ROYAL BRUNEI ARMED FORCES ACT
(CHAPTER 149)

ROYAL BRUNEI ARMED FORCES (BOARD OF INQUIRY) RULES

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SUBSIDIARY LEGISLATION

ROYAL BRUNEI ARMED FORCES (BOARD OF INQUIRY) RULES

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SUBSIDIARY LEGISLATION

Rules made under section 122

ROYAL BRUNEI ARMED FORCES (BOARD OF INQUIRY) RULES

Commencement: 18th September 2004

Citation

1. These Rules may be cited as the Royal Brunei Armed Forces (Board of Inquiry) Rules.

Interpretation

2. In these Rules, unless the context otherwise requires —

"authority" means His Majesty the Sultan and Yang Di-Pertuan or such officers as His Majesty the Sultan and Yang Di-Pertuan may appoint;

"board" means a board of inquiry convened under rule 3;

"president" means the president of the board, appointed under rule 4(2);

"record of proceedings", in relation to a board, includes the report of the board and any opinion expressed by it in accordance with any directions given by the authority;

"security classification" has the meaning ascribed to it by the relevant security instructions in force in the Royal Brunei Armed Forces.

Convening of board

3. (1) A board may be convened by order of —

(a) the Commander; or

(b) an officer not below the rank of Lieutenant Colonel in command authorised by the Commander.

(2) In the case of a board inquiring into absence without leave, the board may be convened by a commanding officer, subordinate commander or commander of an independent unit of the rank of Major if so authorised by either of the officers referred to in subrule (1).

(3) The following provisions apply in relation to an order convening a board —

(a) the order shall specify the composition of the board and the place and time at which it shall assemble;

(b) the order may specify the terms of reference of the board and shall be published in military orders;

(c) the order may direct the board to express its opinion on any question arising out of any matter referred to it;

(d) the authority may at any time revoke, vary or suspend the order.

Constitution

4. (1) A board shall consist of a president who shall be an officer not below the rank of Captain and be subject to military law and not less than two other members each of whom shall either be a person so subject or a person not so subject who is in the service of His Majesty the Sultan and Yang Di-Pertuan.

(2) The authority shall appoint the president by name and each other member of the board by name or, in the case of a person subject to military law, by detailing a person in command to appoint from persons under his command.

Assembly and procedure

5. (1) A board shall assemble at the place and time specified in the order convening it.

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

Matters of reference to boards

6. (1) Subject to subrule (2), a board shall be convened with reference to —

(a) the absence without leave of any person subject to military law who has been continuously absent without leave for a period of not less than 21 days;

(b) the unnatural death of any person in a military establishment or when undertaking military training or other activities;

(c) the escape of any person from military detention, or from military custody when under arrest;

(d) the loss of public or service property due to theft, fraud, damage, negligence, arson or sabotage, whether proved or suspected, where the financial loss exceeds $500;

(e) the loss or damage, including barrack damage, due to any other cause where the financial loss exceeds $1,000;

(f) the loss of, or compromise of, whether proved or suspected, of documents, equipment or information having a security classification of 'CONFIDENTIAL' or higher;

(g) any accident involving a military aircraft or boat;

(h) any accident involving a military vehicle where the financial loss exceeds $5,000;

(i) any accident or premature involving ammunition or explosives, including negligent discharge.

(2) The requirement to convene a board pursuant to subrule (1) maybe dispensed with on the authority of an officer of the rank of Colonel or above in command, having the authority to convene a board.

(3) A board may be convened with reference to any matter which the authority decides to refer to a board.

Duty of board

7. It shall be the duty of a board to investigate and report on the facts relating to any matter referred to it under these Rules and, if directed, to express its opinion on any question arising out of any such matter.

Power to defer

8. Where any matter is the subject of any other investigation by the military or civil police or of proceedings under military law and a board has not been convened with reference thereto, the authority may defer the convening of a board until the completion of such further investigation or proceedings.

Stay of proceedings

9. Where any matter is the subject of any other investigation by the military or civil police or of proceedings under military law and a board has already been convened with reference thereto, the authority may stay the proceedings of the board until such other investigation or proceedings have been completed and shall then dissolve the board, if satisfied that a board is not necessary.

Adjournment and re-assembly

10. (1) The president may adjourn the board which shall sit on such occasions, and in such places and at such times as he may direct.

(2) Without prejudice to subrule (1), the authority may at any time, if it appears necessary or desirable, direct that the board shall re-assemble for such purpose as may be specified.

Witnesses

11. (1) A board shall hear the evidence of the witnesses who have been made available by the authority and may hear the evidence of such other person as it may think fit.

(2) In the course of giving evidence, a civilian witness may be represented but, subject to the provisions of rule 12, his representative shall not be entitled to be present at any other time.

(3) A civilian witness shall be entitled to receive reasonable expenses incurred as a result of his attendance and a reasonable allowance in respect of his loss of time.

Persons who may be affected by findings of board

12. (1) Where it appears to the authority or, where a board has been convened, either to the authority or to the president, that any witness or other person to whom this rule applies may be affected by the findings of the board, the authority or the president, as the case may be, shall take such measures as are in his view reasonable and necessary to secure that such witness or other person has notice of the proceedings and, if he so desires, has an opportunity of being present and represented at the sittings of the board, or at such part thereof as the authority or the president, as the case may be, may specify.

(2) Any such witness or other person referred to in subrule (1) may give evidence, question any witnesses or produce any witness to give evidence on the matters which may affect him and, if he is represented, his representative may question witnesses, but a representative shall not address the board except with the permission of the president.

(3) This rule, so far as it applies to persons other than witnesses who may be affected by the findings, applies only to —

(a) person subject to military law; and

(b) persons who, though not so subject, are in the service of His Majesty the Sultan and Yang Di-Pertuan and may be so affected in character or professional reputation.

Evidence

13. A board may receive any evidence which it considers relevant to the matter referred to it, whether oral or written, and whether or not it would be admissible in a civil court.

Oaths and affirmations

14. Every witness before a board shall be examined on oath or, if applicable, may be permitted by the president to make an affirmation.

Record of proceedings

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

(2) Where there is no shorthand writer present, the evidence shall be recorded in narrative form and such recording shall as nearly as possible follow the words used in the proceedings.

(3) Where the board considers it necessary, any particular question and answer shall be recorded verbatim.

(4) The evidence of each witness, as soon as it has been recorded in accordance with subrule (1), shall be read over to him and shall be signed by him.

(5) A record of the proceedings shall be signed by the president and other members of the board and shall be forwarded forthwith to the authority.