



Courts-Martial (Appeals) Act 1951

1951 CHAPTER 46

PART II

PROVISIONS WITH RESPECT TO OFFICES OF JUDGE ADVOCATE OF HIS MAJESTY'S FLEET AND JUDGE ADVOCATE GENERAL

Provisions with -respect to Office of Judge Advocate of His Majesty's Fleet

28 Provisions with respect to office of Judge Advocate of His Majesty's Fleet

- (1) Any appointment made by His Majesty after the passing of this Act of a person to be the Judge Advocate of His Majesty's Fleet shall be of a person recommended to His Majesty by the Lord Chancellor.
- (2) No person shall be qualified for appointment as Judge Advocate of His Majesty's Fleet unless he is a barrister-at-law of not less than ten years' standing or an advocate of not less than ten years' standing.
- (3) The Judge Advocate of His Majesty's Fleet shall be removable by His Majesty on the ground of inability or misbehaviour upon a recommendation in that behalf made by the Lord Chancellor, and shall vacate his office at the end of the completed year of service in the course of which he attains the age of seventy years:

Provided that, where the Lord Chancellor considers it desirable in the public interest to retain the Judge Advocate of His Majesty's Fleet in office after the time when his office is required to be vacated under the foregoing provisions of this subsection, the Lord Chancellor may from time to time authorise the continuance of the Judge Advocate of His Majesty's Fleet in office up to such age (not exceeding seventy-two years) as the Lord Chancellor thinks fit.

- (4) There may be paid to the Judge Advocate of His Majesty's Fleet, out of moneys provided by Parliament, such salary and such travelling and subsistence allowances as the Lord Chancellor may, with the approval of the Treasury, determine.

- (5) In this section the reference to a barrister-at-law shall be construed as a reference to one who is a member of the bar either of England or of Northern Ireland, whether or not he is a member of the bar of the other country also.

Provisions with respect to Office of Judge Advocate General

29 Appointment of Judge Advocate General

Any appointment after the passing of this Act of a person to be the Advocate General or Judge Martial of all His Majesty's regular, auxiliary and reserve land and air forces (commonly known, and hereafter in this Part of this Act referred to, as the " Judge Advocate General ") shall be of a person recommended to His Majesty by the Lord Chancellor.

30 Assistants to Judge Advocate General

- (1) For the purpose of assisting the Judge Advocate General in the exercise and performance of his powers and duties there shall be—
- (a) an officer to be known as the Vice Judge Advocate General, to be appointed by the Lord Chancellor ; and
 - (b) such number of officers to be known as Assistant Judge Advocates General, and such number of officers to be known as Deputy Judge Advocates, to be appointed in each case by the Lord Chancellor, as the Lord Chancellor, with the approval of the Treasury, may determine.
- (2) If at any time it appears to the Lord Chancellor that it is expedient that the Judge Advocate General should be temporarily assisted in the exercise and performance of his powers and duties by more persons than hold appointments by virtue of the foregoing subsection, the Lord Chancellor may appoint such persons temporarily to assist the Judge Advocate General in the exercise and performance of his powers and duties as the Lord Chancellor may, with the approval of the Treasury as to numbers, determine.

31 Qualifications of Judge Advocate General and assistants

- (1) No person shall be qualified for appointment as Judge Advocate General unless he is a barrister-at-law of not less than ten years' standing or an advocate of not less than ten years' standing or is the Vice Judge Advocate General or an Assistant Judge Advocate General.
- (2) No person shall be qualified for appointment as the Vice Judge Advocate General or an Assistant Judge Advocate General unless he is a barrister-at-law of not less than seven years' standing or an advocate of not less than seven years' standing or a Deputy Judge Advocate.
- (3) No person shall be qualified for appointment as a Deputy Judge Advocate unless he is a barrister-at-law of not less than five years' standing or an advocate of not less than five years' standing.
- (4) Before recommending a person for appointment as Judge Advocate General or appointing a person to be the Vice Judge Advocate General, an Assistant Judge Advocate General or a Deputy Judge Advocate, the Lord Chancellor shall take steps

to satisfy himself that the health of the person (proposed to be recommended for appointment, or to be appointed, as the case may be, is satisfactory.

- (5) In this section the references to a barrister-at-law shall be construed as references to one who is a member of the bar either of England or of Northern Ireland, whether or not he is a member of the bar of the other country also.

32 Tenure of office of Judge Advocate General and assistants

- (1) The Judge Advocate General shall be removable by His Majesty on the ground of inability or misbehaviour upon a recommendation in that behalf made by the Lord Chancellor, and the Lord Chancellor may remove the Vice Judge Advocate General, an Assistant Judge Advocate General or a Deputy Judge Advocate for inability or misbehaviour.
- (2) The Judge Advocate General shall vacate his office at the end of the completed year of service in the course of which he attains the age of seventy years, and any such officer as is mentioned in subsection (1) of section thirty of this Act shall vacate his office at the end of the completed year of service in the course of which he attains the age of sixty-five years:

Provided that, where the Lord Chancellor considers it desirable in the public interest to retain the Judge Advocate General or any such officer as aforesaid in office after the time when his office is required to be vacated under the foregoing provisions of this subsection, the Lord Chancellor may, from time to time authorise the continuance of the Judge Advocate General or officer in office up to such age (not exceeding seventy-two years in the case of the Judge Advocate General and seventy years in any other case) as the Lord Chancellor thinks fit.

- (3) A person appointed under subsection (2) of section thirty of this Act temporarily to assist the Judge Advocate General in the exercise and performance of his powers and duties shall hold and vacate office in accordance with the terms of his appointment.

33 Salaries of Judge Advocate General and assistants

There may be paid to the Judge Advocate General and the persons appointed under this Part of this Act to assist him in the exercise and performance of his powers and duties, out of moneys provided by Parliament, such salaries and such travelling and subsistence allowances as the Lord Chancellor may, with the approval of the Treasury, determine.

34 Pension of Judge Advocate General

- (1) Subject to the provisions of this section, there may be paid to any person who has held the office of Judge Advocate General for a period of not less than fifteen years, on his ceasing to hold that office, a pension at the following rate:—
- (a) if he has held that office for a period of not less than twenty years, two-thirds of the salary payable to him immediately before he ceased to hold it;
 - (b) if he has held that office for a period of less than twenty years, one-half of that salary.
- (2) No pension shall be paid to any person under the foregoing subsection unless at the time of his ceasing to hold the office of Judge Advocate General he has attained the age

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

of sixty years or is disabled by a permanent infirmity from performing the functions of that office.

- (3) No pension shall be paid to any person under subsection (1) of this section unless within three months after his appointment to the office of Judge Advocate General he gives notice in writing to the Treasury that he elects that that subsection shall apply to him.
- (4) Unless a person who holds the office of Judge Advocate General duly elects that subsection (1) of this section shall apply to him, the Superannuation Acts, 1834 to 1950, shall have effect in his case as if service in that office were service in an established capacity in the civil service of the State in an appointment held directly from the Crown; but, where such a person duly elects that the said subsection (1) shall apply to him—
 - (a) for the purposes of section forty-one of the Superannuation Act, 1949 (which empowers the Treasury to pay a gratuity or allowance to or in respect of a civil servant who is injured in the actual discharge of his duty or contracts a disease to which the nature of his duty exposes him) he shall be deemed to be a civil servant and any pension payable to him under the said subsection (1) shall be deemed to be a superannuation allowance; but
 - (b) no pension, allowance or gratuity shall be payable to or in respect of him under any other provision of the Superannuation Acts, 1834 to 1950, by reference to any service of his (whether before or after the date of the election).
- (5) The foregoing provisions of this section shall not apply to any person who ceased to hold the office of Judge Advocate General before the date of the passing of this Act, and in their application to the person who holds that office at that date shall have effect with the substitution, in subsection (3), for the reference to three months after his appointment to that office, of a reference to three months from the said date.
- (6) Any pension paid to a person under subsection (1) of this section, and any increase attributable to subsection (4) of this section in the sums which, under the Superannuation Acts, 1834 to 1950, are payable out of moneys provided by Parliament, shall be paid out of moneys so provided.

35 Pensions of assistants to Judge Advocate General

- (1) The Superannuation Acts, 1834 to 1950, shall have effect as if service as such an officer as is mentioned in subsection (1) of section thirty of this Act were service in an established capacity in the permanent civil service of the State in an appointment held directly from the Crown.
- (2) Any increase attributable to the foregoing subsection in the sums which, under the Superannuation Acts, 1834 to 1950, are payable out of moneys provided by Parliament shall be paid out of moneys so provided.