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STATUTORY INSTRUMENTS

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**2009 No. 1209**

**The Armed Forces (Service Civilian Court) Rules 2009**

**PART 8**

**JOINDER, SEVERANCE AND AMENDMENT**

**Joinder of charges**

**37.**—(1) The court may try two or more charges together, if they are included in the same charge sheet.

(2) Where in accordance with regulations made under section 128 the charges in two or more charge sheets could have been included in the same charge sheet, the Director may consolidate both or all the charge sheets into one.

(3) Where the Director consolidates two or more charge sheets into one, he must immediately serve the new charge sheet on the court administration officer and each defendant.

**Severance of charges**

**38.** Where a defendant is charged with more than one offence in the same charge sheet, the court may direct, before the commencement of trial proceedings in relation to the charge sheet, that the charges be divided between two or more charge sheets.

**Severance of defendants**

**39.** Where two or more defendants are charged in a single charge, the court may direct, before the commencement of trial proceedings in relation to the charge, that the charge be replaced with charges against the defendants separately and in separate charge sheets.

**Amendment of charges**

**40.**—(1) Where in preliminary proceedings (whether before or after arraignment) or trial proceedings it appears to the court that the charge sheet or any charge is defective, it shall make such order for the amendment of the charge sheet or charge (as the case may be) as appears necessary to meet the circumstances of the case.

(2) But the court may not make an order under this rule if, in all the circumstances, the required amendments cannot be made without injustice.

(3) Without prejudice to the generality of paragraph (2), in relation to a proposed amendment in preliminary proceedings the circumstances relevant for the purposes of that paragraph include (in particular) whether the defendant has been arraigned.

(4) Where an order is made under this rule, the Director shall serve the amended charge sheet on every defendant in the way that would be required by regulations made under section 128—

(a) if the amendment had been made otherwise than in accordance with an order made under this rule; and

- (b) where the amendment is made after arraignment, if it had been made before arraignment.

**Consequences of exercise of powers under this Part**

**41.—**(1) Where in preliminary proceedings the court is of opinion that, in consequence of the exercise of any power of the court under this Part, it is in the interests of justice—

- (a) that the commencement of the trial proceedings be postponed, or
- (b) that a defendant be arraigned or re-arraigned on any charge,

the court shall make such order or give such direction as appears necessary.

(2) Where in trial proceedings the court is of the opinion that in consequence of the exercise of any power of the court under this Part it is in the interests of justice—

- (a) that the proceedings be adjourned, or
- (b) that a defendant be arraigned or re-arraigned on any charge,

it shall make such order or give such direction as appears necessary.