

**Defence**

Cap. 159.

**DEFENCE (BOARD OF INQUIRY) RULES, 1984**

1984/161.

**Authority:** These rules were made on 6th June 1984 by the Defence Board under section 138 of the *Defence Act*.

**Commencement:** 6th June, 1984.

1. These Rules may be cited as the *Defence (Board of Inquiry) Rules, 1984*. Short title.

2. In these rules,  
“authority” in relation to a board, means the Defence Board or any officer empowered by these rules to convene a board; Interpretation.

“board” means a board of inquiry;

“president” means the president of a board, or where only one officer forms the board, that officer;

“record of the proceedings” in relation to a board, includes the report of the board and any opinion expressed by the board in accordance with any directions given by the authority.

3. A board shall investigate and report on the facts relating to any matter referred to the board under these rules, and, if directed so to do, shall express its opinion on any question arising out of any such matter. Board to investigate and report.

4. (1) A board may be convened with reference to: Reference to Board.
- (a) the absence of any person subject to military law under the Act who has been continuously absent without leave for a period of not less than 21 days;
  - (b) any deficiency, and the value of the deficiency, in the public and service property of which that person had the charge or that had been entrusted to his care;
  - (c) the capture, by the enemy, of any person subject to military law under the Act;

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(d) the death of any such person where an inquiry as to the death is not required to be held by any civil authority; and

(e) any matter, other than those referred to in sub-paragraphs (a) to (d), that the authority decides to refer to a board.

(2) A board need not be convened if the authority is satisfied that the absence mentioned in paragraph (1) (a) has terminated.

(3) Where a board has already been convened it may be dissolved if the authority is satisfied that the absence mentioned in paragraph (1) (a) has terminated.

Authority  
to convene  
Board.

5. (1) A board, with reference to the matters referred to in sub-paragraphs (a) and (b) of paragraph (1) of rule 4, shall be convened by the officer commanding the unit or detachment with which the person was serving at the time of his absence.

(2) A board may, with reference to the matters referred to in sub-paragraphs (c) to (e) of paragraph (1) of rule 4, be convened by

(a) the Defence Board, or

(b) any officer commanding a body of troops, unit or detachment.

(3) The following apply in relation to the order convening a board

(a) the order may, and where the matters referred to the board are those mentioned in paragraph (1) (a) and (b) of rule 4, shall, specify the terms of reference of the board and be published in orders;

(b) the order may direct the board to express an opinion on any question arising out of any matter referred to the board; and

(c) the authority may revoke, vary or suspend the order.

6. (1) A board convened with reference to absences and deficiencies, mentioned in sub-paragraphs (a) and (b) of paragraph (1) of rule 4, shall consist of not less than 3 persons who are subject to service law.

Constitution  
of Board.

(2) A board convened to investigate any matter referred to in sub-paragraph (c) or (d) of rule 4, shall consist of not less than 3 officers who are subject to service law.

(3) A board convened to investigate any matter other than those referred to in sub-paragraphs (a) to (d) of paragraph (1) of rule 4 may consist of 1 person or more subject to service law; but where a board consist of only 1 member, that member shall be an officer not below the rank of captain.

(4) Where a board consists of more than 1 member, the president shall be an officer not below the rank of captain.

(5) The authority shall appoint the president of a board by name and each remaining member of the board either by name or by detailing a commanding officer to appoint a member of a specified rank; but where the authority is a commanding officer of a unit or detachment he shall appoint the members by name.

7. (1) A board shall assemble at the time and place stated in the order convening the board.

Time and  
place of  
meeting.

(2) The president shall lay the terms of reference before the board and the board shall proceed to hear and record the evidence in accordance with these rules.

(3) The board may adjourn and sit on such occasions and in such places as the president directs.

(4) Without affecting paragraph (3), the authority may at any time direct the board to reassemble for such purpose as he specifies.

(5) The board shall hear the evidence of the witnesses who have been made available by the authority and may hear the evidence of such other persons as the board thinks fit.

(6) The board may receive any evidence, whether oral or written, that the board considers relevant to the matter referred to the board, whether or not the evidence would be admissible in a civil court.

Witnesses.

8. (1) Subject to paragraph (4), every witness before a board convened with reference to any of the matters referred to in sub-paragraphs (a) to (d) of paragraph (1) of rule 4, shall be examined on oath.

(2) Where a board is convened with reference to any matter, other than those referred to in sub-paragraphs (a) to (d) of paragraph (1) of rule 4, every witness before the board shall, if the authority so directs and subject to paragraph (4), be examined on oath.

(3) Subject to paragraph (4), an oath shall, where the authority directs, be administered to any person in attendance on a board as an interpreter.

(4) A person shall be required to make a solemn affirmation instead of taking an oath where

(a) he objects to taking an oath and states as the ground of his objection

(i) that he has no religious belief, or

(ii) that the taking of an oath is contrary to his religious belief, or

(b) it is not reasonably practicable to administer an oath to him in the manner appropriate to his religious belief.

(5) An oath shall be administered or an affirmation made before a board in the form and manner prescribed by the 1984/159. *Defence Rules of Procedure, 1984.*

(6) Every oath or affirmation taken or made before a board shall be administered by the president or a member of the board.

Record of proceedings.

9. (1) The president shall record or cause to be recorded the proceedings of the board in sufficient detail to enable the authority to follow the course of the proceedings.

(2) The evidence of each witness, which may be recorded in narrative form, shall as soon as it has been taken down, be read over to, and signed by him.

(3) The record of the proceedings shall be signed by the president and other members of the board and forwarded to the authority.

(4) The president shall ensure the safe custody of any exhibits produced to the board.

10. (1) Where it seems to the authority, or, where a board has been convened, it seems to the authority or the president that any person who is subject to service law may be affected by the findings of the board, the authority, or, as the case may be, the president shall take such steps as are in his opinion reasonable and necessary to ensure that the person has notice of the proceedings, and, where he so desires, has an opportunity of being present and represented by a lawyer or an officer who is subject to service law at the sittings of the board or any such part thereof as the authority, or, as the case may be, the president specifies.

Notice of  
proceedings.

(2) Any person referred to in paragraph (1) may give evidence on the matters affecting him, and where he is represented by a lawyer or an officer mentioned in that paragraph, the lawyer or officer may question witnesses; but neither the person, the lawyer nor officer may make any speech to the board except with the permission of the president.

11. Where a board convened in accordance with subparagraphs (a) and (b) of paragraph (1) of rule 4 finds that a person subject to military law under the Act has been absent without leave or other sufficient cause for a period not being less than 21 days, the board shall make a report in the form set out in the Schedule and a record of the report shall, as required by subsection (1) of section 130 of the Act, be entered in the service book and the entry shall be signed by the commanding officer.

Report of  
Board.

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## SCHEDULE

(rule 11)

Report of a Board of Inquiry into the absence of.....

.....  
(number, rank, name and unit)

The board of inquiry sitting at.....(Place)

on the.....day(s) of.....19.....,

and consisting of:

..... (rank, name and unit) President

..... (ditto) }

..... (ditto) } Members

Report that.....(number, rank, name  
and unit) has been absent from.....(unit)  
at.....(place) without leave or other  
sufficient cause for a period beginning on the.....  
day of.....19.....and is still so absent.

\*And further report that the said.....(rank and name)  
was on the.....day of....., 19.....and still is  
deficient of the articles of public and service property of which he had the  
charge or which had been entrusted to his care which are set out below.

\*Omit this paragraph if there are no deficiencies.

*(set out each article with its value)*

Dated the.....day of.....19.....

.....  
(signature)

President

.....  
(signature)

.....  
(signature)

}

Members

