



STATUTORY INSTRUMENTS.

S.I. No. 580 of 2011



COURT-MARTIAL RULES 2011

(Prn. A11/2048)

S.I. No. 580 of 2011

COURT-MARTIAL RULES 2011

We, the Courts-Martial Rules Committee, constituted pursuant to the provisions of section 240A (inserted by section 71 of the Defence (Amendment) Act 2007 (No. 24 of 2007)) of the Defence Act 1954 (No. 18 of 1954), in exercise of the powers conferred on us by section 240B (as amended by section 10 of the Defence (Amendment) Act 2011 (No. 17 of 2011)) of the Defence Act 1954 (No. 18 of 1954), and of all other powers enabling us in this behalf, do hereby make the following rules:

Dated this 12 day of November 2011.

Donagh McDonagh Chairperson

Oonah McCrann

Fergal Foley

Niall Farrell

Faye Breen

Jason Kearney

Jerry Lane Secretary

I concur in the making of the following Rules.

Dated this 12 day of November 2011.

ALAN SHATTER,
Minister for Defence.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 18th November, 2011.*

1. (1) These Rules may be cited as the Court-Martial Rules 2011.

(2) The Court-Martial Rules 2008 to 2009 and these Rules may be cited together as the Court-Martial Rules 2008 to 2011 and shall be construed together as one.

(3) These Rules come into operation on 10 November 2011.
2. In these Rules, “Principal Rules” means the Court-Martial Rules 2008 (S.I. No. 205 of 2008).
3. Rule 92(2) of the Principal Rules shall not apply to a Circuit Judge who has been temporarily designated under section 11A of the Act of 1947 to perform the functions of a military judge.
4. The Schedule of Forms to the Principal Rules is amended—
 - (a) by substituting the form set out in Schedule 1 for Form 2,
 - (b) by substituting the form set out in Schedule 2 for Form 3,
 - (c) by substituting the form set out in Schedule 3 for Form 5,
 - (d) by substituting the form set out in Schedule 4 for Form 6,
 - (e) by substituting the form set out in Schedule 5 for Form 9,
 - (f) by substituting the form set out in Schedule 6 for Form 10,
 - (g) by substituting the form set out in Schedule 7 for Form 12,
 - (h) by substituting the form set out in Schedule 8 for Form 13,
 - (i) by substituting the form set out in Schedule 9 for Form 14,
 - (j) by substituting the form set out in Schedule 10 for Form 17,
 - (k) by substituting the form set out in Schedule 11 for Form 20,
 - (l) by substituting the form set out in Schedule 12 for Form 22, and
 - (m) by substituting the form set out in Schedule 13 for Form 23.

Schedule 1

“Form 2

Register Number:

DEFENCE ACT 1954, PART V

COURT-MARTIAL RULES 2008, rules 16(3) and 59(2)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF APPELLANT OR ACCUSED

No..... Rank..... Name

Unit..... Appellant

Director of Military Prosecutions Respondent

Or

No. Rank Name.

Unit..... Accused

(1) The following is a true extract of the disciplinary entries in the Record Sheet, * A.F. 43(a)/ *A.F.108 of the *appellant/* accused (if no such entries, same to be stated) and in the service books of *his/*her unit.

Summary Award(s) Date of offence
Particulars of offence
Punishment

Court(s)-martial Date of trial
Date of offence
Particulars of offence
Sentence

Civil convictions Date of trial or plea.....
Date of offence
Particulars of offence
Court.....
Sentence

PARTICULARS AS TO SERVICE

(2) The *appellant/*accused is not under sentence at the present time

or

(3) The *appellant/*accused at the present time is under sentence for..... beginning on the..... day of..... 20.....

(4) The *appellant/*accused has been in service custody on the present charges for..... days, and in civil custody for..... days, of which..... days were spent in hospital.

(5) The present age of the *appellant/*accused according to the Record Sheet *A.F. 43(a)*A.F.108 is.....

(6) The *appellant/*accused was first attested on the..... day of..... 19/20..... and *his/*her present engagement is for..... years in the Permanent Defence Force and for..... years in the Reserve Defence Force.

or

The *appellant/*accused has served continuously in the Permanent Defence Force since the..... day of..... 19/20....., and is serving on a re-engagement to complete 21 years or more in the Permanent Defence Force; or has been continued in service for a..... year period to complete..... years.

or

The *appellant/*accused was first *attested/*inducted on the date of 19/20 and has served continuously in the Permanent Defence Force as an officer since the..... day of..... 19/20.....

(7) The *appellant/*accused has served as an *officer/*non-commissioned officer continuously since.....

*He/*She was last promoted on the..... day of..... 19/20.....

*He/*She has not been demoted during service.

(If demoted, strike out last sentence and state particulars.)

(8) Acts of Gallantry, Distinguished Conduct, Medals, Awards, Mentions, etc.

(9) The *appellant/*accused is/is not married.

(10) The *appellant/*accused has..... children in *his/*her family, aged respectively—

(11) The *appellant/*accused is in receipt of basic pay at a rate of..... per day.

(12) The *appellant/*accused is on the..... point of..... points on the scale of pay for *his/*her rank.

(13) The *appellant/*accused received *his/*her last increment/is due *his/*her next increment on 20.....

(14) The *appellant/*accused *is/*is not in receipt of military service allowance, additional, flying, or other extra pay at a rate of per.....

I certify that the foregoing are true extracts from Record Sheet *A.F. 43(a)/ *A.F.108 and service records in my custody.

Signed this day of 20.....

Officer having custody of records

**Delete where inapplicable”.*

Schedule 2

“Form 3

Register Number:

DEFENCE ACT 1954, SECTION 178G(3)

COURT-MARTIAL RULES 2008, rule 15

ORDER OF THE SUMMARY COURT-MARTIAL ON HEARING AN APPEAL

No. Rank..... Name

Unit..... Appellant

Director of Military Prosecutions Respondent

UPON HEARING AN APPEAL brought before the Summary Court-Martial by the above-named appellant against the *punishment/*determination/*determination and punishment given on the day of 20..... by..... as *Authorised Officer/*Commanding Officer at..... whereby (give details of *punishment/*determination/*determination and punishment)—

THE SUMMARY COURT-MARTIAL

being satisfied that notice of the appeal was duly served upon the Court-Martial Administrator, the respondent and the *authorised/*commanding officer concerned

and having heard the evidence tendered by or on behalf of the *appellant/*respondent *(and the appellant)

*[and being satisfied that the said appeal ought *(not) to be allowed]

*[and being satisfied that the determination appealed from ought to be *confirmed/*quashed]

*[and being satisfied that the punishment appealed from ought to be *confirmed/*quashed/*varied]

HEREBY ORDERS as follows—

Dated this day of20.....

Signed.....

*Military Judge/*Circuit Judge

*Delete where inapplicable”.

Schedule 3

“Form 5

Register Number:

DEFENCE ACT 1954, PART V

CRIMINAL LAW (INSANITY) ACT 2006, Section 4(6)

COURT-MARTIAL RULES 2008, rule 31(1)

COMMITTAL WARRANT AND DIRECTION FOR EXAMINATION

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Accused

To the Provost Marshal

WHEREAS the above-named accused was this day before *the Summary Court-Martial/*a General Court-Martial/*a Limited Court-Martial charged with the offence(s) set out on the attached copy Charge Sheet(s).

AND WHEREAS the Court-Martial has determined that the said accused is unfit to take *his/*her trial, the hearing of the said charge(s) has been adjourned to the sitting of the Court-Martial at on the ... day of 20..... at hours.

THIS IS TO COMMAND YOU to whom this warrant is addressed to deliver the said accused to the designated centre at..... and to lodge the said accused person in the said designated centre there to be detained pursuant to section 4(6)(a) of the Criminal Law (Insanity) Act 2006 by the clinical director thereof until the above time of adjournment, being a period not exceeding fourteen days from the date hereof, when you shall have said accused at the said sitting to be further dealt with according to law.

AND THE COURT-MARTIAL DIRECTS THAT the said accused be examined by an approved medical officer at the said designated centre and the approved medical officer concerned is required by section 4(6)(b) of the said Act of 2006 to report within the period of committal hereby authorised to the court-martial on whether in *his/*her opinion the said accused is suffering from a mental disorder (within the meaning of the Mental Health Act 2001) and is in need of in-patient care or treatment in a designated centre or suffering from a mental disorder (within the meaning of the said Act of 2006) or from a mental disorder (within the meaning of the Mental Health Act 2001) and is in need of out-patient care or treatment in a designated centre.

Dated this... day of 20

Signed

*Military Judge/*Circuit Judge

Copy to the Clinical Director at

**Delete where inapplicable”.*

Schedule 4

“Form 6

Register Number:

DEFENCE ACT 1954, SECTION 202(1)(b)

CRIMINAL LAW (INSANITY) ACT 2006, SECTION 4(5)

COURT-MARTIAL RULES 2008, rule 31(2)(a)

COMMITTAL WARRANT

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Accused

To the Provost Marshal

WHEREAS the above-named accused was this day before *the Summary Court-Martial/*a General Court-Martial/*a Limited Court-Martial charged with the offence(s) set out on the attached copy Charge Sheet(s).

AND WHEREAS the Court-Martial has determined that the said accused is unfit to take *his/*her trial, the hearing of the said charge(s) has been adjourned until further order,

AND WHEREAS the Court-Martial is satisfied,

*having considered the evidence of an approved medical officer adduced pursuant to section 4(6) of the above-mentioned Act of 2006

*having considered other evidence adduced

that the accused is suffering from a mental disorder (within the meaning of the Mental Health Act 2001) and is in need of in-patient care or treatment in a designated centre,

THIS IS TO COMMAND YOU to whom this warrant is addressed to deliver the said accused to the designated centre at..... and to lodge the said accused in the said designated centre for in-patient care or treatment until an order under section 13 of the said Act of 2006 is made.

NOTE: Where the clinical director of the above-mentioned designated centre forms the opinion in relation to the said accused that said person is no longer unfit to take *his/*her trial for an offence, the clinical director shall immediately notify the Court-Martial Administrator in writing by electronic mail and by registered post in Form 7 of the Court-Martial Rules 2008.

Dated thisday of 20.....

Signed.....

*Military Judge/*Circuit Judge

Copy to the Clinical Director at

**Delete where inapplicable”.*

Schedule 5

“Form 9

Register Number:

DEFENCE ACT 1954, PART V

COURT-MARTIAL RULES 2008, rules 56 and 61

FINDING

The Court find the accused No. Rank

Name Unit

*GUILTY of the..... Charge(s)

*NOT GUILTY of the Charge(s)

Signed at

This day of 20.....

.....

*Military Judge/*Circuit Judge

*General/*Limited/*Summary Court-Martial

SENTENCE

The Court sentence the accused No. Rank

Name..... Unit

Signed at

This day of 20.....

.....

*Military Judge/*Circuit Judge

*General / *Limited / *Summary Court-Martial

**Delete where inapplicable”.*

Schedule 6

“Form 10

Register Number:

DEFENCE ACT 1954, SECTION 212A

COURT-MARTIAL RULES 2008, rule 63(1)

ORDER SUSPENDING A SENTENCE OF IMPRISONMENT/
DETENTION SUBJECT TO CONDITIONS AND RECOGNISANCE

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Accused

UPON CONVICTION on the day of 20..... of the above-named offender of by *a General Court-Martial/*a Limited Court-Martial/*the Summary Court-Martial of the following offence—

That *he/*she did..... contrary to.....

The Court-Martial sentenced the said offender to a term of imprisonment/detention of.....

THE COURT-MARTIAL HEREBY ORDERS THAT

Subject to the said offender entering into a recognisance to comply with the conditions of, or imposed in relation to this order, the execution of

*the whole of the sentence of imprisonment/detention

*part of the sentence of imprisonment/detention comprising the term of be and is hereby suspended [for the period of....., until the day of.....20.....] [until further order of this Court-Martial].

CONDITIONS

IT IS A CONDITION OF THIS ORDER that the said offender shall keep the peace and be of good behaviour during

*the period of suspension of the sentence

*the period of imprisonment/detention and the period of suspension of the sentence

*And the court-martial considering (a) that it is appropriate having regard to the nature of the offence and (b) that it will reduce the likelihood of the said offender committing any other offence,

IT IS A CONDITION OF THIS ORDER that

[here insert any condition imposed in accordance with Section 212A(4) of the Defence Act 1954]

*IT IS A CONDITION OF THIS ORDER that

[here insert any condition imposed in accordance with Section 212A(5) of the Defence Act 1954, e.g. (a) that the offender co-operate with such support services and to such extent as may be specified by the Military Judge;

(b) that the offender undergo such (i) treatment for addiction, (ii) course of education, training or therapy, (iii) psychological counselling or other treatment, as may be approved by the Military Judge]

Dated this..... day of..... 20.....

Signed _____
*Military Judge/*Circuit Judge

RECOGNISANCE

Whereas upon conviction on the day of 20... of the offence that *he/*she did.....contrary to, the offender was sentenced to a term of imprisonment/detention of

THE COURT-MARTIAL ORDERED THAT execution of

*the whole of the sentence of imprisonment/detention

*part of the sentence of imprisonment/detention comprising the term of..... be suspended *[for the period of, until the day of 20...]
*[until further order of the Court-Martial]

subject to the offender entering into a recognisance *in the sum specified to comply with the conditions of, or imposed in relation to the said order, and conditionally on his/her compliance with the further provisions of said order as set out above until the day of 20.....

I of

the above-named offender enter into this recognisance to comply with the conditions of the order set out above until the day of 20.....

And on such compliance, then this recognisance shall be void, save in respect of any breach of any condition thereof during the period of the said recognisance or else to stand in full force and effect.

*Further, I acknowledge myself to owe to the State the sum of €.....

to the use of the Minister for Finance if I fail to comply with any of the conditions set out herein

..... Offender

Acknowledged before me this day of.....20.....

Signed
*Military Judge/*Circuit Judge

*Governor/*Officer in charge of *..... Prison/*the place of detention at

To the Governor of the *prison*detention barrack at

**Delete where inapplicable”.*

Schedule 7

“Form 12

Register Number:

DEFENCE ACT 1954, SECTION 212A(14)

COURT-MARTIAL RULES 2008, rule 63(4)

ORDER FOR ARREST

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Applicant

To the Provost Marshal

WHEREAS on the day of 20... a notice was issued requiring the above-named person of to appear before a court-martial to be held at on the ... day of 20 ..., at hours for the hearing of an application for an order revoking the order suspending

*the whole of the sentence

*part of the sentence

imposed on *him/*her on the day of 20...

AND WHEREAS the said person has failed to appear at the said time and place;

AND WHEREAS it has been duly proved that the notice was served upon the said person in accordance with the Court-Martial Rules;

THIS IS TO COMMAND YOU to whom this order is addressed to arrest

of

and to bring *him/*her before me to be dealt with according to law.

Dated this day of 20.....

Signed

*Military Judge/*Circuit Judge

**Delete where inapplicable”.*

Schedule 8

“Form 13

Register Number:

DEFENCE ACT 1954, SECTION 203

CRIMINAL LAW (INSANITY) ACT 2006, Section 5(2)

COURT-MARTIAL RULES 2008, rule 64(2)

COMMITTAL WARRANT (NOT GUILTY BY REASON OF INSANITY)

Director of Military Prosecutions

Prosecutor

No. Rank..... Name.....

Unit.....

Accused

To the Provost Marshal

WHEREAS the above-named accused was this day before a.....
Court-Martial, charged with the offence(s) set out on the attached copy Charge Sheet(s)

AND WHEREAS the Court-Martial has returned a special verdict pursuant to

*Section 5(1) of the Criminal Law (Insanity) Act 2006

*Section 203 of the Defence Act 1954

to the effect that the accused person is not guilty by reason of insanity

AND WHEREAS the Court-Martial considers that the accused person found not guilty
by reason of insanity is suffering from a mental disorder (within the meaning of the
Mental Health Act 2001) and is in need of in-patient care or treatment in a designated
centre

AND WHEREAS the military judge has consulted with a clinical director of a desig-
nated centre

THIS IS TO COMMAND YOU to whom this warrant is addressed to deliver the said
accused person to the designated centre at
and to lodge the said accused person in the said designated centre for in-patient care or
treatment pending the making of an order under section 13 of the Criminal Law
(Insanity) Act 2006.

Dated this day of20....

Signed

*Military Judge/*Circuit Judge

Copy to the Clinical Director at

**Delete where inapplicable”.*

Schedule 9

“Form 14

Register Number:

DEFENCE ACT 1954, PART V

CRIMINAL LAW (INSANITY) ACT 2006, Section 5(3)(a)

COURT-MARTIAL RULES 2008, rule 64(3)

COMMITTAL WARRANT AND DIRECTION FOR EXAMINATION
(NOT GUILTY BY REASON OF INSANITY)

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Accused

To the Provost Marshal

WHEREAS the above-named accused was this day before a
Court-Martial, charged with the offence(s) set out on the attached copy Charge Sheet(s)

AND WHEREAS the Court-Martial has returned a special verdict pursuant to section
5(1) of the Criminal Law (Insanity) Act 2006 to the effect that the accused person is
not guilty by reason of insanity

AND WHEREAS the proceedings have been adjourned to
on the ... day of 20... at hours

AND WHEREAS the Court-Martial considers that the accused person found not guilty
by reason of insanity is suffering from a mental disorder (within the meaning of the
Mental Health Act 2001) and may be in need of in-patient care or treatment in a desig-
nated centre

THIS IS TO COMMAND YOU to whom this warrant is addressed to deliver the said
accused person to the designated centre at
and to lodge the said accused person in the said designated centre there to be detained
pursuant to section 5(3)(a) of the Criminal Law (Insanity) Act 2006 by the clinical
director of the designated centre until the above time of adjournment, being a period
not exceeding fourteen days from the date hereof, when you shall have said accused
person at the said sitting to be further dealt with according to law

AND THE COURT-MARTIAL DIRECTS THAT the said accused person be exam-
ined by an approved medical officer at the said designated centre and the approved
medical officer concerned is required by section 5(3)(c) of the said Act of 2006 to report
to the court within the period of committal hereby authorised (or any extended period
authorised by the Court under section 5(3)(b) of the said Act of 2006) on whether in
*his/*her opinion the said accused person is suffering from a mental disorder (within the
meaning of the Mental Health Act 2001) and is in need of in-patient care or treatment in
a designated centre.

Dated this day of 20

Signed
*Military Judge/*Circuit Judge

Copy to the Clinical Director at

**Delete where inapplicable”.*

Schedule 10

“Form 17

Register Number:

DEFENCE ACT 1954, SECTION 225

COURT-MARTIAL RULES 2008, rule 65(4)

ORDER FOR RESTITUTION

Director of Military Prosecutions

Prosecutor

No. Rank..... Name.....

Unit.....

Accused

..... Injured Party

of.....

WHEREAS in proceedings entitled as above, a..... Court-Martial has on this day convicted the above-named accused (hereinafter referred to as “the convicted person”) of of the following offence under *Section 155 *Section 156 of the Defence Act 1954—

AND WHEREAS the above-named injured party has suffered loss to property resulting from that offence

the Court-Martial, having regard to the evidence given and the representations made herein, hereby ORDERS pursuant to Section 225 of the Defence Act 1954 that the said convicted person

*restore the following property to the injured party

*pay the sum of €..... to the injured party

[AND DIRECTS that such compensation be paid—

*(in one payment, to be made not later than the day of 20....,)

*(by..... consecutive *weekly *monthly instalments of €..... each and a final balance of €....., the first of such instalments to be paid on ... day of 20....,)

AND FURTHER DIRECTS that all payments made under this order shall be made to the Court-Martial Administrator, for transmission to the injured party.]

Dated this day of 20....

Signed

*Military Judge/*Circuit Judge

**Delete where inapplicable”.*

Schedule 11

“Form 20

Register Number:

DEFENCE ACT 1954, SECTION 207

COURT-MARTIAL RULES 2008, rule 74(4)

SUMMONS TO CIVILIAN WITNESS TO COURT-MARTIAL

To of

No. Rank..... Name

Unit.....

on the charge of

YOU ARE HEREBY SUMMONED to attend and to give evidence on the trial of the said charge, at the sitting of the *General/*Limited/*Summary Court-Martial to be held at on the day of 20... at hours and so to attend from day to day until you shall be duly discharged

*AND YOU ARE REQUIRED TO BRING WITH YOU the following documents, records or things

Dated this day of 20....

Signed

*Commanding Officer of Accused

*Court-Martial Administrator

*Military Judge

*Circuit Judge.

NOTE:

If, without just cause or excuse, you disobey this summons, you commit an offence under section 208 of the Defence Act 1954 and on summary conviction for such offence you are liable to a fine not exceeding €3,000 or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

**Delete where inapplicable”.*

Schedule 12

“Form 22

Register Number:

DEFENCE ACT 1954, PART V

COURT-MARTIAL RULES 2008, rule 87(2)

ORDER FOR COMMITTAL TO A DETENTION BARRACK ON SENTENCE BY COURT-MARTIAL OF DETENTION

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Accused

To the Governor or Officer in charge of a Detention Barrack at

WHEREAS the above-named accused..... , was by

*a Limited/General Court-Martial held at

*the Summary Court-Martial sitting at

on the day of 20 convicted of the offence of and sentenced to detention for a period of commencing on the day of 20

NOW, therefore, I, the undersigned do hereby pursuant to the Defence Act 1954, and of all other Acts and powers enabling me in this behalf, order you to receive the said into your custody, and detain *him/*her to undergo *his/*her said sentence according to law, and for so doing this shall be your warrant.

Signed at this day of 20

.....

*Military Judge/*Circuit Judge

**Delete where inapplicable”.*

Schedule 13

“Form 23

Register Number:

DEFENCE ACT 1954, PART V

COURT-MARTIAL RULES 2008, rule 87(2)

ORDER FOR COMMITTAL TO A PRISON ON SENTENCE BY
COURT-MARTIAL OF IMPRISONMENT

Director of Military Prosecutions

Prosecutor

No. Rank..... Name

Unit.....

Accused

To the Governor or Officer in charge of the *prison *military prison at
.....

WHEREAS the above-named accused..... , was by

*a Limited /General Court-Martial held at

*the Summary Court-Martial sitting at

on the day of 20... convicted of the offence of
..... and sentenced to be imprisoned for a
period ofcommencing on the day of 20

NOW, therefore, I, the undersigned do hereby pursuant to the Defence Act
1954, and of all other Acts and powers enabling me in this behalf, order you
to receive the said
into your custody, and detain *him/*her to undergo *his/*her said sentence
according to law, and for so doing this shall be your warrant.

Signed at this day of 20

.....

*Military Judge/*Circuit Judge

**Delete where inapplicable”.*

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Rules amend the Schedule to the Court-Martial Rules 2008 (S.I. No. 205 of 2008) and provide for the attire to be worn by a Circuit Judge temporarily designated to carry out the functions of a Military Judge.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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