

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

- 1. The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.
2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:
I. If pleas to all charges are GUILTY, use Record Form B below.
II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.
(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court.
3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; Duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(D); and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 85, 116; use of Summary of Evidence at Trial see RP 17(E) fn 9; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

- B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty.
B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) pleads change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

- C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
C2. The charges on which accused pleaded GUILTY are read by him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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.
D2. The Prosecutor makes (an) (no) opening address.(1)
D3. The evidence for the Prosecution is taken.(1)
D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) 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).(4)
D5. President to accused: You will now proceed with your defence.(1) 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.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will carry with the Court the same weight as sworn testimony.(4) 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.
D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
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.(2) 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.(2)
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? (1) Ans.
E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), 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(i); (ii) and (iii) they purport to refer to a (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z, respectively.(3)
E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? (1) Ans.
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.(2)
E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.