

# **RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.**

D1. President to accused: 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 to prepare your defence? Ans.....<sup>(1)</sup>  
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.<sup>(1)</sup>  
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.<sup>(1)</sup>  
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.<sup>(1)</sup> The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).<sup>(2)</sup> The Court is closed, and considers the submission.<sup>(3)</sup> The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).<sup>(4)</sup>

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)  
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.<sup>(1)</sup> You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.<sup>(2)</sup> You may, however, make a statement without being sworn, and you will not be subject to cross-examination.<sup>(3)</sup> But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.<sup>(4)</sup> You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....  
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.<sup>(1)</sup>  
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).<sup>(1)</sup> The finding(s) of the Court is (are) recorded in Part I of the Schedule.<sup>(2)</sup> The Court is re-opened.  
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.<sup>(1)</sup> Or, the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.<sup>(2)</sup>  
(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

## **RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.**

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?<sup>(1)</sup>  
Ans..... *Yes, accused gives evidence on oath, treated as exhibit B.*  
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service<sup>(1)</sup>, and certified true copy (copies) of Conduct Sheet(s)<sup>(2)</sup>, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.....<sup>(3)</sup> and Ex.....<sup>(4)</sup> respectively.  
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?<sup>(1)</sup> Ans..... *Yes, in mitigation of punishment, treated as exhibit D.*  
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.<sup>(1)</sup>  
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.<sup>(1)</sup> The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.<sup>(2)</sup>  
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

**PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.**