



Armed Forces Act 1996

1996 CHAPTER 46

Review and appeal

15 Abolition of confirmation

The provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer shall cease to have effect.

16 Review of findings and sentences

Schedule 5 (amendment of provisions relating to the review of findings and sentences) shall have effect.

17 Appeals against sentence

(1) The Courts-Martial (Appeals) Act 1968 shall be amended as follows.

(2) In section 8 (right of appeal)—

- (a) in subsection (1), for the words from “against” (in the first place it appears) to the end there shall be substituted the words “—
 - (a) against his conviction; and
 - (b) against any sentence (not being a sentence fixed by law) passed on him for the offence for which he was convicted.”;
- (b) in subsection (1A), paragraph (a) shall cease to have effect;
- (c) subsection (5) shall cease to have effect.

(3) For section 17A (appeals by civilians) there shall be substituted the following section—

“17A Appeals by civilians: application of Service Act provisions

For the avoidance of doubt, the exercise of the power conferred by sections 13, 14, 15 and 16A above, in relation to an order under Schedule 5A to the Army

Status: This is the original version (as it was originally enacted).

Act 1955, Schedule 5A to the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957 (powers of court on trial of civilians) shall be subject to the restrictions contained in paragraph 15 of each of those Schedules.”

- (4) In section 34 (reference of cases by Service authorities), for subsection (4) there shall be inserted the following subsections—

“(4) The Secretary of State may, if consideration by the Appeal Court appears to him for any reason desirable, refer the sentence passed on any person convicted by a court-martial to the Appeal Court.

(5) Any reference under subsection (4) above shall be treated as an appeal by the person convicted against sentence for all purposes except those of section 32 of this Act.”

- (5) In section 46 (restitution orders), in subsection (2) and subsection (3)(a), after the word “conviction” there shall be inserted the words “or, in the case of an appeal against sentence, the order”.

- (6) In section 53(1) (exclusion of certain appeals) in subsection (1), for the word “against” there shall be substituted the words “in relation to”.

- (7) In section 57 (interpretation), after the definition of “the registrar” there shall be inserted the words “; and

“sentence”, in relation to an offence, includes any order made by a court when dealing with an offender.”

18 Powers exercisable by registrar

After section 36 of the Courts-Martial (Appeals) Act 1968 there shall be inserted the following section—

“36A Powers under Part II which are exercisable by registrar

- (1) The following powers of the Appeal Court under this Part of this Act, namely the power—

(a) to extend the time within which notice of appeal or of application for leave to appeal may be given; and

(b) to order a witness to attend for examination,

may be exercised by the registrar in the same manner as they may be exercised by the Court and subject to the same restrictions.

- (2) If the registrar refuses an application on the part of an appellant to exercise in his favour any power specified in subsection (1) above, the appellant shall be entitled to have the application determined by any judge of the Appeal Court.”

19 Appeals on behalf of deceased persons

Immediately before section 49 of the Courts-Martial (Appeals) Act 1968 there shall be inserted the following section—

“48A Appeals on behalf of deceased persons

- (1) Where a person has died—
 - (a) any relevant appeal which might have been begun by him had he remained alive may be begun by a person approved by the Appeal Court; and
 - (b) where any relevant appeal was begun by him while he was alive or is begun in relation to his case by virtue of paragraph (a) above, any further step which might have been taken by him in connection with the appeal if he were alive may be taken by a person so approved.
- (2) In this section “relevant appeal” means—
 - (a) an appeal under section 8, 21 or 24 of this Act; or
 - (b) an appeal under section 39 of this Act from any decision of the Appeal Court on an appeal under any of those sections.
- (3) Approval for the purposes of this section may only be given to—
 - (a) the widow or widower of the dead person;
 - (b) a personal representative of the dead person; or
 - (c) any other person appearing to the Court of Appeal to have, by reason of a family or similar relationship with the dead person, a substantial financial or other interest in the determination of a relevant appeal relating to him.
- (4) An application for such approval may not be made after the end of the period of one year beginning with the date of death.
- (5) Where this section applies, any reference in this Act to the appellant shall, where appropriate, be construed as being or including a reference to the person approved under this section.
- (6) The power of the Appeal Court to approve a person under this section may be exercised by any judge of the Appeal Court in the same manner as by the Court and subject to the same provisions; but if the judge refuses the application, the applicant shall be entitled to have the application determined by the Appeal Court.
- (7) In subsection (3)(b) above “personal representative” means—
 - (a) for England and Wales, a person who is a personal representative within the meaning of section 55(1)(xi) of the Administration of Estates Act 1925;
 - (b) for Scotland, an executor confirmed to the estate of the dead person; or
 - (c) for Northern Ireland, a person who is one of the personal representatives within the meaning of the Administration of Estates Act (Northern Ireland) 1955.”