details of the accused's pay, terminal benefits and future pension entitlements.

(3) Unless the accused requires otherwise, the matters referred to in paragraph (2) above need not be adduced in compliance with the strict rules of evidence.

(4) Where practicable, the court shall consider any pre-sentence report concerning the accused which has been prepared.

(5) A record of antecedents signed by the accused may be accepted in evidence by the court under paragraph (2)(d) above where the accused has admitted that he has been found guilty of each offence listed in the record and has had explained to him the purpose for which such admission was sought.

**Evidence on behalf of the accused**

**68.—(1)** If the accused so requests, any service records of the accused or a duly certified copy of the material entries therein shall be produced to the court by the naval authority in whose custody they reside.

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(1) 1974 c. 53; sections 2 and 6 were amended, and the Schedule was inserted, by the Armed Forces Act 1996 (c. 46), section 13 and Schedule 4.

- (2) The accused may—
  - (a) give evidence on oath and call witnesses in mitigation of sentence and as to his character;
  - (b) produce to the court any document or report; and
  - (c) address the court in mitigation of sentence.
- (3) Unless the prosecutor requires otherwise, any document or report referred to in paragraph (2)
- (b) above need not be adduced in compliance with the strict rules of evidence.

#### **Offences taken into consideration**

- 69.**—(1) Before the court deliberates on sentence, the accused may request the court to take into consideration any other offence committed by him of a similar nature to that of which he has been found guilty, and, upon such a request being made, the court may agree to take into consideration any such offence as to the judge advocate seems proper.
- (2) A list of the offences which the court agrees to take into consideration shall be read to the accused by the judge advocate, who shall ask the accused if he admits having committed them.
  - (3) The accused shall sign a list of the offences which he admits having committed and the court shall take the offences in the list into consideration.
  - (4) The list shall be signed by the judge advocate and attached to the record of proceedings.

#### **Deliberation on sentence**

- 70.**—(1) While the court sits in closed court to deliberate on sentence the clerk of the court and any officer under instruction are permitted to be present.
- (2) Subject to paragraph (6) below, the court shall award one sentence in respect of all the offences of which the accused has been found guilty and all the offences taken into consideration in accordance with rule 69 above.
  - (3) Subject to paragraph (4) below, the vote of each member of the court as to the sentence shall be given orally in reverse order of seniority.
  - (4) The president shall vote last and the judge advocate shall vote immediately before him.
  - (5) In the case of an equality of votes on sentence, the president shall have the casting vote.
  - (6) The sentence may include a direction that such deductions shall be made from the pay of the accused as may have been made if the accused had been found guilty by the court of the offence taken into consideration as well as of the offence or offences of which he has been found guilty.

#### **Postponement of deliberation on sentence**

**71.** Where two or more accused are tried separately by the same court upon charges arising out of the same circumstances, the court may, if the judge advocate is of the opinion that the interests of justice so require, postpone its deliberation upon the sentence to be awarded to any one or more of such accused until it has recorded its findings in respect of all the accused.

#### **Announcement of sentence**

- 72.**—(1) Notwithstanding any minority vote, the sentence shall be recorded in writing, dated and signed by the president and each member of the court.
- (2) The sentence, and any direction as to postponement or suspension of sentence, shall be announced in open court by the judge advocate.
  - (3) The reasons for sentence shall be announced by the president or, if the president so requests, by the judge advocate.

### **Conclusion of the trial**

**73.**—(1) When each charge on the charge sheet has been disposed of, the judge advocate shall dissolve the court.

(2) The president shall announce in open court that the trial is concluded.