



Courts-Martial (Appeals) Act 1951

1951 CHAPTER 46

PART I

APPEALS FROM COURTS-MARTIAL

Miscellaneous and General

21 Exercise of certain powers of the Court by a judge thereof

The powers of the Court under this Part of this Act—

- (a) to give leave to appeal;
- (b) to extend the period within which an application for leave to appeal must be lodged ;
- (c) to grant an appellant legal aid ;
- (d) to allow an appellant to be present at any proceedings under this Part of this Act;
- (e) to make an order under subsection (3) of section thirteen of this Act for the payment of costs;

may be exercised by any judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions; but, if the judge refuses an application on the part of an appellant to exercise in his favour any of the powers mentioned in paragraphs (a) to (d) of this section, the appellant, upon making a requisition in that behalf within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined by the Court as duly constituted for the hearing and determination of appeals under this Part of this Act.

22 Rules of court

- (1) Rules of court may provide for regulating the procedure and practice to be followed in the Court.
- (2) Rules of court made for the purposes of any provision of this Part of this Act may make different provision in relation to different classes of cases and may provide for

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any incidental or supplementary matters for which it appears to the authority making the rules to be necessary or expedient for the purposes of that provision to provide.

- (3) Any power conferred by this Part of this Act to make rules of court shall be exercisable by statutory instrument, and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing rules of court made under this Part of this Act in like manner as if the rules had been made by a Minister of the Crown.
- (4) A statutory instrument containing rules of court made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

23 Expenses and receipts

- (1) Any expenses incurred under this Part of this Act by the Admiralty or the Secretary of State shall be defrayed out of moneys provided by Parliament
- (2) Any sums which, by virtue of paragraph (a) of subsection (3) of section thirteen of this Act, are recovered from any person by the Admiralty or the Secretary of State shall be paid into the Exchequer.

24 Interpretation of Part I

- (1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—
 - " air force court-martial " means a court-martial under the Air Force Act;
 - " appellant " includes a person who has been convicted by a court-martial and desires to appeal under this Part of this Act to the Court;
 - " army court-martial " means a court-martial under the Army Act;
 - " the Court " means the Courts-Martial Appeal Court constituted by this Part of this Act;
 - " court-martial " means a naval, army or air force court-martial ;
 - " the Judge Advocate General " means the Advocate General or Judge Martial of all His Majesty's regular, auxiliary and reserve land and air forces;
 - " the Lord Chief Justice " means the Lord Chief Justice of England;
 - " naval court-martial " means a court-martial under the Naval Discipline Act, and includes a disciplinary court constituted under section fifty-seven A of that Act;
 - " prescribed " means prescribed by rules of court;
 - " the registrar " means the registrar of the Court;
 - " rules of court " means rules of court made by the Lord Chief Justice with the approval of the Lord Chancellor.
- (2) In this Part of this Act the expression " on active service ", in relation to a person subject to military law, has the meaning assigned to it by subsection (1) of section one hundred and eighty-nine of the Army Act and, in relation to a person subject to the Air Force Act, has the meaning assigned to it by subsection (1) of section one hundred and eighty-nine of that Act, and a person who is deemed for the purposes of either of those Acts to be on active service shall be deemed also for the purposes of this Part of this Act to be on active service.
- (3) For the purposes of this Part of this Act, any finding or sentence substituted, by virtue of powers conferred in that behalf by the Army Act or the Air Force Act, for a finding

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of, or sentence passed by, a court-martial shall be deemed to be a finding of, or sentence passed by, that court-martial, and any conviction obtaining by virtue of a finding substituted as aforesaid shall be deemed to be a conviction by the court-martial.

25 Operation of provisions of Part I relating to appeals and references

Subject to the provisions of the next following section, the provisions of this Part of this Act relating to appeals to the Court against convictions by courts-martial and the provisions of this Part of this Act relating to references to the Court, in cases of convictions by courts-martial, of the findings of the courts-martial—

- (a) shall have effect in relation to convictions by naval courts martial on or after such date as His Majesty may by Order in Council appoint in relation to such courts-martial ;
- (b) shall have effect in relation to convictions by army or air force courts-martial the findings whereof are promulgated on or after such date as His Majesty may by Order in Council appoint in relation to such courts-martial.

26 Exclusion of appeals from, and references of findings of, certain Dominion naval courts-martial

Nothing in this Part of this Act shall be construed as conferring a right of appeal against the conviction by a naval court-martial of a person who, at the time of the conviction, was borne on the books of a ship of the Royal Australian Navy or the Royal New Zealand Navy, not being a ship which at that time was placed at the disposal of the Admiralty, and the provisions of this Part of this Act relating to references to the Court, in cases of convictions by courts-martial, of the findings of the courts-martial shall not apply in the case of any such conviction as aforesaid.

27 Saving for prerogative

Nothing in this Part of this Act shall affect His Majesty's Royal prerogative to quash a conviction by a court-martial, so far as regards the exercise thereof at a time before the receipt by the registrar of an application for leave to appeal to the Court against the conviction or the receipt by him of particulars of such an application furnished in pursuance of paragraph (b) of subsection (3) of section four of this Act, whichever event first occurs, and nothing in this Part of this Act shall affect His Majesty's Royal prerogative of mercy.